

Responses to the Consultation on New Arrangements for Safety Management in Adventure Activities

DETAILED ANALYSIS

Statistics

1. 199 responses have been received. Where it is clear from the information provided, 10 respondents are based in Wales and 29 in Scotland. One response has been received from Northern Ireland.
2. Responses by organisation¹:

Industry	39
Local Government	52
Charity	31
National Government ²	3
NGOs	9
NDPBs	2
Trade Unions	3
Consultancy	6
Member of the Public	5
Academic	14
Trade Association	1
Other	34
3. A minority of respondents have not answered all questions and whilst a majority have replied in the desired format, some have chosen to provide free-text narrative responses. Apart from Q1 on the shape and scope of the Code of Practice (the Code) and Q9, the desirability of common arrangements across Great Britain (GB), all other questions required a discursive response. This analysis is therefore a largely qualitative evaluation of key themes, arguments, concerns and suggestions, with many of these common across questions.

¹ The breakdown is on the basis of the information provided, and there is cross-over between organisation type; for example, some 'others' are providers and it could be argued they are 'industry', 'charities' similarly.

² Responses received by the MoD (Army Cadets), the Sea Cadets and the Maritime and Coastguard Agency

Scope of the Code of Practice

Q1 Should the code be a) a statement of high level principles of good risk management applicable to all activities available now or in the future and if so, why, or b) more specific guidance on particular activities and, if so, which ones, and why?

4. A clear majority (around two thirds) argued for the Code being a statement of high level principles applicable to all activities. This majority was common across respondent groups.
5. The main argument offered for a statement of high level principle was the flexibility offered, with such statements being applicable across activities and therefore all providers, across all users and allowing for the guidance to reflect the new activities emerging and those yet to emerge. Many noted the inconsistency in current arrangements and associated guidance applying to defined activities and defined users.
6. Where arguments were made for more specific guidance, these were largely based on some activities being inherently more hazardous than others, though in the main respondents simply listed activities in which they had a specific interest. A minority suggested 'both', the argument being for broad principles but perhaps some detailed guidance on particular activities perhaps as case studies.

Role of Voluntary Schemes

Q2 Without TQS there will be no formal inspectorate. However, there are a number of voluntary schemes which involve an element of inspection and auditing. Given this how should the code support these voluntary schemes?

7. A large majority of respondents across all groups argued that the Code should at least reference the availability of these schemes and in most cases noted what these schemes should be: National Governing Body (NGB) schemes (where they exist) and the various third-party accreditation schemes such as the Learning Outside the Classroom (LOtC) Quality Badge and Adventuremark – the two most commonly mentioned.
8. Respondents were split on the extent to which the Code should reflect the standards within available schemes or that schemes adapt to reflect the content of the Code. On the former, the arguments were that this would save effort in the Code's development and avoid unnecessary duplication; the latter argument was often made by those wanting one single scheme.
9. Respondents were split on the extent to which the Code goes beyond referencing with some wanting the Code to point people firmly in the direction of available schemes, recommend particular schemes, or encourage the development of one, perhaps new, overarching scheme. These concerns were raised particularly strongly by 'user' respondents, though some providers argued similarly.

10. Concerns were expressed by a sizeable minority of respondents about the number, complexity and cost of these schemes and they argued against the Code being seen to drive people down the third-party accreditation route in particular (in contrast to NGB schemes as, it was argued, the sensible provider will ensure their operations and staff adhere to current NGB guidelines). These arguments were put most forcefully by the smaller providers, amongst whom some argued for the Code to make no reference to alternative schemes at all – the argument being for example that general HSE guidance is enough – allowing for self-declaration at zero additional costs above that already associated with existing duties under the HSWA and Management Regulations.
11. Respondents affiliated to the Scottish Sports Association and the association itself all stated that the new arrangements should either a) wholly allow for self-declaration via adhering to the Code or b) be a UK or Scottish Government-funded system of external verification and subject to further consultation. The arguments were not clear, though it may be these bodies are concerned about the potential for confusion if multiple verification schemes arise. The inference is that they would be comfortable with self-declaration if this could be made to work.

Assurance for other activities

Q3 For activities where alternative assurance schemes do not exist, or which are not currently licensed, how should providers demonstrate good safety standards, and how should the code of practice support this?

12. Respondent views largely mirrored the response to Q1, with arguments made for a Code of high level principle applicable across all activities.
13. A large minority of respondents however, used this question to stress the need for adhering to a single overarching scheme covering all activities (such as Adventuremark and LOtC), as well as emphasising the role of inspection in providing reassurance. Other respondents used this question to note the need for greater communications activity by the sector and the sharing of good practice, lessons and so on.
14. Others used the question to flag the need for a central register of providers who have agreed to sign up to the principles of the Code. A generic checklist was suggested for inclusion in the Code, particularly by those who feel confident in self-declaring against the Code and not seeking alternative accreditation schemes. Both for these suggestions and the suggestions above at (13) no specific thought was given to how this could be funded.
15. A minority of respondents however, used this question to emphasise that the underlying health and safety framework remains and so safety management procedures should continue as usual.

Providing reassurance about safety standards, monitoring and ensuring compliance

Q4 What should be in the code of practice to reassure users that they may expect good standards from a provider who operates in accordance with the code?

16. Respondents offered various suggestions, which in the generality can be summarised as:
- Robust, reliable and GB-wide;
 - Easy to understand, operate and administer;
 - Be as cost effective as possible;
 - Be focussed on use by providers and customers, and related others;
 - At least reference if not incorporate existing schemes, with an emphasis on inspection and accreditation schemes as a means of providing reassurance;
 - Provide information on support, as well as guidance and interpretation of guidance; and
 - Cover all ages, all delivery (commercial, not-for-profit and voluntary) and all activities.

Specific, suggestions included:

- A focus on risk assessment and management;
 - The need for safety policies and record keeping;
 - Competence and training – NGB qualifications etc;
 - People, equipment and the environment; and
 - Noting the benefits of adventurous activities.
17. A small number of respondents noted that all the Code needed to do was reference the general requirements of the Management of Health and Safety at Work Regulations (Management Regs). Mentioned in the main by small providers, they argued that activity centres and providers are businesses like any other and the Management Regs, and supporting legislation, is enough.

Q5 How should the industry sector and other bodies monitor compliance with the code? What are your reasons for your opinion?

18. Most respondents argued that this monitoring should be via some form of inspection, with a few suggestions as to how this should be done and administered, and by whom. On the how, suggestions were for spot-checks and that it be risk-based. And by whom, the majority view across sectors of industry was for this to be via either the various NGB schemes; existing accreditation schemes such as Adventuremark and LOTC; or via a single overarching scheme yet to be established, supported by the on-going activity of the enforcing authorities.

19. Again, little if any consideration was given as to how this would be funded and paid for, though a small number of respondents argued that public money was needed for pump-priming purposes. The reality however, is that there will be no money available for this in England.
20. An opposite, minority view (largely, but not exclusively expressed by smaller providers), was that the existing operational activity of enforcing authorities should be enough.
21. The reasons put for external inspections were largely those of reassurance, with a strong view that the current inspection regime is a fundamental part of reassuring users and providers of good standards. Those who wanted only operational activity by enforcers argued that the sector is and should be, viewed as no different to any other.
22. Many respondents suggested that the results of these inspections should help form a register of providers meeting standards. In addition, the Code should be a living document which is revised and developed to reflect changes in safety management performance in the sector.

Q6 What could the industry sector do to develop and share good practice as an integral part of reassurance and compliance?

23. The majority of respondents offered suggestions as to how this might be done with the major suggestion being that this properly falls to the NGBs and existing schemes, who some argue are well-equipped to do this with others suggesting that they need to get better. Summarising, views expressed included:
 - Sharing experience;
 - Developing/building on websites and forums;
 - Peer assessment;
 - Newsletters;
 - Learning from accidents;
 - Developing local provider groups (these exist in some areas);
 - Making available risk assessments and risk management procedures; and
 - Encouraging user feedback.
24. A few respondents argued that there is the potential for confusion if multiple agents and multiple media are used, and so emphasised their desire for one coordinating body.

Q7 In a post-AALA environment how can providers, users and the wider public be reassured that standards remain high?

25. Across all sectors a majority noted that the only way that reassurance could be provided was via robust arrangements for inspection and accreditation. In addition, this question prompted respondents to express their concerns with the abolition of the licensing regime, but rarely outright disagreement with the decision to remove the regime.
26. LA respondents overwhelmingly argued that the removal of a dedicated inspection regime was detrimental to reassurance, and also would potentially introduce additional burdens on them. To manage this, respondents argued that the new arrangements should facilitate the development of external inspection, either via existing schemes or via one recommended scheme. It was noted that the Code should at least reference these schemes and perhaps point people in their direction if not actively recommend one scheme above another.
27. Responses also referenced the availability of existing British Standards, the need for proactive communications by providers and users, as well as making available risk assessments, policy statements, staff qualifications and training (to NGB requirements), client testimonials and accident statistics.
28. Several respondents noted that there was role here for HSE in publicising the good safety record of the sector, and evaluating the impact of the change in arrangements over time.
29. A minority of provider respondents argued that this should not be a problem for the confident provider with an established client base. Others noted that the new arrangements had the potential to be more burdensome for them if user groups demanded increasing information in order to be reassured of good standards.

Q8 Do you have any comments on the initial impact assessment of the costs and benefits of the change? Are there other factors that need to be taken into account?

30. A third of respondents chose not to answer this question, explicitly offered no comment or provided no useful information. Of those responding, there was little if any comment on the specific figures and calculations and the main comments were:
 - A view that alternative schemes are even more expensive. Some have suggested that the IA should have more scenarios based on percentages of providers coalescing around alternative schemes in the future;
 - No calculation of the costs of the industry coalescing around an alternative scheme(s), and if in future 'badges' are the only way to reassure, this will only benefit the big player;
 - The cost of user groups, most probably LAs and schools, using consultants to assess standards has not been factored in;

- The costs to providers not currently subject to licensing of familiarising themselves with the code of practice appears to be missing. Currently, they do what they do but the cost of the introduction of a new piece of guidance applicable to them needs estimating;
- The cost to users checking for reassurance has been underestimated;
- The cost of familiarisation of providers with the code of practice has also been underestimated, particularly as this familiarisation is not just reading the code, but also all the likely information put out by NGBs/other sector groupings. In addition, providers are already thinking about the implications of the change for them, incurring costs now; and
- Cost of external training if the absence of licensing means providers go 'outside' for advice/training etc. The argument is that a license gives holders the confidence to do their own training in-house.

31. A separate, short consultation was carried out, asking those who provided comments on this question to provide more information on the likely costs etc via a specifically designed questionnaire. Over three-quarters of those contacted responded, and as a result the following main changes to the initial assumptions have been made:

- For CoP familiarisation, 100% of AALA providers spending 10 minutes reading has been revised upwards to 90% spending 90 minutes;
- For the costs of applying for alternative schemes, the best estimate has been revised to an assumption that 250 providers will join one scheme and 60 providers will join two, at an average cost of £250 per scheme (based on the average cost of Adventuremark and the LOtC - the schemes most commonly identified as those providers would join). A time cost of 10 hours per scheme per provider to apply etc has also been included;
- The number of organisations bringing in consultants to advise on health and safety has been revised upwards from 125 to 185, with the consultants' time remaining the same.
- A sector-wide cost of £9K has been included to account for any additional costs involved in reassuring users of good standards.

Q9 How important is it that there are the same arrangements across Great Britain? In particular, would different arrangements affect competition in the sector? If so, how?

32. 152 respondents have argued for common arrangements across GB. Differing arrangements were seen as confusing and made no sense within a small geographical area. In addition, providers range across GB, operate often on the one activity across boundaries and English LAs often manage activity centres in Wales.

33. The remaining 38 respondents either noted that this wasn't a problem for them (being confined to one part of GB), was an issue if it arose they would simply deal with, or didn't answer the question. Only a handful of respondents argued that this would affect competition in main through the removal of a level playing field.
34. Of the 29 respondents identified as being from Scotland, 15 have argued that if the new arrangements do not satisfy their needs, especially in relation to issues of reassurance etc, they would expect and argue for the separate arrangements for Scotland. Welsh respondents do not make the same argument.

Q10 Are there any further comments you would like to make on the issues raised in this consultation document?

35. Around half of respondents chose to provide further comment and most used the opportunity to restate many of the opinions, views, concerns already expressed. Around 20 respondents chose to express their disagreement with the recommendation, albeit they engaged with the consultation on the basis that the recommendation would be implemented. Four expressed their disagreement and provided no further substantive comment.
36. Around 20 respondents expressed their agreement with the recommendation and the opportunity it offered to bring greater consistency to the safety management in the sector.