

1 May 2003

Mr Martin Elliott
Pupil Health and Safety Team
Department for Education and Skills
Sanctuary Buildings (2C)
Great Smith Street
London
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Dear Mr Elliott

Consultation on Adventure Activities Licensing Scheme: Second Triennial Review

The Association of Personal Injury Lawyers (APIL) was formed in 1990 by claimant lawyers with a view to representing the interests of personal injury victims. APIL currently has over 5300 members in the UK and abroad. Membership comprises solicitors, barristers, legal executives and academics. The association has two broad objectives, as follows:

- To prevent accidents and disease and to promote health and safety;
- To ensure that the victims of personal injury receive fair, just and prompt compensation for their injuries.

In summary, APIL does not believe that the current licensing scheme in place for adventure activities should be replaced with a self-regulatory scheme. We do, however, believe that the current scheme should be extended.

APIL does not believe that a self-regulatory scheme should replace the current licensing scheme for several reasons. Firstly, it is recognised that the licensing scheme has, to date, been successful in raising safety standards. In its consultation paper, the Department for Education and Skills states that *“licensing has had a positive effect. It has raised standards in the industry and continues to maintain them. We believe this because a significant number of applicants had to improve the safety of their provision before a licence could be granted and because improvement notices continue to be sent out from time to time”*.

We understand that there have been no fatalities within the relevant adventure activities since the introduction of the licensing regime. We do not believe there can be any justification for removing a successful scheme, especially when issues of safety are at stake.

Secondly, licensing adventure activities is the most appropriate precaution against the potential for tragedy. At the criminal trial following the 1993 Lyme Bay tragedy, Mr Justice Ognall stated that the potential for injury or death was too obvious for safety procedures to be left “*to the inadequate vagaries of self regulation*”. This statement is as relevant today as it was ten years ago. Licensing does not only reflect the potential for accidents to occur but also the gravity of the injuries that may occur as a result.

Thirdly, there appear to be a number of organisations with an interest in adventure activities but there does not appear to be one umbrella organisation that would obviously take the lead on self-regulation and which holds the respect of the industry. The fact that the industry has been slow to develop its own proposal of self-regulation may be an indication of the industry’s ability to self-regulate effectively.

As noted above, APIL does, however, believe that the current licensing scheme should be extended to cover all adventure activities on offer to all ages. The public needs the reassurance of the protection that licensing brings regardless of their age. A middle aged person has as little opportunity or ability to assess the safety of the adventure activity provider as the young person. The evidence of the licence is important.

Achieving consistency is important and it is difficult to see why certain adventure activities require licensing, whilst others do not. We do not believe that such a scheme would increase the existing burden of licensing significantly. Licensing requires adventure activity centres to demonstrate that they comply with the health and safety legislation they should be complying with. It does not introduce new or unrealistic targets. In addition, presumably most activity centres offer at least one of the activities falling within the current regulations and have to go through the licensing process in any event. Moreover, the insurance industry could be encouraged to ensure that it will only insure centres upon sight of the licence.

I hope that the above is helpful in considering whether self-regulation might replace licensing in the longer term. Please do not hesitate to contact me, however, if you would like any further information in relation to our position.

Yours sincerely

Mark Harvey
Secretary, APIL