

Mendip Caving Group

Headquarters: Nordrach Cottage, Charterhouse-on-Mendip, Blagdon, Bristol. BS18 6XW

12Sept 2003

Notice of Extraordinary General Meeting 2003

An Extraordinary General Meeting of the Mendip Caving Group will be held in the lounge of Nordrach Cottage on Saturday 11th October at 2:30pm.

This meeting has been called by the following Committee members;
Lee Hawkswell, Jacky Ankerman, Linda Milne, Tim Francis and Wayne Hiscox.

Agenda

1. Apologies for absence.
2. Public Liability Insurance.
3. Co-option of Honorary Librarian/Recorder.

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Background Information

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Item 2: Public Liability Insurance.

Enclosed with this EGM notice is a paper which sets out the current situation and the proposed changes, and explains why these changes are required. This document has been supplied by the BCRA.

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The Committee would like to draw your attention to the fact that you will cease to be insured by the MCG from 1st October 2003. We advise that you abstain from caving until this issue is resolved and new insurance arrangements are in place.

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Item 3: Co-option of Honorary Librarian/Recorder.

Jane Baldwin has resigned from this post and the Committee will be seeking a replacement at this meeting.

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Lee Hawkswell
Honorary Secretary

LIABILITY INSURANCE FOR CAVERS

The purpose of this document is to try to explain some of the terminology used when talking about insurance, and to explain how the BCRA and DCA liability schemes differ from insurance you may purchase from other sources. It also attempts to explain why you might want to have liability insurance at all.

Throughout this document reference is made to caving clubs and to caves, but the same principles apply to many mine exploration clubs and to bodies controlling access to caves and mines.

This paper is not a detailed discussion of the issue of negligence which is closely allied to the circumstances under which the insurer will actually pay out. For the purposes of this discussion, it may be taken that so long as the persons insured under the policy take reasonable care to ensure they act in a responsible fashion, then they will be covered by the policy rather than having to pay for any substantial claim from their own pocket(s).

Types of insurance

First of all, we must be clear about the type and the purpose of the insurance we are talking about. Cavers have for many years had the benefit a national Public Liability (PL) policy and also a quite separate Travel policy which they have purchased when traveling abroad.

As with any insurance scheme, the purpose of the PL policy is to provide a source of money in the event of some form of disaster. The 'disaster' in this case is the situation where the actions (or inactions) of an individual or group of cavers engaged in a caving related activity results in a significant monetary claim being made against them. In these circumstances, the insurance company will pay (up to the limit of the policy) the cost of legal defence against the claim and any damages awarded against the cavers concerned.

There are a few terms used in relation to insurance which it is useful to explain at this stage:

Public Liability cover means that the insurance is designed to cover claims from any source. *Third Party Liability cover* means much the same thing.

Product liability cover includes any activity where an item is sold by a club or individual. It is usually tacked on to PL policies and refers to liability arising from items supplied by cavers to others (e.g. refreshments at meetings).

Cover for principals normally refers to persons involved in enabling or facilitating access by virtue of being a landowner, tenant, title-holder, lessee, keyholder, etc.

Member to member cover means that members of a club are covered if the claim is made by another member of the same club, or any other club which is also part of the same insurance scheme.

Landowner indemnity means that the person who owns the land on which a cave is located is covered for any caving related claims made against them under the Occupier's Liability Act (which basically says that the occupier of a piece of land is liable for any activities which take place on the property they control). In fact this is actually a sub-set of the *cover for principals* and includes situations where (for example) a caving club is responsible for administering access to a cave. In these circumstances, cover is also provided for the landowner so they are protected in their role as party to the agreement allowing cavers to cross their land to visit a cave.

Professional indemnity cover provides protection for anyone giving advice the course of their caving activities. This would include training.

- *Libel and slander cover* provides protection where an action against a club or individual results from something which has been written or said, for example in a club publication.
- *Directors/officers cover* is to provide protection for the members of club committees and officers of regional and national bodies acting in the course of their duties.

Volunteer cover includes persons who participate in caving activities but who are not members of any particular caving organization. This is particularly important for regional councils and others involved in access related activities such as capping shafts and fitting gates where help is required from outside the membership of the local caving clubs.

- *Temporary membership cover* is for individuals who are only caving with a club as part of an introduction to caving.
- *Breach of Health and Safety cover* allows for the possibility that some activities of caving and mining clubs may be seen as being commercial in nature and therefore within the scope of the Health and Safety at Work act.

Both BCRA and DCA schemes provide cover under all of the above headings.

The BCRA Travel policy (and all the competing travel insurance schemes, such as Snowcard) provide rescue and lost baggage cover (etc.). but they are not a liability policy. They may provide some third party cover, but not to the extent of a proper liability policy.

To illustrate the point, it's easier to refer to a non caving example. If you are injured in a ski accident, your ski policy will pay for medical expenses while you are abroad, and the costs of getting you home. If someone else is injured, and it is found that this was your fault, the policy will probably also pay out if they claim against you. This is third party cover. However, your travel policy will not cover the people who organized the trip should anyone claim against them as a result of your accident, and neither will it pay if the person who owns the ski slope is claimed against.

In the analogous caving situation, the BCRA or DCA policy will pay out in all these circumstances. Furthermore, because it's been negotiated by cavers for cavers, it explicitly covers some very unusual risks, including the use of explosives and complex mechanical equipment such as winches, and covers other caving activities such as workshops, conferences and training events. Cover is worldwide, except for North America, but the policy won't pay out for lost baggage, medical expenses or rescue, which is why separate travel insurance is also necessary.

The need for third party, member to member and cover for principals should be reasonably obvious. Ultimately, it's also something we could decide to do without, and take the risk of having to bear a substantial claim from our own pockets sooner or later. The need for landowner indemnity cover is less obvious, but actually is closer to the basic needs of cavers, since in fact landowner indemnity cover is a precondition in most locations where there is any form of formal access agreement with a landowner to allow cavers to cross their land in order to go caving.

Future developments

For many years, PL insurance has been extremely cheap - until recently well under a pound a head. However, recent hiatus in the world insurance market has changed all this. The terrorism attacks in the US in September 2001 are one key reason for this - not so much because they have created claims which must be paid for, but more because they have brought it home to the insurance market that sometimes the impossible can actually happen. The net result is that all underwriters have been looking very seriously at their liabilities and trying to push premiums to a level where there is a reasonable possibility of making a profit from the business even if a huge claim occurs in the foreseeable future.

Caving suffers from being a small sport which is poorly understood by all but a few of those who are not directly involved in it. In common with many areas of business and leisure activity, it is becoming increasingly difficult to find insurers who will underwrite our policy and the costs are likely to continue to rise. In this aspect of our sport, possibly more than in any other, it is essential that we pool our resources to ensure the continuation of a single unified caving insurance liability policy which covers all caving activities and not just those which the underwriters see as a reliable opportunity to make a profit. BCRA, DCA and NCA, and in due course BCA, will all continue to strive to provide the best possible cover for cavers at the best possible price, but we need the support of all clubs and individual cavers to make this possible.

LIABILITY INSURANCE FOR CAVERS - CHANGES PENDING

The purpose of this document is to set out the current picture of the way in which liability insurance for cavers is administered across the country and to explain some of the changes due to be made by the time renewal becomes due on October 1st. It may not make for exciting reading, but its importance and urgency for clubs and individuals alike cannot be overstated.

Current administration

Currently BCRA pays a fixed premium upfront to its broker, based on an estimate of the likely number of participants in its liability scheme. This advance, plus an admin charge, is divided by the estimated number of participants to give a per capita charge. This method ensures continuity of the cover over the renewal period.

DCA pays on a delayed invoice date basis, the sum payable being dependent on numbers opting into its scheme by the given date. The premium per capita is based on an estimated minimum number of participants, to which DCA adds its admin charge. This method leaves renewing participants uninsured for a critical period if their renewal premiums are not paid on time.

Cover under the BCRA policy has been automatically provided to all individual members of BCRA but DCA individual members who wish to be insured through the DCA scheme must 'opt-in' and pay an additional premium to DCA. Membership of a member club of BCRA or DCA does not of itself provide cover - the club must pay an additional premium to DCA or BCRA for its members to be part of the scheme.

A problem common to both of the above schemes is the widespread disparity between the start of the insurance year and the date on which club membership subscriptions fall due. At present most insured clubs seem to include insurance premiums in their annual subscription; clearly, this means taking into account steeply rising premiums to determine subscription levels, and not all clubs manage this successfully and so may be short of funds by the insurance renewal date.

Many cavers are members of more than one club, so the actual number of insured individuals is at present not accurately reflected in the number of premiums paid. In the days when the cost of liability cover was only a matter of pence per head, this was of no great importance since no one really cared if they paid more than once. Now that the figure is an increasingly significant sum, cavers who are members of more than one club can find they are paying much more towards the cost of their insurance than those who are members of only one club.

Reasons for change

The basic need for changes in the way caving insurance is administered comes about as a result of two underlying factors. Firstly, the cost of insurance has risen substantially over the last few years and looks set to rise substantially again on renewal in October. As a working figure, £10 per head is expected to be the cost this autumn.

Secondly, changes in the way BCRA and NCA are structured, aimed at producing a single unified caving body, mean that it is more appropriate for the new national body to be responsible for running a national caving insurance scheme. The proposed changes are a major step in the establishment of a new national body, the British Caving Association, to which DCA is also committed.

Future arrangement - clubs and individuals

From this autumn insurance will be sold to individuals rather than clubs. As a result, people who are members of more than one club will pay only once for their cover, not multiple times through each of the clubs of which they are a member. It will be up to individuals to purchase their insurance direct from the new national scheme, subject to their club policy (see next paragraph) Each individual will be issued with a membership card which they can use to prove they are insured, and instead of collecting money for insurance from their members (again, see proviso in next paragraph), club secretaries/treasurers will collect the scheme

membership number as evidence that their members are insured. In this way, club subscriptions can be levied without the need to take account of members' insurance costs.

BCRA individuals members will not longer automatically be covered by the scheme as part of their membership subscription and will have to purchase their individual cover either direct from BCA, or through a caving club. The BCRA subscription will be adjusted to reflect this.

Of course, it will still be possible for clubs to purchase insurance on behalf of their members if they choose to do this, but clubs may want to think carefully about it before making a commitment to continue to do this. The administration involved will be greater than now since in effect the club will be making an application on behalf of each individual, instead of for a block of members as they do currently. Furthermore, because the individual premiums will be higher, clubs will find themselves having to handle much larger sums of money than before. Moreover, if particular club members are late in paying their insurance premium to the club, the club will have to decide whether they should be excluded from the list of insured members or if the club should put up the money before receiving payment from the members concerned. Clubs choosing to go down this route may be entitled to make a charge for the extra administration involved and to offset the cost of their own cover (see next paragraph).

Clubs will need to think in terms of insuring themselves against liability arising out of their own events, projects, workshops, training procedures, publications, etc. The club premium will also cover officers acting in the course of their duties, non-club volunteers engaged in club projects or events, and non-caving members of the club who may need to be insured for activities which do not involve going underground. Small numbers of people who are not full members of the club but participate in underground activities will also be covered for short periods. This will ensure cover for prospective members included on an underground club trip. The cost of the club premium will be calculated on a sliding scale so that small clubs pay less than larger ones.

Future arrangements - other organisations

As with clubs, so will access management groups, regional councils, and other constituent member bodies of the present NCA need to think in terms of purchasing their own liability cover against claims arising out of their activities and decisions. Where organisations are signatories to access agreements, then occupiers liability insurance and indemnity of principals (i.e. other parties involved in enabling or facilitating access, such as landowners, tenants, and keyholders) will certainly need considering.

Costs

Costs will be determined in the first instance by what the broker quotes by way of either a total overall premium or separate per capita and club/organisation premiums. These figures in turn will be decided by the numbers of cavers participating. **Obviously the higher the number** of participants, the more "reasonable" the premium is likely to be for organisations, clubs and individuals alike, bearing in mind of course that premiums will be up considerably on last year anyway. Administration charges will be levied to cover costs incurred in the production of scheme membership cards, the purchase of stationery, postage, photocopying and similar outlay and any surplus will be put back into the scheme.

Next steps

A prompt response from clubs is vital to this exercise, firstly by way of completing and returning the questionnaire to the appropriate source and providing details of their individual members so that the level of multiple premium payments by individuals under the existing scheme can be accurately assessed. Clubs will be contacted again very soon and given details of the next step to take in changing over to the new national insurance scheme, the details of which can only be decided in the light of the information gained from returned questionnaires.

