

Public Safety and Risk Assessment

Improving Decision Making

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Adventure Activities – *A Hard Case*

Adventure sports are both interesting and informative from the point of view of public risk. Firstly, these sports, which include activities like mountaineering, mountain biking, mountain marathons, orienteering, snow and ice climbing, kayaking and caving, provide a real and sometimes extreme example of the risk-benefit debate, being activities that involve significant levels of risk with potentially very serious consequences. Yet their followers, of whom in the UK alone there may be hundreds of thousands, voluntarily and wilfully engage in them, even though access to suitable venues often means travelling long distances to remote areas. These pastimes are all the more unusual because the risk itself is such an integral part of the activity, and indeed some have claimed it is even the key reason why people take part. Consequently, the kind of risk-minimization perspective, described elsewhere in this book, is on a patent collision course with activities such as these, leaving one to wonder how they have survived in the current era.

The other side of the coin is that, for many, adventure sports have in recent years come to symbolize the wider pursuit of freedom, providing an escape from a world which is found to be humdrum and organized to the extent that one no longer has liberty to find one's own trail, but is required to tread the same way-marked path as everyone else. Interestingly, many eminent people have stood up for the right of individuals to take part in these activities,¹ and the public generally appear to hold those who do, and are successful, in very high esteem, although when things go wrong, as sometimes happens, the mood may change. The 2008 Original Mountain Marathon (OMM), described later, provides an interesting example of the vulnerability of these activities to mood swings and media condemnation.

So the scene is set for a contest between those seeking the freedom to engage with risk, either deliberately or in passing, and those wishing to control and minimize it. This contest has been acted out in the UK most notably over the last two decades, during which there have been a number of incidents, some ending in regulatory initiatives and others in court cases. These events provide a second reason for including consideration of adventure sports here; namely, because they shed valuable light on the entire risk-benefit debate.

What are adventure sports and why participate?

Definitions of adventure sport centre around an escape from what might be termed 'pre-determined outcomes', towards uncertain, physically challenging environments in which the difference between success and failure lies solely with the efforts, judgement and commitment of the participant.² Moreover, the traditional human opponent is to some extent of lesser importance, in favour of a competition more against oneself or one's surroundings.

It is certainly true that one of the most distinguishing traits of adventure sports is the level and type of risk when participating in them. It is not so much the frequency of injuries that is noteworthy – sports like hockey and soccer have much higher injury rates – but rather the possibility of serious consequences that is seemingly ever-present. A simple mistake can lead to serious injury and even death. Furthermore, the inaccessible locations which adventure sports typically frequent, coupled with the characteristic presence of factors beyond the control of the participant, mean that it is impossible to remove such risks from the activities. This has led many commentators to claim that putting oneself at risk is the point of adventure sport; participants are explicitly *seeking* risk. If this were not the case, they claim, surely one would opt instead for any of the other numerous recreations that do not involve such extreme hazards. Consequently, the media have been known to coin phrases such as 'thrill-seeker' and 'adrenaline junkie', and apply them to adventure sport participants, seemingly adding a degree of glamour and marketing gloss in the process.

While few would deny that risk is an inherent and inseparable feature of adventure sports,³ Kevin Krein, outdoor studies and philosophy professor at the University of Alaska Southeast, points out it does not necessarily follow that it is the main point of such sports, or that this is the sole reason why people participate in them (Krein, 2007). And Viviane Seigneur, social anthropologist and risk consultant in Chamonix, argues that adventure sports acquire the element of adventure not from individuals exposing themselves to risk or danger per se, but because the participant is moving towards the unknown. She illustrates her point with reference to mountaineers, saying that they stand out because of their ability to make decisions and carry them through despite a high level of uncertainty, rather than because of a willingness to take risks. Thus, she concludes that the idea of adventure, the key motivation for adventure athletes, is much more closely linked to uncertainty than it is to risk (Seigneur, 2006).

Apart from enabling participants to pit themselves against the unknown, adventure sports also bring considerable health benefits, both physical and psychological, and this is now fairly common knowledge. Even in relation to children, the educational benefits of adventure activities are coming to be widely accepted. This is unsurprising given some of the key attributes needed to succeed in these activities, which include focus, commitment, bouncing back from failure, controlling fear, and calmly thinking out the moves ahead and translating them into physical action. Thus, participation in outdoor adventure education has long been linked with a rise in self-esteem through

Box 13 *Risk and adventure – thoughts of climbers on managing risk*

Lito Tejada-Flores (1967, 1990), one of the most widely referenced essayists in the climbing world, gives an interesting pre-postmodernist insight into what he terms the 'climbing game', and which further challenges the mind on the relationship of such sports with risk, from the perspective of advanced practitioners of the sport. He notes firstly that climbing can be considered a game because one does not climb *for* something or *to* something; it is more a case of embracing the now. He then contends that climbing is both asocial and arbitrary, with a 'delicious pointlessness' in devoting the amount of time, energy, strength, talent, cunning and courage to a task that does not need to be done. Moreover, it is a creative act: climbers are not just following routes or dotted lines up cliffs as drawn in magazines, but 'are busy creating their own personas and personalities, their own lives, as they climb'. The act of climbing is its own definition, its own reason and motivation – 'a self-justifying feedback loop that never looked outside itself to society for validation'.

This 'game' is accomplished through a finely tuned balance of natural and self-imposed challenges, brought about through self-imposed climbing rules: the harder the climb, the fewer rules climbers will impose on themselves in order to preserve the inner uncertainty and adventure. Easier climbs will result in more radical and restrictive rules in order to conserve the climber's feeling of personal accomplishment against 'the meaninglessness of a success which represents merely technological victory'.

Akin to Viviane Seigneur, Tejada-Flores sees the adventure and personal satisfaction of climbing as stemming directly from the uncertainty of climbing outcomes. This has interesting implications for the idea of regulating such activities, since it identifies an area of possible contradiction. Using this framework, removing elements of uncertainty through increased regulation and concern for safety would result in climbers imposing more restrictive rules on the equipment they could use in order to preserve the uncertainty of the eventual outcome. Ultimately, therefore, it is the climbers themselves, and no one else, who will set 'the rules of the game'.

The question of how the benefits of risky adventure activities can be traded off against their danger is therefore central, and such decisions are hard to make. This sentiment is echoed by Professor Michael Thompson, experienced mountaineer and Cultural Theorist, who notes that there has always been a conflict between 'the establishment', including the government and regulators, and climbers. He sees a key facet of climbing as that of a 'self-organising system' that tends to reassert itself. This resonates with Tejada-Flores' view that ultimately it can only be the climbers themselves who define the rules of this activity, and not some external agency.

achievement and risk-taking (Kimball and Bacon, 1993), a greater appreciation of the physical body through physical activities (Mortlock, 1984), a greater sense of control as self-sufficiency (Ewart, 1989), and a challenge to traditional gender roles (Humberstone, 1990).

The fluctuating fortunes of adventure activities in the UK

In 2005 the English Outdoor Council published a briefing paper summarizing evidence of the value of outdoor learning for children and the action needed to make it a reality for all young people (EOC, 2005). It states that there is now clear evidence that outdoor learning:

- raises education standards;
- develops resilience and contributes to physical, psychological and social well-being;
- helps to reduce disengagement from education, antisocial behaviour and crime;
- helps young people to manage risk and encourages them to welcome challenge.

Gathering evidence, of course, is usually a good thing, especially if you want to justify an action or a policy. But one is tempted to ask why it is necessary at this time to justify the obvious; say, the legions of clearly apparent benefits of being in the natural environment? In its review of outdoor education, the Select Committee on Education and Skills accumulated much evidence about the state of outdoor education in Britain (SCES, 2004). In particular, it found that many countries, both in Europe and elsewhere, achieved a significantly higher level of outdoor learning in their schools than in the UK. Curiously, though, this good practice, which had originated in the UK and been taken up abroad, was now languishing in its birthplace! The SCES quotes Dr Peter Higgins of the University of Edinburgh, himself an experienced outdoor instructor, as follows:

... in many cases the countries we are familiar with developed their national approach to outdoor learning after detailed consideration of the approach taken in the UK in the 1960s and 1970s. In particular the carefully constructed and wide-scale provision in the Lothian Region of Scotland was widely regarded as the ideal model. Several decades of erosion have left such provision in a poor state, not dissimilar to the rest of the UK, whilst several of those countries which adapted the model to suit their own situation now have extensive curricula provision. (Higgins, as quoted in SCES, 2004)

So it would seem that just as the Play Safety Forum and Play England (and Play Scotland, Play Wales and Playboard Northern Ireland) have felt it necessary to champion the benefits of children's play, so too has the English

Outdoor Council (EOC) felt the need to do so in the context of outdoor activities in general. In the case of children's play, the main reason for doing this was the inroads made into play value by the way in which safety was being addressed. Under a section of its report headed 'Barriers – risks and bureaucracy', the SCES came to a similar conclusion regarding outdoor educational activities:

Many of the organisations and individuals who submitted evidence to our inquiry cited the fear of accidents and the possibility of litigation as one of the main reasons for the apparent decline in school trips. It is the view of this Committee that this fear is entirely out of proportion to the real risks. High-profile reporting of isolated incidents and some tabloid journalism misrepresents the incidence of serious accidents on school trips, which is actually very low indeed. There have been 57 fatal accidents on school visits since 1985 (this figure includes adults accompanying visits and road traffic accidents en route to or from off-site visits). In England in 2003, there were between seven and ten million 'pupil visits' involving educational or recreational activity, but only one fatality. Whilst every fatality is clearly tragic for those involved, these statistics compare extremely favourably with other routine activities such as driving or being driven in a car, or simply the likelihood of an accident at home or in school. (SCES, 2004)

The additional threat posed by poorly informed journalism

Despite all of their positive attributes, provision of adventure activities is not, as the SCES found, something for those who enjoy 'plain sailing'. For some people the positive features of adventure sports remain a profound mystery. The media themselves, though providing extensive coverage of traditional, injury-laden sports like soccer, motorsport and downhill skiing, have been known to create controversy in the wake of adventure sport events which, from time to time, they portray as deviant and reckless.

One such instance occurred with the 2008 Original Mountain Marathon – one of the largest and most prestigious mountain marathon events in the world. Held annually either in northern England, Scotland or Wales, and attracting several thousand competitors each year, it is billed as the premier UK event to test teamwork, self-reliance, endurance, outdoor and navigational skills. Competing in pairs over two days, competitors test their mettle against some of Britain's harshest terrain, with the longest elite class amounting to two consecutive marathon-length days (53 miles) with around 2500m of ascent.

The 2008 episode proved especially challenging, with one month's rain falling on the day of the event, coupled with gale-force winds and flooding, such that it became known as: 'One of the great bad-weather nightmares in mountain running's history.' Four hours into the event, with no sign of the weather abating, the organizers reluctantly decided to call it off. Worse was

to follow, for during the course of the day the OMM rapidly became a 'breaking story' on all kinds of news stations, radio and even international news networks. The media opted for dramatic headlines such as: '1700 runners stranded in the mountains/missing/unaccounted for'; 'Race to rescue runners'; and 'Rescue drama unfolds'. This quickly changed into blame and finger-pointing at those involved, and there was widespread outrage that the event had ever been allowed to go ahead. A local landowner added unneeded drama by claiming that the situation had come close to turning the hillsides into 'a morgue'.

At the event site itself, the media swiftly arrived in force with microphones, recorders, cameras and satellite trucks. They had come looking for a big news story of the aftermath of a major emergency, but instead found that most competitors had already set off home, and those arriving in from the hills were generally in good spirits, sitting around chatting about the event. One competitor observed: 'They'd expected hundreds to be missing and complete chaos, and found instead that the situation had been dealt with efficiently and effectively.'

What the media failed to appreciate was that participants in this event, being keen outdoor enthusiasts, were well-accustomed to adverse weather as part and parcel of participation in adventure sports. They were well prepared with the necessary equipment, including waterproofs, warm clothing, rations and first aid kits. They were not, as was portrayed by some reporters, completely unprepared for the conditions, but rather had the specialized knowledge and experience of the risks borne from adverse weather in mountain marathon events. And yet 'irresponsible' was one of the first and most persistent labels used to describe the participants, as well as the organizers, for allowing the event to go ahead.

However, the event is specifically designed such that those taking part in the race are primarily responsible for their own safety. As was stated on the OMM website: 'In these days of 24/7 contact and total support this is an event to test and indeed help develop teamwork and self-reliance.' Selwyn Wright, organizer of the Three Shires Mountain Race, gives a further insight into the matter, stating that: '... if you make it the organiser's responsibility to make the race as safe as possible, you take individual responsibility away from the person on the hill' (quoted in *The Independent*, 2008). He goes on to say that he is not advocating that organizers be gung-ho, but rather he does not want people to think that, if the conditions are bad, they should not worry. Instead, he says: 'I want them to worry, and to take responsibility for themselves.'

It is clear that given that the intent of events such as the OMM is to test and develop self-reliance, this does not square with an imposed control philosophy of little or no risk. The unprecedented weather conditions which blighted the 2008 event could indeed have led to serious incident. However, whilst some of the media and wider public were outraged and severely critical of the organizers, the vast majority of the competitors themselves were praising the way those in charge had reacted to the unfolding events and used their judgement to make the correct decisions in exceptional circumstances.

The 2008 OMM highlighted the extent to which 'news' can be no more than uninformed speculation, unless it happens to coincide with something the media has direct experience of or is interested in. In the case of less familiar pursuits such as adventure sports, there is a constant danger that stories will be sensationalized. The effect of this media game, and the subsequent negative publicity, should not be understated. By, in effect, 'amplifying the risk' out of proportion (Kasperson et al, 1988), severe secondary consequences can be generated for outdoor pursuits and the livelihoods of those involved in them, as well as denying participants the experiences they seek. It can discourage future organizers, create more red tape, or even stop activities altogether.

Adventure sports and risk

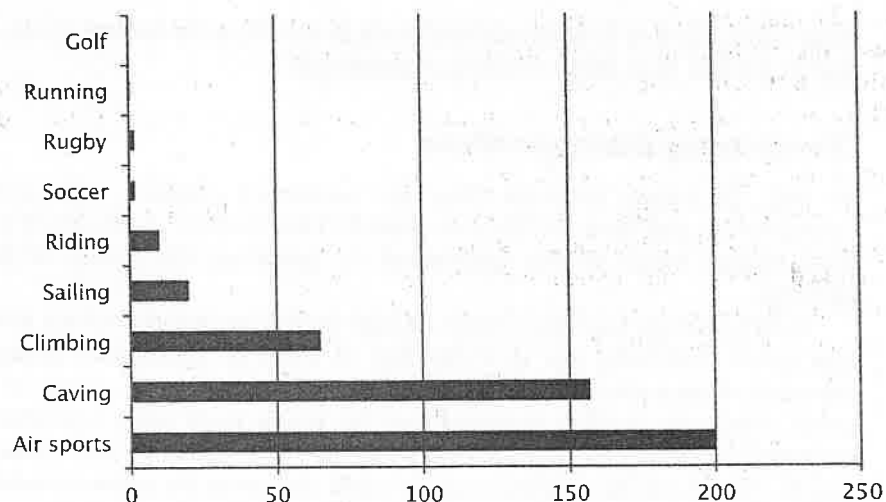
From afar the risk of injury associated with adventure activities might be expected to be very high indeed when compared with the risks of ordinary life. The nature of the terrain which is typically visited would alone seem to dictate that this be so. However, what seems dangerous may not be, and what seems safe in contrast can be hazardous. The reason is that the risk is not just a product of the terrain, but of the interaction between it and individuals, and the environmental conditions. As Adams and Viscusi have said (chapter 5), people are not unthinking automatons – they adjust their behaviours to accommodate the circumstances as they perceive them. Thus, and consistent with the adage 'familiarity breeds contempt', more attention is paid in challenging situations than in those which are routine.

The reality of the risk of adventure activities is thereby most reliably discerned from accident statistics, coupled with information on participation rates over a representative period of time. Unfortunately, there is no centralized database which provides this information for adventure activities, and the best that can be done is to construct a partial picture based on those pieces of information which are available. Figures 9.1 and 9.2 summarize some such information for the UK, based on analyses published by Ball (1998) and extended by British caver Peter Mohr (2000). Figure 9.1 shows a statistic called the fatal accident rate (FAR) for selected adventure and some conventional sporting activities.⁴ The FAR is an estimate of the number of fatal accidents per 100 million hours of participation in the activity. Participation is worked out by multiplying the number of active participants by the average duration in hours of the activity, and the number of times the activity is engaged in over the same period as the fatality data are collected. This makes it possible to compare the risk of very popular sports with those which have fewer participants. Although the data in Figure 9.1 are no more than crude estimates because of the uncertainties in the underlying information used in the calculations and various definitional problems, the pattern which emerges looks plausible. Activities such as air sports (which include hang-gliding and the like), caving and climbing have the highest risk of fatality, followed by water sports (because of the ever-present risk of drowning), with the more popular sports of soccer, rugby and badminton coming in at a FAR of about 1 or 2.

As a means of putting these numbers in perspective, they can be compared with hazards of everyday life. The Department for Transport, for example, reports FARs for different modes of travel in Britain, based on annual numbers of fatalities and the total time spent travelling by each mode. The FARs work out as follows: travel by car 9.8; by motorcycle 430; pedal cycle 38; pedestrian 15; bus or coach 0.63; and rail 1.5 (DfT, 2008). This means, for example, that the risk per hour of activities like caving and climbing, when averaged out, are in the region of three to 16 times higher than riding in a car, but are less than that of travelling by motorcycle.

So far as non-fatal injuries are concerned, these are dominated by sports such as rugby and soccer, which hugely outstrip the rates in adventure activities even after participation rates have been accounted for (Figure 9.2). Rugby and soccer have been estimated to have non-fatal accident rates (NFARs) of around 290 and 130 respectively, compared with figures of around 2.5 for caving, and 4 for climbing and sailing. NFARs are most commonly measured by hospital Accident and Emergency attendances, and are the numbers of cases per 100,000 hours of activity. Surprisingly, perhaps, NFARs for adventure sports are generally low as far as can be discerned from the available data which is sparse, and not much different from those of people who stay at home, which are in the range of about 2 to 4 depending upon age.

To summarize, these estimates point to heightened risks of fatalities from some adventure activities over other more conventional sports, but less so for non-fatal injuries, which do not differ significantly from those of everyday life at home. In the case of fatal injuries, the rates can be similar to or higher than



Sources: include Ball (1998); Mohr (2000); Scottish Sports Council (2007)

Figure 9.1 Fatal accident rates for selected sports (estimated rates are per 100 million hours of participation)

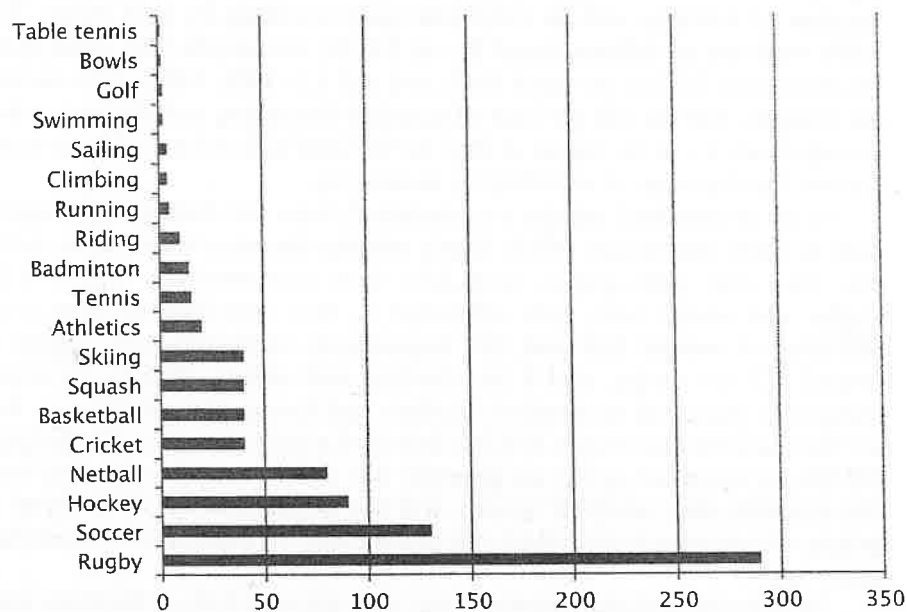


Figure 9.2 Non-fatal accident rates for selected sports (estimated rates are per 100,000 hours of participation)

those experienced in familiar activities such as travelling by car or bicycle, but mainly are less than those of riding a motorcycle.⁵

Changing regulatory positions

As with all human activities there are occasional tragedies with serious consequences, and these are likely to provoke harsh inquiry, particularly from those sectors which do not understand or appreciate the nature of these pastimes.

In Britain there has been a series of high-profile incidents involving adventure sports, including one at Lyme Bay in 1993 in which four teenagers drowned whilst kayaking. The subsequent trial resulted in the owner of the centre where the incident occurred and the centre itself being convicted of corporate manslaughter over the deaths, the first conviction for this offence in the UK. The event also sparked a major public debate on the safety of outdoor pursuits, and there were calls for tighter regulation of outdoor activity centres and for a statutory national system of accreditation and inspection. Ultimately, this resulted in new legislation and significant changes in the way adventure activities were controlled in the UK.

Thus, the Activity Centres (Young Persons' Safety) Act 1995 was passed through Parliament at the instigation of the then Department for Education and Skills, and an independent licensing authority, the Adventure Activities Licensing Authority (AALA), was ultimately created. There was further

reorganization when, in 2007, AALA was subsumed into the HSE. AALA's main function continued to be the inspection and licensing of providers, with the aim of ensuring that, so far as reasonably practicable, participants' and employees' safety were assured.

The passage of the 1995 Act was not without serious implications for the sector, and despite the gravity of the Lyme Bay episode, there was a great deal of debate over the need for a new regulatory regime, and not everyone, including the HSE, was in favour. In retrospect, there is now little doubt that the Act was an overreaction: the response being disproportionate to the scale of the problem, leading many to criticize the legislation as a 'knee-jerk' response to an emotive media campaign. Estimates of the number of operators who went out of business as a direct result of the Act vary from zero to 600, depending on who you believe. The best estimate is probably 'some, but not many'. However, the real damage was to the reputation, self-esteem and consequential self-confidence of the sector, which some argue continues to this day. Certainly, the result was to put much of the sector on the back foot over safety issues. Exponents of solid regimes which existed at the time, in terms of risk-benefit, were in effect disenfranchised, and they didn't like it. No one would. Even then, however, the question was raised of whether the pendulum had swung too far and whether society's aversion to risk, and the threat of legal culpability, had become counterproductive. What, for instance, it was asked, might be the impact of the new measures on downstream risks such as childhood obesity (BRC, 2006)? Quantitatively, these downstream arguments are much more significant than the self-esteem of those who felt unfairly treated at the time, or even since.⁶

The impact of AALA

Prior to the Lyme Bay incident, outdoor activity centres were able to opt in to a variety of voluntary codes of practice drawn up by the appropriate National Governing Body for each activity. Centres offering caving, for example, would follow codes established by the British Caving Association (BCA), which would have, to borrow from Collins and Evans (chapter 8), the highest level of contributory and interactional expertise. For multi-activity centres there was also the British Activity Holiday Association (BAHA).

The situation now is that, under The Adventure Activities Licensing Regulations 2004, any business providing, for payment, any of the listed adventure activities to under-18-year-olds, without their parents or guardians present, is required to hold a valid licence from the Adventure Activities Licensing Service (AALS). At present the Activity Centres Act 1995 only applies to this one sub-sector of adventure sport provision in the UK – namely centres, companies or individuals who make a charge for providing adventurous activities for under-18-year-olds. The Act does not apply to voluntary organizations as long as they are only providing activities to their own members, schools providing for their own pupils, or Her Majesty's forces when on duty. Nonetheless, whilst many providers fall outside the legal remit of AALA, the standards are widely regarded as applying to any organization

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providing outdoor activities, and would probably, according to head of inspection services Marcus Bailie, be used as the standard in any court case. Guidance from HSE about the licensing scheme states that its aim is to 'give assurance that good safety management is being followed so that young people can continue to have opportunities to experience exciting and stimulating activities outdoors while not being exposed to the avoidable risk of death and disabling injury' (HSE, 2007b). Unusually, and as some would say, to its credit, this dual mandate allows AALA to take upon itself the task of representing the benefits of adventure activities within HSE and government departments such as DCSF, as well as helping providers identify and manage the risks inherent in the activities.

In order to determine what had been the consequences, either intended or unintended, of the regulation of adventure sports through AALA, an investigation was carried out in 2008 of the views of those in the sector who were affected by the new regulatory regime (Ball-King, 2009b). The method used was to interview members of the Association of Heads of Outdoor Education Centres (AHOEC). Full membership of AHOEC is open to those who are employed as heads and managers of established outdoor education centres and organizations, and thus represent professionals whose daily work is directly affected by the legislation, whilst being detached from the regulators and unaffiliated with AALA.

Seven members of the AHOEC were asked the following questions:

- What do you think about the regulatory regime, and how it has changed and affected the adventure activities sector?
- In what ways do you think the regulation has changed things for the better?
- Do you see any adverse consequences of the regulation? For example, do you ever find that it is obstructive to your work or to increasing participation in adventure activities, or is it balanced?
- You can only justify exposing people to risk by taking account of the benefits of the activities you promote – is there an overt, formal way in which you do this, or is it more informal/subconscious?
- Do you feel that the benefits are given adequate recognition?

Respondents were also invited to supply any other information they wished. Their responses to key questions have been recorded in Figure 9.3. An overall assessment of each respondents' attitude to AALA appears in the bottom line. As can be seen, this was overwhelmingly positive.

One likely reason for this positive attitude to AALA was that all its inspectors, including the head of inspections, had come from the adventure activity sector and thereby had extensive experience in the field of outdoor education through immersion, and were characteristically well respected within the outdoor community. In the terminology of Collins and Evans, they would have had high levels of 'specialist tacit knowledge' through years of interactional experience. Typically, they constituted former centre managers, development officers and training officers for various National Governing

Issues raised	Respondent						
	A	B	C	D	E	F	G
Increased support/ communication/ reassurance	☒		☒		☒		☒
Improved safety standards/ consistency/ quality at lower end & removed rogue centres		☒		☒		☒	☒
More systematic risk management	☒					☒	
Reasonable/proportionate approach	☒		☒	☒			
Light touch approach /unbureaucratic				☒			☒
Inspectors experts in outdoor education/understand issues	☒	☒					☒
Many activities outside scope /blind spots in system	☒						☒
Danger of overregulation		☒		☒			
Expensive		☒				☒	
Inspections becoming 'job for the boys'		☒					☒
Benefits not given adequate recognition			☒	☒		☒	☒
Limited activities/less ambition/'dumbing-down' of activities/challenge		☒		☒	☒		
Overboard - 'large hammer to crack small nut'						☒	☒
Lack of publicity on what AALA does		☒			☒		☒
Overall impact of AALA	Positive	Positive	Unsure	Positive	Positive	Positive	Positive

Figure 9.3 Respondents' views of AALA's regulatory regime
(Ball-King, 2009b)

Bodies, instructors at National Centres, school-based and local authority-based providers of adventure activities for young people, owners of commercial adventure activity centres, and so on. This, the respondents felt, had been the fundamental reason that a very helpful process for assessing activity centres had emerged. As all inspectors understood the issues and

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difficulties faced, the process was supportive rather than threatening. As a consequence, virtually all the respondents were in agreement that the quality of centres, particularly at the lower end, had 'unquestionably improved' as a direct result of licensing. The few 'rogue', unsafe centres that had previously existed had since been refused licenses. Thus, respondents pointed to a more consistent safety level.

Several respondents also conceded that there had been considerable concern initially that the legislation had been reflex reaction⁷ and would be detrimental to the industry. However, the reality was that licensing had been introduced in such a way that it had maximized the upside and minimized the downside, and consequently staff were now very supportive of its operations. Concern had more recently arisen over the separation of AALA and the inspection service into two separate entities, and the absorption of AALA into the HSE in 2007. When this occurred, many believed that this would change the approach of inspectors, but in 2008 respondents were of the view that this did not seem to have been the case. However, clearly this did not rule out the possibility of future changes: any shifts in approach would likely occur slowly. An empathetic overseer now does not guarantee an empathetic overseer for all time: things can change.

Further incidents shed light on thinking

As noted earlier, there have been a number of serious incidents involving young people on adventure activities since the new legislation came into being. That incidents have occurred should not in itself be surprising, with there being in the region of 7 to 10 million pupil days of out-of-school activities every year (Bailie, 2003; SCES, 2004) and the admission that risk cannot be eliminated especially when venturing into the wild.⁸

One incident involved the deaths of two teenage girls who, in 2000, were swept down a fast-flowing stream, Stainforth Beck near Settle, while on a school trip involving 'river walking'. Although a Coroner's Court established that the deaths were accidental, the HSE brought what proved to be a successful prosecution against Leeds County Council on the grounds that they failed to ensure the safety of the pupils.⁹ This followed a rigorous investigation of Leeds Local Education Authority's risk management procedures. Another incident occurred in 2002 when a ten-year-old boy drowned in a flooded river near Glenridding in Cumbria. In that case the HSE's prosecution resulted in a conviction of manslaughter against the teacher responsible. A further attempted prosecution by HSE, of North Yorkshire County Council, over the 2005 death by drowning of a teenage boy while on a potholing trip in Nidderdale, was unsuccessful, being rejected by the jury.

The conduct of these cases provides insights into the HSE's thinking on adventure activities, as does the advisory literature which they publish. From these experiences it is evident that despite the positive views expressed by AHOEC members in 2007 about the role of AALA in regulating the sector, there is an underlying concern that the regime could easily change. Were it, for example, to take on a more 'industrial' approach to the management

of risk, the consequences for providers and provision could be significant. The NYCC case, for example, was ultimately largely fought on the grounds of beliefs about the role of risk in adventure, the adequacy of NYCC's risk assessment procedures and the suitability of their management system, all of which exposed patterns of thinking of the kind described in chapter 5.

It is informative to consider these three issues a little more closely. To take them in order, there would firstly appear to be a noticeable vagueness about the relationship between risk and adventure in some HSE literature. This can immediately be discerned in the opening to HSE's document *Adventure Activities Centres: Five Steps to Risk Assessment*, where it says:

Adventure activities aim to allow young people to develop by meeting challenges they do not necessarily face every day and to experience a sense of achievement in overcoming them. Some degree of risk is unavoidable if the sense of adventure and excitement is to be achieved. However, it is important to remember that adventure activities should only create a sense of adventure and excitement and not cause harm. (HSE, 2003a; the emphases in this quotation are the HSE's)

To concur with this statement it is necessary to hold the following beliefs: a) young people need to meet real challenges; b) that in so doing some risk is inevitable; c) that the adventure should be fake (only sensed); and d) not cause harm. This, of course, is both illogical and a recipe for turning adventure activities into a Disneyesque experience. The moment you go into the wild, risk is unavoidably real. Therefore, it is necessary to accept that some harm will from time-to-time occur. What should be done is to manage it to the best of one's ability and as the circumstances demand.

But even after crossing this difficult bridge, which acknowledges the possibility of harm, one is inexorably faced with a second challenge. If there is a risk of going out there into the wild, how can its acceptance by society be justified? The answer, of course, is to reap the benefits, and in this respect it is fortunate that there is a growing recognition of the fact that children and young people, and probably older people too, get benefits from the activities which expose them to risk, as well as all the other benefits which are acquired through venturing into the natural environment (e.g. Play Safety Forum, 2002; SCES, 2004; Ogilvie, 2005; Gill, 2010; Hackitt, 2010).

However, in the NYCC case this notion of benefits seemed also a largely alien concept for the prosecution. As was drawn out by the defending barrister, Robert Smith QC, in cross-examination of witnesses, the notion of any consideration of benefits was barely alluded to in the prosecution's case. The case itself thereby provided a stark exposé of one way of thinking versus another, and of the kinds of issues raised in chapter 5 by Seedhouse and others over the parallel existence of competing world views.

Other systems of belief were also exposed by the trial. The prosecution placed heavy emphasis on the suitability and sufficiency of risk assessments

carried out by NYCC, and on NYCC's management system. In this particular trial, however, these beliefs did not go unchallenged. There is, of course, a legal requirement to do a risk assessment, but there is more than one way of doing this, and probably this is the way it should be since one size seldom fits all.¹⁰ Here one may recall that a primary aim of the Robens Commission was to encourage duty holders to think, and thinkers tend to devise their own systems rather than simply follow someone else's formula. NYCC had, in fact, devised their own system which, evidently, some in HSE did not like or maybe did not understand, but a considerable number of independent defence witnesses from the outdoor activity world were far more supportive of NYCC's approach than of HSE's. One of the reasons for this was perhaps that the HSE system was heavily into the language of management through trying to invoke a need for multiple layers of assessment from generic risk assessment, through site-specific assessment to dynamic assessment, with additional reference to go/no-go criteria, triangulation and the like. It all sounded very fine, but was a far cry from the 'risk assessment is simple and not to be overcomplicated' message proclaimed in other HSE literature (HSE, 2006a). Another reason for dislike of this approach was the likely shift in authority which such a top-down managerial system might bring about through increasing the role of central health and safety decision makers in the Council, and which could in effect diminish the authority of adventure leaders themselves in the front-line. So the question, not answered, was: where is the evidence that this new emphasis would reduce risk? Nobody from the outdoor world believed it would work. Some thought it was a dangerous gamble not to be countenanced.

As for management systems, NYCC's approach was examined by the prosecution in minute detail in court and compared with that set out in HSG65 (HSE, 1997). However, just as with risk assessment, there is more than one approach to management, as first discussed in chapter 5. In rudimentary terms it can be said that some systems are autocratic, some paternalistic and some democratically inclined. One size does not fit all organizational contexts. The style set out in HSG65 appears most closely to resemble the autocratic mode: a system best-suited for low-trust organizations employing low-skilled workers; for example, a factory making knick-knacks and relying on casual labour.

It has to be questioned whether such a system is appropriate for the education sector, the health service or local government, where highly educated, motivated, professional people are employed. Apart from the cost implications, the impact upon working relationships and the ability of a chosen system to get the best out of staff deserves careful consideration. It would appear unlikely that this kind of approach could be beneficially applied to adventure activity leaders of all people, who have by the very nature of their work to be able to make minute-by-minute decisions as they ply their trade, and this is in accord with AALA's proposition, described in chapter 8, that within the outdoor sector the availability of competent individuals as leaders might permit these to take 'a more autonomous approach to how they operate' (AALA, 2001: 7).

It is also consistent with the analysis by Hood and colleagues of regulatory regimes as first set out in chapter 5:

Indiscriminate or inappropriate application of corporate risk management approaches could detract from, rather than augment, the quality of government of risk by putting more emphasis on existing bureaucratic tendencies to blame-avoidance. What seems to be needed is an approach to business risk management in government that is neither an unreflective adoption of private business practice nor based on an unrealistic view of organizational behaviour in the public sector ... (Hood et al, 2004)

It was interesting to observe that, during cross-examination, the HSE witnesses did not dispute that the management approach described in HSG65, which had been presented by the prosecution as some kind of gold standard, was in fact only some undisclosed person's opinion of what constituted a good system, nor was compliance with it mandatory. The latter, of course, is as it should be. All of these systems are to some extent experimental and there is no system which fits all circumstances.

Summary

Adventure sports, in common with other public activities, including children and young people's play and outdoor activities in general, involve exposure to obvious hazards. What is notable about adventure sports, although not unique to them, is the severity of the potential consequences. Undoubtedly, with a risk-minimization frame of mind and no consideration of benefits, there is no way that such activities should be permissible. However, there is growing reaffirmation of the copious benefits these activities yield for all age groups in comparison with an infrequency of serious harms, and it is to be hoped that this will eventually help the UK to reclaim its former position as a world leader in this area.

There exists a number of other debates within the sector, but with wider implications. One is about whether risk is a key motivation for engaging in these activities, or whether it is better understood as a by-product. What is clear is that at least part of the allure for individuals is the chance to test themselves against real hazards in powerful natural environments. Participants see this as something altogether significant, and worthy of the sacrifices and countless hours spent honing skills and physical ability. If one were to consider this commitment as evidence of the level of 'willingness-to-pay', then one could only conclude that the benefits of these activities are very highly valued.

So far as AALA is concerned, it is a relatively new organization in a world of shifting politics and priorities, and one which is perhaps now reaching the end of its lifetime as a consequence of the Young review which seeks its abolition. Evidence described here, however, leads to the conclusion that its early strategy supported the adventure sector in a way valued by the majority of its

members, and which was beneficial to the sector. A likely explanation of this favourable reaction, bearing in mind that it is unusual to like regulators, is that AALA itself has been staffed by recognized adventure experts with appropriate 'interactional and contributory expertise' of the kind described by Collins and Evans (2007), and thus it did not usher in an alien and inappropriate culture as has happened in public life more widely. It could perhaps be described as 'specialist sector regulation'; that is, inspection *by* the sector but *answerable to government*, as opposed to self-regulation, meaning inspection *by* the sector but *answerable to the sector*, and also as opposed to inspection *by a generalist regime lacking interactional and contributory expertise*. There is perhaps here a message for future designers of regulatory regimes.

However, whilst the AALA approach seemed to be functioning effectively and is even now typically well received, there remains a concern that continuing pressure to find simplistic solutions to what were complex issues would ultimately have threatened that position. For example, one key debate is over the relative importance of the competence of adventure leaders versus the amount of control exercised over them by health and safety professionals with no particular knowledge of adventure activities. Another relates to the degree of freedom which adventure leaders should have in order to make decisions in the field, and the degree to which their freedom should be constrained by prior risk-assessment documentation and systems, including imposed 'go/no-go criteria' and the like.

AALA has itself written:

However perhaps the best way of thinking of a written risk assessment is as a checklist of things you would mention to new activity leaders during their induction period. (AALA, 2001: 18)

This position contrasts with the official, mainstream view of risk assessment, which is that it is the bedrock upon which all safety systems are founded. Within the world of adventure activities, however, it may be that risk assessment has met its nemesis. The true bedrock, as many would see it, is in fact the experience, competence and real-time decision-making ability of the leaders. Britain has an enviable record in producing high-calibre persons with these characteristics. What goes on inside their heads is not something that can be recorded on paper, however voluminous. It might appear that the current tendency to make risk assessments ever more elaborate is a partial recognition of the true complexity of the process of decision making in the face of exposure to risk and uncertainty; that is, it is not such a simple process to explain after all. If so, it is unlikely to succeed.

A further vulnerability for the sector is the occurrence of events as at the 2008 OMM, which inevitably will sometimes happen and which tend to unleash hugely adverse publicity on the whole sector, leaving it exposed to the threat of outside intervention. This is particularly true for adventure sports, given that they are not considered mainstream and that the majority of the population are not directly involved with them, and tend to have little or no direct understanding. As with other public sector groups, the adventure sports

sector would do well to continue to promote clearly why these activities are worthwhile and should be supported. This has been achieved with good effect in other sectors, such as children's play and countryside management.

While the HSE has broadly supported risk-taking activities, it has at times veered away from accepting the fact that in unpredictable environments, serious consequences have sometimes to be expected, and that these can even occur in the seemingly most benign of environments. Indeed, HSE literature, even in the adventure sector, is largely rooted in ideas of risk reduction without much reference to benefits, although HSE leaders have recently voiced their recognition of the benefits of leisure activities. Often, though, the literature transmits the mixed and dubious message that risk exposure is good, as long as it is managed and will not lead to serious harm. Can one learn about real risk by unreal exposure? Would adventure sports have the same meaning if they took place in sanitized, totally controlled environments? We think not.

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