

SOAC Part 6 - Group Access

Confusion still exists among access users and land managers about when permission for access is required, who access users should contact and where club outings sit in relation to access rights and responsibilities. To resolve this confusion, as ever, the starting point is the Scottish Outdoor Access Code. The Code clearly states that “as an individual, you can exercise access rights as part of an organised group” (SOAC 3.57). There is further guidance in the Code regarding “events.” These are sometimes mistakenly thought to include club outings, however they do not. Footnote 45 states that “group outings by club members are not classed as events.” That means the land managers permission is not required, and they cannot demand that the group has liability insurance. Some clubs have been wrongly asked for this. So, all fairly clear when you read the small print, but a common misconception that can lead to all sorts of confusion about whether the club needs to ask the land manager for permission to hold the group outing on their land, and whether the land manager is within his / her rights to withhold consent, or even require evidence of public liability insurance. There have been instances of permission being withheld or conditions being laid down or requiring evidence of public liability insurance (PLI). None of these are within a land manager’s rights in relation to a ‘normal’ club outing. Another example is where a land manager stipulated that access was only to be taken on roads and tracks. It is the responsibility of access users to make the decision whether that is necessary. The usual format of a club outing does not require permission of the land manager. No indication of acceptable size of group is given in the Code. What is a reasonable number depends on many factors, but it should be noted that a “group can have an impact according to the size of the group, where you are and the time of year” (SOAC 3.58). The responsibility lies with the group to make an assessment of potential impact. In the case of doubt, you are best to approach the local Access Officer (contacts available on the website at www.mcofs.org.uk/access-officer-contact-list.asp or through your local Council), or if about potential affect on the nature of the site, then discuss the matter with the local office of Scottish Natural Heritage (office contact details at www.snh.org.uk/about/ab-hq.asp or telephone directory).

Our advice is that as long as people are behaving responsibly and within their rights there is no requirement to contact an estate just because you are going in a group. It can in fact confuse matters and mean that some land managers who are less aware of rights and responsibilities coming from the Land Reform (Scotland) Act 2003 mistakenly set conditions for granting access. Should a club really feel they need to contact an Estate, it should be made clear that it is to notify rather than asking permission. Some access users are unclear about their rights and responsibilities, and so are land managers. Clubs should ensure they understand theirs and not rely on those of land managers who may or may not recognise the subtleties of difference between club outings / events and notification / permission. If any issues arise, or you need advice, please contact the MCofS and report incidents to the local access officer.

Although not a requirement of access, clubs affiliated to the MCofS benefit from Civil Liability insurance. This means that when undertaking any mountaineering-related meet, event or social gathering (indoor or outdoor) then they are insured against third party risks. Details of the cover are available at www.mcofs.org.uk/civil-liability-insurance-for-clubs.asp#CLI. Clubs planning outdoor meets may also benefit from reviewing their familiarity with the MCofS Safety and Liability Guidance at www.mcofs.org.uk/safety-liability-clubs.asp.