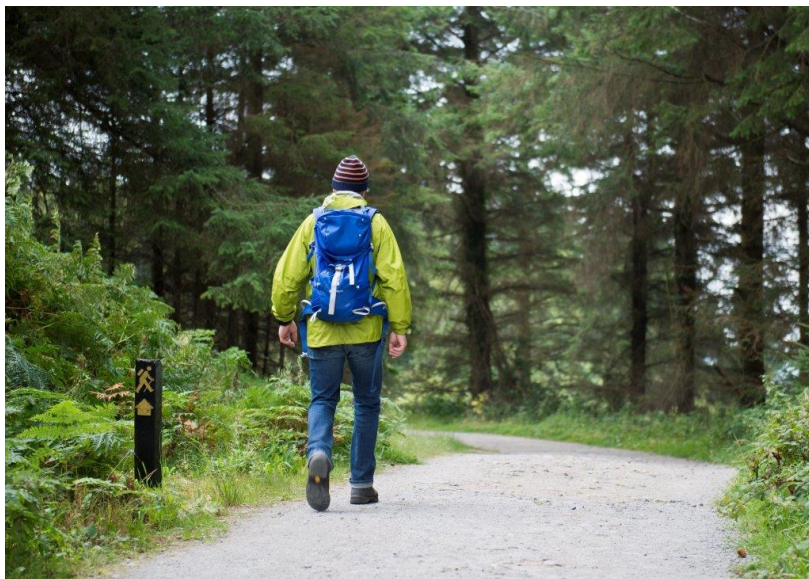




Guidance to Trainers and Assessors

Lowland Leader Award scheme



Guidance to help you run an effective course

READ THE SYLLABUS THOROUGHLY!

Two key differences between Mountaineering Ireland and MTUK scheme:

1. Candidates must be 17 to register for the LLA in the UK but 18 in Ireland. In the UK, assessment may not be completed until after the candidate's 18th birthday.
2. The MI syllabus looks for evidence of progressive leadership while this is not a stipulation in the MTUK guidelines.

As a provider of leadership training you will probably have a lot of the background information and experience available, but there are some areas that you may need to bring yourself up to date with **prior** to delivering this course such as.

- Walking with people with a disability, the correct language, coping with disabilities as a leader, hidden disabilities etc
- Walking with young children
- Walking with prams and buggies
- Walking with people with a health problem,
- Using sketch maps
- The scope of the award and the standard required for fitness and navigation.
- You may have to point out a lot more things that are obvious to us as experienced leaders and walkers where decision making in a hazardous environment is second nature, but to students are not so obvious.
- Barriers to participation

Demonstrate adequate personal fitness (info at back)

Candidates may have limited walking experience but they should be able to walk comfortably on suitable terrain for up to 4 hours with a very lightweight rucksack. They should also be able to give assistance to the people they are leading such as helping someone over an obstacle or helping some get back on their feet. Fitness and skill is usually assumed to mean having lots of strength and stamina. The real skill is recognising your weaknesses and working to them. Stop start v steady pace, rests, load carrying, keeping hydrated, adjusting clothing, care of feet and hands etc

It is important not to discourage those that are not up to the fitness requirement. Instead encourage them to seek advice about how to improve their fitness before putting themselves forward for assessment.

Providers should be able to give advice on:

- Good posture.
- Discuss walking skills - good and bad technique.
- Look at how to fit a rucksack
- Footwear
- Start a walk slowly and speed up.

Explain the benefits of walking on health and fitness

This scheme is likely to attract community walk leaders who are helping to 'Get Ireland walking' so you should be aware of the schemes for community walkers - info available through info@getirelandwalking.ie

Regular walking offers numerous health and fitness benefits! It is important that leaders can encourage and motivate the group and to answer basic questions about the effect of walking on the heart and joints.

Why walk?

- Walking is a great choice for exercise because it is:
- A moderate activity with many health benefits
- Fun
- Inexpensive
- Safe
- Good for the environment
- Flexible – it can be done at any time of day
- An activity for all ages and abilities

Providers should have a good basic knowledge to answer questions about:

- The heart and the importance of blood pressure and cholesterol levels, both of which contribute to heart disease.
- The importance of walking to joints and bones. Walking is easier on your joints than higher-impact activities like running or aerobics, but it still helps reduce your risk for osteoporosis and reduces your risk of falls.
- Walking and weight loss
- The benefit of walking, to mental health benefits

You can get useful handouts from the Irish Heart foundation and Arthritis Ireland

Health benefits

There are many health benefits to be gained through walking. It can:

- Improve overall physical condition and mental well-being, and increase ability to perform physical work
- Increase longevity and reduce the risk of premature death
- Increase joint range of motion or flexibility and reduce pain from arthritis
- Increase mobility
- Reduce the risk of falls and fractures
- Improve balance, muscle strength, bone strength, posture and coordination
- Improve sleep patterns
- Reduce levels of stress, anxiety and depression
- Decrease blood pressure
- Lessen the chances of developing Alzheimer's disease
- Reduce risk of diseases such as cancer, stroke, diabetes and heart disease
- Help maintain or lose weight.
- Walking also has a lower rate of injury than any other form of exercise.

Barriers - What stops people from walking?

Again info@getirelandwalking.ie may be able to help

Many factors can lead to people not walking as a form of exercise and providers should be aware of and empathetic to these issues. They should be willing to discuss them with candidates and bring up some of them on the walks.

These include:

- Low self-esteem and confidence
- Injury concerns
- Safety concerns
- Time constraints
- Inadequate/unsafe footpaths
- Little or no opportunity
- Too competitive
- Negative attitudes towards sport and physical activity
- Lack of accessibility or transport
- Medical conditions requiring modified activity
- Lack of information on walking
- Lack of support and understanding from family members
- Road safety issues
- Misinformed attitudes about older people
- Weather concerns — too hot, too cold, too wet, too windy.

Planning walks

The candidates may have little experience of planning and need to have some clear guidance about planning walks with a wide variety of clientele. Most education establishments and voluntary organisations have guidelines for the planning of trips and it is important that you read them.

- You need to have hard copy info on the types of marked and unmarked walking routes in the UK and Ireland.
- Bring guidebooks with suitable walks.
- Have a variety of maps, from sketch maps to OSI with walks that are within scope
- Planning and use of route cards - at this level it should be fine to simply draw a line on a map.
- It is important to be up to date with typical health problems and disabilities and give advice on how to work with.
- Be able to give advice on walking with dogs, buggies and even wheelchairs.
<http://www.walkswithwheelchairs.com/links> <http://www.walkswithbuggies.com>
<http://www.pushchairwalks.co.uk>
- Be able to explain third party liability insurance and why leaders need it
- Understand what a risk assessment is and what they mean. There is no requirement for them to do written ones, but it may be a good task to give as homework.

- Be able to talk knowledgeably about the MI events policy.

Lets look at the process of preparation and planning and see how it compares with your list. Planing and preparation is really an expression of a good leader.

1. Consultation: initially with the organisation or individuals, later with parents and participants. All should be aware what is involved in the walk.
2. Choice of area/ route: selected to suit the experience of the group
3. Sources of information: The more information you can gather the better
4. Maps: sufficient maps of the relevant area should be found
5. Plan your route - This varies from just looking at a map and asking some questions before you set off or, to focus your mind, drawing the intended route on the map - it may save you time later. What is the ground like?
6. Familiarity with the area: With inexperienced people it is a considerable advantage for the leader to know the area beforehand
7. Safety assessment
8. Fitness
9. Medical what are the medical conditions
10. Safety and emergency procedures: every one should be aware of the hazards. What are the channels of communication in an emergency. Do you have the names and address of contacts.
11. Insurance-Are you aware of the situation regarding insurance. In most circumstances you are in loco parentis. Do you need baggage cover?
12. Clothing and equipment- A list of equipment should be given in plenty of time. Is equipment suitable.
13. Assistants- Do you need help?
14. Programme-careful planning pays dividends. This doesn't mean you have a rigid plan but rather that you assess thoroughly the potential of the area and identify specific objectives etc.
15. Access- can you cross the land
16. Consent-For all walking trips with youngsters parental consent is required
17. Weather- Do you know what it is and where to get it
18. Kit list

Walking with kids

When you've got a family, getting out to go walking can be difficult - most children would prefer their iPhone or DS to a 3-mile walk. But with **childhood obesity a growing problem**, we need to get more children taking exercise -and walking is a great way to do that.

So how can you get your young ones interesting in walking? Here are some useful tips...

1. Make the Idea Sound like Fun

Don't say "who wants to go for a walk". Instead ask "who wants to explore the forest". If it sounds like a game, young children are more likely to be excited.

2. Choose an Interesting Spot

Plan a route with plenty of variety, plenty of escape routes and make sure it is safe. Make sure that you choose a walk location carefully. Straight routes and flat paths are boring. Children like places where there is lots to look at. They like to climb over things like logs and beaches and streams. If there is a famous landmark, all the

better, whether that be a place linked to a sport, famous person, film or television programme.

3. Dress Them Properly

Make sure that their shoes fit properly and are the right kind of shoes for walking. Likewise, clothes should be loose-fitting and not too hot or cold. Layers are always best. For a real treat, give them a small knapsack to carry. Then they can hold the bits that they find along the way.

4. Keep the Pace Slow

There is nothing worse than a parent striding ahead and yelling "come on" or "hurry up". If they want to dawdle, dawdle with them - it is part of the experience.

5. Make up Games as You Go

To keep things lively and fun, make up stories, play follow the leader or hide and seek. Use "log books" for children to fill in, listing things that they have spotted or collected. Treasure maps are fun if they are easy and the "treasure" can be a healthy treat.

Planning your trip

The main consideration will be

- The age of your children. As a general rule the most difficult age to take children walking is from 4 to 8 years as children of this age are too old to be carried or pushed but too young to walk long distances. You'll just need to factor in plenty of breaks along the way, and allow them some down-time from the walking - they'll need time to stop at a beach cove, forest or stream for a play, paddle, snack and rest.
- How fit and healthy are they
- What is realistically achievable for each member of the family without children becoming too tired and tempers getting frayed. Children who are unused to hiking may take about 3 times as long as an average adult to complete a hike.
- Will your children be walking themselves some or all of the way, or will you be walking with buggies or carrying equipment?
- Consider also what you'll need to take with you as long days out with children inevitably involve lots of additional baggage - nappies, drinks, milk, change of clothes, etc. If one of you will be carrying a baby carrier on their back remember that only one of you will be able to carry a rucksack so you'll need to fit everything you need in one bag.

Including people with disabilities

If you have no experience walking or working with people with a disability, prams and buggies you should gain some before delivering this course

Like everyone, people with disabilities may want and expect to participate in physical activity with their friends, families or carers.

Below are various points a walk leader should consider to include people with a disability in the group.

- Know who will participate beforehand: what are their needs? Don't assume – if you are unsure, check with them or their carer
- Walk the route beforehand so you are aware of available facilities, potential obstacles and suitable alternatives. Potential obstacles may include: – Overhanging branches, glare, reflective surfaces, noisy environments – Trip hazards – uneven surfaces, berries, twigs, steps Steep gradients – Narrow pathways and aisles – If it is an indoor walk, loose and slippery surfaces may limit the ability of wheelchair users to access the route.
- Incorporate the following considerations into your walk route to make it more accessible for a person with a disability, as well as the group as a whole:
 - Continuous accessible paths of travel at least 1m wide (1.2m preferred).
 - Rest stops, eating stops, shade and unisex accessible toilets
 - Well-lit routes clearly signposted and protected from the weather
 - Routes with ground surface tactile indicators, colour contrasted edges, steps and changes in levels.

Working with children with special needs – what's behind the label? by Dr Rebecca Williams

If you're an outdoor instructor working with children at the moment, you have probably run into a whole load of children with a whole load of labels recently. ADHD, ASD, LD, DAMP, dyspraxia, dyslexia etc etc – sure they mean that the children have special educational needs, but what do they actually mean to you as an instructor? I'll briefly talk you through the most common types of special educational needs and how they might impact on your session with the kids.

Learning disability – this is a problem with the development of the brain, and affects around 2.5% of the population. The severity of learning disability (previously called mental retardation, sometimes the term learning difficulties is used interchangeably) can vary, but children typically have problems in all areas of development – physical coordination, attention and concentration, communication, problem solving, and social skills.

What you need to do: Try to use less talking and keep it simple, more visual demos or prompt cards. Use the person's name so they know you are talking to them. People with LD often have a history of repeated failures, so keep goals very small and easily achievable, with lots of praise for success.

ADHD (attention deficit hyperactivity disorder) – a bit of a controversial label, children have unusual levels of over active behaviour for their age, problems staying on task (easily distracted) and struggle to block out irrelevant things in their environment. Consequently their behaviour can often be very difficult to manage, difficult to keep safe, and they are often wrongly seen as ‘just naughty’. Children with this label are often on medication such as Ritalin. They can seem very disorganised and forgetful, lose their stuff etc.

What you need to do: Check they have taken their meds. Choose your venue very carefully if climbing as you will need eyes in the back of your head to keep them safe.

Make sure you have their attention before giving any instruction. Waiting can often be a problem for these kids, so try to keep them occupied at all times, or use a timer (your watch with a beep will do) that they have hold of to let them know how long they have to wait. Children with

ADHD often respond well to being given some responsibility as it keeps them occupied and makes them feel good about themselves. Print out a picture kit list that you tape into their rucksack so they have a reminder of what they should have with them.

Autism, Autistic Spectrum Disorder (ASD) – Again, this is a disorder with varying levels of severity, but all children with ASD share 3 common features. They have significant difficulties with communication, social skills and imagination. Communication problems can include difficulties with nonverbal as well as verbal communication (both understanding spoken language and expressing themselves verbally). Social skills deficits can include not

seeing themselves as part of the group, problems understanding social rules such as why it's a good thing to behave like everyone else. If a child's problems are quite severe, then saying things like ‘good’ might be meaningless to them, and they might prefer a tangible reward (a toy, choccy etc) instead. Problems with imagination mean these children really struggle with problem solving, as we use our imagination to work out how things might be different if we try a different solution. Children with ASD are often very very anxious, and they might also have a concurrent learning disability.

What you need to do: Always use their name first so they know you are talking to them.

Give tangible rewards for completing activities which are easily achievable as opposed to just praising (eg access to a toy for 5 mins once they have done a climb). Keep your language simple and concrete. Don't talk too much as this can often make people anxious if they don't

understand you. Give a 5 minute warning before something is finished. Children with ASD are often very visual, so picture timetables are often very effective, and they might also use a communication system called PECS (picture exchange communication system) – make sure you know what to do by asking their teacher/ helper. Watch out for sensory sensitivities

(disliking certain sounds, textures etc) – you might need to try to keep the noise down, particularly in an echoey climbing wall for example.

Learning difficulties – this is a catch all term used to cover things like dyslexia (problems with reading, writing and spelling, and often organisation & sequencing), dyspraxia (a coordination problem which can affect gross and fine movement, sometimes speech as well, and making children struggle with organising themselves and getting things in the right sequence), DAMP (again an umbrella term used for children who are a bit clumsy, have some

attention problems, and who have some social skills problems), as well as non-specific delays in learning.

What you can do: If you are teaching skills such as putting on a harness, tying on, etc, it's helpful to have a sequenced picture to follow so the kids know what to do first, second, third etc. Again, children often don't want to try too hard because they are used to failing, so you need to make sure they get quick success and lots of praise early on.

Behaviour problems: Just a quick note about behaviour problems. Children mainly act out because they want social attention, want access to a thing (a tangible), or because they want to escape/ avoid a demand (in that order). The basic principle for you as an instructor is to turn the 'volume and drama' (praise, talking, facial expression, general fuss) UP for any behaviours you want to see more of – this can be in the child themselves, and the other

children in the group. Getting children to notice and praise good behaviour in each other is also helpful. If you have to intervene with problem behaviour, turn the 'volume' and drama right DOWN. So, say you have to take a rock off a child because they are threatening to throw it at someone else, do it with minimal talking, blank face, and then praise the kids who are sitting quietly. The second your child starts behaving slightly better, heap on the attention. If you spend lots of time telling kids off, for some kids who are quite starved of attention in other situations, it will only make things worse and make the behaviour more likely to happen, just by giving them lots of attention for it (even though it's negative attention). Positive approaches work best – long winded negotiation, argument or taking things away (punishment) does not have a lasting impact if children have established behaviour problems.

Your best allies in working with children with special needs are your eyes and ears. Ask their teacher/ helper what works well, what doesn't work so well, be observant, and reflect on your own practice to see whether you are making a connection.

What is duty of care and being sued?

You need to be very clear about duty of care and legal responsibilities and what insurance is. The TO spends a lot of time answering queries about insurance and what it is.

An individual, group or organisation, undertaking an activity, has a duty under law to make certain that all reasonable steps are undertaken to ensure the safety, health and well-being of participants and others likely to be affected by the activity.

Your responsibility in providing duty of care

Your duty of care extends to events and circumstances that are reasonably foreseeable. For example, someone is injured walking on a damaged footpath. Could this have been prevented? Were the walkers advised of the potential hazards?

What happens if things go wrong?

Even with the best planning, mishaps can occur, but fortunately most will be minor and easily resolved. However, if someone has suffered personal injury or loss on a walk and is contemplating taking legal action, there are hurdles a walker will have to overcome before the matter can progress further:

- They need to establish that a duty of care existed (advice, action, activities)
- The walker will have to prove that you were negligent. Hurting themselves isn't enough proof to show that you didn't do what you were supposed to do
- More importantly, the walker will have to be able to prove that it was the failure on your part that directly contributed to them hurting themselves. For example, if someone tripped over a broken footpath because you chose to walk in a poorly lit area, it is not the same as someone tripping on a footpath because they were running backwards to show off in front of their friends at the time.

Where to go

In Ireland there are no sights pointing out accessible walking routes but the UK has loads

- [The Ramblers Association website information on walking for families](#)
- [Pushchair Walks](#), a collection of over 200 tried-and-tested pushchair-friendly walks in some of the UK's most stunning locations. All walks have been tested and graded using all-terrain pushchairs, and some are quite challenging, but there are also suggestions for walks if you have a less heavy-duty pushchair,
- You can also buy a range of pushchair walking guides at [Amazon](#), researched and written by the same people behind the website.
- [Walks with Buggies](#) offers similar information, including reviews from other parents of walks, free downloads of OS maps and directions, and an easy-to-use search function which lets you search for walks by region, distance (from 0-2 miles to 5 miles plus), gradient and terrain (easy to extreme).

Walking checklist

There are some basic must-haves for any family walking trip, aside from the obvious items such as maps and directions, baby wipes and nappies.

1. Sturdy footwear

Whoever is walking will need suitable footwear. Flip-flops and sandals aren't really suitable - you'll need something sturdy with a good-grip sole. Ideally you should wear something waterproof, too, but the main consideration is that shoes or boots are well-fitting and suitable for the terrain you'll be walking on.

2. Suitable clothing

You'll need to go prepared for both rain. Layers are a good option - everyone should wear something short-sleeved but have a longer layer for warmth on-top which can be taken off and tied around waists. Sun hats are a must, too. Remember that babies and toddlers who aren't walking can get chilled very quickly if they're being carried or pushed so be sure to bring enough warm clothing for them, and ensure they are well protected from the sun with a hat and sun cream. hat (important in winter as most heat lost through head and in summer as provide shade.) Leave a change of clothes in the car.

Children will almost certainly get muddy and wet.

Gloves; raincoat; packed lunch; plenty of drink, water and diluted drinks rather than fizzy drinks, map, compass, first aid kit, v important, whistle

3. Basic First Aid kit

Comprising plenty of plasters, antiseptic cream, baby wipes, insect repellent, etc In the summer make sure everyone has a good layer of sun cream on and insect repellent before

you leave, but take extra to top up - if it's a hot day you'll need to reapply sun cream frequently and make plenty of stops in the shade to make sure your children do not burn.

4. Water and food

Take plenty of water with you - active children can get dehydrated very quickly, particularly if the weather is warm. You'll need to keep energy levels up, too, so make sure you have plenty of slow-release energy foods to snack on - things like oatly cereal bars, bananas and wholemeal bread sandwiches are good choices. Pack a few 'treats' too, to help boost morale and rally the troops for those last stretches of your walk! a group shelter should provide a bit of entertainment. Another distraction could be provided by a stove used to fry up some sausages.

Get them involved in preparation. Maybe they can make biscuits or cakes for the lunch stop.

Sunburn.

Getting too cold.

Ticks. Ticks are small, blood sucking parasites who live on deer, birds and other wild animals. When the deer brush by bushes, the tick gets on the bush and waits for another parasite to pass by.

print out certificates and present one to each child at the end of the hike.

Map work

Opportunities should be constructed for each participant to spend some time navigating, leading and making decisions.

Be careful to use language they can understand so use map work rather than navigation...It may seem simple but it is important.

The standard is that candidates should be able to:

- Understand the information on the map, but not to have a great interpretation skills about contours. They should be able to recognise uphill and downhill sections from the contours.
- Orientate the map
- Recognise tracks and trails on the map
- Recognise linear features such as wall and fences and use them to help navigate.
- Measure distances using the map only
- The compass is only used to decide roughly which direction a linear feature or trail is running.
- Be able to follow their route on the map and recognise when they have walked too far
- Have a simple tactic should they become lost.

Suitable equipment

- Expensive equipment for walking is not required. Boots do not have to be of such a solid construction as they do for an ML holder.
- Leaders should carry equipment to cope with a simple crisis.
- Food, Fluids and drinks - what are best
- Providers should be able to discuss the pro and cons of walking poles.

- Looking after maps

Hazards

- Providers should examine group management around hazards. You are more likely to be around farm animals, bikes etc.
- Consider the issues around managing a group of on the road.
- The emergency procedure's is likely to be best done through creating realistic scenarios for everyone to discuss.

Leadership skills

- What makes someone a good leader (see info at the back)
- Discuss responsibilities with the group and duty of care.
- Be up to date with legislation
- Discuss the barriers to participation in walking: age, sex, disabilities, cultural background.
- How to motivate people - positive communication, body language, voice etc

A walk leader

Is friendly and easy to talk to

- Has a warm and welcoming approach
- Smiles!
- Makes the walk feel like a fun, social occasion
- Is reliable and punctual
- Is observant of hazards and people's well-being
- Is experienced and competent across a range of walks
- Is enthusiastic
- Knows basic first aid procedures
- Is familiar with the walking route and any alternatives

Access and conservation

Access considerations Leaders should understand and be familiar with the following:

- a. their responsibility to minimise impact on the environment and applicable national codes (such as the Country Code).
- b. current applicable legislation concerning access to the countryside including the law relating to rights of way and access to land and, the nature of specially designated areas and limitations on their use
- c. how and where to get information about access to the countryside e.g. from appropriate guidebooks and maps, Mountaineering Council sources, local and National Access Forums and from the various countryside agencies and local authorities.

Environmental Awareness

Leaders should seek to develop and extend their:

- Knowledge of countryside flora and fauna
- Knowledge of local history, place names, etc.

- Understanding of how walking can impact on the environment and other people
- Awareness of conservation programmes such as 'Leave No Trace' and apply those principles in order to minimize the impact of their activities

GUIDANCE

For the leader there are two main aspects to environmental awareness; how to ensure that a minimum impact approach is taken by any group, and also inculcated in the members of the group, along with an ability to inform and entertain the group with information about the environment within which they are walking. As an absolute minimum any led group should conform to codes of good practice and comply with relevant access legislation; the leader should therefore have a sound understanding of those things and any regional variations that may be relevant. It is equally important that the group knows why they are being asked to behave in certain ways. It may well be the case that temporary restrictions might be in place or changes to access conditions have occurred. The leader should know the possible sources of information with regard to access and any areas of sensitivity. General knowledge about the environment within which the group is being led is always valuable. The history of the area combined with some basic knowledge of the land use, plants and animal life can illuminate a walk for the participants and start a real interest on their part. Short, impromptu talks can sometimes be a useful group management tool allowing the slow to catch up and get their breath back.

KEY PRACTICE POINTS

As an additional feature of any planned walk find out where you might be able to get up-to-date information about the locality you will be visiting. Make it a habit to seek out guidebooks or other sources of information; it is often possible to bolster your general knowledge immediately before any particular walk. Do some research on programmes like 'Leave No Trace' or the work of the John Muir Trust.

Lowland Leader legal responsibilities

The whole tenor of society is towards making things safer and in many spheres of life this admirable, but the pursuit of safety can be taken to extremes. If people are lulled into believing that absolute safety can be guaranteed, it is then but a short step to believing that if an accident occurs it must be due to negligence- and hence claims for compensation. Ken Ogilve 1987

Nothing has changed since 1987, professionals have always been in a position to be sued. If you are in a position of responsibility then you must be prepared, that if your actions cause injury to someone else then you could be sued. If you are not willing to be responsible for your actions don't put yourself into a position of responsibility. It has nothing to do with money or contracts; we all have a 'duty of care' towards each other.

Accidents can happen! I have been sued because a client broke her ankle in a gorge walk and claimed that we had forced her to do it. This was obviously ridiculous and did not reach a court of law. Nevertheless all instructors must be careful in the way they present the activities. I have seen instructors using peer group pressure e.g. "The group is not leaving here until you have abseiled". If the young client had a fall and hurt herself her parents have a good chance of suing the instructor for negligence.

I have seen clients on the roof rack of an instructor's car being driven up the road. I have seen instructors battling on with awkward groups that will not listen

2.2.1. 'Duty of Care'

Under common law all individuals are obliged to exercise a duty of care towards their fellow human beings, in whatever activities they are taking part including work. Duty of care is the important issue that affects all of us legally in our relationships with clients. Duty of Care affects anyone who accepts a position of responsibility for others. This 'duty of care' does not only arise through a contractual agreement just accepting responsibilities may also give rise to a duty of care. It is also not possible to exclude or restrict by contract or by notice, liability for negligence. The days when someone participating in a hazardous sport accepts the risks and consequences of injury are long gone. If it is possible for someone to prove that you were responsible in some way for his or her injuries or damage to property then you are liable to be sued through a civil action.

This Duty of Care does not only apply to instructors everyone must take reasonable care to avoid acts or omissions that you can reasonably foresee would likely injure your neighbour. Who then is my neighbour? Anyone who is closely affected by your actions, that you ought reasonably to have thought about them while you are carrying out your actions. Anyone involved in sport should realise that their actions or inaction may affect anyone else involved in that activity or even persons not involved as such but spectating or living nearby.

For someone to seek financial compensation in civil law they have to show that you have been negligent and that the negligence caused the injury. For negligence to be proved the following must exist:

- A duty of care must exist
- There must have been a breach of that duty of care.
- Actual damage must have resulted from that breach of duty of care.

The way that the law views 'duty of care' is not precise but they will consider the following matters.

- **The age of the persons.** A stricter duty of care is imposed with children than with adults. This is particularly true where instructors and children are concerned. Teachers/instructors are in '*loco parentis*' when the clients are under eighteen. This duty of care is to take the care that one would expect a reasonably prudent parent to take. In some circumstances a court may find an instructor should have exercised a duty of care beyond that of an ordinary parent. This is because it is reasonable to expect their professional training, expert knowledge or experience to have given them a greater awareness of the potential risks
- The expertise of the persons involved. More care would be expected when taking a class of beginners than when you are working with a group of experts.
- **How dangerous the activity is.** The more dangerous the activity the higher the degree of duty of care.
- **The risk of the injury occurring v cost of taking precautions.** Basically if the risk is small and the cost of guarding against it prohibitive then there will be no negligence.
- **The foreseeability of the particular accident occurring.** If the type of accident has not occurred before there may not be any negligence. But once an accident has been publicised, it may be deemed foreseeable from that time forth.
- **The equipment must be suitable for the activity concerned.** E.g. using an abseil rope for climbing.

All the above issues are generally covered in the 'code of practice' from the MLTB. Adhering to a code of practice does not absolve you from liability but not adhering to them may be evidence that reasonable care was not taken.

The following are all issues that an instructor should examine when considering their own legal responsibilities to a group:

- 1) Duty of care means that an instructor should have the following: previous training (first aid, life saving, leadership skills), reasonable awareness, uses accepted safe working practises, takes all necessary precautions, uses common sense and is acting in good faith.
- 2) You should ask yourself whether you are leading or supervising? Are you responsible? When taking a group even with an accompanying member of staff the instructor is

always in overall charge during activities.

Who is responsible should liability does arise?

The person responsible will always be liable, but through the operation of 'Vicarious liability' the employer may be sued instead. The employer will only be liable where the employee is negligent during the course of his employment i.e. he/she must be doing what he is employed to do. Employers have a duty to ensure that the person employed is competent to do that job. If you are freelancing the situation is more complicated. As a freelance instructor you are either an employee (contract of services) or an independent contractor (contract for services). Which applies depends on the circumstances. If you receive regular work and the employer pays your National Insurance and tax and gives paid holiday then you are an employee. If you work on an occasional basis and sort out your own tax you are probably an independent contractor. You may lie somewhere in the middle and a court would look at all the factors before deciding whether you are an employee.

It is unlikely that a trainee instructor who is gaining experience with a qualified instructor could be an independent contractor.

So if you were an employee the both of you would be sued but as long as the employer was properly insured his insurance would pay out. If you are an independent contractor then the client has two avenues for action.

Tort: In tort the client can sue you for damages for negligence if it can be proved that you (the instructor) owes a duty of care, that there was a breach of that duty and that reasonably foreseeable damage resulted from the breach. The employer is not liable for the negligent acts of an independent contractor so the client will sue you.

Contract: There is a contract between an employer and a client to provide a service. It need not be written. A court would find that there was an implied term in the contract that the service would be of an appropriate standard in all the circumstances. There is a sub-contract between you (the sub contractor) and the employer but none between the client and the sub contractor. If you failed to provide an adequate service or damaged the client then the employer would be sued for breach of contract. The employer could in turn sue you for breach of your contract. In other words everyone gets sued.

However the bottom line is who has the most money. If the employer is correctly insured then he will be sued. However if this is not the case and the employer has no assets then you will become the target.

The Employers Liability Act 1969 requires employers to insure against liability for personal injury sustained by their employees in the course of their employment. Freelance instructors do not have to be covered by employers liability insurance, as they are not employees.

What defences can an instructor put forward?

In a case that comes before the court it will be up to them to decide whether or not there has been a breach of duty. The court will look at previous cases before reaching a

decision. Liability may be avoided by successfully pleading one of several defences.

- 1) A claim that the accident was unforeseeable
- 2) Volenti- This defence which is given a Latin tag, volenti non fit injura, meaning 'no harm is done to he who consents, is available where the person injured has freely consented to the particular risk in the activity. Volenti cannot be claimed if the injury is caused negligently or deliberately or is not a risk associated with the particular activity e.g. faulty equipment (not poorly maintained equipment).
- 3) Contributory negligence: should a client suffer injury partly due to his fault and only partly due to the conduct of the instructor the damages may be reduced. However you should take into account people being careless. This defence would not stand with children.

It is accepted that accidents happen. This was the finding when a twelve-year old boy scout slipped and fell down a mountain. The party was well led, well clothed and well equipped and the mishap was deemed an accident such as would occur occasionally.

Third Party Insurance

It is important that any instructor ensures that they are covered by Third party Indemnity insurance. If you have been negligent they will pick up the tab. An insurance company could waive its obligations to pay for the cost of defending you, and meeting the damages, if you have been so recklessly negligent that it would have been obvious to any reasonable person that the most likely outcome of your actions was the serious injury or death of someone in your charge.

In such a situation-hopefully not likely for trained instructors-you would probably find yourself on a criminal charge such as for manslaughter.