

This Good Practice Guide is offered as informal material. It comprises well-intentioned advice but does not obviate the need to pay particular attention to your safety procedures or advanced planning.

The evidence trail is followed by an investigating authority or by anyone in whose interest things were said, not said, done or not done.

Evidence trails become essential defence items when blame is an issue or compensation for errors of judgement, leading to an injury, is sought.

Written documentation

- Documentation, where it exists, **MUST** be provided to official investigating authorities if and when requested.
- A **single source** of such material is desirable and in everyone's interest.
- Anyone operating in an area where supervision safety is an issue and when or where safety decisions are made for operational reasons, then a **SAFETY BOOK** should be kept. This records dates of meetings, agenda items, decisions made or issues remaining under review.
- It is particularly important that records are made, and retained, of safety procedures **NOT** adopted or when standard operational procedure is **NOT** adhered to. An example might be a decision, during an excursion, to move **OUT** of a place designated for swimming because of undesirable attention or overcrowding. This decision is obviously a crucial one so **MUST** be recorded and preferably witnessed.
- A **WITHOUT PREJUDICE incident book** could be made available to leaders and even party members. Anyone interested should be encouraged to write comments about safety issues and, particularly, incidents or occurrences which did not lead to injury. Dangerous occurrences are always reportable directly to the Head or the Service.

Verbal instructions

The evidence trail is best laid in writing but verbal evidence is often sufficient, provided it can be substantiated by witnesses.

In-situ verbal safety instructions (safety briefings), therefore, should be given in a controlled environment and to an attentive audience, after which it is essential to ask if everyone understands. It is advisable to have points listed (*aides memoir or cue cards*) for planned safety briefings; simplistic reasons for this might be:

- the list provides cues for the presenter, preventing missed points
- the list itself, when retained, provides an essential record (evidence)

Points made in verbal briefings could also be recorded (retrospectively) in writing – but these should be carefully dated.

Risk Assessments

Safety (Risk) Assessments **ALWAYS** form part of the evidence trail; they should be simple, easy to understand and always written. They should be authored, in-date **AND** dated.

Many types of assessment may be available –

- Activity Assessment – for instance travelling on an internal ferry.
- Transport or Travel Assessment – say passenger safety, behaviour and supervision.
- Location Assessment – for instance Scapa Beach.
- Group Assessment – including any special needs, general physical ability or language difficulties.
- Equipment Assessment (Audit) – for instance, lists of safety gear, its previous use and checks.

Activity Risk Assessment will typically look at the expected generic hazards of activity such as getting wet in boating or slipping on sea-weedy boulders. Transport or Travel Assessments are often part of the activity assessment but are sometimes complex affairs if travelling in 'exotic' locations.

A typical Location Assessment (Site Specific Assessment) might include warnings about open water pits or, say, poor mobile-phone reception.

Group Assessment would probably be done by someone other than the leader, say an establishment administrator. It might include personal medical information, notes about capability or, even, group dynamics.

Equipment Assessment (audit) is a little different but includes such features as proper storage, security, use-logging, stock taking, inspection, condemnation and replacement - all features contributing to overall safety of persons.

Evidence trails are very often incomplete but partial evidence, when assembled, may sometimes serve to mitigate simple errors of judgement. However, the lack of suitable evidence (of safety procedures, advice and instruction) usually leads to successful awards for compensation and, under legal rules in the case of a fatality, the possibility of manslaughter charges.

Compliance

It is of little value to have '*evidence*' for things said or done, if statements or rules are not adhered to, or carried out or, even, checked for compliance – evidence **MUST** be supported by actions.

A few more points

- More and more cases are emerging where investigators, lawyers or their agents only seek out evidence for established bad practise.
- In a fairly recent case, where a junior assistant was accused of errors of judgement, the defence lawyer **PROVED** that the Establishment information and induction trail was flawed. The plaintive claimed that she did not know of precise procedures and there was no written record of induction. Needless to say her employer denied this and, again needless to say, the claim was settled out of court.
- In another case, an accompanying parent who failed to intervene, and to thus prevent a fatality, was cleared of blame because he was **NOT** clearly briefed as to his supervisory duties.
- A famous private school failed to prevent punitive damages being awarded because it could not produce clear evidence that youngsters were told not to operate near a dangerous quarry at certain times.
- Think about maintaining a clear conscience, inspiring others and providing vocational training for your party members.