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Perspective

The Rise and Fall of a Regulator: Adventure Sports in the United Kingdom

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Following a tragic accident in 1993 involving the deaths of teenagers while kayaking a new regulatory regime was imposed upon some adventure sports providers in the United Kingdom. In particular, a new regulatory body, the Adventure Activities Licensing Authority (AALA), was established to oversee the sector. Yet in 2010, a government-sponsored review recommended that AALA be abolished and this recommendation has been quickly accepted by government. This article explores the background to these developments through documentation, interviews with those affected by the AALA regime, and court cases. Evidence reported here, perhaps surprising, is that AALA itself is seen in a very positive light by many, even those it regulates. What may have happened is that AALA became caught up in a wider debate about the place and management of risk in life beyond the workplace, which has been simmering in the United Kingdom for a decade or more, and of which it fell foul. It may also be that adventure sports, because they entail voluntary engagement with high consequence hazards, starkly expose serious questions about the application of conventional, factory-originated risk assessment approaches to life in general.

KEY WORDS: Adventure sports; benefits; law; regulation; risks

1. INTRODUCTION

Twenty years ago in *Risk Analysis* Gary Machlis and Eugene Rosa boldly testified that:

"The United States, long identified with a frontier spirit, has become instead a nation of poltroons, recreants and wimps."[1]

Even so their observation was tempered with fitting circumspection for they noted that at that time there was a dearth of published research on activities sharing attributes of the "frontier spirit" and in which participants deliberately sought exposure to risk. So far as *Risk Analysis* is concerned, the coverage of adventure sports, in which risk is voluntarily engaged, was also found meager yet, like Machlis and Rosa, we would argue that it is a subject area which is topical and enlightening.

In the United Kingdom, for example, there is current and widespread concern in many sectors of society spanning employment, education, the judiciary, and regulation, that the young especially are being deterred from engaging with adventurous activities because of fears of injury and, perhaps, liability, and that one outcome of this might be to create yet another nation of wimps who will grow up incapable of handling or enjoying life's challenges.[2–6]

In 2010, reflecting this concern, Lord Young of Graffham reported to the U.K. coalition government on what were seen as disturbing trends in the management of safety risks to the public.[7][1] Included

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[1]In this perspective, we use the terms "public" and "public life" to denote nonwork situations, essentially leisure activities pursued

in his report were some powerful and far-reaching recommendations. These implied, *inter alia*, that the system of risk assessment in widespread usage, and which had been developed in the workplace, was fundamentally unsuitable for application to leisure activities. Also, there was a proposition that the regulatory body for adventure sports in the United Kingdom, known as the Adventure Activities Licensing Authority (AALA), should be abolished. The report's recommendations, despite the evident and serious challenges they posed to the status quo, were subsequently accepted in full by the government.

In this article, we trace the background to and history of AALA from its creation in the early 90s through to its present and precarious position. There are several purposes in doing this. One is that if mistakes were made it may be possible to learn. A second is to describe, using adventure sports as an exemplar, the current conflict in the United Kingdom between competing risk ideologies in public life.

2. ROOTS OF CONFLICT

In 2004, the U.K. Select Committee on Education and Skills (SCES) published a review of outdoor learning, including adventure activities.[8] *Inter alia* they found that Britain lagged behind many countries in this provision which was a shock for once it had been regarded as a world leader. As the SCES said in its report, quoting Dr Peter Higgins of Edinburgh University:

> ".. 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."[8]

Since the SCES's report, much has been written about the potential threat to adventure activities posed by a powerful new emergent culture motivated by a desire to eliminate or reduce risks of injury. As one example, in 2005 the English Outdoor Council (EOC) published a briefing paper emphasizing *the benefits* of outdoor activities. These included developing resilience and physical and psychological health and general well being, reducing antisocial behavior, and helping young people to manage risk and challenge. The writer Tim Gill is prominent in the United Kingdom among those who have since contributed to a tide of documents for agencies, such as the Forestry Commission and the EOC, stressing the need for a more balanced approach to adventure activities, and which fully recognizes their benefits during the process of risk assessment.[4,9,10]

by the public in their own time. We point out that in other jurisdictions these might be referred to as "private" activities.

3. REGULATION OF ADVENTURE SPORTS IN THE UNITED KINGDOM

The origin of AALA is commonly described as a response to a 1993 tragedy during which four teenagers drowned during a sea kayaking outing at a coastal location known as Lyme Bay. In reality, concerns had increased over a decade because of a swing from Local Authority provision of adventure activities via well-established centers owned and run by them, to seemingly less-supervised, private centers, like that at Lyme Bay.

Before Lyme Bay, outdoor adventure activity centers had been able to opt into a variety of voluntary codes of practice drawn up by the appropriate national governing bodies of each sport. Nearly all adventure activities had their own National Governing Body (NGB) and associated leadership awards. Moreover, the centers of choice for schools to send their children and young people to as a part of their broader education were those owned and run by their own, or another, Local Authority, which imposed their own checks and balances. During school holidays, the average parent was more likely to send their child to one of a growing number of private adventure holiday centers. These had their own trade association, the British Activity Holiday Association. However, the Lyme Bay trial judge, Lord Justice Ognall, following the successful prosecution of the center manager, described the status quo as "the inadequate vagaries of self-regulation." This phrase became a rallying call for what was to follow.

Lyme Bay, thus, sparked a major debate over the safety of outdoor adventure activities and stimulated calls for tighter regulation of the centers which provided them. The Government's position was largely that the situation could be dealt with by the provision of more guidance and that statutory inspection and accreditation of activity centers was unnecessary, a position backed at that time by the United Kingdom's primary regulator, the Health and Safety

Executive (HSE). However, there was considerable opposition to this hands-off recipe, which was heavily reliant upon self-regulation for success and prosecution for failure. This came from the trial judge, some in local government and teaching organizations, campaign groups, some Members of Parliament, and the media. The campaign was at times emotional. According to one tabloid, *The Daily Mirror*, "Thousands of children are facing appalling physical dangers because of the Government's refusal to bring in laws controlling holiday activity centres."

The outcome of this contest was a victory for the proregulation group and resulted in the passage of the Activity Centres (Young Persons' Safety) Act 1995 and the creation of an independent licensing authority, the AALA, and a set of regulations to be enforced—the Adventure Activities Licensing Regulations (AALR) 1996 (revised in 2004). However, by and large, the approach of the new Licensing Authority and its inspectors was to demonstrate that where work, as defined by the HSE, fell within the remit of one of the sector's many NGBs, then following the good practice identified by that NGB would generally be sufficient to satisfy both the new Regulations and the overarching statute, the United Kingdom's Health and Safety at Work (HSWA), etc, Act of 1974. There was, in reality, only minor conflict.

Further reorganization occurred in 2007 when AALA was subsumed by the HSE. This meant, effectively, that the HSE replaced AALA as the licensing authority, and that that agency which was formerly AALA became a private, not for profit company, known as the Adventure Activities Licensing Service (AALS) which was charged with delivering the inspection regime on a day to day basis. In this way, the AALRs (2004) continued to require any business providing specified adventure activities to under 18 year olds, in the absence of parents or guardians, to obtain a license from the AALS, which in turn implied regular inspections and the payment of fees. Furthermore, although the 1995 Act applies only to this part of adventure sport provision, its impact is much wider. This is because standards of inspection set by the AALS are frequently used as the yardstick in any court case involving an accident, irrespective of whether the adventure activity provider falls within this definition of the AALRs or not.[11]

Although, in retrospect, the 1995 Act may have been less damaging to the sector through its regulatory impositions and licensing costs than had been feared, damage may nonetheless have been realized. For one thing, based on our interactions with the sector, some believe the reputation and self-confidence of the sector was undermined. Furthermore, there was the potential for a new and imposed safety regime to ride roughshod over the benefits of activities which, necessarily, unavoidably, and for good reason, engaged deliberately with an actual risk of harm.[12]

4. PERSPECTIVES FROM THE ADVENTURE SECTOR

After three years, the working of the Act was reviewed by Government and the majority of the respondents to that review were of the opinion that the new licensing scheme was doing its job. In 2000, the number of license holders stood at 911 with 29 refusals and 48 who had improved their operations.[11]

To determine what had been the longer term consequences, intended or unintended, of AALA, we conducted a further investigation in 2008, just two years before the publication of the Young report. This took the form of a sampling of the opinions, by interview, of those in the sector who were affected by the regulatory regime. The interviewees were members of the Association of Heads of Outdoor Education Centres (AHOEC). Membership of AHOEC is open to those who are employed as heads and managers of established outdoor education centers and organizations, and thus represent professionals whose daily work is directly affected by the legislation. Seven AHOEC members commented on a number of issues including the following and supplied additional information as they wished:

(1) Their views of the regulatory regime and how it had affected the adventure activities sector.
(2) Had the regulation changed things for the better or not and, if so, how?
(3) Although it is plausible to justify exposing people to risky activities by taking account of the benefits, was there an overt or formal way in which this was done or was it more informal or subconscious even?
(4) Did they feel that the benefits of adventure sport participation were given adequate recognition?

Now although it might be expected, because in general no one likes being regulated, that responses to AALA would have expressed reserve this, surprisingly, was not what emerged. The most interesting finding was that responses were overwhelmingly positive. The likely explanation, from the discussions, is

that all AALA inspectors had come from the adventure activity sector and thereby had extensive experience in the field of adventure sports through immersion in them.

In the terminology of sociologists, Collins and Evans, who have analyzed the nature of expertise,[13] these inspectors had high levels of what they call "specialist tacit knowledge" through years of interactional experience with the sport. This, the respondents felt, had been the fundamental reason that a constructive process for assessing activity centers had emerged. Thus, as all inspectors understood the issues and difficulties faced, the process was supportive and nonthreatening. As a consequence, virtually all the respondents were in agreement that the quality of centers, particularly at the lower end, had "unquestionably improved" as a direct result of licensing.

Several, however, conceded that there had initially been substantial anxiety that the legislation had been a reflex reaction and would be detrimental to the industry. This was not a baseless fear. As observed by Hood *et al*.,[14] tragedies like Lyme Bay have the tendency to open up "policy windows" in which those who favor tighter regulation are given an opportunity to press their case, a phenomenon wryly referred to as "tombstone legislation."

However, although the perception of AHOEC members was that licensing had been introduced in such a way that it had been largely positive, this had not prevented concern resurfacing in 2007 when AALA was subsumed by the HSE, the simple reason being that HSE's main job was the regulation of factories and that it would thereby be less familiar with the tradeoffs which the adventure sector had to make between benefits and risks. When this occurred, many adventure practitioners 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, it was noted that this did not rule out the possibility of future changes. Shifts in approach would likely occur gradually and as Hood *et al*. observed, regulatory regimes are ever-shifting and malleable.[14]

Further, despite the positive feeling for AALA, the respondents collectively sensed that there had been some "watering down" of activities, and more strongly still, that the benefits of adventure sports were not given sufficient recognition despite, for instance, efforts by AALA inspectors to alert the rank and file of the HSE to the fact that the workplace paradigm for assessing and regulating risk might need adaptation.

5. WIDER CONTEXT

Given the supportiveness of sector members for AALA, it might be asked why Lord Young proposed its abolition. Indeed, whereas other agencies were only named collectively in the Young report[7] as erring in ways harmful of society, AALA was specifically singled out as deserving of the ultimate censure. The reasons stated in the Young report are that licensing was costly and burdensome and added little to health and safety of participants. These are valid reasons, but it is notable that the annual running costs were actually very small, paling into insignificance compared with the estimate reported by Lord Young of £700M–£1B spent annually on external "health and safety services" provided nationally for all activities.

Clues might lie elsewhere in the report, or more widely in what has been happening in British society. Within the report there are frequent references to excessive bureaucracy and a general failure to adopt a proportionate approach to the management of risk, even in sectors where historical evidence shows risk of serious harm is low. In addition, though, there are references to the need to reduce the plethora of regulations on health and safety which now cover almost every conceivable situation.[7] Licensing, for example, is no more proportionate a response now than when it was introduced in the adventure sector in 1996 and when its introduction was widely criticized. It could be said that the change in British society has been that disproportionality is now widespread: other sectors with involvement in public life have simply "caught up" with the disproportionality of licensing.

The situation is now reminiscent of findings from the investigation by Lord Robens in 1972 which unearthed more regulation than that with which any person could reasonably cope.[15] Robens' solution was to propose "horizontal" legislation which would set out general duties, leaving duty holders to figure out how to apply them to their particular circumstances. Robens' ideas were actioned by the passage of Britain's HSWA of 1974 which required risks to be managed according to the now familiar philosophy of "As Low As Reasonably Practicable" (ALARP). However, in the subsequent decades the visibility of this philosophy has been obscured by swathes of sector-specific advisory literature[7] of mixed quality and consistency.

Elsewhere in the Young report, it is apparent that there is concern over how risk assessment is

being undertaken in these nonworkplace settings. Of pertinence here is the work of Cox and colleagues who exposed serious shortcomings in some commonly used risk assessment procedures, particularly risk matrices. These devices, widely used for risk assessment purposes in the United Kingdom, were found to lack discriminatory power and to be capable of producing poor rankings.[16] In a follow-up paper Cox goes further saying that risk matrices do not necessarily support "better-than-random" decision making. We suspect this may be particularly so in the context of risks to the public including those of adventure activities. Cox has suggested that, notwithstanding these serious difficulties, such procedures cannot easily be abandoned because their usage is so widespread and convenient.[17] Lord Young, however, has proposed that risk assessment in some settings positively needs to change. He recommended it should be replaced by risk-benefit assessment (RBA). This is said specifically in relation to the education sector and children's play though we see no reason why it should be so confined. Furthermore, he says consideration should be given to reviewing the HSWA to separate out play and leisure from workplace contexts. A sizeable gauntlet has, thus, been tossed into the technical risk assessment arena.

6. THE BENEFITS OF PUBLIC LIFE

A crucial issue that has emerged in the United Kingdom in recent years revolves around the use of workplace safety ideologies and formulations of risk assessment for assessing the suitability of public places and activities. According to HSE guidance which accompanies U.K. workplace regulations, hazards should be first avoided wherever possible, and if that is not possible they should be subjected to risk assessment and preventative measures implemented.[18] It will be obvious that adventure activities, which perhaps lie at one extreme so far as public life is concerned, would receive short shrift from such an approach because they are about deliberate confrontation with challenges which inherently involve actual risk of harm and are not about risk minimization or elimination as the workplace guidance and the entrained risk assessment tools imply. There is no doubt that this conundrum leads to confusion and a huge variability in decision making when those whose experience is health and safety in the workplace expand their activities into public life and adventure sports in particular. What would never be countenanced in a factory might be welcomed elsewhere. For example, crossing a mountain stream via stepping stones might be okay or even welcomed in the outdoors, but use of the same in a workplace to get to the canteen would not. For this reason AHOEC's concern when AALA was subsumed by the HSE can be seen to be rational.

As an example of how traditional workplace health and safety practices can get into difficulty in the context of adventure activities it is necessary only to read the opening passage in 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***."[19]

To sign up to this statement it would be necessary, from an adventure activities perspective, to be in a state of cognitive dissonance. For if, as it says, young people need to meet real challenges, then, as it says, some risk is inevitable. But then to say that adventure is only "sensed" implies the risk is unreal, as does the punch line that harm must not occur. This, of course, is not at all what adventure activities are about. All of life is risky and the moment one relocates to an adventure setting it likely becomes riskier still, the response to which should not automatically be flight, but more care. This acceptance of risk can only be justified by recognizing that there is a trade-off to be made with the benefits of the activity.

For some, this is a difficult bridge to cross, but in reality it is nothing new. As Chauncey Starr memorably wrote four decades ago, people accept risks in exchange for benefits,[20] a point recently reiterated in *Risk Analysis* by van Dijk *et al*. in the context of food safety.[21] The trouble with the transference of workplace ideologies and regimes to public activities is that they seldom if ever incorporate consideration of benefits and this, in the United Kingdom, has led to a great deal of dissent.[22]

7. ISSUES IN THE COURTS

Despite the existence of AALA and given the huge number of adventure activity participants each year (in the schools sector alone there are in the

region of 7–10 million pupil-days of out-of-school activities every year[8,23]), it has to be anticipated that some serious incidents will occur, and between 1996 and 2010 there have been seven fatalities at licensed centers, three since attributed to natural causes, three to drownings, and one to a fall from height. In these cases, AALA's function is often to assist with the investigation, but the HSE has the additional option at its disposal of bringing criminal prosecutions under the HSWA if it thinks this is appropriate. Further evidence of ideological and procedural stances can be gleaned from these prosecutions.

One case involved the deaths of two teenage girls who, in 2000, were swept down a fast-flowing stream known as Stainforth Beck in Yorkshire while on a school visit involving river walking.[24] Although a Coroner's Court established that the deaths were accidental, the HSE brought a successful prosecution against the County Council on the grounds that they failed to ensure the safety of pupils. The reference here to a failure to ensure safety stems from a requirement of the HSWA which is that those responsible are mandated to *ensure safety.* This means that if an accident occurs, the responsible party has *prima facie* failed in that duty. The defense to such a charge is to prove that everything that was reasonably practicable to prevent the accident had been done. The issue then is to identify what is reasonably practicable, initially from the perspective of the HSE, and ultimately the Courts who are the final arbiters. HSE's own Enforcement Policy Statement says: "There will be occasions (following a death at work) where the public interest does not require a prosecution." No explanation is provided as to what occasions this may include, and there is rather little in this sector by way of precedent.

Typically, though, one strand of HSE's approach in these cases is to carry out a rigorous investigation of the duty holder's risk management procedures. These may then be compared with some standard procedure. For example, HSE has published a widely disseminated advisory document called "Successful health and safety management" (HSG65) which sets out its view on how risks should be properly managed.[25] But as Bailie, Head of Inspection of AALA, has observed:

> "In an investigation this thorough it is not surprising that at least some deficiencies were found . . . , arguably one would find at least some deficiencies if any large organisation is subjected to an investigation of this rigour."[23]

Another HSE prosecution followed the drowning of a 10-year-old boy in 2002 in a river in Glenridding, Cumbria while taking part in a school activity involving diving into rock pools. In that case, the HSE's prosecution resulted in a conviction of manslaughter against the teacher. HSE subsequently published an investigation report from which it sought to point out lessons which should be observed by future organizers of school trips.[26] Then, in 2010, HSE attempted to prosecute North Yorkshire County Council (NYCC) over the 2005 death by drowning of a teenage boy while on a potholing trip in the Yorkshire Dales. This prosecution was unsuccessful, being rejected by the jury.[27]

The main grounds upon which these latter cases were fought included the competency of adventure leaders, the adequacy of institutional management systems, the formal risk assessments, and beliefs about the role of risk in adventure.[27] The last of these, as noted in the previous section, presents challenges for those whose background is industrial risk management and who, deep down, may seek risk elimination or minimization.

On the issue of the competency of adventure leaders, few if any would dispute that this is the most important element in promoting safety. The HSE itself says that, "This is the biggest single factor in ensuring safe visits."[26] Where differences of opinion arise is that HSE has exhibited a tendency to see these leaders as cogs in a greater wheel rather than sentient decision making leaders with vast interactional experience of the kind recognized by Collins and Evans.[13] Thus, the Cumbrian and NYCC prosecutions bore heavily on the detail of overarching management systems employed by the authorities, as well as on technicalities of prior documented risk assessments.

So far as risk assessment is concerned, the HSE has sought, perhaps in a bid to keep the perceived costs of compliance from getting out of hand, to portray risk assessment as simple and uncomplicated.[28] Earlier discussion here of the work of Cox *et al.* has shown that though such procedures may be presented as simple, the underlying intellectual processes are in fact complex, none of which will be of any surprise to followers of the work of Slovic, and Dreyfus and Dreyfus, to name but some.[29,30] The disturbing feature of this is that to contemplate that an intellectually complex process is simple is to delude oneself,[31] which is absolutely not what one wants to do when leading an adventure activity

in potentially risky terrain. Perhaps, in dawning recognition of this surprising complexity, HSE, in the Cumbrian and NYCC cases, elaborated upon the vision of the simple risk assessment. In fact, they said, it should be carried out at multiple levels including generic risk assessment, site-specific risk assessment, and dynamic risk assessment. Furthermore, "no-go" criteria, triangulation, and other concepts were introduced.

From this one may perhaps confidently conclude that formal risk assessment is, after all, not so simple. And indeed, "no-go" is not in fact a criterion, but an outcome based on the totality of all available evidence, assumptions, knowledge, beliefs, training, and instincts. Such a summation can never be simple. In most cases, it cannot even be written down as the regulations require.

One striking feature of the HSE report on Glenridding[26] is the degree of emphasis given to management systems. The report contains well in excess of thirty "key points" collectively requiring a massive investment of time and effort by education authorities, the realism of which demands was a matter brought up by the defending barrister, Robert Smith QC, during the North Yorkshire trial. Also brought up in the NYCC trial was the HSE's predilection for the type of management system described in its HSG65 document.[25] The point was made that there is more than one kind of approach to management. In simple terms, some are autocratic, some paternalistic, and some democratically inclined. It can be argued that the style of HSG65 most closely resembled the autocratic model, possibly being more suited to factories employing low-skilled workers. It was questioned whether such a management model should be automatically transferred to other sectors of public life including outdoor education and the like, which employ highly motivated, educated, and skilled professionals. As remarked by Hood *et al*. in their analysis of regulatory regimes:[14]

> "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. . ."

During cross-examination, it was not disputed that the management system in HSG65, which had been presented by the Prosecution as some kind of gold standard, was in fact an opinion of some person or persons of unknown provenance, nor was compliance with it mandatory. One other singular aspect of the NYCC trial was that the defending barrister stressed the issue of the benefits of outdoor adventure activities for young people, a matter that had received scant reference in the prosecution's case, nor in earlier cases.

The argument was also presented that while involved in caving activities, compliance with good practice as identified by the British Caving Association (BCA) was sufficient to satisfy the requirements of the HSWA. Personal experience of the sector, and material, such as the syllabus, for instructor training and assessment which can be seen on the BCA website,[32] provide clear evidence that these guidelines are based on decades of experience on the part of cavers and caving instructors with detailed knowledge of general and specific hazards of the caving environment, and appropriate procedures and practices to manage them. Moreover, the process is clearly dynamic in that peer review and revision is ongoing, often using the lessons learned from actual incidents. Indeed, the verdict rather countenanced this view, thus throwing into question whether HSE should be the sole arbiter of safety.

8. CONCLUDING REMARKS

From the evidence reported here, and from our own partial immersion in and interaction with the sector over the last decade, it cannot be concluded that the demise of AALA sought by the Young report can be attributed to the way in which AALA has conducted itself. Many, in fact, appear to regard AALA as a voice of reasonableness in a world increasingly dominated by protocols, paperwork, and management systems. It is arguably the case, too, that adventure activities constitute the most likely arena in which conflicts over the management of non-workplace hazards would emerge. This is because facing real, not phoney, risk is part of their essence and sparks would inevitably fly when the worldview which sees this as justifiable collided with one which had risk reduction as its driving priority. AALA, it may be surmised, has been unlucky on both counts.

What of value and interest can be noted from AALA's brief history and the events surrounding it? There would appear to be a number of things. Perhaps the most important from the point of view of the safety of adventure sport participants is the

contest over the relative importance of leaders' on-the-spot competencies vis-à-vis the role of overarching management systems and formal written risk assessments. In the NYCC trial, the HSE described risk assessment, by which it meant a combination of generic, site-specific, and dynamic risk assessment, as a "three-legged stool" which, should any leg fail, would lead to disaster. Others did not agree. Indeed, Bailie, Chief Inspector of AALA, had previously described risk assessment for adventure activities as follows:

> "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."[33]

Problematic though this revisionist approach to assessing risks might be for advocates of conventional factory-style risk assessments, it could well be that Bailie is right. For one thing, it is simply not possible to assign to paper a description of considerations which inevitably come up in the mind of an experienced adventure leader as they ply their art in an ever-changing natural and human environment. As Bailie has said, "It's not what you write which drives safety, but what you do."[23]
Gill similarly observes that:

> "However, in recent years the trend has been to conduct ever more detailed risk assessments, because of fear of litigation. The trend has become so pronounced that it has even troubled the HSE, which states bluntly on its website that 'sensible risk management is not about generating useless paperwork mountains.' There is a clear call for local authorities and other agencies to reduce the bureaucratic burden imposed on those involved in visits and activities, focusing on people and processes, not paper."[9]

It may also be that attempting to shoehorn complex thought processes which have enabled humans to survive into newly casted methods of "systematic thinking" poses its own hazards.[34] This, at the very least, is something deserving of serious consideration. It is not just something which should be implemented on the basis of a belief.

A similar argument can be made in relation to management systems. The transference of systems, such as those described in HSG65, to public life is not automatically beneficial as some argue. The system is immensely bureaucratic, and it is the bureaucratic tendency and its impact on public life and smaller businesses which lies behind much of the concern driving the Young initiative. "Does it work?" and "at what cost?" are pertinent questions. In addition, might it have unintended consequences? Almost certainly it does. In the adventure sector, it has a tendency to shift responsibility from leaders, whereas in contrast AALA's proposition is 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."[35]

The final fate of AALA and what will follow has yet to be determined. Whatever the outcome, it may be that AALA in fact pioneered a valuable model for the regulation of risk in what might loosely be called specialist sectors. That is, inspection by a sector but answerable to government, as opposed to self-regulation in which inspection is by the sector and answerable to the sector. In this way, maximum use is made of interactional and contributory expertise, which is not lost through the imposition of a more generalist and remote regime.

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