



GUIDELINES FOR THE RECREATIONAL USE OF MINES

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NOTICE

Abandoned and Disused Mines are dangerous and hazardous places. Anyone visiting such mines should be aware of the risk of serious injury and death to themselves and other people.

Failure to take notice of these guidelines and follow the recommendations will increase the risk of serious injury and death.

NAMHO does not condone any illegal or dangerous activities.

1 BACKGROUND AND SCOPE

This document is a guide for NAMHO members about the current law and good practises relating to access and safety, for exploration or use of disused and abandoned mines for recreational purposes. Although this document is based on Acts which apply to England and Wales, as many of these Acts are based on European law, it is likely that similar principles will be found in other regimes.

This document replaces the earlier NAMHO publication: “Guidelines For The Leisure Use Of Mines”, published in 2000. This update particularly addresses issues raised by the introduction of the Mines Regulations 2014.

The document is not intended to address activities at working mines including industrial, commercial, museum and tourist mines.

NAMHO recognises the value of the BCA Local Cave and Mine Assessment scheme (LCMLA) in introducing people to mines. However, the LCMLA scheme is not in the scope of this document.

NAMHO is committed to supporting the safe exploration, study and preservation of abandoned or disused mines. In particular NAMHO emphasises its support for the continuation of the traditional activities of Mining History, Exploration and Caving Clubs.

Mines are hazardous places. NAMHO strongly recommends that the route to keeping safe underground is via membership of a Club. See Section 7 of this document.

2 ABBREVIATIONS

References to legislation and other terms may be found abbreviated as shown below. More details of legislation, regulations and Approved Codes of practice are given in Appendix 2.

ACOP	Approved Code of Practice (HSE)
AALA	Adventure Activities Licensing Authority
AALR	The Adventure Activities Licensing Regulations 2006
BCA	British Caving Association
HSE	Health and Safety Executive
HSWA	Health and Safety at Work etc. Act 1974
IRR17	The Ionising Radiations Regulations 2017

LA	Local Authority (Environmental Health Dept.)
LCMLA	Local Cave and Mine Leader Assessment scheme (BCA)
MHSW	The Management of Health and Safety at Work Regulations 1999
MQA	Mines and Quarries Acts 1954 as amended
MR14	The Mines Regulations 2014
NAMHO	National Association of Mining History Organisations
RIDDOR	The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013
SAM	Scheduled ancient monument
SSSI	Site of Special Scientific Interest

Equivalent Organisations

Designations as used in this document – select the appropriate country or region.

Designation in this document	England	Scotland	Wales	Northern Ireland
HSE	HSE	HSE	HSE	HSENI
NE	Natural England	Scottish Natural Heritage	Natural Resources Wales	Council for Nature Conservation and Countryside
HE	Historic England	Historic Environment Scotland	Cadw	Northern Ireland Environment Agency
AALA	AALA	AALA	AALA	Adventure Mark (non statutory voluntary scheme)
EA	Environment Agency	Scottish Environment Protection Agency	Natural Resources Wales	Northern Ireland Environment Agency

3 DEFINITIONS FOR THE PURPOSES OF THESE GUIDELINES

This guidance is for the UK and Northern Ireland. Equivalent public bodies in different jurisdictions have been given an overall Designation (NE, HE, EA) for the purposes of this document. See part 2 of this document.

3.1 Affiliated

Organisations that have been accepted into membership of NAMHO or the BCA as a responsible organisation specialising in research, exploration, restoration, training or other aspects of educational and recreational activity underground.

3.2 Club

Mine exploration organisation having regularly subscribing members meeting to achieve mutual objectives. It must not constitute a commercial operation run for private profit.

3.3 Enforcing Authority

A public body responsible for ensuring compliance with legislation.

Her Majesty's Mines Inspectorate undertakes enforcement of the Health and Safety at Work Act of 1974 at operating mines within Great Britain, and is part of the Health and Safety Executive.

Local Authority Environmental Health Departments (LA) are responsible for taking action about statutory nuisances, including unsafe entrances to abandoned mines. See MQA Section 151 - fencing of disused mine entrances and shafts.

Natural England, Natural Resources Wales, Scottish Natural Heritage, Council for Nature Conservation and the Countryside for Northern Ireland enforce the provisions of the Wildlife and Countryside Act 1981 (as amended) including SSSIs and protected species.

Historic England, CADW, Historic Environment Scotland, and the Northern Ireland Environment Agency recommend protection of sites and enforce statutory protection of Scheduled Ancient Monuments and listed buildings.

3.4 Member of the Public

A person who is not a regularly subscribing member of an affiliated organisation, club, or society.

3.5 Mine

"Mine" means an excavation or system of excavations (including all excavations to which a common system of ventilation is provided) made for the purpose of, or in connection with, the extraction, wholly or substantially by means involving persons working below ground, of either minerals (in their natural state or in solution or suspension); or mineral products. (MR14).

Certain sections of surface land and buildings are also part of a working mine if used in connection with working the underground parts of a mine.

Note that a mine does not cease to be a mine just because mineral extraction has ended.

3.6 Disused mine

A mine no longer working.

3.7 Abandoned mine

A mine no longer worked that has undergone the formal procedures of abandonment.

3.8 Tourist Mine

A mine opened to members of the public for entertainment or educational purposes, which is not producing mineral.

3.9 Mine Owner

Defined in the Mines Regulations 2014, as the person or organisation who is for the time being entitled to work the mine. Where people are at work at a non-producing mine, such as a Tourist mine, the owner is considered to be the person or organisation who controls access.

The owners can work the mine themselves, in which case they are also the mine operator, or they can appoint someone else to work the mine on their behalf – the mine operator. The owner of a mine for the purpose of Health and Safety legislation is therefore not necessarily the owner of the land or the owner or lessee of the mineral rights, it may be a subsequent licensee or lessee who has the right to work the mine or control the access.

3.10 Mine Operator

A mine operator is the person who is in control of the operation of the mine and is the primary duty holder under MR14. The owner and operator may be the same person or organisation.

3.11 Mines Inspector

A suitably qualified person appointed by the Health and Safety Executive to ensure that the legislation covering safety and health at mines is complied with. Each area has a local inspector, qualified in mining engineering. There are also specialist inspectors with expertise in electrical and mechanical engineering.

Her Majesty's Mines Inspectorate is part of the Energy Division of the Health and Safety Executive and enforces all health and safety legislation at mines.

3.12 Mine Exploration Group

An organisation, club or group that is involved in the active exploration of mines.

3.13 National Governing Body

National Association of Mining History Organisations (NAMHO) is a coordinating and educational association for mining history organisations.

The British Caving Association is the national body for underground exploration in the United Kingdom. It represents individuals and groups with a genuine interest in cave, karst and associated phenomena, whether from a strictly sporting viewpoint, a scientific viewpoint, or a combination of both. Through close liaison with its member organisation, NAMHO, it also seeks to represent and support mining history societies and all those with an interest in the man-made underground environment.

3.14 Work

‘Work’ and ‘at work’ have the same meaning in these Guidelines as in the HSWA (see sections 52 and 53). Work means as an employee or as a self-employed person. An employee is an individual who works under a contract of employment, whether express (oral or in writing) or implied. A self-employed person is an individual who works for gain or reward otherwise than under a contract of employment.

Obviously, a person being paid to work is at work. However, a person who is not being paid such as a volunteer may still be considered to be at work if the person directing them is conducting a business. The person conducting a business is also required to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety. Clubs and other voluntary organisations maybe considered to be a business. (see section 8.1)

3.15 Young Person

A person under the age of 18 years.

4. INTRODUCTION TO THE GUIDELINES

The NAMHO membership includes a variety of Mining History organisations that have wide-ranging interests. These Guidelines are therefore unlikely to apply wholly to any one group.

In issuing these Guidelines NAMHO wish to make it clear that this is not a legal document and must not be considered a substitute for reading the actual law. The Guidelines represent a voluntary code of good practice and outline possible areas of legal responsibility. The HSE Mines Inspectorate has been consulted about the content of this document but this document does not represent the views of the HSE.

Responsibility for safety and proper compliance with the law will always rest with the individuals and organisations using the mines-

Considerable effort has been made to ensure that, where these Guidelines summarise legal obligations, this has been done as accurately as possible, taking account of advice offered by several organisations.

The HSE has previously made its position clear; its role is to ensure that risks to people's health and safety from work activities are properly controlled. It focuses on the world of work and will not interfere with Club activities, except in response to complaint or where the public is put at risk.

It is good practise however to consider the outcome of activities, and Mine Exploration Groups should consider carrying out risk assessments for more unusual or high-risk activities to ensure that harm does not come to those who participate.

Members of NAMHO are required to consider the wider issues concerning activities involving mines and their surroundings. There are a range of Codes of Practice produced by NAMHO, the BCA and other governing bodies which members are expected to follow as appropriate. Through the wide membership of NAMHO itself, members have access to a wealth of experience covering most situations, or to act as a sounding board for new ideas. The NAMHO Secretary can help with finding suitable advice or guidance.

The implications of historic site scheduling, scientific interest special designations and protection of species upon sites must be part of the consideration given to mine sites visited or to those forming part of projects.

Although legislation and controls seem to place ever-increasing restrictions upon underground activities it is to the memberships' advantage to know what the realities are before undertaking projects or even visiting mines. Some of the 'restrictions' or controls may even be used to the advantage of NAMHO members. For example, grants may be available to protect vulnerable sites and buildings. The presence of bats, for example, can help to prevent destruction of workings by infilling or quarrying.

It is in the interest of the entire NAMHO membership that activities in abandoned and disused mines be as responsible and safe as possible; this is the most certain way to ensure our exciting and absorbing pastime can continue to give pleasure not only to us but also to future generations of mine explorers.

NAMHO believes that exploration of mines by its members and the acquired knowledge of current conditions underground can be a positive benefit to the community and encourages its members to participate in multi-agency Local Mines Forums where these exist.

5 RELATIONSHIPS WITH ENFORCING AUTHORITIES

The various enforcing authorities promote compliance with legislation and often have considerable legal powers. It is essential to cooperate with authorities and to follow their recommendations and guidance. Failure to do so could be costly as some have powers to charge fees, and all have powers to prosecute for failure to comply, which could result in fines or worse.

It is sensible to be frank with the Enforcing Authorities and follow their recommendations when activities within a mine fall within their remit. By acting responsibly, members can build trust and establish mutual co-operation. The officers can help you to understand and comply with your duties. They also have a wealth of knowledge and useful contacts that can prove invaluable.

All authorities will not, however, appreciate being treated as a free consultancy, so do your homework first before approaching any organisation. The information you are seeking may be available from the authority's publications, Internet website or helpline.

There is also a wealth of knowledge and experience among members of NAMHO. Member organisations have contact information available on the NAMHO website, or the NAMHO Secretary may be able to help with obtaining advice.

6 ACCESS

6.1 Introduction

If you wish to use a mine for whatever purpose, every effort should be made to make an arrangement with the legal owner before the mine is entered. Failure to obtain access permissions can lead to court action and invalidate some insurance arrangements. Using a mine without permission may make access arrangements difficult in the future, or impossible for anyone else to obtain.

Mine explorers should be aware that there might be local byelaws affecting access to mines with out specific permission. Examples include Forestry Bodies and National Park Authority controlled land.

If the owner of a mine is unknown, every effort should be made to discover who controls access. If the site is used regularly without any attempt to control access this may be for many reasons but is not necessarily sufficient and does not remove liability.

If a mine site is classed as a Site of Special Scientific Interest (SSSI) then **NE** may need to be consulted if the activity lies outside those already permitted. **HE** will need to be consulted if it is proposed to carry out work on a scheduled ancient monument site.

6.2 Access Agreements

Access agreements can be verbal or written; either formal or informal. It may be necessary to arrange access agreements with landowners or tenants, as well as the mine owner.

For certain areas of the UK, specific access arrangements have been agreed with landowners. The Forest of Dean and some areas of Wales have special agreements. See Appendix Four for more information.

6.3 Conditions of Access

Access agreements should ensure that the intended activities are fully included. Agreements may allow specified activities; some activities such as digging, removal of artefacts, removal of geological samples or use of explosives may all be outside the terms of the original agreement. Access may also be subject to conditions either voluntarily imposed by schemes such as Geological Conservation Sites, or legal protection of the site as an SSSI, or scheduling as an Ancient Monument.

Changes to regular activities carried out under an agreement should be discussed and approved, by the mine owner. Failure to keep the owner informed, besides risking future access, may place the mine owner in breach of a legal duty to notify an authority of the activity, or other duties.

6.4 Access Control Bodies

BCA identify some clubs (or other groups) as ACBs – this is a way of extending insurance cover to such groups facilitating access to caves and mines for recreational purposes. Groups may manage one mine or groups of mines. See also Appendix 4.

6.5 Mines in Northern Ireland

The Department for Economy owns all abandoned mines and prohibits access. More information may be obtained from the Geological Survey of Northern Ireland.

6.6 Coal Mines in the UK.

You must get permission to enter, disturb or change abandoned and disused coal mines in the UK. This includes all coal workings, such as existing mine tunnels and mine entrances. The Coal Authority is an executive, non-departmental public body and manages all past coal mining sites. The Authority is highly unlikely to grant permission to access abandoned coal mines.

Abandoned coalmines are hazardous places, often with dangerous roof conditions and explosive and toxic gases.

7 SAFETY - GENERAL PRINCIPLES

7.1 Introduction

The priority for anyone visiting mines for whatever purpose should be to do so safely. Besides the more obvious consideration of protecting people from danger, there is also the fact that if an activity is not carried out in what is considered to be a safe manner, access arrangements may become difficult to obtain or be denied in the future.

It is important to remember that HSWA Section 8 places a duty on any person not to interfere with or misuse things provided in the interests of health and safety by someone with a duty under the Act. Any person, whether at work or not, who breaks into a fenced mine could be in breach of this section.

Individuals not at work may also have a duty of care under civil law for colleagues, such as not leaving a heavy object in a precarious position or using damaged or dangerous equipment.

Anyone venturing underground should consider fully the consequences of an accident and think through the safety procedures required to ensure they can get out again, or when necessary that they can be rescued as soon as possible. Ensuring that there is suitable provision for escape and rescue in emergency situations is good practise for anyone leading or taking trips into disused mines.

7.2 Hazards

Mines can be often dangerous places. Underground workings were driven at the least possible cost in order to maximise profit and were usually operated for only a few years. The ground may have lost structural strength over many years. Roof supports installed during mine operations may have deteriorated and be liable to fail. Mines are always deteriorating and new hazards will become evident over time.

Stacked stones, timbering, and steel arching may be liable to collapse. Timber and stone structures may be supporting several tonnes of rock that, in the event of a collapse, could cause death or severe injury.

The floor of a mine working may consist of timber covering deep shafts below the floor. An apparently safe floor may collapse and cause a person to suffer death or serious injury by falling into open spaces, deep water or suffocating gases.

Roof falls may be creating temporary weirs that hold back large volumes of water. The release of this water may cause damage downstream and may cause a mine exit to be submerged, which will prevent escape from the mine.

Inrushes of water and rock may happen unexpectedly. Unexpected flooding may completely fill the mine working with water. Collapsing shafts and failing roofs may suddenly block a mine tunnel or cause injury to a person. Changes in ventilation caused by unexpected changes may make the mine air unbreathable and cause death.

Mineworkings may have less obvious dangers caused by either the presence of toxic gases or low levels of oxygen. A person becoming unconscious in these conditions is likely to die. Radon gas is found in some mine workings and exposure may shorten life expectancy.

The rock in which a mine is driven may have low strength and may have deteriorated since the mine was originally driven. Fault lines are a source of weakness and may have been damaged by earth movements after the mine was being worked.

An experienced mine explorer will know from experience how to look for potential hazards in mines.

Mines are radically different to natural caves. Exploration of mines requires an understanding of the hazards in mines that are significantly different and additional to the hazards found in caves.

7.3 Risk Assessment and Method Statements

Risk assessments and method statements are required by several health and safety regulations.

Risk assessments provides a structured and proportionate approach to safety management and are therefore recommended even for those affiliated groups who do not have a legal duty to carry out risk assessments.

Best practise is to complete a Risk Assessment document before visiting a mine. The NAMHO website has examples of Risk assessment documents under the “Guidelines” tab. The NAMHO secretary may be able to forward enquiries to experienced mine leaders.

A good mine leader will also make dynamic risk assessments during the progress of a trip. At its simplest level risk assessment means looking out for hazards and taking appropriate precautions to keep the group safe. A more structured risk assessment is strongly advised at the planning stage of any new project contemplated by a mine exploration group.

NAMHO member groups must not take members of the public into a mine unless the group has made appropriate risk assessments and put in place safety procedures to deal with the hazards identified during the process.

A competent person should carry out risk assessments and the writing of Method Statements. The HSE has recommended five basic steps when carrying out a Risk Assessment.

1. Look for the hazards.
2. Decide who might be harmed and how.
3. Evaluate the risk and decide on precautions.
4. Record your findings and implement them.
5. Review your risk assessment and update if necessary.

The process of risk assessment should cover the entire activity so that each hazard is identified and analysed for the purpose of putting in place the precautions needed to reduce risk.

7.4 Contingencies and Emergency Planning

Any person arranging to visit a mine should prepare an Emergency Plan. All plans should cover the requirements for dealing with emergencies and unexpected incidents.

Volunteer rescue teams operate in most of the UK. Information about the areas of operation are described in the Cave Rescue Council website <https://www.caverescue.org.uk/about-cave-rescue/how-cave-rescue-works/>. The person who may be required to call for emergency help from a mine rescue team should have made themselves acquainted with the call procedures before the mine visit takes place.

It may be that people in a mine may not be able to escape from the mine and call for emergency help. It is therefore essential for a group to have an agreed reporting time notified to another person who will not be underground.

Rescue from a mine may take many hours and a trapped group may already be wet or injured. It is essential that groups carry emergency food and lighting and a means of helping an injured person to stay warm.

It is good practise to have a basic knowledge of Emergency First Aid. Training courses are available for obtaining suitable Outdoor First Aid qualifications. It is also good practise to carry an emergency first aid kit.

It is always useful to carry digging tools on mine trips. An unexpected inrush or collapse of material might be cleared to allow escape from the mine.

7.5 Club Membership

NAMHO recommends that any person planning to visit abandoned and disused mines should become a Club member. Members of Clubs hold a vast store of knowledge and experience concerning the safe ways of enjoying visits to mines. Sharing and joining the pool of experience helps to strengthen everyone's knowledge.

NAMHO maintains a list of Clubs on the NAMHO website. See <https://namho.org/index.php>.

8 SAFETY – DETAILED CONSIDERATIONS

8.1 Introduction

The following comprises a list of the most common activities by groups within NAMHO that use disused mine workings. Although not exhaustive, it is intended to give an outline of responsibilities and whether a group's activities are likely to give rise to specific duties under health and safety law. In general, this depends upon whether 'work' is involved (see 3.14 above).

8.2 Mine Exploration Groups - activities for members

Mine exploration groups using disused mines for exploration, research, surveying, restoration, conservation, maintenance, training, or other recreational and educational purposes involving only their Club members (i.e. not involving members of the public); would not be undertaking work activities and so are not required to involve the Mines Inspectorate in their activities.

8.3 Mine Exploration Groups - development activities

If activity at a mine includes a programme of restoration, conservation, maintenance or development affecting the fabric of the mine in order to re-open the mine for access by members of the public, then the Mines Inspectorate should be made aware of the activity. Depending on the circumstances, volunteers could be considered to be at work as employees of the group or mine owner.

If these activities involve either major work to give access, or are aimed at giving access to minerals for sale, or to allow access by members of the public, this is likely to constitute being a working mine.

Even if not a defined working mine, groups should carry out a risk assessment and take account of relevant legislation and ACOPs as setting out good practice.

Shaft headgear and haulage systems should be constructed and maintained to a high engineering standard and only operated by well-trained, competent adults. Use of caving ladders, lifelines and single rope climbing systems should follow current BCA best practice.

8.4 Mine Exploration Groups - open days

If groups hold publicly advertised open days when members of the public are invited into or are allowed to enter a disused mine, the public can reasonably expect to be exposed to no more risk than during a visit to

a Tourist mine, or where the nature of the activity has been made clear in advance, to expect an adventure caving activity suitable for novice members of the public. Any form of trading with the public during the event, whether or not the underground visit is free, is likely to mean that the event would be viewed as a work activity. The HSE Mines Inspectorate should be notified at least one month in advance of the first use of a mine for such an event. The provisions of the AALR may also apply.

Where members of the public ask a mine exploration group to take them into a disused mine, and this is organised on an occasional basis to foster public relations, providing that guides receive no payment, this is unlikely to be considered as a work activity by the HSE Mines Inspectorate.

Whenever members of the public are to go below ground, a suitably cautious risk assessment should be undertaken beforehand.

Members of the public should not be allowed to use caving ladders or single rope techniques unless that is an advertised activity or part of an emergency escape arrangement. In either case, they must be under the instruction and supervision of a suitably trained or qualified person.

All members of the public need to be appropriately equipped and supervised by a competent person at all times. Leaders should follow appropriate NAMHO and BCA best practices. The mine should be appropriate for the purpose, and the route should be easily within the capability of the least able person involved. A wise leader will sometimes refuse to take less capable visitors underground.

8.5 Tourist Mines and Mining Museums

Any Tourist or Museum mine where volunteers work below ground will be treated as a working mine and must be notified to the HSE Mines Inspectorate and the mine operator will be expected to comply with current legislation, including MR14. **Such mines are not in the scope of this document**

8.6 Adventure Activities for Young People

The Adventure Activities Licensing Regulations (AALR) covers exploring disused mines, undertaken by young people aged less than 18 years of age at Outdoor Education Centres or under the control of another organisation or person, if a fee is charged.

Not to hold a licence for activities in a disused mine in the above circumstances, or to operate contrary to the conditions of the licence, are serious offences enforced by the HSE.

In some cases, the AALR does not impose an obligation for a Provider to be licensed, for example where:

8.6.1 each individual young person is accompanied by their parent or legal guardian, and 8.6.2 the trip is to a working mine or public area of a Tourist mine, or

8.6.3 an affiliated club offering taster activities to non-members provides the trip, and

8.6.4 the activities and their facilities are provided free of charge.

For activities not covered by the Adventure Activities Licensing Authority, groups should also ensure that legislation related to safeguarding children and vulnerable persons is followed.

The BCA LCMLA scheme includes a requirement for there to be a currently valid mine engineering report about the specific route used within the mine.

9 CONSERVATION

9.1 Archaeology

Many mine sites are of a sensitive nature and uncontrolled access by careless persons can cause irrevocable damage. Many original mining features are fragile and require respect and care from visiting groups. Features such as mining machinery, artefacts, natural features including mud and mineral formations may be composed of unusual combinations which add to their importance; a careless hand reaching out, can destroy something irreplaceable.

NAMHO Guidelines recommend that artefacts are not normally removed from mines. Many historically important items have been removed from mines and then lost.

9.2 Geological Conservation Review sites (England, Scotland, Wales) & Earth Science Conservation Review Sites (Northern Ireland)

Geological Conservation Review (GCR) and Earth Science Conservation Review (ESCR) sites are non-statutory sites identified by the statutory nature conservation agencies as having national or international importance for earth science conservation on the basis of their geology, palaeontology, mineralogy or geomorphology. Although GCR/ESCR identification does not itself give any statutory protection, many GCR/ESCR sites have been notified as SSSIs/ASSIs.

Local geology groups may be involved in the management and conservation of these sites.

9.3 Sites of Special Scientific Interest (SSSI)

Some mine sites are protected or are located within Sites of Special Scientific Interest. These are areas of land notified under the Wildlife and Countryside Act 1981 as being of special nature conservation interest. SSSIs can be designated throughout Great Britain. Mines may be important bat habitats or be of unique geological interest, there may be unusual plants growing on waste tips etc. The **NEs** notify SSSIs.

The websites of **NEs** provide map information about every SSSI. In case of doubt, regional staff can advise whether a particular site is within an SSSI but check websites and guidance before making an enquiry.

Each SSSI site notification contains a list of activities, which require prior permission before those activities are started. Owners and occupiers of a site must give four months' notice, in writing if they intend to carry out any of the activities listed in the notification, which may cause alteration or damage to the special interest of the site.

The SSSI status does not infer any public right of access to sites. The mine owner is responsible for notifying to the **NEs** alterations to activities at a mine. It is important that anyone wishing to use an SSSI site properly identifies the owner of the registered site and makes sure that the intended activities are permitted by the designation. Access agreements should reflect the requirements of any SSSI status.

9.4 Scheduled Ancient Monuments

The provisions of the Ancient Monuments and Archaeological Areas Act 1979 seek to promote the preservation of archaeological heritage sites through scheduling of nationally important sites. Sites range from prehistoric to many important 20th century sites and include historic mining sites.

The **HEs** identify sites requiring designation as scheduled monuments. Once a site is scheduled, permission must be obtained from the Secretary of State for Culture, Media and Sport for any activity affecting the site or its setting. **HEs** play a central role, giving advice to Government on individual applications, or management advice, grants and assistance to help with a monument's management.

Scheduling does not infer public access, although this may become an aspect of the site management plan. Where access is not generally available, it should be arranged through the property owner who has a duty to keep the **HEs** informed and to ensure conservation and safety issues for the site continue to be addressed in any access agreement. **HEs** maintain websites with details of all Scheduled Ancient Monuments and the relevant County Councils keeps records of scheduled ancient monuments.

9.5 Listed Buildings

Mines and their buildings are increasingly appreciated as making a major contribution to the historic interest of a locality or even considered of national importance; once lost they are irreplaceable. In some cases, listing has included not just mine buildings but important features such as tunnels, manmade cavities, chimneys etc. Listing is not intended to 'fossilise' its subject but ensures that its architectural and historic interest is carefully considered before alterations or development (either outside or inside) are agreed.

HEs are responsible for listing but the local planning authority are responsible for determining any subsequent development control and listed building consents. **HEs** may choose to become closely involved with applications involving Grade 1 or Grade 2* buildings. The local authority-planning department may have conservation and listed buildings officer with the specialist knowledge to advise and deal with issues arising from this specialised planning control subject. Records of listings and copies of individual entries can be obtained from websites.

9.6 Bats and Other Protected Species

NAMHO members and all visitors to mine sites are asked to respect all animal and plant life that they may encounter, taking particular account of hibernation periods or any other measures that can reduce disturbance.

Bats are a familiar part of mine exploration and require sensitivity on the part of those using mines. A link to expert advice is listed in Appendix 3.

Bats are protected by the Wildlife and Countryside Act 1981 (as amended) as are other species listed in schedule 5 of the Act (including common otters, which have been seen in mines). It is illegal to knowingly disturb, injure, take or kill any of these animals; or to damage, destroy or obstruct access to any place used by them. **NEs** must be consulted over any proposed alterations to a site known to be used by bats or any other listed species. If it is intended to gate or grille entrances to a bat habitat, **NEs** must be consulted; they will provide advice on construction and installation, and they may be able to help with the procedure.

10 INSURANCE

The best form of insurance is to ensure that accidents cannot happen or if they do, that their severity is reduced to a minimum. Following safety procedures highlighted by a risk assessment is an effective tool for anticipating unfortunate or accidental events.

Mine Exploration Groups have the option to have appropriate public liability insurance by having all of the members of the organisation also being members of BCA. The policy currently covers activities specified as:

“Any activity recognised or approved by the insured, including but not limited to: ...cave, karst and mine research, exploration, surveying, rambling, equipment testing, publishing and photography, caving for a pastime and bolting, associated pursuits with instructions and other activities relative to the general encouragement of scientific and sporting caving and mine research, including the engagement and activities of volunteers involved in the arrangement of conferences and projects”.

The public liability indemnity included in this policy may help with negotiation of access over private property or to gain underground access, where insurance is seen to be desirable by the land or mine owner.

The BCA insurance indemnifies an insured person for any activity within its scope if they should prove to have been negligent, but normal good practices and any legal requirements will be expected to have been followed for the particular activities involved.

Professional activities, or activities carried out beyond the involvement or scope of membership of an insured club, will not be covered and would require separate insurance arrangements to be made by the persons involved.

You may need to obtain professional advice about insurance, if you are planning to undertake novel activities underground.

A good practise is that Club officials and leaders should regularly review the BCA insurance documents.

APPENDIX 1

AN OUTLINE OF HEALTH AND SAFETY LEGISLATION

There is a basic common law provision of a duty of care towards other persons. That duty is modified in the case of persons occupying land in England and Wales by the Occupiers Liability Acts of both 1957 and 1984 towards persons coming onto their land by confirming the principle of no such duty in respect of risks willingly accepted as his by the visitor / person.

However, that modified duty is subject to a constraint where there is a 'work' situation. Whilst Section 2 of the Health and Safety at Work Act of 1974 (HSWA) covers employers' duties towards their employees and Section 3 employers' duties towards other persons, Section 4 covers the duties of persons who control premises in connection with a business. That duty is *"to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health"*.

The Mines Regulations 2014 applies to all mines in whatever state, apart from those that have been abandoned. The regulations also define the Mine Operator as the person in control of the operation of the mine. The Mine Operator has duties that apply whether the mine is operating to produce minerals or used as a tourist mine. The extent of the application of the Mines Regulations is acknowledged to depend upon the state of operation. The regulations impose on the Mine Operator a duty akin to that of an employer with a focus on the major hazards at the mine. That is in addition to the duties imposed on the Mine Operator by HSWA and the many regulations made under HSWA.

There is significant legal differences between an operating mine (whether it is extracting mineral or tourist) and an abandoned mine. However, if a person starts to operate a mine without notification, then they are likely to be prosecuted for failing to comply with Reg 6 by virtue of Sec 33 of HSWA.

The Mine Operator is responsible for permitting others to enter into an operating mine. For an abandoned mine, the control of access could be with any number of persons including the landowner, the mineral right owner, a leaseholder.

Health and Safety at Work etc. Act 1974 (HSWA)

This is the framework Act that sets out general duties on people at work, allows Regulations to be made and sets up the administrative and enforcement provisions. The circumstances in which this Act applies are usually clear from the wording of each section. HSWA applies if persons are at work in a mine (or any other workplace); it places duties upon employers, self-employed persons, employees and persons in control of premises, to ensure the safety of people who may be put at risk by work activities. It includes (in Sections 3 and 4) important duties to ensure that members of the public are not put at risk.

In what follows it is important to keep in mind that Regulations made under HSWA have the same scope as HSWA: so, Regulations made under the HSWA do not apply if there is no work involved. For Mining Club activities they should be considered to be guidance on what is accepted good practice.

The Adventure Activities Licensing Regulations 2014 were not made under HSWA, and therefore also apply to people who are not at work.

Management of Health and Safety at Work Regulations 1999 (MHSW)

This covers the management of safety in all workplaces. It includes risk assessments, supervision and competence of persons to carry out work. The regulations place a duty on employers to assess and manage risks to their employees and others arising from work activities. Employees must work safely in accordance with their training and instructions given to them.

Mines Regulations 2014 (MR14)

The Mines Regulations 2014 have replaced all previous legislation specifically relating to health and safety in mines. Their aim is to protect mineworkers and others from the significant hazards inherent to mining. Previous legislation was reviewed in order to remove the unnecessary regulatory burden on business through clarification and simplification.

The regulations replace all previous mine specific health and safety legislation and bring together the requirements of health and safety related mining law into a single set of regulations based around major hazards within the underground mining sector. It is supported by comprehensive guidance.

Adventure Activities Licensing Regulations 2014 (AALR)

Adventure Activities licensing ensures that activity providers follow good safety management practise. The HSE is currently the Adventure Activities Licensing Authority (AALA).

The AALR places responsibility upon anyone providing adventure activities for persons under 18 years of age to obtain and comply with the terms of a licence. It requires providers of certain activities, including those in “parts of mines no longer worked,” to make proper risk assessment of hazards and have proper systems of safety management, including staff training, regular equipment maintenance, adequate means of rescue etc.

If the Adventure Activities Licensing Authority is satisfied, it can issue a licence for up to three years. AALA can stop an activity or require improvements by revoking or amending the licence as it sees fit.

Local authorities are responsible for enforcement of licence conditions.

Ionising Radiation Regulations 2017 (IRR)

IRR17 requires employers and the self-employed who take the public underground where Radon or other sources of radiation are present to ensure that the levels of radiation to which they and the public are exposed do not present a health risk. Where appropriate, the public should be made aware of potential risk.

The Mines and Quarries Act 1954 (MQA)

The Mines Regulations 2014 have repealed most of the MQA. Section 151 of the MQA is still in force and regulates the fencing of disused and abandoned mines.

APPENDIX 2

USEFUL REFERENCES AND GUIDANCE

The Internet address of these references may change. Searching via web browser is recommended, if a document cannot be found in the locations described below.

Guidance to the Health and Safety at Work Act

<http://www.hse.gov.uk/legislation/hswa.htm>

Risk Assessment

<http://www.hse.gov.uk/pubns/indg163.htm>

Adventure Activities Licensing Authority

<https://www.hse.gov.uk/aala/activities.htm#caving>

Health and Safety at Work Act 1974: Application to Private Clubs

<http://www.hse.gov.uk/entertainment/leisure/amateur-sports-club.htm>

Environmental Guidance England

<https://www.gov.uk/government/organisations/environment-agency>

Environmental Guidance Scotland

<https://www.sepa.org.uk/environment/>

Environment Guidance Wales

<https://naturalresources.wales/guidance-and-advice/?lang=en>

UK Government information about how to obtain consent for operations on a SSSI.

<https://www.gov.uk/guidance/protected-areas-sites-of-special-scientific-interest#check-if-you-need-consent>

CADW Guidance

<https://cadw.gov.wales/advice-support/placemaking/legislation-and-guidance/policy-advice-and-guidance>

Scottish Government Guidance on historic locations

https://www.historicenvironment.scot/archives-and-research/publications/?publication_type=37

Scheduled Monuments: An English Heritage Guide for Owners and Occupiers

<https://historicengland.org.uk/images-books/publications/scheduled-monuments-guide-for-owners-and-occupiers/>

APPENDIX 3

USEFUL CODES OF PRACTICE, LEAFLETS AND INFORMATION

Bats

Bats Underground, Bats Conservation Trust, Specialist Support services
<https://www.bats.org.uk>

NAMHO documents

<https://namho.org/index.php>

Underground Exploration – Novices	NAMHO – on-line document
Underground Exploration – Leaders	NAMHO – on-line document
Mineral Collecting at Disused Mines.	NAMHO – on-line document
Removal of Artefacts.	NAMHO – on-line document

Radon Underground.

https://british-caving.org.uk/wiki3/lib/exe/fetch.php?media=publications_information:bca_radon_underground_2nd_ed.pdf

APPENDIX 4

ACCESS ARRANGEMENTS IN CERTAIN REGIONS

Permits to access a number of mine sites in Mid and North Wales can be obtained by contacting 'Cave Access Ltd' via their website at www.caveaccess.co.uk.

Access to some mine sites in the Forest of Dean can be obtained by contacting the 'Forest of Dean Cave Conservation and Access Group' (FoDCCAG) via their website at www.fodccag.org.uk

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