



FAQs

1. My expedition has now returned from the field. For how long should I retain documents.

It is important that documents relating to expeditions are retained once expedition has returned from the field.

When considering a policy, your organisation should bear in mind the fact that a young person who seeks to bring a claim for personal injuries may do so up to the date of their 21st birthday, and has a further four months in which to serve the claim; they may bring a claim as late as four months after their 21st birthday. Further, a young person may seek to bring a claim at a later point in time, and the Court may choose to allow a claim to proceed which is brought some years after the expiry of the above period. A person who lacks mental capacity to bring a claim may bring a claim at any point in time. Any person may bring a claim within three years of their date of knowledge of a number of factors, which is a means by which arguments are raised to allow claims to proceed long after an incident occurred.

Whilst it is good practice to retain all risk assessments, working practices, records of system of work, expedition application forms and assessments, expedition log books and diaries, and other records, for as long as possible, as a minimum we recommend retaining them for not less than seven years, and until each and every expedition member is aged not less than 23.

Should you be aware of an accident, incident or other occurrence which may give rise to a claim, including allegations of misconduct by leaders or other adults, our recommendation is that you advise your insurers as soon as possible, and seek to pass a copy of all relevant documents to them, retaining the documents for not less than the above period, and, in the event of allegations of abuse by leaders or other adults, retaining them indefinitely.

2. My expedition leader team includes a number of experienced practitioners, although they do not hold National Governing Body Awards. Is there a problem with their not holding the NGB certificates?

When considering whether the expedition leader team holds the appropriate qualifications, there is merit in seeking to consider this question from the viewpoint of a Coroner or Judge.

NGB awards indicate that, on a specific date, a leader was deemed to have suitable expertise and experience to be awarded the qualification. It is not an indication of ongoing expertise, and should be considered alongside experience, for example in the form of a log book.

In a similar way, the absence of NGB award does not prove an absence of expertise and experience, but makes the providing of the experience and expertise somewhat more difficult.

There is merit in asking all leaders to provide details of their experience in the relevant areas, and seeking 'sign-off' as to their expertise from an authorised instructor or assessor who holds NGB awards to a greater level than the equivalent sign-off which is being sought, e.g. a MIA or MIC may sign off the experience and expertise of a leader to the equivalent of ML.

References may be sought to prove the experience of a prospective leader, and all documentation should be retained for not less than six years, or until the youngest expedition member is aged not less than 23.

3. I am worried about child protection issues. What steps should my organisation take to minimise the risk to expedition members, and to minimise the risk to the organisation?

Young persons' expeditions place adults in close contact with young people, in which it is possible for leaders or other adults to act in an inappropriate manner.



It is of importance to the expedition members, their parents, expedition leaders and expedition providers to minimise the risk of such inappropriate behaviour.

All expedition leaders should be carefully screened, considering whether they have any criminal convictions or appear on relevant government lists which indicate that they are unsuitable to participate in the expedition.

Where possible, Criminal Records Bureau checks (Enhanced Disclosure) should be obtained, although it must be borne in mind that the check is not ongoing, i.e. you will not receive an updated check should an offence be recorded after the check is performed. You may also seek a declaration, by way of signed form, that the leader has not been charged or convicted of any criminal offences, seeking clarification of any charges or convictions. However, you should bear in mind the Rehabilitation of Offenders legislation in this respect.

Insofar as overseas leaders and adults are concerned, we recommend seeking similar checks if they are available, signed declarations, and the taking up of references.

All allegations of misconduct should be viewed seriously, and, if appropriate, steps may need to be taken in the field to remove an adult from contact with a young person.

In the event of such allegations, we recommend that the expedition organisation conducts a full enquiry and advises its insurers of the allegations as soon as possible, and of the enquiry's findings.

4. My organisation keeps computer and paper records of expedition members and leaders. Do I need to consider the Data Protection Act?

The Act will usually apply unless you are an individual holding personal information for your own domestic use, eg an address book.

If you are required to comply with the Act, you have a number of legal responsibilities.

You are required to notify the Information Commissioner you are processing information, unless you are an organisation who has personal information only for staff administration (including payroll), advertising, marketing and public relations for your own business, or accounts and records (some not-for-profit organisations).

You are required to process the personal information in accordance with the eight principles of the Act, which provide that information must be fairly and lawfully processed, processed for limited purposes, adequate, relevant and not excessive, accurate and up to date, processed in line with your rights, secure, must not be kept for longer than is necessary and must not be transferred to other countries without adequate protection.

You are also required to answer subject access requests received from individuals.

Should an individual or organisation feel they're being denied access to personal information they're entitled to, or feel their information has not been handled according to the eight principles, they can contact the Information Commissioner's Office for help. Complaints are usually dealt with informally, but if this isn't possible, enforcement action can be taken.

If you are of the opinion that the activities of your organisation may be such that the Data Protection Act applies to you, helpful information is available from the Information Commissioner's Office, www.ico.gov.uk, including information on how to register with the Information Commissioner.



5. Our expedition is to a country to which we must fly. I have heard of ATOL, but am not sure whether I need to do anything, or how it applies to me.

The sale of air travel in the UK is restricted by law for the protection of customers, and anyone accepting payment for air seats or packages needs to comply with the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995. These affect all organisations offering air travel except airlines, and anyone who acts in breach of them may be prosecuted.

The ATOL Regulations require that anyone selling air travel, either on its own or as part of a package (e.g. an expedition) must hold an Air Travel Organiser's Licence (ATOL) granted by the Civil Aviation Authority.

However, there are exceptions to the requirement to hold an ATOL Licence, which include an exception for agents who are authorised to act as the agent of an ATOL holder, provided that they state their agency capacity in their advertising and sales material and they give the customer specified documents showing that the customer's contract will be with a particular ATOL Holder.

In practical terms, the sales that have to be covered by an ATOL are packages that include a flight, charter flight-onlys, and discounted scheduled airline tickets.

ATOL Licence

If you want to offer travel in your own right as a principal, you can apply for your own ATOL, which will allow you to contract flights directly and create your own packages. This will allow you to book allocations of seats with another ATOL holder or airline, to advertise events and to accept bookings from the public. You will then contract direct with participants and issue confirmation invoices in your own right. Information on the types of licence and the requirements for grant of licences can be found on the ATOL website at <http://www.caa.co.uk/newatol>. Should you wish to apply for an ATOL, a bond is required to be paid to protect customers.

Acting as authorised agent of ATOL holder

You can legally make sales of flights or air packages without holding your own ATOL, provided that you are the authorised agent of one or more ATOL holders, you disclose your capacity in advertising and sales, and you issue the appropriate documentation when you take payment.

You cannot offer air travel or air holidays as the agent of any ATOL holder unless it has authorised you to act on its behalf. If an ATOL holder agrees to authorise you, then you should obtain a letter from it confirming the authorisation and what it covers. You can be authorised by more than one ATOL holder, but in any particular transaction you can legally accept payment on behalf of only one ATOL holder – you cannot take money from a participant on your own account and then decide with which ATOL holder the booking will be made.

It is essential that wherever arrangements that include a flight are advertised, there is a reference to the ATOL holder, whether or not the advertisement specifically mentions that air travel will be included. If air transport will be required to get to the destination, there must be a reference to the ATOL holder at the advertising stage. A form like "Agent for ABC Travel Limited, ATOL Protected 0000" is appropriate for most forms of advertising.

Where you act as the agent for an ATOL holder, it is important that the participant knows what will be provided by the ATOL holder and the payment that relates to those items. All sums to be paid by the participant to cover air travel or air packages should be disclosed in all relevant promotional material like brochures, booking forms and application forms. In order to comply with this, many expedition providers advertise the expedition as a sum net of airfares, in addition to which a specific sum is payable in respect of the airfare.



As soon as you accept payment towards the flight or air package, you must issue an ATOL receipt containing the information shown below. The ATOL Receipt should not include details of your administration costs included in the initial payment. You should issue your own document confirming receipt of this payment. An ATOL Receipt should include the name, ATOL number and booking reference of the ATOL holder, your name and the fact that you are acting as an agent, the name of the airline (for scheduled airlines), the name of the person booking and the number of people included, and the date, origin and destination of each flight.

When the ATOL holder receives each participant's initial payment for travel, it should send the exploring society an ATOL confirmation invoice to pass on to each participant. Later, it will issue a final confirmation invoice to confirm receipt of the final balance. The society must pass on both confirmation invoices to the participant.

The ATOL holder's booking terms and conditions should be included in your brochure so that participants know, before they make any payment, the terms they are subject to for their air travel or package.