

# BCA Constitution Section 10.1

A Consultation from the BCA Constitution and Operations Group



## Purpose

At the 2020 AGM of the British Caving Association, Proposal 8 was submitted a ballot where it was passed. The proposal requires the BCA Council to consider 'a new form of words for section 10.1 of the BCA Constitution'.

This document has been sent to cavers and caving bodies, including the Regional Councils and National Bodies of the BCA, to consult on possible changes to this section, and any other associated changes, to be proposed at the 2021 AGM.

Developing this new form of words, or multiple forms of words, has been delegated to the Constitution and Operations (Working) Group, formed by BCA Council following the 2020 AGM. As a working group, it has a Convenor appointed by Council, who may invite anyone they see fit to join the group. The group would welcome any interested members who wish to contribute.

## Context

The proposal brought to the 2020 AGM had this wording. As it was a simple motion, and did not involve an immediate constitutional change (instead instructing BCA Council to propose a change in the future), it required only a simple majority (50% in favour). The proposal passed with 436 votes for, 45 votes against and 86 abstentions (90.6% in favour, excluding abstentions). This clearly shows an appetite for change to this clause of the constitution.

**Proposal 8: Consideration of a new form of words for section 10.1 of the BCA constitution to be presented at BCA 2021 AGM (Proposed: Tim Allen, Seconded: Jane Allen)**

Section 10 of the BCA constitution deals with 'limitations' and is outdated for a modernising national organisation. Section 10.1 states, "The Association shall not interfere in the affairs of a Member unless specifically requested to do so by that Member. The Association shall not mediate between Members unless requested by them in writing to do so." This wording requires reform.

Section 10.1 limits the effectiveness of the BCA as a national body in properly representing cavers. It can be used (and has been) to prevent the BCA investigating complaints, undertaking research into national policy issues and intervening in matters which are detrimental to the image of caving nationally. Even if BCA is funding a group or a scheme it cannot intervene unless invited to do so. This cannot be right. However, there is a value in member organisations having a degree of autonomy. Therefore a form of words are needed to maintain some member autonomy whilst allowing the BCA to properly act as a national body. This motion instructs council to consider a new form of words for section 10.1 of the BCA constitution taking into account the above and to agree those words at council by majority vote in time to present them as a constitutional change to the 2021 BCA AGM.

The proposal should be viewed in the context of the entirety of Section 10 of the Constitution, reproduced below.

## 10. LIMITATIONS

1. The Association shall not interfere in the affairs of a Member unless specifically requested to do so by that Member. The Association shall not mediate between Members unless requested by them in writing to do so.

2. Notwithstanding Sub Section 10.1, any member deemed to be acting against the interests of the Association may be suspended and subsequently expelled from the Association. Any suspended or expelled member shall have a right of appeal against an order of expulsion or suspension. Such an appeal shall be heard at the next General Meeting of the Association. The member must be sent a written notification of suspension and/or of expulsion to the last known address. Any member so suspended shall not be entitled to use any of the Association's facilities, including any certificates or awards or receive any grants or other funds, save for the repayment of expenses properly incurred in executing the Association's business.

3. Notwithstanding Sub Section 10.1, any individual deemed to be acting against the interests of the Association may be suspended from holding any certificates or awards and subsequently have those certificates or awards withdrawn. Such individuals shall have a right of appeal against an order of suspension or withdrawal. Such an appeal shall be heard at the next General Meeting of the Association. The individual must be sent written notification of suspension and/or of withdrawal to the last known address.

4. The Association shall have no call upon a Member's assets or property other than for debts due, or incurred during membership. Nor shall the Association be responsible for the liabilities of a Member other than for those expenses incurred with the Association's approval.

## **Structure of the BCA**

The BCA is defined in section 1 of the Constitution as 'a national federation comprising: individuals; caving, mining and other related Clubs; Regional Caving Councils; and National Bodies with specialist interests, all of whom have autonomy in their own field; together with any other bodies who express an interest in caving, mining or other subterranean phenomena.'

### *Regional councils*

The current Regional Councils of the BCA are the Cambrian Caving Council (CCC), the Council of Northern Caving Clubs (CNCC), the Council of Southern Caving Clubs (CSCC), the Derbyshire Caving Association (DCA) and the Devon and Cornwall Underground Council (DCUC).

Certain areas of work, such as equipment and techniques, training, and conservation and access are largely carried out by the regional councils. These are largely or entirely funded by the BCA, and do not generally charge their members. The BCA covers their running costs and funds any other spending that is for the benefit of all BCA members subject to a

number of restrictions (volunteer labour is not paid, competitive quotes are required for commercial work, profit-making activities are not funding etc.).

The presumption is that regional councils will be reimbursed for all reasonable spending within the rules. One exception is that Conservation and Access funding must, at minimum, provide access for BCA Members and projects are subject to approval by the Conservation and Access committee for spending over £750 a year.

### *National bodies*

The current National Bodies of the BCA are the Association of Caving Instructors (ACI), the British Cave Research Association (BCRA), the British Cave Rescue Council (BCRC), the Cave Diving Group (CDG), the Council of Higher Education Caving Clubs (CHECC), the National Association of Mining History Organisations (NAMHO), the National Caving Scout Active Support Unit (NCSASU) and the William Pengelly Cave Studies Trust (WPCST).

Other areas of work, such as cave science, mining history, or rescue, are carried out by National Bodies (such as the BCRA, NAMHO and the BCRC, respectively). The national bodies do not, in general, receive any automatic financial support from the BCA but instead raise funds from their own memberships.

### *Access controlling bodies*

A small number of access-controlling bodies are members of BCA. These are bodies which are not Regional Councils but control access to one or more cave or mine sites.

### *Clubs*

The majority of caving and mining clubs in Britain are members of the BCA. Some of these clubs also control access to a cave or mine site.

### *Individual members*

Many cavers and mine explorers are also 'individual members' of the BCA (whether they gain their membership via a BCA club or from the BCA directly).

### *Summary*

All of these bodies and individual members are Members of the BCA, and thus all are affected by Section 10.1. Each of these many bodies has different, but sometimes overlapping, areas of interest. Although these bodies are BCA members, they are separate bodies and are not controlled by the BCA nor directly accountable to it. All regional councils and national bodies of the BCA gain a vote on BCA Council and a vote in all standing committees of the BCA. Individual and Group members have four voting representatives each on BCA Council.

Section 10.1 touches on the delicate interplay of these connected but separate organizations and is therefore inevitably political in nature. It must be viewed in light of the potentially competing desires of the BCA's various member groups, and the BCA's overall membership to whom it is accountable. However, Section 10.1's exact aim, and its limitations, are unclear.

## Potential strengths and weaknesses of Section 10.1

The following section identifies potential strengths and weaknesses of the current Section 10.1. It is important to note that different cavers will view these strengths and weaknesses very differently. For example, some cavers will see protecting the autonomy of regional councils as a great strength, while others see it as a weakening of accountability to the wider BCA membership. Inclusions in this section should not be seen as approval or disapproval of any of these positions, but simply points of view to be considered. Some of the possibilities listed below require a particular interpretation of the constitution, which an AGM could accept or reject as a valid constitution, as well as requiring seemingly unlikely decisions from the BCA or regional councils. **To be emphasised: the authors of this document do not agree with all of the points below.**

### Identified potential strengths of section 10.1

- Section 10.1 can be viewed as a very strong statement of autonomy, which preserves the autonomy of members (including regional councils, national bodies, access-controlling bodies, clubs and individual members) to carry out work within their own interests without the fear of BCA interference.
- Without section 10.1, BCA could freely campaign against its member bodies, which could be ultimately counter-productive to the association of caving bodies that the BCA represents.

### Identified potential weaknesses with section 10.1

- Section 10.1 can be interpreted as protecting a small group of cavers or a caving group from BCA campaigning, action or mediation even if the wider BCA membership would like the BCA to take action.
- Section 10.1 restricts the BCA from acting on caving matters regarding its own members more than that of non-members. For example, if a landowner was restricting access to a cave, the BCA could attempt to negotiate to improve the access situation (for the sake of this example, following the invitation of the relevant Regional Council). If however, the landowner joined the BCA as an individual member, then arguably the BCA would be barred from negotiating.
- The BCA is democratic body, with officers elected by its membership. However, many of the BCA's functions are devolved to its member bodies, including most of its most important functions such as Conservation and Access. The BCA's members supply funds for this work, but there is limited or no accountability from its members to the BCA's elected representatives, providing a democratic deficit, of which Section 10.1 provides a part.
- Section 10.1 does not clearly define 'interference'. This could, and has, been interpreted in many ways – it could cover merely investigating a situation. It can have a 'chilling effect' by preventing the BCA from holding any official position on any matter that affects, in any capacity, the affairs of a member.
- Section 10.1 treats all members, from individual members to Regional Councils, equally. It is easy to argue that individual members should be free of interference

from BCA, while arguing for greater accountability for regional councils (which are largely funded by BCA member funds) and other group members.

- The interests of BCA members are overlapping, and while BCA members are not bound by Section 10.1 and may interfere in each other's members, the extent of one member's interests may cause issues in the BCA. For example, accepting the membership of an Access-Controlling Body in a region could be argued to be interfering with the affairs of the relevant Regional Council which had interests in access in that region.
- Section 10.1 can be viewed as preventing the BCA from taking any action against any BCA member short of the 'nuclear' option of suspending and expelling a member described in section 10.2. Expelling or suspending an individual member or a club is an extreme action, unlikely to ever be taken except when no other option is available. Expelling or suspending a regional council seems extremely unlikely.
- Section 10.1 is inherently political in nature, but the following clauses 10.2 and 10.3 are inherently disciplinary in nature. BCA members should be free to express political positions without fear of a disciplinary process, and it is unhelpful to link clauses 10.1 with clauses 10.2 and 10.3.