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HEALTH AND SAFETY EXECUTIVE

Senior Management Team

The annual report of the Adventure Activities Licensing Authority (AALA)

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Cleared by David Ashton on 16 November 2009

Issue

1. The annual report of the Adventure Activities Licensing Authority (AALA).

Timing

2. Routine

Recommendation

3. The SMT is asked to agree the report being submitted to the Board.

Background

4. HSE, in its role as the AALA, is required by regulation 4 of Adventure the Activities Licensing Regulations to submit a report to the HSE Board after the end of each financial year. This is the report for the year ending 31 March 2009.

Argument

5. See attached Board paper.

Consultation

6. PFPD has been consulted.

Presentation

7. There are no presentational issues.

Costs and Benefits

8. The financial position is reported each month and is not covered by this report. For the 2007/08 financial year HSE paid TQS £358k from grant-in-aid which is in line with predictions made at the beginning of the year.

Financial/Resource Implications for HSE

9. None. The payments made each month to TQS are from grant-in-aid and not from HSE's budget.

Environmental implications

10. None

Action

11. None

Health and Safety Executive Board		Paper No: HSE/09/	
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ADVENTURE ACTIVITIES (AALA) ANNUAL REPORT			

Purpose of the paper

12. To present the annual report of the Adventure Activities Licensing Authority (AALA)

Background

13. HSE has been the AALA since 1 April 2007 but most of the inspection and administration work associated with the duties is carried out by Tourism Quality Services Ltd (TQS) on HSE's behalf, under contract.

14. TQS is a not-for-profit body. Their activities are funded by the collection of license fees, with any shortfall in running costs being made up from grant-in-aid channelled via DWP. At the end of each month TQS submits accounts for the month, along with an invoice for the balance of their running costs.

15. The AALA is required by regulation 4 of AALR to submit a report to the HSE Board after the end of each financial year. This is the report for the year ending 31 March 2009.

Argument

16. Details of the work carried out for HSE by TQS during the year (No of inspections, No of licences issued etc) are given in Annex 1 which is the report submitted to HSE by TQS.

17. The arrangements continue to work smoothly aided by regular meetings with TQS.

18. Joint visits with TQS inspectors continue to be made from time to time. These help to keep TQS practices and standards comparable to HSE's.

Action

19. The Board is asked to accept the report.

Paper clearance

20. This paper was cleared by the Senior Management Team at their meeting on 2 December 2009.

Adventure Activities Licensing Service

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Adventure Activities Licensing Service Report **From 01.04.2008 – 31.03.2009**

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Annex 1: Number and type of Inspections carried out
Annex 2: Licence Refusals/Revocations and Variations
Annex 3: Complaints
Annex 4 Joint Inspections with Other Agencies

1. Foreword

- 1.1 The adventure activities licensing scheme was introduced in April 1996 and for 11 years was administered by Tourism Quality Services Ltd. (TQS), the company designated as the Adventure Activities Licensing Authority (AALA) by the Secretary of State.
- 1.2 As from 1st April 2007 the Health and Safety Executive (HSE) was designated as the AALA and contracted TQS to carry out certain functions on its behalf. This includes, but is not limited to, the receipt and consideration of licence applications, inspections, and the granting or refusal of a licence. TQS carries out its contracted work under the name of the Adventure Activities Licensing Service (AALS).
- 1.3 This report covers the work of TQS in fulfilling the contract during the period running from 1st April 2008 – to 31st March 2009. TQS has always been, and remains, a not-for-profit company limited by guarantee.

2. Background to the licensing scheme

- 2.1 The adventure activities licensing scheme is the mechanism for the inspection and regulation for certain aspects of the delivery of adventure activities to young people as set out in the Activity Centres (Young Persons' Safety) Act 1995 and the Adventure Activities Licensing Regulations 2004.
- 2.2 TQS works to the published guidance from HSE, 'Guidance from the Licensing Authority on the Adventure Activity Licensing Regulations 2004' (L77 Second Edition published 2007. ISBN 978 0 7176 6243 2).

3. The Functions of the Licensing Authority contracted to TQS

The following functions are contracted AALS;

- receive applications for new licences and the renewal of existing licences;
- collect licence fees;
- consider applications for licences against the criteria in the regulations;
- inspect providers' activities/premises/managements systems etc as appropriate;
- prepare a report following inspection;
- decide if a licence should be granted or not;
- inform applicant of decision;
- handle first stage of complaints and appeal procedures;

- refer unresolved complaints/appeals to the AALA;
- maintain a publically accessible register of licensed providers.

4. Inspections

4.1 Inspections are carried out:

- Following applications for the issue or renewal of a licence;
- In anticipation of an application to renew a licence;
- To investigate a complaint;
- As a targeted or random spot check;
- At the request of another agency.

The breakdown of number and type of inspection visits carried out by AALS can be found in Annex 1.

5. Licences issued and refused

5.1 The numbers of licence holders for selected years since licensing was introduced are as follows (*figures taken at 31st March in each year*).

1998	2000	2002	2004	2006	2007	2008	2009
887	916	949	1008	1052	1080	1134	1182

As shown, the number of licence holders has increased steadily over the period of licensing. The underlying trend is for the rate of increase to accelerate though this acceleration is checked from time to time by factors other than demand for adventure activity, e.g. foot and mouth disease or a rise in the fees.

5.2 Between 01.04.2008 and 31.03.2009 TQS refused 2 licence applications.

5.3 More detailed information for this section can be found in Annex 2.

6. Complaints

6.1 During the report period 21 complaints were received. Further details about the substance of the complaints made and the actions of AALS can be found in Annex 3 to this report.

7. Administration of funds

- 7.1 TQS receives the fees payable by applicants, recording the expenditure on carrying out the contracted tasks, providing AALA with monthly accounting for same, and providing forecasts and budgets as required.
- 7.2 As at 31/03/2009 the number of licence holders at 1182 was just over 4% above the original forecast of 1135. A fee increase from £620 to £715 was introduced part way through the financial year although somewhat later than anticipated. Hence income, including earnings received from selling the expertise of TQS outside of the licensing regime, was only up 3% on forecast (£474k against £460k). However this was slightly below 07-08 (£482k) owing to the cyclical pattern of renewals.
- 7.3 Expenditure excluding exceptionals, was contained below forecast (£813k against £843k – 07-08 £812k). Exceptional items not included in the budgets totalled £17k primarily the maternity related costs (£11k) of a staff member at TQS' office and legal costs regarding Mountain Ventures £5k. (related to an activity provider unhappy with the outcome of an earlier appeal against a refusal of a licence) Taken together the result was a contract sum at £357k against a forecast of £383k. The reversal of the positive cash flow movements noted in the 07-08 report, resulted in the actual requirement for public funds to be £358k as opposed to an original budget of £361k.
- 7.4 In terms of financial and corporate risk, TQS is not aware of any threats to the company that might prejudice its ability to continue to fulfil the contract. There are inherent difficulties with making forecasts primarily due to the fees not being payable at a fixed moment in time. Costs are more easily forecast although in a small operation (under 15 employees) items such as maternity and injury/ill health to key staff can have a significant impact in percentage terms if not in absolute cash sums.
- 7.5 Looking forward AALA and AALS have agreed an enhanced programme of inspections particularly in respect of caving. This will inevitably increase costs and hence the call on the public purse as there will be no additional income. There are also signs that the recession and the 2008 fee increase are having an impact on renewals in 2009. Hence it is anticipated that the contract sum will be nearer £400k for 2009-10.

8. Joint Inspections with Other Agencies

Between 01.04.08 and 31.03.09, Senior Inspectors carried out 8 joint inspections with other agencies. Details are given in Annex 4.

Annex 1: Number and Type of Inspections carried out 01.04.2008 to .2009

	Main Scheduled Inspections			Supplementary Inspections		
	No. of Inspections	Total Hours	Average Hours	No. of Inspections	Total Hours	Average Hours
April	84	298.45	3.55	7	16.05	2.29
May	75	267.3	3.56	16	47.45	2.97
June	73	278.25	3.81	16	46	2.88
July	85	284.35	3.35	31	74.3	2.40
August	48	166.63	3.47	33	80.25	2.43
Sept	34	119.2	3.51	10	21.05	2.11
Oct	42	122.95	2.93	14	43.35	3.10
Nov	32	123.9	3.87	11	37.8	3.44
Dec	29	91.15	3.14	10	31.25	3.13
Jan	40	142.55	3.56	14	36.25	2.59
Feb	44	148.3	3.37	5	15.7	3.14
Mar	57	198.45	3.48	8	17.25	2.16
TOTALS	643	2241.48	3.49	175	466.7	2.67

33 spot checks were also carried out during this period. The total number of inspections under the AALR therefore, was 851. The recorded hours are 'contact' hours only.

Note:

Main Inspections - Inspections carried out directly in relation to an application for a licence, or the renewal of a licence having been received by AALS. Wherever possible this includes both an inspection of management systems and the observation of an activity session taking place, which allows the inspector to compare theory with practice. These inspections always result in a recommendation on whether to issue a licence.

Supplementary Inspections – Inspections carried out either:

- in anticipation of an application;
- to view an activity session where it was not possible to view one at the time of the management inspection; or
- to follow up on requirements made at a previous inspection.

Spot Check Inspections - Either targeted or random spot-checking inspections.

Annex 2: Licence Refusals/Revocations and Variations

For this reporting period the refusals/revocations/variations are as follows:

Licence Refusal Statistics Between 1st April 2008 and 31st March 2009

Total number of refused licences	2
Total number of revoked licences	0
Total number of varied licences (part refusal)	0
Other notices of intent to refuse/revoke licences, issued	1
Total	3

Of these 3 cases, inspections had identified multiple failings relating to:

Lack of evidence of appropriate competence levels of leaders/instructors	2 out of 3
Lack of evidence of appropriate competence levels of Technical Advisor	1 out of 3
Inadequate risk management/operational procedures or practices.	1 out of 3
Lack of evidence of equipment checks	1 out of 3
No direct access to Technical Advice	1 out of 3
Inadequate management/monitoring roles	1 out of 3
Lack of evidence of staff monitoring	1 out of 3
Lack of evidence that delivering / intending to deliver licensable activities	1 out of 3
Lack of appropriate instructor to lead activity	1 out of 3
Failure to pay licence fee	1 out of 3

Following the issue of the notices, 1 provider actioned the requirements made upon them, and TQS was subsequently able to issue them with the appropriate licence.

RELEVANT ACTION

Action Taken	Running Total to 31/03/07 (TQS as the AALA)	Period 01.04.07 – 31.03.08 (HSE as the AALA)	Period 01.04.08 – 31.03.09
Licences refused/revoked	52	4	2
Licence refused in part	13	2	0
Notices of intent to refuse licence.	95	6	1

Annex 3: Complaints

Complaints received by TQS for the period 01.04.2008 – 31.03.2009

1. Complaints were made by:

Member of the Public (including parents)	11
Other Providers	3
Public Body	1
Employee/Ex-employee	2
Health and Safety Executive	1
National Governing Body	1
School	1
Other (colleague of Freelance Inspector	1
Total	21

Of these:

Non licence-holders	4
Licence-holders where complaints related to matters not in scope of the AALR	8
Licence-holders where complaints related to matters in scope of the AALR	9
Total	21

Action taken in respect of all complaints:

Referred to relevant authority	5
Issues addressed/to be addressed at next scheduled inspection	1
Unannounced visit	4
Arranged visit	4
Matter resolved via other means (e.g. correspondence)	6
No investigation deemed necessary	1
Total	21

Of the 4 cases relating to non-licence holders 3 were referred directly to the relevant authority and 1 was an unknown group so no further investigation was possible.

8 cases did not strictly come within scope of licensing. They related instead to: adult participants, a family group, climbing wall activities, customer service issues, or related to activities operated outside of GB. Where issues related to activities it was deemed appropriate to deal with them because of the expertise and knowledge of the provider's operation that exists within TQS.

Of the 9 cases where activities fell within scope of the AALR the following allegations were made. In some cases allegations against a provider covered more than one issue.

Operating activities that weren't on the licence schedule	1 of 9
Deficiencies in group management	1 of 9
Deficient operational practices	6 of 9
Deficient equipment	1 of 9
Concerns regarding staff competence / qualifications	2 of 9
Deficiencies in management practices	1 of 9

Findings of the investigations undertaken where activities fell within scope of the AALR:

Allegations deemed unjustified	1
Allegations deemed unsubstantiated	1
Allegations deemed justified in part	3
Allegations deemed justified	3
Investigation in progress	1

In all cases where investigations of allegations were found to be justified either wholly or in part, providers were instructed to make appropriate improvements to their operation.

Annex 4: Joint Inspections with Other Agencies

1. Ten Tors Fatality - On going work regarding the investigation into the death of a 14 year old female on Dartmoor in March 2007.
2. Abernant Lake - An Environmental Health Officer from Powys CC accompanied the Senior Inspector on a routine inspection of the provider in May 2008.
3. Arethusa Venture Centre - Assistance provided in the investigation following a fall from a high ropes course in November 2008. A joint visit was carried out to the centre to investigate the accident and an expert report produced.
4. Fatality on River Usk - Assistance provided to the police and HSE (Cardiff) following the death of a 13 year old male in November 2008 whilst open canoeing with a licensed centre. The Senior Inspector attended meetings and produced an expert report.
5. Newlands Adventure Centre - Senior Inspector accompanied an Environmental Health Officer to the centre during the investigation of a RIDDOR report regarding an adult injured on a zip wire landing.
6. Absolute Adventure - An Environmental Health Officer from Powys CC accompanied the Senior Inspector on a routine inspection of the provider in January 2009.
7. Wilderness Expertise - North Wales Police requested assistance from AALS in the investigation of a double be-nightment on the Glyders in February 2009. A Senior Inspector visited the school involved and the provider, producing an interim and final report.
8. Royal Hospital School - AALS were asked by HSE Chelmsford to assist in the investigation following a climbing wall accident. Investigations are on-going.