

Adventure Activities Licensing Service

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Adventure Activities Licensing Service Report **From 1st April 2012 – 31st March 2013**

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1. Foreword

- 1.1 The adventure activities licensing scheme was introduced in April 1996 thus implementing the Activity Centres (Young Persons' Safety) Act 1995 and the Adventure Activities Licensing Regulations 1996, revised 2004. For 11 years it was administered by Tourism Quality Services Ltd. (TQS), a company designated as The Adventure Activities Licensing Authority (AALA) by the Secretary of State.
- 1.2 On 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. These include, but are 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 AALS in fulfilling the contract during the period running from 1st April 2012 to 31st March 2013 (the reporting year). AALS 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 of 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 (AALR).
- 2.2 AALS operates under the written guidance of the HSE as detailed in 'Guidance from the Licensing Authority on the Adventure Activity Licensing Regulations 2004' (Ref: L77 Second Edition published 2007. ISBN 978 0 7176 6243 2).
- 2.3 This guidance states: "The aim of the adventure activities licensing scheme is to give assurance that good safety management practice is being followed so that young people can continue to have opportunities to experience exciting and stimulating activities outdoors while not being exposed to avoidable risks of death and disabling injury."

3. The Functions of the Licensing Authority contracted to AALS.

- 3.1 The following functions are contracted to the 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/management 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;
- liaise with, and assist, enforcement authorities;
- such other duties as may be from time to time requested by the AALA.

4. Inspections

4.1 Initial scheduled inspections are carried out:

- Following applications for the issue or renewal of a licence. 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 for a sample of activities. These inspections generally result in a recommendation on whether to issue a licence.

4.2 Supplementary scheduled inspections are carried out:

- In anticipation of an application to renew a licence;
- If it was not possible to complete all aspects of the main inspection e.g. activity inspection at a separate venue or time;
- To follow up on requirements made at a previous inspection;
- To investigate a complaint;
- At the request of the AALA or another agency.

4.3 Spot check inspections are carried out:

- As part of a targeted schedule of checks;
- As part of a number of random unannounced checks.

The breakdown of number and type of inspection visit carried out by the Inspectorate can be found in Annex 1.

5. Licences issued and refused

5.1 The number of licence holders runs as follows for selected years since licensing was fully implemented (*figures taken at 31st March in each year*);

1998	2000	2002	2004	2006	2007	2008	2009	2010	2011	2012	2013
887	916	949	1008	1052	1080	1134	1182	1205	1235	1214	1219

The historical upward trend is occasionally checked by other factors such as foot and mouth disease. Although we do not have empirical evidence, we believe the recent fall in numbers to be largely due to the reduction in Local Authority backed provision and uncertainty about the future.

Note – Licence holder numbers peaked in July 2011 at 1255, declined to 1214 by March 2012, and have since partially recovered to 1237 as at July 2013 (see para 7 below).

5.2 Licences refused/revoked:

In the reporting year notices to providers that AALS was considering refusing or revoking licences were issued in 12 cases. In 8 cases the provider actioned the requirements made upon them by AALS in the allotted time, and AALS subsequently issued or continued the licence. AALS therefore had to revoke 1 licence and refuse 2 renewal applications. A further provider withdrew their renewal application following receipt of a Notice.

5.3 Giving providers specific 'required action' and ensuring that they are completed, is the means by which the Licensing Scheme is able to provide assurances that "good safety management practice is being followed" in a way which is proportionate. (Quote from Guidance from the Licensing Authority on the Adventure Activities Licensing Regulations 2004 (L77) page 1, paragraph 1)

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

6. Complaints

6.1 Regulation 11(1) of the AALR states "The Licensing Authority shall consider any complaints which it receives relating to the provision of facilities for adventure activities by licence holders and shall, if it considers it necessary, cause those complaints to be investigated."

6.2 Where issues related to out of scope activities offered by a licensed provider, it was deemed appropriate to deal with these because of the expertise and knowledge of the provider's operation that exists within AALS. Enforcement authorities are notified if a satisfactory resolution is not or cannot be resolved by this means.

6.3 Where a complaint refers to an issue which is not relevant to the AALS (for example, complaints relating to customer care, financial issues, etc.) the complaint is referred directly to the relevant authority.

6.4 Where activities are offered by an un-licensed provider the complainant is advised to whom they should make their complaint.

6.5 In the reporting year, 12 complaints were received by AALS. Further detail 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 The AALS provides the AALA with forecasts and budgets as required under the contract.
- 7.2 The AALA had informed the AALS that the net funds available to support the work of the AALA would be £400,000, a reduction on the prior year. It was anticipated that all expenditure would be met from this sum, after offsetting any fees or other income received in relation to the work.
- 7.3 However the AALS only received approximately £450,000 (forecast £490,000) in fees and other income. As required under the contract, savings were made wherever possible and total expenditure was £860,000 (forecast £890,000). Consequently the AALA provided an extra £10,000 to meet the shortfall.
- 7.4 The principal cause of the income shortfall is believed on anecdotal evidence (but see 7.7 below) to have been the anticipation of the abolition of licensing. It is never possible to make £ for £ savings in line with fee income reductions as capacity has to be maintained to cover a rebound in demand for inspections (see 7.7).
- 7.5 AALS results for the year ended 31st March 2013 have been audited and show no material differences from draft figures submitted to AALA in April 2013.
- 7.6 TQS Ltd. is not aware of any threats to the company that might prejudice its ability to continue to fulfil the contract. However due to the uncertainty over the future of licensing, any forecasts of income and related expenditure continue to be currently less reliable than before. This may impact on the net level of public support required to maintain the contracted services.
- 7.7 Support for the anecdotal evidence referred to in 7.4 has been found in recent figures. These followed an announcement of a pause in the process that may lead to abolition. Applications for the period Jan-Jul (inc) 2012 were 455, for 2013 the equivalent figure was 537. The latter figure is very close to that for 2011 (531) which was prior to the impact of the abolition proposals.

Note 1 – the pause was announced in July 2012 but many licence holders operate seasonally, and so the impact of the pause was not seen until renewal or new applications were made from Jan 2013 onwards by providers wishing to ensure that licensable activity could take place during summer 2013.

Note 2 – Although Lord Young's report was published in Oct 2010, it was clear from the outset that the process would take time. Thus, as with Note 1, seasonality dictated that most providers applied or renewed for 2011 before considering the impact of possible abolition in 2012.

8. Joint Inspections

8.1 Joint Inspections with Other Agencies

In the reporting year, Senior Inspectors and/or the Head of Inspection spent a total of 66.45 hours (not including travel time) on:

- Joint visits with HSE/ LA enforcement
- Preparing reports for HSE/LA enforcement

Annex 1: Number of Inspections per month carried out in the reporting year compared with prior reporting year.

Main Scheduled Inspections

	The Reporting Year	Prior Reporting Year
April	68	64
May	91	97
June	64	100
July	73	79
August	52	54
September	31	48
October	39	27
November	31	32
December	25	17
January	38	46
February	54	31
March	63	53
Totals	629	648

Supplementary Scheduled Inspections

	The Reporting Year	Prior Reporting Year
April	12	18
May	10	34
June	14	25
July	31	34
August	31	42
September	21	14
October	31	25
November	11	10
December	1	3
January	2	10
February	2	9
March	1	13
Totals	167	237

40 spot checks were also carried out in the reporting year, compared with 44 during the prior reporting year.

The total number of inspections under the AALR therefore, was 836 in the reporting year, compared with 929 in the prior reporting year.

Number and Type of Inspections carried out from 2007/8 to 2012/13

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Main reports	592	643	636	623	648	629
Supplementary reports	175	175	279	280	237	167
Spot check reports	55	33	42	57	44	40
TOTAL	822	851	957	960	929	836

We believe there are three main reasons for the fall in the total number of inspections:

1. A fall in the total number of licence holders (see para 7);
2. More inspections being completed in a single visit;
3. A gradual increase in the average duration of licences.

Annex 2: Licence Refusals/Revocations

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

Licence Refusal Statistics in the reporting year

Total number of cases where we considered refusing or revoking	12
Adequate remedial action achieved	8
Total number of refused licences	2
Total number of revoked licences	1
Renewal application withdrawn by provider on receipt of Notice	1

Of these 12 cases, inspections had identified failings relating to:

Staff records of competence	7
Equipment checking	4
Outstanding licence fee	3
Written procedures	2
Monitoring of staff and activities	2
Breakdown of management structure	1
Concerns re safety of equipment (safety boat)	1
Total	20

NB: The above categories are not mutually exclusive i.e. some providers had more than one problem. Indeed most refusals/revocations are for multiple reasons.

Relevant Action Taken

	08/09	09/10	10/11	11/12	12/13
Total of providers who, at least initially, did not meet the requirements of AALR	3	12	13	6	12
Number of considerations rescinded	1	8	10	5	8
Number of Licences Refused	2	1	1	0	2
Number of Licences Revoked	0	3	2	1	1
Renewal application withdrawn by provider on receipt of Notice	-	-	-	-	1

Annex 3: Complaints

12 complaints were received by AALS in the reporting year

Complaints were made by:

Member of the Public (including parents)	4
Other providers	4
Voluntary Body	1
NGB	1
Ex employee / trainee	2
Total	12

Of these:

Licence holders where complaints related to matters in scope of the AALR	4
Licence holders where complaints related to matters not in scope of the AALR	6
Non licence holders	2
Total	12

Action taken in respect of all complaints:

Issues addressed/to be addressed at next scheduled inspection	1
Unannounced visit	0
Arranged visit	2
Matter resolved by some other means (e.g. telephone call)	4
No investigation deemed necessary	2
Referred to enforcing authority	2
In Process	1
Total	12

Of the 10 relevant complaints against licence holders, the allegations concerned:

In scope of AALR:

- Safety of canoeing trip during high water
- Allegations of jumping into pools with rocks in pockets whilst gorge walking
- Safety on a sailing course
- Coasteering incident
- Allegation that an instructor not qualified
- Practices in mine exploration activity

Relevant but not in scope of AALR:

- Safety issues on family sailing course
- Refund dispute between client and provider
- Safety and maintenance of gas boiler

Of these 10 relevant cases, following investigation, 5 allegations were deemed to have been justified in part:

- issues on 2 sailing courses;
- jumping into pools with rocks in pockets whilst gorge walking;
- coastering incident;
- practices in mine exploration activity.

2 were deemed to have been unjustified / unsubstantiated:

- safety of canoeing trip during high water;
- allegation that an instructor was not qualified.

Investigation was not deemed necessary in the case of refund issues between client and provider.

The allegation regarding the safety and maintenance of a gas boiler was referred to the Enforcing Authority but the inspector also discussed the complaint with the provider at inspection and found it to have been unjustified.

In cases where the complaints were justified or justified in part, the providers were given specific required action to prevent similar occurrences.

Annex 4: Joint Inspections with Other Agencies

- Meeting with Worcestershire Environmental Health Officer (EHO) to discuss safety of zip wires.
- Assisting HSE, Carmarthenshire investigate a climbing accident in Pembrokeshire.
- Assisting Gwynedd EHO assess the safety of the new zip wire at Bethesda.
- Assisting HSE Chelmsford investigate a climbing wall incident (on-going).
- Assisting London Borough of Redbridge EHO investigate a power boat incident (on-going).
- Liaison with HSE Aberdeen re fatality on Skye.
- Liaison with Perth and Kinross Council EHO following a serious near miss on Loch Tay.