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## THE ANNUAL REPORT OF THE ADVENTURE ACTIVITIES LICENSING AUTHORITY

### Purpose of the paper

1. To present the Annual report of the Adventure Activities Licensing Authority (AALA).

### Background

2. HSE has been the AALA since 1 April 2007 but most of the inspection and administration work associated with the licensing scheme is carried out under contract by Tourism Quality Services Ltd (TQS) on HSE's behalf.
3. TQS is a not-for-profit body. Its activities are funded by the collection of licence fees, with any shortfall in running costs being met by HSE on a monthly basis.
4. The AALA is required by Regulation 4 of the Adventure 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 2012.
5. Expenditure at £910K was on forecast. HSE's share of this in support for the licensing service was £420K; the remainder coming from fees and other income.
6. The report covers the year 1 April 2011 to 31 March 2012, and during this time HSE has been working to deliver the *Common Sense Common Safety* recommendation to abolish the AALA. Government has paused with the recommendation and HSE is working up options for a further decision on future arrangements for safety management during adventurous activities.

### Argument

7. Details of the work carried out by TQS for HSE during the year (number of inspections; number of licences issues/revoked; complaints and so on) are at Annex 1, which is the report submitted to HSE by TQS.
8. A total of 929 inspections were conducted, with 648 related to licence applications and 237 related to supplementary and spot check inspections, this latter a fall from the previous year when targeted inspection of caving activities was scheduled. The number of licence holders has fallen slightly, against the long-term trend of a steady increase. We have

anecdotal evidence that the majority of these are due to a reduction in LA funded provision, with some possibly also reflecting the uncertainty over future arrangements following the recommendation in *Common Sense Common Safety* to abolish the AALA.

9. Only one licence was revoked, a measure of the generally good standards of health and safety management in the sector.
10. Arrangements continue to work smoothly aided by regular meetings between HSE officials and TQS. Joint visits with HSE and Local Authority inspectors also take place from time to time. These help ensure consistency of approach.

**Action**

11. The Board is asked to accept the report.

**Paper clearance**

12. This paper was cleared by HSE's Senior Management Team 3 October 2012

# *Adventure Activities Licensing Service*

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## **Adventure Activities Licensing Service Report**

**From 1st April 2011 – 31<sup>st</sup> March 2012**

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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 TQS in fulfilling the contract during the period running from 1st April 2011 to 31st March 2012 (the reporting year). 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 (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 includes: "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 TQS.**

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;
- 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 always 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 31<sup>st</sup> March in each year*);

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

As shown, the number of licence holders increased steadily over that period. 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 slight fall in numbers to be largely due to the reduction in Local Authority backed provision and possibly also to the uncertainty about the future of licensing.

5.2 Licences refused/revoked:

Notices to providers that AALS was considering refusing or revoking licences were issued in 6 cases. In 5 cases the provider actioned the requirements made upon them by AALS in the allotted time, and AALS subsequently issued or continued the licence. Thus in the reporting year AALS only found it had to **revoke** 1 licence.

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 similar but out of scope activities, it was deemed appropriate to deal with them 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 referred to an issue which is not relevant to the AALS (for example, complaints relating to customer care, financial issues, etc.) it was referred to the relevant authority.
- 6.4 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. In 2011-2012 this work was augmented by providing additional information regarding scenarios that might arise if the Act and/or Regulations were to be significantly changed or abolished.

7.2 No actual changes took place in the reporting year. The AALA had informed the AALS that the net funds available to support the work of the AALA would be £420,000, the same as for 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 The AALS received approximately £490,000 in fees and other income and was able to meet all expenditure within the £910,000 total of income and public sector support.

7.4 AALS results for the year ended 31<sup>st</sup> March 2012 have been audited and show no material differences from draft figures submitted to AALA in April 2012.

7.5 TQS 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 in future years are currently less robust than before. This may impact on the net level of public support required to maintain the contracted services.

## **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 13 days on:

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

**Annex 1: Number and Type of Inspections carried out in the reporting year compared with prior reporting year.**

**Main Scheduled Inspections**

	The Reporting Year				Prior Reporting Year		
	No. of Inspections	Total Hours	Average Hours		No. of Inspections	Total Hours	Average Hours
April	64	238.30	3.72		68	239.95	3.53
May	97	336.00	3.46		86	326.45	3.80
June	100	377.20	3.77		69	270.65	3.92
July	79	280.65	3.55		66	240.95	3.65
Aug	54	199.55	3.70		60	213.15	3.55
Sept	48	178.05	3.71		42	138.05	3.29
Oct	27	91.75	3.40		26	86.20	3.32
Nov	32	110.20	3.44		38	120.15	3.16
Dec	17	53.35	3.14		19	63.65	3.35
Jan	46	149.20	3.24		49	163.25	3.33
Feb	31	98.00	3.16		48	150.55	3.14
Mar	53	176.25	3.33		52	159.25	3.06
<b>Totals</b>	<b>648</b>	<b>2288.50</b>	<b>3.53</b>		<b>623</b>	<b>2172.25</b>	<b>3.49</b>



**Supplementary Scheduled Inspections**

	The Reporting Year				Prior Reporting Year		
	No. of Inspections	Total Hours	Average Hours		No. of Inspections	Total Hours	Average Hours
April	18	52.80	2.93		17	51.55	3.03
May	34	103.50	3.04		15	34.40	2.29
June	25	78.60	3.14		36	100.55	2.79
July	34	95.80	2.82		50	137.90	2.76
Aug	42	126.05	3.00		47	129.40	2.75
Sept	14	44.60	3.19		24	78.95	3.29
Oct	25	71.25	2.85		36	96.80	2.69
Nov	10	19.25	1.93		24	71.00	2.96
Dec	3	10.90	3.63		7	18.00	2.57
Jan	10	27.95	2.80		7	17.50	2.50
Feb	9	27.00	3.00		9	24.25	2.69
Mar	13	41.15	3.17		8	36.00	4.50
<b>Totals</b>	<b>237</b>	<b>698.85</b>	<b>2.95</b>		<b>280</b>	<b>796.30</b>	<b>2.84</b>

44 spot checks were also carried out in the reporting year, compared with 57 during the prior reporting year.

**The total number of inspections under the AALR therefore, was 929 in the reporting year, compared with 960 in the prior reporting year. The recorded hours are 'contact' hours only (i.e. time spent on site with the provider, travel to and from the inspection and report writing time is not included).**

It can be seen that the number of main inspections have continued to rise, but both supplementary and spot checks have fallen. This is partly due to an improvement in the system of scheduling so that more activities actually taking place are seen at the main inspection thus obviating the need for a supplementary visit in some cases. Secondly the prior year included some intensive work with caving providers agreed with the AALA. Whilst the work itself has continued the bulk was completed before 1/4/2011.

## 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	6
Adequate remedial action achieved	5
Total number of refused licences	0
Total number of revoked licences	1

Of these 6 cases, inspections had identified failings relating to:

Standard of work	1
Staff records of competence	2
Written procedures	2
Staffing issues	4
Induction, monitoring, etc of staff	2
Failure to respond to repeated attempts to arrange activity inspection	1
<b>Total</b>	<b>12</b>

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.

One provider was issued with 2 notices over the course of the reporting period.

### Relevant Action Taken

	08/09	09/10	10/11	11/12
<b>Total of providers who, at least initially, did not meet the requirements of AALR</b>	3	12	13	6
<b>Number of considerations rescinded</b>	1	8	10	5
<b>Number of Licences Refused</b>	2	1	1	0
<b>Number of Licences Revoked</b>	0	3	2	1

### Annex 3: Complaints

12 complaints were received by AALS in the reporting year

#### **Complaints were made by:**

Member of the Public (including parents)	5
Other providers	2
Public Body	2
Freelance Instructor	1
NGB	1
Ex trainee	1
<b>Total</b>	<b>12</b>

Of these:

Non licence holders	3
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Licence holders where complaints related to matters <b>not</b> in scope of the AALR	3
Licence holders where complaints related to matters in scope of the AALR	6
<b>Total</b>	<b>12</b>

Action taken in respect of all complaints:

Issues addressed/to be addressed at next scheduled inspection	2
Unannounced visit	1
Arranged visit	2
Matter resolved by some other means (e.g. telephone call)	5
Joint visit at request of EHO	1
Referred to enforcing authority	1
<b>Total</b>	<b>12</b>

Of the 9 relevant complaints against licence holders, the allegations concerned:

In scope of AALR:

- broken teeth sustained during watersports activity;
- perceived lack of support for trainees at a licensed centre;
- failure to take medical details prior to an activity;
- abseiling ropes set up and left unattended at a public site;
- the running of a Duke of Edinburgh award expedition;
- the rescue of a group of young people from a flooded cave.

Relevant but not in scope of AALR:

- a group on out of scope bouldering activity;
- a climbing accident sustained by an adult;
- alleged distress to a child during an out of scope activity.

Of these 9 relevant cases, following investigation, 2 allegations were deemed to have been justified in part (the unattended abseiling ropes and the cave rescue) and another

6 to have been unjustified / unsubstantiated. The last complaint is still in process of investigation.

In both of the cases where the complaint was relevant and justified the provider was given specific required action to prevent a similar occurrence.

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