

Adventure Activities Licensing Service

44 Lambourne Crescent, Cardiff Business Park, Llanishen, Cardiff CF14 5GG
Tel: (029) 20755715 Fax: (029) 20755757 Email: info@aals.org.uk Web: www.aals.org.uk

Adventure Activities Licensing Service Report **From 1st April 2014 – 31st March 2015**

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1. Foreword

- 1.1 The adventure activities licensing scheme was introduced in April 1996 and implements 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 In 2007 the Health and Safety Executive (HSE) was designated as the AALA and contracted TQS to carry out the day to day functions of the scheme 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 2014 to 31st March 2015 (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 providers 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;
- issue licence as appropriate;
- handle first stage of complaints and appeal procedures;
- refer unresolved complaints/appeals to the AALA;
- maintain the AALA public register of licensed providers on line;
- 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:

- As provided by the 2004 Regulations inspections of new applicants are carried out following application. For existing licence holders, inspections may be carried out either following application or up to one year in advance of their scheduled renewal date.
- 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:

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

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	2008	2009	2010	2011	2012	2013	2014	2015
887	1134	1182	1205	1235	1214	1219	1238	1243

5.2 Licences refused/revoked:

In the reporting year notices to providers that AALS was considering refusing or revoking licences were issued in 19 cases. In 14 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 refuse 2 applications and revoke 3 licences.

One refusal was in respect of a new licence application and the provider decided not to proceed with their application. The other refusal was in respect of a renewal application and the provider did not provide the required information.

Of the 3 cases in which licences were revoked, 2 providers did not provide the required information in the allotted time although both have now re-applied. The 3rd provider's licence was reinstated following the re-employment of a key member of staff.

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 that 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, 21 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 although it was not been possible to do so in the winter/spring of 2014-15 as the contract was due to expire in September 2015. A new budget will be issued following the issue of any new or extended contract. It is anticipated that this will not vary significantly from the pattern of the past few years.
- 7.2 The AALA had informed the AALS that the net funds available to support the work of the AALA for 2014-15 would be £400,000, the same budget figure as has been available since the HSE was designated as the AALA in 2007. As time has passed, the combination of cumulative inflation (+22%) and increasing numbers (+15%) has gradually made it harder to meet this limit. Later AALA informed AALS that a further £20,000 was available.
- 7.3 Following announcements regarding the continuation of licensing, applications and renewals have resumed their slow upward trend. [Post year end note – numbers of licence holders reached a new all-time high in May 2015] As a result income to 31st March 2015 totalled £472,548 (as against a forecast of £453,000).
- 7.4 As a result net expenses after offsetting fees and other income were contained within the revised £420,000 budget. As has been the case for several years AALS has taken advantage of situations where advance or lump sum payments result in lower overall costs e.g. Health Care and Rates. As at 31st March 2015 approaching £40,000 of costs for 2015-16 had already been paid and included in the sums invoiced to HSE.

- 7.5 AALS results for the year ended 31st March 2015 have been audited. The audited figures show no material differences from draft figures already submitted to AALA in support of invoices to date.
- 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 continuing uncertainty over the future form of licensing, which results in short term contract working, any forecasts of income and related expenditure continue to be less reliable than before. This may impact on the net level of public support required to maintain the contracted services.

8. Joint inspections / work with other agencies / other relevant AALS activity during the reporting year.

- 8.1 In the reporting year, Senior Inspectors and/or the Head of Inspection spent a total of 351.25 hours (not including travel time) on:
- Joint visits with HSE/ LA enforcement
 - Preparing reports for HSE/LA enforcement

See Annex 4 for more information on assistance provided.

- 8.2 The AALS continues to disseminate relevant safety information to the wider adventure activity sector. This generally takes the form of InfoLog entries. These are hosted on the website of the Institute of Outdoor Learning (IOL) but can be accessed via a link on the HSE/AALA web site. These short pieces generally result from an incident or accident that comes to our attention. They take the form of a short anonymised narrative followed by general or specific Lessons Learned. Inspectors bring particular InfoLog entries to the attention of relevant providers.

Longer articles are written either by the Head of Inspection or one of the Senior Inspectors, approved by HSE, and published in adventure activities sector publications such as Professional Mountaineer or IOL's Horizons quarterly magazines.

- 8.3 The AALS undertook initial steps towards a proposed pilot project of combined inspections with the Royal Yachting Association. It is hoped to launch the pilot in 2015. The pilot would involve suitable RYA inspectors who would be 'trained up' to conduct Licensing inspections. It is hoped they can be authorised by the same means as we authorise other free-lance inspectors. They would then be able to carry out one inspection but write two reports: one for the RYA and one for the AALS, thus avoiding duplication for the provider.
- 8.4 The AALS continues to propose to HSE measures that would make the licensing scheme more effective and more efficient. Examples include suggestions for revising the HSE document "The Inspection of Providers within scope of the Adventure Activities Licensing scheme", and a paper looking at closer alignment between the practical interpretation of National Governing Body (NGB) awards and AALR.

9. Letters to Unlicensed Providers

- 9.1 In the reporting year, AALS received 26 reports of unlicensed providers who appeared to be offering activities that fell within scope of AALR but without holding an adventure activities licence.
- 9.2 Each of these providers was sent a standard letter. For latest version see Annex 5.
- 9.3 Of the 26 providers contacted, 5 subsequently applied for a licence, 18 advised that they would be operating out of scope, 1 advised that their business was not operating and 2 have not responded to date.
- 9.4 If the two eventually still do not respond, AALS will pass their details to the relevant enforcement authority and advise AALA that they have done so. The enforcement authority is empowered to investigate further, the AALS is not.

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	79	64
May	73	96
June	67	100
July	66	86
August	35	55
September	41	36
October	35	29
November	28	24
December	20	24
January	37	38
February	46	47
March	68	65
Totals	595	664

NB: On 2 occasions a report required 2 inspection visits

Supplementary Scheduled Inspections

	The Reporting Year	Prior Reporting Year
April	11	10
May	20	8
June	21	21
July	42	23
August	41	34
September	27	15
October	20	23
November	12	7
December	5	4
January	10	6
February	4	7
March	13	5
Totals	226	163

33 spot checks were also carried out in the reporting year, compared with 46 during the prior reporting year.

The total number of inspections under the AALR therefore, was 854 in the reporting year, compared with 873 in the prior reporting year.

The total number of inspections for the prior reporting year has been revised from 864 to 873 due to 9 reports (8 main reports and 1 supplementary report) being received after the report was prepared.

Number and Type of Inspections carried out from 2009/10 to 2014/15

Report Type	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Main	636	623	648	629	664	595
Supplementary	279	280	237	167	163	226
Spot check	42	57	44	40	46	33
TOTAL	957	960	929	836	873	854

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	19
Adequate remedial action achieved	14
Total number of refused licences	2
Total number of revoked licences	3

Of these 19 cases, inspections had identified failings relating to:

Staff records of competence	9
Written procedures (establishment and review)	7
Induction and monitoring of staff and activities	4
Appointment & use of Technical Advisor	4
Outstanding licence fee (same provider with 2 centres)	2
Failure to comply with NGB guidance and procedures	2
Staffing arrangements	2
Equipment checking	1
Provider not responding to attempts to arrange inspection	1
Total	32

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

	09/10	10/11	11/12	12/13	13/14	14/15
Total of providers who, at least initially, did not meet the requirements of AALR	12	13	6	12	9	19
Number of considerations rescinded	8	10	5	8	7	14
Number of Licences Refused	1	1	0	3	2	2
Number of Licences Revoked	3	2	1	1	0	3

Annex 3: Complaints

21 complaints were received by AALS in the reporting year

Complaints were made by:

Member of the Public (including parents)	5
Public Body	5

Other provider / freelance instructor	4
Anonymous	3
Ex-employee / Committee member	2
Duke of Edinburgh Award office	1
HSE	1
Total	21

Of these:

Licence holders where complaints related to matters in scope of the AALR	14
Licence holders where complaints related to matters not in scope of the AALR	5
Non licence holders	2
Total	21

Action taken in respect of all complaints:

Matter resolved by some other means (e.g. telephone call, e mail)	5
Issues addressed at next scheduled inspection	4
Referred to enforcing authority	3
Unannounced visit	2
Arranged visit	1
No investigation deemed necessary	1
In Process	5
Total	21

Of the 19 relevant complaints against licence holders, the allegations concerned:

In scope of AALR:

- Incorrect use of kill cords and safety boat (2 complaints from different sources about the same provider)
- Safety boat issues, medical information not being passed on, climbing tower issues
- Use of defective equipment and falsification of staff records prior to inspection
- Uninsured staff member driving minibus to activities
- Signing off procedures
- Unsafe jump on gorge scrambling session
- Method of advertising AALA logo
- Duke of Edinburgh Award (DofE) groups who required evacuation / rescue
- Procedures on a via ferrata activity
- Standards of training for DofE Gold practice expeditions (2 complaints from one source about 2 providers)
- Use of private section of river by licensed providers
- Lack of availability of risk assessment documentation and no technical advisor.

Complaints not in scope of AALR:

- Moving and lifting of disabled young people
- General culture at licensed centre (poor communication)
- Accident sustained by an adult during a cycle hire session at a licensed centre
- 2 incidents involving the same licensed provider with an adult and family on kayak hire sessions
- no kill cords or life jackets provided during RIB rides, craft going too fast and outside recommended ride limits.

Of these 19 cases involving licensed providers, following investigation, one of the two allegations made against the same provider regarding incorrect use of kill cords was deemed to have been justified. Following due process after which the provider had not corrected the issue, his licence was revoked.

4 were deemed to have been justified in part:

- Safety boat issues, medical information not being passed on, climbing tower issues
- Method of advertising AALA logo
- Duke of Edinburgh Award (DofE) groups who required evacuation / rescue
- Procedures on a via ferrata activity

5 were deemed to have been unsubstantiated:

- Use of defective equipment and falsification of staff records prior to inspection
- Uninsured staff member driving minibus to activities
- Signing off procedures
- Unsafe jump on gorge scrambling session
- 2 incidents involving the same licensed provider with an adult and family on kayak hire sessions

2 were deemed to have been not justified:

- one complaint about incorrect use of kill cords and safety boat (the second complaint was deemed to have been justified and the provider's licence was revoked after due process)
- One complaint regarding standards of training for DofE Gold practice expeditions (a second complaint about a different provider but from the same source is in progress of investigation)

The complaint regarding the general culture at a licensed provider was deemed as not requiring investigation and the complaint regarding an accident sustained by an adult during a cycle hire session at a licensed centre was referred to the relevant enforcing authority.

5 complaints made against licensed providers are in progress of investigation:

- Moving and lifting of disabled young people
- No kill cords or life jackets provided during RIB rides, craft going too fast and outside recommended ride limits.
- One complaint about standards of training for DofE Gold practice expeditions (a second complaint about a different provider but from the same source has been deemed to have been not justified)
- Use of private section of river by licensed providers
- Lack of availability of risk assessment documentation and no technical advisor.

No outcomes are known about the complaints referred to the relevant Enforcing Authority. These were:

- Accident sustained by an adult during a cycle hire session at a licensed centre
- An injury sustained by an adult during a Segway activity at an unlicensed centre
- An accident at an unlicensed indoor climbing centre involving a 9 year old girl falling from the wall

Annex 4 – Work with Other Agencies

- 1) A joint visit by a Senior Inspector and the Head of Inspection with an HSE officer to an unlicensed provider who is due to open a zip wire in North Wales.
- 2) Assistance requested by EHO investigating a ropes course incident at a licensed centre.
- 3) Assistance requested by EHO investigating an adult fatality on a kayaking session. A Senior Inspector attended meetings and prepared a draft of an expert witness report.
- 4) Assistance requested by EHO investigating an accident at a licensed centre on a newly opened zip wire involving an adult. A Senior Inspector has attended meetings, has visited the site, prepared a consultancy report and a court ready report in preparation for appearing as an expert witness.
- 5) Guidance requested by EHO in investigation of a tree climbing incident at a non-licensed centre. A Senior Inspector wrote a consultancy report and responded to the provider's appeal against the prohibition notice issued.
- 6) Assistance requested by EHO in investigation of an accident at an indoor climbing wall session run by a licensed provider. A Senior Inspector prepared a court ready report.
- 7) AALS recognition requested for Countryside Leader Award. A Senior Inspector attended a meeting with the providers and observed a course in progress.
- 8) AALS recognition requested for Stand Up Paddleboarding award. A Senior Inspector participated in a 1 day Water Safety and Rescue course and a 2 day SUP Foundation course and provided feedback to the provider.
- 9) Assistance requested by EHO investigating an accident on a trapeze jump at a licensed centre.
- 10) HSE investigation into fatality on Skye. A Senior Inspector attended 2 days of a Fatal Accident Inquiry (FAI). (The first hearing was rescheduled.)

Annex 5: Text of Standard Unlicensed Provider Letter

Dear

RE: ADVENTURE ACTIVITIES LICENSING REGULATIONS 2004

We understand that you may be offering outdoor activities to young people under the age of 18 years and we cannot find you on our database as a Licence Holder under the above regulations. If you are providing either caving, climbing, trekking, or watersports activities to young people in return for payment, then it is possible that the above Regulations apply to you. If this is the case then to offer these activities legally you would need to hold a Licence.

The Adventure Activities Licensing Scheme was introduced by the Government in 1996 to inspect safety management systems and to issue licenses to those operating within scope of these Regulations.

Enclosed is an extract from the Health and Safety Executive (HSE) guidance publication which details those activities which come within scope of the Adventure Activities Licensing. It also explains who is exempt from the requirement to hold a licence.

If you have any doubts about whether or not the law applies to your operation then you can contact us and we will endeavour to help you.

If, either you are not making any provision to young persons or you believe these Regulations do not apply to you we would ask you to confirm this to us **in writing**, stating the reasons for your exemption. If these Regulations do apply you can apply online at <http://www.hse.gov.uk/aala/apply-for-a-licence.htm>.

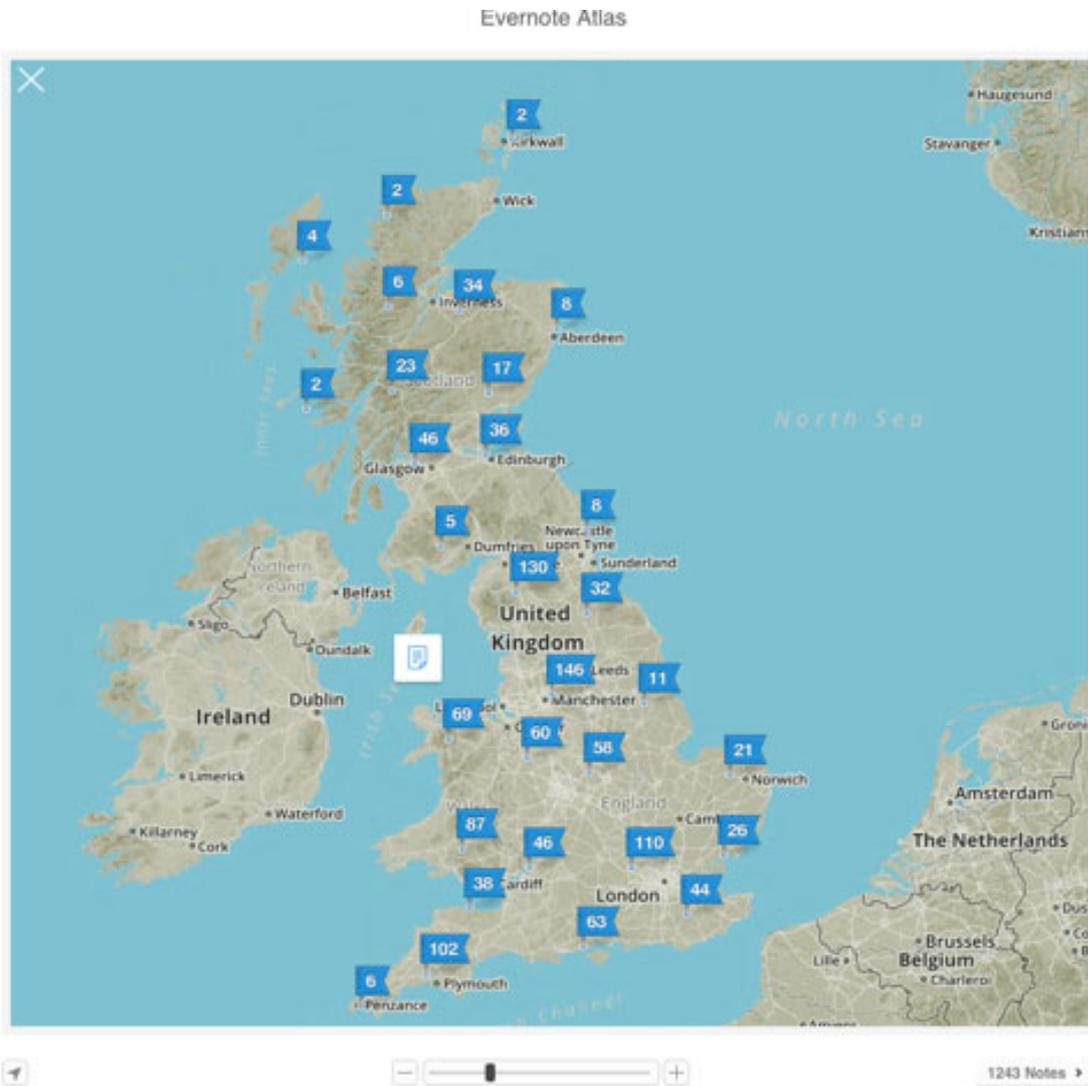
Alternatively we can send you an application form.

Thank you, in anticipation of your co-operation.

Yours faithfully,

MARCUS BAILIE
Head of Inspection, AALS

Map of AALA Licence holders 14/15



Licensable and non-licensable activities

Reproduced from:

<http://webcommunities.hse.gov.uk/connect.ti/adventureactivitiesnetwork/view?objectId=492421>

Adventure Activities Licensing Authority

AAALA Note: 1.21 (rev2)

AAALA notes are produced by the AALA to provide information and guidance to adventure activity licence holders and other interested stakeholders

Date: August 2013

Subject: Licensable and Non-licensable Activities

Issue: Not every activity that appears licensable on first sight is actually licensable and vice versa. This note sets out commonly encountered activities and shows which are licensable and which are not.

	Licensable	Not licensable
Climbing	(on natural outdoor features) Rock climbing Ice climbing Via ferrata Gorge/ghyll scrambling Canyoning Coasteering Sea level traversing Bouldering (specialist equipment/techniques required) Abseiling (inc. on buildings & disused railway viaducts)	Climbing walls Zip wires Tyrolean traverse Tree scrambling Jacob's ladder Crate climbing Abseiling towers Scrambling (if no specialist equipment/techniques required) Bouldering (no specialist equipment/techniques required) Pool jumping/"tomb stoning"/"plunge pooling" Weasiling (as distinct from caving or bouldering) Ropes courses (including obstacle/assault courses)

	Licensable	Not licensable
Trekking	(journeying in remote moorland/mountain areas above 600m) Hillwalking Mountaineering Fell running Orienteering Off piste snow sports Ski touring Improvised sledges Pony trekking Off road cycling/mountain biking	Quad bikes Camping (in remote terrain) Mountain boarding On road cycling On piste snow sports Grass slope skiing
Caving	(in natural caves or mines) Caving Pot holing Mine exploration Cave diving	Not licensable Show caves/tourist mines Artificial cave systems Mines still being worked

	Licensable	Not licensable
Watersports	(on most lakes, fast flowing rivers & the sea) Open canoeing Kayaking (sea & inland) Stand up kayaks Sit on tops Katakanus Improvised rafting White water rafting Sailboarding Windsurfing Kite surfing Paddle surfing Surf skiing Wave skiing Sailing (boats & dinghies) Duckies River bugs Keel boats Bell boats Dragon boating Hydrospeeding/hydroboarding Stand up paddle boarding, in at least some circumstances Artificial white water courses	Rowing boats MCA Registered yachts Rigid inflatable boats (RIB) Wake boarding Water skiing Body boarding Surfing Snorkelling Scuba diving Open water swimming Sand/land yachting/blokarting Power boats (and floats towed behind) Powered/towed inflatables/rafts
Miscellaneous		Archery Rifle shooting Paint balling Survival & bushcraft Team building exercises Bridge jumping Fencing Airborne activities Clay pigeon shooting Air rifles Problem solving exercises Environmental studies Bungy jumping Go karting Adventure games BMX biking