

**ADVENTURE ACTIVITIES LICENSING AUTHORITY
MANAGEMENT BOARD**

TENTH MEETING 27 SEPTEMBER 2011

FIVEWAYS HOUSE BIRMINGHAM

11.00 – 15.15

In attendance: David Ashton – HSE (Chair AALA MB)
Alistair McNab – HSE (Vice-Chair AALA MB)
Clare McNicholas – HSE Policy
Gavin Howat – HSE
Ian McMorrin – Independent member AALA MB
Brian Chapman – Independent member AALA MB
Jonathan Holvey – DWP
Chris Gosling - Scottish Government – by phone
Douglas Armstrong - Scottish Government – by phone
John-Paul Lawrence – LGR
Sir Brooke Boothby – Chair TQS/AALS
John Walsh-Heron – Chief Executive TQS/AALS
Marcus Bailie – Head of Inspection
Dawn Hepworth – HSE Policy

Apologies: Derek Grieve – Scottish Government
Anthony Jordan – Welsh Assembly
Martin Elliott – DfE

Welcome and introductions

1. David Ashton welcomed all those attending, including Jonathan Holvey who was attending his first meeting. Apologies were noted.
2. The Board reflected on the life of Alan Blackshaw OBE, former senior civil servant, Royal Marine Commando, author of Mountaineering - from hillwalking to alpine climbing, past President of the BMC, the Alpine Club and the UIAA. Alan was a strong advocate on access issues, a Board Member of SNH, Chair of SAAF and had been one of the independent members of the AALA from its formation in 1996.
3. Alan's wise and diplomatic counsel was deeply appreciated as well as his warmth and friendship. The AALA Board was grateful to have known and worked with him and for his contribution to its work. Alan died on 4 August at Raigmore Hospital, Inverness after a very full and active life.

Minutes and actions from the previous meeting

4. Item 4.5 – The French police are still investigating the death of the young skier who was strangled by his own rucksack whilst dismounting a ski-lift. There has therefore been no inquest into the death.
5. All other actions had been completed and the minutes were accepted.

Update on Canoeing incident at Patterdale Hall

6. All were reminded that the incident was still under investigation and discussions must be treated as confidential. The Board were informed that the fatality had occurred during an activity that was very close to licensing but it was not licensable because the activity was taking place by the Bolton School to its pupils. Police retain primacy in the investigation and are still gathering information but responsibility may transfer to HSE in due course. The Board noted that questions around the licensing regime may arise during the inquest.
7. AALS have offered their services to the investigation should any specialist knowledge be required.

Progress Report on abolition

Code of Practice

8. The Board was given an update on the consultation and of some of the emerging themes. Around 201 responses had been received, with a majority being submitted by Local Authorities, suggesting that providers were the largest respondent group.
9. Early headlines are that a small number of respondents were against licensing and an overwhelming majority were in favour of a single system across GB. A majority of respondents favoured a Code of Practice based on a broad principles statement. Few of the respondents had commented on the Impact Assessment but those that had have been asked to provide some supporting data for their comments which can then be incorporated into a revised Impact Assessment.
10. The Working Group that has been charged with developing the Code of Practice will be told at its inaugural meeting on 28 September 2011 that the Minister will announce early in the New Year what the new arrangements will be. Working Group members have been appointed as representatives of different constituents of the Adventure Activities sector and any other interests they may have will need to be set aside in order to make the new arrangements achieve what was expected in Common Sense Common Safety. The Board recognised that the most challenging element for the Working Group will be to provide users with reassurance that providers are compliant with the code.

Legislation

11. The Government has set out an ambitious programme of legislation which could have implications for the progress of the Ministry of Justice's Repeals Bill although it is understood that the Bill features fairly high on the Government's legislative agenda. Drafting authority has been given for the Bill and it is expected that the Bill will be introduced in the second session of Parliament, which commences May 2012. The Board were informed of the several stages to be gone through before instructions can be given to Parliamentary Counsel to draft the relevant clause to go into the Bill. As a back-up, we are also exploring whether there is any other legislative route to achieve the abolition.

Contract with the Adventure Activities Licensing Service

12. The Minister has agreed an extension of 12 months until March 2013 with an option of a further six months.

Developments in HSE

13. The AALA MB were appraised of matters affecting HSE generally which directly affect AALA work

Publications

14. As part of the Government's priority to reduce burdens on business, HSE is reviewing all of its published material, including everything on the AALA website. All material will be considered for removal, simplification and consolidation. HSE will also consider whether any current material is better offered by other organisations. The Info Log items are an example of this and the Institute of Outdoor Learning has agreed to take on responsibility for these.

Intervention Strategy

15. HSE only intervenes where there is a clear reason to do so. HSE is currently consulting on a proposal to recover costs from interventions where a material breach of health and safety law requiring HSE to support the business in putting matters right is found. The consultation is also asking Local Authorities if they wish to adopt this approach.

RIDDOR

16. The Incident Contact Centre has closed and the statutory reporting of injuries and incidents under RIDDOR has moved to a predominantly on-line system. Jobcentre Plus is now providing a telephone service for HSE enabling duty-holders to report details of fatalities and major incidents by telephone.

17. *Common Sense, Common Safety* also contained a recommendation to change the threshold for “over 3-day” accident reporting from 3 days to 7 days to be in line with when a sick note or fit note is required from a GP.

Issues for:

DWP

18. Minister Grayling is determined that the Review of Health and Safety regulations being undertaken by Professor Ragnar Löfstedt will deliver an overall reduction in burdens on business. He is also keen to ensure that the recommendations in *Common Sense, Common Safety* are delivered by April 2012.

Local Authorities

19. Nothing to report

Scotland

20. The Scottish Government is still finalising its position on the abolition of AALA. The Code of Practice and scope for future monitoring will help inform its decision. The Scottish Government is currently engaging with stakeholders and encouraging them to reply. The key issue for Scotland is providing reassurance both for providers and users and Scotland will not support any system which is detrimental to Scottish providers or users.

TQS Reports

Finance and staffing

21. One senior inspector had retired over the summer and another had recently returned to work following an extended sickness absence. The number of inspectors has reduced from nine to six over recent years. TQS are hopeful of retaining the inspectorate staff until the abolition of AALA but they cannot rule out some unbudgeted expenses should that position change.
22. Expected income for Jan-Mar 2012 is around £180k but the abolition may affect the income stream, particularly for renewals that occur later in the next financial year.

Head of Inspection Report

23. Whilst there has been an overall increase in the numbers of licence-holders, some 20-25 Local Authorities and a number of small providers have signified that they will not be renewing their licences. Some Local Authorities have either closed or are closing their centres due to

financial pressures. Other LA centres are under pressure to run on a self-financing basis within 3 years.

24. One provider is a cause for concern with regard to its canoeing provision and the AALS has been working with the Scottish Canoe Association to raise the standard of instruction.
25. There was also some concern that the standards of non-statutory inspection required for one of the existing accreditation schemes was lower than that currently applied to AALA licences. This was borne out by a recent example involving a large provider.
26. With regard to the recent cave-flooding incident, AALS has suspended the providers licence to provide caving until the provider attends a Cave-Flooding course. The British Caving Association has also suspended the qualifications of the two instructors involved in the incident.
27. The incident at a yacht club where several girls were injured during a RIB race-training event may involve a licensable activity. A parent of one of the injured girls has involved the local MP – Vince Cable.
28. The MAIB Report into the fatality at the Prince's Club is now publicly available.

Action – Gavin Howat to circulate the report amongst AALA MB members.

AOB

Organised Events and Licensing

29. There was some lack of clarity regarding whether organised events such as downhill cycling/competitive canoe events/sailing regattas would require a licence on the basis that there are race marshalls, who could be construed as instructors, present. HSE's legal advisers had confirmed that organised competitive events were not in the scope of licensing and that marshalling does not constitute instruction.
30. Duke of Edinburgh activities have in the past been considered as licensable because leadership has been deemed as instruction.

Action - Gavin Howat to seek further clarification from HSE's legal advisors on the difference between marshalling and leadership.

Note – Legal advice has since confirmed organised sporting events are unlikely to be licensable. It would be difficult to argue that this type of event would involve the instruction or leadership qualities which are referred to in the definition of "facilities of adventure activities", though each case does need to be judged on its merits.

Activities in artificial environments

31. Ian McMorris reported that the Association of Heads of Outdoor Education Centres (AHOEC) was concerned that the focus of adventure activities was moving towards artificial rather than natural environments, leading to diminished appreciation of reality and riskier behaviour amongst young people. The AALA MB thanked Ian for identifying this and agreed that there was a place for artificial environments in providing adventurous activity opportunities where a natural environment was otherwise not available.

Date and venue of next meeting.

**Tuesday 27 March 2011 at HSE's Birmingham offices, No 1 Hagley Road.
10.30 for 11.00.**

An extraordinary meeting will be called should there be developments in the meantime.