

CANNOCK CHASE COUNCIL

LICENSING & PUBLIC PROTECTION COMMITTEE

4 OCTOBER 2018

REPORT OF THE HEAD OF ECONOMIC PROSPERITY

THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS)
(ENGLAND) REGULATIONS 2018

1. Reason for referral

1.1 Members are asked to note that new animal welfare regulations, as they relate to the licensing of activities involving animals, were introduced on 1 October 2018. The Regulations will have an impact on the manner in which the Council administers its functions in relation to animal licensing compliance and enforcement within the District. There may also be a potential increase in the numbers of applications from "operators" of newly regulated activities.

2. The Regulations:

2.1 These Regulations provide for the licensing of persons involved in England in:

- selling animals as pets;
- providing boarding for cats;
- providing boarding for dogs in kennels;
- providing home boarding for dogs;
- providing day care for dogs;
- breeding dogs;
- hiring out horses;
- keeping or training animals for exhibition.

2.3 Specific guidance notes and conditions of licence have been issued by the Department for Environment & Rural Affairs (DEFRA) on all of the above activities as well as individual codes of practice for the welfare of cats and dogs.

2.4 A person who carries on any of these activities in England without a licence under these Regulations commits an offence under section 13(6) of the Animal Welfare Act 2006 (the Act) and is liable to imprisonment for a term of up to six months, a fine or both. Under section 30 of the Act, local authorities may prosecute for any offence under the Act.

2.5 The new Regulations aim to ensure:

- Risk based and proportionate approach to regulation
- High standards of regulatory compliance and animal welfare.
- Non complaint businesses do not gain unfair advantage.

2.6 This is the introduction of Regulations under existing primary legislation and therefore there is no requirement to consult on the matter. The Council will however, take the opportunity to advise existing licence holders of the changes and publicise the new Regulations.

3. Guidance notes for local authorities

3.1 Specific guidance notes and conditions of licence have been issued by the Department for Environment & Rural Affairs for all of the activities outlined in paragraph 2.1 above

3.2 A Procedural guidance note has also been provided for local authorities which gives guidance on key areas given in paragraphs 4 to 22 below. The document is attached to this Briefing Note as Annex 1.

4. Who and what to license

4.1 "Licensable activity" means one of five activities involving animals: selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs), hiring out horses, dog breeding and keeping or training animals for exhibition.

4.2 An "operator" means an individual who—
(a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or
(b) where a licence has been granted or renewed, is the licence holder.

5. How long licences last

5.1 If an existing operator is applying for the renewal of a licence, then the length of time the licence is granted for will be determined by their risk rating and the licence length can be up to three years. Those with longer licences will receive fewer inspections because inspections tend to be on renewal, and therefore they will pay less for inspection fees as a result.

5.2 For all other activities, if a new applicant (someone who has no compliance history with a local authority or UKAS) is successful, they will automatically be considered as high risk due to a lack of history.

6. Before granting a new animal activity licence

6.1 The licensing authority (LA) must consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet their licence conditions and inspect the site of the licensable activity and assess if it's likely to meet the licence conditions.

7. Suitably qualified inspectors

7.1 Required by October 2021. Defined as: any person holding a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing animal activities businesses.

7.2 Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

8. Deciding on a licence application

8.1 The LA must refuse to grant a licence if they think the applicant is not capable of meeting their licence conditions or think that granting a licence might negatively affect the welfare, health or safety of the animals involved in the activity.

9. Granting a licence

9.1 The LA should aim to determine an application within 10 weeks of receiving it.

10. Renewing a licence

10.1 The licence holder must apply for a renewed licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break. Local authorities must carry out an inspection of the premises before renewing the licence.

11. Suspension, variation or revocation of a licence

11.1 A local authority may at any time vary a licence:

- (a) On the application in writing of the licence holder, or
- (b) On its own initiative, with the consent in writing of the licence holder

11.2 In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:

- i. The licence conditions are not being complied with;
- ii. There has been a breach of the Regulations;
- iii. Information supplied by the licence holder is false or misleading; or,
- iv. It is necessary to protect the welfare of an animal.

11.3 Such a suspension, variation or revocation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case the LA may stipulate that the decision has immediate effect. The licence holder has a right of appeal to the local authority's decision.

12. Provision of information to the Secretary of State

12.1 Each local authority must provide the following information to the Secretary of State in writing:

- (a) the number of licences in force for each licensable activity in its area on each reference date (1st April each year), and
- (b) the average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.

13. Inspections during the term of a licence

- 13.1 Unannounced inspections can be carried out and should be used in the case of complaints or other information that suggests licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.

14. Death of a licence holder

- 14.1 If the personal representative does not notify the local authority within 28 days of the death of the licence holder the licence will cease to have effect after those 28 days.

15. Powers of entry

- 15.1 An inspector may not enter any part of premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier. Inspectors can apply for warrants from the Magistrates Court.

16. Offences

- 16.1 It is an offence to breach any licence condition. It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing either of these offences could result in an unlimited fine

17. Transitional provisions/Existing unexpired licences

- 17.1 Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, will continue in force for the rest of their terms under the relevant Act.

18. Fee setting

- 18.1 As with other areas of licensing, regard should also be had to the principles in the Regulators' Code. "Reasonable anticipated costs" will be fact specific and dependent on the local authority in question.

19. Activities covered by the licensing fees

- 19.1 Regulation 13 of the Regulations set out what a local authority may charge fees for:

- (a) The costs of consideration of an application, including any inspection relating to that consideration;
- (b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- (c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- (d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

20. Determining the length of a licence and the star rating of a business

- 20.1 This guidance describes the risk-based system that must be used when issuing animal activities licences under the Regulations with the exception of "Keeping or Training Animals for Exhibition" where all licences are issued for 3 years. This system should be used to determine both the length of the licence and the star rating to award. Local authorities in England are expected to follow it in full.
- 20.2 The purpose is to ensure consistency in implementation and operation of the licensing system by local authorities, and to ensure that consumers can be confident that the star rating applied to businesses is an accurate reflection of both their risk level and the animal welfare standards that they adopt.

21. Certification by a UKAS-accredited body

- 21.1 Any business that is certified by a UKAS-accredited body and has three or more years of compliance history with this body should be considered low risk and receive the higher star ratings (unless there is significant evidence of poor animal welfare or non-compliance) as the welfare and risk management systems have been reviewed by an accredited third party

22. The appeals process for star ratings

- 22.1 To ensure fairness to businesses, local authorities must have an appeal procedure in place for businesses to dispute the star rating given in respect of their business. The appeal procedure is relevant where the business wishes to dispute the star rating given as not reflecting the animal welfare standards and risk level of their business at the time of the inspection. This should not be used if the business has made improvements to their business and wishes to be reassessed – in this case, they should apply for re-inspection

23. Implications for the Council

- 23.1 There will be a requirement for authorised officers to undertake some formal training by October 2021, which will have some financial implications and which need to be recognised in fees charged.
- 23.2 A draft table of fees is attached to this briefing note as Annex 2.
- 23.3 It is estimated at present there are approximately 20 operators within the District that will need to comply with the new Regulations. All businesses will be identified, contacted and advised of the new requirements. This work will be carried out by the Council's Licensing Unit, which will also ensure that all operators fully comply with the legislation.
- 23.4 Some existing licence holders may fail to meet the minimum standards expected of the new regulations. Any additional work required to meet the required standard will need to be completed before 31 December 2018.
- 23.5 New applicants who fail to meet the minimum standards may be refused a licence and subject to enforcement action.

24. Members are therefore asked to:

- 24.1 Note the introduction of the new regulations and associated guidance to local authorities.
- 24.2 Note that a report on this matter will be taken to full Council on 28 November 2018.

25. Relevant Documents / Annexes

- 25.1 Annex 1: Procedural guidance notes for local authorities
- 25.2 Annex 2: Draft table of fees

26. Further information is available from:

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Department
for Environment
Food & Rural Affairs

**The Animal Welfare (Licensing of Activities
Involving Animals) (England) Regulations 2018**
Procedural guidance notes for local authorities
July 2018

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Introduction and intended audience

1. This guidance is for local authorities who need to license activities involving animals and the relevant establishments. It can also be used by those who currently have a licence or wish to apply for one.
2. Local authorities, existing licence holders and anyone planning to apply for a licence should also read The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018⁽¹⁾ (the “Regulations”) to understand their obligations and duties under the new Regulations and the licences granted under these Regulations.

Definitions used in this Guidance

3. Terms used in this guidance have the same meaning as in the Regulations, unless stated otherwise.
4. For ease of reference some of the key definitions used in this guidance are set out below:

A “licensable activity” means one of five activities involving animals: selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs), hiring out horses, dog breeding and keeping or training animals for exhibition.

An “operator” means an individual who—

- (a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or
- (b) where a licence has been granted or renewed, is the licence holder;

The “local authority” means—

- (a) a district council,
- (b) a London borough council,
- (c) the Common Council of the City of London (in their capacity as a local authority),
- (d) the Council of the Isles of Scilly, or
- (e) a combined authority in England established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

A “listed veterinarian” means a veterinarian who for the time being is listed as being authorised to carry out an inspection on the list of veterinarians drawn up by the Royal College of Veterinary Surgeons.

Who and what to license

5. The Regulations apply to an operator of a licensable activity in England.
6. Local authorities must make sure that the person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on, the “operator”, either does not

(1) [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#)

need a licence due to not meeting the requirements in the Regulations, holds a licence in accordance with the Regulations or that appropriate enforcement action is taken on unlicensed activity.

7. The licence holder must be a named person who is not disqualified from holding a licence in accordance with the requirements of regulation 11 (Persons who may not apply for a licence).
8. Responsibility for ensuring that the correct licence has been obtained and is kept up to date with the relevant local authority or authorities falls to the licence holder or prospective licence holder.
9. Where businesses operate a franchise model each establishment should have its own licence and star rating.

How long licences last

10. For the activity of “Keeping or Training Animals for Exhibition”, all licences are for three years on the basis that these activities have hitherto been subject to a simple registration system. There is no risk assessment applied to such activities.
11. For all other activities, if a **new applicant** (someone who has no compliance history with a local authority or UKAS) is successful, they will automatically be considered as high risk due to a lack of history.
12. Such operators will have the length of their licence determined by their risk rating (automatically high risk) and whether the operator is already meeting the specified higher standards of animal welfare rather than the minimum required by the licence conditions.
13. If an **existing operator** is applying for the renewal of a licence, then the length of time the licence is granted for will be determined by their risk rating and the licence length can be up to three years. Those with longer licences will receive fewer inspections because inspections tend to be on renewal, and therefore they will pay less for inspection fees as a result.
14. The risk model guidance set out in paragraph 61 onwards must be used in determining the length of licence to award.

Before you grant a new animal activity licence

15. Once a local authority receives an application for the grant or renewal of a licence it must do all of the following before granting or renewing a licence:
 - (a) You must consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet their licence conditions.
 - (b) Inspect the site of the licensable activity and assess if it's likely to meet the licence conditions. You'll need to have a suitably qualified inspector present (as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments). The inspector must prepare a report, in accordance with the requirements of regulation 10, to be submitted to the local authority following their inspection.

- (c) The inspector's report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter and state whether or not the inspector considers that the licence conditions will be met.
- (d) Ensure that the appropriate fees have been paid, these can include fees for the consideration of the application, the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations, the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator and any fees in relation to the provision of information to the secretary of state.

Suitably qualified inspectors

16. All inspectors must be suitably qualified. This is defined as:

- (a) Any person holding a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity. Or;
- (b) Any person holding a formal veterinary qualification, as recognised by the Royal College of Veterinary Surgeons ("RCVS"), together with a relevant RCVS continuing professional development record;
- (c) Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

Deciding on a licence application

17. You must consider the inspectors' report and any comments or conduct made by the applicant when deciding whether or not to approve a new licence application.

18. You must refuse to grant a licence if you:

- (a) Think the applicant is not capable of meeting their licence conditions.
- (b) Think that granting a licence might negatively affect the welfare, health or safety of the animals involved in the activity.
- (c) You can refuse to grant a licence if the accommodation, staffing or management are inadequate for the animals' well-being or for the activity or establishment to be run properly. The relevant guidance documents for the activity will explain in detail the requirements and conditions that must be met so you should have regard to these documents.
- (d) You can also refuse to grant a licence if the applicant has been disqualified from holding a licence as per Schedule 8 of the Regulations.

Granting a licence

19. The application form must be completed by the applicant for each of the licensable activities being applied for and sent to the relevant local authority along with payment

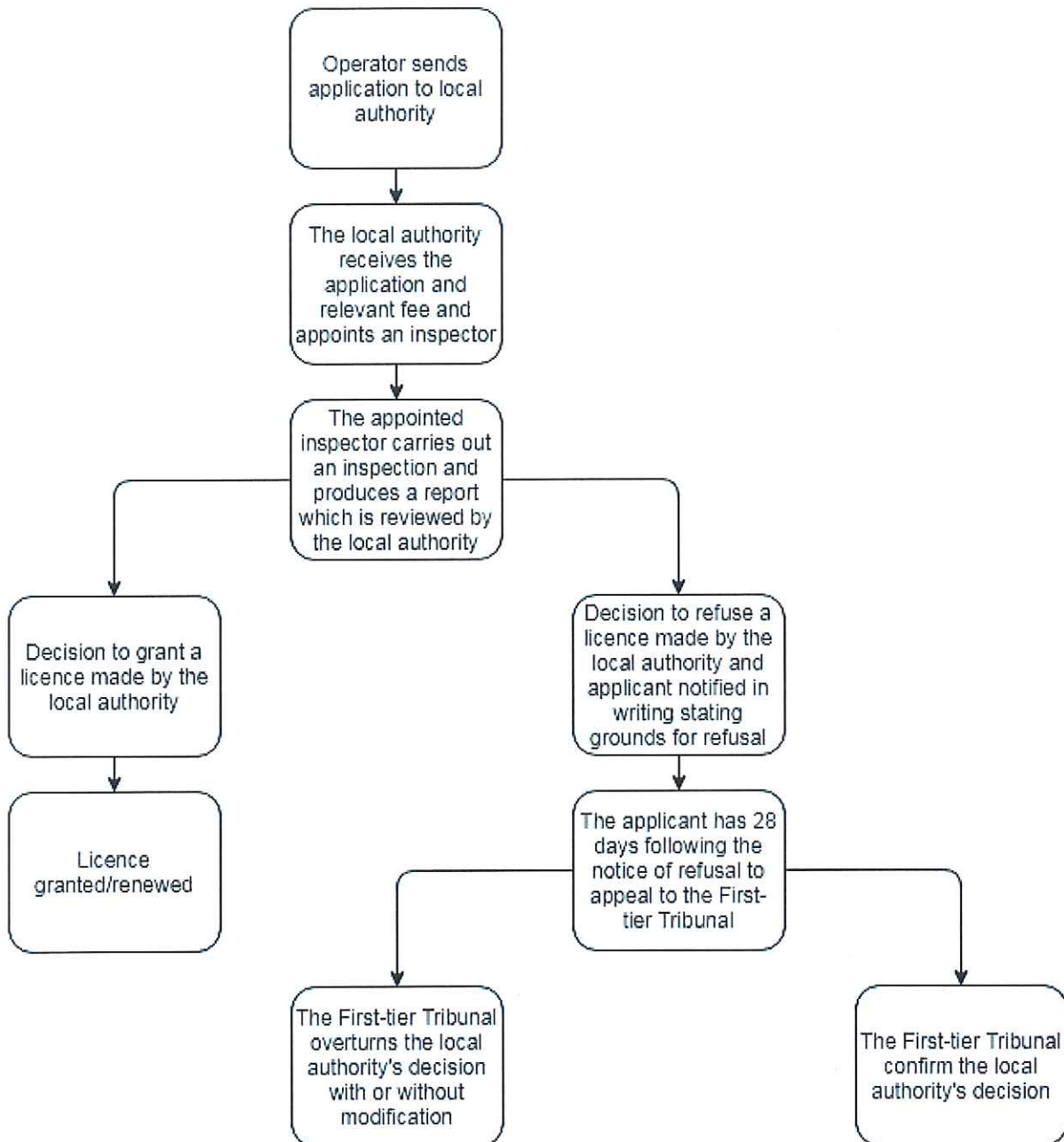
for the application fee. The relevant local authority will be the one in which the premises at which the majority of the licensable activities take place.

20. You should aim to issue a decision on an application within 10 weeks of receiving it. It is possible that the process may take longer, for example if further information is required from the applicant or if it proves difficult to make the arrangements for the inspection.

Renewing a licence

21. Local authorities should advise each licence holder in writing 3 months before their licence expires that they will need to renew it.
22. The licence holder must apply for a renewed licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break.
23. Local authorities must carry out an inspection of the premises before renewing the licence. The form of the inspection will depend on the licensable activity in question.
24. Consider the inspection report (and any response from the applicant) when deciding whether to renew the licence or not.

Figure 1 Application flowchart



Suspension, variation or revocation of a licence

25. A local authority may at any time vary a licence:
- (a) On the application in writing of the licence holder, or
 - (b) On your own initiative, with the consent in writing of the licence holder.
 - (c) In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
 - i. The licence conditions are not being complied with,
 - ii. There has been a breach of the Regulations,
 - iii. Information supplied by the licence holder is false or misleading, or
 - iv. It is necessary to protect the welfare of an animal.
26. Such a suspension, variation or revocation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case you may stipulate that the decision has immediate effect.
27. The decision to vary or suspend the licence must be notified to the licence holder in writing, explain the reasoning for the decision, and provide information regarding when the suspension, variation or revocation comes into effect and the rights of the licence holder, as well as any specific changes that you deem necessary in order to remedy the situation.
28. The decision to vary or suspend a licence should be dependent on the severity of the situation, if an operator fails to meet administrative conditions or provide information when requested then this could potentially lead to the suspension of a licence if it happens repeatedly. Revocation of a licence should occur in an instance where poor welfare conditions are discovered or it would otherwise benefit the welfare of the animals involved to be removed from the activity. Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.
29. Under paragraph 16(2) of the Regulations if it is necessary to protect the welfare of an animal the local authority may specify in the notice of suspension, variation or revocation that it takes immediate effect.
30. A local authority notice must be delivered in one of three ways, in person; by leaving it at or sending it by post to the person's current or last known postal address; or by emailing it to the person's current or last known email address.
31. Following the issuing of the notice the licence holder will then have 7 working days to make written representation. Upon receipt of this you must decide whether to continue with the suspension, variation or revocation of the licence or cancel the decision to make changes to the licence. If the licence has been altered to protect the welfare of an animal then you must indicate that this is the reason and whether the change is still in effect.
32. The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by either the local authority

upon being satisfied that licence conditions are being met or by the First-tier Tribunal who may decide the local authority's decision was incorrect.

33. If a licence is suspended for a significant period of time then the local authority should ensure that the animals are checked on regularly to ensure that the welfare of the animals is maintained.
34. As with applications the licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the local authority. This must be done within 28 days of the decision.
35. Note that if representation is not responded to within 7 working days of receipt then the initial decision the local authority made is deemed to be overturned, this is also the case if a licence which is initially suspended has no further action taken on it within 28 days.

Figure 2: Suspension or variation of a licence

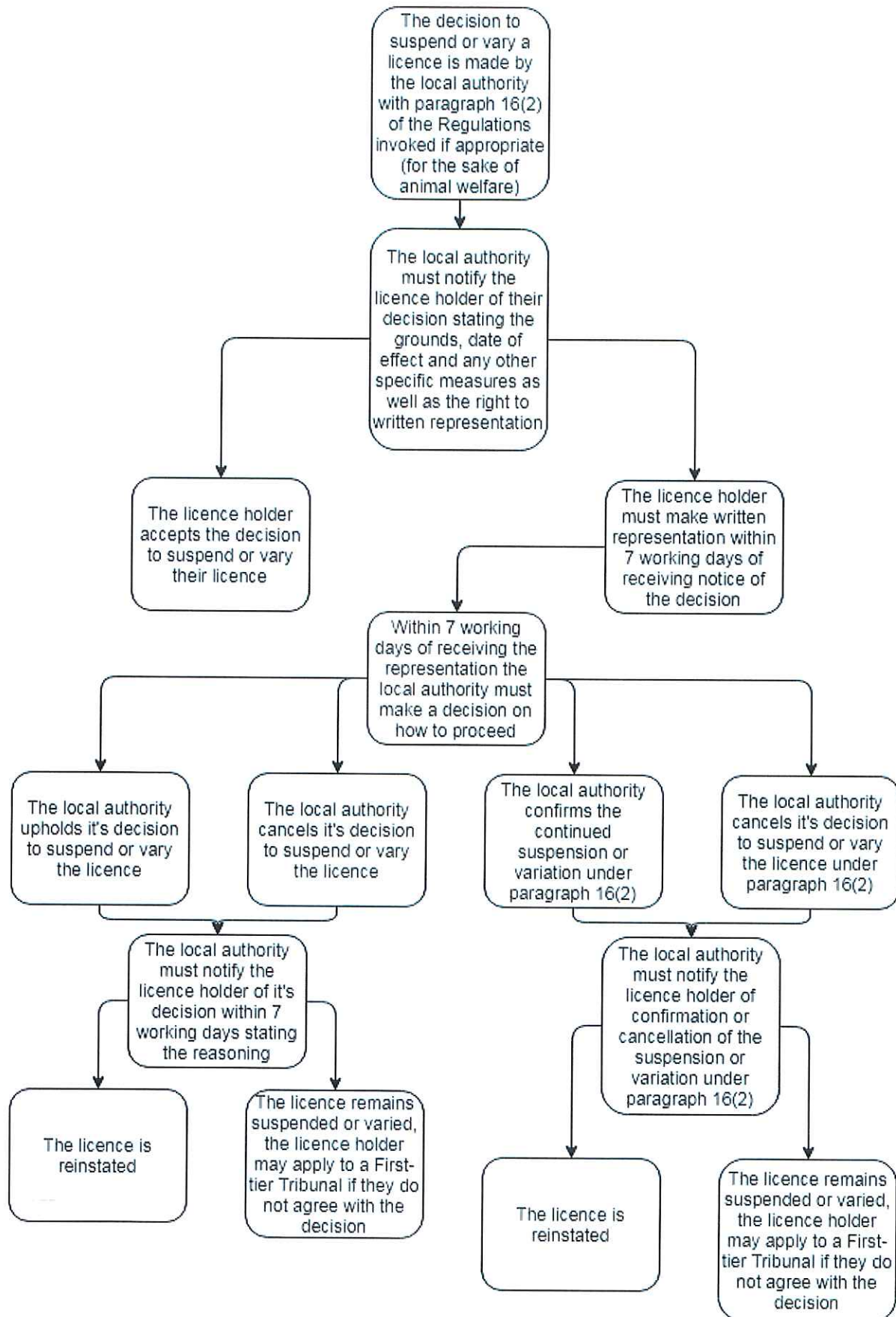
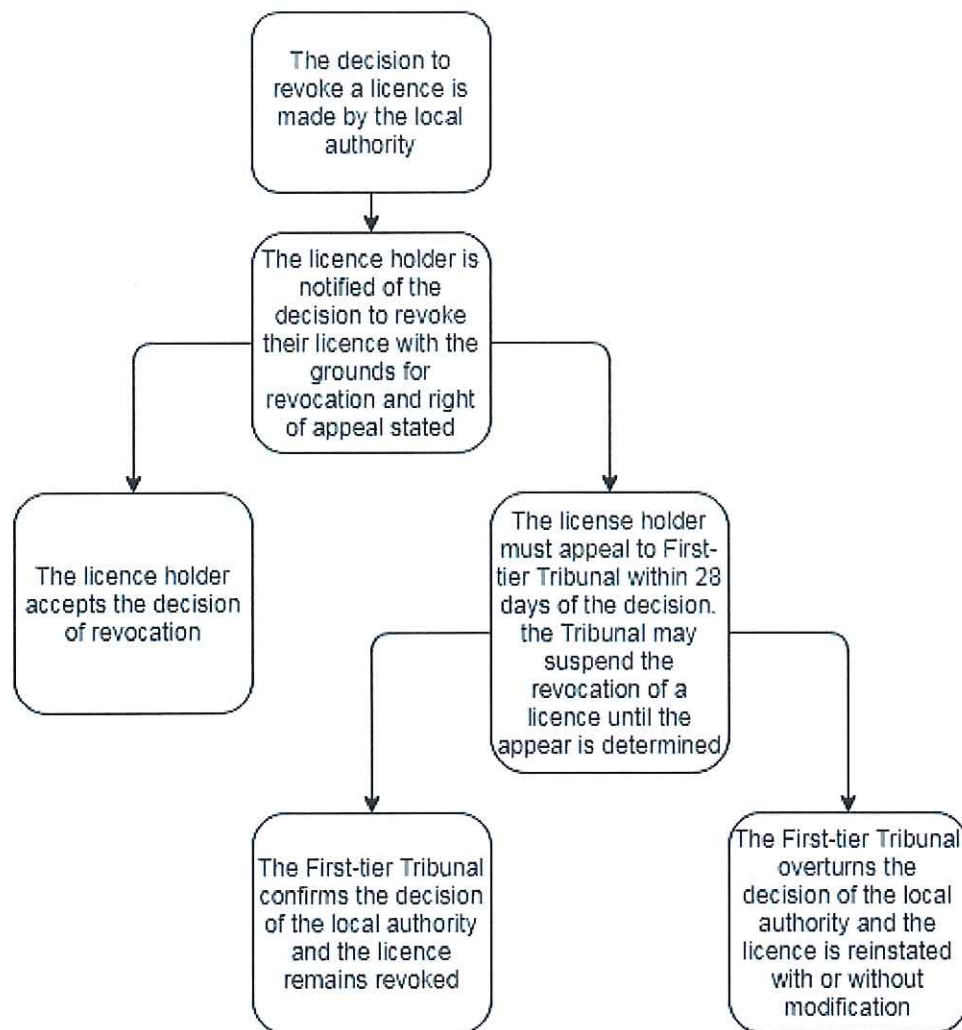


Figure 1 - Revocation of a licence



Provision of information to the Secretary of State

36. Each local authority must provide the following information to the Secretary of State in writing:
- (a) the number of licences in force for each licensable activity in its area on each reference date (1st April each year), and
 - (b) the average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.
37. These must be provided in an electronic form no later than 31st May each year from 2019 onwards.
38. The reference period means the period beginning with 1st October 2018 and ending with 31st March 2019, the year beginning with 1st April 2019 and each subsequent year beginning with an anniversary of 1st April 2019.
39. In addition to the information above which must be provided each year Defra may also contact you to request further information such as the average star rating given out for each establishment type or other pieces of information which could be useful for informing policy or the progress on implementation, it is not a requirement of the Regulations to provide this information however.

Inspections during the term of a licence

40. There will be cases where inspections must be carried out during the term of a licence.
41. For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence. The local authority must appoint a listed veterinarian to inspect the premises on which the activity is being carried on before the end of the first year after the licence is granted and then each subsequent year.
42. Unannounced inspections can also be carried out and should be used in the case of complaints or other information that suggests licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.
43. During the course of an inspection the inspector may choose to take samples for laboratory testing from the animals on the premises occupied by an operator. The operator must comply with any reasonable request of an inspector to facilitate the identification, examination and sampling of an animal including ensuring that suitable restraints are provided if requested.

Death of a licence holder

44. If a licence holder dies, the procedure in regulation 12 of the Regulations applies. It allows the personal representative of the deceased to take on the licence provided that they inform the local authority within twenty-eight days of the death that they are now the operators of the licensable activity. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to

remain in force if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.

45. Additionally a local authority can extend the three month period by up to another three months if requested by the representative and if they believe this time is needed to wind up the estate of the former licence holder.
46. If the personal representative does not notify the local authority within 28 days of the death of the licence holder the licence will cease to have effect after those 28 days.

Powers of entry

47. An inspector may not enter any part of premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier, parts of the premises which are not a private dwelling may be entered by an inspector if the premises is specified in a licence as premises on which the carrying on of an activity is authorised or is a premises on which he reasonably believes an activity to which a licence relates is being carried on.
48. A justice of the peace can issue a warrant authorising an inspector or a constable to enter a premises on the request of an inspector or constable using reasonable force if necessary in order to search for evidence of the commission of a relevant offence.
49. The justice will only issue a warrant if there are reasonable grounds for believing that a relevant offence has been committed on the premises, or that evidence of the commission of a relevant offence is to be found on the premises, and that section 52 of the Animal Welfare Act 2006 is satisfied in relation to the premises.
50. All other considerations from the Animal Welfare Act 2006 also apply.

Offences

51. It is an offence to breach any licence condition. It is also an offence not to comply with an inspector's request in the process of taking a sample from an animal. Samples should be as non-invasive as possible however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals, the provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.
52. It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing either of these offences could result in an unlimited fine.
53. Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both, section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

Post-conviction powers

54. The post-conviction power from section 34 of the Animal Welfare Act 2006 is in place whereby a person convicted of an offence under the Act is disqualified from owning, keeping, participating in the keeping of animals and from being party to an

arrangement under which they can control or influence the way an animal is kept, they are also may not transport or deal in animals. Breaching these disqualifications is an offence.

55. The post-conviction power from section 42 of the Animal Welfare Act is also in place whereby a court can cancel a currently existing licence and disqualify a person from owning a licence for any period it sees fit if that person is convicted of an offence under the Act.

Transitional provisions

56. Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964, Riding Establishments Act 1970 will continue in force for the rest of their terms under the relevant Act.
57. An unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, the Breeding of Dogs (Licensing Records) Regulations 1999, the Breeding and Sale of Dogs (Welfare) Act 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.
58. Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from the date on which these Regulations come into force. These Regulations come into force on 1 October 2018 so this registration will expire on 1 April 2019.

Fee setting

59. When setting fees, local authorities should have regard to Open for business: LGA guidance on locally set licence fees², which sets out the steps that must be taken to set fair and reasonable fees, and explains the EU Services Directive upon which the LGA guidance is based. Local authorities should also have regard to the BEIS Guidance for Business on the Provision of Services Regulations. As with other areas of licensing, regard should also be had to the principles in the Regulators' Code. "Reasonable anticipated costs" will be fact specific and dependent on the local authority in question. The "Open for business: LGA guidance on locally set licence fees" guidance includes information on what could be considered reasonable.

Activities covered by the licensing fees

60. Regulation 13 of the Regulations set out what a local authority may charge fees for:
- (a) The costs of consideration of an application, including any inspection relating to that consideration;
 - (b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
 - (c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and

² <https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

- (d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

Determining the length of a licence and the star rating of a business:

Assessing risk & standards

61. This guidance describes the risk-based system that must be used when issuing animal activities licences under the Regulations with the exception of “Keeping or Training Animals for Exhibition” where all licences are issued for 3 years. This system should be used to determine both the length of the licence and the star rating to award. Local authorities in England are expected to follow it in full.
62. The purpose is to ensure consistency in implementation and operation of the licensing system by local authorities, and to ensure that consumers can be confident that the star rating applied to businesses is an accurate reflection of both their risk level and the animal welfare standards that they adopt.

Animals activity star rating system

63. The scoring matrix for a premises is displayed in Table 1.

Table 1 – The Scoring Matrix

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

64. The model takes into account both the animal welfare standards adopted by a business as well as their level of risk (based on elements such as past compliance). This model should be used every time a licence is granted or renewed.
65. Businesses must be given a star rating, ranging from 1 star to 5 stars, based on this model, and the results of their inspection. This star rating must be listed on the licence by the issuing local authority officer. The system incorporates safeguards to ensure fairness to businesses. This includes an appeal procedure and a mechanism for requesting a re-inspection for the purposes of re-rating when improvements have been made.
66. In order to use this model to calculate the length of the licence and associated star rating, it is necessary to address the following questions, based on the inspection and on records of past compliance:
- (a) Does the business meet the minimum standards?
 - (b) Does the business meet the higher standards?
 - (c) Is the business low or higher risk?

Does the business meet the minimum standards?

67. To obtain a licence for a single activity i.e. dog breeding, the applicant must meet the minimum standards set out in the specific Schedules to the Regulations (i.e. for Dog Breeding, Schedule 6) in addition to those in the General Schedule (Schedule 2). All businesses should meet the minimum standards but see paragraph 69 below for minor failings.
68. Additional information on how to meet these standards for each activity are outlined in the relevant specific guidance documents. During an inspection, the inspector should assess whether or not the business is meeting each of these minimum standards. If this is the case, they will qualify for a minimum of a two star rating (but subject to paragraph 69 below for minor failings).

Minor failings

69. If an existing business has a number of minor failings with regards to the minimum standards laid down in the schedules and the guidance, they should receive a risk rating score of 1 star. These minor failings should be predominantly administrative or if they are in relation to standards, they must not compromise the welfare of the animals. If animal welfare is being compromised, a licence should not be granted/renewed or, if already in place, should be suspended or revoked.

Does the business meet the higher standards?

70. For each activity, a number of higher standards have been agreed. Meeting the higher standards is optional but is the only way to gain a higher star rating. The higher standards are classified in to two types: **required** and **optional** and are outlined in the relevant guidance documents for the activity in question. To distinguish required standards from optional ones they have each been given a specific colour which is used in each guidance document. **Higher standards that appear in blue text are required**, whereas **those that appear in red text are optional**. To qualify as meeting the higher standards, the business needs to achieve all of the required higher standards as well as a minimum of 50% of the optional higher standards. During an

inspection, the inspector should assess whether or not the business meets the required number of higher standards.

71. Where a scheme utilising UKAS accredited certification is operational, it will be operated against either the minimum or higher standards as set out in the certification scheme criteria and as agreed with UKAS as part of the accreditation process. If a business is certified by a UKAS-accredited certification body to the higher standards, they should automatically be considered as meeting these standards, unless there is significant evidence of poor animal welfare or non-compliance is identified during the inspection.

Is the business low or high risk?

72. Table 2 Risk Scoring Table below should be used to determine if a business that is not certified by a UKAS accredited body is low or higher risk.
73. The risk assessment is not meant to reconsider specific issues taken into account in assessment of compliance with the minimum or higher standards. It does, however, require an assessment on the likelihood of satisfactory compliance being maintained in the future.
74. In considering risk, "management" covers the system as a whole. For a multi-site business, the company wide management system and procedures are a key element of this but local site / premises management is also important as that will influence how these systems and procedures are applied
75. Assessments of the written procedures should be based on the principle of proportionality, i.e. commensurate with the nature and size of the business. For small businesses which present lower risks, it may be sufficient that the business has in place good welfare practices and understands and applies them, i.e. it meets its prerequisites.

Certification by a UKAS-accredited body

76. Any business that is certified by a UKAS-accredited body and has three or more years of compliance history with this body should be considered low risk and receive the higher star ratings (unless there is significant evidence of poor animal welfare or non-compliance) as the welfare and risk management systems have been reviewed by an accredited third party.
77. New businesses that do not have three years of compliance history with a local authority or a UKAS-accredited body should automatically be considered high risk as they have no operational history.
78. If concerns are raised at the inspection indicating that the certified business may not be operating to the high standards or controlling risks appropriately, the inspector will address these in line with the guidance on procedural issues and the risk rating score adjusted accordingly. In addition these concerns should be reported directly to the UKAS-accredited body so that they can also intervene and / or suspend or withdraw the business's certification.
79. Where businesses are certified by a UKAS-accredited body, that body can inform the relevant local authority with a list of the certified businesses in their area. Where notified, and where covered by confidentiality waivers, the local authority may request the UKAS-accredited body's inspection reports and can use that information to inform

its own inspection including using the UKAS-accredited body's assessment of compliance.

80. For existing licensed businesses that are not certified by a UKAS-accredited body that are applying for a licence renewal, the following risk management table (Table 2) should be used to generate a risk score for the business. Each element should be reviewed and a score given (1 for low risk and 2 for high risk). An overall score can then be arrived at.
81. Where there is any uncertainty, if a business cannot provide satisfactory evidence that it is low risk in a given category, it should be scored as high risk.
82. A score of 17 or less is required for the business to be classed as low risk and a score of 18 or more means that the business will be classed as higher risk.

Table 2 – Risk Scoring Table

	Low (Score 1)	High (Score 2)	Score
Compliance History - inspections	Documented evidence from formal inspections over the previous three years reveal consistent and high levels of compliance in terms of welfare standards and risk management.	Formal inspections over the previous three years reveal some degree of non-compliance that has required the intervention of the inspector for the business to ultimately recognise and address these. More serious breaches would attract other enforcement action: suspension, revocation, prosecution.	
Compliance History – follow up action	No evidence of follow-up action by local authority in the last year apart from providing the licence holder with a copy of the inspection report, or sending them a letter identifying some minor, administrative areas for improvement (e.g. minor record keeping issues).	Follow up action by the local authority, such as sending them letters, triggered by low level non-compliance that is not addressed, or the business does not recognise the significance of the need to address the non-compliance.	
Compliance History – re-inspection	No re-inspection necessary (apart from standard unannounced inspection) before next planned licence inspection / renewal	Re-inspection necessary to ensure compliance.	

	Low (Score1)	High (Score 2)	Score
Complaint History – complaints to the LA	No complaints received direct to the LA that are justified in relation to welfare standards or procedural issues during the previous three years.	Low level substantiated complaints identifying concerns over the business / licence holder have been received within the previous three years.	
Complaint History – complaints to the business	Licence holder records and documents any feedback received directly, in order to demonstrate compliance and willingness to address issues, and can provide evidence of this.	Licence holder does not record feedback received directly or show willingness to address any issues identified.	
Appreciation of welfare standards - enrichment	Sound understanding by the licence holder of relevant environmental enrichment applicable to the activity (guided by expert advice), with demonstrated implementation.	Little environmental enrichment present, inconsistently used and its importance not understood or really valued.	
Appreciation of hazards / risks	Licence holder clearly understands their role and responsibilities under the legislation. Hazards to both staff and animals clearly understood, properly controlled and reviewed with supporting evidence where applicable.	Licence holder not fully engaged with their role/responsibilities, lacks time to fulfil role, no system for review and reassessment of hazards to both animals and staff.	
Appreciation of hazards / risks - maintenance	A suitably planned maintenance, repair and replacement program for infrastructure and equipment is in place.	No planned maintenance program. Building, installations and equipment allowed to deteriorate before action is implemented.	
Appreciation of hazards / risks – knowledge and experience	Staff have specialist and appropriate knowledge of the taxa / species that are kept. There is sufficient staff, time and resource for daily, adequate routine monitoring, evidenced through records and staff rotas.	Key staff lack experience / knowledge of the species. Staff appear overburdened and / or unsupported by management, corners being cut.	

	Low (Score1)	High (Score 2)	Score
Appreciation of hazards / risks – dealing with issues	Clear defined roles / responsibilities of staff, with clear processes for reporting and addressing any identified issues.	Lack of any process, or ownership and responsibility within the business to identify and deal with issues.	
Welfare management procedures – written procedures	Written procedures / policies clearly documented, implemented and reviewed appropriately.	Limited written procedures / policies. No overall strategic control or direction.	
Welfare management procedures – supervision of staff	Appropriate supervision of staff evident where applicable.	Inadequate supervision of staff evident on inspection or from the training records.	
Welfare management procedures – record keeping	All required records maintained and made available.	Poor standard of record keeping, records out of date or appear to be being manufactured – relevance of records not appreciated.	
Welfare management procedures - training	Planned training programme for staff to review and assess competency, with documented training records.	Little or no evidence of relevant training or system for review and reassessment.	
Total Score of 17 or less = Low risk Score of 18 or more = Higher risk.			
Risk Rating			

Frequently asked questions

The process of providing a risk rating

Q1. When should businesses be rated?

83. Businesses should be rated following an inspection that takes place prior to grant/renewal of the licence or a requested re-inspection. Businesses may also be re-rated following an unannounced or additional inspection (e.g. following a complaint), if major issues are highlighted that require follow up action.

Q2. When should new businesses be rated?

84. New businesses should be rated following their initial inspection.

Q3. Where businesses have a licence for multiple activities within the scope of the regulations, should each activity be rated separately?

85. The licence holder should receive only one rating, which must cover all the activities. Where they are meeting different standards for different activities (e.g. meeting the higher standards for dog breeding, but the minimum standards for dog boarding), the overall score should reflect the lower of the two.

Q4. What information should the local authority provide with the star rating following the inspection at which a rating was determined?

86. The following information should be provided in writing:

- (a) The star rating itself.
- (b) Details of why the business was rated as it was. This should include a list of the higher standards that the business is currently failing to meet, or a list of the minimum standards that the business is failing to meet if it is considered to be in the minor failing category. This should also include a copy of the risk management table showing the scores under each point. Details recorded must be sufficient to support the score given for each element to facilitate internal monitoring or enable review where an appeal is made.
- (c) Details of the appeals process and the deadline by which an appeal must be made.

The appeals process

87. To ensure fairness to businesses, local authorities must have an appeal procedure in place for businesses to dispute the star rating given in respect of their business. The appeal procedure is relevant where the business wishes to dispute the star rating given as not reflecting the animal welfare standards and risk level of their business at the time of the inspection. This should not be used if the business has made improvements to their business and wishes to be reassessed – in this case, they should apply for re-inspection

Q5. How can a business appeal their star rating?

88. If a business wishes to appeal the star rating given by the 'inspecting officer' (i.e. the officer undertaking the inspection) on behalf of the local authority, the appeal should be made in writing (including by email) to the local authority.

89. A business disputing a rating should be encouraged to discuss this informally first with the 'inspecting officer' so that there is an opportunity to help explain to the business

how the rating was worked out, as this may help resolve the matter without the business having to lodge an appeal. Any such discussions do not form part of the formal appeal process and do not change the deadline within which an appeal must be lodged. This should be made clear to the business so that they may lodge an appeal, and may subsequently withdraw it, if they wish.

90. Businesses have 21 days (including weekends and bank holidays) following the issue of their licence in which to appeal the star rating.

Q6. How will a local authority determine the outcome of the appeal?

91. The appeal should be determined either by the head of the department that issued the licence within the local authority, or by a designated deputy, or by the equivalent in another authority. No officer involved in the production of the rating, or in the inspection on which the rating is based should consider the appeal.
92. The local authority then has 21 days (including weekends and bank holidays) from the date they receive the appeal to consider the appeal, within which time they must issue a decision to the business.
93. A local authority will determine the outcome of an appeal by considering the paperwork associated with the inspection and the past record of the business. In some circumstances, a further visit to the establishment may be required. The appeal process should be transparent. The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.

Q7. What if the business disagrees with the outcome of the appeal?

94. If the business disagrees with the outcome of the appeal, they can challenge the local authority's decision by means of judicial review. The business also has recourse to the local authority complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate) if they consider that a council service has not been properly delivered

Requests for re-inspections for re-rating purposes

95. To ensure fairness to businesses, local authorities must have a procedure in place for undertaking re-inspections at the request of the business for re-assessing their star rating.
96. The re-inspection mechanism applies in cases where businesses with ratings of '1' to '4' have accepted their rating and have subsequently made the necessary improvements to address non-compliances identified during the local authority's previous inspection. Businesses should be aware that re-inspection for re-rating purposes could lead to a lower rating being awarded rather than an increase in rating.

Q7. Who pays for a re-inspection visit?

97. Re-inspection falls under full cost recovery, and so the business will be required to pay for the costs of the inspection.

Q8. When is the inspection carried out?

98. The re-inspection should be carried out within three months of receipt of the request. Where an inspection does not occur within the three months, the business can raise the issue with the head of the licensing department within the local authority. If the

matter cannot be resolved, the business has recourse to the local authority complaints procedure.

Q9. How many re-inspections can a business request?

99. There is no limit to the number of re-inspection visits a business can request, however, there will be a fee for each visit charged at full cost recovery.

Q10. How should a business request a re-inspection?

100. The request should be made in writing (including by email) and should outline the case for a re-inspection, i.e. it should indicate the actions that have been taken by the business to improve the level of compliance or welfare since the inspection and, where appropriate, should include supporting evidence. The supporting case should refer to those actions that the local authority informed the business would need to be made in order to achieve a higher rating.

Q11. Must the local authority accede to all requests for re-inspections?

101. No. If the case made by the business is not substantiated or insufficient evidence is provided, the local authority can refuse to undertake a re-inspection on that basis. In doing so, the local authority must explain why the request is being refused at this stage and should re-emphasise the priority actions that must be taken in order to improve the rating and indicate what evidence will be required for agreement to a re-inspection to be made on further request. If the business disagrees with the local authority's decision to refuse a request for a re-inspection, they can raise the issue with the head of the licensing department within the local authority. If the matter cannot be resolved, the business has recourse to the local authority complaints procedure.

Q12. Where there is a supporting case, must a re-inspection be made or can a new rating be given on the basis of documentary evidence?

102. A re-inspection must be made. A new rating must not be given on the basis of documentary evidence only.

Q13. Where a re-inspection is to be undertaken, should this be unannounced?

103. This will depend on the reason for the re-inspection. This can be by appointment, unless an unannounced visit is necessary to ensure that compliance is checked properly (e.g. if the non-compliance was related to cleanliness standards).

Q14. If standards have not improved or have deteriorated at the time of the re-inspection, should a lower rating be given?

104. At the time of the re-inspection, the local authority officer should not only check that the required improvements have been made, but should also assess the ongoing standards. This means that the rating could go up, down or remain the same, change in licence length should be handled using the varying process described in paragraphs 25-35.

Q15. Should the ratings be published?

105. The star rating must be added to the licence and the licence should be displayed by the business. In addition, we encourage local authorities to maintain a list of licensed businesses and their associated ratings on their websites.



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Any enquiries regarding this publication should be sent to us at:
animal.welfare@defra.gsi.gov.uk

**Animal Licences Fee Setting for initial year of 2018-19
(Pet Sales, Boarding, Breeding, DWA, Dog Day Care, Riding etc.)**

Item	Hours per year	Licensing Unit Hourly Rate	Cost (Total) (per annum)
Staff training / update costs, authorisation and competence assessment per annum (This includes the estimated £1,000 per officer cost for relevant level 3 training by October 2021 (as required in the Regulations)).	5 hrs per officer x 2	£40	£400 £2,000
Member costs – LPPC, briefing notes / reports, training for elected members etc.	n/a	n/a	£240
Fee setting, conditions, update website, guidance, review forms etc.	4	40	£160
APP Civica software licence costs (£735 per licence/person) £735 x 4(LU) users = £2,940 / 11 regimes (alcohol, taxis, gambling, animals, street trading, sex shops, SMDA, LGMPA, Obstructions, Café, A Boards) = £270	n/a	n/a	£270
Application processing (pre-application advice (excludes those who do not progress with application), administration, site visits / inspections, completion of inspection forms and risk assessments, consultation and liaison with agencies, decision process, production and posting of licence etc.). Based on 20 applications, 4 hours each	80	£40	£3,200
Reactive response work (est 20 requests per annum, one per premises)	20	£40	£800
Proactive checks (1 check per licence period)	20	£40	£800
Costs of enforcement in checking for illegal activity (newspapers, surveys of district, internet / social media checks etc.) and investigation of complaints.	10	40	£400
Sub total			£8,270

Divided by 20 Licences, £5470 / 20 = £415*
(final figure is rounded up to £415 from £413.50) Part 1 = £315.00; Part 2 = £100.00

Notes (see also Section 3, paragraphs 3.1, 3.2 and 3.3 of the draft fees guidance (2018))

- Items in **PURPLE** show underpinning activities, without which the licensing functions cannot operate effectively.
- Items in **BLUE** represent the application costs. As there are an estimated 20 licences the total costs are then apportioned equally.
- Items in **GREEN** represent compliance and enforcement costs;
- Licensing Unit Hourly rate of £40.00 includes salaries, on costs, transport, support services (corporate services, accounts, HR, legal, ICT) printing, consumables, office lighting, heating, accommodation costs etc.
- Figures have been rounded as necessary.
- Fee is payable in two parts. Part 1 includes purple and blue elements. Part 2 includes the Green. The Licence will contain a condition that, in order to be operable, both fees must be paid.
- Vets inspection fees will be added to part 1 as they are incurred and several such inspections may be grouped to reduce costs.

PURPLE | BLUE | GREEN |

PURPLE | BLUE | GREEN |