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North Devon Council
Brynsworthy Environment Centre
Barnstaple
North Devon EX31 3NP

K. Miles
Chief Executive.

LICENSING AND COMMUNITY SAFETY COMMITTEE

A meeting of the Licensing and Community Safety Committee will be held in the Barum Room - Brynsworthy on **THURSDAY, 12TH MAY, 2022 at 6.30 pm.**

(NOTE: A location plan for the Brynsworthy Environment Centre is attached to the agenda front pages. There are limited car parking spaces in the Visitors parking area. If no spaces are available, please find an alternative space. Please ensure that you enter your name and car registration details in the book in front of the entrance door)

Members of the Licensing and Community Safety Committee Councillor York (Chair)

Councillors Biederman, Bulled, Campbell, Cann, Chesters, Gubb, Henderson, Hunt, Pearson, D. Spear, L. Spear, Tucker and Yabsley + one Liberal Democrat vacancy

AGENDA

1. Apologies for Absence
2. To approve as a correct record the minutes of the meeting held on 12 April 2022 (Pages 5 - 8)
(attached).
3. Items brought forward which in the opinion of the Chair should be considered by the meeting as a matter of urgency
4. Declarations of Interests
5. To agree the agenda between Part 'A' and Part 'B' (Confidential Restricted Information)

PART 'A'

6. **Report Outlining a Proposal to Introduce an Animal Licensing Policy** (Pages 9 - 50)
Report by the Public Protection Manager (attached).

PART 'B' (CONFIDENTIAL RESTRICTED INFORMATION)

If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253

3.05.22



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The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chairman of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
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North Devon Council offices at Brynsworth, the full address is:
Brynsworth Environment Centre (BEC), Roundswell,
Barnstaple, Devon, EX31 3NP.

Sat Nav postcode is EX31 3NS.

At the Roundswell roundabout take the exit onto the B3232, after about ½ mile take the first right, BEC is about ½ a mile on the right.

Drive into the site, visitors parking is in front of the main building on the left hand side.

On arrival at the main entrance, please dial 8253 for Corporate and Community Services.



NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Committee held in the Barum Room - Brynsworthy on Tuesday, 12th April, 2022 at 10.00 am

PRESENT: Members:

Councillor York (Chair)

Councillors Biederman, Bulled, Campbell, Chesters, Henderson, Hunt, Pearson (attended virtually), D. Spear, L. Spear and Tucker

Officers:

Legal Advisor, Public Protection Manager, Paralegal and Corporate and Community Services Officer

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Cann, Gubb, Orange and Yabsley.

2. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 8 MARCH 2022

The minutes of the meeting held on 8 March 2022 (circulated previously) were approved as a correct record and signed by the Chair.

3. DECLARATIONS OF INTERESTS

There were no declarations of interest announced.

4. HACKNEY CARRIAGE AND PRIVATE HIRE POLICY AMENDMENTS

The Committee considered a report in relation to Hackney Carriage and Private hire Policy Amendments (circulated previously), by the Public Protection Manager.

The Public Protection Manager gave the Committee the following points:

- The last review in respect of taxi fares, took place in February 2019, no change was made. The last time taxi fares had been increased was in 2016.

- With the recent increases in fuel price charges a fuel surplus surcharge to the tariff was being suggested. This was an option not utilised at North Devon Council before.
- From April 2016 to February 2022 diesel had increased in cost by 44% per litre, 87% of the taxis in North Devon ran on diesel.
- Due to the rural nature of the area, mileage was high and more 'dead mileage' was incurred because of having further to get back to the next pick up.
- A newsletter was circulated to the trade in February seeking views on an increase in fares. The feedback received was presented at Appendix D of the agenda.
- Appendix E of the agenda listed a comparison table benchmarking the existing Hackney Carriage tariff against the aspirational increase as well as measured increase options.
- A method of using the increases in Consumer Price Index (CPI) values had been the method used to arrive at the percentage increase options displayed in columns 5, 6, and 7 of the table at Appendix E.
- Any agreed increase percentage would be taken to a meter provider tasking them to equate the increase to a meter; this figure would need to be the recommended amount put forward to future committees for approval.
- An exceptional fuel price surcharge was being proposed. Where fuel exceeded £1.75 per litre, based on the latest AA fuel price (South West average price) report a 10p additional surcharge could be added to the fare.
- The valet cost of £100 was being based on the same level of cost most Devon authorities were implementing. This was an increase from the existing charge of £75.
- The horse drawn carriage increase was being proposed at 50p taking the cost to £2.00 per minute.

The Chair invited Mr Lethbridge, a taxi driver of many years, to address the Committee.

RECOMMENDED that the following be approved at Strategy and Resources;

- a) The current table of fares be increased by 12.3%, and this to be reviewed in six months,
- b) The valet charge, due to a customer soiling a vehicle, be increased to £100,
- c) An increase in fare of non-motorised vehicles to £2.00 per minute,
- d) The commencement of tariff 2 and 5 (night rate) from 21:00 hours, and
- e) Add an additional charge of 10p to the fare price when the South West average price of fuel oil exceeds £1.75 per litre based on the latest available AA Fuel Price Report with a further 10p added for each subsequent increase of 10p per litre.

RECOMMENDED that Governance Committee agree to update North Devon Council's constitution allowing the Licensing and Community Safety Committee delegated power to set Hackney Carriage Fares.

5. **ALTERNATIVE ARRANGEMENTS FOR THE APPOINTMENT OF SUB-COMMITTEES**

The Committee considered a report in respect of the Alternative Arrangements for the Appointment of Sub-Committees (circulated previously), by the Corporate and Community Services Officer.

RESOLVED that:

- (a) That five Sub-Committees be appointed each with three Members with the delegated powers as detailed in Appendix A of the report;
- (b) (i) That alternative arrangements be made for the appointment of Members of the Licensing and Community Safety Committee in accordance with the powers set out in S17 of the Housing and Local Government Act 1989 and the provisions of the Local Government (Committees and Political Groups) Regulations 1990;

(ii) That the alternative arrangements provide that the membership of the Sub-Committees of the Licensing and Community Safety Committee be not politically balanced;
- (c) That a Member be selected by Corporate and Community Services to act as a Substitute Member for each Sub-Committee meeting should the need arise for a substitute;
- (d) That three Members be appointed to the Sub-Committees A to E with Chairs being appointed on the day a Sub-Committee is convened and until such time as reappointments are made in 2023; and
- (e) That the appointed Sub-Committees be restricted in that they may not further delegate any of their powers to an officer of the Council or any other body.

6. UPDATE ON IDLING ENGINES

The Committee received an update in respect of idling engines from the Public Protection Manager.

The Public Protection Manager updated the Committee with a response from the Service Lead - Environmental Protection Officer as follows:

- Following discussions with the Head of Service Jeremy Mann and work undertaken by Officers from the Environmental Protection Team, a paper had now been submitted to the Senior Management Team. This outlined a recommendation that the adoption of powers re anti-idling and an associated communications campaign be carried out. This was included as part of a wider Air Quality related project – under the Council’s “Cherish and Protect the Environment” project programme.
- If approved, Environmental Protection Officers would proceed with the process of formally adopting these powers – and would liaise with colleagues in the Licensing Team to consider how this regime may be incorporated into ongoing work with taxi drivers.

Agenda Item 2

Licensing and Community Safety Committee - 12 April 2022

- Stationary idling was an offence under Section 42 of the Road Traffic Act 1988. The act enforces Rule 123 of the Highway Code, which states: "You must not leave a vehicle's engine running unnecessarily while that vehicle is stationary on a public road."
- The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (SI 2002. No 1808) enable local authorities in England to issue fixed penalty notices to drivers who allow their vehicles to run unnecessarily while stationary on the road. It was a £20 fixed-penalty fine, rising to £40 if unpaid within 28 days.
- If the fixed-penalty remained unpaid after 28 days, the case could be referred to the local authority's legal team for consideration for prosecution for non-payment.

The Committee noted the update given.

Chair

The meeting ended at 11.24 am

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.



North Devon Council

Report Date: 12th May 2022

Topic: Report outlining a Proposal to introduce an Animal Licensing Policy

Report by: Katy Nicholls, Public Protection Manager

INTRODUCTION

- 1.1. The purpose of this report is to seek Licensing and Community Safety Committee approval for the Licensing Service to begin a consultation on a proposal to introduce an animal licensing policy in North Devon.
- 1.2. The draft policy if subsequently adopted, will ensure that the Council carries out its animal licensing responsibilities in a fair, equitable and consistent manner.
- 1.3. The introduction of a policy will help ensure that the public, councillors and those engaged in animal licensing activities understand what the law requires and how the Council will approach its animal licensing and enforcement duties.
- 1.4. The Draft Policy proposed to be used as a consultation document can be found at **Appendix A**.

2. RECOMMENDATIONS

- 2.1. That the Licensing and Community Safety Committee considers the report and instructs the Licensing Service to begin a consultation on the proposed Animal Licensing Policy, or rejects the request for consultation on the grounds that the draft policy requires amendment prior to the consultation period beginning.
- 2.2. Approve an eight-week consultation exercise with animal activity licence holders, the general public, and anybody or person with an interest in animal licensing.
- 2.3. Request proposed amendments to the policy resulting from the consultation and review process be presented to this Committee in a further report.



3. REASONS FOR RECOMMENDATIONS

- 3.1. A consolidated Animal Licensing Policy will help ensure that the Council carries out its animal licensing responsibilities in a fair, equitable and consistent manner.
- 3.2. To contribute to the Council's Corporate plan priority to "Becoming focused on delivering the best for our citizens", through improving the delivery of the Council's Animal Licensing Service.

4. REPORT

- 4.1. Animal Licensing changed very considerably following the introduction of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. Prior to the introduction of these Regulations, Animal Licensing was largely left to the interpretation of individual Licensing Authorities who licenced animal activities under numerous individual animal licensing regulations such as the Breeding of Dogs Act 1973 and 1991, and the Animal Boarding Establishments Act 1963. The 2018 Regulations consolidated the numerous previous animal licensing regulations into five animal activity categories, and introduced statutory guidance which all Licensing Authorities are required to follow when considering issuing a licence. The 2018 Regulations also introduced mandatory licence conditions for each category of licence, and accompanying minimum welfare standards that must be met by all applicants before a licence is issued, and a public facing star rating scheme with accompanying optional higher welfare standards applicable to four and five star rated premises.
- 4.2. Whilst the statutory guidance that Licensing Authorities are required to follow, and the welfare standards applicable to licence holders, are both prescriptive, there are numerous areas open to individual authorities to interpret. For example, the legislation requires that licences only be issued to those applicants that are deemed fit and proper, but it is for the Licensing Authority to determine the parameters of fitness and propriety (the attached draft policy at **Appendix A** includes a section on the suitability of applicants which details Disclosure and Barring Service (DBS) check requirements, and comment on the relevance of certain convictions). Another example would be requests for re-inspection, where the guidance simply states that an Authority may undertake re-inspections to re-evaluate the star rating and may charge a fee for this, but does not comment further on the details of how this should be organised. The draft policy therefore seeks to give detail on how the Council will conduct its animal licensing activities where the statutory guidance and welfare standards leave room for interpretation locally.
- 4.3. The attached draft policy therefore sets out the general principles that the Council will follow in relation to the enforcement of animal welfare legislation



(including zoos and dangerous wild animal licensing which retain separate legislative requirements from the other five animal activity categories). The draft Policy also describes the types of animal licensing matters that are likely to occur and how the Council will deal with them.

4.4. The draft policy represents guidance on details of the service provided and the general principles that the Council follows in relation to the enforcement of animal licensing legislation and the discretionary functions it undertakes.

5. RESOURCE IMPLICATIONS

5.1. Any financial costs which are reduced or incurred through the approval of a new policy will be taken into account when calculating fees for animal activity licences.

5.2. Other costs related to the proposed policy amendments will be borne directly by licence applicants and holders.

6. EQUALITIES ASSESSMENT

6.1. There are no equalities implications anticipated as a result of this report. An Equality Impact Assessment has been undertaken which has solely revealed neutral impacts.

7. CONSTITUTIONAL CONTEXT

7.1. Article of Part 3 Annex 1 paragraph:4b

7.2. Referred or delegated power?: Delegated

8. STATEMENT OF CONFIDENTIALITY

8.1. This report contains no confidential information under the provisions of Schedule 12A of 1972 Act.

9. BACKGROUND PAPERS

9.1. The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- Animal activity licensing process: statutory guidance for local authorities

10. STATEMENT OF INTERNAL ADVICE

10.1. The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Katy Nicholls, Public Protection Manager 26.04.22.

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DRAFT Animal Licensing Policy 2022

Published by

**The Licensing Team
Environmental Health & Housing Services
North Devon Council
Lynton House
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Version 1.0 effective from 1 August 2022

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Section 1: Purpose

- 1.1 North Devon Council has statutory responsibilities for the licensing of a number of activities relating to the welfare of animals under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, the Dangerous Wild Animals Act 1976, and the Zoo Licensing Act 1981. These pieces of legislation are aimed at protecting the welfare and safety of animals and those that interact with them and make it an offence for any person to possess, own, or keep animals in order to carry out certain businesses, or have possession of certain animals without first being licensed by the Council.
- 1.2 The Council is required to ensure that:
- licence holders are suitably inspected/ assessed against the regulation requirements;
 - individuals who apply for a licence and do not meet the regulation requirements for the grant of a new licence are refused a licence;
 - appropriate enforcement action is taken against operators carrying out, attempting to carry on, or knowingly allowing a licensable activity to be done without a licence or in contravention of regulations or licence conditions;
 - licences are not granted to individuals that are already disqualified from holding a licence or have previously had one revoked;

Section 2: Scope of Policy

- 2.1 This policy sets out the general principles that the Council will follow in relation to the provision and enforcement of animal licensing. The Policy describes the types of animal licensing matters that are likely to occur and how the Council will deal with them.
- 2.2 The Council will also have regard to any statutory guidance issued in relation to any of the primary animal licensing Acts and associated Regulations.
- 2.3 This Policy will ensure that the Council carries out its animal licensing responsibilities in a consistent and fair manner.

Section 3 The Legislative Framework

- 3.1 The Animal Welfare Act 2006 (“the Act”) consolidated and updated a range of previous legislation to promote the welfare of animals. This Act is the principal piece of legislation aimed at protecting animal welfare in England and Wales, and establishes set welfare standards that must be maintained by all people who are responsible for an animal. The Act also places responsibilities on to numerous enforcement agencies, including local authorities.
- 3.2 The Act introduced a ‘duty of care’ on any person that is responsible for an animal to ensure that the needs of that animal are met, and created an offence of failing to provide for those needs. The Act also increased the penalties for

animal abuse allowing the courts to disqualify a person from being in charge of animals. Any person disqualified under the Act is also disqualified from holding a licence under any of the animal licensing Regulations.

- 3.3 The Act gives powers to the Secretary of State for Environment, Food and Rural Affairs to pass regulations that may repeal or amend any of the primary licensing Acts or create new forms of licences, and these powers were used to create the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 3.4 Section 9 of the Animal Welfare Act 2006 creates five overarching principles of animal welfare. The Act refers to these as the 'five needs' of all animals. It is the duty of any person responsible for an animal to ensure that each of these five needs are met.
- 3.5 The 'five needs' are:
- The need for a suitable environment (by providing an appropriate environment, including shelter and a comfortable resting area);
 - The need for a suitable diet (by ready access, where appropriate, to fresh water and a diet to maintain full health);
 - The need to be able to exhibit normal behaviour patterns (by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate);
 - Any need to be housed with, or apart from, other animals (by providing the company of an animal of its own kind, where appropriate); and
 - The need to be protected from pain, suffering, injury and disease (by prevention or rapid diagnosis and treatment, and ensuring conditions and treatment which avoid mental suffering).
- 3.6 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force in October 2018 and are made under section 13(7) and 13(8) of the Animal Welfare Act 2006. The regulations update and replace legislation for selling animals as pets, dog and cat boarding, dog breeding and riding establishments. In addition to this it introduces, for the first time, a licence regime for keeping and training animals for exhibition.

Under Schedule 1 of the regulation, 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
- Hiring out horses
- Dog breeding
- Keeping or training animals for exhibition

- 3.7 The Dangerous Wild Animals Act 1976 dictates that a licence is required from the Council to keep certain animals that are considered wild, dangerous or exotic. A full list of animals that need a licence can be seen here: <http://www.legislation.gov.uk/ukxi/2007/2465/schedule/made>.
- 3.8 The Council does not support the licensing of primates under the Dangerous Wild Animals Act 1976 as 'pets' to live in the domestic premises. The Council recognises that primates are highly intelligent and can be potentially dangerous animals with complex needs that are highly unlikely to be met within a domestic environment.
- 3.9 The Zoo Licensing Act 1981 dictates that a licence is required from the Council to display wild animals to the public for at least 7 days a year, in a place that is not a circus or a pet shop.

Section 4: Enforcement of the policy

- 4.1 The Council will seek to ensure compliance with the legislation outlined above and will carry out its duty in an appropriate and consistent manner according to the following principles:
- seek to achieve compliance in an accountable, consistent, proportional, and transparent manner as stated in the stated in Section 2(3) of the Legislative and Regulatory Reform Act 2006. Our enforcement activities will also be targeted at those cases in which action is required to ensure compliance;
 - seek to assist businesses and others in meeting their legal obligations through provision of reasonable assistance and advice, and aim to be clear, open and helpful in its approach to enforcement;
 - focus on prevention rather than cure, and in the context of animal licensing, in particular focus on risks to animal welfare;
 - seek to target enforcement resources at areas of highest risk to animal welfare and public safety, including non-compliant businesses and individuals/ partnerships;
 - take robust action against those who knowingly contravene the law or act irresponsibly;
 - where appropriate work in partnership with other regulatory or enforcement agencies to solve problems. Such bodies include the RSPCA, Police and Trading Standards.
- 4.2 In carrying out its enforcement duties, the Council has adopted an enforcement policy, which is available to view here: [add link](#)

4.3 We aim to achieve and maintain a consistent approach when we investigate complaints and make our decisions regarding enforcement. In reaching any decision we will consider, potentially amongst other things, the following criteria:

- The seriousness of any offences or breach of conditions;
- The previous compliance record of the business/ individual/ partnership;
- The possible consequence(s) of non-compliance
- The likely effectiveness of the various enforcement options available; and
- The risk to the welfare of animals and/or the public.

Suspension, Variation and Revocation of a licence

4.4 Local Authorities can vary an animal activity licence at any time. This Council will consider varying licences where a variation will likely have a positive impact on animal welfare, or address an issue which was adversely impacting on animal welfare. This Council will seek to engage with Licence Holders to ensure that any variations are both reasonable and practical.

4.5 This Council will also give consideration to suspending, varying, or revoking a licence without the consent of the Licence Holder where:

- the licence conditions are not being complied with;
- regulations are breached;
- information supplied by the licence holder is false or misleading;
- it is necessary to protect the welfare of an animal.

4.6 This Council will take a graduated approach to considering these measures, and in all instances will first consider if compliance and protection of animal welfare can be achieved by variation of the licence. Where it is not considered possible to achieve this via licence variation then suspension or revocation will be considered, in particular where poor standards of animal welfare are identified, or where the Licence Holder has a previous poor compliance record.

4.7 Where a licence is varied, suspended, or revoked, the Council will provide notice of this in writing, and include the following information:

- the reasoning behind the decision;
- when the change will come into effect;
- the licence holder's rights (including how to appeal the decision);
- specific details of any works/ issues requiring resolution before a suspension can be lifted.

- 4.8 A suspension, variation or revocation of a licence will ordinarily take effect 7 working days after the decision has been issued to the licence holder. The exception to this is where the reason for the action is to protect animal welfare, in which case the effect of the notice is immediate (via powers conferred on the Licensing Authority under Section 16 (2) of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018).
- 4.9 During the 7 days before the notice takes effect (unless the notice has immediate effect), the Licence Holder can make written representation to the Council. The Council will then consider these representations, provide a response within 7 working days, and either:
- Continue with the licence suspension, variation or revocation; or
 - Cancel the decision to make changes to the licence.
- 4.10 Licence Holders have 28 days to appeal against the decision, and if the licence is suspended or revoked cannot trade again until the suspension or revocation is lifted following:
- the Council being satisfied that licence conditions are being met; or
 - the first-tier tribunal finding in favour of the Licence Holder that the Council's decision was incorrect.

Section 5: Policy Application

- 5.1 The Animal Welfare Act 2006 and associated Regulations outline individual application requirements and mandatory conditions that the Council must be satisfied with before it can grant a licence. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 gives the Council powers to apply conditions to each Licence it grants in addition to the mandatory conditions set out in the statutory guidance for each category of animal activity licence.
- 5.2 The principal purpose of requiring a licence is to safeguard animal welfare, and the Council will keep this objective in mind at all times when undertaking its animal licensing duties.
- 5.3 The Council will inspect premises in accordance with legislative requirements, veterinary advice and any statutory codes of practice before issuing or renewing a licence. Inspections will involve both programmed/ announced inspections as well as unannounced inspections such as to provide confidence as to the level of compliance of a licence holder/ applicant. Whether an inspection needs to be announced or unannounced depends on the reason for the inspection. For example, if there's a complaint or information that an animal's welfare is at risk it is likely that an inspector will make unannounced re-inspections to make sure compliance is checked thoroughly.

- 5.4 Where appropriate or required (such as the case with riding stables and initial dog breeding inspections), inspections will be carried out with a qualified/registered vet. Where inspections identify areas of concern which cannot be addressed by the licence conditions, officers will consider the use of the Animal Welfare Act 2006 and/or liaise with other organisations such as the RSPCA.
- 5.5 The Council will make reasonable efforts to investigate reports and intelligence relating to unlicensed establishments and/or breaches of conditions, respond to any issues, and where necessary take enforcement action in-line with the Council's Enforcement Policy.
- 5.6 When carrying out its functions under the primary licensing Acts the Council will seek to promote the following objectives:
- The five needs as set out in the Animal Welfare Act;
 - Public safety;
 - Integration with other relevant strategies and legal requirements;
 - Positive relations with licence holders and proportionate regulation.
- 5.7 In addition to the danger to the welfare of animals by unlicensed or irresponsible animal owners, there is also a danger that may arise to members of the public. For example, poor standards of hygiene could lead to a risk of diseases spreading and affecting other members of the public and their animals. Additionally, licence holders that permit members of the public onto their premises have a legal duty to ensure that they do not put them at risk of illness or injury. Public safety will therefore be a paramount consideration by the Council at all times.
- 5.8 In addition to being licensed to carry out animal activities a licence holder and their premises may need to comply with other legislation such as planning and building regulations. Where the appropriate permissions or consents are not in place, or where they are being breached, or could be (for example where the grant of a licence would breach a planning condition), the Council may take enforcement action which could lead to the closure of such premises and consequently adversely impact on the welfare of any animals accommodated there. As a result the Council will not grant a licence where the appropriate planning permissions or building control consents are not in place, or may revoke a licence where such legislation, regulation or conditions are breached.
- 5.9 The statutory guidance accompanying each of the primary licensing regulations state clearly the mandatory conditions and minimum standards which the Council must be satisfied are complied with before any licence is granted. Where the relevant Licensing Officer is not satisfied that the relevant legal requirements and mandatory conditions are met, or where an Environmental Health Officer of the Council or Veterinary Surgeon has raised concerns that the legal requirements or standards are not met, or unlikely to be met, the

applicant for the licence will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.

- 5.10 If the relevant Licensing Officer feels that an application should be refused, they will submit a report to a Licensing Sub-Committee to determine the matter.

Section 6: The Animal Activity Star Rating Scheme

- 6.1 For animal activities other than keeping or training animals for exhibition a star rating will be given.
- 6.2 In Line with Statutory Guidance to Local authorities, applicants will be given a star rating ranging from 1 to 5, based on their compliance history and the results of their inspection. This also applies if an applicant asks for a re-inspection.
- 6.3 Applicants/ Licence holders should be aware that the Council may amend their star rating after a routine revisit or unannounced inspection. For example, a star rating could go down after an unannounced inspection to investigate an animal welfare complaint.
- 6.4 The Council will provide feedback on the star rating they have given following inspections which will include the following:
- The star rating;
 - Details of why this rating was given. This will include a list of the higher standards that the business currently fails 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;
 - Details of the appeals process and the deadline by which an appeal must be made.

Granting or renewing a licence: risk-based approach

- 6.5 In determining the star rating of a business the Council will adopt a risk-based approach. The Council will consider the following matters as part of its risk-based approach:
- The compliance history of the individual applying for the licence – poorer compliance history will be interpreted as higher risk;
 - The animal welfare standards observed - whether they have minor failings, follow minimum standards or already operate at a higher standard.
- 6.6 In addition to the above the Council will also consider the following questions based on the inspection and on records of past compliance:
- Does the applicant/ business meet the minimum standards?
 - Does the applicant/ business meet the higher standards?

- Is the applicant/ business low or higher risk?

The Animal activity star rating system

	Minor Failings	Minimum Standards	Higher Standards
Low risk	1-star rating, 1 year licence at least 1 unannounced visit within 12 months	3-star-rating, 2-year licence, at least 1 unannounced visit within 24 months	5-star rating, 3-year licence, at least 1 unannounced visit within 36 months
High risk	1-star rating, 1 year licence, at least 1 unannounced visit within 12 months	2-star rating, 1 year licence at least 1 unannounced visit within 12 months	4-star rating, 2 year licence, at least 1 unannounced visit within 24 months

- 6.7 New applicants that do not have one year of compliance history with a local authority or a UKAS-accredited body will be automatically rated as high risk. The length of time the licence is granted for in these instances will depend on whether the new applicant meets the specified higher standards of animal welfare, or the minimum standards.
- 6.8 For renewal applications, the length of time the licence is granted for will depend on their risk rating and welfare standards at inspection. The licence length can be up to 3 years.
- 6.9 Where any failings compromise the welfare of animals a licence will not be granted or renewed.
- 6.10 All of the minimum standards outlined in the relevant licensable animal activity guides must also be met. Failure to do so will lead to refusal to grant or renew the licence.
- 6.11 In cases where Licence holders conduct multiple types of animal activity categories, they will only receive one rating to cover all of the activities they undertake. Each activity will be considered and rated separately before the final score is awarded overall. In accordance with the statutory guidance to Local Authorities, the star rating will be rounded down if the licence holder is operating with lower standards for one activity than another. For example, if an applicant meets the higher standards for dog breeding and the minimum standards for dog boarding, the overall score will reflect the lower of the two.

6.12 As per the risk scoring matrix set out above, the Animal Activity rating scheme requires inspections to be carried out during the term of a licence, and the star rating may be varied at that time if the level of compliance identified at that time has gone up or down.

6.13 For the activity of hiring out horses, there is a requirement for an annual inspection by a Veterinarian listed on the Royal College of Veterinary Surgeons Riding Establishments Inspectorate List. It is the Council's policy to appoint the Veterinarian to undertake the inspection who will be independent and not one that is retained by the applicant / licence holder. Any increased costs associated with this, for example increased mileage costs, must be borne by the applicant.

Exception: keeping or training animals for exhibition

6.14 As stated above, the only exception to the risk-based approach is for the activity of keeping or training animals for exhibition. All licences for the activity of keeping or training animals for exhibition can be granted for 3 years. This is done on the basis that these activities have been subject to a simple registration system. A risk assessment is not undertaken for this animal activity as a star rating is not issued.

Higher standards

6.15 Optional higher standards have also been set out in the relevant animal activity guides, and achieving compliance with the higher standards is the only way of obtaining a 4- or 5-star rating.

6.16 In order to qualify for consideration at the higher standard, the applicant/ business must meet:

- 100% of the higher standards classified in the guidance as required;
- 50% (or more) of the higher standards classified in the guidance as optional.

Star rating appeal procedure

6.17 Before considering an appeal against a star rating awarded, licence holders are strongly encouraged to discuss the rating with the inspecting Officer first. The Officer will already have provided a detailed written explanation of the rating awarded, and will be happy to explain this further. In many instances this may resolve the matter and avoid the need for an appeal.

6.18 In order to appeal against a star rating the applicant should contact North Devon Council in writing within 21 days of receiving their rating, clearly setting out how they think that the rating awarded does not reflect the animal welfare standards and risk level at the time of inspection via the following address or email address:

FAO Licensing Service Lead, Licensing Team, PO BOX 379, North Devon Council, Barnstaple, Devon, EX32 2GR

licensing@northdevon.gov.uk

6.19 Appeals will be determined by a senior Officer (Public Protection Manager or Head of Environmental Health and Housing Services), within 21 days of receiving the appeal, and may involve the following:

- Review of inspection notes, inspection report, and comparison of those documents with the appeal documents;
- Review of the past compliance history of the licence holder;
- A further visit to the Licensed Premises;
- Additional advice from relevant animal welfare experts (for example specialist veterinary advice, or dog behaviour therapist input).

6.20 The cost of any additional inspections or specialist support/ advice will be borne by the appeal applicant, except where the appeal results in a higher rating being awarded, in which case the cost will be borne by the Council.

6.21 If the applicant disagrees with the outcome of the appeal they can challenge the Council's decision by means of a judicial review. The applicant also has the 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.

<https://www.northdevon.gov.uk/council/feedback-complaints-whistleblowing-and-insurance/complaints-procedure/>

Refusing a licence

6.22 Local Authorities are required to refuse a licence/ renewal application in the following circumstances:

- If they consider that the applicant cannot meet the mandatory licence conditions and minimum standards;
- If they are concerned that issuing the licence may negatively impact on animal welfare;
- If the housing, staffing or management are inadequate for the animals' wellbeing or for the activity or facility to be run properly;
- If an operator who has been disqualified from holding a licence previously under Section 34 or 42 of the Animal Welfare Act 2006.

6.23 The Council may also refuse a Licence if it determines that the applicant is not a fit and proper person, for example where the applicant has relevant offences as listed in Section 7 below.

6.24 In such circumstances the Council will provide the applicant with a notice of refusal which will clearly set out the reasons for the application being refused, and detail how the applicant can appeal against the decision (appeal to a First

Tier Tribunal (General Regulatory Chamber), within 28 days of receiving the notice of refusal).

Re-inspection requests

6.25 Licence Holders given a rating between 1-star and 4-stars who have accepted their rating but have made improvements since that time can request a re-inspection for a re-rating. A minimum period of three months must have elapsed between the rating being issued, and the date of re-inspection. The reasoning for this is that it is considered that if improvements can be sustained for a period of three months or more, then they are more likely to be sustained in the longer term of the licence. A Licence holder can apply for a re-inspection prior to the three-month standstill period being up, but the re-inspection itself will not be undertaken until at least three months has elapsed.

6.26 Requests for re-inspection should be made in writing and include the following:

- an outline of the reasons why the licence holder feels they should receive a re-inspection;
- details of the improvements made to compliance or welfare since the inspection;
- supporting evidence, if appropriate, for example photographs and invoices for works undertaken/ items purchased.

6.27 If the case for re-inspection made by the Licence Holder is not substantiated or insufficient evidence is provided, then the Council may refuse the request to re-inspect. If the request is refused then the Licence holder will be provided with a written explanation including details of the outstanding matters requiring attention before a re-inspection will be undertaken.

6.28 Where a request for re-inspection is accepted by the Council then a re-inspection will be undertaken within three months of the request being received.

6.29 Re-inspection visits may be undertaken either announced or unannounced (depending on the original inspection findings and the type of premises involved), and Licence Holders should be aware that depending on the re-inspection findings their star rating may go up, down, or remain the same.

6.30 There is no limit on the number of re-inspections that can be requested, but in each case the request for re-inspection must include the information set out above. The Licence holder will be required to pay the current inspection fee for the re-inspection, and will be liable for an additional charge where a veterinarian is also required to be in attendance.

Section 7: Suitability of Applicants

- 7.1 In accordance with the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, any individual who carries on a licensable activity will be designated as the 'operator' of the business and can apply for a licence, providing they are not already disqualified from holding a licence in accordance with the Regulations.
- 7.2 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence the Council will require new applicants to provide a basic disclosure certificate (DBS) alongside their application. The Disclosure and Barring Service certificate must be marked with an issue date no more than 3 calendar months before the date of application.
- 7.3 Existing Licence holders will be required to provide a basic disclosure certificate as part of their renewal application from 1st August 2022 onwards. As with new applicants the Disclosure and Barring Service certificate must be dated no more than 3 calendar months before the date of application.
- 7.4 A Basic Disclosure will be required of all those applicants listed in the application (individuals, partners, and directors).
- 7.5 DBS checks must show that the applicant (or applicants) are not disqualified from holding a licence, and/or hold no relevant convictions which may affect whether they are a 'fit and proper' person to hold a licence.
- 7.6 A licence will only be granted where the Council is satisfied that the applicant is a fit and proper person to be the operator for the animal licence applied for. Fitness and propriety to hold a licence is a familiar concept within licensing, but is not legally defined within the context of animal licensing. For the purpose of this Policy, the Council will consider a 'fit and proper person' to be an individual who can demonstrate upon application that they have:
- the right to work in the UK;
 - no relevant convictions;
 - not been disqualified from holding a licence;
 - the knowledge, experience, compliance history and ability to give reasonable confidence that they can comply with licence conditions and safeguard the welfare of animals in their care;
 - made suitable management and training arrangements to ensure the safety and welfare of any staff and/or members of the public who may be affected by the licensed activity.
- 7.7 This does not limit the scope of the fitness and propriety assessment and the Council may take into account other matters considered relevant to the licensing process.

Relevance of convictions

- 7.8 The purpose of this section is to offer guidance on how the Council will determine whether an applicant or licence holder is suitable to either be granted a licence in the first place or retain a licence under the Regulations. In all cases, the Licensing Authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 7.9 In addition to the nature of the offence, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 7.10 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 7.11 Where a situation is not covered by these guidelines, the Licensing Authority will consider the matter from first principles and determine the fitness and propriety of the individual.
- 7.12 Where an applicant or licensee has been convicted of any offence that is related to animal cruelty or suffering, they will not be licenced. The reason for this is that the main purpose of the Animal Licensing Regulations is to ensure the welfare of animals, and as such these types of offences are highly relevant.
- 7.13 The Council will also not normally grant a licence to a person with one (or more) conviction for any offence that is related to licensing as these offences demonstrate a disregard for licensing processes and procedures.
- 7.14 In addition to the above, the Council also has wider obligations to safeguard both children and vulnerable adults. These obligations arise from the Children Act 2004; and the Care Act 2014. As a result, the Council will not grant a licence to a person with a conviction for Sex and indecency offences or exploitation offences (abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children).
- 7.15 In relation to single convictions, the following **minimum** time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted or renewed. This places public safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence:
- Offences involving violence- 10 years;

- Possession of a weapon- 7 years;
- Offences involving dishonesty- 7 years;
- Offences involving drugs- 10 years.

7.16 Upon receipt of the certificate from the Disclosure & Barring Service, an Officer of the Licensing Authority will compare any disclosed information with the adopted policies relating to relevance of convictions and determine whether the applicant should be referred to a Licensing Sub -committee for them to determine whether the applicant is fit and proper to hold a licence.

Section 8. Fees

8.1 The current table of fees for animal licensing can be found on the Council's webpages:

[Environmental health and all licensing fees \(northdevon.gov.uk\)](http://northdevon.gov.uk)

- 8.2 In accordance with relevant legislation on fees and charges by a public authority, the fees for each licence are made up of two parts, Part A and Part B. Part A covers the direct costs associated with processing the application and is payable on submission of the application. Part B covers the costs associated with the running of the licensing function. This includes dealing with complaints, enforcement and general administration. This fee is payable once a licence has been granted but must be paid before the licence becomes operational and valid (the licence will not be issued until such time as Part B of the fee has been paid in full).
- 8.3 In the event that following payment of the Part A fee, the Council determines not to issue a licence (in accordance with the rationale set out in Section 6 and 7 above), then no refund will be issued, as the Council will have incurred reasonable costs in determining the application whether the licence is issued or not.

Section 9. Application Process

- 9.1 Licence applications must be submitted on the relevant application form, accompanied by any supporting information requested (such as a basic disclosure certificate and proof of right to work in the UK), and with the application fee paid (the Part A fee). Inspection of the proposed licenced premises to determine the suitability for licensing will only be undertaken once the above requirements have been satisfied.
- 9.2 In the case of an application for breeding of dogs (grant applications only unless exceptional circumstances), and hiring out horses (grant and renewal applications), the required veterinary fee will also need to be paid prior to any inspection being undertaken.

- 9.3 Once a valid application has been received (all relevant information received/ included, and Part A fees paid), the Council will in accordance with statutory guidance for animal activity licensing undertake the following:
- 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 the licence conditions.
 - Inspect the site of the licensable activity and assess if it is likely to meet the licence conditions. The inspection will be completed by a suitably qualified inspector (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 will prepare a report, in accordance with the requirements of the Regulations, to be submitted to the Council following their inspection.
 - 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.
- 9.4 The inspecting Officers recommendation whether or not to issue a licence will principally be based on the standards witnessed at the time of inspection.
- 9.4 If the Inspecting Officer recommends that a Licence should be issued then the applicant will be contacted to request the Part B element of the fees be paid. Following receipt of the Part B fee, the Licence will be issued, accompanied with an inspection report which will contain a detailed written explanation of the star rating awarded.
- 9.5 Although not a statutory requirement, the Council will aim to provide licence holders with 3 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 10 weeks before their licence expires to continue the activity without a break. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

Section 10. Powers of Inspectors

- 10.1 Section 30 of the Animal Welfare Act 2006 allows local authorities to prosecute for any offences under that Act. Prosecution proceedings will be considered in accordance with the Council Enforcement Policy.
- 10.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, introduced a range of enforcement powers to allow the Council to issue a suspension, variation or revocation notice where licence conditions are not being complied with; where there is a breach of the regulations; or issues relating to the protection of the welfare of an animal (as set out further in Section 4 previously).

- 10.2 Anyone who carries on any of the licensable activities without a licence is committing a criminal offence and is liable to imprisonment for a term of up to six months, a fine or both.
- 10.3 It is a criminal offence to breach any licence condition. It is also a criminal offence not to comply with an inspector's request with regards to taking a sample from an animal.
- 10.4 It is a criminal offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing any of these offences could result in an unlimited fine.
- 10.5 Inspectors have a right of entry to premises for the purpose of undertaking a licence inspection or checking whether an animal activity licence is required. An inspector does not have right of entry to any part of site premises used as a private dwelling, unless they give 24 hours' notice to the occupier. Section 62 of the Animal Welfare Act 2006 contains a definition of what would constitute a private dwelling, and an Inspector may enter this part of the premises without 24-hours-notice if given permission by the occupier. Where a request for entry is refused, Section 23 of the Animal Welfare Act makes provision for application for a warrant of entry.
- 10.6 The Regulations also make provision for the inspectors to take samples for laboratory testing from any animals on premises occupied by an operator, for the purposes of ensuring the licence conditions are being complied with. A licence holder must comply with any reasonable request of an inspector to facilitate the identification and examination of an animal and the taking of samples and, in particular, must arrange the suitable restraint of an animal if requested by an inspector (the provision for sampling is primarily aimed at veterinarians carrying out inspections on behalf of the Council).

Section 11. If a Licence Holder Dies

- 11.1 If a licence holder dies, the procedure in regulation 12 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 applies. This allows the personal representative of the deceased to take on the licence, provided that they inform the local authority within 28 days of the death that they are now the operators of the licensable activity.
- 11.2 The licence will remain in place for 3 months from the death of the former licence holder, or for the rest of the time it was due to remain in force if that time period is shorter.
- 11.3 The new licence holder should apply for a new licence one month before the expiry of this new period. 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.
- 11.4 The Council will give consideration to extending the 3 month period up to 6 months if requested by the representative and if they believe this time is needed to wind up the estate of the former licence holder.

Section 12. Additional information

12.1 The Council has additional information available online, including application forms, guidance documents and details on conditions. These can be seen here:

<https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/>

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Appendix A. Providing or Arranging Provision of Boarding for Cats or Dogs

A1. All dog and cat boarding activities need a licence if they are carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance which the Council will have regard to.

A2. To be in scope, they must:

- provide housing for other people's dogs or cats, where the provision of that housing is part or solely the activity of the business;
- arrange housing for other people's dogs - for example, businesses which connect pet owners with people willing to look after their animals for no fee, just minor expenses;
- provide overnight housing for cats in purpose-built cattery units;
- home board cats, when they are kept in cattery units;
- provide daytime housing for other people's dogs, as part of, or as the only activity of, the business.

A3. An application for a licence must be made to the Council on its application form, which is available from the Council's website:

<https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/animal-welfare-licences/>

A4. Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the relevant statutory guidance:

- Cat boarding Licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Cat-Boarding-Guidance.pdf>
- Home boarding for dogs licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Home-Boarding-for-Dogs-Guidance.pdf>
- Dog day care licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Dog-Day-Care-Guidance.pdf>
- Dog kennel boarding licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Commercial-Dog-Boarding-Guidance.pdf>

A5. If the Council is satisfied that the requirements of the statutory guidance documents are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.

A6. The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.

- A7. If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.
- A8 All dog and cat boarding activities undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection. For those dog and cat boarding establishments of smaller scale, for the sake of clarity, Officers will expect to see evidence of a trade waste contract where 5 or more dogs or cats are accommodated at any time.

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Appendix B. Selling Animals as Pets Licensing

- B1 All selling animals as pets activities need a licence if they are carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance on selling animals as pets licensing, which the Council will have regard to. This activity licence does not include the sale of animals in the course of aquacultural production, or the breeding of dogs (this is a separate form of animal activity licence).
- B2 An application for a licence must be made to the Council on its application form, which is available from the Council's website:
- <https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/animal-welfare-licences/>
- B3. Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the statutory guidance:
- <https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Selling-Animals-as-Pets-Guidance.pdf>
- B4. If the Council is satisfied that the requirements of the statutory guidance document are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- B5. The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- B6. If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.
- B7 All selling animals as pets undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection.

Appendix C. Hiring out horses licensing

- C1 All activities involving hiring out horses for riding, or instruction in riding, need to have a licence if they're carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance on Hiring out horses licensing, which the Council will have regard to.
- C2 To be in scope they must hire out horses for riding, or instruction in riding. This could include:
- riding schools
 - loan horses
 - hunter hirelings
 - pony and donkey rides
 - polo instruction
 - pony parties where the ponies are ridden
- C3 For the hiring of horses, a listed Veterinarian must be appointed for the initial inspection, for a renewal inspection, and for the annual inspection for the hiring of horses. It is the Council's policy to appoint the Veterinarian to undertake the inspection who will be independent and not one that is retained by the applicant / licence holder.
- C4 An application for a licence must be made to the Council on its application form, which is available from the Council's website:
- <https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/animal-welfare-licences/>
- C5 Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the statutory guidance:
- <https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Hiring-Out-of-Horses-Guidance.pdf>
- C6 If the Council is satisfied that the requirements of the statutory guidance document are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- C7 The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- C8 If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.

- C9 All hiring out horses undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection.

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Appendix D. Dog Breeding Licensing

- D1 All activities involving dog breeding, need to have a licence if they are carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance on dog breeding licensing, which the Council will have regard to. In particular, there is a limit on the number of litters that dog breeders can have without a licence unless a breeder can prove that they will not sell any of the puppies from these litters as puppies or adults.
- D2 To be in scope, they must either:
- breed 3 or more litters of puppies per year (unless they can show that none of the puppies have been sold as puppies or adults);
 - be breeding puppies and advertising a business of selling them (as defined under the business test). It is important to note that businesses need a licence regardless of the number of litters produced per year. This is not restricted to registered businesses. Individuals can also be classed as a business depending on the extent of their activities.
- D3 A vet must be appointed to undertake the initial inspection for licensed dog breeding licence applications. It is the Council's policy to appoint the Veterinarian to undertake the inspection who will be independent and not one that is retained by the applicant / licence holder.
- D4 An application for a licence must be made to the Council on its application form, which is available from the Council's website:
- <https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/animal-welfare-licences/>
- D5 Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the statutory guidance:
- <https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Dog-Breeding-Guidance.pdf>
- D6 If the Council is satisfied that the requirements of the statutory guidance document are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- D7 The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- D8 If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.

- D9 All dog breeding undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection.

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Appendix E. Keeping or Training Animals for Exhibition Licensing

- E1 All keeping or training animals for exhibition activities need a licence if they're carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance on keeping or training animals for exhibition activities.
- E2 An application for a licence must be made to the Council on its application form, which is available from the Council's website:
<https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/animal-welfare-licences/>
- E3. Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the statutory guidance:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Keeping-or-Training-Animals-for-Exhibition-Guidance.pdf>
- E4 If the Council is satisfied that the requirements of the statutory guidance document are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- E5 The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- E6 If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.
- E7 As stated in Section 6 above, the Council is not required to undertake a risk rating in relation to licences for the activity of keeping or training animals for exhibition, and as such no star rating will be issued for these licences. All licences for the activity of keeping or training animals for exhibition are granted for 3 years.
- E8 All undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection.

Appendix F. Dangerous Wild Animal Licensing

- F1 Anyone who keeps an animal scheduled as a dangerous wild animal must be licensed under the Dangerous Wild Animals Act 1976. A full list of animals that need a licence can be seen here:
<http://www.legislation.gov.uk/ukxi/2007/2465/schedule/made>.
- F2 The Dangerous Wild Animals Act (DWA) of 1976 aims to ensure that where private individuals keep dangerous wild animals they do so in circumstances which create no risk to the public and safeguard the welfare of the animals.
- F3 When applications for a DWA licence are received, the Council will instruct a suitably experienced Veterinarian and/or other relevant professionals to obtain the appropriate advice to ensure that any special needs of the animal are fulfilled and the applicant is a suitable person to hold such a licence. The Council must also be satisfied that it would not be contrary to public interest on the grounds of safety or nuisance. Special needs in this context mean the suitability of accommodation, heating, lighting and appropriate foodstuffs and enrichment for the species identified in the application.
- F4 A person is held to be the keeper of the animal if they have it in their possession. The assumption of possession continues even if the animal escapes or it is being transported. This removes the need for carriers or veterinary surgeons to be licensed.
- F5 An application for a Dangerous Wild Animal licence must be made to the Council on its application form, which is available on the Council's website along with detailed guidance notes:
<https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/animal-welfare-licences/>
- F6 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council will require the applicant for a DWA Licence to provide a basic disclosure (DBS) certificate issued within 3 months of the date of application. This check will then be required on a rolling 3-year basis.
- F7 Once the Council receives an application for the grant or renewal of a licence it will do the following before granting or renewing a licence:
- The Council will ensure that the applicant has not been disqualified from keeping dangerous wild animals.
 - An Officer of the Council will inspect the relevant premises in conjunction with a suitably experienced Veterinarian/ animal expert and assess if it is likely to meet the requirements of the legislation.
 - Inspection reports will contain information about the suitability of the accommodation, suitability of the applicant in terms of their handling skill / experience and their views on qualification relating to species. The vet/ expert will also consider the animal's ability to express their natural

behaviour, and the knowledge of the owner to promote the animal's welfare. The report will then be sent to the Council for consideration.

- Ensure that the appropriate fees have been paid.

F8 The Council will not grant a licence unless it is satisfied that:

- it would not be contrary to the public interest on the grounds of safety, nuisance or otherwise;
- the applicant is deemed to be a suitable person to hold a licence and is adequately insured;
- animals will be held in secure accommodation to prevent them from escaping;
- accommodation for animals is suitable with regards to the construction, size, temperature lighting, ventilation, drainage and cleanliness, and which is suitable for the number of animals proposed to be held in the accommodation;
- animals are provided with adequate food, drink and bedding materials and will be visited at suitable intervals;
- appropriate steps will be taken for the protection of any animal concerned in case of fire or other emergency;
- appropriate steps will be taken to prevent and control the spread of infectious diseases;
- while any animal is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

F9 Where the Council determines that a licence shall be granted it is a requirement of the legislation to apply several mandatory licence conditions that shall apply for the duration of the licence:

- the animal shall be kept by no person other than such person or persons as is or are specified (whether by name or description) in the licence;
- the animal shall normally be held at such premises as are specified in the licence;
- the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;
- the person to whom the licence is granted shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and
- the terms of any such policy shall be satisfactory in the opinion of the authority.

F10 The Council may also, in granting a licence under this legislation, specify such conditions on the licence as it thinks fit. The Council will give careful

consideration to additional conditions proposed for a licence, including the comments of the Veterinarian/ expert on any proposed conditions. Where the Council places conditions on a licence they will be based, wherever practicable, on existing codes of best practice and industry standards. At all times the Council will bear in mind it's primary objectives in relation to Dangerous Wild Animal Licensing, which are to protect the public, and also to ensure appropriate animal welfare standards.

- F11 Where a condition is applied on a licence to permit an animal to be, for any continuous period exceeding 72 hours, at premises outside the area of the Council, the Council will contact the local authority in whose area those premises are situated.
- F12 The Council is permitted by regulations to vary licences at any time by specifying new conditions, or amending or revoking previously applied conditions. Where variation of the licence conditions is proposed by the licence holder, the variation of the licence will have immediate effect. In other cases, the Licence Holder will be given a reasonable period of time to familiarise themselves with the new requirements and ensure compliance.
- F13 Applicants/ licence holders have a right of appeal against the refusal, revocation, or variation of the licence. Appeals should be made to the Magistrates Court within 21 days of receiving notification of the refusal/ revocation/ variation.
- F14 In the event of the death of a licence holder the licence shall continue in force for a period of 28- days as if it had been granted to the personal representatives of the deceased, and if an application is made for a new licence within the 28-day period, the licence shall be deemed to be still in force pending the grant or refusal of that application.
- F15 Premises licensed under the Dangerous Wild Animals Act are not risk rated and licences, if issued, are valid for 2 years.
- F16 Although not a statutory requirement, the Council will aim to provide licence holders with approximately 4 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 10 weeks before their licence expires. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.
- F17 Provided that a valid application is received prior to the expiry the licence, the licence shall be deemed to be still in force pending the grant or refusal of the said application, and if it is granted the new licence shall commence from the date of the expiry of the last licence.

Appendix G. Zoo Licensing

Do you need a zoo licence from North Devon Council?

- G1 If you intend to operate a zoo in the North Devon area, it will be necessary for you to gain a zoo licence from the Council.
- G2 The Zoo Licensing Act 1981 defines a "zoo" as an establishment where wild animals are kept for exhibition to the public other than for purposes of a circus or in a pet shop (separate licences are required). This Act applies to any zoo, which members of the public have access to, with or without an admission charge, on more than seven days in any 12 months.
- G3 An application for a Zoo licence must be made to the Council on its application form, which is available on the Council's website along with detailed guidance notes:

<https://www.northdevon.gov.uk/business/licences-and-permits/animal-licences/zoo-licences/>

Application process

- G4 The licensing of zoos is a specialist field and the regulations are complex. The Council works in close partnership with DEFRA. Details on the legislation and the Secretary of State's Standards of Modern Zoo Practice can be found on the DEFRA website:

<https://www.gov.uk/government/publications/zoo-licensing-act-1981-guide-to-the-act-s-provisions>

<https://www.gov.uk/government/publications/secretary-of-state-s-standards-of-modern-zoo-practice>

- G5 If you are thinking of setting up a zoo, we recommend you contact us first for advice and guidance. The Council cannot consider an application unless at least two months notice of the application has been given, plus details have been published in a local and national newspaper, and a notice has been placed at the site. Once this period of time has lapsed, an application form can be submitted along with the current fee.

- G6 Before the Council can grant a licence for a zoo, it must be satisfied that:

- the establishment will not injuriously affect the health and safety of people living in the neighbourhood;
- the establishment will not affect the preservation of law and order;
- the accommodation, staffing and management are adequate for the proper care and well-being of the animals.

- G7 The Council will consult the following in relation to your application:

- Police;

- Fire authority;
- Governing body of any national institute concerned with the operation of zoos;
- Planning authority;
- The Council's Health and Safety team.

G8 The Council will arrange an inspection by a consultant inspector(s) from a list of suitable inspectors nominated by the Secretary of State. The inspector will produce a report of their findings and, based on the report and other considerations, the local authority will grant or refuse to grant a licence. This process may involve determination by the Council's Licensing and Community Safety Committee. If your licence is refused, you will receive a written statement of the grounds for refusal.

The applicant

G9 The Council may refuse to grant a licence if you, or any director, manager, secretary or other similar officer of the body, or any person employed as a keeper in the zoo, has been convicted of an offence under the Zoo Licensing Act 1981 or an offence under any of the following involving the ill-treatment of animals:

- the Protection of Animals Acts 1911 to 1964
- the Protection of Animals (Scotland) Acts 1912 to 1964
- the Pet Animals Act 1951
- the Animals (Cruel Poisons) Act 1962
- the Animal Boarding Establishments Act 1963
- the Riding Establishments Act 1964 and 1970
- the Breeding of Dogs Act 1973
- the Dangerous Wild Animals Act 1976
- the Endangered Species (Import and Export) Act 1976
- part I of the Wildlife and Countryside Act 1981
- sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006
- section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to dog breeding in Wales
- section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to the carrying on of an activity in England;

- the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014
- Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- sections 28C or 28F(16) of the Animal Health Act 1981
- sections 19 to 24, 25(7), 29 or 40(11) of the Animal Health and Welfare (Scotland) Act 2006

G10 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council will require any director, manager, secretary or other similar officer of the body, or any person employed as a keeper in the zoo, to provide a basic disclosure (DBS) certificate issued within 3 months of the date of application. This check will then be required on a rolling 3-year basis.

Planning requirements

G11 When applying for a licence, you will need to consider whether planning permission is required for the proposed licensed activity. You should contact the Council's Planning and Development Services on 01271 388288 to discuss whether permission will be needed. In the event that planning permission is required then any decision to grant a zoo licence will be suspended until such time as the planning application has been granted.

Licences

G12 Each original licence will run for four years, with consecutive renewals running for six years. Failure or late application for renewal may invalidate any public liability insurance for the premises. A copy of the licence must be displayed at every public entrance of the establishment.

G13 Changes to the licence, for example name changes and ownership changes, can be carried out at the request of the operator. A licence can also be transferred to another person with the approval of the Council (a basic disclosure certificate will be required for the proposed new licence holder). There is an application form for the transfer of a licence, which must be submitted with the relevant fee. The application can be found via the link to the Council webpages above.

G14 In the event of a licence holder dying, the licence shall be deemed to be granted to their personal representatives and will remain in force for up to three months, or longer with our approval.

G15 For small zoos, or for a zoo exhibiting only a small number of different kinds of animals, the Secretary of State has powers to relax the requirements of the Act. In such instances the Council can seek a direction that the Act shall not apply at all (Section 14(1)(a)) or that certain category of inspection is not required (Section 14(1)(b)).

G16 Alternatively, on applying to the Secretary of State for a zoo licence, you may be granted a dispensation (Section 14(2)) to reduce the number of inspectors to a reasonable level for a small establishment. This will not reduce the zoo's obligation to achieve the levels of animal welfare and public safety set out in the Secretary of State's Standards.

What conditions will be attached to a licence?

G17 The Zoo Licensing Act 1981 specifies various conservation measures that must be undertaken by a zoo and these will be attached as conditions to a zoo licence (conditions are available on our website- see link above).

G18 North Devon Council also has discretion to attach any conditions it deems necessary or desirable for the proper conduct of the zoo.

G19 The Secretary of State issues guidance of standards of practice that zoos should meet which apply in England. Copies of the Secretary of State's Standards of Modern Zoo Practice are available on the DEFRA website via the link above.

Inspection types

Periodic inspections

G20 Periodic inspections by inspectors appointed by the Secretary of State will take place at the following intervals:

- in the case of an original licence, an inspection will be carried out in the first year and no later than six months before the end of the fourth year;
- in the case of a renewal inspection in the third year and no later than six months before the end of the sixth year.

G21 Up to three inspectors appointed by North Devon Council will visit the premises and at least one of these will be a qualified veterinary surgeon or practitioner. Meanwhile, up to two may be nominated from the Secretary of State approved list. Only one is necessary if they fulfil both of the requirements above.

G22 North Devon Council will give you at least 28 days-notice of our intention to inspect your premises and will inform you of the names of the inspectors. You can in turn appeal against all or any of them.

G23 As the zoo operator, you may allow three representatives to accompany the inspection team. The inspection team will submit a report to North Devon Council who will in turn send a copy to you within a month of its receipt.

Special inspections

G24 North Devon Council has the right to make special inspections in any circumstances, which in our opinion call for investigation. As the zoo operator, you must be given notice of the purpose and scope of the inspection and if the investigation involves animal inspection, at least one inspector will be a qualified vet with experience of zoos and zoo animals.

Informal inspections

G25 In any calendar year where no other inspection has taken place, an informal inspection will be carried out by an appointed person from North Devon Council.

Renewing a licence

G26 North Devon Council will give at least nine months-notice of the expiry date of your licence. Your application to renew the licence should then be made at least six months before the expiry of the existing licence.

Records required to be kept

G27 The records required to be kept by a zoo will be largely dependent on the conditions imposed on a particular operator. However, typical requirements include providing North Devon Council with a copy of a zoo's public liability insurance, annual stock list, intention of providing hazardous animals.

Offences and penalties

G28 The following offences and penalties are created under Section 19 of the Zoo Licensing Act 1981:

- operating a zoo without a licence in contravention of the Act;
- failing without reasonable excuse to comply with any conditions of a licence;
- intentionally obstructing an inspector in the course of an inspection;
- intentionally obstructing someone who is authorised in accordance with Section 16G to enter the premises of a permanently closed zoos or a dwelling within the zoo grounds;
- failing without reasonable excuse with a direction issued under section 16A(2)(d) to close a zoo or part of it to the public for a period not exceeding two years;
- failing without reasonable excuse to comply with a zoo closure direction;
- failing without reasonable excuse to supply information requested by the local authority about the care or disposal of zoo animals in the event of a zoo closure;
- failing without reasonable excuse and without the agreement of the authority, to dispose of any animal kept at a permanently closed zoo before the plan in section 16E(2) has been approved by the authority, or other than in accordance with the agreed plan;
- failing without reasonable excuse to comply with a direction issued under section 16E(6) (direction about the welfare or disposal of animals kept in a permanently closed zoo);

- failing without reasonable excuse to display the zoo licence or a copy at each entrance of the zoo.

G29 Under Section 19(4), if you are found guilty of any offence above, you are liable to a fine of level 4 (currently £2,500), except obstructing an inspector, failing to supply information about the care or disposal of zoo animals in the event of zoo closure, or failing to display the licence or copy of it at each zoo entrance area for which are liable to a fine of level 3 (currently £1,000).

Rights of entry

G30 Local authority officers and accompanied by the appointed veterinary surgeon may inspect zoo premises, having given 28 days' notice in writing. There is currently no power of entry to unlicensed premises.

Fees

G31 A completed application (for the grant, renewal or transfer of a licence) must be submitted with the correct fee and in addition the applicant will need to pay any associated veterinary fees for DEFRA nominated inspectors.

How long will it take to process my application?

G32 We will try to contact you within five days of receiving notice of your intention to apply for a licence. If you have not heard from us within this period, please contact us to ensure your notice was correctly made and received. We will then have two months to make the necessary arrangements in preparation of the next stage in the process.

G33 It is not possible to provide an exact time period for the grant or refusal of a licence. Timescales will vary depending on the size and nature of each individual application. Comments gained in the consultation period and from the inspectors report may vary widely, and some applications may need to go before the council's Licensing and Community Safety Committee for determination.

Right of appeal

G34 If you wish to challenge a refusal to be granted a licence, or any conditions to a licence, you can appeal to the Magistrates Courts.

Complaints

G35 If you want to make a complaint about a zoo premises, please contact us. If you feel we have failed to provide you with good service or are concerned about the progress of your application, please telephone Customer Services and we will try to resolve any concerns you may have. The Council also has a formal complaints procedure.

Further information

G36 Copies of the Zoo Licensing Act 1981 and Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002 can be found free online via the links below:

<https://www.legislation.gov.uk/ukpga/1981/37/contents>

<https://www.legislation.gov.uk/uksi/2002/3080/contents>

G37 Further information on zoos operating in England, as well managing health and safety in zoos, is available from DEFRA.

G38 The Animal Welfare Act 2006, places responsibilities for care and welfare of an animal, on persons who are in charge of or are responsible for the animal, whether on a permanent or temporary basis. Again, more information is available from DEFRA

Relevant trade associations

- World Association of Zoos and Aquariums (WAZA)
- British and Irish Association of Zoos and Aquariums (BIAZA)
- Royal College of Veterinary Surgeons (RCVS)

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