



ADUR DISTRICT COUNCIL

**The Animal Welfare
(Licensing of Activities Involving Animals)
(England) Regulations 2018**

Licensing Policy Statement

November 2018

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Consultees

In developing this policy, the Council has consulted with the following persons, businesses and professional bodies:

All Sussex District, Borough and Unitary Councils

RSPCA

Trading Standards

British Veterinary Association

Royal College of Veterinary Surgeons

Defra

This policy supersedes all previous policy decisions relating to the relevant areas made by the Council from the date of this policy being published.

This policy was ratified by Full Council on 26th February 2019.

1.0 **How to contact us:**

- 1.1 All correspondence to be sent to licensing.unit@adur-worthing.gov.uk or:
Adur & Worthing Licensing Team,
Portland House
44 Richmond Road,
Worthing,
BN11 1HS

2.0 **Introduction**

- 2.1 In carrying out its regulatory functions, the local authority will have regard to this policy when making licensing decisions regarding matters relevant to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, the Dangerous and Wild Animals Act 1976 and the Zoo Licensing Act 1981. Where it is necessary to depart substantially from this policy, clear and compelling reasons will be given for doing so.
- 2.2 Adur District Council is the licensing authority for the purposes discharging functions in accordance with the above mentioned legislation and is responsible for considering applications and administering a licence regime in respect of activities that are identified as licensable by the Regulations and Acts.
- 2.3 The Adur District
Adur is one of seven districts and boroughs which make up West Sussex. Covering an area of 4,159 hectares and comprises a light industrial coastal area which includes a river and sea port, and an airport at Shoreham. It has a population of 59,000 and the main residential centres are Lancing, Sompting, Shoreham, Southwick and Fishersgate. To the north and north-west of the district, there are areas of open parkland and farmland stretching on towards the South Downs. Adur District Council and Worthing Borough Council are served by a single officer structure, but remain separate Authorities.
- 2.4 Minor amendments
Minor changes to policy may be made by officers without consultation. This includes amendment of appendices.

3.0 **Aims and Objectives**

- 3.1 The aim of these guidelines is to ensure that the authority and licence holders (and other relevant persons) are familiar with how the animal licensing regimes will be administered within the district. This policy has been introduced pursuant to the commencement of the Animal Welfare (Licensing of Activities Involving) Animals Regulations on 1 October 2018. It will be reviewed 5 years following first approval, and/or to reflect significant changes in relevant legislation or other relevant policy and practice of the Council.

- 3.2 Various legislation exists that gives the local district council the power to regulate animal establishments through licensing:
- Dangerous Wild Animals Act 1976
 - Zoo Licensing Act 1981
 - Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018 made under section 13 (1) of the Animal Welfare Act 2006.

Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

- 3.3 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.
- 3.4 In adopting this policy the Council has set out the general approach that it will take when it considers applications under the Acts detailed above. The Council confirms that each application will be considered on its merits. In view of the wide range of premises and applications, the policy cannot set out all the factors which will result in appropriate licensing objectives being achieved.
- 3.5 These Guidelines are set to achieve the objectives of:
- ensuring any person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on holds a licence in accordance with the Regulations
 - the licence holder is not disqualified from holding a licence in accordance with the requirements of the Regulations,
 - that the five overarching principles of animal welfare, (known as the “five needs”) introduced by the Animal Welfare Act 2006 are upheld in any decision,
 - the safeguarding of any children or vulnerable persons in contact with a licensable activity is ensured
 - each application is considered on its merits
 - that the obligations of the Council’s Public Sector Equality duty under the Equality Act 2010, section 149 are fulfilled by eliminating discrimination, harassment, victimisation and other conduct prohibited by the Act, advancing equality of opportunity and fostering good relations between persons who share and those who do not share protected characteristics.

4.0 Principles of Licensing

4.1 Existing legislation requires licence conditions to ensure acceptable animal welfare standards. The Animal Welfare Act 2006 introduces five overarching principles of animal welfare, known as the “five needs” (see 4.3).

4.2 In addition the Council will base its licensing regime on the following four principles:

- a) Responsibility to protect the welfare of all fellow creatures;
- b) Ensuring the welfare of domestic or captive animals by implementing appropriate standards that promote the “five needs”;
- c) Ensuring that persons responsible for the management of animal welfare observe recognised standards of good practice;
- d) Ensuring that, so far as it falls within its powers, the requirements of all animal-related legislation will be rigorously and pro-actively enforced.

4.3 The “five needs” referred to in these Guidelines are:

- a) The need for a suitable environment;
(by providing an appropriate environment, including shelter and a comfortable resting area)
- b) The need for a suitable diet;
(by ready access, where appropriate, to fresh water and a diet to maintain full health)
- c) 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)
- d) Any need to be housed with, or apart from, other animals; and
(by providing the company of an animal of its own kind, where appropriate)
- e) 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).

4.4 Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018

Licensing Conditions and Codes of Best Practice

In promoting the principle of best practice detailed in these Guidelines, the

Council will set general and specific licence conditions as set out in the relevant statute and accompanying guidance. Reference may also be made to the codes of best practice and industry standards produced by organisations such as, but not limited to;

- a) Chartered Institute of Environmental Health
- b) Local Government Association
- c) Secretary of State, Dept. for Environment, Food and Rural Affairs
- d) British Veterinary Association
- e) Royal College of Veterinary Surgeons
- f) National Trade Associations

4.5 In promoting the Council's four licensing principles, general and specific conditions, codes of best practise and industry standards will be considered to be a minimum standard and additional conditions required to promote the "five needs" may be imposed as necessary.

4.6 Licence conditions may be reviewed where best practice codes are periodically reviewed to ensure they reflect current best practice. The Council will write to affected licensees advising them of any revised/new condition, giving them a fair and reasonable time to bring their premises and practices up to the required standard.

4.7 In exceptional circumstances, and if permitted by the relevant statute, a provisional licence may be issued where minor improvements need to be made. In these circumstances, the licence holder will be informed in writing of what action must be taken and the date for compliance. If compliance is not achieved by the prescribed date, the licence will be suspended until such time as compliance is achieved.

5.0 Licensable Activities

5.1 On 1 October 2018 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 come into force. These regulations will replace a number of pieces of existing legislation set to be repealed at the end of 2018 and will provide a new single licensing regime for a number of animal licensing activities. Those undertaking the following activities will need to be licensed under the new regime:

- Selling animals as pets
- Providing or arranging for the provision of boarding for cats or dogs (including day care)
- Hiring out horses
- Breeding dogs
- Keeping or training animals for exhibition

- 5.2 For avoidance of doubt, the above does not currently apply to Animal Rehoming Centres which are registered with the Charities Commission.
- 5.3 The Regulations replace previous licensing and registration regimes under the following legislation:
- Pet Animals Act 1951
 - Animal Boarding Establishments Act 1963
 - Riding Establishments Acts 1964 & 1970
 - Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
 - Performing Animals (Regulation) Act 1925
- 5.4 The Zoo Licensing Act 1981 (as amended) makes provision for the licensing of zoos which members of the public have access for seven days or more within twelve consecutive months, with the objective of the conservation of animals and their welfare.
- 5.5 The Dangerous Wild Animals Act 1976 (as amended) specifies a list of animals that require a licence in order to be kept, to ensure public protection as well as ensuring the health and safety of the species concerned. Information regarding which species require licensing under the Act can be found at **Appendix 1**.
- 5.6 A licence is required where any of the above activities are being carried on in the course of a business, whether the operator makes a sale or carries on the activity with a view to making a profit or earns commission or fee from the activity.
- 6.0 **Applicant Suitability**
- 6.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and associated government guidance require local authorities to consider several factors before issuing or renewing a licence.
- 6.2 The Council will consider the conduct displayed by the applicant / licence holder to ensure that they meet the “fit and proper” test to carry out the proposed licensable activity and meet the conditions attached to the licence.
- 6.3 The term ‘fit and proper’ is not defined in legislation or guidance. For the purpose of these Guidelines, the Council would 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 comply with licence conditions and safeguard the welfare of animals in their care
- made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.

6.5 In the case of renewals we will consider any information received about the operation over the period of the existing licence, the Council will expect licensees to demonstrate appropriate professional conduct at all times, act with integrity and demonstrate the conduct befitting the trust that is placed on them to operate their premises and care for the animals.

6.6 In assessing this requirement the Council will require all applicants for either new licences or renewals to submit a basic disclosure (DBS) with their application, it must be dated no more than 1 calendar month prior to the application date. This requirement will be extended to other persons, if it is intended that they are in charge of the premises and are not the applicant. (i.e. manager). This disclosure can be obtained via :-

Disclosure and Barring Service.

Website:- <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

Email:- customerservices@db.s.gsi.gov.uk

Telephone: 0300 020 0190.

Officers will be able to provide further advice if required.

6.7 In determining suitability of an applicant, the authority may also request information from the police or other local authorities. Such requests will be undertaken in accordance with the provisions of Section 17 of the Crime and Disorder Act 1998, which required that local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can to prevent crime and disorder in their area.

6.8 Schedule 8 of the Regulations is specific in respect of certain convictions, which if held, bar that person from applying for a licence under the regulations. A full list of those offences is contained at **Appendix 2** to this policy.

In reaching a decision on whether or not to issue a licence the Council will consider the inspectors report on the premises and will refuse to grant a licence if it:

- considers the applicant is not capable of meeting the licence conditions
- believes that granting a licence might negatively affect the welfare, health or safety of the animals involved in the activity
- believes the accommodation, staffing or management are inadequate for the animals well-being or for the activity or establishment to be run properly

- is established that the applicant has been disqualified from holding a licence as per Schedule 8 of the regulations.

6.9 Dangerous Wild Animals & Zoos

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 to provide a basic disclosure (DBS) certificate issued within 3 months of the date of application; and
- May request information from Surrey Police under our information sharing agreement about any relevant convictions an applicant may hold.

6.10 Qualifications

Where required, applicants will need to possess appropriate specified qualifications.

6.11 In respect of riding establishments, vocational qualifications are regulated by sector skills councils and, for the equestrian industry, the relevant council is LANTRA. LANTRA determines national occupational standards for its industries and ensures that related vocational certified qualifications are relevant and at an appropriate standard.

6.12 Both the British Horse Society (BHS) grant recognised qualifications to suitable candidates, with the BHSAI (or equivalent) generally accepted as being the necessary minimum level. Other relevant qualifications include Equestrian Tourism Qualifications Ride Leader at appropriate level or Equestrian Tourism Qualifications Centre Manager. It is generally held that the certified qualifications should cover a basic standard in practical horse husbandry; so, whilst an applicant may present a theory-based qualification as evidence of suitability, these are not likely to be sufficient evidence of suitability in isolation if they have little practical content.

6.13 Other equine qualifications such as college diplomas and NVQs may be taken into consideration as proving the suitability of an applicant or manager. The following are considered minimal and equivalent to the above qualifications:

- At least an NVQ Level 3 in Horse Care and Management
- At least a BTEC Level 3 National Diplomas in Horse Management offered by Edexcel
- At least a Level 3 National (Advanced National) Certificate in Management of Horses offered by City & Guilds
- At least a British Horse Society Assistant Instructor Certificate (BHSAI);
- British Equestrian Tourism Ride Leader Qualification
- British Equestrian Tourism Riding Holiday Centre Manager Qualification

- 6.14 The above list is not exhaustive and may grow as other qualifying training courses and examinations become recognised. If the Council is unsure as to an applicant's suitability, it may contact the RCVS Riding Establishments Subcommittee for advice. Association of British Riding Schools (ABRS) tests are not currently recognised by LANTRA.
- 6.15 If a new applicant has no recognised qualifications and is relying on practical experience the Council will obtain references to support the application and the Inspector should assess them. A CV will be requested to ascertain previous relevant responsibilities held by the applicant, in addition to a professional reference from a veterinary surgeon or farrier, and the inspector should keep in mind that the object of the Riding Establishments Acts is to ensure adequate minimum standards of management.
- 6.16 If the management of a riding establishment is to be entrusted to another person by the applicant (such as a manager), the suitability and experience of the manager must also be considered and reported upon.

7.0 **Safeguarding**

- 7.1 The regulations have the aims of maintaining and improving animal welfare standards. However there are other safeguarding considerations arising from licensable activities which the Council has a statutory duty to ensure, in particular surrounding the protection of children and vulnerable persons.
- 7.2 The Council is aware that some licensable activities may involve unsupervised contact with children and/or vulnerable persons. For example the tuition of a young person provided at a Riding Establishment, or entertaining at a children's party with an exhibition of animals.
- 7.3 To this extent, the Council requires applicants and licence holders whose activities involve contact with children or young persons to:
- Have a written safeguarding policy and provide training for staff; and
 - Have an effective procedure for vetting staff who have unsupervised contact with young/vulnerable persons.

8.0 **Application Procedures**

- 8.1 New/Renewal Applications
The Application is to be made via the council's published application forms. An additional fee will be required for more than one activity, please see our website for further information on costs.
- 8.2 Payment for vet inspections where required, will be charged to the applicant.
- 8.3 Applications must be submitted a minimum of 10 weeks prior to renewal or

grant. This is to allow officers time to arrange to consider the application, make enquiries and inspect premises. We will not be able to guarantee processing applications which have been made outside of this window, or have missing documentation.

- 8.4 Written reminders will be sent out by the Council three months prior to renewal of Licence. This will be sent by email where possible.
- 8.5 An application will only be accepted as a valid application if it is accompanied by the correct fee and any relevant documentation required as per the application form and these guidelines.
- 8.6 The Guidance stipulates that once a local authority receives an application for the grant or renewal of a licence it must take the following steps before granting or renewing a licence:
- The Council 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.
 - The Council must inspect the site of the licensable activity and assess if it's likely to meet the licence conditions. The inspection must be completed by 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 (or in accordance with applicable legislation), to be submitted to the local authority 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.
 - 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.
- 8.7 Once a valid application has been received, an appointment will be booked with the applicant to arrange a risk rating assessment /inspection to be conducted of the premises.

9.0 Standards and Conditions

9.1 Animal Welfare (Licensing of Activities Involving) Animals Regulations

DEFRA has produced mandatory conditions and associated guidance for each licensable activity. These are divided into two categories namely General Conditions (stipulated in Schedule 2) and Specific Conditions from the associated Schedule of the Regulations.

9.2 Applicants/licence holders will need to meet the requirements of all the minimum standards, although minor failings may be noted/recorded providing they do not compromise the welfare of the animals (these should be predominantly administrative in nature).

9.3 In addition each licensable activity (with the exception of the keeping or training animals for exhibition) also stipulates further optional conditions for “Higher Standards”.

9.4 For each activity (except keeping or training animals for exhibition) a number of “higher standards” have been agreed. Meeting the higher standards is optional but is the only way to gain the highest star rating. The higher standards are classified into two categories – required (mandatory) and optional. These will usually be colour coded into blue and red respectively. To qualify as meeting the higher standards the business must achieve all the required (mandatory) standards as well as a minimum of 50% of the optional higher standards.

9.5 Dangerous Wild Animals & Zoos

The Council will usually impose Defra’s standard conditions, in addition to any premises/animal specific conditions deemed to be required by the Inspecting Officer/Vet.

9.6 Risk Assessment and Rating

The result of this assessment is translated into a ‘Star Rating System’, which will be used to determine the length of the licence (between one and four years), with the exception of “Keeping or Training Animals for Exhibition” where all licences are issued for three years. Dangerous Wild Animals and Zoos do not require a risk rating.

9.7

Table 1 – The Scoring Matrix

Scoring Matrix	Welfare Standards		
	Minor Failings (existing business that are failing to meet minimum	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)

		standards)		
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

10.0 Determining Applications

10.1 Granting an application

Where a licence is issued the Council will provide the following details:

- the Licence with the Star Rating;
- details of how the business has been rated including a list of the higher standards the business currently fails to meet or a list of the minimum standards the business is failing to meet and resulting in a “minor failing” category;
- a copy of the risk management assessment table;
- details of the appeals process and timescales.

10.2 Any fee(s) required upon the grant of the application must be paid in full prior to the grant of the licence.

10.3 Refusing an application

The Council will consider the report from the inspector and any comments made by the applicant when deciding whether to issue a licence.

10.4 The Council must refuse to issue a licence if it considers that the applicant cannot meet the licence conditions, the granting of a licence will have a negative impact on animal welfare or if the level of accommodation, staffing or management is inadequate for the well-being of animals.

10.5 The Council will also refuse an application if it considers that the applicant does not meet the ‘fit and proper person’ test.

10.6 A licence cannot be issued to an operator who is disqualified.

- 10.7 Any application fees or veterinary inspection fees paid will not be refunded for unsuccessful applications.
- 10.8 The applicant will have the right of appeal to a First-tier Tribunal within 28 days of the decision notice.
- 11 **Transfer, Variation, Suspension and Revocation**
- 11.1 Transfer of Licence
There is no provision for the transfer of a licence under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 11.2 Death of the Licence Holder
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 Council within 28 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.
- 11.3 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.
- 11.4 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.
- 11.5 Variation, Suspension or Revocation of a Licence
The Licensing authority may vary, suspend or revoke a licence without the consent of the licence holder if:
- (a) The licence conditions are not being complied with,
 - (b) There has been a breach of the Regulations,
 - (c) Information supplied by the licence holder is false or misleading,
 - or
 - (d) It is necessary to protect the welfare of an animal.
- 11.6 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.
- 11.7 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.

- 11.8 The decision to vary or suspend a license 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.
- 11.9 If it is necessary to protect the welfare of an animal the local authority may specify in the notice that it takes immediate effect.
- 11.10 A local authority notice must be delivered in one of three ways, in person, by leaving 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.
- 11.11 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.
- 11.12 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 council upon being satisfied that licence conditions are being met or by the First-tier Tribunal who may decide the Council's decision was incorrect.
- 11.13 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.
- 11.14 As with applications the licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the Council. This must be done within 28 days of the decision.
- 11.15 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.

12 **Rating Scheme**

- 12.1 A risk based star rating system has been introduced which ultimately acts as a tool to determine how long a licence may be issued for. The only exception is the activity of “Keeping or Training Animals for Exhibition” where all licences are issued for 3 years. The rating is determined by the animal welfare standards adopted by a business as well as their level of risk, based on elements such as past compliance. The model will be used every time a licence is granted or renewed.
- 12.2 Businesses will be rated from 1 to five stars, based on their risk rating and the results of their inspection (determining if the business meets higher or lower standards). The rating will appear on the licence issued by the local authority.
- 12.3 It is possible for a business to request a re-inspection following improvements being made and an appeal procedure exists against a rating.
- 12.4 To obtain a licence, as a minimum, the business must meet the required minimum standards for the activity/activities applied for. These standards are laid out in the Schedules of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 12.5 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 or renewed or, if already in place, should be suspended or revoked.
- 12.6 Further information relating to the rating process can be found in the procedural guidance for local authorities (see website for further details).
- 12.7 Appeals to star rating
Businesses have 21 days (including weekend and bank holidays) following the issue of their licence in which to appeal the star rating if they consider the star rating awarded does not reflect the licence history and standards found at the time of inspection.
- 12.8 Any business that has made changes since the inspection and wishes for these to be taken into account should apply for a re-score.
- 12.9 Prior to making an appeal, we encourage applicants to discuss their rating with the inspecting officer should they disagree with it. This will afford the

opportunity to explain the process that must be followed and may resolve matters without the business having to lodge an appeal. The business will be provided with the officers' inspection report which will highlight the inspecting officer's decision on how the risk rating, compliance level and star rating has been determined. The business is encouraged to discuss the matter initially with the inspecting officer where possible.

12.10 If an applicant wishes to appeal their rating, this should be done in writing by emailing the licensing team (see contact details at section 1.0). The grounds for appeal must clearly be stated (i.e. the reasons why it is felt that the rating has been applied incorrectly).

12.11 Businesses should not appeal if they have made improvements to their business and wish for those improvements to be reassessed. This should be achieved by application for a re-inspection.

12.12 Appeals will be determined by the Head of Wellbeing or the Public Health & Regulation Manager in consultation with the Chair of Licensing. No officer involved with the inspection or rating will determine an appeal.

12.13 A decision will be issued to the applicant for an appeal within 21 days of receipt of the appeal request.

12.14 The Council 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.

12.15 If a business disagrees with the outcome of the appeal, they can challenge the decision by way of judicial review. The business may also make a complaint via the council's corporate complaints procedure if they consider a council service has not been properly delivered.

13 **Inspectors**

13.1 All inspectors must be suitably qualified. This is defined in the Guidance 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 certain 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;

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

14 **Inspections**

- 14.1 There will be reasons where inspections must be carried out during the term of a licence.
- 14.2 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.
- 14.3 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.
- 14.4 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.

15 **Enforcement**

- 15.1 The Regulations introduce 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; there is a breach of the regulations or issues relating to the protection of the welfare of an animal.
- 15.2 The service of an enforcement notice is subject to a strict process and includes for the provision of the right to representation and appeal.
- 15.3 It is an offence to breach any license 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.

- 15.4 It is also an offence to obstruct an inspector who has been appointed by a council to enforce the Regulations. Committing either of these offences could result in an unlimited fine.
- 15.5 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.
- 15.6 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.
- 15.7 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.
- 15.8 The Council works closely with partners in accordance with a locally established joint enforcement protocol and will aim to promote the welfare of animals and safety of the public.
- 15.9 The main enforcement and compliance role for the council in terms of the Regulations will be to ensure compliance with the conditions placed upon the licence and investigate and take appropriate action on unlicensed premises.
- 15.10 In carrying out its enforcement duties with regards to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council's Public Health & Regulation Team has adopted an enforcement policy, which is available on <https://www.adur-worthing.gov.uk/media/media,97402,en.pdf>

16 **Information Sharing**

- 16.1 In the interests of protecting public safety, the safety and wellbeing of animals and ensuring fitness and propriety of licence holders the licensing authority will share information with other enforcement agencies including the RSPCA, police and other local authorities. Information may also be shared with internal council departments including community safety, revenues and benefits and planning. The Council may also share information with other local authorities. All information will be exchanged in accordance with relevant statute as the law permits.

17 **Fees**

- 17.1 Fees in relation to these schemes are calculated on a cost recovery basis. Applicants and licence holders will also be required to pay vets fees for inspections, where this is required.
- 17.2 Fees payable consist of an application fee and a compliance fee. Both must be paid in total together, and the latter part of the fees will be refunded where an applicant is unsuccessful. Licences will not be issued until the full fee has been paid, including vets fees where applicable.
- 17.3 Applicants for licences under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 that require permission for more than one licensable activity should note that an additional fee will be due. Please see our website for further information.
- 17.4 If the licence is approved, any additional fees required (vet's fees etc.) must be paid before the licence can be granted or renewed. If the licence is not approved, the licensing authority will refund part A of the application fee.

18 **Primary Authority**

- 18.1 Primary Authority enables local authorities to improve compliance and build better relationships with big businesses that have branches across a large number of areas whilst supporting local economic growth. Under Primary Authority, a local authority partners with a business or group of businesses to provide them with regulatory advice that other authorities have to respect.
- 18.2 Primary Authority establishes statutory duties for all local authorities when they exercise regulatory functions that are within scope of the scheme in respect of any business that has a primary authority. These duties relate primarily to:
- Following an inspection plan for the business, where one has been issued by the primary authority, and providing any feedback required.
 - Notifying the primary authority of enforcement action in relation to the business.
- 18.3 The Council will consult the secure Primary Authority Register to identify if the business has a partnership in place, and will ensure that their officers have sufficient understanding of the responsibilities of an enforcing authority within Primary Authority.

APPENDIX 1 - KINDS OF DANGEROUS WILD ANIMALS REQUIRING A DWA LICENCE

<i>Scientific name of kind</i>	<i>Common name or names</i>
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MAMMALS

Marsupials

Family Dasyuridae: The species <i>Sarcophilus lanarius</i> .	The Tasmanian devil.
Family Macropodidae: The species <i>Macropus fuliginosus</i> , <i>Macropus giganteus</i> , <i>Macropus robustus</i> and <i>Macropus rufus</i> .	The western and eastern grey kangaroos, the wallaroo and the red kangaroo.

Primates

Family Cebidae: All species except those of the genera <i>Aotus</i> , <i>Callicebus</i> and <i>Saimiri</i> .	New-world monkeys (including capuchin, howler, saki, uacari, spider & woolly monkeys). Night monkeys (also known as owl monkeys), titi monkeys and squirrel monkeys are excepted.
Family Cercopithecidae.	Old-world monkeys (including baboons, the drill, colobus monkeys, the gelada, guenons, langurs, leaf monkeys, macaques, the mandrill, mangabeys, the patas and proboscis monkeys and the talapoin).
Family Hominidae: All species except those of the genus <i>Homo</i>	Anthropoid apes; chimpanzees, bonobos, orang-utans and gorillas.
Family Hylobatidae.	Gibbons and Siamangs.
Family Indridae: All species of the genera <i>Propithecus</i> and <i>Indri</i> (<i>Avahi laniger</i> is excepted).	Leaping lemurs (including the indri and sifakas). The woolly lemur is excepted.
Family Lemuridae: All species except those of the genus <i>Hapalemur</i> .	Large lemurs. Bamboo or gentle lemurs are excepted.

Edentates

Family Dasypodidae: The species <i>Priodontes maximus</i> .	The giant armadillo.
Family Myrmecophagidae: The species <i>Myrmecophaga tridactyla</i> .	The giant anteater.

Carnivores

Family Canidae: Includes all species of the genera <i>Canis</i> , <i>Chrysocyon</i> , <i>Cuon</i> , <i>Lycaon</i> and <i>Speothos</i> except the species <i>Canis familiaris</i> but including <i>Canis familiaris dingo</i> .	Wild dogs, wolves, jackals, maned wolf, bush dog, dhole. The domestic dog (but not the dingo) is excepted.
Family Felidae: All except the species <i>Felis silvestris</i> , <i>Otocolobus</i>	All cats including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval,

<i>Scientific name of kind</i>	<i>Common name or names</i>
<i>manul, Leopardus tigrina, Oncifelis geoffroyi, Oncifelis guigna, Catopuma badia, Felis margarita, Felis nigripes, Prionailurus rubiginosus, Felis silvestris catus.</i> A hybrid the ancestry of which is predominantly <i>Felis silvestris catus</i> and which does not have a kind of animal specified in this column as a parent is also excepted.	tiger. The wild cat, the pallas cat, the little spotted cat, the Geoffroy's cat, the kodkod, the bay cat, the sand cat, the black-footed cat, the rusty-spotted cat and domestic cat are excepted. A hybrid cat whose ancestry comprises predominantly the domestic cat is also excepted provided that neither parent of the hybrid is a species listed in the left hand column.
Family Hyaenidae: All except the species <i>Proteles cristatus</i> .	Hyænas. The aardwolf is excepted.
Family Mustelidae: All species of the genera <i>Amblonyx, Arctonyx, Aonyx, Enhydra, Lontra, Melogale, Mydaus, Pteronura</i> and <i>Taxidea</i> . The genus <i>Lutra</i> except the species <i>Lutra lutra</i> The species <i>Eira barbara, Gulo gulo, Martes pennanti</i> and <i>Mellivora capensis</i> .	Badgers (except the Eurasian badger), otters (the European otter is excepted) and the tayra, wolverine, fisher and ratel (otherwise known as the honey badger).
Family Ursidae: All species including the species <i>Ailuropoda melanoleuca</i> and <i>Ailurus fulgens</i> .	All bears including the giant panda and the red panda.
Family Viverridae: All of the genus <i>Civettictis</i> . All of the genus <i>Viverra</i> including the species <i>Cryptoprocta ferox</i> .	The African, large-spotted, Malay and Indian civets and the fossa.

Pinnipedes

Family Odobenidae: All species.	The walrus.
Family Otariidae: All species.	Eared seals.
Family Phocidae: All except the species <i>Phoca vitulina</i> and <i>Halichoerus grypus</i> .	True or earless seals. The common seal (or harbour seal) and grey seal are excepted.

Elephants

Family Elephantidae: All species.	Elephants.
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Aardvark

Family Orycteropodidae: The species <i>Orycteropus afer</i> .	The aardvark.
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Odd-toed ungulates

Family Equidae: All species except <i>Equus asinus</i> and <i>Equus caballus</i> .	Asses, horses and zebras. The donkey and domestic horse are excepted.
Family Rhinocerotidae: All species.	Rhinoceroses.
Family Tapiridae: All species.	Tapirs.

Scientific name of kind	Common name or names
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Even-toed ungulates

Family Antilocapridae: The species <i>Antilocapra Americana</i> .	The pronghorn.
Family Bovidae: All species except any domestic form of the genera <i>Bos</i> , <i>Bubalus</i> , <i>Capra</i> and <i>Ovis</i> .	Antelopes, bison, buffalo, gazelles, goats and sheep. Domestic cattle, buffalo, goats and sheep are excepted.
Family Camelidae: All species of the genera <i>Camelus</i> .	Camels.
Family Cervidae: All species of the genera <i>Alces</i> and <i>Rangifer</i> , except any domestic form of the species <i>Rangifer tarandus</i> .	The moose or elk and the caribou or reindeer. The domestic reindeer is excepted.
Family Giraffidae: All species	The giraffe and the okapi.
Family Hippopotamidae: All species.	The hippopotamus and the pygmy hippopotamus.
Family Suidae: All species except any domestic form of the species <i>Sus scrofa</i> .	Old-world pigs (including the wild boar and the wart hog). The domestic pig is excepted.
Family Tayassuidae: All species.	New-world pigs (otherwise known as peccaries).

Hybrids

Any hybrid of a kind of animal specified in the foregoing provisions of this column where one parent is, or both parents are, of a kind so specified.	Any mammalian hybrids with a parent (or parents) of a specified kind.
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BIRDS

Cassowaries

Family Casuariidae: All species.	Cassowaries.
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Ostrich

Family Struthionidae: All species.	The ostrich.
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REPTILES

Crocodilians

Family Alligatoridae: All species.	Alligators and caimans.
Family Crocodylidae: All species.	Crocodiles and the false gharial.
Family Gavialidae: All species.	The gharial (otherwise known as the gavial).

Lizards and snakes

Family Atractaspididae: All species of the genera <i>Atractaspis</i> .	Burrowing asps, also known as mole or burrowing vipers and stiletto snakes.
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Scientific name of kind	Common name or names
Family Colubridae. All species of the genera <i>Malpolon</i> , <i>Thelotornis</i> . The species <i>Boiga irregularis</i> , <i>Dispholidus typus</i> , <i>Rhabdophis subminiatus</i> , <i>Rhabdophis tigrinus</i> , <i>Elapomorphus lemniscatus</i> , <i>Philodryas olfersii</i> , <i>Tachymenis peruviana</i> , <i>Xenodon severus</i> .	Certain rear-fanged venomous snakes, Montpellier snakes, African twig, vine, bird or tree snakes, the boomslang, the red-necked keelback, the yamakagashi (otherwise known as the Japanese tiger-snake), the Argentine black-headed snake, the South American green racer, the Peruvian racer, the Amazon false viper.
Family Elapidae: All species. Family Hydrophiidae: All species.	Certain front-fanged venomous snakes including cobras, coral snakes, the desert black snake, kraits, mambas, sea snakes and all Australian poisonous snakes (including the death adders).
Family Helodermatidae: All species.	The gila monster and the (Mexican) beaded lizard.
Family Viperidae: All species.	Certain front-fanged venomous snakes (including adders, the barba amarilla, the bushmaster, the fer-de-lance, moccasins, rattlesnakes and vipers).

INVERTEBRATES

Spiders

Family Ctenidae: The genus <i>Phoneutria</i> .	Wandering spiders.
Family Hexathelidae: The genus <i>Atrax</i> .	The Sydney funnel-web spider and its close relatives.
Family Sicariidae: The genus <i>Loxosceles</i> .	Brown recluse spiders (otherwise known as violin spiders).
Family Theridiidae: The genus <i>Latrodectus</i> .	The widow spiders and close relatives.

Scorpions

Family Buthidae: All species	Buthid scorpions.
Family Hemioscorpiidae: All species of the species <i>Hemiscorpius lepturus</i> .	Middle Eastern thin-tailed scorpion."

APPENDIX 2 - Persons who may not apply for a licence

1. A person who has at any time held a licence which was revoked under regulation 15 of these Regulations.
2. A person who has at any time held a licence which was revoked under regulation 17 of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.
3. A person who has at any time held a licence which was revoked under regulation 13 of the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012.
4. A person who is disqualified under section 33 of the Welfare of Animals Act (Northern Ireland) 2011.
5. A person who has at any time held a licence which was revoked under regulation 12 of the Welfare of Racing Greyhounds Regulations 2010.
6. A person who is disqualified under section 34 of the Act.
7. A person who is disqualified under section 40(1) and (2), of the Animal Health and Welfare (Scotland) Act 2006.
8. A person who is disqualified under section 4(1) of the Dangerous Dogs Act 1991.
9. A person who is disqualified under Article 33A of the Dogs (Northern Ireland) Order 1983.
10. A person who is disqualified under section 6(2) of the Dangerous Wild Animals Act 1976 from keeping a dangerous wild animal.
11. A person who is disqualified under section 3(3) of the Breeding of Dogs Act 1973 from keeping a breeding establishment for dogs.
12. A person who is disqualified under section 4(3) of the Riding Establishments Act 1964 from keeping a riding establishment.
13. A person who is disqualified under section 3(3) of the Animal Boarding Establishments Act 1963 from keeping a boarding establishment for animals.
14. A person who is disqualified under section 5(3) of the Pet Animals Act 1951 from keeping a pet shop.
15. A person who is disqualified under section 1(1) of the Protection of Animals (Amendment) Act 1954 from having custody of an animal.
16. A person who is disqualified under section 4(2) of the Performing Animals (Regulation) Act 1925.
17. A person who is disqualified under section 3 of the Protection of Animals Act 1911 from the ownership of an animal.