

Hastings Borough Council

Animal Licensing Policy

March 2019

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Consultees

In developing this policy the Council has given consideration to statutory guidance issued by the Department for Environment, Food and Rural Affairs, and worked closely with Licensing Officers from across Sussex. A Sussex Licensing Officer Working Group was formed to develop a draft policy template for use by all Sussex Licensing Authorities, and they consulted with bodies such as the RSPCA, and the British Veterinary Association.

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 XX XX XX.

1.0 **How to contact us:**

1.1 All correspondence should be sent to licensing@hastings.gov.uk or:

Hastings Licensing Team,
Operational Services Directorate
Muriel Matters House,
Breeds Place,
Hastings,
TN34 3UY

If you would like to see a licensing officer you will need to make an appointment by contacting licensing@hastings.gov.uk or calling 01424 451024.

2.0 **Introduction**

2.1 In carrying out its regulatory functions, Hastings Borough Council will have regard to this policy in its capacity as Licensing Authority, 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 Hastings Borough Council is the Licensing Authority for the purposes of discharging functions in accordance with the above mentioned legislation, and is responsible for considering applications and administering a licensing regime in respect of activities that are identified as licensable by the Regulations and Acts.

2.3 Hastings Borough Council

Hastings Borough Council is one of five districts and boroughs which make up East Sussex. Covering a mainly urban environment, comprising of Hastings and St Leonards on Sea. Whilst not the largest district in terms of size in East Sussex, it has a large population of about 90,000 concentrated in a relatively small area. It is one of the most socio-economically deprived local authority areas in the country.

The area attracts a large number of visitors many of which are day visitors, the main attractions being its association with 1066 country, being an original cinque port and a specialist sea side destination. As a result tourism is an important facet of the local economy.

2.4 Minor amendments

Minor changes to policy may be made by officers without consultation. This includes amendment of appendices.

From time to time it may be necessary to make minor amendments to this policy in the light of amended legislation and/or statutory guidance, legal case precedents, or other local determinants. Where this is necessary amendments will be drafted by the council's Licensing Manager and submitted for consideration and agreement by the Assistant Director for Environment and Place in consultation with the Lead Member for Environment and Equalities. Amendments of this nature will be made without recourse to the council's cabinet and full council.

3.0 **Aims and Objectives**

3.1 The aim of these guidelines is to ensure that the Licensing Authority and licence holders (and other relevant persons) are familiar with how the animal licensing regimes will be administered within the borough. 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 The policy aims to achieve the following objectives:

- 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 this policy 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;
(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, Department for Environment, Food and Rural Affairs (DEFRA)
- d) British Veterinary Association
- e) Royal College of Veterinary Surgeons
- f) National Trade Associations
- g) DEFRA.

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 came into force. These regulations replaced a number of pieces of existing legislation repealed at the end of 2018 and provided 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 rescue centres.

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 on the council's web pages.

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 this policy, 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.
- 6.4 Each authority can request such information as they reasonably consider necessary to enable them to determine whether the licence should be granted or not or whether special conditions should be attached to any such licence. This will include the suitability of the site for the proposed licensable activities, any previous experience or training undertaken by the applicant or staff they intend to employ at the premises and any other matter considered by the Council as appropriate in respect of the licence(s) applied for.
- 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 and barring service check (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. (For example a 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 A to this policy.

In reaching a decision on whether or not to issue a licence the Licensing Authority will consider the inspector's 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 and 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 1 month of the date of application; and
- May request information from the 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 The British Horse Society (BHS) grant recognised qualifications to suitable candidates, with the British Horse Society Assistant Instructor (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 and 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 Licensing Authority is unsure as to an applicant's suitability, it may contact the Royal College of Veterinary Surgeons (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 would expect 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 a 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 Licensing Authority's published application forms. An additional fee will be required for more than one activity, please see our website for further information on fees.

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 time period, or which are incomplete due to 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 all relevant documentation required in accordance with this policy.

8.6 The Guidance stipulates that once a Licensing 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 Licensing 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, and an inspection of the premises.

9.0 **Standards and Conditions**

9.1 Animal Welfare (Licensing of Activities Involving) Animals Regulations 2018

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

10.4 The Licensing Authority 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 Licensing Authority 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.
- 11.0 **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 Licensing Authority 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 Licensing 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 the Licensing Authority 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 the Licensing Authority deems 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 Licensing Authority may specify in the notice that it takes immediate effect.
- 11.10 A Licensing 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 the Licensing Authority 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 the Licensing Authority 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 Licensing Authority upon being satisfied that licence conditions are being met, or by the First-tier Tribunal who may decide the Licensing Authority's decision was incorrect.
- 11.13 If a licence is suspended for a significant period of time then the Licensing 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 Licensing Authority. 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 Licensing 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.

12.0 **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 Licensing 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/renewed or, if already in place, should be suspended or revoked.

- 12.6 Further information relating to the rating process can be found on the council's web pages.

- 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, applicants are encouraged 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 1.1). 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 an application for a re-inspection.
- 12.12 Appeals will be determined by the Licensing Manager or their appointed deputy, or by an equivalent person in another Licensing Authority. No officer directly 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 if receipt of the appeal request.
- 12.14 The Licensing Authority will determine the outcome of an appeal by considering the paperwork associated with the inspection and the past record of the business. In some circumstances, a further visit to the establishment may be required. The appeal process should be transparent. The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.
- 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.

13.0 **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.

14.0 **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 Licensing 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.

15.0 **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 Licensing Authority 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 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 locally established joint enforcement protocols 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 has adopted an enforcement policy, which is available on www.hastings.gov.uk
- 16.0 **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 environmental health, 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.

17.0 **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 may be paid in total together and the latter part of the fees will be refunded where an applicant is unsuccessful. If an applicant prefers, the fee may be paid in two parts. Licences will not be issued until the full fee has been paid, this inclusive of 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 the council's website for further information.

17.4 If the licence is approved, any additional fees required (longer licence, 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.

18.0 **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.