

New Animal Licensing Regulations Seminar

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Introduction

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on the 1st of October 2018

This new legislation has now replaced all pre existing legislation covering animal licensing. This included business that operated licences under the following Acts;

- ▶ Performing Animals (Regulation) Act 1925
- ▶ Pet Animals Act 1951
- ▶ Animal Boarding Establishments Act 1963
- ▶ Riding Establishments Act 1964
- ▶ Breeding of Dogs Act 1973

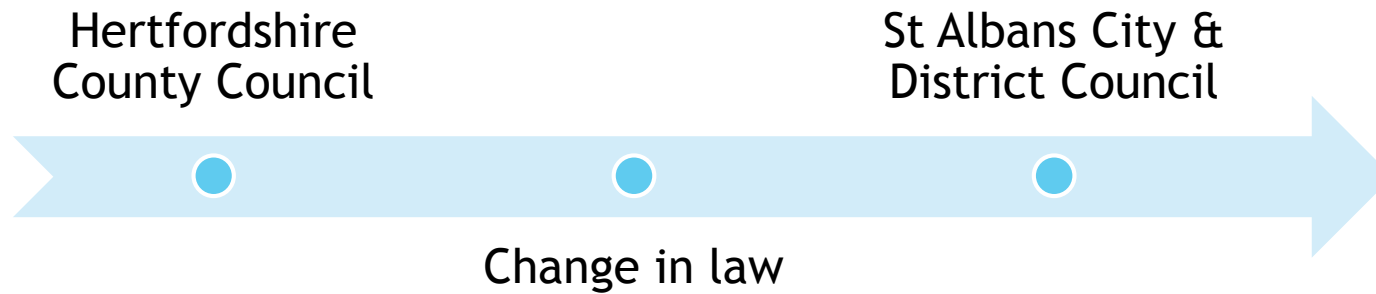
The new regulations have now incorporated the animal related licensable activities under one licence.

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

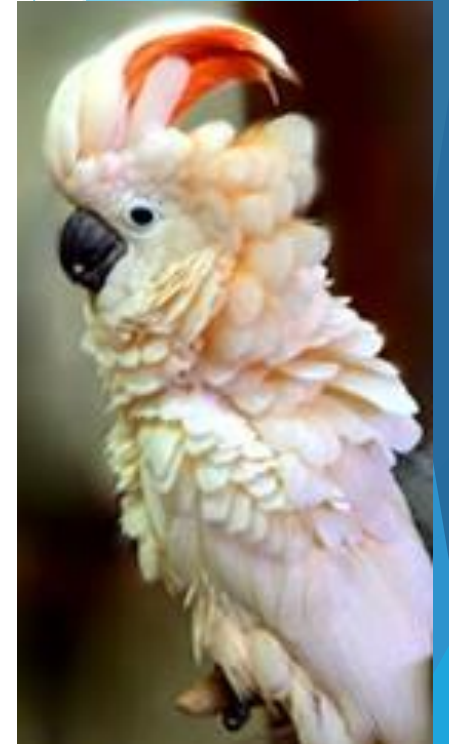
- ▶ Selling animals as pets (Pet shops)
- ▶ Providing or arranging for the provision of boarding for cats or dogs (Homeboarding and Commercial establishments)
- ▶ Hiring out horses (Riding Establishments)
- ▶ Breeding dogs
- ▶ Keeping or training animals for exhibition (Performing animals)

Performing Animals - Keeping or training animals for exhibition

- ▶ There is now a change of licensing authority from County to District for the consideration of licences for performing animals.



- ▶ Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from the 1st of October 2018, which was when these Regulations came into force.
- ▶ Therefore, any current registrations for performing animals will expire on the 1st of April 2019.



The main purpose of the Animal Welfare Act aims to ensure that animals are not mistreated.

- ▶ Statutory guidance made under the legislation introduced the 5 freedoms of animal welfare which are;
 1. For a suitable environment (place to live)
 2. For a suitable diet
 3. To be housed with or apart from other animals
 4. To be protected from pain, suffering, injury and disease
 5. To exhibit normal behavior patterns

Main changes

- ▶ It is one generic licence covering one or more of the 5 animal activities
- ▶ There is improvement in the animal welfare standards
- ▶ 1 to 5 star risk rating scheme based on whether;
 - the business meets the minimum standards
 - the business meets the higher standards
 - the business is low or higher risk
- ▶ The inspections and administration to be potentially reduced as up to 3 year licence can be granted
- ▶ It allows businesses the opportunity to operate to higher standards (the higher standards outlined in specific guidances)
- ▶ There is statutory guidance is available for all specific animal activities

Business test

Do you require a licence?

Schedule 1 - Part 1

Each animal activity has an **in** and **out** of scope criteria of what is considered a business.

The regulations specify two example business tests to be considered when determining whether an activity is considered commercial therefore within scope and requiring a licence.

The local authority must take into account in determining whether the activity in the course of a business being carried on by the operator;

- ▶ (a) makes any sale by, or otherwise carries on, the activity with a view to making a profit, or
- ▶ (b) earns any commission or fee from the activity.

Business Test Schedule 1

Part 2 - Selling animals as pets

- ▶ If you are selling animals as pets (or later resold as pets) in the course of a business including the keeping of animals with a view selling/reselling, you will require a licence.
- ▶ **Excludes:** selling animals in the course of an aqua cultural production business authorised under the Aquatic Animal Health (England and Wales) Regulations 2009

Out of scope
therefore no
requirement of a
licence



Business Test

Schedule 1

Part 3 - Providing or arranging for the provision of boarding for cats or dogs

- ▶ Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation has a purpose of;
 - ▶ (a) providing boarding for cats;
 - ▶ (b) providing boarding in kennels for dogs;
 - ▶ (c) providing home boarding for dogs; or
 - ▶ (d) providing day care for dogs.
- ▶ **Excludes:**
 - ▶ Domestic home boarding for cats, Keeping animals under the Animal Health Act 1981, Animals kept by a vet or dog groomer, pet sitting



Business Test

Schedule 1

Part 4 - Hiring out horses

- ▶ You will require a licence if you are hiring out horses in the course of a business for either or both of the following purposes—
 - ▶ riding;
 - ▶ instruction in riding.
- ▶ **Excludes;**
 - ▶ Hiring horses for military or police purposes, or the involvement of instruction of university students as a part of a veterinary degree course recognized under section 3 of the Veterinary Surgeons Act 1966.

Out of scope therefore no requirement of a licence



Business Test

Schedule 1

Part 5 - Breeding dogs

- ▶ Either or both of the following require a licence —
- ▶ (a) breeding three or more litters of puppies in any 12-month period;
- ▶ (b) breeding dogs and advertising a business of selling dogs

Excludes:

- ▶ Dogs kept under the Animal Health Act 1981
- ▶ Breeding only assistance dogs
- ▶ Breeding three or more litters of puppies in any 12-month period if the person carrying on the activity provides documentary evidence that none of them have been sold (whether as puppies or as adult dogs).

Out of scope therefore no requirement of a licence



Business Test

Schedule 1

Part 6 - Keeping or training animals for exhibition

- ▶ Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes—
- ▶ (a) to any audience attending in person, or
- ▶ (b) by the recording of visual images of them by any form of technology that enables the display of such images.

▶ Excludes:

- ▶ keeping or training animals solely for military, police or sporting purposes
- ▶ any activity permitted under a licence to operate a travelling circus under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012
- ▶ any activity permitted under a licence for a zoo under the Zoo Licensing Act 1981

Out of scope therefore no requirement of a licence

“Animals” does not include invertebrates

“Exhibit” exhibit at any entertainment which the public are admitted whether on payment of money or otherwise

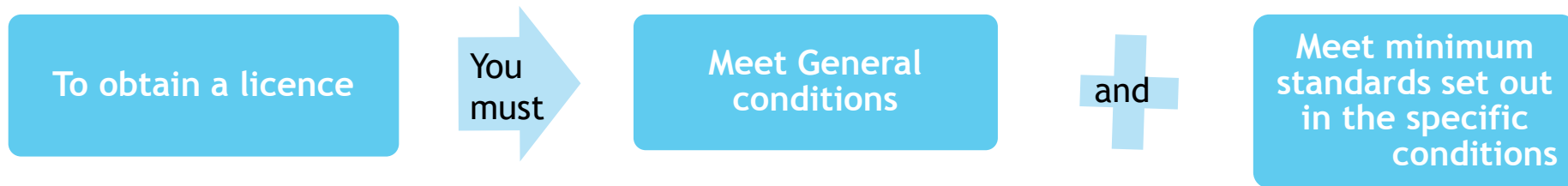
“Train” means train for the purpose of such exhibition

Meeting minimum standards

- ▶ To obtain a licence for a single activity by meeting the minimum standards you must meet;

- 1) The general conditions in Schedule 2 and
- 2) the minimum standards set out in the specific conditions of Schedules 3-7 of the Regulations for each type of animal activity. You will only be able to obtain up to a maximum of a 3 star rating by only meeting the minimum standards

Additional information on how to meet these standards for each activity are outlined in the relevant specific guidance documents.



Example of how the schedule's look

SCHEDULE 2 General conditions

Regulation 2

Licence display

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

Records

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

Use, number and type of animal

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

Staffing

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.



SCHEDULE 5 Specific conditions: hiring out horses

Regulation 2

Interpretation

1. In this Schedule, “client” means a person for whose use a horse is hired out.

Eligibility

2.—(1) The licence holder must—

- (a) hold an appropriate formal qualification, or have sufficient demonstrable experience and competence, in the management of horses, and
- (b) hold a valid certificate of public liability insurance which—
 - (i) insures the licence holder against liability for any injury sustained by, and the death of, any client, and
 - (ii) insures any client against liability for any injury sustained by, and the death of, any other person, caused by or arising out of the hire of the horse.

(2) The certificate mentioned in sub-paragraph (1)(b) must be clearly and prominently displayed on the premises.

Supervision

3.—(1) The activity must not at any time be left in the charge of a person aged under 18 years.

(2) No horse may be hired out except under the supervision of a person aged 16 years or more unless the licence holder is satisfied that the person hiring the horse is competent to ride without supervision.

(3) The following must be clearly and prominently displayed on the premises—

- (a) the full name, postal address (including postcode) and telephone number of the licence holder or other person with management responsibilities in respect of the activity;
- (b) instructions as to the action to be taken in the event of a fire or other emergency.

Meeting higher standards

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

To obtain a higher star rating

You must

Meet required higher standards

and

Meet minimum 50% of the optional higher standards

How **required** and **optional** higher standards look:

Guidance for conditions providing home boarding for dogs

Required

- There must be a designated other person or member of staff who can cover any emergency or absence of leave so that the dogs are never left alone.
- There must be a clear plan setting out two walks per dog each day for a minimum of 20 minutes each. There must be an alternative form of enrichment planned for dogs which cannot be exercised for veterinary reasons for the same periods of time.
- Dogs must be exercised at least twice per day. Each dog must have a written daily exercise regime including lead exercise and free running in a secure area. There must be an alternative form of enrichment planned for dogs which cannot be exercised for veterinary reasons for the same periods of time.

Optional

- A person responsible for the care of the dogs with a relevant OFQUAL regulated Level 3 qualification must be present during the working day.
- Any outside space will have two secure physical barriers between any dog and any entrance/exit.

Higher standards for home boarding for dogs on page 28 on the guidance notes for conditions for providing home boarding for dogs

Different higher standards apply to different animal activities which will be in each of the guidance notes

Application process

- ▶ Current licences continue in force for the remainder of their term
- ▶ There are now statutory applications available on our website to be completed for new or existing applicants.
 1. The 'Standard Applicant Profile Section 1' form first
 2. Followed by your selected choice of activity form(s)
 3. Lastly the 'Standard Declaration Section'
- ▶ As the new fees are to be approved and set at full council on the **5th of December 2018**, the council will continue to accept applications, relevant documents and conduct inspections until this date.
- ▶ Payment of fees can be made after the fees are set from this date. Once fees for applications are received by the council, licences will then be issued.
- ▶ Any applications submitted after the 5th of December 2018 will need to be accompanied with the correct documentation and fee.

Application process

- ▶ The council are happy to accept renewal applications 10 weeks prior to the licence expiration date.
- ▶ Licences can be varied, revoked or suspended
- ▶ There is an appeals process if there is a refusal to grant or renew a licence
- ▶ The Local Authority may vary the licence at any time with the consent of the licence holder
- ▶ The fees set are based on cost recovery including the inspections.

What are the current fees?

- ▶ The following fees were approved at committee on 23rd October 2018. These fees have therefore been recommended to full Council on 5th December 2018 for final approval;
- ▶ Proposed Fees for Animal Licensing Grant/Renewal

Home Boarding for Dogs	£155
Provision of Day Care for Dogs	£155
Boarding in Kennels/Cattery	£215
Breeding Dogs + Vet fees re-charged at cost	£247
Hiring out Horses + Vet fees re - charged at cost	£270
Pet Shop	£203
Keeping or Training Animals for Exhibition	£164
Re-Rating Inspection	£50
Additional Inspection (2year/3 year licence)	£75
Variation/Transfer Fee + Vet fees recharged at cost	£50

Breakdown of the fee

What the fee covers

- ▶ Regulations set out what a local authority may charge fees for:
 1. The costs of consideration of an application, including any inspection relating to that consideration;
 2. The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject to. This includes the costs of any further inspections related to compliance;
 3. The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
 4. The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

Suspension, variation or revocation of a licence

- ▶ A local authority may at any time vary (change) a licence;
 - On the application in writing to the licence holder, or
 - with the consent in writing to the licence holder.
- ▶ A local authority may suspend, vary or revoke a licence **without** the consent of the licence holder if:
 - The licence conditions are not being complied with,
 - There has been a breach of the Regulations,
 - Information supplied by the licence holder is false or misleading, or
 - It is necessary to protect the welfare of an animal.
- ▶ 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 the decision has **immediate effect**.

How long licences last:

Performing animals

- ▶ For the activity of “Keeping or Training Animals for Exhibition”, all licences are for three years on the basis that these activities having been previously subject to a simple registration system.
 - ▶ There is no risk assessment applied



How long licences last

New applicants:

- ▶ If a new applicant is successful, they will automatically be considered as high risk due to a lack of history. This is because they are considered as someone who has no compliance history with a local authority or is not UKAS accredited
- ▶ The length of the licence is determined by their risk rating (starting automatically as high risk) and whether they are already meeting the specified higher standards of animal welfare or the minimum required
- ▶ The highest star rating a new applicant can receive is up to 4 stars granting them a 2 year licence with a minimum of 1 unannounced visit within the 24 month period
- ▶ The lowest star rating a new applicant can receive is a 1 star with a minimum of 1 unannounced visit within a 12 month period

Certification by a UKAS-accredited body

- ▶ Any business that is certified by a UKAS-accredited body and has three or more years of compliance history with this body can be considered low risk and receive the higher star ratings (unless there is significant evidence of poor animal welfare or non-compliance)
- ▶ This is because the welfare and risk management systems have been reviewed by an accredited third party.
- ▶ Establishments that are certified by a UKAS accredited body, such as the Kennel Club's Assured Breeders Scheme, will be regarded as low risk and will therefore qualify for a longer licence.



How long licences last for: existing licence holders

- ▶ If an **existing licence holder** is applying for the renewal of a licence, then the length of time the licence is granted for will be determined by their risk rating and the licence length can be up to three years.
- ▶ Those with longer licences will receive fewer inspections because inspections tend to be on renewal, and therefore they will pay less for inspection fees as a result.
- ▶ The maximum star rating is 5 stars, which would allow for a 3 year licence, with a minimum of 1 unannounced visit within a 36 month period.
- ▶ Vet inspections for riding schools:
- ▶ 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 will appoint a listed veterinarian to inspect the premises before the end of the first year after the licence is granted and then each subsequent year.

Risking rating scoring matrix:

What an inspector will use to determine the star rating:

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

Existing licence holders or UKAS accredited can be considered from low risk onwards

New applicants are automatically considered higher risk therefore can gain up to a 4 star rating

How a risk score is calculated

Table 2 – Risk Scoring Table

	Low (Score1)	High (Score 2)	Score
Compliance History - inspections	Documented evidence from formal inspections over the previous three years reveal consistent and high levels of compliance in terms of welfare standards and risk management.	Formal inspections over the previous three years reveal some degree of non-compliance that has required the intervention of the inspector for the business to ultimately recognise and address these. More serious breaches would attract other enforcement action: suspension, revocation, prosecution.	
Compliance History – follow up action	No evidence of follow-up action by local authority in the last year apart from providing the licence holder with a copy of the inspection report, or sending them a letter identifying some minor, administrative areas for improvement (e.g. minor record keeping issues).	Follow up action by the local authority, such as sending them letters, triggered by low level non-compliance that is not addressed, or the business does not recognise the significance of the need to address the non-compliance.	
Compliance History – re-inspection	No re-inspection necessary (apart from standard unannounced inspection) before next planned licence inspection / renewal	Re-inspection necessary to ensure compliance.	

Score of 17 or less = Low risk
Score of 18 or more = High risk

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

The inspector will score the business based on the questions from the risk scoring table.

The full breakdown of this table is on pages 19-21 of the procedural guidance.

You will either be given a score of 1 or 2 for each check.

Re rating and Appeals

- ▶ Businesses may also be re-rated following an unannounced or additional inspection (e.g. following a complaint), if major issues are highlighted that require follow up action.

Appealing the star rating given at the inspection:

- ▶ You may appeal the star rating given during your inspection (via writing in or email). Can be informally discussed before lodging the appeal
- ▶ There is 21 days (including weekends and bank holidays) following the issue of the licence in which to formally appeal the star rating.

There is a separate fee for a re rating inspection if you wish to be re-scored

- ▶ This can be an opportunity for a business to change their star rating if they have subsequently made the necessary improvements to address non-compliances identified during the local authority's previous inspection.

Scores for businesses with multiple activities

- ▶ Where businesses have a licence for multiple activities, an overall score is given.
- ▶ The licence holder will receive only one rating, which must cover all the activities.
- ▶ Where they are meeting different standards for different activities (e.g. meeting the higher standards for boarding for cats, but the minimum standards for dog boarding), the overall score should reflect the lower of the two.
- ▶ Therefore, as different conditions apply to different activities, all conditions will still need to be met to the minimum standards.

Frequently asked questions

Will I need two licences if I am boarding dogs for both day care and overnight at my home?

- ▶ If you apply for a licence under **home boarding for dogs**, you will be covered for looking after dogs both day and night. You will be subject to all the conditions outlined under the specified activity you are applying for.

What does it mean by 'individual sleeping area' stated in the 'home boarding for dogs' activity?

- ▶ Each dog or dogs from the same family unit must have access to a separate room for itself, where it can sleep, go to hide, and be kept separate from other dogs. This includes any dogs kept permanently on the premises. Separate bedding will also need to be provided.
- ▶ The following are NOT acceptable rooms or spaces:
 - ▶ A conservatory
 - ▶ A bathroom / lavatory
 - ▶ Hallway
 - ▶ Garage (unless converted to current standards for human habitation)
 - ▶ Cupboard
 - ▶ Cellar (unless converted to current standards for human habitation)
 - ▶ Loft (unless converted to current standards for human habitation)
 - ▶ Balcony
 - ▶ An outside building, structure or shed

Frequently asked questions

- ▶ If you have your own dog(s), will this affect the licence?
- ▶ All dogs that already reside within the private dwelling will be subject to the conditions outlined within the specific licence activity you are applying for, this therefore also means that a separate room will be required for them.
- ▶ Please refer to section 3.2 of the guidance notes for home boarding for dogs for further information.



Frequently asked questions

- ▶ Will I need two licences if I am carrying out two activities?
- ▶ If you are carrying out more than one animal activity, you will still be applying for one licence, however, your licence will have attached the specific animal activity conditions that apply to the activities you are carrying out.
- ▶ Example 1:
- ▶ If you carry out both boarding cats and boarding dogs in kennels in one premises, you will be applying for one licence under the animal activity; 'providing or arranging for the provision of boarding for cats or dogs' which covers both kennels and catteries.
- ▶ Example 2:
- ▶ If you carry out dog breeding and run a riding establishment under one premises, you will be applying for one licence under the animal activities;
- ▶ 'breeding dogs' and 'hiring out horses'. You will regardless be subject to all the specific individual animal activity conditions attached to your single licence.

Frequently asked questions



Will inspectors have to be qualified to carry out inspections?

- ▶ All inspectors must be suitably qualified as required by the Regulations. A suitably qualified inspector includes;
 - Any person holding a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation (OFQUAL)
 - 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.

Frequently asked questions

- ▶ Do I need planning permission to board dogs in my home?
- ▶ Certain private dwellings would need to obtain planning permission to carry out businesses within their property. It may not strictly apply to all properties, but it would be sensible to ensure that planning permission is clear. Please contact our planning department for further clarification.
- ▶ Rented/leased properties would also need permission from their landlords. This is because dog boarding is classified as a business, where a sale is made or the activity is carried on with a view to making a profit or earn any commission or fee

Thank you for attending