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Date: 28 February 2023

MEETING OF LICENSING COMMITTEE

On:	Wednesday 8 March 2023	At:	10.00 am
Venue:	Town Hall - Bridge Street, Bideford, EX39 2HS		

The meeting will be filmed for live or subsequent broadcast via the YouTube channel - <https://tinyurl.com/TorrigeYouTube>

NOTICE OF MEETING

To:	Councillor J McKenzie (Chair) Councillor R Wiseman (Vice-Chair) Councillors: C Bright, D Bushby, R Clarke, P Hackett, P Hames, S Harding, T Inch and D McGeough
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Members are requested to turn off their mobile phones for the duration of the meeting

AGENDA PART I - (OPEN SESSION)

1.	Apologies For Absence To receive apologies for absence for the meeting.
2.	Minutes (Pages 3 - 6) Confirmation of the Minutes of the meeting held on 30 th November 2022.
3.	Action List (Page 7)
4.	Declarations of Interests Members with interests to declare should refer to the agenda item and describe the nature of their interest when the item is being considered.

5.	Agreement of Agenda Items Part I and II
6.	Urgent Matters of Information to be Brought Forward with the Permission of the Chair and the Committee
7.	Taxi Policy Amendment (Pages 8 - 10) To receive the report of the Lead Licensing Officer.
8.	Small Commercial Vessel Licensing Policy (Pages 11 - 32) To receive the report of the Lead Licensing Officer.
9.	Animal Licensing Policy (Pages 33 - 70) To receive the report of the Lead Licensing Officer.
10.	Consideration of the Forward Plan (Pages 71 - 72)
11.	Exclusion of the Public The Chairman to move:- That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Part I of schedule 12A of the Local Government Act 1972.
12.	Part II (CLOSED SESSION)
	Meeting Organiser: Democratic Services

TORRIDGE DISTRICT COUNCIL

LICENSING MEETING

Town Hall - Bridge Street, Bideford, EX39 2HS

Wednesday, 30 November 2022 - 10.00 am

PRESENT Councillor J McKenzie
 Councillors C Bright, R Clarke, P Hackett, P Hames and
 S Harding

ALSO PRESENT T Ojikutu - Legal Services Manager
 C Parkhouse - Lead Licensing Officer
 T Vanstone - Senior Electoral & Democratic Services
 Officer
 K Brown - Democratic Services Officer

Four members of the public.

101. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors D Bushby and R Wiseman.

102. MINUTES

It was proposed by Councillor J McKenzie, seconded by Councillor P Hackett and –

Resolved:

That the minutes of the meeting held on 11th May 2022 be agreed as a correct record.

(Vote: For - unanimous)

103. ACTION LIST

The action list was discussed and updated.

104. DECLARATIONS OF INTERESTS

Members were reminded that declarations of interest should be made as and when the specific agenda item to which they related was under discussion.

105. AGREEMENT OF AGENDA ITEMS PART I AND II

There were no Part II items.

106. URGENT MATTERS OF INFORMATION TO BE BROUGHT FORWARD WITH THE PERMISSION OF THE CHAIR AND THE COMMITTEE

There were no urgent matters.

107. TAXI DEMAND SURVEY

Prior to commencement of the item the Lead Licensing Officer circulated a statement received from Gillian Boyle, Taxi Plate License holder, in response to the Taxi Demand Survey and expressing concern to the possibility of deregulation. Members were given time to read the statement.

The Lead Licensing Officer presented the report, the purpose of which was to provide the Committee with the results of the recent hackney carriage demand survey. Key aspects of the survey were highlighted to Members.

A brief discussion followed.

The Lead Licensing Officer gave an example of the unmet demand in Bideford.

It was suggested that an informal review be conducted next May to identify any further or new issues.

The Lead Licensing Officer asked if the recommendations in the report could be taken in two parts.

- 1) Approval of the two wheelchair access plates available;
- 2) Approval to retain the 49 plates for a further 3 years.

It was confirmed that there had been enquiries regarding the two available plates.

The Chair invited the Members of the Taxi Liaison Group to join the discussion. In response to a query regarding an increase in fares the Taxi Liaison Group did not support this idea due to the cost of living crisis.

Following concern of deregulation mentioned in the statement, the Taxi Liaison Group advised how the matter had occurred. The Chair confirmed he would speak to the source.

It was proposed by Councillor R Clarke, seconded by Councillor J McKenzie and –

Resolved:

That the two wheelchair access plates available be approved.

(Vote: For – unanimous)

It was proposed by Councillor R Clarke, seconded by Councillor P Hackett and –

Resolved:

That the 49 plates are retained for a further 3 years be approved.
(Vote: For – unanimous)

Following a further query regarding the shelter mentioned in Gillian Boyle's statement, the Chair confirmed he would raise the issue with Bideford Town Council.

108. ANIMAL LICENSING POLICY

The Lead Licensing Officer presented the report, the purpose of which was to seek approval from the Licensing Committee to commence a consultation exercise for the introduction of an Animal Licensing Policy.

It was advised that once the consultation had concluded the policy would come back to Licensing Committee for approval.

A brief discussion took place where the Lead Licensing Officer answered queries on which organisations and/or situations the policy would and would not cover.

The conversation proceeded onto enforcement with the Lead Licensing Officer explaining the difficulties surrounding this.

An explanation was given on the resources TDC have to aid the implementation of the policy if approved.

The Lead Licensing Officer advised that the Council sought to work with businesses to get to a standard to be issued a licence rather than refuse a licence immediately. It was confirmed no prosecutions had been carried out.

It was proposed by Councillor J McKenzie, seconded by Councillor Clarke and –

Resolved:

- 1) That the consultation process be approved.
- 2) That the consultation process be carried out over an 8 week period and the responses be reported back to the Licensing Committee at a future date be approved.

(Vote: For – unanimous)

109. CONSIDERATION OF THE FORWARD PLAN

The Forward Plan was discussed and updated.

The meeting commenced at 10.00 am and closed at 10.30 am

Chair:

Date:

ACTION LIST
Licensing Committee – For 8th March 2023

Minute No. Date action raised	Action	By Who	Date Contacted	Status
Minute 75 - Minutes 17 March 2021	Minute 73: 22 January 2021 – Consideration of the Forward Plan: Signage for taxi rank on the quay.	The Lead Licensing Officer	17/03/2021	Ongoing
27 Oct 2021	To provide a written update before the next meeting of the Licensing Committee. Update from Chris Parkhouse confirming Property team have this on their agenda. Further update to be given at the next meeting.			
11 May 2022	Chris Parkhouse advised that this was still with the Property Services Team to review and it would be brought back to a future meeting			Ongoing
30 Nov 2022	Chris Parkhouse advised he had spoken with Staci Dorey and Sean Kearney and confirmed it would be discussed again at Community & Resources Committee.			Ongoing
	23.01.2023 at Community & Resources Committee resolved not to pursue this.			Complete

Agenda Item 7

Agenda Item

REPORT OF LEAD LICENSING OFFICER
To: LICENSING COMMITTEE
Subject: TAXI POLICY AMENDMENT
Date: 25 JANUARY 2023

Reference:

PURPOSE OF REPORT:

To present to the Committee an amendment to the Licensing Policy for Taxis and Private Hire Licences.

1. INTRODUCTION

The current Taxi and Private Hire Licensing Policy was approved by this Committee on 11 May 2022.

2. REPORT

An omission has been identified in the current Taxi and Private Hire Licensing Policy. The introduction of six month DBS checks and the requirement to sign up to the DBS update service was included in the policy as part of the introduction of the recommendations contained in the Taxi Standards.

The following paragraph is included in the policy in paragraph 8.6 Criminal Convictions:

“All licence holders must subscribe to the Disclosure and Barring Service Online Update Service, this will be required by a condition placed on the licence. Any costs associated with maintaining this subscription must be met by the licence holder. If a licence holder fails to sign up to the update service, or fails to maintain subscription during the period that the licence is in force, then the licence will be suspended or revoked.”

However, this requirement was not specifically included within the conditions of licence. It is proposed that the following paragraphs are attached to each licence and included within Appendix E of the Policy which details the conditions of licence.

4.8 The licence holder must sign up to the DBS update service and must maintain subscription during the period that the licence remains in force.

4.9 The licence holder must provide interim checks documents (e.g. medical report, DVLA check code, DBS check) when requested by the Council within the timescales specified.

It is also proposed to amend paragraph 8.14

8.14 3 year licence interim checks

The Council will conduct interim checks for all applicants who are issued with a 3 year licence. The following will be required as and when required during the duration of the licence

- *DVLA check code (annually)*
- *DBS check (every 6 months)*

- *Medical report (every 5 years up to age 65, annually over age 65)*

Failure to provide the necessary information when requested by the Council will result in the licence being suspended until such time as satisfactory information has been provided.

With the introduction of 6 month DBS checks this paragraph now applies to 1 year licence holders as well. It is therefore proposed to amend the paragraph as follows:

8.14 ~~3-year~~ **Licence interim checks**

The Council will conduct interim checks for all ~~applicants who are issued with a 3-year licence~~ licence holders. The following will be required as and when required during the duration of the licence

- *DVLA check code (annually)*
- *DBS check (every 6 months)*
- *Medical report (every 5 years up to age 65, annually over age 65)*

Failure to provide the necessary information when requested by the Council will result in the licence being suspended until such time as satisfactory information has been provided.

3. **IMPLICATIONS**

Legal Implications

Although there is no legal duty on the Authority to publish a licensing policy for hackney carriage and private hire licences, the absence of a robust policy would leave the Authority open to legal challenge.

Financial Implications

None

Human Resources Implications

If drivers do not sign up to the update service they will have to continue to provide a paper certificate every six months which will have resource implications for the Licensing team.

Sustainability Implications

None

Equality/Diversity

None

Risk Management

As legal implications

Compliance with Policies and Strategies

The policy will be reviewed in conjunction with the Council's Carbon Reduction Plan

Data Protection (GDPR) Implications

Any amendments to the policy will comply with data protection requirements

Climate Change

The policy will seek to implement measures to reduce the effects of climate change and will be in accordance with the Council's Carbon Reduction Plan

Lead Member Views

Councillor McKenzie, Chair, has been consulted.

4. CONCLUSIONS

Members are asked to approve the amendments to the Policy to ensure the conditions of service are updated to reflect the decisions made to implement the statutory standards.

5. RECOMMENDATIONS

It is recommended that members approve the revised paragraphs and they are included in the policy with immediate effect.

SUPPORTING INFORMATION

Consultations:	Previously undertaken as part of the Policy review
Contact Officer:	Chris Parkhouse
Background Papers:	Licensing data area/files

Agenda Item 8

REPORT OF LEAD LICENSING OFFICER

To: LICENSING COMMITTEE

Subject: SMALL COMMERCIAL VESSEL LICENSING POLICY

Date: 25 JANUARY 2023

Reference:

PURPOSE OF REPORT:

To present to the Committee the responses to the recent consultation on the review of the Licensing Policy for Small Commercial Vessels and seek approval of the Policy.

1. INTRODUCTION

Consultation on the revised Licensing Policy for Small Commercial Vessels was carried out between 8th December 2022 and 20th January 2023. This report provides a summary of the feedback from the consultees.

2. REPORT

The Authority has consulted with the following organisations and individuals over a 6 week period.

- Maritime and Coastguard Agency
- Bideford Harbourmaster
- Owners of vessels licensed under the TDC scheme
- Skippers Licensed under the TDC scheme
- Elected members

The consultation document asked for comments on the following specific revisions:

1	It has been proposed to change the name of the boatman licence to a boat skipper licence	No comments received
2	It has been proposed that the Authority adopts a condition of licence that prohibits the launching and operating of jet skis from the Churchfield Car Park Slipway.	2 comments from licence holders - see below

Comments received in respect of question 2

That's good, presumably privately owned jet skis can still be launched?

I feel it necessary to raise my concern regarding the banning of launching of jet skis at Churchfield Car Park, Appledore. In order for this to be implemented a full time warden is necessary to be in attendance seven days a week. The warden will receive a great deal of harassment and aggravation. It is of course obvious the jet skis would launch from other slipways. Particularly the ferry slip opposite Johns Post Office. This slipway is already extremely well used by two ferry boats, three pleasure boats, three gig boats, commercial fishermen and children crabbing, in addition to people queuing to use the ferry.



Other comments received are as follows:

3.1.1 (ii) South West Category 2: small boats in the charge of a licensed boatman skipper plying for hire or let for hire (e.g. for fishing, **sailing** or tourist trips). (NB. The Authority may only license vessels for up to 12 passengers. Above this limit, application must be made to the MCA or to another certifying authority)

3.2.3 The Licensee shall be responsible that no motor boat, mechanically propelled boat or sailing boat shall be let for hire or reward unless a competent person(s) be placed in charge thereof by the licence holder and remain in charge so long as the hire shall last. ~~Such competent person should hold a nationally recognised qualification for the activity concerned.~~ *I would leave this last sentence in.*

Page 11 point three – amend as 3.1.3.1 ie:

All boats shall be subject to ~~an annual~~ **a regular** hull examination **as set out in 3.1.3.3** which shall be carried out by an authorised person approved by the Local Authority. The vessel must be inspected out of the water at least once every five years.

IE 3.1.3.1 reads The examination regime will be based on the 5 year cycle specified in the MCA's Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure as follows:

Year 1 Initial compliance examination.

Physical examination of the vessel carried out by a qualified marine surveyor or competent person. (At least part of the examination must be conducted with the vessel out of the water).

Year 2 Examination of vessel by owner/managing agent.

Year 3 Examination of vessel by owner/managing agent.

Year 4 Examination by surveyor (in water inspection).

Year 5 Examination of vessel by owner/managing agent.

Annex 4

Surfboard/bodyboard hire

Licence the operator

Encourage operator to provide safety boat, the ~~ex'n~~ skipper of which is to be **a licenced boatman**, or have alternative means of retrieving surfers

~~Consider~~ restricting area of use to within visual range of operator and/or lifeguard if practicable

All participants ~~especially children~~ to wear buoyancy aid

It might be worth stating in section 3.1.3.1 Construction and Seaworthiness that this is to be done at the owner's expense. It reads as if this is something TDC will do.

Might also be worth noting that lifejackets must be serviced annually.

The final draft policy is included at Appendix A with changes highlighted in red.



3. IMPLICATIONS

Legal Implications

The proposed changes bring the policy up to date with current legislation and good practice.

Financial Implications

None

Human Resources Implications

None

Sustainability/Biodiversity Implications

None

Equality/Diversity

None

Risk Management

There are legal, reputational and possible financial risks if the Council does not maintain a Policy which reflects current legislation and the latest guidance.

Compliance with Policies and Strategies

All regulatory activity is carried out in accordance with current policy and procedures.

Data Protection (GDPR) Implications

None

Ward Member and Lead Member Views

Councillor McKenzie, Chair, has been consulted

4. CONCLUSIONS

The Policy sets out the Authority's approach to the regulation of small commercial vessels in the River Torridge and the standards it will apply in relation to licensed vessels and persons. The proposed revisions to the current Policy are designed to keep it up to date, relevant and robust.

5. RECOMMENDATIONS

It is recommended that Members approve the revised policy.

SUPPORTING INFORMATION

Consultations: Date of Consultation – As detailed in report
 Officers Consulted – Harbour Master

Contact Officer: Chris Parkhouse

Background Papers: Licensing files





LICENSING POLICY

SMALL COMMERCIAL VESSELS IN USE FOR SPORT OR PLEASURE

Environmental Health and Public Protection

Version	2.42	Review Date	December 2018
Consultation Period	20th December 2018 – 31st January 2019		
Approved: Licensing Committee	27 January 2019	Next Review Date	December 2021

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This document can be made available in other formats and languages if required.
 Please contact the Licensing Team for further details.
 Telephone: 01237-428700. E-mail: licensing@torridge.gov.uk

1 INTRODUCTION

This Policy is intended to provide general guidance only. It does not constitute a definitive statement of law. Applicants who require legal advice on a specific licensing topic relating to small commercial vessels are advised to consult a solicitor. Text in the shaded boxes is advisory or explanatory and is intended only to give assistance to applicants, licence holders and authorised persons.

- 1.1 The Council operates a scheme for the licensing of boatmen and pleasure boats operating in the River Torridge.
- 1.2 The purpose of this policy is to provide applicants for licences and other users of the licensing service with advice and information on the Authority's requirements for licensing small commercial vessels and the skippers of such vessels. It is also intended to ensure that the licensing authority applies consistent standards when determining licence applications.

The policy is underpinned by, and draws its authority from the following legislation:

- The Public Health Acts Amendment Act 1907
- Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998
- Merchant Shipping (Small Commercial Vessels and Pilot Boats) Regulations 2004

The policy has been prepared with due regard to the following codes of practice and guidance:

- The Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point (Maritime and Coastguard Agency)
- Marine Guidance Note MGN 280 (Maritime and Coastguard Agency)
- Recommendations and Regulations Affecting the Licensing and Operation of Small Craft (South West Regional Standing Committee on Safety of Small Craft).
- Inland Waters Small Passenger Boat Code (Maritime and Coastguard Agency)
- **Code for the Design, Construction and Operation of Hire Boats (British Marine/AOIA)**

- 1.3 The following organisations and individuals have been consulted during the review of Policy:

- Maritime and Coastguard Agency
- South West Regional Ports Association
- ~~Torridge District Council~~ Bideford Harbourmaster
- Owners and skippers of vessels licensed under the Council's licensing scheme
- Boatmen licensed under the Council's licensing scheme

This Policy was formally adopted by the Council on 23 September 2013. The last update was approved on ~~10th March 2016~~ 25 January 2023.

The Policy will be reviewed and updated at least every three years or more frequently if required.

- 1.4 The Authority will endeavour to adhere to the Policy when considering licensing issues but reserves the right to depart from the Policy where there are compelling reasons for doing so. The Authority will provide a written explanation for any departure from policy guidelines.
- 1.5 The Authority recognises that this Policy cannot cover every conceivable safety scenario or guarantee total safety for the public. Compliance with the policy will help to ensure that, as far as is practicable, passengers using licensed/certificated vessels are protected from harm. However, the final responsibility for the safety of passengers rests with the skipper and crew of the vessel.

2 AIMS AND OBJECTIVES

2.1 This Policy supports two of the Authority's strategic goals:

- Stronger, safer, healthier communities – ensuring the safety of persons using licensed vessels;
- A prosperous and sustainable economy - not overburdening businesses with unnecessary regulation.

2.2 The key objective of the Policy is the protection of public health and safety. Public safety is at the heart of the licensing regime and this aspect of the Policy will generally take precedence over other licensing considerations.

2.3 Small commercial vessels providing pleasure trips are an important attraction for tourists and form part of the traditional maritime 'scene' in Torridge. The Policy will seek to promote this activity wherever practicable provided there is no conflict with policy objective 2.2.

3 THE LICENSING REGIME

3.1 Vessels Operating in the Torridge/Taw Estuary

3.1.1 The Authority licenses vessels in the following categories:

- (i) South West Category 1: small boats including beach floats, pedaloos, canoes, water-ski craft, power surfboards, sailboards, self-drive hovercraft, self-drive motorboats, jet-skis and parascending craft let for hire **not** in the charge of a licensed **beatman skipper**.
- (ii) South West Category 2: small boats in the charge of a licensed **beatman skipper** plying for hire or let for hire (e.g. for fishing, **sailing** or tourist trips). (NB. The Authority may only license vessels for up to 12 passengers. Above this limit, application must be made to the MCA or to another certifying authority)

3.1.2 The area of operation is confined to Category C waters as defined by Merchant Shipping Notice MSN 1837 (M) and SW Regional Standing Committee on Safety of Small Craft. These are the estuarial waters of the Rivers Torridge and Taw within a line bearing 200 degrees from the lighthouse on Crow Point to the shore at Skern Point.

3.1.3 General Requirements - Vessels

3.1.3.1 Construction and Seaworthiness

In order to determine whether a vessel is suitable and safe for commercial use by the public, the Authority will require a thorough examination of the vessel, its structure and its fixtures and fittings¹. The design of the hull, its construction and the materials and equipment used should be appropriate for the intended use of the vessel and its area of operation. The examination of the vessel **will- must** be undertaken by an authorised person **at the applicant's expense**. This will be either a qualified marine surveyor or a person who has the relevant professional qualifications or practical experience and expertise to undertake such examinations. Following examination, the authorised person will submit a report to the Authority on the vessel's general safety and seaworthiness. A licence will not be granted without a satisfactory report from the authorised person. A report will only be accepted if it has been completed no later than one month before the date it is submitted to the Council.

¹ New vessels should comply with an appropriate standard such as *ISO 12215 Small Craft Hull Construction and Scantlings*. Existing vessels should be able to demonstrate at least five years' history of safe operation.

The examination regime will be based on the 5 year cycle specified in the MCA's *Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure* as follows:

Year 1	Initial compliance examination. Physical examination of the vessel carried out by a qualified marine surveyor or competent person. (At least part of the examination must be conducted with the vessel out of the water).
Year 2	Examination of vessel by owner/managing agent.
Year 3	Examination of vessel by owner/managing agent.
Year 4	Examination by surveyor (in water inspection).
Year 5	Examination of vessel by owner/managing agent.

Lifejackets must be serviced annually.

Vessels may be subject to an independent inspection by the Harbour Master or other competent Council Officer to check safety equipment and ensure compliance with conditions of licence.

It is the responsibility of the owner of the vessel and/or the person in charge of the vessel to ensure that the vessel and its fixtures, fittings and safety equipment are maintained in a safe and seaworthy condition. Any accident or damage which adversely affects the safety of the vessel must be reported to the Authority within 24 hours (or, if the accident occurs at a weekend, before the end of the next working day) and the vessel made available for inspection by an authorised officer or authorised person. Depending on the severity of the damage, the Authority may decide to suspend the licence in the interests of public safety until such time as any damage or defects are repaired.

No alterations to the construction of the vessel may be made without obtaining prior written permission from the Authority. In cases where the Authority is unable to assess the safety implications of any alterations, the Authority may seek expert technical advice from another licensing/certifying authority, an authorised person or any other organisation which, in the opinion of the Authority, has the relevant knowledge and/or expertise.

In the interests of public safety, the Authority applies a number of restrictions on licences:

- seasonal operation only between 1st April (or Good Friday if this falls before 1st April) and 31st October each year;
- vessel must only be operated during daylight hours;
- vessel must only be operated in favourable weather i.e. wind, sea and visibility conditions which are deemed by the skipper to be safe for the vessel to operate in.

The responsibility for determining if weather conditions are 'favourable' rests with the skipper of the vessel. In the event of a vessel being operated in weather conditions which are unsafe or unfavourable and which result in loss of life or injury, liability will rest with the skipper and/or the vessel owner.

3.1.3.2 Safety Management System

In the interests of public safety, the vessel owner/skipper must have a safety management system in place for the vessel which should contain, as a minimum:

- a health and safety policy for the protection of crew and passengers
- procedures for dealing with emergencies (e.g. man overboard)
- procedures for reporting accidents including 'near misses'
- **Operating schedule and Risk Assessments**

It is legal requirement to report all accidents (Merchant Shipping (Accident Reporting and Investigation) Regulations 1994.

3.1.3.3 Insurance

The vessel must have adequate passenger liability and third party insurance cover. The Authority will require applicants to produce a current certificate of insurance with minimum public liability indemnity of £3,000,000.

This is the recommended minimum level of public liability indemnity. Given the potential level of any claim for loss of life or injury arising from an accident, boat owners are strongly advised to take advice from their insurer on an appropriate level of cover sufficient to meet possible claims.

3.1.3.4 Conditions

The Authority may attach conditions to the grant of a Boat Licence. Licence conditions will be reasonable and proportionate and will generally be attached where the Authority believes they are required in the interests of public safety. The Authority's current conditions appear at Annex 1.

These are the Authority's standard conditions applicable to all licensed vessels. Where necessary, the Authority may attach specific conditions to a licence if there is a demonstrable safety requirement.

3.1.3.5 The Licence

A laminated copy of the boat licence must be displayed in a prominent place in the vessel where it can be readily seen by passengers and kept on display at all times during the term of the licence.

3.1.4 General Requirements – Boatmen-Skipper

3.1.4.1 Competence²

In the interests of public safety, the Authority will need to be satisfied that the person in charge of the vessel has the necessary level of competence to operate it safely.

The Authority will require an applicant for a **Boatman's Skipper's** Licence to have obtained one of the following qualifications:

- Certificate of Competency – Yachtmaster Ocean*
- Certificate of Competency or Service – Yachtmaster Offshore*
- MCA Boatmasters Licence*
- RYA/DfT Certificate of Competency or Service – Coastal Skipper
- RYA/DfT Advanced Powerboat Certificate
- RYA/DfT Day Skipper Theory & Practical Certificate
- RYA/DfT Powerboat Level 2 Certificate

Certificates of competency should carry the following endorsement: *“valid for vessels of up to 24 metres in length used for commercial purposes”*.

On initial application and at any other time the Authority deems appropriate the applicant will be required to undergo a test of skipper's competence. This will be carried out by the Authority's Harbourmaster and will cover a range of appropriate skills and knowledge (see Annex 2).

Holders of qualifications identified by * above may be subject to an exemption from a boatman licence. This will be subject to the competency test and recommendation by the Harbour Master.

A one-day short range (approved SRC) VHF radio course would be expected for vessels which are fitted with VHF equipment.

Where there is no radio, the skipper should know how to use the available equipment to contact assistance from any point on the route – e.g. a mobile phone, PA, loud hailer, or mega-phone for use on rivers or canals.

An applicant for a **Boatman's Skipper's** Licence must be at least 18 years of age.

3.1.4.2 Medical Examination

In order to be satisfied that a person is medically fit to operate a vessel, the Authority will require applicants to undergo a medical examination with a registered GP. The examination will be required at the following intervals:

- On initial application
- Every five years until age 65
- Annually after age 65

The medical examination must be carried out by a registered General Practitioner using the Authority's standard medical report and endorsed with the surgery's official stamp. Medical reports which do not have the official stamp will not be accepted. Applicants should note that they must pay the cost of the medical examination. In the event of any dispute about an applicant's or licence holder's medical condition, the Authority reserves the right to refer the matter to the local NHS Occupational Health Department for a second opinion.

Where an applicant can produce current documentary evidence of medical fitness, the Authority may, at its discretion, exempt the applicant from the requirement to undertake a medical examination. The Authority will accept the following certificates as exemptions:

- Seafarer's Medical Certificate (ENG1)
- MCA Medical Certificate (ML5)
- CAA commercial pilot's licence
- HSE diving medical certificate
- DVLA Group 2 Driver's Licence
- RNLI medical certificate

A licensed **boatman skipper** must notify the licensing authority in writing within seven days of diagnosis of any adverse medical condition which may render him/her unfit to operate a vessel.

3.1.4.3 Criminal Convictions

In order to protect public safety, the Authority will vet every applicant for a **Boatman's- Skipper's** Licence to ensure they are fit and proper persons to deal with the public. Vetting will be carried out by means of a criminal conviction certificate issued under s.112 of the Police Act 1997 (a basic Criminal Record Disclosure). The applicant/licence holder will be responsible for obtaining the disclosure and must submit this with their application. The disclosure must be no more than one month old at the time the application is submitted to the Authority.

The Authority will require a basic disclosure to be provided on initial application and every three years thereafter during the period of the licence. All such records will be treated in total confidence and will only be seen by authorised officers of the Authority. Applicants should note that they must pay the cost of obtaining the disclosure.

If the disclosure reveals unspent criminal convictions which may, in the opinion of the Lead Licensing Officer, put the public at risk, the application will be determined by the Authority's Licensing Committee or a sub-Committee of that Committee. If the Authority is satisfied that granting a licence would put the public at risk of harm, it may refuse to grant/renew, suspend or revoke the licence.

3.1.4.4 Conditions

The Authority may attach conditions to the grant of a **Boatman's Skipper's** Licence. Licence conditions will be reasonable and proportionate and will generally be attached where the Authority believes they are required in the interests of public safety. The Authority's current conditions appear at Annex 3.

The grant of a licence does not obviate the need for vessels and/or skippers to comply with relevant bye laws made by the local/navigation authority or the port/harbour authority for the area in which the vessel operates.

3.1.4.5 The Licence

The licence must be kept in a secure place and made available for inspection on request by an authorised officer or authorised person.

3.2 Operators Licence (South West Category 1)

3.2.1 General

No person shall let for hire or reward any licensed vessel in South West Category 1 (when not in charge of a licensed boatman) without having first obtained a licence from the Local Authority (herein called an Operators Licence).

In the interests of public safety, the Authority will need to be satisfied that the person holding the Operators Licence has the necessary level of competence to operate safely. Depending on the proposed activities the applicant may require a competency test with the Harbourmaster.

3.2.2 Marking and Inspection

Every vessel before being let for hire or reward shall have exhibited in some conspicuous part the name of the licensed owner and the total number of person allowed to be carried. The Operators Licence may be suspended if at any time an authorised Officer of the Local Authority shall be of the opinion that any of the vessels on hire is unfit to carry passengers.

3.2.3 Persons in Charge

The Licensee shall be responsible that no motor boat, mechanically propelled boat or sailing boat shall be let for hire or reward unless a competent person(s) be placed in charge thereof by the licence holder and remain in charge so long as the hire shall last. ~~Such competent person should hold a nationally recognised qualification for the activity concerned.~~

Persons under 18 years of age must be accompanied by an adult at all times.

In cases where vessel(s) let for hire are remote from the competent person, then the licensee shall ensure that there are sufficient competent persons to maintain visual contact with the hired vessel(s) at all times and provide sufficient means of immediate rescue in the event of an incident.

The Licensee shall ensure that the equipment is maintained in a proper state and that hirers are provided with sufficient information about the craft and its equipment to enable it to be used safely for the intended purpose and that hirers are competent for the intended operation. Hirers also need to be provided with navigational and tidal information of the estuary and prove an understanding of International collision regulations.

The licensee shall ensure that procedures are in place to alert the emergency services in the event of an incident, report and record to the licensing authority all incidents that have or could have led to injury.

3.2.4 Specific Requirements

The spectrum of different vessels which may be licenced makes a “one size fits all” approach impractical. The Authority will use the guidance provided in Annex 4 of this policy to assist in determining what factors are considered during the licensing process.

3.3 Vessels Which Go To Sea

3.3.1 Any vessels which go to sea will need to be registered with the MCA or one of their authorised Certifying Authorities. Further information can be obtained from the Licensing Team or the MCA direct.

4. ROLE OF THE LICENSING COMMITTEE

4.1 Committee Powers

4.1.1 The Licensing Committee is responsible for discharging the Authority’s statutory licensing and regulatory function. The Committee will determine and approve the Authority’s policy in relation to the licensing of small commercial vessels. Any revisions or amendments to the policy must be approved by the Committee.

4.1.2 The Committee will receive reports from the Lead Licensing Officer, as appropriate, on matters relating to the licensing and certification of small commercial vessels.

4.1.3 The Committee will also, where appropriate, consider contraventions of the law, the Authority’s by-laws, conditions of licence and/or codes of practice and may take such action as it considers necessary in order to protect the public. This may include cancellation, suspension and revocation of licences and certificates. This function may be carried out by a sub-Committee of the Licensing Committee in accordance with established procedures.

4.1.4 Any person aggrieved by a decision of the Licensing Committee (or sub-Committee) has the right to appeal to the Magistrates’ Court within 21 days of notification of the decision.

4.2 Delegated Powers

Certain functions of the Licensing Committee may be carried out by an authorised officer of the Authority under delegated powers

5. ENFORCEMENT

- 5.1 The Authority will work in co-operation with licence holders and the owners/skippers of certified vessels to address any safety concerns or instances on non-compliance with the law, bye laws, conditions of licence or codes of practice. Where the authority is unable to satisfactorily resolve such issues, it may take such enforcement action as it considers necessary for the protection of the public.
- 5.2 Enforcement action will be taken in accordance with the Authority's Enforcement Policy which can be viewed on the Authority's website.
- 5.3 Enforcement may be carried out by the Licensing Authority acting on its own initiative or in conjunction with the Maritime and Coastguard Agency or with any other agency the Authority considers to be appropriate to the circumstances of the case.
- 5.4 The Authority has the power to suspend or revoke licences issued under its own licensing scheme (see Annex 1, section 9 and Annex 3, section 8).

6. FEES

The Authority has the power to charge a fee to cover the reasonable costs of administering and enforcing its licensing scheme. Fees will normally be reviewed annually.

If a licence is surrendered or cancelled, the Authority may, at its discretion, refund part of the licence fee. Refunds will be calculated pro-rata on the basis of any whole months remaining prior to expiry of the licence.

The current fees can be viewed on the Authority's website.

ANNEX 1 – CONDITIONS ATTACHED TO BOAT LICENCE (TDC LICENSING SCHEME)

1. Limit of Operational Area

The vessel may only be operated in the estuarial waters of the Rivers Torridge and Taw within a line bearing 200° from the lighthouse at Crow Point to the shore at Skern Point.

2. Restrictions on Operation

The vessel may only be used for the carriage of passengers between 1st April (or Good Friday if that date be before 1st April) and 31st October in any year and during the period from one hour before sunrise and one hour after sunset.

The vessel may only be used for the carriage of passengers in favourable weather conditions i.e. wind, sea and visibility conditions which are deemed by the skipper to be safe for the vessel to operate in.

3. Construction and Seaworthiness

All boats shall be subject to ~~an annual hull~~ regular examination as set out in 3.1.3.3. of the Council's Policy. The examination ~~which~~ shall be carried out by an authorised person approved by the Local Authority. The vessel must be inspected out of the water at least once every five years.

The surveyor or authorised person shall provide a detailed report on the structural condition of the hull, the structural fastenings and the vessel's safety equipment. The survey shall include a brief examination of propulsion machinery and electrical and pumping installations but only in so far as these affect the seaworthiness of the craft.

In carrying out the examination the surveyor or authorised person will be guided by the relevant provisions of the Recommendations and Regulations Affecting the Licensing and operation of Small Craft published by the South West Regional Standing Committee on the Safety of Small Craft.

The licensing authority may waive or reduce any requirement or restriction on account of the special circumstances of any boat in the trade in which it is engaged.

The Authority's licensing scheme in no way exempt a vessel from compliance with any relevant statutory requirements of the Department for Transport.

4. Insurance

All licensed boats shall carry public liability and third party insurance with minimum indemnity cover of at least £~~2~~ 3 million.

5. Equipment

Each licensed boat or vessel shall be provided with the equipment listed in the attached schedule for Category 2 vessels. The equipment shall be maintained in good order and will be inspected annually by an authorised person. Where a higher standard of equipment is required for any boat by reason of any statutory order or any requirement of the Department for Transport or the MCA, such higher standard shall be applied.

When the boat or vessel is let for hire or used for the carriage of passengers it shall

- (i) be kept free from oil, refuse and fuel spillages;
- (ii) not carry any loose cans of petrol on board under any circumstances;
- (iii) not be used for towing any other boat or craft, except in cases of emergency.

6. Safety Lanyard Cord

In vessels which are designed or adapted for the installation of a safety lanyard cord ("kill cord"), the skipper of the vessel should wear the cord at all times in accordance with RYA safety guidelines when operating the vessel where ever and when ever possible.

In the event a lanyard cannot be used the boat should be operated at the slowest safe speed for the estuary and at least one other person on board should be aware of how to stop the engine immediately.

7. Information in Vessel

A laminated copy of the boat licence must be displayed in a prominent place in the vessel where it can be readily seen by passengers and kept on display at all times during the term of the licence.

8. Accidents and Damage

Any accident, collision, grounding or damage which adversely affects the safety of the vessel shall be reported to the Authority within 24 hours or (where the incident occurs at a weekend) before the end of the next working day. 'Near misses' must also be reported as these may indicate potential safety problems and help to avoid future accidents.

9. Suspension/Revocation of Licence

The Authority may suspend or, revoke the licence of any vessel on the following grounds:

- that the vessel has suffered damage which renders it unsafe for public use
- failure to comply with the provisions of the Public Health Acts Amendment Act 1907
- failure to comply with a condition of licence
- failure to comply with any Authority harbour bye law
- that the action is necessary or desirable in the public interest

Any person aggrieved by a decision of the Authority to suspend, revoke or to refuse to renew a licence may appeal to a Magistrates' Court. Any appeal must be made within 21 days of notification of the Council's decision.

SCHEDULE OF EQUIPMENT FOR CATEGORY 2 VESSELS

1. Painter (Mandatory in categories 2, 3, 4, 5, 6).
2. Bilge pump (if practicable) and bailer and bucket.
3. Approved alternative means of propulsion (e.g. paddles).
4. Lifejackets available for 100% passengers and crew. Lifejackets may be of solid buoyancy or inflatable type and should have a minimum buoyancy rating of 150 Newtons in accordance with BS/EN 396. (See general note (v)).
5. A minimum of two lifebuoys with buoyant line of at least 18 metres in length.
6. Together with the lifebuoys in (5) above, approved buoyant apparatus to support 100% of passengers and crew.
 - (a) This buoyant apparatus may be made up of standard DfT lifebuoys, buoyant apparatus, built-in buoyancy but not lifejackets.
 - (b) Regard may be had to built-in buoyancy only if adequate and suitable grab lines or rails or bilge keels are provided and maintained.
7. Notice stating
 - (a) Location and effect of local weather signals
 - (b) Restrictions on area of operation and
 - (c) Emergency procedures.
8. Sailing craft licensed under these rules shall be provided with one safety harness to B.S.I. specifications for each person on board.

9. Powered craft > 6 metres in length: a hand-powered or power driven fire pump with sea hose connections capable of delivering a jet of water to any part of the vessel OR 1 multi-purpose fire extinguisher with a minimum fire rating of 13A/113B PLUS 1 multi-purpose fire extinguisher with minimum fire rating of 5A/34B. Fire extinguishers must bear a valid certificate of inspection and must be tested annually

Powered craft < 6 metres in length: 1 multi-purpose fire extinguisher with minimum fire rating of 5A/34B. Fire extinguishers must bear a valid certificate of inspection and must be tested annually
10. A hand-powered or power driven fire pump with sea and hose connections capable of delivering a jet of water to any part of the vessel (vessels > 6 metres only)
11. At least one fire bucket with lanyard.
12. Anchor and rope. Anchors of suitable mass for the type and size of vessel and appropriate for the area of operation. Anchor rope should be of suitable length for the depth of water in the area of operation.
13. Buoyant heaving line at least 30 metres in length with MCA approved rescue quoit.
14. Boat hook
15. Klaxon, foghorn, or other approved noise signal.
16. A sufficient first aid kit.
17. Navigation lights.
18. Approved orange smoke floats or orange smoke flares (two).
19. Suitable tool kit.
20. One water resistant torch.
21. VHF radio tuned to the appropriate emergency frequency for the area of operation (if applicable)..
22. Knife.

General Notes

- (i) The licensing authority may waive or reduce any requirement or restriction having regard to the special circumstances of any vessel in relation to its type of construction, standard of equipment and the trade in which it is engaged.
- (ii) Where a higher standard of equipment of equipment than those recommended is required for any vessel by reason of any statutory order or provision or by any requirements of the DfT or MCA such higher standard shall be applied.
- (iii) Where practicable licensed self-drive motor boats shall be fitted with propeller guards. Such craft are to be fitted with a notice displaying the operational limits of the boat and a warning notice that the craft is not to enter areas buoyed for swimmers.
- (iv) Where a Calor gas installation is fitted to any licensed vessel, the installation, where practicable, shall comply with the provisions of Merchant Shipping Notice No. 984 relating to Open Flame Gas Installations.
- (v) Lifejackets relying entirely on oral inflation are not suitable for emergency use unless they are inflated and worn at all times while the vessel is being operated. A minimum of two lifejackets suitable for children must be included within the total number of lifejackets provided.

ANNEX 2 – COMPETENCE REQUIREMENTS FOR ~~BOATMAN~~ SKIPPER (TDC LICENSING SCHEME)

POINTS FOR TESTING	PASS	FAIL	REMARKS
1. Local Knowledge (local regulations, signals, lights, tidal conditions etc.)			
2. Emergency procedures (fire, collision, man overboard etc.)			
3. Regulations for preventing collisions at sea			
4. Distress signals			
5. Use of compass			
6. Use of anchor			
7. Weather reports			
8. Buoyage			
9. Common Chart Symbols			
10. Common Knots			
11. Simple First Aid			
12. Distress and Rescue			
13. Boat handling			
14. Engine knowledge			
15. Passenger safety (safety briefing)			
16. Sea Survival			
17. Communications (use of radio etc.)			

Report and Recommendations.....

Has applicant demonstrated satisfactory level of competence to skipper vessel? YES/NO

Signature of Examiner..... Date.....

Print Name.....

ANNEX 3 – CONDITIONS ATTACHED TO **BOATMAN'S SKIPPER'S LICENCE (TDC LICENSING SCHEME)**

1. Period of licence

All licences are issued for a period of one year or less with effect from 1st April and shall expire on 31st March the following year.

2. Medical Examination

A medical examination will be required at the following intervals:

- On initial application
- Every five years to age 65
- Annually after age 65

Holders of a **Boatman's Skipper's** Licence must notify the Authority in writing within seven days of any deterioration in their health that may affect their capabilities of handling a vessel.

3. Vetting of Applicants

An applicant for a **Boatman's Skipper's** Licence must produce a criminal conviction certificate issued under s.112 of the Police Act 1997 (a Basic Criminal Disclosure). Once a licence has been granted, the licence holder will be required to produce a new certificate every three years.

The holder of a **Boatman's Skipper's** Licence must notify the Authority in writing within seven days of any criminal conviction, caution or other offence incurred during the period of the licence.

4. Passenger Safety

Prior to the commencement of any hiring, a licensed **boatman skipper** must give a formal safety briefing to all passengers on the vessel. The safety briefing must include:

- an explanation of the location and use of safety equipment such as liferafts, lifejackets, lifebuoys and the procedures to be followed in the event of an emergency;
- procedures for the recovery of a person from the water;
- location of fire fighting equipment;
- advice on the weather and sea conditions likely to be encountered, and
- procedures for safe embarkation/disembarkation when entering and leaving harbour.

Safety cards will be considered an acceptable way of providing the above information.

5. Accidents

A licensed boatman must report any accident or damage to the vessel within 24 hours (or, if the accident occurs at a weekend, before the end of the next working day) and make the vessel available for inspection by an authorised officer of the Authority or an authorised person.

6. Alcohol and Drugs

A licensed **Boatman's Skipper** or crew member must not under any circumstances operate a licensed vessel when under the influence of alcohol and/or drugs.

If alcohol is provided for consumption by passengers on board the vessel, this must be authorised by way of a premises licence issued by the local licensing authority under s.18 of the Licensing Act 2003 or a Temporary Event Notice given under s.100 of the Licensing Act 2003.

6. Qualifications, Certificates

Where a person has been granted a **Boatman's Skipper's** Licence on the basis of an existing skipper's certificate issued by another authority, he/she must notify the Authority in writing within seven days of any suspension or revocation of that certificate by the issuing authority. In such circumstances, the Authority may suspend or revoke the person's **Boatman's Skipper's** Licence or may require him/her to undertake a competence test.

7. Identity Badge

When in charge of a vessel, a licensed **Boatman** Skipper must wear prominently on his/her person or prominently display on the vessel an identity badge issued by the Authority.

8. Conduct

A licensed **Boatman Skipper** must behave in a civil and courteous manner to passengers and must provide such reasonable assistance as passengers may require, particularly when boarding and leaving the vessel.

9. Suspension/Revocation of Licence

The Authority may suspend, revoke or refuse to renew the licence of any licensed **Boatman** Skipper on the following grounds:

- failure to comply with the provisions of the Public Health Acts Amendment Act 1907
- failure to comply with a condition of licence
- failure to comply with any Council harbour bye law
- conviction for a criminal offence which, in the opinion of the Authority, renders the licence holder unsuitable or unfit to hold a licence
- that the action is necessary or desirable in the public interest

Any person aggrieved by a decision of the Authority to suspend, revoke or to refuse to renew a licence may appeal to a Magistrates' Court. Any appeal must be made within 21 days of notification of the Council's decision.

ANNEX 4 – LICENSING GUIDANCE

The spectrum of different vessels which may be licenced makes a 'one size fits all' approach impractical; the following guidance, as detailed in appendix A of the recommendations and regulations affecting the licensing and operation of small craft, is provided to assist licensing authorities determine what factors to consider during the licensing process.

Beach floats Pedaloes	Licence the operator Restrict area of operation (eg not allowed in areas of strong tidal currents or waterways) Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman , or means of retrieving floats/pedaloes
Surfboard/bodyboard hire	Licence the operator Encourage operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman , or have alternative means of retrieving surfers Consider Restricting area of use to within visual range of operator and/or lifeguard if practicable Encourage All participants especially children to wear buoyancy aid
Canoes/ Stand Up Paddleboards (SUPs)	Licence the operator. SUP operators should be encouraged to adopt the 'BSUPA code of conduct'. Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman All participants to wear buoyancy aids or life jackets Canoes to have sufficient internal buoyancy to remain afloat when filled with water Canoe or SUP to have leash, handrail or rope (as appropriate) to which participant can hold onto in the event of entering the water/capsize Restrict area of operation (eg not allowed in areas of strong tidal currents or waterways)
Power surfboard	Licence the operator Restrict use to areas free of bathers Users to wear life jackets or buoyancy aids
Windsurf or sail board	Licence the operator, who should be RYA qualified Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman Participants to wear life jackets or buoyancy aids Each board to carry some form of safety signalling device (eg radio or other apparatus) Restrict use to areas free of bathers
Hovercraft	Licence the operator, who must hold a Certificate of Competence by the Hover Club of Great Britain Limited Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman Users to wear life jackets or buoyancy aids Fan(s) to be safely screened Each craft to be fitted with control system which automatically throttles back Hovercraft registration certificate, plus CAA Hovercraft Safety Certificate MSA hovercraft operating permit
Self-drive motorboats	Licence the operator Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman Restrict to areas free of bathers Motorboats to be fitted with propeller safety guard All participants to wear buoyancy aids or lifejackets Every user to be given safety instruction prior to taking control of the craft, to include areas of use, means of attracting attention in case of difficulty, navigational orientation (eg explanation of buoyage in the area etc) and Collision Regulations

Personal water craft (PWC) eg jet ski, flyboard	<p>Licence the operator</p> <p>Restrict use to areas absolutely free of bathers and other water users (although it may be permissible to allow jet skis and water-skiers may use the same designated area)</p> <p>Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman</p> <p>Users to wear life jackets or buoyancy aids</p> <p>Every user to be given safety instruction prior to taking control of the craft</p>
Water skiing	<p>Operator and each boat to be licenced</p> <p>Operator should hold British Waterski and Wakeboard (BWSW) Coach Licence and conform to codes of practice</p> <p>At least 2 people in the boat when towing a person on skis (driver and observer) when towing a person on skis</p> <p>Boat driver should hold at least Ski Boat Driver Level 2 or equivalent</p> <p>Restrict use to areas absolutely free of bathers and other water users (although it may be permissible to allow jet skis and water-skiers may use the same designated area)</p> <p>Area of take off and drop off to be marked and direction of circulation to be specified</p> <p>Every participant to wear life jacket or buoyancy aid</p>
Parascending/ parasailing	<p>Operator and each boat to be licenced</p> <p>Boat cox'n skipper to be licenced</p> <p>At least 2 people in the boat (driver and observer) when towing a person</p> <p>Every participant to wear life jacket or buoyancy aid</p> <p>Restrict to areas absolutely free of bathers</p>
Kite Surfing	<p>Operator to be licenced</p> <p>Operator to provide safety boat, the cox'n skipper of which is to be a licenced boatman</p> <p>Restrict to areas free of bathers</p> <p>Participants to wear life jacket or buoyancy aid</p>
Water taxi carrying no more than 12 passengers	Licence the boat and boatman skipper

Notes

Operators should be required to display notices stating:

"No person should attempt to use one of these craft unless he or she can swim at least 40 metres fully clothed"

Safety boats. Where a safety boat is required it must either be afloat or ready for immediate launch.

Life jackets and buoyancy aids must be CEN or MCA approved.

ANNEX 5 – DEFINITIONS

'Authorised officer'	- an officer of the licensing authority authorised in writing to carry out licensing duties in relation to the licensing of boats, boatmen and small commercial vessels.
'Authorised person'	- a person who by reason of relevant professional qualifications, practical experience or expertise is authorised by the certifying authority to carry out examination of licensed or certified vessels.
'Authority'	- Torridge District Council
'Category C Waters'	- tidal rivers and estuaries and large, deep lakes and lochs where the significant wave height could not be expected to exceed 1.2 metres at any time.
'Category D Waters'	- tidal rivers and estuaries where the significant wave height could not be expected to exceed 2.0 metres at any time.
'Certifying Authority'	- an organisation appointed and approved by the Maritime and Coastguard Agency for the examination and certification of vessels under the Code of Practice for the Safety of Small Commercial Vessels Operating from a Nominated Departure Point.
'Commercial Use'	- use in the course of business for private gain or profit.
'Competence Test'	- an examination of a person's skill and ability to operate a vessel together with an assessment of their knowledge of the local maritime area and regulations.
'Daylight'	- one hour before sunrise until one hour after sunset.
'Designated Person'	- a person designated by the Authority to oversee the examination and certification of vessels under the NDP Code of Practice.
'Favourable weather'	- wind, sea and visibility conditions which are deemed by the skipper to be safe for a small vessel to operate in.
'Licensing Authority'	- Torridge District Council Licensing Authority
'Nominated Departure Point'	- the designated point of departure of the vessel as specified on the vessel's certificate.
'Passenger'	- any person carried on a vessel except: a person employed or engaged in the business of the vessel; a person being carried in the event of an emergency; a child under one year old
'To sea'	- beyond category D waters or category C waters if there are no category D waters

REPORT OF LEAD LICENSING OFFICER
To: LICENSING COMMITTEE
Subject: ANIMAL LICENSING POLICY
Date: 8 MARCH 2023

Reference:

PURPOSE OF REPORT:

To present to the Committee the responses to the recent consultation on the introduction of an Animal Licensing Policy.

1. INTRODUCTION

At the Licencing Committee meeting on 30th November 2022 members approved the consultation process for the introduction of the Council's first Animal Licensing Policy. The consultation was carried out between 3rd January 2023 and 28th February 2023. This report provides a summary of the feedback from the consultees.

2. REPORT

The Authority has consulted with the following organisations and individuals over an 8 week period.

- Current licensees
- Members of the public via the Council's website
- DEFRA
- Elected members

The following comments have been received.

I would like to object to the proposal that license applicants should send a DBS certificate along with their application on two grounds :

1) The Council cannot be sure that the certificate is genuine unless the Council itself applies for the certificate. The people who would fail the certificate are the very ones who would know how to forge one or circumvent the process. If a certificate comes from outside the Council must somehow check that it is valid or else there is no point in making people send one. It would be a more sensible use of Council time to apply for the certificate itself, know the certificate is genuine and not leave itself open to fraud, or the accusation of fraud.

2) The cost of the License plus vet. inspections is already prohibitive. Under this new proposal an individual must pay £35 extra to get a certificate and another £35 for every employee or volunteer who takes part in their business. This is huge! For us it will nearly double the cost of the license. In contrast the Council can get certificates for free. Therefore it is most unfair to expect applicants to get DBS certificates themselves.

Thanks for sending on your letter dated 3rd Jan 2023 about this Policy update, as I am also a licensed SIA Security Consultant I Yearly renew my DBS/CRB Check. So for myself I have no problem with this being added to part of the Animal Licensing Policy but would point out this will also add another cost to the current licensing fees am also unsure if adding this new policy would help as the current Licensing team can see how a Licence holder is with the animals in their care at anytime they may visit their locations, If a Kennel owner & Manager along with any staff have all the correct Certificates/Qualifications and have all the correct paperwork/ Kennel Policies,



I would think the TDC Animal Licensing team member would be able to see and feel how any kennel is being run, in turn not just ticks in the box meaning it's more a three way thing between Kennel Owner, Torridge Licensing team & DEFRA.

That was heavy reading and very long.

I would like to raise point 9.5 - it says the council will give 3 months notice for renewal of a license and that it must be submitted at least 10 weeks before the license expires this only gives the license holder about 2 weeks and possibly allowing for a holiday may not give sufficient notice and would suggest license application be submitted no less than 8 weeks before it expires. Applications may also be held up while waiting for the DPS certificate.

As I have said before it is still wrong that an excellent standard establishment is only graded at 3* when another establishment can be given 4* and have issues that need to be dealt with, we are fortunate that unlike human hotels the vast majority of our customer do not look at the star rating and many do not even realise we have to be licensed.

We had a discussion at our riding stables, and we concluded that anyone keeping livestock that needs a license should be DBS checked for any animal cruelty charges etc. Plus people running riding schools, if they are not affiliated to the ABRS or BHS (which insist on DBS checks on instructors/coaches) should also be checked for child protection purposes.

I am writing to you with regards to the above letter I received from you recently & to give my thoughts on the issue.

I have a boarding licence with Torridge Council for boarding dogs whilst their families go on holiday & I think it is a good idea that you will be asking new or renewal, or even current holders to have a valid DBS.

I feel, since starting this business recently, I have heard from clients that have had meetings with other boarders that don't seem to have a licence from what they can gather and are not following any guidelines that would be required for boarding dogs. This does concern me I must admit.

The final draft policy is included at Appendix B with changes highlighted in red.

3. IMPLICATIONS

Legal Implications

There is no legal requirement to have a policy in place, however, such a policy does provide guidance and good practice for applicants, the Authority, members of the public and, ultimately in the case of enforcement action, guidance for the courts.

Financial Implications

None

Human Resources Implications

None

Sustainability/Biodiversity Implications

None

Equality/Diversity

None



Risk Management

There are possible legal, reputational and financial risks if the Council does not maintain a Policy which reflects current legislation and the latest guidance.

Compliance with Policies and Strategies

All regulatory activity is carried out in accordance with current policy and procedures.

Data Protection (GDPR) Implications

None

Climate Change

None

Ward Member and Lead Member Views

Councillor McKenzie, Chair, has been consulted

4. CONCLUSIONS

The Policy sets out the Authority's approach to the regulation of animal licensing in the Torridge area and the standards it will apply. It is good practice to have a robust policy to provide guidance and good practice to applicants, the Authority's officers, councillors and members of the public.

5. RECOMMENDATIONS

It is recommended that Members approve the policy.

SUPPORTING INFORMATION

Consultations: Date of Consultation – As detailed in report

Contact Officer: Chris Parkhouse

Background Papers: Licensing files





DRAFT1.1

ANIMAL LICENSING POLICY

Version	1.0	Date	April 2023
Approved: Licensing Committee	TBC	Next Review Date	TBC

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This document can be made available in other formats and languages if required.
Please contact the Licensing Team for further details.
Telephone: 01237-428700. E-mail: licensing@torridge.gov.uk

1 Introduction

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

2 Scope of Policy

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

3 The Legislative Framework

- 3.1 The Animal Welfare Act 2006 (“the Act”) consolidated and updated a range of previous legislation to promote the welfare of animals. This Act is the principal piece of legislation aimed at protecting animal welfare in England and Wales and establishes set welfare standards that must be maintained by all people who are responsible for an animal. The Act also places responsibilities on to numerous enforcement agencies, including local authorities.
- 3.2 The Act introduced a ‘duty of care’ on any person that is responsible for an animal to ensure that the needs of that animal are met and created an offence of failing to provide for those needs. The Act also increased the penalties for animal abuse allowing the courts to disqualify a person from being in charge of animals. Any person disqualified under the Act is also disqualified from holding a licence under any of the animal licensing Regulations.
- 3.3 The Act gives powers to the Secretary of State for Environment, Food and Rural Affairs to pass regulations that may repeal or amend any of the primary licensing Acts or create new forms of licences, and these powers were used to create the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 3.4 Section 9 of the Animal Welfare Act 2006 creates five overarching principles of animal welfare. The Act refers to these as the ‘five needs’ of all animals. It is the duty of any person responsible for an animal to ensure that each of these five needs are met.
- 3.5 The ‘five needs’ are:
- The need for a suitable environment (by providing an appropriate environment, including shelter and a comfortable resting area);
 - The need for a suitable diet (by ready access, where appropriate, to fresh water and a diet to maintain full health);
 - The need to be able to exhibit normal behaviour patterns (by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate);
 - Any need to be housed with, or apart from, other animals (by providing the company of an animal of its own kind, where appropriate); and
 - The need to be protected from pain, suffering, injury and disease (by prevention or rapid diagnosis and treatment and ensuring conditions and treatment which avoid mental suffering).
- 3.6 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force in October 2018 and are made under section 13(7) and 13(8) of the Animal Welfare Act 2006. The regulations update and replace legislation for selling animals as pets, dog and cat boarding, dog breeding and riding establishments. In addition to this it introduces, for the first time, a licence regime for keeping and training animals for exhibition.

Under Schedule 1 of the regulation, a licensable activity means one of five activities involving animals:

- Selling animals as pets
- Providing for or arranging for the provision of boarding for cats or dogs
- Hiring out horses
- Dog breeding
- Keeping or training animals for exhibition

3.7 The Dangerous Wild Animals Act 1976 dictates that a licence is required from the Council to keep certain animals that are considered wild, dangerous or exotic. A full list of animals that need a licence can be seen here:

<http://www.legislation.gov.uk/uksi/2007/2465/schedule/made>.

3.8 The Zoo Licensing Act 1981 dictates that a licence is required from the Council to display wild animals to the public for at least 7 days a year, in a place that is not a circus or a pet shop.

4 Enforcement of the policy

4.1 The Council will seek to ensure compliance with the legislation outlined above and will carry out its duty in an appropriate and consistent manner according to the following principles:

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

4.2 In carrying out its enforcement duties, the Council has adopted an enforcement policy, which is available on the Council's website: www.torridge.gov.uk

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

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

Suspension, Variation and Revocation of a licence

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

- 4.5 The Council will also give consideration to suspending, varying, or revoking a licence without the consent of the Licence Holder where:
- the licence conditions are not being complied with;
 - regulations are breached;
 - information supplied by the licence holder is false or misleading;
 - it is necessary to protect the welfare of an animal.
- 4.6 The Council will take a graduated approach to considering these measures, and in all instances will first consider if compliance and protection of animal welfare can be achieved by variation of the licence. Where it is not considered possible to achieve this via licence variation then suspension or revocation will be considered, in particular where poor standards of animal welfare are identified, or where the Licence Holder has a previous poor compliance record.
- 4.7 Where a licence is varied, suspended, or revoked, the Council will provide notice of this in writing, and include the following information:
- the reasoning behind the decision;
 - when the change will come into effect;
 - the licence holder's rights (including how to appeal the decision);
 - specific details of any works/ issues requiring resolution before a suspension can be lifted.
- 4.8 A suspension, variation or revocation of a licence will ordinarily take effect 7 working days after the decision has been issued to the licence holder. The exception to this is where the reason for the action is to protect animal welfare, in which case the effect of the notice is immediate (via powers conferred on the Licensing Authority under Section 16 (2) of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018).
- 4.9 During the 7 days before the notice takes effect (unless the notice has immediate effect), the Licence Holder can make written representation to the Council. The Council will then consider these representations, provide a response within 7 working days, and either:
- Continue with the licence suspension, variation or revocation; or
 - Cancel the decision to make changes to the licence.
- 4.10 Licence Holders have 28 days to appeal against the decision, and if the licence is suspended or revoked cannot trade again until the suspension or revocation is lifted following:
- the Council being satisfied that licence conditions are being met; or
 - the first-tier tribunal finding in favour of the Licence Holder that the Council's decision was incorrect.

5 Policy Application

- 5.1 The Animal Welfare Act 2006 and associated Regulations outline individual application requirements and mandatory conditions that the Council must be satisfied with before it can grant a licence. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 gives the Council powers to apply conditions to each Licence it grants in addition to the mandatory conditions set out in the statutory guidance for each category of animal activity licence.
- 5.2 The principal purpose of requiring a licence is to safeguard animal welfare, and the Council will keep this objective in mind at all times when undertaking its animal licensing duties.
- 5.3 The Council will inspect premises in accordance with legislative requirements, veterinary advice and any statutory codes of practice before issuing or renewing a licence. Inspections will involve both programmed/ announced inspections as well as unannounced inspections such as to provide confidence as to the level of compliance of a licence holder/ applicant. Whether an inspection needs to be announced or unannounced depends on the reason for the inspection. For example, if there's a complaint or information that an animal's welfare is at risk it is likely that an inspector will make unannounced re-inspections to make sure compliance is checked thoroughly.
- 5.4 Where appropriate or required (such as the case with riding stables and initial dog breeding inspections), inspections will be carried out with a qualified/ registered vet. Where inspections identify areas of concern which cannot be addressed by the licence conditions, officers will consider the use of the Animal Welfare Act 2006 and/or liaise with other organisations such as the RSPCA.
- 5.5 The Council will make reasonable efforts to investigate reports and intelligence relating to unlicensed establishments and/or breaches of conditions, respond to any issues, and where necessary take enforcement action in-line with the Council's Enforcement Policy.
- 5.6 When carrying out its functions under the primary licensing Acts the Council will seek to promote the following objectives:
- The five needs as set out in the Animal Welfare Act;
 - Public safety;
 - Integration with other relevant strategies and legal requirements;
 - Positive relations with licence holders and proportionate regulation.
- 5.7 In addition to the danger to the welfare of animals by unlicensed or irresponsible animal owners, there is also a danger that may arise to members of the public. For example, poor standards of hygiene could lead to a risk of diseases spreading and affecting other members of the public and their animals. Additionally, licence holders that permit members of the public onto their premises have a legal duty to ensure that they do not put them at risk of illness or injury. Public safety will therefore be a paramount consideration by the Council at all times.

- 5.8 In addition to being licensed to carry out animal activities a licence holder and their premises may need to comply with other legislation such as planning and building regulations. Where the appropriate permissions or consents are not in place, or where they are being breached, or could be (for example where the grant of a licence would breach a planning condition), the Council may take enforcement action which could lead to the closure of such premises and consequently adversely impact on the welfare of any animals accommodated there. As a result the Council will not grant a licence where the appropriate planning permissions or building control consents are not in place, or may revoke a licence where such legislation, regulation or conditions are breached.
- 5.9 The statutory guidance accompanying each of the primary licensing regulations state clearly the mandatory conditions and minimum standards which the Council must be satisfied are complied with before any licence is granted. Where the relevant Licensing Officer is not satisfied that the relevant legal requirements and mandatory conditions are met, or where an Environmental Health Officer of the Council or Veterinary Surgeon has raised concerns that the legal requirements or standards are not met, or unlikely to be met, the applicant for the licence will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.
- 5.10 If the applicant fails to meet the necessary standards to be granted a licence, the Authority will endeavour to work with the applicant to ensure suitable measures can be put in place and subsequently issue the licence once a satisfactory standard is achieved. The Authority will agree a specific period of time for the applicant to achieve these standards before formally refusing a licence. If sufficient engagement with the applicant has not been achieved within a period of 3 months the licence will be refused. The applicant will need to reapply for a licence and the initial application fee will not be refunded.

6 The Animal Activity Star Rating Scheme

- 6.1 The Animal Activity Star Rating Scheme does not apply to premises licensed under the Dangerous Wild Animals Act 1976 or the Zoo Licensing Act 1981
- 6.2 For animal activities licensable under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 other than keeping or training animals for exhibition a star rating will be given.
- 6.2 In line with Statutory Guidance to Local authorities, applicants will be given a star rating ranging from 1 to 5, based on their compliance history and the results of their inspection. This also applies if an applicant asks for a re-inspection.
- 6.3 Applicants/ Licence holders should be aware that the Council may amend their star rating after a routine revisit or unannounced inspection. For example, a star rating could go down after an unannounced inspection to investigate an animal welfare complaint.
- 6.4 The Council will provide feedback on the star rating they have given following inspections which will include the following:
- The star rating;
 - Details of why this rating was given. This will include a list of the higher standards that the business currently fails to meet, or a list of the minimum standards that the business is failing to meet if it is considered to be in the minor failing category;
 - Details of the appeals process and the deadline by which an appeal must be made.

Granting or renewing a licence: risk-based approach

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

The Animal activity star rating system

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

- 6.7 New applicants that do not have one year of compliance history with a local authority or a UKAS-accredited body will be automatically rated as high risk. The length of time the licence is granted for in these instances will depend on whether the new applicant meets the specified higher standards of animal welfare, or the minimum standards.
- 6.8 For renewal applications, the length of time the licence is granted for will depend on their risk rating and welfare standards at inspection. The licence length can be up to 3 years.
- 6.9 Where any failings compromise the welfare of animals a licence will not be granted or renewed.
- 6.10 All of the minimum standards outlined in the relevant licensable animal activity guides must also be met. Failure to do so will lead to refusal to grant or renew the licence.
- 6.11 In cases where Licence holders conduct multiple types of animal activity categories, they will only receive one rating to cover all of the activities they undertake. Each activity will be considered and rated separately before the final score is awarded overall. In accordance with the statutory guidance to Local Authorities, the star rating will be rounded down if the licence holder is operating with lower standards for one activity than another. For example, if an applicant meets the higher standards for dog breeding and the minimum standards for dog boarding, the overall score will reflect the lower of the two.
- 6.12 As per the risk scoring matrix set out above, the Animal Activity rating scheme requires inspections to be carried out during the term of a licence, and the star rating may be varied at that time if the level of compliance identified at that time has gone up or down.
- 6.13 For the activity of hiring out horses, there is a requirement for an annual inspection by a Veterinarian listed on the Royal College of Veterinary Surgeons Riding Establishments Inspectorate List. It is the Council's policy to appoint the Veterinarian to undertake the inspection who will be independent and not one that is retained by the applicant / licence holder. Any increased costs associated with this, for example increased mileage costs, must be borne by the applicant.

Exception: keeping or training animals for exhibition

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

Higher standards

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

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

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

Star rating appeal procedure

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

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

FAO Licensing Team, Torridge District Council, Riverbank House, Bideford, EX39 2QG.
Email: licensing@torridge.gov.uk

6.19 Appeals will be determined by a Senior Officer within 21 days of receiving the appeal, and may involve the following:

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

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

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

Refusing a licence

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

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

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

6.24 In such circumstances the Council will provide the applicant with a notice of refusal which will clearly set out the reasons for the application being refused, and detail how the applicant can appeal against the decision (appeal to a First Tier Tribunal (General Regulatory Chamber), within 28 days of receiving the notice of refusal).

Re-inspection requests

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

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

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

- 6.27 If the case for re-inspection made by the Licence Holder is not substantiated or insufficient evidence is provided, then the Council may refuse the request to re-inspect. If the request is refused then the Licence holder will be provided with a written explanation including details of the outstanding matters requiring attention before a re-inspection will be undertaken
- 6.28 Where a request for re-inspection is accepted by the Council then a re-inspection will be undertaken within three months of the request being received.
- 6.29 Re-inspection visits may be undertaken either announced or unannounced (depending on the original inspection findings and the type of premises involved), and Licence Holders should be aware that depending on the re-inspection findings their star rating may go up, down, or remain the same.
- 6.30 There is no limit on the number of re-inspections that can be requested, but in each case the request for re-inspection must include the information set out above. The Licence holder will be required to pay the current inspection fee for the re-inspection and will be liable for an additional charge where a veterinarian is also required to be in attendance.

7 Suitability of Applicants

- 7.1 In accordance with the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, any individual who carries on a licensable activity will be designated as the 'operator' of the business and can apply for a licence, providing they are not already disqualified from holding a licence in accordance with the Regulations.
- 7.2 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence the Council will require new applicants to provide a basic disclosure certificate (DBS) alongside their application. The Disclosure and Barring Service certificate must be marked with an issue date no more than 3 calendar months before the date of application.
- 7.3 Existing Licence holders will be required to provide a basic disclosure certificate as part of their renewal application from 1st April 2023 onwards. As with new applicants the Disclosure and Barring Service certificate must be dated no more than 3 calendar months before the date of application.
- 7.4 A Basic Disclosure will be required of all those applicants listed in the application (individuals, partners, and directors).
- 7.5 DBS checks must show that the applicant (or applicants) are not disqualified from holding a licence, and/or hold no relevant convictions which may affect whether they are a 'fit and proper' person to hold a licence.
- 7.6 A licence will only be granted where the Council is satisfied that the applicant is a fit and proper person to be the operator for the animal licence applied for. Fitness and propriety to hold a licence is a familiar concept within licensing but is not legally defined within the context of animal licensing. For the purpose of this Policy, the Council will consider a 'fit and proper person' to be an individual who can demonstrate upon application that they have:
- no relevant convictions;
 - not been disqualified from holding a licence;
 - the knowledge, experience, compliance history and ability to give reasonable confidence that they can comply with licence conditions and safeguard the welfare of animals in their care;
 - made suitable management and training arrangements to ensure the safety and welfare of any staff and/or members of the public who may be affected by the licensed activity.
- 7.7 This does not limit the scope of the fitness and propriety assessment and the Council may take into account other matters considered relevant to the licensing process.

Relevance of convictions

- 7.8 The purpose of this section is to offer guidance on how the Council will determine whether an applicant or licence holder is suitable to either be granted a licence in the first place or retain a licence under the Regulations.

In all cases, the Licensing Authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.

- 7.9 In addition to the nature of the offence, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 7.10 Most applicants or licensees will have no convictions. However, it is accepted that individuals do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 7.11 Where a situation is not covered by these guidelines, the Licensing Authority will consider the matter from first principles and determine the fitness and propriety of the individual.
- 7.12 Where an applicant or licensee has been convicted of any offence that is related to animal cruelty or suffering, they will not be licenced. The reason for this is that the main purpose of the Animal Licensing Regulations is to ensure the welfare of animals, and as such these types of offences are highly relevant.
- 7.13 The Council will also not normally grant a licence to a person with one (or more) conviction for any offence that is related to licensing as these offences demonstrate a disregard for licensing processes and procedures.
- 7.14 In addition to the above, the Council also has wider obligations to safeguard both children and vulnerable adults. These obligations arise from the Children Act 2004; and the Care Act 2014. As a result, the Council will not grant a licence to a person with a conviction for sex and indecency offences or exploitation offences (abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children).
- 7.15 In relation to single convictions, the following **minimum** time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted or renewed. This places public safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence:
- Offences involving violence- 10 years;
 - Possession of a weapon- 7 years;
 - Offences involving dishonesty- 7 years;
 - Offences involving drugs- 10 years.
- 7.16 Upon receipt of the certificate from the Disclosure & Barring Service, an Officer of the Licensing Authority will compare any disclosed information with the adopted policies relating to relevance of convictions and determine whether the applicant should be referred to a Licensing Sub-committee for them to determine whether the applicant is fit and proper to hold a licence.

8 Fees

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

9. Application Process

- 9.1 Licence applications must be submitted on the relevant application form, accompanied by any supporting information requested (such as a basic disclosure), and with the application fee paid (the Part A fee). Inspection of the proposed licenced premises to determine the suitability for licensing will only be undertaken once the above requirements have been satisfied.
- 9.2 Once a valid application has been received (all relevant information received/ included, and Part A fees paid), the Council will in accordance with statutory guidance for animal activity licensing undertake the following:
- Consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet the licence conditions.
 - Inspect the site of the licensable activity and assess if it is likely to meet the licence conditions. The inspection will be completed by a suitably qualified inspector (as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments). The inspector will prepare a report, in accordance with the requirements of the Regulations, to be submitted to the Council following their inspection.
 - The inspector's report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter, and state whether or not the inspector considers that the licence conditions will be met.
- 9.3 The inspecting Officers recommendation whether or not to issue a licence will principally be based on the standards witnessed at the time of inspection.
- 9.4 If the Inspecting Officer recommends that a Licence should be issued then the applicant will be contacted to request the Part B element of the fees be paid. Following receipt of the Part B fee, the Licence will be issued.
- 9.5 Although not a statutory requirement, the Council will aim to provide licence holders with 34 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 10 weeks before their licence expires to continue the activity without a break. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

10 Powers of Inspectors

- 10.1 Section 30 of the Animal Welfare Act 2006 allows local authorities to prosecute for any offences under that Act. Prosecution proceedings will be considered in accordance with the Council Enforcement Policy.
- 10.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, introduced a range of enforcement powers to allow the Council to issue a suspension, variation or revocation notice where licence conditions are not being complied with; where there is a breach of the regulations; or issues relating to the protection of the welfare of an animal (as set out further in Section 4 previously).
- 10.3 Anyone who carries on any of the licensable activities without a licence is committing a criminal offence and is liable to imprisonment for a term of up to six months, a fine or both.
- 10.4 It is a criminal offence to breach any licence condition. It is also a criminal offence not to comply with an inspector's request with regards to taking a sample from an animal.
- 10.5 It is a criminal offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing any of these offences could result in an unlimited fine.
- 10.6 Inspectors have a right of entry to premises for the purpose of undertaking a licence inspection or checking whether an animal activity licence is required. An inspector does not have right of entry to any part of site premises used as a private dwelling, unless they give 24 hours' notice to the occupier. Section 62 of the Animal Welfare Act 2006 contains a definition of what would constitute a private dwelling, and an Inspector may enter this part of the premises without 24-hours-notice if given permission by the occupier. Where a request for entry is refused, Section 23 of the Animal Welfare Act makes provision for application for a warrant of entry.
- 10.7 The Regulations also make provision for the inspectors to take samples for laboratory testing from any animals on premises occupied by an operator, for the purposes of ensuring the licence conditions are being complied with. A licence holder must comply with any reasonable request of an inspector to facilitate the identification and examination of an animal and the taking of samples and, in particular, must arrange the suitable restraint of an animal if requested by an inspector (the provision for sampling is primarily aimed at veterinarians carrying out inspections on behalf of the Council).

11 If a Licence Holder Dies

- 11.1 If a licence holder dies, the procedure in regulation 12 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 applies. This allows the personal representative of the deceased to take on the licence, provided that they inform the local authority within 28 days of the death that they are now the operators of the licensable activity.
- 11.2 The licence will remain in place for 3 months from the death of the former licence holder, or for the rest of the time it was due to remain in force if that time period is shorter.
- 11.3 The new licence holder should apply for a new licence one month before the expiry of this new period. If the personal representative does not notify the local authority within 28 days of the death of the licence holder, the licence will cease to have effect after those 28 days.
- 11.4 The Council will give consideration to extending the 3 month period up to 6 months if requested by the representative and if they believe this time is needed to wind up the estate of the former licence holder.

12 Change of ownership/sale of business

- 12.1 There is no provision within the regulations to change the name of the licence holder if the business is sold.
- 12.2 The new owner will need to apply for a new licence. It is advised that this is done as soon as the offer on the property/business has been accepted. They can keep the bookings already in the books (especially kennels and catteries) when they move in. When they move into the property/business, we will carry out an inspection within 28 days of them taking over.

13 Additional information

- 13.1 The Council has additional information available online, including application forms, guidance documents and details on conditions. www.torridge.gov.uk/licensing

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

- A1. All dog and cat boarding activities need a licence if they are carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance which the Council will have regard to.
- A2. To be in scope, they must:
- provide housing for other people's dogs or cats, where the provision of that housing is part or solely the activity of the business;
 - arrange housing for other people's dogs - for example, businesses which connect pet owners with people willing to look after their animals for no fee, just minor expenses;
 - provide overnight housing for cats in purpose-built cattery units;
 - home board cats, when they are kept in cattery units;
 - provide daytime housing for other people's dogs, as part of, or as the only activity of, the business.
- A3. An application for a licence must be made to the Council on its application form, which is available from the Council's website: www.torridge.gov.uk/licensing
- A4. Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the relevant statutory guidance:
- Cat boarding Licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Cat-Boarding-Guidance.pdf>
 - Home boarding for dogs licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Home-Boarding-for-Dogs-Guidance.pdf>
 - Dog day care licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Dog-Day-Care-Guidance.pdf>
 - Dog kennel boarding licensing:
<https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Commercial-Dog-Boarding-Guidance.pdf>
- A5. If the Council is satisfied that the requirements of the statutory guidance documents are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- A6. The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- A7. If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.

A8 All dog and cat boarding activities undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection. For those dog and cat boarding establishments of smaller scale, for the sake of clarity, Officers will expect to see evidence of a trade waste contract where 5 or more dogs or cats are accommodated at any time.

Appendix B. Selling Animals as Pets Licensing

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

Appendix C. Hiring out horses licensing

- C1 All activities involving hiring out horses for riding, or instruction in riding, need to have a licence if they're carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance on Hiring out horses licensing, which the Council will have regard to.
- C2 To be in scope they must hire out horses for riding, or instruction in riding. This could include:
- riding schools
 - loan horses
 - hunter hirelings
 - pony and donkey rides
 - polo instruction
 - pony parties where the ponies are ridden
- C3 For the hiring of horses, a listed Veterinarian must be appointed for the initial inspection, for a renewal inspection, and for the annual inspection for the hiring of horses. It is the Council's policy to appoint the Veterinarian to undertake the inspection who will be independent and not one that is retained by the applicant / licence holder.
- C4 An application for a licence must be made to the Council on its application form, which is available from the Council's website: www.torridge.gov.uk/licensing
- C5 Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the statutory guidance: <https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Hiring-Out-of-Horses-Guidance.pdf>
- C6 If the Council is satisfied that the requirements of the statutory guidance document are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- C7 The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- C8 If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.
- C9 All hiring out horses undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection.

Appendix D. Dog Breeding Licensing

- D1 All activities involving dog breeding, need to have a licence if they are carried out as a commercial business. Further information on whether an activity would be considered a commercial business is contained in the relevant statutory guidance on dog breeding licensing, which the Council will have regard to. In particular, there is a limit on the number of litters that dog breeders can have without a licence unless a breeder can prove that they will not sell any of the puppies from these litters as puppies or adults.
- D2 To be in scope, they must either:
- breed 3 or more litters of puppies per year (unless they can show that none of the puppies have been sold as puppies or adults);
 - be breeding puppies and advertising a business of selling them (as defined under the business test). It is important to note that businesses need a licence regardless of the number of litters produced per year. This is not restricted to registered businesses. Individuals can also be classed as a business depending on the extent of their activities.
- D3 A vet must be appointed to undertake the initial inspection for licensed dog breeding licence applications. It is the Council's policy to appoint the Veterinarian to undertake the inspection who will be independent and not one that is retained by the applicant / licence holder.
- D4 An application for a licence must be made to the Council on its application form, which is available from the Council's website: www.torridge.gov.uk/licensing
- D5 Before granting a licence the Council must be satisfied that an establishment is compliant with at least the minimum standards outlined under the statutory guidance: <https://localgovernmentanimalwelfare.org/wp-content/uploads/2022/02/Dog-Breeding-Guidance.pdf>
- D6 If the Council is satisfied that the requirements of the statutory guidance document are met, and there are no other concerns about the welfare of animals or the objectives of this policy being undermined, the licence will be granted.
- D7 The Council may attach any condition to the licence that it feels are necessary and expedient for securing the objectives above.
- D8 If the Council has any concerns about the welfare of the animals kept under this licence, it may request that a vet conducts a further visit to ascertain if the measures in place are acceptable which would be chargeable to the licence holder.
- D9 All dog breeding undertaken as a commercial business should have a trade waste contract, and inspecting Officers will request evidence of this at the time of inspection.

Appendix E. Keeping or Training Animals for Exhibition Licensing

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

Appendix F. Dangerous Wild Animal Licensing

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

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

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

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

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

F10 The Council may also, in granting a licence under this legislation, specify such conditions on the licence as it thinks fit. The Council will give careful consideration to additional conditions proposed for a licence, including the comments of the Veterinarian/ expert on any proposed conditions. Where the Council places conditions on a licence they will be based, wherever practicable, on existing codes of best practice and industry standards. At all times the Council will bear in mind its primary objectives in relation to Dangerous Wild Animal Licensing, which are to protect the public, and also to ensure appropriate animal welfare standards.

F11 Where a condition is applied on a licence to permit an animal to be, for any continuous period exceeding 72 hours, at premises outside the area of the Council, the Council will contact the local authority in whose area those premises are situated.

- F12 The Council is permitted by regulations to vary licences at any time by specifying new conditions, or amending or revoking previously applied conditions. Where variation of the licence conditions is proposed by the licence holder, the variation of the licence will have immediate effect. In other cases, the Licence Holder will be given a reasonable period of time to familiarise themselves with the new requirements and ensure compliance.
- F13 Applicants/ licence holders have a right of appeal against the refusal, revocation, or variation of the licence. Appeals should be made to the Magistrates Court within 21 days of receiving notification of the refusal/ revocation/ variation.
- F14 In the event of the death of a licence holder the licence shall continue in force for a period of 28- days as if it had been granted to the personal representatives of the deceased, and if an application is made for a new licence within the 28-day period, the licence shall be deemed to be still in force pending the grant or refusal of that application.
- F15 Premises licensed under the Dangerous Wild Animals Act are not risk rated and licences, if issued, are valid for 2 years.
- F16 Although not a statutory requirement, the Council will aim to provide licence holders with approximately 3 4 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 10 weeks before their licence expires. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.
- F17 Provided that a valid application is received prior to the expiry the licence, the licence shall be deemed to be still in force pending the grant or refusal of the said application, and if it is granted the new licence shall commence from the date of the expiry of the last licence.

Appendix G. Zoo Licensing

Do you need a zoo licence from Torridge District Council?

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

Application process

- G4 The licensing of zoos is a specialist field and the regulations are complex. The Council works in close partnership with DEFRA. Details on the legislation and the Secretary of State's Standards of Modern Zoo Practice can be found on the DEFRA website:
<https://www.gov.uk/government/publications/zoo-licensing-act-1981-guide-to-the-act-s-provisions>
<https://www.gov.uk/government/publications/secretary-of-state-s-standards-of-modern-zoo-practice>
- G5 If you are thinking of setting up a zoo, we recommend you contact us first for advice and guidance. The Council cannot consider an application unless at least two months notice of the application has been given, plus details have been published in a local and national newspaper, and a notice has been placed at the site. Once this period of time has lapsed, an application form can be submitted along with the current fee.
- G6 Before the Council can grant a licence for a zoo, it must be satisfied that:
- the establishment will not injuriously affect the health and safety of people living in the neighbourhood;
 - the establishment will not affect the preservation of law and order;
 - the accommodation, staffing and management are adequate for the proper care and well-being of the animals.
- G7 The Council will consult the following in relation to your application:
- Police;
 - Fire authority;
 - Governing body of any national institute concerned with the operation of zoos;
 - Planning authority;
 - The Council's Health and Safety team.

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

The applicant

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

- the Protection of Animals Acts 1911 to 1964
- the Protection of Animals (Scotland) Acts 1912 to 1964
- the Pet Animals Act 1951
- the Animals (Cruel Poisons) Act 1962
- the Animal Boarding Establishments Act 1963
- the Riding Establishments Act 1964 and 1970
- the Breeding of Dogs Act 1973
- the Dangerous Wild Animals Act 1976
- the Endangered Species (Import and Export) Act 1976
- part I of the Wildlife and Countryside Act 1981
- sections 4, 5, 6(1) and (2), 7 to 9 and 11 of the Animal Welfare Act 2006
- section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to dog breeding in Wales
- section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to the carrying on of an activity in England;
- the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014
- Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- sections 28C or 28F(16) of the Animal Health Act 1981
- sections 19 to 24, 25(7), 29 or 40(11) of the Animal Health and Welfare (Scotland) Act 2006

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

Planning requirements

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

Licences

- G12 Each original licence will run for four years, with consecutive renewals running for six years. Failure or late application for renewal may invalidate any public liability insurance for the premises. A copy of the licence must be displayed at every public entrance of the establishment.
- G13 Changes to the licence, for example name changes and ownership changes, can be carried out at the request of the operator. A licence can also be transferred to another person with the approval of the Council (a basic disclosure certificate will be required for the proposed new licence holder). There is an application form for the transfer of a licence, which must be submitted with the relevant fee. The application can be found via the link to the Council webpages above.
- G14 In the event of a licence holder dying, the licence shall be deemed to be granted to their personal representatives and will remain in force for up to three months, or longer with our approval.
- G15 For small zoos, or for a zoo exhibiting only a small number of different kinds of animals, the Secretary of State has powers to relax the requirements of the Act. In such instances the Council can seek a direction that the Act shall not apply at all (Section 14(1)(a)) or that certain category of inspection is not required (Section 14(1)(b)).
- G16 Alternatively, on applying to the Secretary of State for a zoo licence, you may be granted a dispensation (Section 14(2)) to reduce the number of inspectors to a reasonable level for a small establishment. This will not reduce the zoo's obligation to achieve the levels of animal welfare and public safety set out in the Secretary of State's Standards.

What conditions will be attached to a licence?

- G17 The Zoo Licensing Act 1981 specifies various conservation measures that must be undertaken by a zoo and these will be attached as conditions to a zoo licence.
- G18 Torridge District Council also has discretion to attach any conditions it deems necessary or desirable for the proper conduct of the zoo.
- G19 The Secretary of State issues guidance of standards of practice that zoos should meet which apply in England. Copies of the Secretary of State's Standards of Modern Zoo Practice are available on the DEFRA website via the link above.

Inspection types

Periodic inspections

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

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

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

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

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

Special inspections

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

Informal inspections

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

Renewing a licence

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

Records required to be kept

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

Offences and penalties

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

- operating a zoo without a licence in contravention of the Act;

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

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

Rights of entry

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

Fees

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

How long will it take to process my application?

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

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

Right of appeal

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

Complaints

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

Further information

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

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

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

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

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

Relevant trade associations

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

LICENSING COMMITTEE – FORWARD PLAN 2022/2023

2022/23	Cycle 1	Cycle 2	Cycle 3	Cycle 4	Cycle 5	Cycle 6	Cycle 7	Cycle 8
	22 June 2022	27 July 2022	7 Sept 2022	19 Oct 2022	30 Nov 2022	25 Jan 2023	8 March 2023	
	10am	10am	10am	10am	10am	10am	10am	
Page 71					Taxi Demand Study Animal Licensing Policy	Boat Survey	Animal Licensing policy Taxi Policy Amendment Small Commercial Vessel Licensing Policy	

