



NORTH DEVON COUNCIL

THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

APPEALS AND RE-INSPECTION PROCEDURE

REFUSAL OF A LICENCE

The Department for Environment Food and Rural Affairs (DEFRA), the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018, procedural guidance notes for local authorities (October 2018) paragraph 18 states, the Council must refuse a Licence if:

- (a) We think the applicant is not capable of meeting their licence conditions.
- (b) We think that granting a licence might negatively affect the welfare, health or safety of the animals involved in the activity.
- (c) The accommodation, staffing or management are inadequate for the animals' well-being or for the activity or establishment to be run properly. The relevant guidance documents for the activity will explain in detail the requirements and conditions that must be met so you should have regard to these documents.
- (d) The applicant has been disqualified from holding a licence as per Schedule 8 of the Regulations.

The applicant will be notified in writing stating grounds for refusal.

The applicant has 28 days following the notice of refusal to appeal to the First-Tier Tribunal. Details of appealing to the First-Tier tribunal can be found on the government website: <https://www.gov.uk/guidance/welfare-of-animals-appeal-to-a-tribunal>

APPEAL AGAINST STAR RATING AND LENGTH OF LICENCE

The length of licence and star rating of the business is calculated under the DEFRA, The Animal Welfare (Licensing of Activities involving Animal) (England) Regulations 2018, procedural guidance notes for local authorities, October 2018.

Under paragraph 86 of the DEFRA, The Animal Welfare (Licensing of Activities involving Animal) (England) Regulations 2018, procedural guidance notes for local authorities, (October 2018), the Council should provide the following information in writing–

- (a) The star rating itself.
- (b) Details of why the business was rated as it was. This should include a list of the higher standards that the business is currently failing 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. This should also include a copy of the risk management table showing the scores under each point. Details recorded must be sufficient to support the score given for each element to facilitate internal monitoring or enable review where an appeal is made.
- (c) Details of the appeals process and the deadline by which an appeal must be made.

To assist with fully understanding of how the business was rated, the inspector comments and failure to meet the requirements, the applicant must read the DEFRA guidance notes for conditions for the activity applied for e.g. hiring out horses.

Applicants will be issued their licence and notified of their star rating in writing. If an applicant wishes to appeal against the star rating they have been given by the inspecting officer on behalf of the authority, the appeal must be made in writing to the Head of Environmental Health and Housing, North Devon Council, PO BOX 379, Barnstaple, Devon, EX32 2GR or by email to licensing@northdevon.gov.uk

The applicant is encouraged to discuss their appeal “informally” with the inspecting officer’s so that there is an opportunity to help explain how the rating was worked out as this may resolve the matter without the need for a formal appeal. Any such discussions do not form part of the formal appeal process and do not change the deadline within which an appeal must be lodged. The applicant should still submit a formal appeal, and they may subsequently withdraw it, if they wish.

The applicant has 21 days (including weekends and bank holidays) following the issue of their licence in which to appeal the star rating.

The appeal will be determined by the Head of Environmental Health and Housing or The Public Protection Manager. No officer involved in the production of the rating, or in the inspection on which the rating is based will consider the appeal.

The Authority will determine the appeal and notify the applicant of the decision within 21 days (including weekends and bank holidays) from the date the appeal is received.

The Authority will determine the appeal by considering the paperwork associated with the inspection and the past record of the business. In some circumstances a further visit may be required.

The costs of any additional inspections will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.

If the applicant disagrees with the outcome of the appeal they can challenge the Authority'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.

REQUESTS FOR RE-INSPECTIONS FOR RE-RATING PURPOSES

The re-inspection mechanism applies in cases where businesses with ratings of '1' to '4' have accepted their rating and have subsequently made the necessary improvements to address non-compliances identified during the previous inspection. It should be noted that re-inspection for re-rating purposes could lead to a lower rating being awarded rather than an increase in rating.

Re-inspection falls under full cost recovery, so the business will be required to pay for the costs of the inspection.

The request for re-rating must be made in writing to the Licensing Team, North Devon Council, PO BOX 379, Barnstaple, and Devon, EX32 2GR or by email to licensing@northdevon.gov.uk. The request must outline the case for a re-inspection, i.e. it should indicate the actions that have been taken by the business to improve the level of compliance or welfare since the inspection and, where appropriate, should include supporting evidence. The supporting case should refer to those actions that the authority informed the business would need to be made in order to achieve a higher rating.

The re-inspection will be carried out within 3 months of receipt of the request.

The authority can refuse to undertake a re-inspection if the case made by the business is not substantiated or insufficient evidence is provided. In doing so the authority will re-emphasise the priority actions that must be taken in order to improve the rating and indicate what evidence will be required for agreement to a re-inspection to be made on further request.

There is no limit to the number of re-inspection visits a business can request, however, there will be a fee for each visit charged at full cost recovery.

If the business disagrees with the authority's decision to refuse a request for a re-inspection they can raise the issue with the Head of Environmental Health and Housing. If the matter cannot be resolved the business has recourse to the authority's complaints procedure.