**ANIMAL WELFARE REGULATION 2018 AND ASSOCIATED GUIDANCE**

1. **The Regulations (excluding Schedule 5)**

| **Part/Schedule** | **Topic** | **ABRS Comment** |
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| Part 2 | 4(2)(a) Appointment of one or more suitably qualified inspectors | * There is no qualification on the period, following application or request for renewal, that the LA must appoint an Inspector. This particularly an issue on renewals where, if the LA fails to engage with the licence holder or appoint an inspector in a timely manner, the licence may expire.
* We have experience of one LA that has totally failed to respond to emails, phone calls or letters for licensees.
* If the LA fails to engage in a timely manner, this places the licensee in a difficult position: they either continue to operate and are at risk of a regulatory breach; or, they suspend hiring of horses and face financial loss.
* *We believe that, where the LA fails in the duty to appoint an inspector for a renewal inspection in a reasonable period, the licensee may presume that the licence remains in force until such time as the LA appoints an Inspector and conducts an inspection.*
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| * During COVID, the LA’s largely suspended their on-site operations and suspended inspections for both the initial licence award or renewals. To support our members, we requested LAs to extend, without inspection, the licence duration of licences that were due to expire given the exceptional circumstances but were advice the legislation did not permit this.
* We note that in other regulatory areas – for example, HSE extended the validity of First Aid Certificates – exceptional action was taken.
* *We believe the legislation and/or guidance should permit LAs, in exceptional circumstances, to extend licence durations without inspections.*
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| **Training and Competence of Inspectors*** There is no definition of what a ‘suitable qualified inspector’ is in the context for ‘horses for hire’. From our research:
	+ Suitable qualification seems to be a ‘Level 3 Certificate in Inspecting Licensable Activities Involving Animals’. There seems to be two providers: The National Pet College and the Institute of Licensing’. Both offer online courses that provide an understanding of how the regulations should be applied but these courses lack a practical knowledge element associated (in our case) with equines.
* The Horse Trust runs supplementary one-day training course at sites across the UK that are intended to partially fill this gap. Many LAs do send inspectors on these courses but they are not a mandatory element of training; LAs with few licensed riding schools may not consider investment in additional training good value for money.
* We understand that, four years into the Animal Welfare Regulations, not all Inspectors have completed the L3 training.
* We note that there is no requirement for Licencing Inspectors to conduct CPD.
* *We believe that the required knowledge and experience requirements for LA Inspectors are ill-defined and insufficient to deliver the purposes of the legislation.*
* *We believe training must include a structured practical element. This should could be through a supplementary equine-specific training course which could be provided by British Equestrian (or its member bodies) or an organisation such as the House Trust/World Horse Welfare/Redwings..*
* *We believe that inspectors should be required to undertake and evidence CPD (they expect the licensees to do do).*

**Inconsistent Application of the Regulations*** Practically, we see an inconsistent application of the regulations across LAs, manifested in inspections being:
	+ Bureaucratic - overfocusing on paperwork (with no understanding of the acceptability of the content).
	+ Ineffective – not really understanding whether what they see is actually good or poor practice.
	+ Overdependent on the Listed Vet – who effectively ends up conducting the inspection – at significant cost to the licence holder.
* We note that not all Inspectors are poor. The larger LAs are often more effective because they conduct more inspections which enables experience to be gained, teams to be built and coaching provided to those in the team that are less experienced.
* *We believe LAs that conduct few inspections should group with neighbouring LAs to create teams that have a critical mass of inspections and inspectors – this, in addition to better training, offers a greater chance of Inspectors and inspections being fair and effective.*
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| 4(7)(a) - The applicant is a fit and proper person | * The licence focuses on animal welfare and results in a ‘Star Rating’. Riding Schools often use the Star Rating in marketing material and as a Quality Mark. However, the ‘Star Rating’ can be highly misleading, with clients believing that the licence covers all aspects of the licensee’s operation, and specifically client care (for example – safeguarding, teaching standards, etc).
* *We acknowledge that the Regulations were written to improve animal welfare and not to deliver a business quality mark, but we believe also that the misleading nature of the Star Rating needs to be addressed (in part or full). Within the Regulations, it makes clear that the licensee must be a ‘fit and proper’ person. We believe the definition for a ‘fit and proper’ person should/could include aspects of client care, including the following checks:*
	+ ***Trading Fairly with Clients*** *– no record of criminal or fraudulent behaviour*
	+ ***Providing safe facilities and riding environment*** *– No record of significant health and safety breaches and evidence of safeguarding (DBS enhanced, safeguarding training, First Aid at Work)*
	+ ***Acting as a good employer –*** *No evidence of breeches in employment law*
* *We believe that there may be scope to allow ‘fit and proper’ to be evidenced through membership of a Professional Membership Organisation such as the BHS, ABRS or Riding for the Disabled (RDA) that has Codes of Conduct, undertakes checks as a function of membership application/renewal, and has a complaints procedure.*
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| 13. Fees | * The cost of licensing and the structure of charges varies hugely across LAs, with many increasing their costs significantly in the forthcoming financial year. The whole charging process is something of a ‘postcode lottery’, with some riding establishments paying significantly more or less dependent on location. We understand that there was a UK Supreme Court ruling which required that the charge structure should include elements for Application and Ongoing Maintenance.  We have seen models that include a single charge that covers the full licence period, others that include annual charges and others that have demanded a ‘grant’ (which must be illegal).
* The demarcation between the role/responsibility of the LA Inspector and the Listed Vet is often blurred, with the Vet often taking on an advisory/supporting (and sometimes dominant) role during the inspection process. This results in Vets spending many more hours on site than would be demanded by their statutory role – and this is reflected in the charges.
* A licence inspection by the LA and Vet now costs circa £2000.
* *We believe that there should be a clear, simple and defined structure for licensing charges.*
	+ As an example, Buckinghamshire make a single charge that covers both inspection and ongoing charges (with elements that are refundable should a licence be refused). They believe this approach is the most straightforward and easiest (and least costly) to administer.
* *We recommend that the demarcation in roles between the Inspector and Listed Vet is better defined to ensure that there is no role-creep (and excess changing – primarily a Listed Vet issue).*
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| Part 4 | Appeals | * The Legislation makes clear that there is a route of Appeal to the First-tier Tribunal but most LAs do not explain the process for Appealing licencing decisions (both in-house and to the First Tier Tribunal) on their websites. Many licensees are unable/unwilling to challenge inspectors for fear of upsetting them (with the perceived risk of unfavourable treatment at the next inspection – failure at inspection can have a huge negative business impact). Nonetheless, evidence suggests that the lack of knowledge and experience of many LA inspectors can result in poor decisions.
* *We believe that LAs should be required – in the same area that defines the process for licencing – to define also the process for appealing decisions (in-house and to the First-Tier Tribunal) – both licensees and inspectors must know that they can be held to account.*
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| Schedule 1  | Business Test | * It is unclear whether Riding Establishment run as a Charity should be licenced. There most obvious example are the ‘Riding for the Disable’ stables, each of which is an independent charity, owning horses and offering riding experience to disable riders. Some Councils require a Council Licence other do not. However, there are others that have established as a CIC or a Charity that fall into a ‘grey’ licensing area.
* *If the purpose of the legislation is to secure the welfare of the horse, then this type of charitable establishment should be licenced. However, it should be acknowledged that the cost of licencing is likely to be a significant burden and may impede the delivery of charitable activities. A clear statement either way should be included in the Business Test.*
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| Scope of the Regulations as they relate to horses | * The scope of the regulations covers only the Hire of Horses in Riding Schools that have a level of profit that meets the Business Test. However, there are a wide range of other businesses that have ‘**Care, Custody and Control**’ of horses on a commercial basis that generates a profit. These include Livery Yards that offer full or part livery, competition yards, studs and racing stables. These establishment assume de facto welfare responsibilities for horses in their care and control, providing facilities and services that impact on horse welfare.
* There are organisations that are providing Horse Therapy to support mental welfare. We support this and have one member who provides this service and has chosen to be Council Licenced.
* Our experience is that horse owners seeking livery often migrate to the lowest cost provider. These yards may have non- or underqualified staff, provide facilities that may be less than adequate and/or may not address health, safety and welfare of clients rigorously. This migration is often at the expense of well-run yards (including Council Licenced yards who also take liveries in addition to offering horses for hire).
* Our experience is that there is a wide range of venues providing Care, Custody and Control. Some have stables and turnout, others only grass. Some cater for small numbers of horses (sometimes using spare on-site stables) other look after tens of horses – there is no one definitive model.
* *We believe that where the proprietor of a yard has Care, Custody and Control of horses on a commercial basis, consideration should be given to regulating the activity. This would predominantly impact yards that offer full or part livery (boarding) potentially in conjunction with other horse training services.*
	+ Where *livery services are not being provided (in effect, the proprietor is just providing facilities) and the Care, Custody and Control remains with the horse owner, we believe licencing would not be appropriate.*
	+ *There may be a case to differentiate between* ***registration*** *for yards that have few animals (say <=6) and* ***licencing*** *where the number of horses is larger (say >6). The boundaries of such regulation would need to be carefully considered – for example, should racing yards registered with the British Racing Authority be exempt?*
	+ *Given that the horses are not being hired (they are for use by the owner), an inspection by a Listed Vet would not be appropriate.*
	+ *Organisations providing Horse Therapies should be licenced either under Schedule 5 (if the horses are ridden) or Schedule 7 (if the horses are not ridden).*
* *We believe that a new Schedule would be needed - ‘ Providing or arranging for the provision of boarding for horses’.*
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1. **Schedule 5 and the Guidance Material**

| **Part/Schedule** | **Topic** | **ABRS Comment** |
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| Introduction | Scope of hire out horses for riding, or instruction in riding | * There is some evidence that some operators try to evade licencing through the use of horse loan arrangements; this is hugely unfair on those riding establishments that follow the licencing regulations, allowing unregulated operators to undercut Licenced Riding Establishments through lower overheads.
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| Listed Vet | * While most listed Vets are professional and competent, there are a small number that end up in conflict with the Licensee during the licencing process. The Licensee should be able to request an alternative Listed Vet where this is reasonable and feasible.
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| Conduct of the Inspection | * There is significant cross-over between those aspects of the Regulations inspected by the Listed Vet and those inspected by the LAs Inspector.
* *We believe that the totality of the inspection is the combination of the Listed Vet Report and LAs’ Report. The content of these 2 Reports should be dovetail. Both reports need to be rationalised and standardised to reduce overlap and streamline the licencing inspection (ie who between the Listed Vet and LA Inspector is responsible for inspecting what). We suspect this would have a greater impact on the scope of activity for the LA inspector than the Listed Vet.*
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| Size of Schools | * The Guidance does not acknowledge the huge variation in the size and purposes of schools. The ABRS has proprietor/licensee run schools with only 6 ponies and these are expected to meet the same standards as a school with 20 horses. This a particular issue **on achieving the higher standards** – which must be met for a 3-year licence.
* *We believe the guidance should allow the LA Inspector to take account of the size and nature of the school when conducting the inspection and to vary the Star Rating upwards were this is fair and reasonable.*
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| 4.2 | Qualification of staff who care for horses | * The Guidance was amended to require staff who care for horses to have a Level 2 Ofqual regulated qualification, and/or show relevant and sufficient knowledge and experience.
* Our experience is that, within a School, there is often a mix of staff performing aspects of horse care (including volunteers). The guidance suggests that all must be L2 qualified or working towards a L2 qualification.
* *We believe that staff should be encouraged to learn and, where appropriate, gain qualifications but this requirement is drafted too narrowly. As currently written it could exacerbate an existing crisis in the workforce, with is reflected in a huge shortfall and significant gaps in manning.*
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| 6.0 | Plan or record of the quantity, frequency, and type of food | * Plan and Record are not the same!
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| 6.2 | Guidance v instruction | * The guidance should provide an interpretation of the Regulations in a manner that allows the LA Inspector to judge compliance. There are areas of the Guidance that stray into animal management rather that regulation guidance:
	+ ‘If a horse has no appetite for longer than 6 hours, veterinary advice must be sought. Seek advice from a vet earlier if there are specific concerns about diet or a lack of appetite.

While this may be an accurate animal welfare statement, it is not written as an inspection criteria and, in any event, there are a range of animal health conditions that would merit the calling out of a vet. |
| 6.3 | System in place for disposal of feed waste | * This generally not needed with horses
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| 6.6 | Hot and cold hand washing facilities in feed rooms | * Most yards will not have this
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| Higher Stnd | Purpose-built feed room with water available | * Many yards will not have a tap within a feed room
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| 10.0 | Provision of Fire Detection Equipment | * The revision of the Guidance undertaken in Feb 22 included a requirement for fire detection equipment. The guidance is too general with LAs requesting different solutions (and sometimes without regard to cost). The correct solution should be derived from the Fire Assessment. This section should be reworded.
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