



North Kesteven
DISTRICT COUNCIL

Animal Licensing Policy

Title: Animal Licensing Policy	Approved: On 26th January 2023	Effective from: 26th January 2023	Next review: 26th January 2025
Version: 1.0	Author: Mark Stuart		Last review: N/A
Review Comments			

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Aim

This policy sets out how North Kesteven District Council, will exercise its functions under the following legislation, namely:-

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018,
- The Dangerous Wild Animals Act 1976,
- The Zoo Licensing Act 1981, and
- The Animal Welfare Act 2006.

The aim of this policy is to ensure that the council, existing and new licence holders and the public, are familiar with how this legislation is administered within the district. It sets out the criteria to be taken into account by the council when determining whether or not an applicant, or an existing licence holder, is suitable to be granted, have renewed, or continue to hold a licence.

The policy has been produced having due regard to the procedural guidance, together with the specific sector related guidance, produced by the Department for Environment, Food and Rural Affairs.

This policy supersedes all previous policies and policy decisions relating to the relevant areas, made by the council from the date of this policy being adopted.

Scope

This policy deals with the licensing of activities involving animals and the relevant establishments under the aforementioned legislations, the primary objectives of which are to:-

- Ensure that any person who carries on, attempts to carry on, or knowingly allows a licensable activity to be carried on, holds a valid licence in accordance with statute.
- Ensure the licence holder is not disqualified from holding a licence in accordance with the requirements of statute.
- That the five overarching principles of animal welfare (the 'five needs') introduced by the 2006 Act are upheld in any decision.
- The safeguarding of any child or vulnerable person in contact with a licensable activity is ensured.
- Each application is considered on its merits.

Definitions

Authorised Officer	Any officer of the council authorised or sub-delegated under the council's scheme of delegation to officers as contained within the Constitution.
DEFRA	Department for Environment, Food and Rural Affairs
The council	North Kesteven District Council
The 2006 Act	The Animal Welfare Act 2006

Principles

When conducting its functions under animal welfare legislation, the council will seek to promote the following licensing principles, namely:-

- Ensuring the welfare of domestic and captive animals is met, by implementing appropriate standards that promote the “five needs”, specifically:-
 1. The need for a suitable environment;
 2. The need for a suitable diet;
 3. The need to be able to exhibit normal behaviour patterns;
 4. The need to be housed with, or apart from, other animals; and
 5. The need to be protected from pain, suffering, injury and disease.
- Ensuring that persons responsible for the management of animal welfare, are safe and suitable, and observe recognised standards of good practice.
- Ensuring that, so far as it falls within the council’s powers, that the requirements of all animal-related legislation will be rigorously and proactively enforced.
- The protection of public safety.

Responsibilities

Section 9 of the 2006 Act, places a duty of care on every person, to ensure that they take reasonable steps to meet the welfare needs of their animals. In essence, this places a duty on persons who own and / or keep animals, to ensure that they meet the ‘five needs’ of any animal in their care.

This policy however, encompasses the responsibilities placed on the council, under the aforementioned legislation, and details how these statutes will be implemented and enforced.

Supporting procedures

In the development of this policy, the council has paid due regard to the procedural guide issued by DEFRA, in addition to the sector specific guidance for each licensable activity.

Consultation

The council recognises the importance of ongoing dialogue between itself and its stakeholders when compiling policy documents that have a direct impact on specific sectors. Accordingly, we will seek, and carefully consider, the views of interested parties on the content of this policy, through a formal consultation process. In line with the HM Government guidance document entitled ‘Code of Practice on Consultation’, this process will be undertaken over a 12 week period, to allow sufficient time for relevant comments to be received.

Communication

This policy will be communicated to all current licence holders, in addition to those persons seeking to apply for a licence. In addition, it will also be available to view by the public at large through publicising the policy through the councils website and social media groups.

Animal Licensing Policy

1 Introduction

- 1.1 North Kesteven District Council (“the council”) is responsible for licensing a number of activities relating to animal welfare. These are contained within a number of different Acts of Parliament, and also the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 1.2 This legislation is aimed at protecting animals, and also makes 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.
- 1.3 The licences that can be issued by the council include:-
 - Animal welfare licences which can authorise any, or all of the following activities, namely:-
 - Providing (or arranging for the provision of) boarding for cats and dogs by:
 - Providing boarding for cats
 - Providing boarding in kennels for dogs
 - Providing home boarding for dogs
 - Providing day care for dogs
 - Selling animals as pets
 - Hiring out horses for riding or instruction
 - Breeding of dogs
 - Keeping or training animals for exhibition.
 - A dangerous wild animal licence, and
 - A zoo licence

2 Licensing of Animal Establishments

- 2.1 There are various pieces of legislation which allow the council to regulate animal establishments, including:-
 - The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
 - The Dangerous Wild Animals Act 1976
 - The Zoo Licensing Act 1981
 - The Animal Welfare Act 2006
- 2.2 Each statute has its own application process (including veterinary inspection where necessary), right of appeal and offences. This policy does not seek to interpret or conflict with the legislation, but seeks to provide a framework for implementing the requirements of the legislation.
- 2.3 Under the councils constitution, authority to grant an animal licence has been delegated to the Assistant Director of Environment and Public Protection and the

Environmental Health Manager. However, where they are minded to refuse, or vary, suspend or revoke a licence without consent, this decision rests with the General Licensing Sub-Committee.

- 2.4 The 2006 Act consolidated much of the existing animal health and welfare legislation in to one Act. It introduced a 'duty of care' on people to ensure the needs of any animal are met and also placed a responsibility on a number of enforcement agencies to ensure the Act is observed. The council is one of these enforcement agencies. It also allows DEFRA to pass, repeal or amend statute relating to animal welfare, and in April 2018 DEFRA exercised this power by introducing the 2018 Regulations. These Regulations came in to force on 1st October 2018.

3 Suitability of applicants

- 3.1 Any individual who undertakes licensable activities encompassed by the 2018 Regulations, will be designated as the operator of the business and can apply for a licence. However, Regulation 11 of the 2018 Regulations specifies those persons who may not apply for a licence, by introducing a 'fit and proper' test.
- 3.2 Although the term 'fit and proper' is not defined in statute or guidance, the council will consider an individual to be 'fit and proper' if they can demonstrate upon application that they have:-
- Not been disqualified from holding a relevant licence, as specified in Schedule 8 of the 2018 Regulations.
 - The right to work in the United Kingdom.
 - No relevant convictions.
 - The knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of animals in their care.
 - Made suitable management and training arrangements to safeguard and protect any staff and / or members of the public who may be affected by the licensable activity.
- 3.3 To ensure compliance with our duties, the council reserves the right to request from the applicant, the following when an application is received:-
- Provision of a basic Disclosure and Barring Service (DBS) certificate (issued within 3 months of the date of application) showing that they 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.
- 3.4 In addition, the council also reserve the right to request from Lincolnshire Police (under our information sharing agreement), information about any relevant convictions or allegations against an applicant. This information sharing agreement is established under Section 17 of the Crime and Disorder Act 1998, which requires the council to have regard to the likely effect of the exercise of their functions on preventing crime and disorder in their area.

- 3.5 When renewing a licence, the council will also consider any relevant information and intelligence received about the operator and their business over the period of their existing licence. It expects licensees to demonstrate appropriate professional conduct at all times, and to act with integrity.

4 Safeguarding

- 4.1 The principle objective of the 2018 Regulations is maintaining and improving animal welfare standards, however, there are other wider safeguarding considerations arising from licensable activities, in particular surrounding the protection of children and vulnerable persons.
- 4.2 There are some instances where the licensable activity may involve unsupervised contact with children and / or vulnerable persons, for example when providing instruction at horse riding establishments. Accordingly, the council expects applicants, and licence holders whose activities involve contact with children or young persons to:-
- Have a written safeguarding policy that is communicated to all staff, and routinely monitored and reviewed by the licence holder; and
 - Have a robust procedure for vetting staff who in the course of their employment, have unsupervised contact with children and / or vulnerable persons.

5 Fees

- 5.1 Regulation 13 of the 2018 Regulations, enables the council to charge a fee for the consideration of an application for grant, renewal or variation of a licence, including any inspection relating to that consideration. The fee charged must not exceed the reasonable costs incurred, and as a result, the council has set their fees on a cost recovery basis.
- 5.2 The current fees for each financial year will be displayed on the council's website and will be reviewed annually in line with the council's fee setting processes. In some instances, the applicant will also be required to pay vets fees for inspections where this is required. Licences (whether renewal or first grant) will not be issued until the fee (including outstanding monies owed to the council) are paid in full, together with vets fees where applicable.

6 Application Process

- 6.1 Each licence type has its own individual application process, and requirements that the council considers prior to granting a licence. Details on how to apply for a licence can be found on the council's website, together with the specific application forms.
- 6.2 Applications must be submitted to the council, a minimum of 10 weeks prior to renewal or first granting. This is to allow officers time to consider the application, make enquiries and inspect the premises. Although applications can be submitted after this 10 week period, the council will not be able to guarantee processing the applications outside of this window, or if documentation is missing.

- 6.3 To assist in the application process, written reminders will be sent out to all existing licence holders three months prior to the expiry of their licence. A further reminder is sent two months prior to expiry, followed with a warning letter that the licence expires one month before expiration.
- 6.4 For an application to be duly made and accepted by the council, the fully completed application form must be received with the correct fee and all relevant documentation. Until all relevant information is present, the council will not consider processing an application.
- 6.5 Once a duly complete and valid application has been received, the council will make contact with the applicant to arrange a suitably convenient time to undertake an inspection. For some licences, it is necessary for a veterinary inspector to undertake an independent inspection of the premises as part of the application process. In this instance, a letter is sent to the applicant detailing those available veterinary inspectors authorised by the council. The applicant is permitted to choose a veterinary inspector of their choosing, on the proviso that they are not their current or previously used veterinary inspector. All inspections that require a veterinary inspection will be undertaken with an officer of the Council, to minimise disruption to the business, and to ensure correct procedures are observed.
- 6.6 Upon receipt of a valid application for a grant or renewal of a licence, the council will take the following steps:-
- Consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet their licence conditions.
 - 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 veterinary inspector for the initial inspection of a dog breeding establishment, annually for horse riding establishments, and upon renewal of dangerous wild animal licences). The inspector/s must prepare a report, in accordance with the requirements of Regulation 10 (or in accordance with applicable legislation), to be submitted to the local authority following their inspection.
 - Produce an inspection report containing information about the operator, the premises, records observed, condition of animals, and any other relevant matter, stating whether or not the inspector considers that the licence conditions will be met.
 - Ensure that the appropriate fees have been paid in full, these can include, but are not limited to the following – application fees, reasonable anticipated costs of enforcement, and fees in relation to the provision of information to the secretary of state.
 - The final information will be assessed by the Environmental Health Manager, or suitably qualified nominated deputy, to determine if all relevant information has been obtained and that the correct decision has been reached. When officers

are minded to refuse an application, the matter will be referred to the General Licensing Sub-Committee for determination, in line with the council's constitution.

7 Inspectors

7.1 The requirements relating to inspectors is contained within the procedural guidance notes issued by DEFRA, and specifically states that all inspectors must be suitably qualified. This is defined as:-

- Any person holding a level 3 certificate or equivalent granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity. Or;
- Any person holding a formal veterinary qualification, as recognised by the Royal College of Veterinary Surgeons ("RCVS"), together with a relevant RCVS continuing professional development record;
- From 1 October 2021, any person that can show evidence of at least one year of experience in licencing and inspecting animal activities businesses and, by 1 October 2021, is enrolled on a course leading to a Level 3 certificate qualification referenced in paragraph 16(a) above with the course having to be completed by 1 October 2022.

8 Inspections

8.1 When arranging inspections (particularly for new licence applications), the officer will endeavour to undertake these at pre-arranged times, to ensure the disruption to the business is minimised. The council however, reserves the right to undertake unannounced inspections to assess the premises, documentation, condition of animals or any other relevant factor encompassed within the licence conditions.

8.2 Where a licence has been issued for the activity of hiring out horses, there is a requirement for an annual inspection to be undertaken by a veterinarian, regardless of the duration of the licence. This is undertaken before the end of the first year after the licence is granted, and then each subsequent year after.

During the course of an inspection, the duly authorised inspector may choose to take samples for laboratory analysis. The licence holder must comply with all reasonable requests to facilitate the identification, examination, and sampling of an animal including that suitable restraints are provided if required.

9 Granting or refusing a licence

9.1 When granting a licence, and in the interests of transparency the council will provide the applicant with the following documents, namely:

- A copy of the licence with the star rating (see section 12).
- A letter detailing how the business has been rated including a list of the higher standards the business currently fails to meet, or a list of the minimum standards the business is failing to meet and resulting 'minor failing' category.

- A copy of the risk management assessment table.
 - Details of the appeal process.
- 9.2 Any fees required or outstanding, must be paid in full prior to the granting of a licence, and the council reserve the right to withhold all licences until this is resolved.
- 9.3 Where the council considers that the applicant cannot meet the licence conditions, where the granting of a licence will have a negative impact on animal welfare or if the level of accommodation, staffing or management is inadequate for the wellbeing of animals, it will refuse the granting of a licence.
- 9.4 The council will also refuse an application if it considers that the applicant does not meet the 'fit and proper' person test, or if the applicant is disqualified. Any application fees or veterinary inspection fees paid will not be refunded for unsuccessful applications.
- 9.5 Any applicant aggrieved by a decision made by the council to refuse to grant or renew a licence or to revoke or vary a licence, may appeal to the First-Tier Tribunal. The period within which an operator may bring such an appeal is 28 days beginning with the day following the date of the decision.

10 Transfer, variation, suspension and revocation

- 10.1 Encompassed within the 2018 Regulations, is the provision for the council to vary a licence at any time:-
- On the application in writing of the licence holder, or
 - On the initiative of the council, with the consent in writing of the licence holder.
- 10.2 In addition to the above, the council may suspend, vary or revoke a licence without the consent of the holder if:-
- The licence conditions are not being complied with,
 - There has been a breach of the 2018 Regulations,
 - Information supplied by the licence holder is false or misleading, or
 - It is necessary to protect the welfare of an animal.
- 10.3 A suspension, variation or revocation of a licence will normally take effect 7 working days after the decision has been made. However, where there is reason to protect the welfare of an animal, this may be taken with immediate effect.
- 10.4 If the licence holder dies, Regulation 12 of the 2018 Regulations allows the personal representative of the deceased to take on the licence, provided that they inform the council within twenty eight days of the death. The licence will then remain in place for three months, or the remaining licence period, whichever is the shorter time period. The council can extend the three month period by another three months if requested, and they believe this time is needed to wind up the estate of the former licence holder.

If the personal representative does not notify the council within 28 days of the death of the licence holder, the licence will cease to have effect.

11 Conditions of licence

- 11.1 For licences under the 2018 Regulations, DEFRA have produced mandatory conditions and associated guidance for each licensable activity. These are divided into two categories, namely general conditions and specific conditions. Licence holders will need to meet the requirements of all of the minimum standards, although minor failings may be noted and / or recorded providing they do not compromise the welfare of the animals. In addition to the minimum standards for each licence type (except the keeping or training animals for exhibition), there are also stipulated further optional conditions or 'higher standards'. Meeting the higher standard is optional, but is the only way to gain the highest star rating. The higher standards are classified into two categories – mandatory and optional. To qualify as meeting the higher standards, the business must achieve all the mandatory standards as well as a minimum of 50% of the optional higher standards.
- 11.2 When issuing dangerous wild animal or zoo licences, the council will generally impose DEFRA's standard conditions. However in certain circumstances, the inspecting officer and / or veterinary inspector may attach more specific premises and / or animal specific conditions to the licence.
- 11.3 In promoting the four licensing objectives, and to ensure that animal welfare standards are maintained, complying with the aforementioned standards is considered to be the minimum standard acceptable. The council also reserves the right to introduce additional conditions, as it sees fit, to ensure animal welfare and the licensing objectives are not compromised.
- 11.4 Where an establishment falls below the expected standard, the council may commence formal action in order to secure improvements and to apply sanctions. Whilst the council will aim to adhere to its enforcement policy and the principle of graduated enforcement, due to the sensitive nature of animal welfare, the council reserves the right to depart from the enforcement policy in order to secure animal welfare.

12 Risk assessment and star rating scheme

- 12.1 With the exception of keeping or training animals for exhibition, the 2018 Regulations introduce the concept of risk rating, and a star rating scheme for the first time for licensed premises. The aim of which is to ensure the consistent application and operation of the licensing system, and to instil public confidence.
- 12.2 The scoring matrix utilises two criteria when determining the star rating and subsequent inspection frequencies, namely the welfare standards adopted by the business, together with their level of risk. The rating is based on a range from 1 star to 5 stars, utilising the following scoring matrix:-

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

12.3 Once issued, the star rating must be displayed on the licence, however, the system incorporates safeguards to ensure fairness to businesses including an appeal process, and a mechanism for requesting a re-inspection.

13 Requests for re-inspection

13.1 If following an inspection, the business instigates remedial works to address any issues raised by the inspecting officer, they may request a re-inspection, and accordingly a re-score. Such requests must be made in writing to the Environmental Health Manager, outlining the case and a fee is chargeable for this service, details of which are publicised on the council website.

13.2 The subsequent re-inspection will be carried out within three months of receipt of the duly made request, however applicants should appreciate that re-rating could lead to a lower rating being awarded rather than an increase.

14 Appeals

14.1 Following the inspection of a licensed premises, the inspecting officer will discuss with the owner of the business, the outcome of the risk rating and the subsequent star rating. On occasions, the applicant may wish to dispute the star rating given if they feel it does not adequately reflect the animal welfare standards and risk level posed by their business. The appeals process is not to be used where a business has made improvements and wishes to be re-assessed.

- 14.2 Whilst the council would always encourage businesses to discuss the issues informally in the first instance, if still aggrieved, appeals should be made in writing within 21 days following the issue of the licence.
- 14.3 When considering an appeal, the council will consider the grounds for the appeal, together with the inspection report and all associated records. Appeals will be determined by the Environmental Health Manager or a delegated deputy and the outcome will be communicated to the applicant within 21 days of receipt of the completed appeal form. If still aggrieved by the outcome of the appeal, the applicant has the ability to challenge the decision by means of a judicial review. The applicant also has recourse to the council's complaints procedure, including the Local Government Ombudsman where appropriate.

15 Complaints

- 15.1 Where the council receives a complaint regarding a licensed premises or a licence holder, the matter will be investigated as a matter of urgency to ensure that animal welfare is not compromised. The council will only investigate matters pertaining to the licence and associated conditions, and will not become involved in third party civil disputes. Where non-conformities are identified, the council will seek to address these issues including the use of formal measures if needed.

16 Information sharing

- 16.1 In the interest of protecting public safety, the safety and wellbeing of animals, and ensuring the fitness and propriety of licence holders, the council will share information with other enforcement agencies. This may include but is not limited to the RSPCA, Police, Trading Standards, and other local authorities.
- 16.2 Information may also be shared with internal partners including planning, anti-social behaviour and revenues and benefits to mention a few. All information will be exchanged in accordance with relevant statute and associated guidance.

17 Departure from the policy

- 17.1 When discharging its regulatory functions, the council will have due regard to this policy and the principles set out therein. Whilst each application will be determined on its merits, the council will seek to impose the standard DEFRA conditions to all licensed premises.
- 17.2 There may however be occasions where an applicant is able to demonstrate a minor departure from the policy which would still maintain the integrity of animal welfare. In such circumstances, the council reserves the right to depart from this policy, however the rationale for this decision will be documented and shared with the applicant.
- 17.3 Where it is necessary to depart substantially from this policy, the Environmental Health Manager will produce a report for the General Licensing Sub-Committee to consider further.

18 Amendments to the policy

18.1 The council reserve the right to make minor amendments to this policy as it sees fit.

However, any significant amendments will only be implemented after public consultation, and will be in line with the council's constitution. A significant amendment includes, but is not limited to, the following examples, namely:-

- Any amendment that has a significant effect on licence holders, or
- Is likely to have a significant procedural effect on licence holders, or
- Is likely to have a significant effect on the community, or
- Is likely to have significant financial implications for licence holders.

Signed:

Leader of the Council



Chief Executive

