



**North East
Derbyshire**
District Council

Animal Welfare and Licensing Policy

September 2019



North East
Derbyshire
District Council

We speak your language

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

Hablamos su idioma

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

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ANIMAL WELFARE AND LICENSING POLICY

1. Introduction

1.1 Background

North East Derbyshire District Council (“The Council”) have responsibility for licensing all operators of businesses, also known as licence holders, where the activities of that business, relates to the care, sale, hiring, or exhibition of animals. It also includes the breeding of dogs, the keeping of dangerous wild animals and extends to the licensing of Zoos. These are defined as licensable activities.

When considering the granting of a license relating to a licensable activity, the contents of this policy, the appropriate legislation and guidance notes for conditions applicable to that licensable activity must be considered.

The Council is also the enforcing authority for those activities relating to animal welfare that are subject to the above licence process. Licensing, compliance and enforcement of the legislation will be the responsibility of the Environmental Health Commercial Section.

Legislative changes introduced on the 1st October 2018 will impact on how businesses and the Council’s animal welfare licensing process interact in the future. At the heart of the legislation is a drive to raise the standards relating to animal welfare, but it also aims to reduce the legislative burden, and therefore costs, on those businesses meeting the higher standards of animal welfare care.

1.2 Scope

In setting out its policy the Council seeks to promote the following objectives -

- The protection and promotion of animal welfare standards
- The protection of staff and public safety
- The establishment of a professional and respected animal activities licensing regime.
- Access to a safe and effective service for all activities defined in the legislation involving animals
- The protection of the environment

The licensing of activities involving animals aims to protect the public, to promote animal welfare.

The licensing process includes inspection of establishments. For establishments arranging and / or boarding cat and dogs, selling animals, hiring out of horses, breeding dogs and exhibiting animals, the process also includes allocating a risk-based “Star Rating” to each establishment based on the findings at the inspection visit. This will enable the public to make an informed choice when selecting which establishment to use.

Its purpose therefore, is to ensure the operator is a fit and proper person, that any conditions applicable to the individual activity are being met, that welfare standards and management controls are in place and being maintained, so the animals are protected from harm.

1.3 Role of Animal Welfare Establishments – Operators/Licence Holder

The operators of animal welfare establishments have an important role to play not only in the licensing process, but by maintaining and improving standards at their premises ensuring the highest level of animal welfare protection as possible.

The level of compliance with the relevant licence conditions has a direct effect on the “Star Rating” allocated to the establishment, and therefore, the operator. In turn the “Star Rating” influences the duration of the licence and therefore the overall licensing cost to the operator as fewer licence fees need to be paid for a longer-term licence.

Responsibility for ensuring that the correct licence has been obtained and is kept up to date with the relevant local authority, falls to the licence holder or prospective licence holder.

In addition to the licence application and fee, the applicant is required to provide supporting documents to the Council. Failure to supply such documents may delay the process or may result in the application being refused.

The licence holder must apply to renew their licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break.

1.4 Criminal Record Checks & Safeguarding

Before an application for a licence will be considered, the applicant (or the controlling mind and/or manager in the case of a business) must provide a current (less than 3 months old) Disclosure & Barring Scheme basic criminal disclosure.

Where the applicant is a company, any person with day to day control of that company or partnership (where appropriate) will be required to submit the information above.

If at any time the Council considers it appropriate to require a further DBS disclosure be provided the relevant individual must provide one, at their own expense, as soon as reasonably practical.

1.5 Best Practice Guidance

A number of guidance documents have been produced by DEFRA, aimed at assisting local authority officers and business operators interpret the legislation and what is needed in applying the relevant conditions to their particular licensable activities. They can be used by those who currently have a licence or wish to apply for one.

All guidance documents should be read in conjunction with the relevant legislation such as:

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
<https://www.legislation.gov.uk/ukdsi/2018/9780111165485>
- The Dangerous Wild Animals Act 1976 (as amended)
<http://www.legislation.gov.uk/ukpga/1976/38>
- Zoo Licensing Act 1981
<http://www.legislation.gov.uk/ukpga/1981/37>
- The Animal Welfare Act 2006
<http://www.legislation.gov.uk/ukpga/2006/45/contents>

1.6 **Departure from policy**

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy.

Notwithstanding the existence of the policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from its policy, it will give the reasons for so doing and retain a record of the decision.

1.7 **Organisational arrangements**

The process for the licensing of animal welfare establishments includes not only the administrative process of the licence application and collection of the appropriate fee but also includes a physical inspection of the premises to verify compliance with welfare standards and management controls.

The inspecting officer will complete a relevant inspection pro forma and report.

For licence activities coming under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, the inspection also informs the risk score and star rating allocated to the business and therefore the duration of the licence period.

All administration processes will be the responsibility of the Environmental Health Technical Support Section.

All inspections and enforcement will be the responsibility of the Environmental Health Commercial Section.

1.8 **Enforcement**

All enforcement activities will have due regard to the Animal Welfare legislative framework, any relevant guidance documents issued by central government (e.g. DEFRA) and the Councils Corporate Enforcement Policy.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 not only introduce new enforcement powers and measures that officers may use to secure compliance of some licensable activities, such as variations and suspensions of licences, but also provide safeguards to applicants and operators if they feel aggrieved by the process or decisions of the Council.

Wherever possible, the Council will adopt a graduated, education approach to enforcement however, where necessary it will take appropriate and proportionate action against non-compliant businesses.

Special Vet Requirements

Where ever the legislation specifies that a veterinary inspection must be carried out then the charge for this will be the responsibility of the applicant/operator. In certain situations and at the discretion of the Council a veterinary inspector will be used and this will be charged to the licence operator/applicant where applicable. The veterinary inspector used will be at the discretion of the Council who may use an appointed Veterinary or enlist the help of a specialist in certain situations.

1.9 **Delegated Powers and Authorisations**

Those Officers of the Council, duly authorised under the Council's Scheme of Delegations, are responsible for the day to day operation of the Council's Animal Welfare Policy, and the enforcement of the legislation and conditions relating to the licensable activities.

In order for the Council to function and to inspect specified licensable activities, a "listed veterinarian" will be duly appointed to undertake such inspections and provide any necessary report as required by the legislation.

1.10 **Fees**

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations requires to set any fees and charges on a full cost recovery basis. Regulation 13 explains the criteria that should be considered. The Council has used this guidance in setting the fees and charges for animal licensing but has also ensured that they are consistent with other enforcement activities where we charge for a service.

This reflects current government policy whereby none compliant businesses are required to contribute more towards enforcement cost.

The structure of the new licensing systems allows those businesses who are fully compliant to have a 3-year licence and therefore benefit from a saving over the period.

The setting of fees and charges in relation to animal welfare activities is the subject of delegated authority (see DD/078/18/PC) giving powers to duly authorised officers to determine the fees and charges in respect of that function.

The fees and charges are published on the Animal Welfare pages of the Council's website.

1.11 Register of Animal Welfare Establishments

The Council holds a register of premises licensed under animal welfare legislation which is available on the Council's website.

The register will be amended to include the Star Rating allocated to premises licenced under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

2. Licensable Activities and Legislative Framework

2.1 The Animal Welfare (Licensing of Activities involving Animals) Regulations 2018

The Animal Welfare (Licensing of Activities Involving Animals) Regulations provides the legal framework for the following licensable activities:

- Dog Breeding
- Boarding of Dogs in Kennels
- Home Boarding of Dogs
- Dog Day Care
- Boarding of Cats
- Selling Animals as Pets
- Hiring of Horses
- Keeping or Training of Animals for Exhibition

Along with the regulations, guidance documents for each licensable activity have been published. All of which are available on the Council's website.

2.2 Dangerous Wild Animals Act 1976

The Dangerous Wild Animals Act 1976 defines all the species that require the owner to have a licence to keep such animals. The controls required to keep individual species will vary dependant on that species.

The licensing process will include veterinary inspection of the animals. The contents of the veterinary officer's report will inform the decision-making process when considering such applications.

2.3 Zoo Licensing Act 1981

The Zoo Licensing Act 1981 specifically sets out the licensing process for Zoos. The licensing process will include extensive contributions by veterinary officers including veterinary inspection of the animals. The contents of the veterinary officer's report will inform the decision-making process when considering such applications.

2.4 **Licensing Process**

All licence applications include the following:

- Administration of licence and payment of fee
- Processing of licence application and an initial inspection of the premises
- Placing appropriate conditions on licence
- Issue of licence

The duration of the licence may be legislative specific. , however, The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 requires inspecting officers to produce a risk rating score and a star rating to every licensable activity. The star rating allocated will have a direct impact on the duration of the licence and therefore the costs to the operator and the enforcement burden placed on the licence holder. *See 2.5 below.*

The enforcement of Animal Welfare licences will generally include a secondary inspection of the business during the life of the licence, which may include a visit by the veterinary officer. Officers may also visit where the Council receives information or a complaint raising concern about animal welfare issues.

2.5 **Risk Scoring, Star Rating and Duration of Licences**

The officer must access the standards on animal welfare and the management controls in place, including previous compliance. The process includes ascertaining whether the business is meeting the minimum or higher standards and whether some minor failing exists. The officer completes a risk score matrix and the star rating will be determined from those findings. Where a veterinary inspection is required, the contents of the report will have a direct influence on the star rating allocated to that activity.

The star rating allocated will have a direct impact on the business, therefore it is in the interest of the operator to have and maintain the highest possible welfare standards and management controls in place.

Further information is available in the DEFRA document - Procedural guidance notes for local authorities, which is available on the Council's website.

2.6 **Competent Officers**

The Council must appoint suitably qualified and competent officers to undertake any inspections and enforcement activities in relation to animal welfare. This duty extends to the Council in respect of the appointment of suitable qualified and "listed" veterinary officers to undertake inspections of specified licensable activities.

3. **Grievance Safeguarding Processes**

The Council has in place a customer complaints and comments procedure which allows all users of the Council's services to raise concern about the way they have been treated by the Council.

The business operator has recourse to the 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 and in accordance with its policy.

In addition, the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 contain a number of safeguarding measures where a business operator who is aggrieved by the process can appeal a rating or ask for a re-score, and to ensure business operators are treated appropriately.

3.1 Right to Appeal Star Rating

The business operator has the right to appeal the star rating allocated to their business through the licencing process.

The procedures on the right to appeal the star rating are available on the North East Derbyshire District Council website, along with the appeal form.

3.2 Requesting a Star Rating Re-Score Visit

The business operator can request a re-score visit, where they have completed the work outlined in their inspection report.

There are no limits on the number of re-score visits a business operator can request.

The procedures on the requesting of a re-score visit are available on the North East Derbyshire District Council website, along with the request form.

3.3. Right to Appeal– Suspensions and Variations

Where the business operator is aggrieved by the decision of the Council to vary or suspend an animal welfare licence, they have the right to appeal that decision, in the first instance to the Council and secondly to a first-tier tribunal.

The procedures for varying or suspending a licence are available on the Council's website.

3.4 Right to Appeal, First-tier Tribunal – Refusal, Suspensions, Variations and Revocations

Where the business operator is aggrieved by the decision of the Council to refuse, revoke, suspend or vary an animal welfare licence, they have the right to appeal that decision to a First-tier tribunal.

The procedures for refusing, revoking, varying or suspending a licence are available on the Council's website.

3.5 **Transfer of Licence in the case of the Death of the Licence Holder**

If a licence holder dies, the procedure in regulation 12 of the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 applies. It 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, that they are now the operators of the licensable activity. The licence will then remain in place for three months from the death of the former holder, or for the rest of the time it was due to remain in force, if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.

Additionally, the Council can extend the three-month period by up to another three months, if requested by the representative and if 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 after those 28 days.

3.6 **Transitional Arrangements**

Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964 and Riding Establishments Act 1970 will continue in force for the rest of their terms under the relevant Act.

An unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, the Breeding of Dogs (Licensing Records) Regulations 1999, the Breeding and Sale of Dogs (Welfare) Act 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.

Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from the date on which the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 came into force, i.e. 1 October 2018, so the previous registration will expire on 1 April 2019.

4. **References and Access to Information**

The Animal Welfare list of fees and charges, licence application forms, legislation and guidance documents referred to within this Policy can be found on the Animal Welfare page of the Council's website at;

<https://www.ne-derbyshire.gov.uk/index.php/49-business/licensing-permits/207-business-animal?highlight=WyJhbmltYWwiLCJ3ZWxmYXJlIiwYW5pbWFsIHdibGZhcmlUixQ=>

DEFRA Website

The Animal Welfare legislation and guidance documents referred to within this Policy can be found at;

5. **Glossary of terms**

Within the application of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (the “Regulations”) - 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 (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs), hiring out horses, dog breeding and keeping or training animals for exhibition.

For the purposes of this Policy a **“licensable activity”** will also include activities involving animals where such activities are licensable under the Dangerous Wild Animals Act 1976 (as amended) and the Zoo Licensing Act 1981

An **“operator”** means an individual who—

(a) carries on, attempts to carry on or knowingly allows to be carried on a licensable activity, or

(b) where a licence has been granted or renewed, is the licence holder;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(c).

A **“listed veterinarian”** means a veterinarian who for the time being is listed as being authorised to carry out an inspection on the list of veterinarians drawn up by the Royal College of Veterinary Surgeons.

‘puppy’ means a dog aged less than 6 months

6. **Appeals and Complaints**

Any appeals in relation to enforcement action should be taken in accordance with the statutory appeals process as outlined in the relevant legislation. Where there is a right of appeal, we will ensure individuals/business are made so aware.

The Council has its own Compliments, Comments and Complaints procedure.

We want you to complain if you feel you've been poorly or unfairly treated by any of our services and we will do our best to put things right when things have gone wrong. Please be aware if you are unhappy with a decision, you should follow the appropriate appeal procedure, further information can be found from the appropriate service area. If you are unhappy with the *process* then you can make a complaint about us or any of our services by completing the on-line Compliments, Comments and Complaints form.

You can write to us at, Mill Lane, Wingerworth, Chesterfield, S42 6NG, or call the Contact Centre on 01246 231111.

