



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

# **Animal Welfare Policy**

**2024**

## Version control

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v1	Environment Overview and Scrutiny Committee (approve for consultation)	03 October 2023
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## **Executive Summary**

This policy covers the licensable activity of Animal Welfare. The legislation covers activities aimed at protecting animals and makes it an offence for any person to possess, own or keep animals in order to carry out certain businesses and sets standards of care. The possession of certain animals or animal related activities within the District of South Kesteven, must be licensed by the Council.

Animal Licensing is controlled in accordance with legislation. Together this legislation provides a scheme of animal welfare and licensing requirements.

This policy will be reviewed every five years but will remain in force beyond this time if no significant changes are required. In the interim, minor amendments to the policy, such as legislative updates, which may become necessary from time to time to ensure its continued accuracy, but do not affect its direction or intent may be made in accordance with delegated authority.

Decisions taken by the Licensing Authority regarding the determination of Animal Licences will aim to promote the Corporate Plan.

Each application will be determined on its own merits. Decisions can be taken by Officers using delegated powers.

Nothing in this document will bind the Council to a particular course of action, and we will continue to consider each licence application on its merits. Similarly, this policy does not take precedence over any statutory provisions or guidance, or established case law.

Where relevant, the Licensing Authority will consult with other authorities, local people and Members of the Council with their opinion heard through public consultation on this policy and by making representations.

Enforcement of the legislation is a requirement of the Act and is undertaken by the Licensing Authority. This policy describes the Licensing Authority's enforcement principles and follows the principles of the Council's overarching Enforcement Policy, as can be found on the website [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk) .

## 1. Introduction

- 1.1 South Kesteven District Council is one of seven districts in Lincolnshire with a population of approximately 143,400<sup>1</sup>. Two thirds of people live in the four main market towns of Grantham, Stamford, Bourne and the Deepings with the remaining third living in one of over 80 villages and hamlets. With an area of 365 square miles, it is one of the largest districts in the county.
- 1.2 South Kesteven District Council, (hereinafter referred to as the 'Licensing Authority'), is responsible for the licensing of animal welfare activities under various legislation:
- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
  - Dangerous Wild Animals Act 1976.
  - Zoo Licensing Act 1982.
  - Animal Welfare Act 2006.
- 1.3 The Regulations replace previous licensing and registration regimes under the following legislation:
- Pet Animals Act 1951.
  - Animal Boarding Establishments Act 1963.
  - Riding Establishments Act 1964 & 1970.
  - Breeding of Dogs Act 1973.
  - Breeding and Sale of Dogs (Welfare) Act 1999.
  - Performing Animals Act 1925.
- 1.4 This policy sets out the principles the Council will use when dealing with animal related licensing matters. The purpose of animal licensing is to protect animals and ensure their health and wellbeing as well as providing protection for the public and users of those licenced within the terms of the relevant Acts and legislative Guidance.
- 1.5 This policy will cover the following activities for which the Licensing Authority issue licences:
- Animal boarding establishment licences.
  - Horse riding establishment licences.
  - Pet shop licences.
  - Dangerous wild animal licences.
  - Dog breeding establishment licences.
  - Keeping or training animals for exhibition.
  - Zoo licences.
- 1.6 In preparing this policy statement the Licensing Authority has consulted with those listed below and taken in account the views of all the appropriate bodies and organisations who responded:

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<sup>1</sup> <https://www.ons.gov.uk/visualisations/censuspopulationchange/E07000141/>

- The Chief Constable of Lincolnshire Police.
- Lincolnshire Fire and Rescue Authority.
- Lincolnshire Highways Department.
- Town Councils – Stamford & Bourne.
- The public.
- Showman’s Guild (Mid Lent Fair)
- Market Traders
- Current licence holders.
- Departments within South Kesteven District Council:
  - Planning
  - Environmental Health - Public Protection (Health & Safety).
  - Public Protection (Environmental Protection).
  - Legal Services.

1.7 Each licence type has its own application process and requirements that the Licensing Authority needs to take into consideration before determining a licence. Details on how to apply for a licence can be found on the Licensing Authorities website [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk).

1.8 The Acts, Regulations and Statutory Guidance state the criteria which must be satisfied before a licence is granted. Where the relevant licensing officer/inspector is not satisfied that the relevant legal requirements are met, or where a veterinary surgeon has raised concerns that the legal requirements or standards are not met or are unlikely to be met, the applicant for the licence will be notified.

1.9 In undertaking its licensing function, the Licensing Authority is also bound by other legislation, therefore, this Policy should be read in conjunction with this legislation:

- Section 17 of the Crime and Disorder Act 1998 – which imposes a duty on every Local Authority to do all that it reasonably can to prevent crime and disorder in its decision-making process. The duty now extends to anti-social behaviour, substance misuse and behaviour adversely affecting the environment.
- Children Act 2004 and the Care Act 2014 in relation to safeguarding legislation for the protection of children and vulnerable persons.
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998, which places a duty on public Authorities to protect the rights of individuals in a variety of circumstances.
- The Provision of Services Regulations 2009 to ensure requirements are:
  - i. Non- discriminatory.
  - ii. Justified by an overriding reason relating to the public interest.
  - iii. Proportionate to that public interest objective.
  - iv. Clear and unambiguous.
  - v. Objective.
  - vi. Made public in advance, and
  - vii. Transparent and accessible.

- Disability and age discrimination legislation. South Kesteven District Council is committed to the implementation and application of this policy in such a manner as to ensure that no applicant or other person is treated less favourably on grounds of sex, marital status, race, nationality, ethnicity, national origin, colour, disability or age; nor is disadvantaged by the application of a rule, condition or requirement which has a discriminatory effect, which cannot be justified either in animal welfare licence terms or as a requirement of law.

## **2. Integrating other Guidance, Policies and Strategies**

- 2.1 The Authority may implement government guidance, such as the House of Lords – Delegated Powers and Deregulation Enforcement Concordat (Twenty-Eighth Report) and internal policies, strategies and initiatives that may impact on the activity within the remit of this policy statement. Subject to the general principles of this policy statement, the officers and/or committee may have to have regard to them when making licensing decisions.
- 2.2 By consulting widely prior to this policy being published and working with our partners at all levels, it is hoped this will generate an alignment between this policy and any that may be developed by partner agencies.
- 2.3 In reaching a decision of whether to grant an animal licence, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention. Non-compliance with statutory requirements may demonstrate that the proposed activity or that the management of such is not appropriate to protect either the animal(s) welfare or the public from harm or nuisance.

## **3. Policy objectives**

- 3.1 This policy is designed to ensure that:
- Any person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on, holds a licence in accordance with the relevant legislation.
  - The licence holder is not disqualified from holding a licence in accordance with the requirements of the relevant legislation.
  - The five overarching principles of animal welfare (known as the “five needs”) introduced by the Animal Welfare Act 2006 are upheld in any decision.
  - The safeguarding of any children or vulnerable persons in contact with a licensable activity is ensured, in accordance with relevant legislation.
  - Each application is considered on its own merits.
  - Decisions by the Licensing Authority are transparent and consistent.
- 3.2 In addition, the Licensing Authority will base its licensing regime on the following principles which arise from the responsibilities arising under the Animal Welfare Act 2006:
- Responsibility to protect the welfare of all fellow creatures.

- Ensuring the welfare of domestic or captive animals by implement appropriate standards that promote the “five needs”.
- Ensuring that those responsible for the management of animal welfare observe recognised standards of good practice.
- Ensuring that, so far as it falls within its powers, the requirements of all animal related legislation is rigorously and pro-actively enforced.

3.3 The “Five Needs” were introduced by the Animal Welfare Act 2006, it introduced the five overarching principles of animal welfare;

**1. The need for a suitable environment**

By providing an appropriate environment, including shelter and a comfortable resting area.

**2. The need for a suitable diet**

By ready access, where appropriate, to fresh water and a diet to maintain full health.

**3. 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

**4. Any need to be housed with, or apart from, other animals.**

By providing the company of an animal of its own kind, where appropriate

**5. 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.

**4. Licensable Activities**

The Animal Welfare (licensing of Activities Involving Animals) (England) Regulations 2018

4.1 The Regulations came into force on 1<sup>st</sup> October 2018 and have an impact on establishments licensed under previous animal health legislation. The following require to be licensed:

- Animals for exhibition.
- Catteries.
- Dog day care.
- Dog breeders.
- Home boarders.
- Kennels.
- Pet Shops.
- Riding Establishments.

4.2 A licence is required when any of the licensable activities outlined in Schedule 1 of the Regulations are undertaken. These are:

- Selling animals as pets (Part 2).



- Providing or arranging for the provision of boarding for cats or dogs (including the provision of boarding for cats; kennels for dogs; home boarding for dogs; or day care for dogs (Part 3).
- Hiring out horses (Part 4).
- Breeding dogs (Part 5).
- Keeping or training animals for exhibition (Part 6).

#### Dangerous Wild Animals Act 1976

- 4.3 This legislation requires that a licence is held to keep certain animals considered wild, dangerous or exotic. A full list of the animals is outlined in The Dangerous Wild Animals Act 1976 (Modification) (No.2) Order 2007 (legislation.gov.uk).
- 4.4 The Licensing Authority does not support the licensing of primates under the Dangerous Wild Animal Act 1976 as 'pets' living in domestic premises. Primates are dangerous and highly intelligent animals with complex needs that cannot be met in a home environment. Consideration will be given to applications for animal sanctuaries where it can be evidenced that there is no intention to breed or allow the primates into a home environment.
- 4.5 The position in 4.4 supports The Animal Welfare (Primate Licences) England Regulations 2024, which will come into effect on 6 April 2026. This regulation will require zoo-level welfare standards to enable a primate to be kept in a private setting.

#### Zoo Licensing Act 1981

- 4.6 The legislation outlines requirements for a licence to keep wild animals which are displayed to the public for at least 7 days a year, in a place that is not a circus or a pet shop.

### **5. Who can apply ?**

- 5.1 In accordance with the Regulations, 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 disqualified from holding a licence in accordance with the Regulations.
- 5.2 Each licence type has its own application process and requirements that the Licensing Authority takes into consideration before determining a licence. Details on how to apply for a licence can be found on the Licensing Authority's website but must be made in writing on the relevant application form.
- 5.3 The Licensing Authority will consider how the applicant intends to operate their business as they will be assuming responsibility for the welfare of animals, either their own that are being used in the running of their business, or customers animals that they are caring for. The 2018 regulations set out a number of

conditions that the licence holder will need to comply with, and we will be looking for the following when considering the application:

- (a) **Applicant's Experience:** Confidence in the ability to handle and control an animal and a clearly demonstrated knowledge of its welfare needs are a paramount consideration and form part of the conditions in law. Experience over years and/or qualifications will be taken into account.
- (b) **Premise Suitability:** This not only means the condition and security of the premises as a whole but includes any areas in which animals are to be contained. With a view to ensure the sizes of such areas comply with or exceed minimum sizes set out in the Regulation
- (c) **Recording and Storing Information/Records:** Before a premise is inspected, Officers would expect to see templates of client's forms, policies and procedures for the operation of the business that pay particular attention to the record keeping requirements set out in the Regulations including the operator and staff (if employed) development. Future inspections will require the licence holder to produce complete records for the period since the previous licence application/renewal and must be available for inspection upon request.

5.4 An applicant will be granted a licence if the Licensing Authority is satisfied that the licence conditions will be met. In considering this, the Council will take into account whether the applicant is a fit and proper person to be the operator of the activity.

5.5 Legislation does not define the term "fit and proper person" and this policy does not attempt to provide such a definition. The Licensing Authority may consider any issue it deems relevant when making its determination.

5.6 As the term fit and proper is not defined in legislation, the Licensing Authority will consider a "fit and proper person" to be an individual who can demonstrate upon application that they have:

- The right to work in the UK;
- No relevant convictions
- Not been disqualified from holding a licence (by means outlined in the policy);
- 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 licensed activity.

This list does not limit the scope of the fit and proper assessment and the Council may take into account other matters, should they be relevant to this licensing process.

## **6. Safeguarding**

- 6.1 Safeguarding is everyone's responsibility, and this Licensing Authority works to promote people's welfare and to protect them from harm. Councillors and everyone working for South Kesteven District Council has a role to play in identifying safeguarding concerns and taking prompt action when issues are identified, via the relevant reporting mechanisms.
- 6.2 The Animal Welfare Regulations have the aims of maintaining and improving animal welfare standards. However, there are other safeguarding considerations arising from licensable activities, in particular around the protection of children and vulnerable persons and the Licensing Authority must consider these in light of the Children Act 2004 and the Care Act 2014.
- 6.3 The Licensing Authority is aware that some licensable activities may involve unsupervised contact with children and/or vulnerable persons (e.g. the tuition of a young person provided at a Riding Establishment or entertaining at a children's party with an exhibition of animals).
- 6.4 The Licensing Authority expects applicants and licence holders whose activities involve contact with children or vulnerable persons to:
- Have a written safeguarding policy and provide training for staff; and
  - Have a procedure for vetting staff who have unsupervised contact with young/vulnerable persons.

## **7. Relevance of convictions**

- 7.1 In all cases, the Licensing Authority will consider the convictions or behaviour in question and what weight should be attached to it in relation to the applicant's suitability to hold the licence applied for. Every case will be determined on its own merits but in light of these guidelines.
- 7.2 The Licensing Authority will not normally grant a licence to a person with one (or more) convictions for any offence that is related to animal cruelty or suffering. The primary purpose of the Regulations enforced by the Licensing Authority is to ensure the welfare of animals and as such, these types of offences are highly relevant.
- 7.3 In addition, the Licensing Authority has wider obligations to prevent crime and disorder and safeguard both children and vulnerable adults. As a result, the Licensing Authority will not normally grant a licence to a person with one (or more) convictions for any of the following offences:
- Offences involving violence.
  - Possession of a weapon.
  - Sex and indecency offences.
  - Offences involving dishonesty.
  - Offences involving drugs.

- 7.4 Any offences or behaviour not expressly covered by this Policy may still be considered by virtue of any other Guidance, Policies and Strategies outlined in Section 2 above.
- 7.5 The Licensing Authority must ensure that licence holders remain suitable to retain their licence, therefore licence holders must notify the Licensing Authority in writing within 5 working days if any of the following occurs (in relation to the types of offences outlined above):
- They have any type of licence suspended or revoked;
  - Are arrested (whether or not charged with an offence);
  - Are charged with a criminal offence;
  - Are convicted of a criminal offence;
  - Receive any caution or warning;
  - Allegations are made of involvement in criminal activity; or
  - Any pending charges, to include any notices of intended prosecution.
- 7.6 Failing to provide such notification will raise serious questions for the Licensing Authority as to the honesty of the licence holder and may result in a review of the suitability of the licence holder to continue to hold a licence.
- 7.7 Animal Welfare licence holders are not identified as an exempt profession and the Rehabilitation of Offenders Act 1974, and, therefore, the provisions of that Act relating to convictions becoming spent after a certain amount of time will apply in full. The Licensing Authority will not take into consideration any conviction, caution or similar sanction that is deemed to be spent by virtue of a provision of the 1974 Act or any associated regulations.

## **8. Granting or renewing a licence**

### Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 8.1 The guidance produced by DEFRA for licences issued stipulates that once a Licensing Authority receives an application for the grant or renewal of a licence it must do all of the following before granting or renewing a licence:
- The Licensing Authority appoints an appropriately qualified Licensing Authority Inspector and/or vet.
  - The Inspector and/or vet visits the animal activity site and produces a report.
  - The Licensing Authority reviews the report and a copy is sent to the applicant. Any outstanding documents or issues raised as a result of the inspection must be resolved by the applicant.
  - Once the final report has been submitted the Licensing Authority makes a decision to grant or refuse the licence application.
  - The Licensing Authority notifies the applicant.
  - The applicant has a right of appeal to the first tier tribunal for a refusal.

- 8.2 The Licensing Authority aims to issue a decision on a new licence application within 10 weeks of receiving the application. It is possible the process can take longer, for example, if further information is needed.
- 8.3 Applicants will be notified of the need to renew their licence 3 months before it is due to expire. The licence holder must apply to renew a licence at least 10 weeks before their current licence expires. This is to avoid incurring a break in the licensable activity, if they wish to continue to operate the licensable activity.
- 8.4 If following the inspection the applicant meets the requirements for the grant of a licence, they will be required to pay Part B of the application fee. Upon receipt of the payment the applicant will receive the following:
- The Licence with the Star Rating.
  - Details of 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 (resulting in a “minor failing” category).
  - A copy of the risk management assessment table.
  - Details of the appeals process and timescales.
  - Details of the application for re-rating scheme.
- 8.5 An animal activity licence will comprise of the licence holder detail and activities they are carrying out, the star rating, a list of conditions and a set of specific conditions relating to the particular activity or activities that have been authorised. Applicants must not operate prior to the grant of any licence, as it is an offence to do so. Any person found guilty of this offence could be prohibited from being granted a licence in the future.

#### Dangerous Wild Animals 1976 and Zoo Licensing Act 1981

- 8.6 These premises are not required to be risk rated and as a result no Star Rating is issued. A licence with relevant conditions only will be provided.

### **9. Veterinary and Other Inspections**

- 9.1 Where Acts or Regulations require an inspection of the premises by a veterinary surgeon, or an Inspector appointed by the Licensing Authority the Licensing Authority will instruct the Vet or approved Inspectors, the cost of which will be recharged to the applicant.
- 9.2 At the time of making the application the applicant must pay to the Licensing Authority the application fee (Part A) and the sum quoted by the vet or approved Inspector. The Licensing Authority will then instruct that vet or approved Inspector and pay the fee.
- 9.3 The purpose of the Licensing Authority instructing the vet or approved Inspector is to avoid any conflict of interest that may arise between the vet or approved Inspector and the applicant.

9.4 An inspection, whether this be by an approved inspector or vet (as outlined in the Regulations), will be required on first application and every subsequent renewal. An unannounced visit may take place during the licence duration and following any complaint or concern regarding the animal licence activity.

## 10. Duration of a Licence and Star Rating

### Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

10.1 Depending upon the nature of the licensable activity, the duration of the licence may be issued for one, two or three years corresponding to the Star Rating for the establishment. To achieve a star rating the Licensing Authority follows the risk based scoring matrix (detailed below) created by DEFRA, it is not set by South Kesteven District Council.

10.2 A copy of the scoring matrix is below:

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	<b>1 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>3 Star</b> 2yr licence Min 1 unannounced visit within 24 month period	<b>5 Star</b> 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	<b>1 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>2 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>4 Star</b> 2yr licence Min 1 unannounced visit within 24 month period

10.3 The Department for Environment, Food and Rural Affairs (DEFRA) guidance indicates that any member of the Kennel Club Assured Dog Breeder Scheme, of at least three years standing, should be awarded a five-star breeding licence valid for three years. However, the DEFRA guidance advises that significant evidence of poor animal welfare standards or non-compliance found during a Licensing Authority inspection, would enable the Licensing Authority to not grant a five-star licence for 3 years, where the Authority is of the opinion that it is appropriate and justified.

10.4 Following the issuing of a star rating, an operator may wish to apply for a 're-rating' following completion of works to rectify any non-compliance or improvements to achieve higher standards. This re-rating is chargeable in accordance with the Council's published fees and charges.

- 10.5 Keeping or training animals for exhibition requires a licence but no star rating is provided. A licence is valid for 3 years.

Dangerous Wild Animals Act 1976

- 10.6 Premises licensed under the Dangerous Wild Animals Act are not risk rated and licences, when issued, are valid for 2 years.

Zoo Licensing Act 1981

- 10.5 Premises licensed under the Zoo Licensing Act are not risk rated and any new premises licence when issued will be valid for 4 years. On renewal, licences will be valid for 6 years.

**11. Appeals to Star Rating**

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 11.1 The Licensing Authority has an appeals procedure in place for an operator to dispute the star rating given. The inspection report will highlight the inspecting officer's decision on how the risk rating, compliance level and star rating has been achieved. The operator is encouraged to discuss any issues with the inspecting officer in the first instance.
- 11.2 An operator may appeal their star rating if they consider it to be wrong as it does not reflect the standards found at the time of the inspection. Any appeal to the rating must be made in writing to the Licensing Authority within 21 days, from when the star rating is issued.
- 11.3 Any appeal must specifically relate to the standards present at the time of the inspection and will be chargeable.
- 11.4 DEFRA Guidance states that no officer or inspector involved with the initial star rating or inspection should consider an appeal. It also states that the appeal should be determined by the Head of the Department or a designated deputy. Appeals will be determined by the Department/Service Manager. If the operator disagrees with the outcome of the appeal, they can request that the Licensing Authority considers their concerns via the Licensing Authority complaint's procedure. The reviewing officer may or may not visit the premises themselves, this will be left to them to determine.
- 11.5 If the operator disagrees with the outcome of the appeal, they can challenge the decision by means of judicial review. There is also the availability of the Local Government Ombudsman where appropriate if they consider that the Licensing Authority has not made decisions in the correct way.

**12. Standards and conditions**

### Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 12.1 The Regulations include mandatory conditions for each licensable activity and DEFRA have produced statutory guidance. The conditions are divided into two categories, namely 'General Conditions and 'Specific Conditions'.
- 12.2 Applicants and licence holders are required to meet all the General Conditions and Specific Conditions, although for existing businesses, a minor failing may be noted/recorded providing they do not compromise the welfare of the animals. However, these failings should be predominantly administrative in nature, as highlighted in the relevant statutory guidance.
- 12.3 The higher standards are classified into two categories – mandatory (required) and optional. To qualify as meeting the higher standards the business must achieve all of the required (mandatory) standards as well as a minimum of 50% of the optional higher standards.
- 12.4 Meeting the higher standards is optional but is the only way to gain the highest star rating.

### Dangerous Wild Animals 1976 and Zoo Licensing Act 1981

- 12.5 The Licensing Authority will impose any condition prescribed in the legislation, suggested by DEFRA or required by the Licensing Authority Inspecting Officer and/or Vet.
- 12.6 Where the Licensing Authority places conditions on a licence they will be based, wherever practicable, on existing codes of best practice and industry standards produced by organisations.

## **13. Refusing an application**

### Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 13.1 The Licensing Authority may refuse to issue a licence if it considers that the applicant cannot meet the licence conditions or has a previous history of non-compliance with licensing conditions or requirements. The Licensing Authority may also refuse a licence if the granting of a licence could have a negative impact on animal welfare or if the level of accommodation, staffing or management is inadequate for the well-being of animals.
- 13.2 A Licence cannot be issued to an operator who has been disqualified, as per regulations.
- 13.3 If a licence is refused under the Regulations, the applicant will have the right of appeal to a First-tier Tribunal within 28 days of the decision notice.

### Dangerous Wild Animals 1976



13.4 The legislation states that the Licensing Authority shall not grant a licence unless it is satisfied that:

- a) It is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;
- b) The applicant for the licence is a suitable person to hold a licence under the relevant Act;
- c) Any animal will at all times of its being kept only under the authority of the licence:
  - i. Be held in accommodation which secures that the animal will not escape, which is suitable as regards constructions, size temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and
  - ii. Be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;
- d) Appropriate steps will be taken for the protection of any animal concerned in case of fire or other emergency;
- e) All reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;
- f) While any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

13.5 If a licence is refused under the Dangerous Wild Animals Act 1976, the applicant has the right of appeal to the Magistrates Court within 21 days of the decision notice.

#### Zoo Licensing Act 1981

13.7 The legislation states that the Licensing Authority shall refuse a licence when;

- a) It is satisfied that the zoo, or its continuance, would injuriously affect the health or safety of persons living in the neighbourhood of the zoo, or seriously affect the preservation of law and order.
- b) They are not satisfied that it would be able to meet conditions to take forward the relevant conservation measures.

The Licensing Authority may refuse a licence if;

- c) They are not satisfied that the standards of accommodation, staffing or management are adequate for the proper care and well-being of the animals either individually or as a whole, or otherwise for the proper conduct of the zoo.
- d) They are not satisfied that planning permission has been granted for a zoo or the granting of a licence can be suspended until the local planning authority confirm that permission has been, or is deemed to be, granted.

13.8 A licence may also be refused if anyone associated with the zoo has a conviction under the Zoo Licensing Act 1981 or any of the Acts mentioned in the legislation.

13.9 If a licence is refused under the Zoo Licensing Act 1981, the applicant has the right of appeal to the Magistrates Court within 28 days of the decision notice.

#### **14. Animal Welfare Licensing & Planning**

14.1 Premises maintained or used for an animal based business or activity may require planning permission for that usage. It is advised that licence applicants seek advice from South Kesteven District Council's Planning department prior to making an application for a licence.

14.2 Whilst applicants are encouraged to make necessary applications for planning permission before or at the same time as they make application for licence, there is nothing in law which specifically precludes an application for a licence being made before planning consent has been sought.

14.3 Planning and Licensing Departments operate as separate regulatory regimes, and the absence of planning permission for a particular site will not serve to prohibit the Licensing Authority from granting a licence. There is no legal basis for the Licensing Authority to refuse a licence application because the business does not have planning permission.

14.4 Applicants should note that planning and licensing requirements must both be satisfied prior to the commencement of business operations, and if this is not the case then the applicant will be liable for enforcement action for breaches of the relevant legislation.

#### **15. Variations, Suspension and Revocation of a Licence**

##### Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

15.1 The Regulations allow the Licensing Authority to vary a licence:

- a) On the application in writing of the licence holder, or
- b) On the initiative of the Council, with the written consent of the licence holder.

15.2 The Licensing Authority may suspend, vary or revoke a licence without the consent of the licence holder if:

- a) The licence conditions are not being complied with.
- b) There has been a breach of the Regulations.
- c) Information supplied by the licence holder is false or misleading.
- d) It is necessary to protect the welfare of an animal.

15.3 A suspension or variation of a licence will take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal, in which case the Licensing Authority may stipulate that the decision is with immediate effect.

- 15.4 A decision to vary or suspend a licence must be notified in writing to the licence holder and will outline the reasons for the decision including any specific actions that can be taken to remedy the situation. The notification will also confirm when the suspension or variation will take effect and the rights of the licence holder to make written representations, as well as any deadlines for remedial action/review timescales.
- 15.5 The decision to vary, suspend or revoke a licence will be dependent on the severity of the situation.
- If an operators fails to meet administrative conditions or provide information when requested, then this could potentially lead to the suspension of a licence. If such a scenario happens repeatedly, the Licensing Authority may consider revocation appropriate.
  - Immediate revocation or suspension of a licence may occur in an instance where poor welfare conditions are discovered, or it would otherwise benefit the welfare of the animals involved to be removed from the activity.
  - Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.
- 15.6 Following the issuing of the notice of suspension or variation, the licence holder will have 7 working days to make written representations. Upon receipt of this the Licensing Authority will decide whether to continue with the suspension or variation of the licence or cancel the decision.
- 15.7 If the licence has been altered with immediate effect to protect the welfare of animals, the Licensing Authority will indicate that this is the reason.
- 15.8 The business must not trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by the Licensing Authority, due to either the decision being reversed, or it is satisfied that all licence conditions are being met.
- 15.9 Other than the right outlined above (15.6) there is no other right of appeal against the suspension of a licence. After 28 days of suspension the licence must be either revoked or reinstated.
- 15.10 A licence holder may appeal to a First Tier Tribunal if they do not agree with the decision made by the Licensing Authority to vary or revoke the licence. The appeal must be made within 28 days of the decision notice being issued.

#### Dangerous Wild Animals Act 1976

- 15.11 The Licensing Authority can, at any time, add conditions, vary conditions or revoke conditions that are in a Dangerous Wild Animal licence (although any conditions prescribed in the legislation cannot be varied or revoked).

#### Zoo Licensing Act 1981

- 15.12 The Licensing Authority can, at any time, vary, cancel or attach new conditions to a licence if it is considered necessary or desirable to do so for ensuring the proper conduct of the zoo. Prior to doing so, the licence holder will have an opportunity to make representations. If the change is a significant amendment, then an inspection of the premises must be arranged and the report considered, prior to any alteration being made to the licence.
- 15.13 If a licence condition is not being complied with the Licensing Authority can issue a direction requiring compliance, in accordance with the Zoo Licensing Act 1981. The direction will state the steps that the licence holder must take and the period in which they must take them. In addition, the direction can also require the zoo, or part of the zoo, to be closed to the public while the direction is in force. The direction will be revoked once the zoo has complied with the requirements.
- 15.14 In accordance with the Zoo Licensing Act 1981, the Licensing Authority must permanently close a zoo in certain circumstances (e.g. non-compliance with a direction in relation to a conservation measure). The Council also has a discretionary power to close a zoo which may be used for several reasons (e.g. non-compliance with a direction in relation to a conservation measure).

## **16. Status of a licence upon the death of a licence holder**

### Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 16.1 If a licence holder dies, the legislation outlines that the personal representative of the deceased may take on the licence. The Licensing Authority must be informed, by the personal representatives, within 28 days of the death that they are now the licence holder. The licence will 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 apply for a new licence before the expiry of this new period, as outlined in 8 – Granting or renewing a licence.
- 16.2 The Licensing Authority can extend the three month period by up to another three months if requested by the personal representative and if they believe this time is needed to wind up the estate of the former licence holder.
- 16.3 If the personal representative does not notify the Licensing Authority within 28 days of the death of the licence holder, the licence will cease to have effect after those 28 days.

### Dangerous Wild Animals Act 1976

- 16.4 If a licence holder dies, the licence will continue for 28 days as if it had been granted to the personal representative. If an application is made for a new licence within this period, the licence will be considered as being still in force pending the grant or refusal of the new application.

### Zoo Licensing Act 1981

16.5 If a licence holder dies, the licence will continue for 3 months as if it had been granted to the personal representatives. The Licensing Authority may extend this period if it considers it appropriate to do so.

## **17. Inspections during the term of a licence**

17.1 There will be cases where inspections must be carried out during the term of a licence.

17.2 For the activity of hiring out horses, there is a requirement for an annual inspection by a listed vet, regardless of the term of the licence. The Licensing Authority must appoint a listed Vet to inspect the premises on which the activity is being carried out before the end of the first year after the licence is granted and then each subsequent year. It is this Licensing Authority's policy that the vet must be independent and not one that is retained by the applicant / licence holder.

17.3 Depending on the type of zoo, inspections may be required on an annual basis, but the frequency of inspections can be less if an exemption (or 'dispensation') is in place. Inspections will include visits by the Secretary of States Zoo Inspectors, in addition to licensing inspectors.

17.5 Unannounced inspections can be carried out and may be used in the case of complaints or other information that suggests the licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.

17.6 During the inspection of premises licensed under the Animal Welfare Regulations, the inspector may choose to take samples for laboratory testing from the animals on the premises occupied by an operator. The operator must comply with any reasonable request of an inspector to facilitate the identification, examination and sampling of an animal, including ensuring that suitable restraints are provided if requested.

## **18. Fees and Charges**

18.1 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.

18.2 The Part B fee is payable once a decision to grant a licence has been made and must be paid before the licence is issued and becomes operational and valid. It will be a condition of all licences that the licence itself will be inoperable should the Part B fee not be paid.

18.3 The Part A fee paid by an applicant who has not been granted a licence will not be refunded.

18.4 The fees and charges are reviewed annually and can be viewed on the Council's website [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk)

## **19. Qualifications of Inspectors**

19.1 As outlined in the Animal Activity Licensing Process: Statutory Guidance for Local Authorities all Licensing Authority Inspectors (whether employed by the Licensing Authority or contracted / appointed) must be suitably qualified.

A suitably qualified person can be any of the following:

- Holds a Level 3 certificate (or equivalent) granted by a body recognised and regulated by the Office of Qualifications and Examinations Regulation (Ofqual). Their certificate must apply to that particular type of activity to count as qualified. The training must cover the application of the licensing conditions for all licensable activities and must contain a practical element.
- Has a formal veterinary qualification recognised by the Royal College of Veterinary Surgeons (RCVS), together with a relevant RCVS continuing professional development record.

## **20. Enforcement**

20.1 The main enforcement and compliance role for the Licensing Authority in terms of animal licensing will be to ensure the welfare of animals. This is done by ensuring compliance with the conditions placed upon the licence and taking action when standards are not met. The Licensing Authority also investigates and will take appropriate action against unlicensed premises.

20.2 In carrying out its enforcement duties, the Licensing Authority has adopted a Corporate Enforcement Policy, which is available on our website at [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk)

20.3 The Licensing Authority will appropriately log and investigate complaints regarding animal establishments which are currently licensed or may require a licence. The Licensing Authority will require complainants to provide their name and contact details so that witness evidence may be obtained if required for further action and to try and ensure that a complaint is not malicious nature. When investigating complaints Officers will take care to not reveal the identify of the complainant, unless agreed otherwise, or unless it is necessary for the progression of legal proceedings.

20.4 The Licensing Authority aims to maintain a consistent approach when investigating complaints and making decisions. In reaching any decision it will consider, amongst other things, the following criteria:

- Seriousness of any offences or breach of conditions;
- Operator's past history;
- Consequence(s) of non-compliance;
- Likely effectiveness of the various enforcement options;
- Danger to the welfare of animals and/or public.

- 20.5 The Animal Welfare Act 2006, section 30 allows Licensing Authorities to prosecute offences under that Act.
- 20.6 The post-conviction power from section 34 of the Animal Welfare Act 2006 is in place, whereby a person convicted of an offence under the Act or any relevant regulations may be disqualified from owning, keeping, participating in the keeping of animals and/or from being party to an arrangement under which they can control or influence the way an animal is kept. Disqualification also prohibits the person from transporting or dealing in animals. Breaching these disqualification provisions is an offence.
- 20.7 The post-conviction power from section 42 of the Animal Welfare Act 2006 is also in place whereby a court can cancel an existing licence and disqualify a person from holding a licence for any period it sees fit when that person is convicted of an offence under the Act or any relevant regulations.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 20.8 The Regulations introduce a range of enforcement powers to allow the Licensing Authority 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.
- 20.9 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.
- 20.10 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.
- 20.11 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.
- 20.12 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 so requested by an inspector.
- 20.13 Samples should be as non-invasive as possible; however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals. The provision for sampling is primarily aimed at vets carrying out inspections and it is not expected that samples will be taken by those without the training to properly and safely do so.

20.14 Additional information about the suspension and revocation of a licence can be found in section 15 of this policy.

#### Dangerous Wild Animals Act 1976

20.15 Anyone that keeps a dangerous wild animal without the required licence is committing a criminal offence and is liable for a fine.

20.16 It is a criminal offence to breach any licence condition. It is also a criminal offence to obstruct an inspector who has been appointed by the Licensing Authority to enforce the Act. Committing any of these offences could result in a fine.

#### Zoo Licensing Act 1981

20.17 Anyone who operates a zoo without the required licence is committing a criminal offence and is liable for a fine.

20.18 It is a criminal offence to breach any licence condition. It is also criminal offence to obstruct an inspector who has been appointed by the Licensing Authority to enforce the Act. Committing any of these offences could result in a fine.

20.19 Additional information about the suspension and revocation of a licence can be found in Section 15 of this policy.

### **21. Policy Review**

21.1 This policy will be reviewed every five years but will remain in force beyond this time if no significant changes are required. In the interim, minor amendments to the policy, such as legislative updates, which may become necessary from time to time to ensure its continued accuracy, but do not affect its direction or intent may be made in accordance with delegated authority.

### **22. Advice and Guidance**

22.1 Further information and advice on the animal welfare licensing process can be obtained by contacting South Kesteven District Licensing Authority Licensing team by e-mail at [licensing@southkesteven.gov.uk](mailto:licensing@southkesteven.gov.uk) or by visiting the Business and Licensing area of the Council's website [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk).



## Appendix 1 - Definitions

**DEFRA:** Department for Environment, Food and Rural Affairs

**Licensing Authority:** South Kesteven District Council

**Licensing Authority Inspector:** An employee of the Licensing Authority, suitably qualified to undertake animal welfare licensing activities and inspections of premises.

**Operator:** An individual who carries on, attempts to carry on or knowingly allows a licensable activity to carry on or is the licence holder of a granted or renewed licence

**Relevant convictions:** Offences outlined in the policy that are not considered spent under the Rehabilitation of Offenders Act 1974, namely:

- 7.2 – Convictions relating to any offence related to animal cruelty or suffering
- 7.3 – Convictions involving violence, Possession of a weapon, Sex and indecency offences, Offences involving dishonesty, Offences involving drug

However this list is not exhaustive and other convictions may be considered relevant due to the legislative requirements placed upon Local Authorities/Licensing Authorities as outlined in Section 2 of the policy.

**Listed Vet:** A person on the Royal College of Veterinary Surgeons list of approved riding establishment inspectors.

**Vet:** A person holding a veterinary qualification recognised by the Royal College of Veterinary Surgeons (RCVS), together with a relevant RCVS continuing professional development record.

**Zoo dispensation:** Some zoos do not need a licence because of the small number of animals, or the type of animal, kept in them. This is known as having a 'dispensation'. The Secretary of State will make a decision on a case-by-case basis as to whether the zoo requires a zoo licence. Usually both of the following must apply:

- Very small zoos (eg. zoos that have no more than around 120 animals).
- Zoos that don't have many different kinds of animals, eg deer parks.

The Secretary of State will also decide if the animals are hazardous or conservation sensitive.