



Animal Welfare Licensing Policy

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Mid Devon District Council
Animal Welfare Licensing Policy

| | | |
|------------|--|----|
| 1. | Introduction | 3 |
| 2. | Policy objectives | 4 |
| 3. | Animal Welfare Act | 4 |
| 4. | Licensable Activities | 5 |
| 5. | Suitability of applicants | 7 |
| 6. | Safeguarding | 9 |
| 7. | Application process | 10 |
| 8. | Rating and licence duration | 11 |
| 9. | Standards and conditions | 13 |
| 10. | Granting an application | 15 |
| 11. | Refusing an application | 15 |
| 12. | Appeals to Star Rating | 17 |
| 13. | Variations, Suspensions and Revocations of Licences | 18 |
| 14. | Status of a licence upon the death of a licence holder | 20 |
| 15. | Inspections during the course of a licence | 21 |
| 16. | Qualifications of Inspectors | 22 |
| 17. | Fees | 22 |
| 18. | Enforcement | 23 |
| 19. | Additional information | 25 |

1.0 Introduction

- 1.1 This policy sets out how the Council will exercise its functions under the Dangerous Wild Animals Act 1976, the Zoo Licensing Act 1981, the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 1.2 This policy has been introduced pursuant to the commencement of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (hereinafter referred to as the “Regulations”) on 1 October 2018. Where relevant (and appropriate), specific information has been provided relevant to the Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981.
- 1.3 The Policy will be reviewed as standard every 3 years following first approval, and at other times where considered necessary (for example, to reflect significant changes in relevant legislation or guidance).
- 1.4 Any general reference to ‘guidance’ in this policy is reference to the ‘*Animal activities licensing: guidance for local authorities*’ produced by DEFRA. This guidance can be viewed in full here: <https://www.gov.uk/government/publications/animal-activities-licensing-guidance-for-local-authorities>. If any other guidance is referenced in this policy, specific details will be provided.
- 1.5 This policy sets out the principles the Council will use when dealing with animal related licensing matters. This includes dealing with applications for new licences and issues relating to licensed premises.
- 1.6 This policy provides guidance to any person with an interest in animal licensing. In particular, but not exclusively:
- Applicants for licenses
 - Existing licence holders whose licences are being reviewed
 - Users of licensed premises
 - Licensing Officers
 - Members of the Licensing Committee, and
 - Magistrates’ hearing appeals against local authority decisions.
- 1.7 This policy 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. In addition to criminal convictions the Council will, where permitted under the relevant legislation, also

take into account other factors such as general character, compliance with licence requirements / guidance / conditions, non-criminal behavior, and other relevant records or information from reliable and relevant sources.

2.0 Policy objectives

2.1 The 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 the relevant legislation
- each application is considered on its own merits
- decisions made by the Council are transparent and consistent

2.2 In addition, the Council 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 implementing appropriate standards that promote the “five needs”
- Ensuring that persons 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 will be rigorously and pro-actively enforced

3.0 Animal Welfare Act

3.1 The Animal Welfare Act 2006 established that reasonable welfare standards must be maintained whilst unifying all animal legislation, including responsibilities falling to various enforcement agencies.

3.2 The Act introduced five overarching principles of animal welfare, known as the “five needs” which are:

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*

4.0 Licensable Activities

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

4.1 The Regulations came into force on 1st October 2018 and have an impact on establishments licensed under the previous animal health legislation. This includes those previously licensed as pet shops, catteries, kennels, home boarders, dog crèches, riding establishments, dog breeders and performing animals.

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)

4.3 The Regulations replace previous licensing and registration regimes under the following legislation:

- Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- Riding Establishments Acts 1964 & 1970
- Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
- Performing Animals (Regulation) Act 1925

Dangerous Wild Animals Act 1976

4.4 The Dangerous Wild Animals Act 1976 dictates that a licence is required from the Council to keep certain animals that are considered wild, dangerous or exotic. A full list of animals that need a licence can be seen here:

<http://www.legislation.gov.uk/uksi/2007/2465/schedule/made>.

4.5 The Council does not support the licensing of primates under the Dangerous Wild Animals Act 1976 as 'pets' to live in the domestic premises. The Council recognises that 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 the home environment.

Zoo Licensing Act 1981

4.6 The Zoo Licensing Act 1981 dictates that a licence is required from the Council to display wild animals to the public for at least 7 days a year, in a place that is not a circus or a pet shop.

4.7 All relevant legislation set out in this section can be viewed in full at

<http://www.legislation.gov.uk/>.

5.0 Suitability of applicants

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

- 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 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council will require a new applicant (or applicants) to provide a basic disclosure (DBS) certificate, issued within 3 months of the date of application. For any renewal application, the requirement for a DBS will begin in relation to the renewals of licences that take effect from 2021. DBS checks must show that the applicant (or applicants) 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. The DBS check will then be required on a rolling 3 year basis.
- 5.3 An applicant will be granted a licence if the Council 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. The term ‘fit and proper’ is not defined in the legislation or guidance. For the purpose of this Policy, the Council 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
 - 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 does not limit the scope of the fit and proper assessment and the Council may take in to account other matters, should they be considered as relevant to the licensing process.

Relevance of convictions

- 5.4 The purpose of this section is to offer guidance on how the Council can determine whether an applicant or licence holder is suitable to either be granted a licence in the first place or retain a licence under the Regulations. In all cases, the Council will consider the conviction or behaviour in question and what weight should be attached to it. Each and every case will be determined on its own merits, but in light of these guidelines.
- 5.5 Most applicants or licensees will have no convictions and that is clearly the ideal situation. It is accepted, however, that people do make mistakes, and it is further accepted that many learn from those mistakes and do not continue to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, will not prevent the grant or renewal of a licence.
- 5.6 The Council will not normally grant a licence to a person with one (or more) conviction(s) for any offence that is related to animal cruelty or suffering. The primary purpose of the Regulations enforced by the Council is to ensure the welfare of animals and as such, these types of offences are highly relevant.
- 5.7 The Council will not normally grant a licence to a person with one (or more) conviction for any offence that is related to licensing as these offences demonstrate a disregard for licensing processes and procedures.
- 5.8 In addition to the above, the Council also has wider obligations to prevent crime and disorder and safeguard both children and vulnerable adults. These obligations arise from the Crime and Disorder Act 1998; the Children Act 2004; and the Care Act 2014. As a result, the Council will not normally grant a licence to a person with one (or more) conviction for any of the following offences:
- Offences involving violence
 - Possession of a weapon
 - Sex and indecency offences
 - Offences involving dishonesty
 - Offences involving drugs
- 5.9 Any offences or behaviour not expressly covered by this Policy may still be taken into account.
- 5.10 The Council must ensure that licence holders remain fit and proper during the life of a licence. For this reason, licence holders must notify the Council, in writing, within

72 hours, if any of the following occurs (in relation to the types of offences highlighted above):

- They have any type of licence suspended or revoked
- They receive any warnings or cautions;
- Are arrested (whether or not charged with an offence);
- Are charged with any criminal offence;
- Are convicted of any criminal offence;
- Allegations are made of their involvement in criminal activity; or
- Any pending charges, to include any notices of intended prosecution

Failing to provide such notification will raise serious questions for the Council as to the honesty of the licence holder.

The Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981

- 5.11 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council will require the applicant to provide a basic disclosure (DBS) certificate issued within 3 months of the date of application. This check will then be required on a rolling 3 year basis.

6.0 Safeguarding

- 6.1 The Regulations have the aims of maintaining and improving animal welfare standards. However, there are other safeguarding considerations arising from licensable activities, in particular surrounding the protection of children and vulnerable persons and the Council must consider these in light of the Children Act 2004 and the Care Act 2014.
- 6.2 The Council 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).
- 6.3 To this extent, the Council would expect 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.

6.4 The Council are not setting any specific standards in relation to these requirements, but each case will be considered on its own merits. For information purposes, a number of charitable organisations offer advice on safeguarding issues, including policies and staff recruitment, such as the NSPCC, which applicants and licence holders may find helpful.

7.0 Application process

7.1 Licence applications must be submitted in writing on the relevant application form and in accordance with the relevant legislation. Additionally, applicants should include any supporting information that is required (as detailed in the form, this Policy and as may be required in any particular case), together with the appropriate fee.

7.2 Payment for vet inspections required either by legislation or by the Council in order to determine the application, will be an additional charge that is passed on to the applicant / licence holder.

7.3 What follows is a brief overview of the application process for the animal related licences that the Council administers. In all cases, the process prescribed in the relevant legislation will be followed.

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

7.4 The relevant Guidance produced by DEFRA for licences issued under these Regulations stipulate that once the Council 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 Council must 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 the licence conditions.
- The Council must inspect the site of the licensable activity and assess if it is likely to meet the licence conditions. The inspection must be completed by a suitably qualified inspector (as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments). The inspector must prepare a report, in accordance with the requirements of the Regulations, to be submitted to the Council following their inspection.

- The inspector's report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter and state whether or not the inspector considers that the licence conditions will be met.
- Ensure that the appropriate fees have been paid.

7.5 Although not a statutory requirement, the Council will aim to provide licence holders with 3 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 10 weeks before their licence expires to continue the activity without a break. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

Dangerous Wild Animals Act 1976

7.6 Once the Council receives an application for the grant or renewal of a licence it will do the following before granting or renewing a licence:

- The Council will ensure that the applicant has not been disqualified from keeping dangerous wild animals.
- An Officer of the Council will inspect the relevant premises and assess if it is likely to meet the requirements of the legislation. In addition to this, a qualified vet will also be appointed to inspect the premises and produce a report.
- Reports will contain information about the suitability of the accommodation, suitability of the applicant in terms of their handling skill / experience and their views on qualification relating to species. The vet will also consider the animal's ability to express their natural behaviour and knowledge of the owner to promote the animal's welfare. The report will then be sent to the Council for consideration.
- Ensure that the appropriate fees have been paid.

7.7 Although not a statutory requirement, the Council will aim to provide licence holders with 3 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 10 weeks before their licence expires. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

Zoo Licensing Act 1981

- 7.8 Before submitting an application to the Council for a licence under the Zoo Licensing Act 1981, an applicant must, at least two months prior to the application, provide the Council with a notice of an intention to apply, which must contain various pieces of information (in compliance with the Act).
- 7.9 Additionally, a notice must also be published in a local newspaper (circulating the Mid Devon area) and a newspaper that is circulated nationally.
- 7.10 Once the Council receives an application it will do the following before granting or renewing a licence:
- The Council will ensure that the applicant has not been disqualified from keeping dangerous wild animals.
 - An Officer of the Council will inspect the relevant premises and assess if it is likely to meet the requirements of the legislation. In addition to this, a qualified vet will also be appointed to inspect the premises and produce a report. The vet will, in accordance with the legislation, be approved as part of the Secretary of States list of suitably qualified and experienced inspectors.
 - The Council will take into account any representations made by or on behalf of any persons entitled to make them (as per the legislation)
 - The Council will consult the applicant on the conditions that are proposed for the premises licence.
 - Ensure that the appropriate fees have been paid.
- 7.11 The Council will aim to provide licence holders with 9 months' notice of when their licence is due to expire. Licence holders must then submit an application at least 6 months before their licence expires. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

8.0 Rating and licence duration

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

- 8.1 With the exception of '*keeping or training animals for exhibition*', licences can be issued under the Regulations for a period of either one, two or three years

depending on the risk rating and level of compliance. The length of the licence will correspond with the Star Rating for the establishment.

8.2 Licences for the keeping or training animals for exhibition are issued for three years.

8.3 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 | 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 |

Dangerous Wild Animals Act 1976

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

Zoo Licensing Act 1981

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

9.0 Standards and conditions

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

9.1 The Regulations include mandatory conditions for each licensable activity and DEFRA have produced associated guidance. The conditions are divided into two categories, namely 'General Conditions' and 'Specific Conditions'.

9.2 Applicants and licence holders will need to meet all of the mandatory conditions, although for existing businesses, minor failings 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 guidance.

- 9.3 For each activity (except keeping or training animals for exhibition) a number of “higher standards” have been included in the guidance. Meeting the higher standards is optional but is the only way to gain a higher star rating.
- 9.4 The higher standards are classified into two categories – required (mandatory) and optional. These will typically be colour coded as blue and red respectively or otherwise clearly marked and differentiated. 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.

Dangerous Wild Animals Act 1976

- 9.5 The Council will impose any conditions prescribed in the legislation. In addition, the Council may impose any conditions suggested by DEFRA or required by the Inspecting Officer / Vet.
- 9.6 Where the Council places conditions on a licence they will be based, wherever practicable, on existing codes of best practice and industry standards produced by organisations such as, but not limited to:
- I. DEFRA
 - II. British Veterinary Association
 - III. National Trade Associations

Zoos Licensing Act 1981

- 9.7 The Council will impose any conditions prescribed in the legislation. In addition, the Council may impose any conditions suggested by DEFRA or required by the Inspecting Officer / Vet.
- 9.8 Where the Council places conditions on a licence they will be based, wherever practicable, on existing codes of best practice and industry standards produced by organisations such as, but not limited to:
- I. DEFRA
 - II. British Veterinary Association
 - III. National Trade Associations

10.0 Granting an application

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

10.1 Where a licence is issued the Council will provide the following details (if applicable):

- 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

Dangerous Wild Animals Act 1976

10.2 These premises are not risk rated and as a result, only the licence is sent out, along with the relevant conditions.

Zoos Licensing Act 1981

10.3 These premises are not risk rated and as a result, only the licence is sent out, along with the relevant conditions.

11.0 Refusing an application

11.1 The following section provides a brief overview of the powers the Council have to refuse an application. It must be noted that the non-inclusion of information does not prevent the Council from refusing a licence on any other lawful grounds.

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

11.2 Depending on the licence being applied for, the Council will consider the report from the inspector(s) and any comments made by the applicant when deciding whether to issue a licence.

11.3 The Council may refuse to issue a licence if it considers that the applicant cannot meet the licence conditions. The Council 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.

11.4 The Council may also refuse to issue or renew a licence if the applicant has a history of non-compliance with licensing conditions or requirements, is obstructive towards

officers, or if there are safeguarding concerns arising from the licensed activity. The above list is not exhaustive, but indicative of the circumstances where the Council may want to refuse an application.

- 11.5 The Council may also refuse an application if it considers that the applicant does not meet the 'fit and proper person' test.
- 11.6 A licence cannot be issued to an operator who has been disqualified, as per the relevant Regulations.
- 11.7 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 Act 1976

- 11.8 The Council will consider the report from the inspector(s) and any comments made by the applicant when deciding whether to issue a licence.
- 11.9 The Council must not grant a licence unless it is satisfied that:
- it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;
 - the applicant for the licence is a suitable person to hold a licence under the relevant Act;
 - any animal concerned 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 construction, 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;
 - appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;
 - all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;

- while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

11.10 A licence may be refused where an applicant has been convicted of any relevant offence, as per the relevant legislation.

11.11 If a licence is refused under the Dangerous Wild Animals Act 1976, the applicant will have the right of appeal to the magistrates' court within 21 days of the decision notice.

Zoo Licensing Act 1981

11.12 The Council will consider the report from the inspector(s) and any comments made by any relevant party when deciding whether to issue a licence.

11.13 The Council may refuse a licence when:

- 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
- they are not satisfied that it would be able to meet conditions to take forward the relevant conservation measures
- they are not satisfied that the standards of accommodation, staffing or management are adequate for the proper care and well-being of the animals as a whole or for any of them, or otherwise for the proper conduct of the zoo.
- They are not satisfied that planning permission has been granted for a zoo (or the granting of the licence can be suspended until the local planning authority confirm that permission has been, or is deemed to be, granted).

11.14 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.

11.15 If a licence is refused under the Zoo Licensing Act 1981, the applicant will have the right of appeal to the magistrates' court within 28 days of the decision notice.

12.0 Appeals to Star Rating

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

12.1 To ensure fairness to the business, the Council has an appeals procedure in place for the operator to dispute the star rating given.

- 12.2 The business will be provided with supporting information (the inspection reports) which will highlight the inspecting officer's decision on how the risk rating, compliance level and star rating has been determined. The business is encouraged to discuss the matter initially with the inspecting officer where possible.
- 12.3 A business may appeal if they consider their star rating to be wrong - in other words, if it does not reflect the standards found at the time of inspection. Any appeal to the rating given must be made in writing to the Council within 21 days, from when the star rating is issued. It is important to note that the appeal concerns specifically the standards present at the time of the inspection and will be chargeable, should the original decision be upheld.
- 12.4 DEFRA Guidance states that no officer involved with the initial star rating or inspection should consider an appeal. Accordingly, the Council will ensure that a separate officer determines the appeal in all cases. DEFRA Guidance also states that the appeal should be determined by the head of the Department or a designated deputy and this Council will consider the delegation of such functions to an officer that is considered suitably qualified. Depending on the specific details of the appeal, the relevant officer may or may not visit the premises themselves.
- 12.5 If the business disagrees with the outcome of the appeal they can challenge the decision by means of judicial review. The business also has recourse to the Council's complaints procedure (taking the matter to the Local Government Ombudsman where appropriate) if they consider that the service has not been properly delivered.
- 12.6 Separate to the appeal process highlighted above, a business 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 carried out on a chargeable basis (for more information on fees see section 17 of this Policy).

13.0 Variations, Suspensions and Revocations of Licences

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

- 13.1 The Regulations allow the Council to vary a licence:
- 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.
- 13.2 In addition to the above, the Council may suspend, vary or revoke a licence without the consent of the licence holder if:

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

- 13.3 A suspension or variation of a licence will normally 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 Council may stipulate that the decision has immediate effect.
- 13.4 A decision to vary or suspend the licence must be notified to the licence holder in writing and the reasons for the decision must be explained. It must also provide information regarding when the suspension or variation comes into effect and the rights of the licence holder to make written representations, as well as any specific changes deemed necessary in order to remedy the situation.
- 13.5 The decision to vary, suspend or revoke a licence will be dependent on the severity of the situation. If an operator 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 Council may consider revocation appropriate. Revocation of a licence will also 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.
- 13.6 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 Council will decide whether to continue with the suspension or variation of the licence or cancel the decision.
- 13.7 If the licence has been altered with immediate effect to protect the welfare of an animal then the Council must indicate that this is the reason.
- 13.8 The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by the Council, upon, for example, being satisfied that the licence conditions are being met.
- 13.9 There is no right of appeal against the suspension of a licence. After 28 days of suspension the licence must be revoked or reinstated.

- 13.10 A licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the Council to vary or revoke a licence. This appeal must be made within 28 days of the decision and details on the appeal process will be provided to the licence holder at the relevant time.

Dangerous Wild Animals Act 1976

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

Zoo Licensing Act 1981

- 13.12 The Council 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.
- 13.13 If a condition is not being complied with the Council 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 its requirements.
- 13.14 In accordance with the Zoo Licensing Act 1981, the Council 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 a number of reasons (e.g. non-compliance with a direction that does not relate to a conservation measure).

14.0 Status of a licence upon the death of a licence holder

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

- 14.1 If a licence holder dies, the Regulations allow the personal representative of the deceased to take on the licence provided that they inform the Council within 28 days of the death that they are now the licence holder. 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.

- 14.2 Additionally, the Council 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.
- 14.3 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.

Dangerous Wild Animals Act 1976

- 14.4 If a licence holder dies, the licence will continue for 28 days as if it had been granted to their 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.

Zoos Licensing Act 1981

- 14.5 If a licence holder dies, the licence will continue for 3 months as if it had been granted to their personal representative. The Council may extend this period if considers appropriate to do so.

15.0 Inspections during the course of a licence

- 15.1 There will be cases where inspections must be carried out during the term of a licence.
- 15.2 For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence. The Council must appoint a listed veterinarian 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 Council's policy that the veterinarian must be independent and not one that is retained by the applicant / licence holder.
- 15.3 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 State's zoo inspectors, in addition to licensing officers
- 15.4 Unannounced inspections can also 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.

15.5 During the course of an inspection of premises licensed under the 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.

16.0 Qualifications of Inspectors

16.1 All Licensing Authority inspectors (whether employed by the Council or contracted / appointed) must be suitably qualified. This is defined as:

- Any person holding a Level 3 certificate 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 certain 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; OR
- Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

17.0 Fees

17.1 The fees can be viewed on the Council’s website (www.middevon.gov.uk).

17.2 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. This fee is payable once a licence has been granted but must be paid before the licence becomes operational and valid.

17.3 It will be a condition of all licences that the licence itself will be inoperable should the Part B fee not be paid.

17.4 Any relevant fees paid by an applicant who has not been granted a licence will not be refunded.

18.0 Enforcement

18.1 The main enforcement and compliance role for the Council 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 Council also investigate and take appropriate action against unlicensed premises.

18.2 In carrying out its enforcement duties, the Council has adopted an enforcement policy, which is available to view here:

<https://www.middevon.gov.uk/residents/health-and-wellbeing/public-health-and-regulatory-services/public-health-enforcement-policy/>

18.3 The Council will log and, if considered necessary, investigate complaints relating to Animal Establishments which are currently licensed or may require a licence. The Council will require complainants to provide their name and contact details so as to ensure that a complaint is not malicious in nature, and so that witness evidence may be obtained if required for further action.

18.4 We aim to achieve and maintain a consistent approach when we investigate complaints and make our decisions. In reaching any decision we will consider, potentially 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

18.5 What follows is a brief overview of some of the enforcement options that are available to the Council in relation to the different legislation. The fact that a potential enforcement action is not listed does not prevent the Council from using it.

18.6 In relation to the Animal Welfare Act 2006, Section 30 allows local authorities to prosecute for any offences under that Act.

18.7 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. They may also be disqualified from transporting or dealing in animals. Breaching these disqualifications is an offence.

- 18.8 The post-conviction power from section 42 of the Animal Welfare Act 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

- 18.9 The Regulations introduce a range of enforcement powers to allow the Council 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.
- 18.10 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.
- 18.11 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.
- 18.12 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.
- 18.13 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.
- 18.14 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 veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.
- 18.15 Additional information about the suspension and revocation of a licence can be found in section 13 of this policy.

Dangerous Wild Animals Act 1976

- 18.16 Anyone that keeps a dangerous wild animal without the required licence is committing a criminal offence and is liable for a fine.
- 18.17 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 Council to enforce the Act. Committing any of these offences could result in a fine.

Zoos Licensing Act 1981

- 18.18 Anyone who operates a zoo without the required licence is committing a criminal offence and is liable for a fine.
- 18.19 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 Council to enforce the Act. Committing any of these offences could result in a fine.
- 18.20 Additional information about the suspension and revocation of a licence can be found in section 13 of this policy.

19.0 Additional information

- 19.1 The Council has additional information available online, including application forms, guidance documents and details on conditions. These can be seen here:
<https://www.middevon.gov.uk/business/licensing/animals/>.