



Animal Licensing Enforcement Policy

2018

1 Introduction

- 1.1 This document states East Staffordshire Borough Council's policy on the licensing and regulation of activities involving animals and the relevant establishments.
- 1.2 The overarching aim of the policy and its implementation is to maintain high animal welfare standards in respect of both pet and commercially traded or utilised animals and ensure public safety.
- 1.3 The policy details the licence application and renewal process, enforcement provisions and the determination of the length of a licence and star rating of a business.

2 Legislation

- 2.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 define licensable activities as one of five activities involving animals:
 - Selling animals as pets
 - Providing for or arranging for the provision of boarding for cats or dogs (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs)
 - Hiring out horses
 - Dog breeding
 - Keeping or training animals for exhibition.
- 2.2 Licenses are also required for the keeping of dangerous wild animals under the Dangerous Wild Animals Act 1976 and Zoos under the Zoo Licensing Act 1981. These activities are not covered by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and are dealt with separately in sections 9 and 10.
- 2.3 The Animal Welfare Act 2006 is the primary piece of legislation controlling the welfare of animals in England. It has established that reasonable welfare standards must be maintained whilst unifying all animal welfare legislation, including responsibilities falling to other enforcement agencies.

3 Licence Applications

- 3.1 The Regulations apply to an operator of a licensable activity in England.

- 3.2 The licence holder must be a named person who is not disqualified from holding a licence in accordance with the requirements of Regulation 11 (Persons who may not apply for a licence).
- 3.3 Responsibility for ensuring that the correct licence has been obtained and is kept up to date with the relevant local authority falls to the licence holder or prospective licence holder. Where businesses operate a franchise model each establishment should have its own licence and star rating.
- 3.4 All applications must be made on the Local Authorities prescribed application forms for each of the licensable activities being applied for. Once received an invoice will be sent out for payment of the required fee. An application will not be processed until the correct application fee has been received.
- 3.5 Should a veterinary inspection be required either by legislation or by the Local authority, payment must be made directly to the veterinary surgeon. A licence will not be issued until a satisfactory veterinary report has been received.
- 3.6 Valid* licence applications will receive an inspection within 30 days of receipt.
(* submission of the appropriate, fully completed application form together with any other necessary documentary evidence (for example, veterinary reports, insurance policy details, CRB certification) and receipt of all of the necessary payment.
- 3.7 Renewal reminders will be sent out 3 months prior to the expiry date of the licence. The letter will outline the requirement to return the prescribed application form, fees and any other necessary documentary evidence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break. An inspection will be undertaken by the inspecting officer for the Environmental Health Team prior to renewing the licence.
- 3.8 The organisation and payment of any additional checks/inspections required as a necessary part of the licence, are the responsibility of the licence holder.
- 3.9 On receipt of an application for the grant or renewal of a licence the Local Authority will:
- a) Consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out a licensable activity and meet their licence conditions
 - b) Inspect the site of the licensable activity and assess if it's likely to meet the licence conditions. This will be undertaken by a qualified inspector as well as a veterinarian for the initial inspection of a dog breeding establishment or inspection of horse riding establishments.

- c) A report will be prepared by the inspecting officer containing 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.
- d) Establish that the appropriate fees have been paid for the application and compliance fees.

3.10 A licence may be refused if:

- a) The applicant is not capable of meeting the licence conditions
- b) Granting a licence might negatively affect the welfare, health or safety of the animals involved
- c) The accommodation, staffing or management are inadequate for the animals' well-being or for the activity or establishment to be run properly
- d) If the applicant has been disqualified from holding a licence

3.11 The licence holder may appeal to the First-tier Tribunal if they do not agree with the decision of the Local Authority. This must be done within 28 days of the decision.

3.12 A decision on whether to grant or refuse a licence will be made within 10 weeks of receiving an application. However, this period may be extended if further information is required from the applicant or if it is difficult to make the arrangements for the inspection.

3.13 Death of a Licence Holder

3.14 If a licence holder dies, a personal representative of the deceased may take on the licence provided that they inform the local authority within 28 days of the death that they are now the operators of the licensable activity. The licence will then remain in place for 3 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 is shorter. The new licence holder must then apply for a new licence one month before the expiry of this new period.

3.15 This may be extended for a further three month period if requested and additional time is needed to process the estate of the deceased.

3.16 If the licence is not transferred within 28 days the licence will cease to have effect after those 28 days.

4 Licence Fees

4.1 The Councils fees are payable following submission of a valid licence application. Once received an invoice will be sent for payment of the

Application Licence Fee. Once the inspection has been undertaken and the decision to grant a licence has been made a second invoice for payment of the Licence Compliance Fee will be sent for payment. If the second payment is not received the licence will become invalid.

| Licence Type | Proposed Application Licence Fee 1/2/3 years | Proposed Licence Compliance Fee 1/2/3 years | Total Fee |
|---|---|--|-------------|
| Initial Licence for a single Licensable Activity | £170 | £100 | £270 |
| Initial Licence for an additional Licensable Activity | £97 | £65 | £162 |
| Renewal Licence for a single Licensable Activity | £152 | £95 | £247 |
| Renewal Licence for an additional Licensable Activity | £83 | £65 | £148 |
| Licence for a Dangerous Wild Animal | £220 | n/a | £220 |
| Zoo Licence | £445 | n/a | £445 |
| Vets Fees | Vets fees as applicable (to be arranged and paid by the applicant) | | |
| Rescore Visit | £95 per re-score application | | |

5 Suspension, Variation or Revocation of a Licence

- 5.1 East Staffordshire Borough Council may at any time vary a licence:
- On the application in writing of the licence holder, or
 - On the Local Authorities initiative, with the consent in writing of the licence holder
- 5.2 In addition to the above the Local Authority 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, or
 - It is necessary to protect the welfare of an animal
- 5.3 The suspension, variation or revocation 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 decision will have immediate effect.
- 5.4 The decision to vary or suspend the licence will be made by the Environmental Health Manager and will notified to the licence holder in writing. It will explain the reason for the decision, providing information

regarding when the decision comes into effect as well as any specific changes that are necessary to remedy the situation.

- 5.5 The decision to vary or suspend a licence will be dependent of the severity of the situation.
- 5.6 Following the issuing of the notice the licence holder has 7 working days to make written representation to the Environmental Health Manager. Upon receipt a decision must be made to continue with the suspension, variation or revocation of the licence or cancel the decision to make changes to the licence. If the change is in relation to the welfare of an animal then this will be indicated as the reason and whether this is still in effect.
- 5.7 The licence holder may appeal to the First-tier Tribunal if they do not agree with the decision of the Local Authority. This must be done within 28 days of the decision.
- 5.8 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 either the local authority or upon being satisfied that licence conditions are being met or by the First-tier Tribunal who may decide that the Local Authorities decisions was incorrect.

6 Enforcement

- 6.1 An inspecting officer may not enter part of a premises which is used as a private dwelling unless 24 hours notice of the intended entry is given to the occupier. Parts of the premises which are not a private dwelling may be entered by the inspector if the premises is specified in a licence as premises in which the carrying on of an activity is authorised or is a premises on which he reasonable believes and activity to which a licence relates is being carried on.
- 6.2 A warrant can be obtained from a justice of the peace authorising an inspector to enter the premises on the request of an inspector if necessary in order to search for evidence of the commission of a relevant offence. This should only be requested where there are reasonable grounds for believing that a relevant offence has been committed on the premises or that evidence of the offence is to be found on the premises and that section 52 of the Animal Welfare Act 2006 is satisfied in relation to the premises.
- 6.3 It is an offence to breach any licence condition. It is also an offence not to comply with the inspectors request in the process of taking a sample from an animal.

- 6.4 It is also an offence to obstruct an inspector who is appointed to enforce the Regulations. Committing either of these offences could result in an unlimited fine.
- 6.5 It is also an offence to possess a dangerous wild animal (as detailed on the prescribed list within the legislation) without a licence.
- 6.6 Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to 6 months, a fine or both. Section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

7 Licence Length & Star Rating

- 7.1 A risk-based system will be used when issuing animal activities licences with the exception of keeping or training animals for exhibition where all licences are issued for three years. This system is used to determine the length of the licence and the star rating to award.
- 7.2 This system aims to provide consistency in the implementation and operation of the licensing system and to ensure that consumers can be confident that the star rating applied to businesses is an accurate reflection of both their risk level and the animal welfare standards they adopt. The scoring matrix to be used is contained within Table 1 of DEFRA's Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities, July 2018.
- 7.3 Businesses will be given a star rating, ranging from 1 star to 5 stars, based on this model, and the results of the inspection. The star rating will be included in the licence issued by the inspecting officer. The length of the licence and associated star rating will consider:
- a) whether the business meets the minimum standards
 - b) whether the business meets the higher standards
 - c) whether the business is low or high risk
- 7.4 To obtain a licence for a single activity the applicant must meet the minimum standards set out in the schedules to the Regulations. Additional information on how to meet these standards are outlined in the relevant guidance documents. If a business meets the minimum standards they will qualify for a minimum of a two star rating.
- 7.5 If an existing business has a number of minor failings with regard to the minimum standards laid down in the schedules or guidance, they should

receive a rating score of 1. These should be administrative or if in relation to standards they must not compromise the welfare of the animals. If animal welfare is compromised a licence should not be rated/renewed or if in place it should be revoked or suspended.

7.6 For each activity a number of higher standards have been agreed. Meeting these is the only way to gain a higher star rating as detailed in the guidance. Where a business utilises UKAS accredited certification it will gain a higher star rating.

7.7 The assessment will also consider if the business is high or low risk by determining the likelihood of compliance being maintained in the future. This is considered in accordance with Table 2 of the procedure guidance.

7.8 Inspections during the licence term

7.9 Inspections will be undertaken during the term of the licence where required.

7.10 For the activity of hiring out horses, there is a requirements for an annual inspection by a listed veterinarian, regardless of the length of the licence.

7.11 Unannounced visits will also be undertaken by inspecting officers to check compliance and may also be undertaken in the case of complaints or other information that suggests that conditions are not being complied with or that the welfare of animals is at risk.

7.12 Appeals

7.13 If a business wishes to appeal the star rating given by the inspecting officer the appeal should be made in writing and submitted to the Environmental Health Manager. Appeals should be submitted where the business wishes to dispute the star rating given as not reflecting the animal welfare standards and risk level of their business at the time of the inspection.

7.14 A business disputing the rating should initially discuss this informally with the inspecting officer to discuss why the rating has been granted.

7.15 Businesses have 21 days following the issue of their licence in which to appeal the star rating. This will be determined by the Environmental Health Manager and will be determined within 21 days from the date the appeal was received.

7.16 If a business disagrees with the outcome of the appeal they can challenge the local authority's decision by means of judicial review or through the Council's formal complaints procedure.

7.17 Re-inspections for Re-Rating Purposes

7.18 Businesses wishing to obtain a re-inspection for re-rating purposes may apply in writing outlining the case for a re-inspection. The fee for re-inspections is £100. This is for businesses with ratings of 1- 4 and where the subsequent improvements to address non-compliances have been made. Re-inspections will be undertaken within 3 months of the request. There is no limit on the number of re-inspections a business can request.

8 Complaints

8.1 Complaints regarding animal welfare subject to the licensing regime will be investigated. Other organisations may be contacted to provide professional advice to assist in these investigations. The following is a non exhaustive list of such organisations:

- Royal Society for the Protection of Cruelty to Animals (RSPCA)
- The Kennel Club
- Royal College of Veterinary Surgeons (RCVS/BVA)

8.2 Complaints regarding other animal welfare issues may be beyond our jurisdiction and require referral to other enforcement agencies such as Defra or Staffordshire County Council. Examples include referrals regarding farm animal welfare. Attempts will be made to direct the complainant to the most appropriate organisation.

8.3 Where information is received that unlicensed activities are being carried out, the Local Authority will investigate fully. It will adopt a common sense approach, taking account of the welfare and safety issues involved on a case by case basis.

9 Dangerous Wild Animals

9.1 Any person keeping any dangerous animal is required to hold a licence from the local authority. A list of dangerous wild animals is contained within the accompanying schedule to the Act. This does not apply to animals kept in a Zoo, a circus, pet shops and/or places that are designed establishments under the Animals (Scientific Procedures) Act 1986 (section 5).

- 9.2 Applications must specify the species of the animal and the number of animals proposed to be kept. It must also specify the premises address where the animal(s) in question will be kept. Applications must be accompanied by a report by a listed veterinary surgeon or practitioner.
- 9.3 A licence cannot be granted to anyone under 18 years of age.
- 9.4 The local authority may not grant a licence unless:
- a) It will not be contrary to the public interest on grounds of public safety, nuisance or otherwise to issue a licence;
 - b) the applicant is suitable
 - c) animals will:
 - i) be held in secure accommodation suitable in size for the animals kept and which is suitable as regards construction, temperature, lighting, ventilation, drainage and cleanliness; and
 - ii) have adequate and suitable food, drink and bedding and be visited at regular intervals;
 - d) be appropriately protected in case of fire or other emergency;
 - e) be subject to precautions to control infectious diseases
 - f) be provided with adequate exercise facilities
- 9.5 A licence either comes into force in the day on which it is granted, in which case it expires in 31 December of that same year, or it comes into force on 1 January of the next year, in which case it expires in 31 December of the that next year.
- 9.6 On the death of a licence holder, the licence continues in the name of the personal representative for 28 days only and then expires unless application is made for a new licence within that time, in which case it continues until the new application is determined.
- 9.7 In determining whether to grant a licence for the keeping of a dangerous wild animal, the Council shall specify conditions that must be complied with which:
- a) require the animals to be kept only by persons specified in the licence;
 - b) require the animals to be normally held at the premises specified in the licence;
 - c) require the animals not to be moved from those premises unless in circumstances allowed for in the licence;
 - d) require the licence holder and person keeping the animals to be insured against liability for damage caused by the animals to the satisfaction of the local authority;
 - e) restrict the species and number of animals;

- f) require a copy of the licence to be made available by the licence holder to persons entitled to keep the animals; and
 - g) are necessary or desirable to secure the objectives specified in paragraphs c)- f) above.
- 9.8 Other conditions may be applied to the licence is appropriate. Should a licences dangerous wild animal be taken into another local authority area for more than 72 hours, the local authority must be consulted.
- 9.9 The keeper of any Dangerous Wild Animal is held to be the keeper in the event of escape and transportation.
- 9.10 Where the licensing authority is not satisfied that an applicant complies sufficiently with the relevant legislation and conditions, and the licence is refused, the applicant will be informed in writing of the reasons for the refusal and of their right to appeal the decision to the Magistrates Court. Any decision to refuse a licence will be evidence based and fully documented.
- 9.11 If a dangerous wild animal is being kept without the authority of a licence or in contravention of a licence condition, the local authority may seize the animal and retain it, destroy it, or otherwise dispose of it. The local authority is not liable to compensation and may recover costs from the keeper of the animal at the time of this seizure.

10 Zoos

- 10.1 Any public place where wild animals are exhibited to the public (except pet shops and circuses) must be licensed to do so. This is governed by the Zoo Licensing Act 1981 and the Secretary of State's Standards of Modern Zoo Practice 2012. Wild animals are defined in Section 21 of the Act.
- 10.2 The Act applies to any zoo to which members of the public have access, with or without charge for admission on seven days or more in any period of twelve consecutive months.
- 10.3 Zoo's must be able to demonstrate conservation measures as detailed in the Act, to be granted a licence.
- 10.4 Pre-application notice must be given to the Council. Notice of at least 2 months prior to the application for a Zoo licence must be given to the public by means of a notice in a newspaper and at the premises. The notice must specify a number of criteria as detailed in the legislation and in Appendix H.

- 10.5 When determining an application for a zoo, the Licensing Authority must consider representations from
- (a) The applicant
 - (b) The chief officer of police
 - (c) The fire and rescue authority
 - (d) The National Governing body for zoos
 - (e) The Planning Authority (if necessary)
 - (f) Any person positively or negatively affected by the application.
 - (g) Any other person whose representations might, show grounds on which the authority has a power or duty to refuse to grant a licence.
- 10.6 There must be an inspection by an inspector approved by the Secretary of State before any application can be granted.
- 10.7 If conservation requirements are not met and/or there are concerns about health and safety or law and order, the Licensing Authority must refuse to grant a licence. In addition it may refuse a licence over any other valid concerns. Any decision to refuse, renew or transfer a licence may be appealed to the Magistrates Court. An applicant may appeal the conditions attached to a licence.
- 10.8 If the Council is satisfied that all legal requirements are met, it may issue a licence. The licence may be subject to detailed conditions which must accompany the licence.
- 10.9 An initial Zoo licence last for 4 years. Each renewal thereafter is every 6 years. Renewal applications must be made 6 months before the end of the licence.
- 10.10 Zoo licences can be transferred or surrendered.

11 Review & Provision of Information

- 11.1 Each local authority must provide information to the Secretary of State detailing the number of licences in force for each licensable area and the average levels of fees it has charged for licenses.
- 11.2 The Council will also maintain a list of licensed businesses and their associated ratings on the East Staffordshire Borough Council website.
- 11.3 The policy will be reviewed every three years or earlier should there be any changes in law and practice. The fees section shall be updated following the annual review of the Council's fees and charges.