

**Extract from this Authority's Animal Welfare Licensing Policy – Fit and Proper Status of Licence Applicants.**

**5.0 Suitability of Licence Applicants**

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 Certificate from the Disclosure and Barring Service (DBS). The certificate must have been issued within 2 months of the date of licence application.

5.3. For any renewal application, the requirement for a DBS will begin in relation to the renewals of licences that take effect from September 2020.

5.4. 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.

5.5 It will be the applicant's responsibility to obtain the DBS certificate in good time, and to pay any fees or charges associated with them.

5.6 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.

5.7 It is noted that no attempt is made within the legislation to define the term "fit and proper person", and this policy document likewise makes no attempt to formulate such a definition. The Council may consider any relevant issue when making its determination on this point, and these guidelines should be regarded as examples of issues that may lead to the Council not being satisfied that an applicant is fit and proper, rather than an exhaustive list of the issues that may be taken into consideration.

5.8 As detailed above the term 'fit and proper' is not defined in the legislation or guidance. For the purpose of this Policy, the Council will normally 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.

The above list 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. The Council may fail to be satisfied that a person is a fit and proper person to hold a licence for any good reason.

5.9 The onus is on an applicant to satisfy the Council that they are 'fit and proper'. Simply being free from convictions and disqualifications is not enough. Licence holders must remain 'fit and proper' to retain their licence.

5.10 **Relevance of Convictions** - 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.

5.11 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, may not normally prevent the grant or renewal of a licence.

5.12 The Council will not normally grant a licence to a person with one (or more) conviction for any offence that is related to animal cruelty or suffering. The primary purpose of the Regulations enforced by this Council is to ensure the welfare of animals and as such, these types of offences are highly relevant.

5.13 The Council will not normally grant a licence to a person with one (or more) current conviction for any offence that is related to licensing as these offences demonstrate a disregard for licensing processes and procedures.

5.14 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.

5.14 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

5.15 The Council must ensure that licence holders remain fit and proper during the life of a licence. For this reason, licence holders should 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.

5.15 Animal welfare licence holders are not identified as an exempt profession under 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 Council 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 (and any associated regulations).

5.16 **Financial Propriety** - As operators, of animal welfare licensed businesses, will be responsible for the financial aspects associated with operating a business (which may including maintaining customer accounts, negotiating contracts and sales, payments to employees, and maintenance of accurate business accounts), the Council will, where appropriate, consider evidence of previous financial impropriety or difficulties when assessing the fitness and propriety of applicants for licences.

5.17 **Previous Licences** - Any relevant licensing history relating to an applicant or operator may be considered during further applications. For example, if an applicant has previously had a licence revoked, whether by this Authority or by any other Authority, this may indicate an underlying issue with the fitness or propriety of that person. Where appropriate to do so, further information may be sought from any other relevant authority, to the extent permitted by data protection laws.