

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

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 Regulations.
- a licence holder is not disqualified from holding a licence in accordance with the requirements of the relevant Regulations.
- that 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 licence 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 pro-actively enforced.

3.0 Animal Welfare Act 2006

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.*

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.

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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.

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

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7.0 Application Process

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7.3 The Council considers that how the applicant intends to operate their business is extremely important, given that the licence holder will be assuming responsibility for the welfare of animals, either their own that are being used in the running of their business, or customer's 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 an 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 many years, and/or qualifications achieved in animal handling and care will be taken into account when scoring the application. Is the animal relaxed and happy in this environment? Applicants should be able to spot abnormal behaviours, and know when to seek veterinary advice or treatment if required. They should also be comfortable with maintaining the animal's health and condition while in their care – this may involve daily grooming, health checks of eyes, ears and feet, and ensuring they receive the correct diet for their species.
- b) **Premises Suitability:** This not only means the condition and security of the premises as a whole, but also any areas in which animals are to be contained. This could range from an outside kennel block, to stabling to cages, aviaries, aquariums or any other area or structure in which the animal would be kept. We would be looking to ensure that the sizes of such areas comply with or exceed the minimum sizes set out in the Regulations and that they:
 - are made of robust and non-porous or suitably treated materials, and,
 - are well lit/ventilated and clean.

This also applies to the conditions in which animals are transported, and the steps taken to ensure their comfort and safety en route. Generally, a premises should be in good condition, with all entrances and exits suitably secured to minimise risk of escape or theft. Boundary walls/fences should be in good condition, and suitably high to contain whichever species is cared for within.

- c) **Recording and Storing Information/Records:** This forms a large part of the legal requirements for businesses carrying out licensable activities involving animals. Before a premises is inspected we would expect to see templates of client forms, policies and procedures for the operation of the business that pay particular attention to the record keeping requirements set out in the regulations and address staff development (if staff are employed). Future inspections will require the licence holder to produce complete records for the period since the previous licence application/renewal.

7.4 The relevant Guidance produced by DEFRA for licences issued under these Regulations stipulate that once a Local 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 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 Local Authority 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.

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13.0 Refusing a Licence Application

13.1 The following section provides a brief overview of the powers the Council have to refuse a licence 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.

13.2 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.

13.3 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.

13.4 The Council will 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.

13.5 The Council may also refuse an application if it considers that the applicant does not meet the ‘fit and proper person’ test.

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13.7 If a licence is refused, the applicant will have the right of appeal to a First-tier Tribunal within 28 days of the decision notice.