

NORTH HERTFORDSHIRE
DISTRICT COUNCIL



Animal Licensing Policy

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PART 1 - INTRODUCTION

1.1 The Policy

- 1.1.1 This document sets out how North Hertfordshire District Council (“the Council”) will exercise its functions regarding the regulation of animal establishments.
- 1.1.2 The aim of this policy is to ensure that existing licence holders, applicants and the public are familiar with how the Council undertakes the regulation of animal licensing in North Hertfordshire.

1.2 Policy Duration and Amendments

- 1.2.1 This policy will be kept under review and amended as and when necessary to reflect changes in legislation, case law, national guidance and best practice.
- 1.2.2 Administrative amendments to this policy, required by virtue of legislative changes, revised national guidance or a Council restructure, may be made by the Licensing Manager. Amendments under this section are restricted to those required to accurately reflect the current legal or administrative position rather than amendments that change the focus of local policy.
- 1.2.3 The policy will be periodically reviewed to ensure it remains fit-for-purpose and either amended where necessary or approved for continuation by the relevant Executive Member.
- 1.2.4 In the event of any significant amendment to the policy, a full public consultation will be undertaken prior to consideration by the Licensing and Appeals Committee who will make a recommendation for consideration by the relevant Executive Member. For the purpose of this section, a significant amendment is defined as one that:
- (a) will have significant financial impact on applicants, licence holders or the public;
 - (b) will have a significant procedural impact on applicants, licence holders or the public; or
 - (c) may not be perceived by the trade or the public to be consistent with the licensing principles set out in this policy.

1.3 Departure from Policy

- 1.3.1 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy and the objectives set out therein.
- 1.3.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits with regard to the licensing objectives. However, it is likely that departures from policy will be restricted to exceptional circumstances, not used to circumvent the reasonable requirements of the policy.
- 1.3.3 Substantial departure from Policy
Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so must be given. The Licensing Manager, in consultation with the relevant Executive Member, may authorise a departure from

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the Policy in accordance with this section if they consider it necessary in the specific circumstances and will advise Councillors of such decisions via the Members Information Service (MIS).

1.3.4 Minor departure from Policy

Where an applicant can demonstrate that a minor departure from this policy, based on the individual circumstances of that application, would still ensure that the policy objectives are achieved, the Licensing Manager may authorise a licence to be issued.

1.4 Delegations

1.4.1 Authorised Officers

All officers of the Council, duly authorised under the Council's Scheme of Delegation and supported by specific written delegations, are responsible for the day to day operation of the Council's Animal Licensing Policy, save for any issues reserved for the Licensing Manager or the relevant Executive.

1.4.2 Licensing Manager

The following powers are specifically reserved to the Licensing Manager (or in their absence, any officer delegated to act in the Licensing Manager's absence):

- (a) the management of the Council's Authorised Officers as detailed in section 1.4.1;
- (b) minor departures from policy in accordance with section 1.3.4;
- (c) varying or excluding standard conditions, or adding special conditions;
- (d) suspension or revocation of existing licences;
- (e) refusal to renew existing licences;
- (f) refusal to grant new applications;
- (g) minor amendments to Policy in accordance with section 1.2.2; and
- (h) substantial departures from policy in consultation with the relevant Executive Member in accordance with section 1.3.3

1.4.3 Executive Member

The following powers are specifically reserved to the relevant Executive Member (or the Executive if deemed appropriate by the Executive Member):

- (a) the ongoing review and amendment of the policy in accordance with sections 1.2.3 and 1.2.4; and
- (b) the setting of fees and charges associated with animal licensing

1.5 Legislation and National Guidance

1.5.1 By virtue of the Animal Welfare Act 2006, the Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018 came into force on 1 October 2018 replacing previous licensing and registration regimes under the following legislation:

- Animal Boarding Establishments Act 1963
- Pet Animals Act 1951 and Pet Animals Act 1951 (Amendment) Act 1983
- Riding Establishments Act 1964 and 1970
- Breeding of Dogs Act 1973 and 1991
- Breeding and Sale of Dogs (Welfare) Act 1999

- Performing Animals (Regulation) Act 1925
- 1.5.2 The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018 introduced a single animal activity licence that can include one or more of the following licensable activities:
- Selling animals as pets
 - Providing or arranging for the provision of boarding for cats
 - Providing or arranging for the provision of boarding in kennels for dogs
 - Providing or arranging for the provision of home boarding for dogs
 - Providing or arranging for the provision of day care for dogs
 - Hiring out horses
 - Breeding dogs
 - Keeping or training animals for exhibition
- 1.5.3 To assist local authorities with the implementation of the new regime and to promote transparency and consistency across the country, DEFRA issued Procedural Guidance Notes for Local Authorities. The Council will have due regard to this guidance when undertaking its licensing duties.
- 1.5.4 The new Regulations do not impact on the licensing of dangerous wild animals under the Dangerous Wild Animals Act 1976 or zoos under the Zoo Licensing Act 1981 which remain unaffected by the recent legislative changes. Both activities remain within the scope of this policy.
- 1.5.5 A dangerous wild animal licence is required where an individual or a business wishes to keep an animal included on the [Schedule of Dangerous Wild Animals](#) maintained and published by DEFRA. The legislation applies to business enterprises such as an ostrich farm however it does not apply to dangerous wild animals kept in a zoo or a circus. The legislation applies to all individuals that wish to keep a dangerous wild animal at home, for example, a venomous snake or spider.
- 1.5.6 A zoo licence is required for an establishment where wild animals are kept for exhibition to which members of the public have access, with or without charge for admission, on more than seven days in any period of twelve consecutive months. The wide scope of this definition means that licensed zoos can range from traditional urban zoos and safari parks to small specialist collections such as aquaria, birds of prey centres and butterfly houses. Dispensations can be granted for small zoos which reduce the number of inspections to a reasonable level for the size of the establishment, without in any way weakening the establishment's obligation to achieve acceptable standards of animal welfare. The Act does not extend to circuses or to pet shops which are covered by separate legislation
- 1.5.7 Under Section 17 of the Crime and Disorder Act 1998, local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can to prevent, crime and disorder in their area. This Policy has regard to the likely impact of such licences on related crime and disorder in the District.

PART 2 - LICENSING PRINCIPLES AND POLICY OBJECTIVES

2.1 Policy Objectives

2.1.1 This policy is intended to achieve the following objectives:

- Ensuring 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 legislative requirements detailed in section 1.5.2 and/or section 1.5.4 of this policy
- Ensuring the licence holder is not disqualified from holding a licence in accordance with the legislative requirements
- Ensuring 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
- Ensuring the safeguarding of any children or vulnerable persons in contact with a licensable activity
- Ensuring that each application is considered on its own merits
- Ensuring that decisions are made in a transparent, fair and consistent way
- Ensuring, where possible, that the priorities of the Council Plan are supported
- Ensuring that the obligations of the Council’s Public Sector Equality Duty under section 149 of the Equality Act 2010 are fulfilled by eliminating discrimination, harassment, victimisation and any other conduct prohibited by the Act, advancing equality of opportunity, and promoting good relations between persons who share and those who do not share protected characteristics

2.2 Animal Welfare Act 2006

2.2.1 This is now 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.

2.2.2 The Animal Welfare Act 2006 introduces five overarching principles of animal welfare, known as the ‘five needs’.

2.2.3 The ‘five needs’ referred to in the Animal Welfare Act 2006 are:

- (a) the need for a suitable environment;**
(by providing an appropriate environment, including shelter and a comfortable resting area)
- (b) the need for a suitable diet;**
(by ready access, where appropriate, to fresh water and a diet to maintain full health)
- (c) 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)
- (d) any need to be housed with, or apart from, other animals;** and
(by providing the company of an animal of its own kind, where appropriate)

- (e) **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)

2.3 Licensing Principles

2.3.1 The Council will base its licensing regime on the following four principles:

- (a) **responsibility to protect the welfare of all fellow creatures;**
- (b) **ensuring the welfare of domestic or captive animals by implementing appropriate standards that promote the ‘five needs’;**
- (c) **ensuring that persons responsible for the management of animal welfare observe recognised standards of good practice; and**
- (d) **ensuring that, so far as it falls within its powers, the requirements of all animal-related legislation will be rigorously and pro-actively enforced.**

PART 3 – SUITABILITY OF APPLICANTS

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

3.1.1 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 an animal activity licence for one or more of the licensable activities providing they are not disqualified from holding a licence in accordance with Regulation 11 and Schedule 8.

3.1.2 In order to ensure compliance with its duty to ensure that an applicant has not been disqualified from holding a licence, the Council may require an applicant to provide a Basic Disclosure Certificate (issued within three months of the date of application) from the Disclosure & Barring Service.

3.1.3 An applicant will be granted a licence if the Council is satisfied that:

- (a) the applicant has not been disqualified from holding a licence; and
- (b) the applicant is a ‘fit and proper’ person to hold a licence.

3.1.4 The term ‘fit and proper’ person is not defined in the Regulations or Guidance however for the purposes of this policy the Council will consider a ‘fit and proper’ person to be an individual who can demonstrate upon application that they have:

- (a) the right to work in the UK;
- (b) no relevant convictions that impact on their suitability to hold a licence;
- (c) the knowledge, experience, compliance history (where applicable), and ability to comply with the licence conditions and safeguard the welfare of animals in their care; and
- (d) made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licensable activities.

3.2 Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981

3.2.1 In order to ensure compliance with its duty to ensure that an applicant has not been disqualified from holding a licence, the Council may require an applicant to provide a Basic Disclosure Certificate (issued within three months of the date of application) from the Disclosure & Barring Service.

3.2.2 An applicant will be granted a licence if the Council is satisfied that:

- (a) the applicant has not been disqualified from holding a licence; and
- (b) the applicant is a 'fit and proper' person to hold a licence.

3.2.3 The term 'fit and proper' person is not defined in the legislation however for the purposes of this policy the Council will consider a 'fit and proper' person to be an individual who can demonstrate upon application that they have:

- (a) the right to work in the UK;
- (b) no relevant convictions that impact on their suitability to hold a licence;
- (c) the knowledge, experience, compliance history (where applicable), and ability to comply with the licence conditions and safeguard the welfare of animals in their care, in particular a high degree of competency in understanding the specific requirements and risks associated with the individual *species* of animals to be kept; and
- (d) made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licensable activities.

3.3 All Applications

3.3.1 To assist in assessing the suitability of an applicant, the Council may request information from:

- Hertfordshire Constabulary relating to any relevant convictions an applicant may hold or any ongoing investigations that may impact on the applicant's suitability to hold a licence
- Any other local authority that holds information about the applicant's suitability to hold a licence

3.3.2 This information sharing is possible under the provisions of section 17 of the Crime and Disorder Act 1998 which places a duty on local authorities to have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their district.

3.4 Renewals

3.4.1 In the case of all renewals, the Council will consider any information received about the licence holder and/or business during the period of the existing licence. The Council will expect licence holders to demonstrate appropriate professional conduct at all times and behave in a manner befitting the trust placed in them to undertake the care of animals, protect staff working at the premises and safeguard the public visiting or in the vicinity of the premises.

- 3.4.2 Where appropriate, the Council may require an applicant to provide a Basic Disclosure Certificate (issued within three months of the date of application) from the Disclosure & Barring Service.

3.5 Relevance of Convictions

- 3.5.1 The purpose of this section is to offer guidance on how the Council will determine whether an applicant/licence holder is suitable to either be granted a licence in the first place or retain such a licence. In all cases, the Council will consider the conviction or behaviour in question, what weight should be attached to it and with every case being determined on its own merits with regard to these guidelines.
- 3.5.2 It is expected that most applicants or licence holders will have no convictions. In relation to other people, it is accepted 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, an isolated conviction, especially if committed some time ago, will not automatically prevent the grant or renewal of a licence.
- 3.5.3 The Council will not ordinarily 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 a minor
 - Offences involving dishonesty
 - Offences involving drugs
 - Licensing offences
 - Offences involving animals, including but not limited to, offences involving danger or suffering caused to animals
- 3.5.4 The offences detailed in section 3.5.3 are indicative and any offences or behaviour not expressly covered therein may still be considered.

PART 4 - SAFEGUARDING

- 4.1 Whilst the legislation has the aim of maintaining and improving standards of welfare for animals, the Council has a statutory duty to consider safeguarding associated with all licensable activities.
- 4.2 Specifically the Council has a duty to protect children and vulnerable persons and it is aware that some licensable activities may involve unsupervised contact with children and/or vulnerable persons. Examples include, but are not limited to, horse riding tuition of a young person or an exhibition of animals at a children's party.
- 4.3 The Council expects all applicants and licence holders whose licensable activities may involve contact with children or vulnerable persons to:
- Have a written safeguarding policy
 - Undertake appropriate safeguarding for all staff
 - Keep a log of staff training records

- Have a procedure for vetting staff who have unsupervised contact with children and/or vulnerable persons

PART 5 – WHO NEEDS A LICENCE

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

5.1.1 Schedule 1 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) defines the licensable activities for each sector (as summarised in section 1.5.2 of this policy).

5.1.2 In all cases except dog breeding the licensable activity is solely restricted to businesses or those operating on a commercial basis. For dog breeders a limit on the number of litters is also in place unless it can be proved that none of the puppies from these litters are sold.

Dog breeding

5.1.3 A licence is needed for breeding of dogs if either or both of the following apply:

- (a) breeding three or more litters of puppies in any twelve-month period; or
- (b) breeding dogs and advertising a business of selling dogs

5.1.4 In the case of breeding three or more litters of puppies in any twelve-month period, if the person carrying on the activity provides documentary evidence that none of them have been sold then a licence would not be required.

Commercial activity

5.1.5 In order to assess whether an activity is being carried on as a commercial activity, DEFRA have given examples of ‘in scope’ and ‘out of scope’ for each licensable activity.

5.1.6 The Council will also have regard to the HMRC guidelines whereby anyone falling under a threshold of £1,000 trading income in a year would not be considered a business for tax purposes.

5.1.7 The Regulations which the Council must consider in assessing whether commercial activity is being carried on are whether the operator:

- (a) makes any sale by, or otherwise carries on, the activity with a view to making a profit, or
- (b) earns any commission or fee from the activity.

5.1.8 Each individual case will be assessed on its own merits considering the criteria in sections 5.1.5 to 5.1.7 above. The predominate consideration will be section 5.1.7 whereby an activity that attracts an income is likely to be considered commercial activity.

5.2 Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981

- 5.2.1 There is no assessment of whether the activity is being carried on for commercial purposes for either of the above Acts. In simple terms, if an activity as detailed in sections 1.5.5 and 1.5.6 of this policy is being carried on, a licence will be required.
- 5.2.2 The only exception to this is that the Secretary of State may issue an exemption for a small zoo that would otherwise require a licence.

PART 6 – APPLICATION PROCESS

6.1 Advice for New Applicants

- 6.1.1 New applicants are advised to contact the Council's licensing officers at their earliest opportunity, preferably before an application is made. This allows the officers to provide advice, as well as clarifying any areas of uncertainty.
- 6.1.2 The Council can also provide guidance in relation to other legal requirements of a new licence holder, for example, planning permission or building control approval. Such guidance should be sought from the appropriate Council department.
- 6.1.3 In exceptional circumstances, a provisional licence may be issued where minor improvements need to be made. In these circumstances, the licence holder will be informed in writing of what action must be taken and the date for compliance. If compliance is not achieved by the prescribed date the licence will ordinarily be suspended until such time as compliance is achieved.

6.2 Submission of Applications

- 6.2.1 All licence applications must be submitted on the prescribed application form accompanied by:
- All supporting information required by this policy or the legislation
 - The appropriate application fee
 - Proof of planning permission (where necessary)
- 6.2.2 Applications can be made in hard copy or electronically.

6.3 Vet inspections

- 6.3.1 Where a veterinary surgeon inspection is required by legislation, or by the Council in order to determine an application, the cost of the inspection is the responsibility of the applicant and must be paid prior to the issue of a licence.
- 6.3.2 In the event that an application is unsuccessful, the veterinary surgeon inspection fee will still be the responsibility of the applicant.

6.4 Renewals

- 6.4.1 The Council will notify licence holders of the need to renew their licence no later than three calendar months prior to the expiry of the existing licence however it is

the licence holder's responsibility to ensure that their renewal application is submitted in a timely manner.

6.4.2 In order to ensure continuity of licence, renewal applications should be made no later than ten weeks prior to the expiry of the existing licence. The Council accepts no responsibility for a break in trading if a complete renewal application is submitted with less than ten weeks' notice prior to the expiry of the existing licence.

6.4.3 For the avoidance of doubt, if a renewal application:

- has not been submitted prior to expiry of the existing licence, or
- has been submitted but has not been determined prior to expiry of the existing licence

licensable activities **must cease** until such time as the renewal application has been granted.

6.5 Determination of Applications

6.5.1 Once a completed application has been received and validated, the Council must inspect the site of the proposed licensable activities to assess if it is likely to meet the licence conditions.

6.5.2 The inspection must be carried out by a suitably qualified inspector, accompanied by a veterinary surgeon where required by legislation or where the Council deem it necessary to determine the application.

6.5.3 The inspector must produce a report in accordance with the requirements of the legislation and submit it to the Council in a timely manner.

6.5.4 The inspector's report will contain information about the applicant, the premises, any relevant records inspected, the condition of the animals and any other relevant matter. The report must state whether the inspector is satisfied that the licence conditions will be met.

6.5.5 Before a licence a licence can be issued, the balance of the application fee relating to ongoing compliance and administration must be paid (the licence fee). Where a veterinary surgeon has attended and inspected the premises, this fee must also have been paid prior to the issue of a licence.

6.6 Schedules of Animals

6.6.1 Licences issued for:

- Hiring of horses
- Pet shops
- Dangerous wild animals
- Keeping or exhibiting animals for exhibition
- Zoos

will ordinarily have a schedule of permitted animals attached to the licence.

- 6.6.2 If a licence holder wishes to amend this list during the term of the licence they will need to apply in writing (electronic submission included) to the Council to vary the schedule and pay the appropriate variation fee. Until such time as the Council confirm in writing that the schedule has been amended, the additional animals should not be used for licensable activities.

6.7 Additional licensable activity

- 6.7.1 If a licence holder wishes to add an additional licensable activity during the term of a licence, they will need to apply to the Council in writing including the appropriate fee.

PART 7 – LICENCE DURATION AND STAR RATING

7.1 Extent of Licence

- 7.1.1 The granting of a licence pursuant to this policy shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the Act under which the licence is issued.

7.2 Licence Duration

- 7.2.1 Licences for the keeping or training of animals for exhibition are issued for a period of three years.
- 7.2.2 Licences for the keeping of dangerous wild animals are issued for a period of two years.
- 7.2.3 Licences for zoos are issued for a period of four years.
- 7.2.4 Animal activity licences are issued for either one, two or three years dependent upon the perceived risk and welfare standards. The licence duration is linked to the mandatory star rating scheme (see below).

7.3 Star Rating Scheme (animal activity licences only)

- 7.3.1 All animal activity licences must be issued a star rating in accordance with prescribed national standards based on the inspector's report.
- 7.3.2 The Council will display a list of animal establishments and their star rating on its website.
- 7.3.3 For the avoidance of doubt, the national star rating scheme does not apply to dangerous wild animals and zoos.
- 7.3.4 The star rating will be awarded based on the scoring matrix 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 |

7.3.5 Where a licence authorises more than one licensable activity and the activities meet different star rating criteria, the licence will be issued with a premises star rating of the lowest rating awarded. For example, a premises with a 5 star kennel and a 3 star cattery would be awarded a 3 star animal activity licence.

PART 8 – STANDARDS AND LICENCE CONDITIONS

8.1 Animal Activity Licences

8.1.1 Licences issued under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations are subject to mandatory conditions for each licensable activity.

8.1.2 To assist local authorities, DEFRA has issued national guidance on the interpretation of these conditions to promote consistency across the country.

8.1.3 The licence conditions are split into two categories, ‘general conditions’ detailed in Schedule 2 of the Regulations and ‘specific conditions’ detailed in the appropriate Schedule of the Regulations dependent on licensable activity. Details of the full conditions can be found using [this link](#).

8.1.4 Applicants will need to demonstrate that they can meet all generic and specific conditions appropriate to the activities provided in order to be granted a licence however minor failings may not preclude a licence being issued if they are predominately administrative in nature and do not impact on animal welfare. This will impact upon the star rating awarded and all administrative failings would be expected to be resolved prior to renewal.

Higher standards

8.1.5 In order to achieve the higher star ratings, applicants will need to meet higher standards. These standards are optional but are the only way to achieve a four or five star rating. Higher standards are specific to each licensable activity except for keeping or training animals for exhibition.

- 8.1.6 The higher standards are divided into two categories within the national guidance, mandatory (coloured in blue type) and optional (coloured in red type). To qualify as meeting the higher standards, an applicant must meet all the mandatory (blue) higher standards and at least fifty percent of the optional (red) higher standards.

Samples

- 8.1.7 The Regulations allow for officers to take samples for laboratory testing from any animals on a premises to ensure that licence conditions are being complied with. A licence holder must make all reasonable efforts to comply with a request for samples including, but not limited to:
- facilitating the identification of the animal(s)
 - facilitating the examination of the animal and the taking of the sample
 - assisting with suitable restraint of the animal(s)
- 8.1.8 The number of samples taken should be the minimum number to address the animal welfare concerns to avoid undue stress to the animals and adversely impact on the business.
- 8.1.9 Ordinarily, veterinary surgeons would be expected to undertake sampling however any person with appropriate training can do so.

8.2 Dangerous Wild Animals

- 8.2.1 In order to determine the application, an annual independent veterinary inspection of the animals and premises is required prior to the issuing of a licence. The veterinary surgeon must have suitable experience of dangerous wild animals.
- 8.2.2 The Council will nominate the veterinary surgeon for each inspection and make the appropriate arrangements however the cost of any veterinary inspection will be the responsibility of the applicant.
- 8.2.3 A licence will not be issued where the veterinary surgeon recommends refusal.
- 8.2.4 Licence conditions will predominately be concerned with suitable accommodation and care for the specific animal to ensure that the keeping of the animal would not endanger public safety or create a public nuisance.

8.3 Zoos

- 8.3.1 An independent veterinary inspection of the animals and premises is required prior to the issuing of a licence. The veterinary surgeon must be a specialist in the field of zoo licensing.
- 8.3.2 The Council will nominate the veterinary surgeon for each inspection and make the appropriate arrangements however the cost of any veterinary inspection will be the responsibility of the applicant/licence holder.
- 8.3.3 A licence will not be issued where the veterinary surgeon recommends refusal.

- 8.3.4 Licence conditions will predominately be concerned a broad range of issues, including but not limited to, feeding, environment, conservation/education and public safety.
- 8.3.5 Ordinarily, conditions will be based upon DEFRA's Standards of Modern Zoo Practice. All veterinary surgeons inspecting a zoo must have regard to these standards but may amend the conditions to suit the individual establishment.

PART 9 – REFUSING AN APPLICATION

- 9.1 The Council will have regard to all available information when determining an application including, but not limited to:
- The appointed inspector's report
 - The veterinary surgeon's report (if applicable)
 - Comments and documentation supplied by the applicant
- 9.2 The Council will refuse to issue or renew a licence if it considers that the applicant cannot meet the licence conditions.
- 9.3 The Council will also refuse to issue or renew a licence if:
- (a) the applicant has a history of non-compliance with licence conditions or Council requirements;
 - (b) the applicant is obstructive towards officers, inspectors or veterinary surgeons;
 - (c) there are safeguarding concerns relating to licensable activities at the premises;
 - (d) the applicant fails to meet the 'fit and proper' person test detailed in section 3.1.4 of this policy; or
 - (e) the applicant has been disqualified from holding a licence.
- This list is not exhaustive but indicative of the circumstances where the Council may refuse to issue or renew a licence.
- 9.4 Where an application is unsuccessful, all application fees and veterinary surgeon inspection fees are non-refundable.
- 9.5 If a licence is refused, the applicant will have the following rights of appeal:
- (a) Animal Activity Licences
Within twenty-eight days of receiving the Council's Decision Notice to the First-Tier Tribunal (General Regulatory Chamber)
 - (b) Dangerous Wild Animals
Within twenty-eight days of receiving the Council's Decision Notice to the local Magistrates Court
 - (c) Zoos
Within twenty-eight days of receiving the Council's Decision Notice to the local Magistrates Court
- 9.6 Prior to the refusal of an application, the reasons why the application is likely to be refused will be advised to the applicant. The applicant may then submit written

representation stating any mitigating circumstances and/or reasoning why the application should be granted. Any representation submitted by the applicant will be considered as part of the determination.

PART 10 – STAR RATING APPEALS

- 10.1 Whilst there is no formal appeal process against a star rating issued by the Council, an internal appeals process has been designed to ensure fairness to applicants and licence holders.
- 10.2 The applicant/licence holder will be provided with a copy of the inspector's report, risk rating and any other supporting documentation upon request. This information will explain how the risk rating and star rating has been determined. The applicant/licence holder is encouraged to initially discuss their concerns with the inspecting officer.
- 10.3 Upon payment of the appeal fee, the applicant/licence holder can appeal the star rating if they believe it does not accurately reflect the standards found at the time of inspection. The appeal and payment must be received by the Council within twenty-one days of the star rating being advised to the applicant/licence holder.
- 10.4 An appeal will be assessed and determined by the Licensing Manager, or an appointed deputy, who will ordinarily conduct a desk-based appraisal of the rating given. Where necessary, the Licensing Manager, or an appointed deputy, may decide to visit the premises.
- 10.5 If the applicant/licence holder disagrees with the outcome of the appeal the only further recourse available is to challenge the decision by way of a judicial review.
- 10.6 Alternatively, an applicant/licence holder may wish to be re-inspected or re-graded following completion of works to rectify any non-compliance found at the time of inspection or to demonstrate works undertaken to achieve the higher standards. These re-inspection/re-grading visits can be requested by payment of the appropriate fee.
- 10.7 A re-inspection or re-grading visit will be carried out by an appointed inspector in the normal manner and the premises will be assessed against the scoring matrix in section 7.3.4 of this policy.
- 10.8 Following a re-inspection or re-grading visit, if the applicant/licence holder disagrees with the star rating given the internal appeal process detailed above will apply.

PART 11 – LICENCE VARIATIONS, SUSPENSIONS AND REVOCATIONS

11.1 Animal Activity Licences

- 11.1.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations allow for a local authority to vary a licence at any time either:
 - (a) on written application (including electronic submission) by the licence holder; or

- (b) on the instigation of the Council with the written consent of the licence holder.

This can be a proportionate response to addressing issues where there is agreement between the licence holder and the Council that a resolution can be obtained without the need for formal action.

11.1.2 Additionally, the Council may suspend, vary or revoke a licence **without** the consent of the licence holder where:

- (a) licence conditions are not being complied with;
(b) there has been a breach of the Regulations;
(c) the licence holder has supplied false or misleading information; or
(d) it is necessary to protect the welfare of an animal.

11.1.3 A suspension or variation of a licence will ordinarily take effect seven working days after the written Decision Notice has been issued to the licence holder. If the reason for the decision is to protect the welfare of an animal the Council must specify in the decision notice that the decision will take immediate effect.

11.1.4 A Decision Notice varying or suspending a licence must be given in writing (including electronic submission) and contain:

- The rationale for the decision
- The date the decision takes effect
- The rights of the licence holder to make written representations
- A summary of the matters to be addressed to resolve the concerns

11.1.5 The decision to vary, suspend or revoke a licence will be proportionate based on the specific nature of the concerns. Some examples of proportionality include, but are not limited to:

- **SUSPENSION:** Failure to meet administrative conditions or supply information when requested
- **REVOCAION:** Repeated failure to meet administrative conditions or supply information when requested
- **IMMEDIATE REVOCAION:** Poor welfare conditions or where it would be beneficial to remove the animals for welfare reasons
- **VARIATION:** Minor adjustments to the licence that will resolve concerns informally

11.1.6 Ordinarily following the issuing of a notice of suspension or variation, the licence holder will have seven working days to make written representations. Having considered any written representations, the Council can either continue with the suspension or variation or cancel its original decision. If the licence has been varied, suspended or revoked with immediate effect to protect the welfare of an animal the seven working day period does not apply.

11.1.7 Once the suspension of a licence takes effect the business will no longer be able to provide licensable activities until such time as the suspension is subsequently removed by the Council once it is satisfied that its concerns have been addressed.

11.1.8 There is no right of appeal against the suspension of a licence however after twenty-eight days of suspension the licence must either be revoked or reinstated by the Council.

11.1.9 If a licence is varied or revoked by the Council, the licence holder has a right of appeal within twenty-eight days of receiving written notice (including electronic submission) of the decision to the First-Tier Tribunal (General Regulatory Chamber).

11.2 Dangerous Wild Animals

11.2.1 At any time during the period of a licence, the Council may vary the licence by:

- Specifying a new condition
- Varying an existing condition
- Removing an existing condition

11.2.2 If the variation was requested by the licence holder it will take immediate effect.

11.2.3 If the variation was instigated by the Council it will not take effect until such time as the licence holder has been made aware of the condition and has had reasonable time to comply with it.

11.2.4 There is a right of appeal to the local Magistrates Court against a decision to add, amend or revoke licence conditions. An appeal must be lodged with the court within twenty-eight days of receiving the Council's written Decision Notice.

11.2.5 Where an animal is being kept without an appropriate licence or where a licence condition is not being complied with, the Council may seize the animal and either retain it, destroy it, or otherwise dispose of it with no liability to pay compensation for the exercise of this power.

11.2.6 Where the Council incurs any expenditure exercising the power detailed in section 11.2.5 it shall be entitled to recover the full cost as a civil debt against the person from who the animal was seized.

11.3 Zoos

11.3.1 At any time during the period of a licence, the Council may alter the licence if they are satisfied that it is necessary or appropriate to do so for ensuring the proper conduct of the zoo.

11.3.2 Before amending a licence the Council shall give the licence holder the opportunity to make written representations.

11.3.3 If the proposed amendment is a significant change, the Council shall:

- Consult the licence holder about the proposed alteration
- Arrange an inspection by an appropriate inspector/veterinary surgeon
- Consider the inspection report

prior to making its final decision.

- 11.3.4 The Secretary of State is empowered to direct the Council to amend a licence where appropriate. If the proposed amendment is significant, the process in section 11.3.3 will apply.
- 11.3.5 The Council may, after giving the licence holder an opportunity to submit written representations, revoke a licence if:
- (a) any reasonable requirements relating to the premises or conduct of the zoo notified to the licence holder following an inspection are not complied with in a reasonable time;
 - (b) it is satisfied that the zoo has been conducted in a disorderly manner or so as to cause a nuisance, or is in breach of licence conditions;
 - (c) the licence holder (or in the case of a corporate body a director, manager or similar official) is convicted of a relevant offence; or
 - (d) any person employed as a keeper in the zoo who, to the knowledge of the licence holder, has been convicted of a relevant offence.
- 11.3.6 There is a right of appeal within twenty-eight days of receiving the Council's written Decision Notice to the local Magistrates Court against a decision to refuse a licence, amend a licence, attach conditions to a licence or revoke a licence.

PART 12 – DEATH OF A LICENCE HOLDER

12.1 Animal Activity Licences

- 12.1.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations allow for the personal representative of a deceased licence holder to take over the licence if they inform the Council within twenty-eight days of the death that they are now the licence holder.
- 12.1.2 The licence will then remain in force in the name of the new licence holder for a period of three months from the death of the previous licence holder or for the remainder of the licence period if that time is shorter. The new licence holder must then apply for a new licence no later than one month prior to the expiry of this new period.
- 12.1.3 The Council can extend the three month period by a maximum of another three months upon the request of the personal representative if it is satisfied that this additional time is necessary to wind up the estate of the deceased licence holder.
- 12.1.4 If the personal representative does not notify the Council within twenty-eight days of the death of the licence holder, the licence will automatically cease to have effect.

12.2 Dangerous Wild Animals

- 12.2.1 On the death of the licence holder, the licence shall continue in force for a period of twenty-eight days as if it had been granted to the personal representatives of the deceased. If an application is made for a new licence within the twenty-eight days, the licence shall be deemed to be still in force pending the grant or refusal of the new application

12.3 Zoos

- 12.3.1 On the death of the licence holder, the personal representatives of the deceased are deemed to be the holders of the licence during the period of three months immediately following the death, or such longer period as the Council may approve, to allow for the lawful transfer of the licence.

PART 13 – INSPECTIONS OF A LICENSED PREMISES

- 13.1 There will be occasions where inspections must be carried out during the term of a licence as follows:
- (a) **Animal Activity Licences (other than hiring out of horses)**
A minimum of one unannounced inspection must take place during the term of the licence irrespective of whether it is a one, two or three year licence.
 - (b) **Hiring out of Horses**
An annual inspection by veterinary surgeon must be undertaken irrespective of the length of licence; this inspection is in addition to a minimum of one unannounced inspection during the term of the licence.
 - (c) **Dangerous Wild Animals**
An annual inspection by veterinary surgeon must be undertaken.
 - (d) **Zoos**
Periodic inspections must be undertaken in accordance with prescribed requirements.
- 13.2 Further unannounced inspections can also take place in the case of complaints or other information that suggest licence conditions are not being complied with or that the welfare of the animals involved in the licensable activity is at risk.

PART 14 – INSPECTORS

14.1 Animal Activity Licences

- 14.1.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations require all inspectors to be suitably qualified. This is defined in the national guidance 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
 - 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
 - Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.
- 14.1.2 All inspections required as part of an application for grant or renewal of a licence will be undertaken by a suitably qualified inspector, as will any inspection required to vary, suspend or revoke a licence.

14.1.3 Any unannounced informal inspection during the term of the licence or as a result of a complaint may be undertaken by a Council licensing officer where appropriate.

14.2 Dangerous Wild Animals

14.2.1 All inspections required as part of an application for grant or renewal of a licence will be undertaken by a suitably qualified inspector, as will any inspection required to vary, suspend or revoke a licence.

14.2.2 For the purposes of inspecting in accordance with section 14.2.1, the Council will use:

- A veterinary surgeon with experience of the particular type of animal; or
- Any other person deemed competent by the Council to undertake the inspection

14.3 Zoos

14.3.1 All inspections required as part of an application for grant or renewal of a licence will be undertaken by a suitably qualified inspector, as will any inspection required to vary, suspend or revoke a licence.

14.3.2 For the purposes of inspecting in accordance with section 14.3.1, the Council will use:

- No more than three persons appointed by the Council, one of whom must be a veterinary surgeon, who are suitably competent for the type of premises; and
- Two inspectors from the list published by the Secretary of State (one from each part of the list)

14.3.3 The Council's inspecting team may be accompanied by no more than three representatives of the licence holder plus any veterinary surgeon employed by the premises

PART 15 – LICENCE FEES

15.1 Current fee levels are published on the Council's website.

15.2 Fees have been set in accordance with the principles of the EU Services Directive and with regard to 'Open for business: LGA guidance on locally set licence fees' and 'Animal Welfare Licence Fees – A Practical Guide to Fee Setting'.

15.3 The total fee has been split into an application fee and licence fee. The application fee must be submitted with an application as it covers the cost of administering and determining the application. This part of the fee is non-refundable.

15.4 The licence fee must be paid once a licence has been granted and covers ongoing maintenance of the licence, including inspections and enforcement. The licence will not be issued until the licence fee has been paid in full. In the event that the licence

is subsequently surrendered or revoked, a pro-rata refund of the licence fee will be paid for any unused complete months.

PART 16 – ENFORCEMENT

- 16.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.
- 16.2 In pursuing its licensing principles detailed in this policy, the Council will operate a proportionate enforcement regime in accordance with the Council's Corporate Enforcement Policy.
- 16.3 Where necessary to ensure the 'five needs' of the 2006 Act, the Council may utilise its enforcement powers under the 2006 Act to ensure the welfare of the animals is addressed at the earliest opportunity to avoid any distress or suffering.
- 16.4 The main enforcement and compliance role for the Council is to:
- ensure compliance with the conditions placed on a licence
 - investigate complaints relating to a licensed premises
 - investigate and take appropriate action against unlicensed premises

16.5 Complaints

- 16.5.1 The Council will record and investigate, where appropriate, all complaints relating to animal licensed premises or premises allegedly operating without a licence.
- 16.5.2 The Council will require complainants to provide their name and contact details to ensure a complaint is not vexatious in nature and to enable witness statements to be obtained if required for formal enforcement action. The complainant's details will not be revealed to the licence holder/person being investigated unless it is necessary as part of legal proceedings.

PART 17 – INFORMATION SHARING

- 17.1 The Council will share information with other enforcement agencies including but not limited to the police, the RSPCA and DEFRA, for the purposes of:
- Protecting public safety
 - The safety and wellbeing of animals
 - Assessing the fitness and propriety of applicants and licence holders
- 17.2 The Council may also share information with other local authorities or internal Council departments where appropriate and lawful.
- 17.3 All information shared will be compliant with relevant data protection legislation.

PART 18 – DEFINITIONS

| TERM | DEFINITION |
|-----------------------------------|---|
| Authorised Officer | any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution |
| the Council | North Hertfordshire District Council |
| Licensing Manager | the current post-holder (or the Service Manager of the appropriate Service Area following any subsequent restructure), or any nominated Deputy authorised by the Council's Scheme of Delegation |
| this Policy | North Hertfordshire District Council's Animal Licensing Policy |
| DEFRA | Department for Environment, Food and Rural Affairs |
| RSPCA | Royal Society for the Prevention of Cruelty to Animals |
| HMRC | Her Majesty's Revenue and Customs |
| the Regulations | Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 |
| National Guidance or the Guidance | Procedural Guidance Notes for Local Authorities (issued by DEFRA) |