



Report to Licensing (Regulatory) Committee

Date:	11 th April 2023
Title:	Buckinghamshire Council draft Animal Licensing Policy
Cabinet Member(s):	Cllr Mark Winn, Cabinet Member for Homelessness & Regulatory Services
Contact officer:	Catriona Crelling, Senior Licensing Officer
Ward(s) affected:	none specific
Recommendations:	That the draft Animal Licensing Policy set out at Appendix 1 is, subject to any recommended amendments, approved for consultation with relevant stakeholders.
Reason for decision:	The adoption of a policy supports the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

1. Background

- 1.1 The licensing of animal related activities is complex and is governed by highly prescriptive statutory provisions and comprehensive statutory and non-statutory guidance. In accordance with the Animal Welfare Act 2006, Buckinghamshire Council, in its role as Licensing Authority, is responsible for licensing operators of businesses carrying out prescribed activities involving animals. In addition, the Council is also responsible for licensing keepers of animals that are defined as dangerous wild animals and for the licensing of zoos.
- 1.2 There is currently no animal licensing policy, covering the Buckinghamshire Council area. Whilst there is no statutory requirement for a policy under any of the legislation relating to these types of licence, it is considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to animal licensing. The adoption of a policy supports the Council's

commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

- 1.3 The draft Animal Licensing Policy (“the Policy”) provides guidance on the various application processes, a brief overview of relevant legislation and links to statutory guidance. The legislation and regulations under which animal licences are issued require the Council to determine, among other factors, whether the applicant is suitable or in the case of the The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 “fit and proper” to hold a licence. Whilst there is no legal definition of “fit and proper” in the regulations, the Policy provides an opportunity to outline matters which the Council will take into consideration when deciding if someone is suitable to hold a licence.
- 1.4 As well as the need to comply with the different statutory licensing requirements set out in more detail below it is of public interest to ensure the general safety and wellbeing of animals, those responsible for them and members of the public who may come into contact with them. The adoption of a Policy will also give the Council an opportunity to set out its expectations around safeguarding for operators of businesses whose activities take place around children and vulnerable persons.

2. Main content of report

2.1 The Licensing Authority is required to consider and determine applications for licenses relating to animals in line with the relevant legislation and regulations:

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“LAIA”)
- Dangerous Wild Animals Act 1976 (“DWA Act”)
- Zoo Licensing Act 1981

These pieces of legislation are aimed at protecting the welfare and safety of animals and those that interact with them. It is an offence for any person to own or keep animals in order to carry out certain businesses or have possession of certain animals without first being licensed by the Council.

- 2.2 Historically, animal licensing was dealt with differently in each legacy council area, using different application forms, fee structures and inspection processes. Licences in the Wycombe legacy area were administered by the Environmental Health team. By the autumn of 2021, forms and inspection processes had been harmonised with responsibility for animal licensing across all legacy areas transferred to the Licensing Service. A single harmonised fee structure was implemented in August 2022.
- 2.3 Buckinghamshire, with a mixture of towns and large areas of rural space, is home to a broad range of businesses that involve working with animals. These include visitor

attractions such as zoos and petting farms, leisure opportunities such as horse riding and alpaca walking and facilities that provide valuable services to residents, such as kennels and catteries, pet shops, home boarding of dogs, doggy day care and dog breeders. The Council also licence “exhibitors” whose businesses range from supplying trained animals to studios, for use in popular TV and films seen around the world, to individuals who take a small collection of animals to a school or nursing home for educational or therapeutic purposes. There are also a small number of private keepers of dangerous wild animals based in the area.

The Animal Welfare Act 2006 (“AWA”)

2.4 This Act is the primary piece of legislation controlling the welfare of animals in England and the “LAIA” Regulations are made under it. The Act requires reasonable animal welfare standards to be maintained and it is an offence to cause unnecessary suffering to any animal. The Act also contains a duty of care to animals. This means that anyone responsible for an animal must take reasonable steps to make sure the animal's welfare needs are met. These needs are often referred to as the “five needs” which are:


- The need for a suitable environment
- The need for suitable diet
- The need to be able to exhibit normal behaviour patterns
- Any need to be housed with, or apart from, other animals
- The need to be protected from pain, suffering, injury and disease

2.5 Officers are expected to take the AWA into consideration when dealing with all animal licensing matters. Those carrying out inspections are appointed as inspectors under the Act, enabling them to take action where necessary using their powers— an example of this would be taking animals into possession should they be found to be suffering.

Licences issued under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“LAIA”)

2.6 The vast majority of licences issued by the Council in relation to animal licensing are issued under the LAIA Regulations. Commercial operators require a licence for the following activities:

- Providing or arranging provision of boarding for cats and dogs.
- Breeding dogs for commercial purposes.
- Keeping or training animals for exhibition.
- Selling animals as pets.

- Hiring out horses.
- 2.7 There are currently in the region of 200 licences of this type in place in the Buckinghamshire Council's area. Licences can cover one or multiple activities, for example a business operating as both a cattery and a kennels.
 - 2.8 The Regulations include statutory conditions and statutory guidance specific to each activity which must be applied to licences. The Council has no power to add or remove conditions to a licence and must abide by the statutory guidance, as must the licensed operator.
 - 2.9 All new and renewal applications require an inspection and operators are also subject to an unannounced mid licence term inspection. Most inspections are carried out by suitably qualified inspectors who are part of the Licensing Team. However, in accordance with the Regulations, new applications for dog breeding require an appointed vet to carry out the inspection alongside the Council's appointed inspector. For the activity of hiring out horses, a "listed" vet must be appointed to carry out an inspection alongside the council appointed inspector for all new and renewal applications. The Council must also arrange for a "listed" vet to carry out an annual inspection of any premises offering the activity of hiring out horses if the licence is granted for more than one year.
 - 2.10 Licences are issued for a period of 1, 2 or 3 years and the Council is expected to publish a register of licences issued on the Council's website. The length of licence is determined by the inspector who must risk rate the operator and issue a star rating following their inspection. Currently however, the LAIA Regulations and statutory guidance state that those holding licences for keeping or training animals for exhibition are automatically issued with a 3-year licence with no star rating.
 - 2.11 The Policy sets out the Council's star rating appeal process and reinspection process for those wishing to have their star rating reviewed.
 - 2.12 The LAIA Regulations make it clear that a local authority, when deciding whether to grant a licence, must take into account the applicant's conduct as the operator of the licensable activity, whether the applicant is a fit and proper person to be the operator of that activity and any other relevant circumstances.
 - 2.13 Officers are of the view that as a matter of policy a recent basic DBS certificate should be required for all applications to assist in determining whether they meet the relevant statutory tests and to protect both the public and the animals they wish to care for. The draft Policy lists various offences which may affect the granting of a licence. It is considered appropriate to independently verify if an applicant has any relevant convictions. A DBS check is the only reliable way to obtain this. The draft Policy also provides that for certain specified changes in circumstances existing licence holders will be expected to notify the authority.
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- 2.14 The Council is aware that some licensable activities involve unsupervised contact with children and/or vulnerable persons, for example the tuition of young persons at riding establishments or entertaining at a children's party with an exhibition of animals.
- 2.15 The draft Policy sets out that the Council expects applicants and licence holders whose activities involve contact with children or vulnerable persons to not be subject to restrictions on contact with children or vulnerable persons and to have:
- A written safeguarding policy.
 - Provide training for staff.
 - Procedures for vetting staff who have unsupervised contact with young/vulnerable persons.

Dangerous Wild Animal (DWA) Act 1976

- 2.16 A licence is required where an individual or a business wishes to keep an animal included on the current [Schedule of Dangerous Wild Animals](#).
- 2.17 Examples of the types of animals included in this schedule are capuchins, lemurs, crocodiles, ostriches, African servals and some venomous species of snakes. It is an offence for a person to keep a dangerous wild animal without first obtaining a licence from the Council. The Wild Animals in Circuses Act 2019 banned the exhibition of wild animals or use of them in travelling circuses in England.
- 2.18 Certain people are exempt from requiring a DWA licence:
- Zoo operators.
 - Holders of a LAIA licence for the activity of selling animals as pets.
 - Keepers of animals in a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986.
- 2.19 Licences are issued for a maximum period of 2 years and there are currently 3 DWA licences in place in the Buckinghamshire Council area. Inspections are carried out by a vet authorised by the council and with appropriate knowledge of the species to be covered by the licence. The vet will usually be accompanied by a licensing officer authorised to carry out animal inspections. Where a licence is granted, conditions are tailored to the species and type of premises where they are being kept.
- 2.20 Applicants are required to demonstrate how they meet certain criteria specified under the DWA. The draft Policy sets out clear guidance how the Council assesses whether the criteria can be met. The Council's intention is to ensure that these types of animals are kept in circumstances that safeguard the welfare of the animals and create no risk to the public. Owners are expected to have robust risk assessments to

prevent animals escaping, emergency evacuation plans for the animals concerned and prevention and control of the spread of infectious diseases.

- 2.21 For the same reasons that have been set out in paragraph 2.13 (in relation to licences issued under the LAIA Regulations), applicants who wish to obtain a DWA licence will be expected to provide a recent basic DBS certificate.
- 2.22 As required by the DWA Act, all applicants must also demonstrate that they have appropriate liability insurance in place.

Zoo Licencing Act 1981

- 2.23 A 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 seven or more days in any period of twelve consecutive months. This broad definition means that licensed zoos can range from a traditional urban zoo or safari park to a small specialist collection such as an aviary.
- 2.24 The Council currently licence 3 zoos, all of which hold a dispensation due to the size and limited numbers of wild animals on display. This dispensation, issued as a direction by the Animal and Plant Health Agency, reduces the scale of the inspection team for smaller zoos, reducing the burdens on these premises whilst ensuring that the correct standards are still maintained through an appropriate inspection regime.
- 2.25 Licences are issued for a period of 4 years initially and when renewed are issued for a period of 6 years.
- 2.26 A licensed zoo must be able to demonstrate compliance with a broad range of issues, including but not limited to, feeding, environment, conservation/education and public safety.
- 2.27 The Secretary of State's Standards of Modern Zoo practice provides detailed guidance and the draft Policy signposts applicants and existing licence holders to this document. The draft Policy also summarises inspection processes, how a dispensation can be applied for and grounds for refusing a licence.
- 2.28 For the same reasons that have been set out in paragraph 2.13 (in relation to licences issued under the LAIA Regulations), applicants who wish to obtain a Zoo licence will be expected to provide a recent basic DBS certificate. Where applications are made by a business or organisation, all business partners or directors will be required to provide a basic DBS certificate.

The future of Animal Licensing

- 2.29 Under the LAIA Regulations the Secretary of State must carry out a review of the regulatory provision contained in the Regulations at least every 5 years. The first review is currently underway with a requirement that the findings are published by 1st October 2023. Officers have participated in this review, which has included

consideration of revising statutory guidance and tightening the Regulations themselves, for example with regard to dog breeding. The Animal Welfare (Kept Animals) Bill is also progressing through Parliament (currently at report stage at House of Commons). It is anticipated that changes to existing and the introduction of new legislation will bring a wider range of animal related activities within scope for requiring a licence. These include significant changes to the licensing of zoos and the anticipated introduction of a licence for private keepers of primates. At the present time it is not known when these changes are likely to take effect, but it is anticipated that the Policy, if adopted, will require further review and amendment to reflect these changes.

3. Next steps and review

- 3.1 If approved by Committee, and subject to any suggested amendments, the draft Policy will undergo a six-week public consultation process with all relevant stakeholders being notified, including affected licence holders, Ward, Town and Parish Councillors, Community Boards, Thames Valley Police, Veterinary inspectors and Local Government Animal Welfare Group.
- 3.2 Following the consultation process, a further report will be presented to this Committee providing full details of any comments received and amendments proposed as a result.

4. Other options considered

- 4.1 The Council could choose not to have an animal licensing policy as there is no statutory requirement to have one. However, as stated above, a policy provides an opportunity for the Council to set out its approach to animal licensing, providing clarity for applicants, licence holders and other affected parties.
- 4.2 The Council could wait until after the LAIA Regulations have been reviewed by DEFRA and The Animal Welfare (Kept Animals) Bill passed by Parliament before drafting an animal licensing policy. However, it is felt that this would cause a significant delay to the introduction of a policy, with timescales for the new legislation uncertain at this time due to delays in its passage through Parliament.

5. Legal and financial implications

- 5.1 The legal implications are as set out in the report. The Policy ensures consistency of approach, and it is considered that the Council would be far less likely to be open to legal challenge where a policy is adopted which clearly sets out how applications will be considered, reasons for refusal or our approach to enforcement. The introduction of a DBS check does engage further data protection requirements but

this would still be compliant with the legislation. Further implications are dealt with below.

- 5.2 Fees are generally subject to a full review every 3 years however, taking account of the recent harmonisation of the animal licensing work activities of Buckinghamshire Council and anticipated review of the LAIA Regulations at the end of 2023, fees will initially be reviewed annually to comply with standards of fee setting.

6. Corporate implications

Protecting the vulnerable – by setting out our expectations around safeguarding, the Council hopes to build awareness amongst operators of their responsibilities towards vulnerable groups who can benefit hugely from activities involving animals such as horse riding and animal assisted therapy. It is hoped that this will also provide additional assurances to customers of these businesses.

Property – N/A

HR – N/A

Climate change – N/A

Sustainability – N/A

Equality – An equality impact assessment screening assessment has been carried out which does not indicate any adverse or disproportionate effects on those with protected characteristics however the assessment will be kept under review to ensure appropriate information in this regard is available as and when required.

Data – dealing with any application for a licence will require the collection and processing of personal data. Such processing is justified by the public interest in appropriate licensing and safety requirements for both animals and their owners or others who they will come into contact with. The Council's current licensing procedures ensure relevant personal data (including criminal conviction data) is processed in accordance with the Data Protection Act and UK GDPR requirements and this will apply to any further more detailed personal data (if any) processed as a result of the proposed Policy being adopted.

Value for money – policy will be reviewed as legislative changes occur and updated accordingly, ensuring that it is fit for purpose. A formal review will be carried out at least every 5 years. All of this work will be performed by officers in-house.

7. Key documents

- The Animal Welfare Act 2006 (AWA 2006)
<https://www.legislation.gov.uk/ukpga/2006/45/contents>

- The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 (“LAIA”) <https://www.legislation.gov.uk/uksi/2018/486/contents>
- Link to DEFRA statutory guidance relating to licence issued under The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 <https://www.gov.uk/government/publications/animal-activities-licensing-guidance-for-local-authorities>
- Dangerous Wild Animals Act 1976 (as amended) <https://www.legislation.gov.uk/ukpga/1976/38/contents>
- Zoo Licensing Act 1981 (as amended) <https://www.legislation.gov.uk/ukpga/1981/37/contents>
- Government Guidance to Zoo Licensing Act <https://www.gov.uk/government/publications/zoo-licensing-act-1981-guide-to-the-act-s-provisions>