



# Environment Overview and Scrutiny Committee

Tuesday, 4 June 2024

Report of Councillor Councillor Phillip Knowles, Cabinet Member for Corporate Governance and Licensing

## Animal Welfare Policy

### Report Author

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### Purpose of Report

This report provides an updated draft of the new Animal Licensing Policy following the receipt of further legal advice.

### Recommendations

That the Committee:

1. Provides a recommendation to Cabinet for approval of the updated South Kesteven District Council Animal Welfare Policy.
2. Approves a recommendation to Cabinet that the Deputy Chief Executive, in consultation with the Cabinet Member for Corporate Governance and Licensing, be delegated to make minor amendments to the Policy, such as legislative updates, which may become necessary from time to time to ensure its continued accuracy, but do not affect its direction or intent.

Decision Information	
Does the report contain any exempt or confidential information not for publication?	No
What are the relevant corporate priorities?	Enabling economic opportunities Effective council
Which wards are impacted?	All Wards

## 1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

### ***Finance***

1.1 There are no direct financial implications associated with the recommendations in this report. The costs associated with delivering the Licensing service are recovered through licensing fees which are reviewed annually by the Council.

Completed by: Richard Wyles, Deputy Chief Executive and s151 Officer

### ***Legal and Governance***

1.2 Whilst each individual licensing application or enforcement decision will be judged on its own merits, a Policy ensures a transparent and consistent approach to licensing that will reduce the opportunity for challenge through the Courts. Any departure from the Policy should be based on material evidence and documented giving clear and compelling reasons.

1.3 Legal advice has been sought in the development of this Policy, details of which are referenced in the main body of the report.

Completed by: Graham Watts, Monitoring Officer

### ***Diversity and Inclusion***

1.4 An initial equality impact assessment has been undertaken and is at Appendix 2. This has been reviewed (January 2024) following the consultation and it has not identified any significant negative impacts.

Completed by: Heather Green, Licensing Manager

### **Community Safety**

1.5 The draft Policy outlines conditions and standards for all businesses and relevant individuals seeking a licence under the Animal Welfare legislation outlined in the Policy. This Policy sits alongside the Authority's wider legislative requirements and integration with other guidance, strategies and policies.

Completed by: Ayeisha Kirkham - Head of Public Protection

## **2. Background to the Report**

2.1 The policy covers the licensable activity of Animal Welfare, setting out the principles the Council will use when dealing with animal related licensing matters. Currently, the Council issues animal welfare licences in accordance with the Regulations but does not have a policy providing a framework to support this.

2.2 There is no statutory requirement for a local authority to adopt an Animal Welfare Policy. However, the adoption of an Animal Welfare Policy ("the new Policy") will give clarity to applicants, partner agencies and the public.

2.3 The purpose of animal licensing is to protect animals and ensure their health and wellbeing. As well as providing protection for the public and those using the licensed facility, within the terms of the relevant Acts and legislative Guidance. A policy provides a framework for Officers and Members to enable consistent decision making and transparency.

2.4 During the initial presentation to Environment Overview & Scrutiny Committee on 13 February 2024 a public speaker raised concerns regarding;

- a) The lack of definition relating to relevant convictions.
- b) Using the licensing regime for other purposes, namely, to implement safeguarding for children and vulnerable persons (which have their own legislation, protection and enforcement regimes).
- c) No reference in the policy or definition of fit and proper persons.
- d) Requiring a licence holder to report a matter listed at 7.5 within 5 days appearing to over-reach the Councils powers and too widely drafted.

2.5 Following the meeting, the member of the public raised further concern re the process relating to;

- e) The process relating to the completion of the Equality Impact Assessment.
- f) Confusion regarding Data Barring Service (DBS) requirements and its legality.

### **3. Key Considerations**

3.1 To address the concerns outlined above, legal advice was received from Legal Services Lincolnshire. Following receipt of the advice, updates have been made as follows:

- a) A definition of relevant convictions has been added.
- c) Reference to a “fit and proper person” has been added into the policy and confirmation of how the authority interpret this, in the absence of a legal definition.

3.2 With regard to the following concerns:

- b) Local Authorities have a duty to consider the safeguarding of vulnerable adults and children regardless of whether they have been dealt with under the justice system. For clarity, this requirement is specifically referenced in 1.9 (of the policy). It is advised, on this basis, that reference to the safeguarding of adults and children is not removed from the draft policy.
- d) Legal advice outlined that the Council should widen the definition under 7.5 (of the policy) to include cautions, warnings and including allegations of involvement in criminal activity, given the Licensing Authority’s safeguarding and other legal obligations. Advice received also considered that a five day window to report a matter listed at section 7.5 of the policy does not overreach the Council’s powers and should therefore be retained in the draft policy.
- e) The completion of the Equality Impact Assessments followed current practice and was reviewed in line with SKDC’s existing guidance after the consultation.
- f) A DBS requirement (basic or enhanced check) is not detailed within the draft policy, therefore this aspect has not been considered further.

3.3 The updated draft policy is provided at Appendix 1, with amendments proposed in blue. The proposed amendments have been included following the receipt of legal advice and wider policy review to add further clarity, such as referencing the Rehabilitation of Offenders Act 1974 and how convictions deemed spent under the Act will not be a material consideration of an application.

### **4. Other Options Considered**

4.1 That an Animal Welfare Policy is not necessary, and that the Authority should continue to provide the animal welfare licensing provision in the current manner.

## **5. Reasons for the Recommendations**

5.1 A new Animal Welfare Policy would support the Authority in fulfilling its statutory duties associated with Animal Welfare Licensing, providing guidance to the public and for both Officers and Members when decision making.

## **6. Consultation**

6.1 The new Policy was considered by Environment Overview and Scrutiny Committee on 3 October 2023 who approved it for consultation. The Licensing Committee reviewed the draft policy on 17 November 2023 and no amendments were recommended. The Environment Overview and Scrutiny Committee considered the consultation report at its meeting on 13 February 2024.

## **7. Background Papers**

7.1 [Environment Overview and Scrutiny Committee Report and minutes - Tuesday, 3rd October, 2023, 10.00 am | South Kesteven District Council](#)

7.2 [Environment Overview and Scrutiny Committee Report and minutes - Tuesday, 13th February, 2024, 10.00 am | South Kesteven District Council](#)

7.3 [Current Animal welfare licensing information on website](#)

## **8. Appendices**

8.1 Appendix 1 – Animal Welfare Policy

8.2 Appendix 2 – Equality Impact Assessment