

- 1.2 The Regulations define the animal based activities that require a licence as follows:
- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business
 - Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business
 - Hiring out horses in the course of a business for either riding, instruction in riding, or both
 - Breeding dogs and advertising a business of selling dogs; or breeding three or more litters of puppies in any 12-month period
 - Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology.
- 1.3 It is important to note that the Regulations did not change anything related to the licensing of dangerous wild animals and zoos. These premises have continued to be licensed by the Council as they have previously been under their respective legislation.
- 1.4 For specific details about what the Regulations changed from a licensing perspective please refer to section 2 the previous report here: <https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=140&MIId=1239&Ver=4>.
- 1.5 Although there is no statutory requirement for councils to have an Animal Welfare Licensing Policy ("Policy"), it was felt that it would help to ensure compliance with the relevant regulations (and a consistent application of them). With this in mind, the Council went through the process of consulting on and adopting a Policy in 2020.

2 Proposed changes to the Policy

- 2.1 The Licensing Team have now reviewed the Policy and propose a number of minor changes.
- 2.2 The proposed Policy for consultation is attached as Annex A. It contains the proposed amendments as tracked changes.
- 2.3 A brief summary of the main changes is provided below:
- References to the introduction of the Regulations have been amended to reflect the fact they have now been in place for seven years.
 - Inclusion of information about the business test.

- Rewording of the section which sets out what the licence holder must notify the Council of within 72 hours (i.e. cautions and arrests).
- Clarification that if a renewal application is not received in good time, and therefore not processed prior to expiry of the existing licence, the business cannot operate until that renewal has then been processed / issued.
- Clarification that the Council does not believe a 'variation' process can be used to transfer a licence to a new owner. NOTE: This is a general view and the Council will always review each case on its own individual merits.
- Inclusion of information about improvement notices

3 Post Implementation Review of the Regulations

- 3.1 The Department of Environment, Food and Rural Affairs (DEFRA) conducted a review of the Regulations and this was published in 2024. It can be seen here: https://www.legislation.gov.uk/ukia/2024/206/pdfs/ukia_20240206_en.pdf.
- 3.2 This concluded that the *'Regulations are broadly considered to be an improvement on the assorted, often outdated legislation that they replaced. The requirements are clearer, more consistently applied and informed by more up-to-date evidence on the welfare needs of animals'*.
- 3.3 One of the issues raised by stakeholders during this review was in relation to the safety of children, particularly at sites such as riding schools. This could be an issue that the DEFRA Guidance seeks to consider in the future.
- 3.4 The application process adopted by this Council includes requiring a basic DBS from all applicants which is then renewed on a three yearly basis. Although this is not a requirement of the Regulations, it is felt this process helps to ensure those licensed are fit and proper and ensures compliance with the Council's broader responsibilities regarding safeguarding.
- 3.5 We are not proposing to change this but should future DEFRA Guidance contradict or highlight any issues with this approach, the Licensing Team will reconsider the issue.

4 Primate Licensing

- 4.1 *The Animal Welfare (Primate Licences) (England) Regulations 2024* was signed into law on 5 March 2024. This new legislation came into force from 6 April 2025 and all private keepers have until 6 April 2026 to be fully compliant.
- 4.2 The legislation introduces a licensing scheme which sets strict rules to ensure that only private keepers who can provide zoo-level welfare standards will be able to keep primates.
- 4.3 At the time of writing this report, the Licensing Team is not aware of any existing relevant premises in Mid Devon.

- 4.4 The Policy has not yet been updated to reflect this new legislation. This is primarily because we are still waiting for DEFRA to issue guidance. Once this guidance has been released, the Licensing Team will update the Regulatory Committee and consider whether an update to the Policy is required.

5 Proposed consultation

- 5.1 Given the relatively small proposed amendments, the Licensing Team plan to run a 6 week consultation.

- 5.2 The Licensing Team will directly notify:

- All existing animal related licence holders within Mid Devon
- Environmental Health (MDDC)
- Planning (MDDC)
- Police
- RSPCA
- DEFRA
- Trading Standards

- 5.3 A notice will also be placed on the Council's website advertising the consultation to the public.

6 Recommendation(s) and next steps

- 6.1 It is recommended that the proposed policy (attached as Annex A) be consulted on and the results of this consultation be presented to the Regulatory Committee at the next meeting.

- 6.2 In accordance with the Council's constitution, the Regulatory Committee then have the power to recommend the adoption of an updated Policy to Full Council.

Financial Implications: The fees payable for specific premises / licences are dependent on the length of licence granted, which is, in turn, dependent on the risk rating of the premises. In general, the lower risk the premises is, the longer the licence will be granted for.

The animal licensing scheme falls within the definition of 'services', and is subject to the EU Services Directive, incorporated in to UK law as the Provision of Services Regulations 2009.

Application fees are therefore split into two parts; Part A and Part B. Part A is the application fee, which is payable on submission and covers the cost of considering and processing the application. Part B is the licence fee, payable by successful applicants to cover the costs of ongoing enforcement and compliance requirements.

Legal Implications: The Council is not legally required to adopt a policy. However, the adoption of a specific licensing policy will assist the Council in carrying out its functions under the Regulations in a fair and transparent way.

The Regulations and guidance issued by DEFRA set out the activities which must be licensed, who may apply for a licence and how the Council must determine applications for a licence. The Regulations also set out the conditions which must be applied to any licence granted.

The relevant legislation can be found here:

<https://www.legislation.gov.uk/ukdsi/2018/9780111165485>

The relevant DEFRA guidance can be found here:

<https://www.gov.uk/government/publications/animal-activities-licensing-guidance-for-local-authorities>

Should the Council refuse to grant or renew a licence (or revoke or vary an existing licence), the applicant may be able to appeal to a First-tier Tribunal (General Regulatory Chamber) or to the Magistrates' Court (depending on the licence applied for). This must be done within 28 days of the decision.

The statutory guidance issued by DEFRA requires the Council to provide an appeal process to enable applicants to challenge the star rating they are given. The guidance sets out the timescales for this and the level of officer who should deal with the appeal. If a business is still dissatisfied, they can challenge the appeal outcome by way of judicial review. Details of the appeal process appear in the Policy.

Licence holders can also pay for a re-inspection when they have carried out improvements, which could lead to a higher star rating being issued.

Risk Assessment: It is not a statutory requirement for a Council to have an Animal Welfare Licensing Policy. However, doing so has a number of benefits. For example, some of the decisions that the Council may make will have a right of appeal against them and a Policy will help to ensure consistency and can be used to help justify any action that is taken.

Impact on Climate Change: There is no direct impact on climate change as a result of this report.

Equalities Impact Assessment: The general public sector equality duty within the Equality Act 2010 has overarching application and requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity within and between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

When carrying out any of its functions, the Council will comply with this duty in the general application of all its licensing duties. There are however no direct equality implications arising from the Policy itself at this draft (for consultation) stage. Nonetheless, the equality duty considerations will be revisited and an Equality Impact Assessment screening undertaken at point of adoption of the final draft Policy.

Relationship to Corporate Plan: This report links directly to the Licensing Authority functions of the Council with the primary aim of protecting public safety and ensuring the well-being of our community and licensed service users. It therefore contributes to the priority of Community, People & Equalities within the Corporate Plan 2024-2028.

Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 11 June 2025

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 11 June 2025

Chief Officer: Stephen Walford

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 11 June 2025

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 09 June 2025

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact:

Name: Tom Keating – Specialist Lead, Licensing, Public Health and Housing Options / Simon Newcombe, Head of Housing and Health

Email: tkeating@middevon.gov.uk / snewcombe@middevon.gov.uk

Telephone: 01884 255255

Background Papers:

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018: <https://www.legislation.gov.uk/ukdsi/2018/9780111165485>
- Animal activities licensing: guidance for local authorities (DEFRA): <https://www.gov.uk/government/publications/animal-activities-licensing-guidance-for-local-authorities>
- Regulatory Committee June 2020 – Animal Welfare Licensing Policy report: <https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=140&MId=1239&Ver=4>