



Statement of Policy Determination of Criminal Convictions Animal Licences

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STATEMENT OF POLICY CONCERNING THE RELEVANCE OF CRIMINAL CONVICTIONS RELATING TO THE DETERMINATION OF APPLICATION, RENEWAL, OR TRANSFER OF AN ANIMAL LICENCE

Introduction

Legislation is in place that requires licences to be held by those who own or look after animals for commercial gain and it is a duty of the Local Authority to manage such licences. The various pieces of enabling legislation detail the types of convictions that, if held and unspent, would render a person unsuitable for the holding of such a licence.

Purpose

The Environmental Health Department are reviewing each type of licence that is issued with a view to codifying those situations where an applicant is deemed to be unsuitable.

The aim of this policy is to:-

- provide the decision making body, the Licensing Regulatory Committee, with a reference document that allows for consistency to be demonstrated in how applications, etc. are processed; and
- ensure applicants understand how their convictions may affect their applications; and
- give the applicants confidence that his/her application is being dealt with effectively and fairly even if the outcome is not to his/her satisfaction.

Summary background

The Council recognises that employment plays an important part in preventing ex-offenders from re-offending. Therefore due attention is given to the principles of rehabilitation, so there are no unnecessary barriers for the employment of ex-offenders. However, the Council's role as a licensing authority is to protect the welfare of the animals. The Acts considered in this report are not granted an exemption from the Rehabilitation of Offenders Act 1974 therefore, only unspent conditional cautions and unspent convictions can be taken into consideration when assessing the application for a licence under any of the Acts covered by this Policy.

Appendix 1 contains a table describing the time periods after which a conviction may be considered as spent.

When submitting a relevant application there will be a requirement upon the applicant to declare all relevant unspent convictions and cautions. In certain cases the legislation extends that requirement to those who hold positions of management or other responsibility.

Other relevant considerations

In addition to cautions and convictions the Courts are able to impose disqualifications on the owning or keeping of animals, disqualify a person from holding a relevant licence, or cancel any licence held. In such circumstances the Council will not issue any relevant licence during the period of any disqualification.

Licence holder responsibilities

It will become the responsibility of each licence holder to inform the Council of any conviction, caution or ban upon applying for a licence, or upon application for the renewal or transfer. For licences which are valid for a longer period than 12 months the licence holder must inform the Council of any relevant conviction, caution or disqualification arising during the term of the licence within 7 days of it being imposed.

Right of Appeal

Any applicant who is refused a licence on the grounds that the Council do not consider them to be suitable to hold such a licence has the right of appeal to the Magistrates' Court.

Policy Relating to the Relevance of Convictions for Applicants for the Grant, Renewal or Transfer of Animal Licences

General Policy

1. This document sets out the policy adopted by Barrow Borough Council in respect of the consideration of whether an applicant is a “suitable person” to hold one of the following licences:-
 - Cattery or Kennel
 - Dangerous Wild Animal
 - Dog Breeding
 - Pet Shop
 - Stables or Riding School
 - Zoo
2. The Council has a statutory responsibility to administer animal licences under the following pieces of legislation:-
 - a. Animal Boarding Establishments Act 1963 (Cattery or Kennel)
 - b. Dangerous Wild Animal Act 1976 (Dangerous Wild Animals)
 - c. Breeding of Dogs Act 1973 (Dog Breeding operation)
 - d. Pet Animals Act 1951 (Pet Shop)
 - e. Riding Establishments Act 1964 and 1970 – (Stables or Riding School)
 - f. Zoo Licensing Act 1981 (Zoo)
3. When considering applications under the above mentioned legislative frameworks the Council must be satisfied that the applicant is a “suitable person” to hold such a licence.
4. This document contains a policy for Officers and members of the Licensing Regulatory Committee outlining how an applicant’s fitness should be considered. However it is important to note that every application , including renewal, or transfer of any relevant licence, **MUST** be treated on its own merits and the contents of this document do not bind the Council, its Officers or the Committee
5. A decision may be made that departs from this policy, if the circumstances of the application warrant doing so. Where the Council derogates from this policy, the Council will nevertheless ensure that it acts fairly, transparently, and in accordance with the principles of natural justice. Any decision will be accompanied by full reasons for that decision and those making the decision should be aware that departing without sufficient reason or failing to give consideration to such circumstances may give rise to an appeal to the Magistrates’ Court or a judicial review of the decision.

- 6 It should be noted that no attempt is made within the legislation to define the term “suitable person” and this policy likewise makes no attempt to formulate such a definition. The Council may consider any relevant issue when making its determinations on this point and this policy and associated annexes should be regarded as examples of issues that may lead to the Council not being satisfied that an applicant is a “suitable person”, rather than an exhaustive list of the issues that may be taken into consideration.
- ~~7 The Council may fail to be satisfied that a person is a suitable person to hold an animal licence for any good reason. If adequate evidence of good character is not available or if there is good reason to question or doubt the evidence produced, then that in itself could amount to good reason to refuse an application~~
- ~~8 An applicant who does not satisfy this policy will not necessarily be barred from obtaining a licence. The Council will consider each case on its own merits, taking into account any relevant circumstances or mitigating factors.~~
- 9 In addition to criminal convictions the Council will also take notice of any court ordered cancellation of any relevant licence or disqualification from holding a relevant licence. The Council will also take notice of any deprivation order or disqualification issued under the Animal Welfare Act 2006.
- 10 The overriding consideration in compiling and interpreting this policy is the protection of animal welfare. The Council has a duty to ensure that those licensed are suitable persons.
- 11 A person with a relevant conviction need not be permanently barred from obtaining a licence but may not be considered as suitable until all relevant convictions are considered spent.
- ~~12 In certain circumstances a Court may issue a ban on a person keeping animals. Where the Court have taken such action the Council will not issue that person with a relevant licence during the period of the ban.~~
- 13 Annexes 1-3 list the principle offences that will be considered in any application where such consideration is allowed within the relevant statute. The list is not intended to be exhaustive and any offences will be reviewed having regard to the Council’s general obligations to act fairly, proportionately, transparently, and in accordance with the principles of natural justice.

Annex 1 lists the principle offences relating to animal cruelty
Annex 2 lists the principal offences regarding obstruction, failing to operate without the correct licence etc.
Annex 3 lists the principal offences relating to conservation.
- 14 The following examples give a general policy as to the action that might be taken where convictions or cautions are recorded against an applicant. In the following examples the “establishment” legislation refers to the 6 Acts referred to in para. 2 above.

Licence to Run a Pet Shop Pet Animals Act 1951

Owners of pet shops are expected to understand and implement the highest welfare standards required for the animals that they sell in order that they can demonstrate this and advise the public. They must always provide a suitable environment for the animals under their care.

Under the Pet Animals Act 1951 a Court may cancel any licence and/or disqualify a person from holding such a licence.

Therefore any of the following may result in an application being refused

- An unspent conviction under the Pet Animals Act 1951,
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence listed in Annex 2
- A Court ordered disqualification from holding such a licence during the period of any disqualification.
- A Court ordered ban of animal ownership during period of any ban.

Licence to Run an Animal Boarding Establishment Animal Boarding Establishments Act 1963

A business that is established for the purpose of caring for other's animals would be expected to be run to a high standard of animal care. It will be expected by the general public that those running, and working, within such an establishment will have a very high regard for the animal's welfare.

Under the Animal Boarding Establishments Act 1963 a Court may cancel any licence and/or disqualify a person from holding such a licence.

Therefore any of the following may result in an application being refused:-

- An unspent conviction for any offence under the Animal Boarding Establishments Act 1963.
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence listed in Annex 2
- A Court ordered disqualification from holding such a licence during the period of any disqualification.
- A Court ordered disqualification from holding a licence under the Pet Animals Act 1951 during the period of any disqualification.
- A Court ordered ban of animal ownership during the period of any ban.
- A Court ordered disqualification under the Protection of Animals (Amendment) Act 1954, from having the custody of animals during the period of any disqualification.

Licence to Run a Riding Stables Riding Establishments Acts 1964 and 1970

A business that is established for the purpose of hiring out horses for hacks or for riding schools will be expected to provide the highest standard of welfare for the animals under their care. As riding schools incorporate animal care into any syllabus then it is essential that the school is managed by those who place such matters in high regard.

Under the Riding Establishment Acts a Court may cancel any licence and/or disqualify a person from holding such a licence.

Therefore any of the following may result in an application being refused:-

- An unspent conviction for any offence under the Riding Establishments Acts 1964 and 1970
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence listed in Annex 2
- A Court ordered disqualification from holding such a licence during the period of any disqualification.
- A Court ordered disqualification from holding a licence under the Pet Animals Act 1951 during the period of any disqualification.
- A Court ordered ban of animal ownership during the period of any ban.
- A Court ordered disqualification under the Protection of Animals (Amendment) Act 1954, from having the custody of animals during the period of any disqualification.

Licence to Breed Dogs Breeding of Dogs Act 1973

Owners of dogs who go into the business of breeding and selling puppies will be expected to demonstrate a high level of care for the animals owned. The public would expect that breeders are knowledgeable about their chosen breed in order to look after their own dogs and be able to advise the public. They must also provide a suitable environment for the animals under their care.

Under the Breeding of Dogs Act 1973 a Court may cancel any licence and/or disqualify a person from holding such a licence.

Therefore any of the following may result in an application being refused:-

- An unspent conviction for any offence under the Breeding of Dogs Act 1973.
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence listed in Annex 2.
- A Court ordered disqualification from holding such a licence during the period of any disqualification.

- A Court ordered disqualification from holding a licence under the Pet Animals Act 1951 during the period of any disqualification.
- A Court ordered ban of animal ownership during the period of any ban.
- A Court ordered disqualification under the Protection of Animals (Amendment) Act 1954, from having the custody of animals
- A Court ordered disqualification from having custody of any dog during the period of any disqualification.

Licence to Keep a Dangerous Wild Animal Dangerous Wild Animals Act 1976

Animals included under the Dangerous Wild Animals Act can either be considered as exotic pets or may, as in the case of wild boar, be farmed. The public would therefore have an expectation that those who choose to own such animals are demonstrably capable of looking after their welfare.

Under the Dangerous Wild Animals Act 1976 a Court may cancel any licence and/or disqualify a person from holding such a licence.

Therefore any of the following may result in an application being refused:-

- An unspent conviction for any offence under the Dangerous Wild Animals Act 1976.
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence listed in Annex 2.
- A Court ordered cancellation for a period of 1 year
- A Court ordered disqualification from holding such a licence during the period of any disqualification.
- A Court ordered ban of animal ownership during the period of any ban.

Licence to Operate a Zoo Zoo Licensing Act 1981

The public will expect that those who choose to own and operate a zoo will have the highest regard for the welfare of the animals within their care. As there is a mandatory licence condition regarding conservation there will be a wider expectation that they will look to minimise the impact of the zoo on the local environment.

The Act also allows for the same considerations to be placed on those who work in the zoo as well as those who own and manage it, at whatever level.

Therefore in terms of any Owner, Manager, Director, Share Holder, or similar Officer any of the following may result in an application being refused:-

- An unspent conviction for any offence under the Zoo Licensing Act 1981.
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence listed in Annex 2

- An unspent conviction for any offence relating to conservation listed in Annex 3
- An unspent conviction for any offence under Endangered Species (Import and Export) Act 1976
- A Court ordered ban on animal ownership during period of any ban
- A Court ordered disqualification from having custody of any animal during the period of any disqualification.
- A Court ordered disqualification from holding a licence listed under any other Act included within this policy during the period of any disqualification.
- A Council issued Direction to close a zoo within the last 5 years

In relation to any Keeper working at a zoo, any of the following may result in an application being refused:-

- An unspent conviction for any offence under the Zoo Licensing Act 1981.
- An unspent conviction for any offence of animal cruelty listed in Annex 1.
- An unspent conviction for any offence under Endangered Species (Import and Export) Act 1976
- A Court ordered ban of animal ownership during period of any ban
- A Court ordered disqualification from having custody of any animal during the period of any disqualification
- A Council issued Direction to close a zoo within the last 5 years

Annex 1 Offences of Animal Cruelty

| Year | Act | Section | Short Section Descriptor |
|------|-----------------------|---------|---|
| 1911 | Protection of Animals | 1 | Offences of Cruelty |
| | | 5A | Attendance at animal fights |
| | | 5B | Advertising of animal fights |
| | | 7 | Animals in Pounds |
| | | 8 | Selling or Exposing Poisoned Grain or Flesh |
| | | 9 | Using Dogs to Pull Carts etc. on Public Highway |
| | | 10 | Inspection of traps set for catching rabbits etc. |
| 1964 | Riding Establishments | 3 | Hiring out a horse suffering pain or being otherwise unsuitable |
| 2006 | Animal Welfare | 4 | Unnecessary suffering |
| | | 5 | Mutilation |
| | | 6 | Docking of dogs' tails |
| | | 7 | Administration of poisons etc. |
| | | 8 | Fighting etc. |
| | | 9 | Duty of person responsible for animal to ensure welfare |

Annex 2 Obstruction and License Offences

| Year | Act | Section | Short Section Descriptor |
|------|--------------------------------|---------|--|
| 1934 | Protection of Animals | 1 | Prohibition of certain public performances |
| 1951 | Pet Animals | 1 | Operating a Pet Shop Without a Licence |
| 1934 | Protection of Animals | 11 | Non-compliance with a licence condition Prohibition of certain public performances |
| 1951 | Pet Animals | 21 | Animals Being Sold in the Street Operating a Pet Shop Without a Licence |
| | | 31 | Animals being sold to persons under 12 Non-compliance with a licence condition |
| | | 42 | Obstruction Animals Being Sold in the Street |
| 1963 | Animal Boarding Establishments | 13 | Operating a boarding establishment without a licence Animals being sold to persons under 12 |
| | | 14 | Non-compliance with a licence condition Obstruction |
| 1963 | Animal Boarding Establishments | 21 | Obstruction Operating a boarding establishment without a licence |
| 1964 | Riding Establishments | 11 | Operating without a licence Non-compliance with a licence condition |
| | | 12 | Non-compliance with a licence condition Obstruction |
| 1964 | Riding Establishments | 21 | Obstruction Operating without a licence |
| 1973 | Breeding of Dogs | 11 | Operating without a licence Non- |

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| | | | compliance with a licence condition |
| | | 12 | Non-compliance with a licence condition Obstruction |
| 1973 | Breeding of Dogs | 21 | Obstruction Operating without a licence |
| 1976 | Dangerous Wild Animals | 11 | Keeping without a licence Non-compliance with a licence condition |
| | | 22 | Non-compliance with a licence condition Obstruction |
| 1976 | Dangerous Wild Animals | 31 | Obstruction Keeping without a licence |
| 1976 | Endangered Species (Import and Export) | 12 | Obstruction Non-compliance with a licence condition |
| 1981 | Zoo Licensing Act | 19(1)3 | Operating without a licence Obstruction |
| 1976 | Endangered Species (Import and Export) | 19(2)1 | Failure to comply with a licence condition Obstruction |
| 1981 | Zoo Licensing Act | 19(3)19(1) | Obstruction Operating without a licence |
| | | 19(3B&C)19(2) | Failure to comply with a direction to close the whole, or part of, the zoo Failure to comply with a licence condition |
| | | 19(3D)19(3) | Failure to comply with a request for information Obstruction |
| | | 19(3E)19(3B&C) | Disposal of any animal without approval Failure to comply with a direction to close the whole, or part of, the zoo |
| | | 19(3F)19(3D) | Failure to comply with a Direction Order Failure to comply with a request for information |
| | | 19 3(3G)19(3E) | Failure to display the zoo licence Disposal of any animal without approval |

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|------|--------------------|----------|---|
| 2006 | Animal Welfare Act | 1119(3F) | Transfer of animals by way of sale or prize to persons under 16 Failure to comply with a Direction Order |
| | | 193(G) | Failure to display the zoo licence |
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Annex 3 Offences Relating to Conservation

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| 1981 | Wildlife and Countryside | 1 | Protection of wild birds, their nests and eggs |
| | | 3 | Taking, Killing, disturbing a bird in an Area of Special Protection |
| | | 5 | Prohibition of certain methods of killing or taking wild birds |
| | | 6 | Sale etc. of live or dead wild birds, eggs etc. |
| | | 7 | Registration etc. of certain captive birds |
| | | 8 | Care of Captive Birds |
| | | 9 | Protection of certain wild animals |
| | | 11 | Prohibition of certain methods of killing or taking wild animals |
| | | 13 | Protection of wild plants |
| | | 14 | Introduction of new species etc. |
| | | 14ZA | Sale etc. of invasive non-native species |
| | | 14A | Prohibition on sale etc. of certain animals or plants |
| | | 15A | Possession of banned pesticides |
| | | 17 | False statements made for obtaining registration or licence |
| | | 19XB | Obstruction |

Appendix 1

The following table is taken from the Ministry of Justice guidance on the Rehabilitation of Offenders Act 1974 referring to the length of time before convictions are considered as spent.

| Sentence/disposal | Rehabilitation period for young people (under 18 at time of conviction or the time the disposal is administered) | Rehabilitation period for adults (18 or over at the time of conviction or the time the disposal is administered) |
|---|---|---|
| Imprisonment or detention in a young offender institution for over 30 months (2 ½ years) | Never spent | Never spent |
| Imprisonment or detention in a young offender institution over 6 months but not exceeding 30 months (2 ½ years) | 10 years | 5 years |
| Imprisonment up to 6 months | 7 years | 3 ½ years |
| Fine | 5 years | 2 ½ years |
| Community Sentence | 5 years | 2 ½ years |
| Conditional discharge | The period of the order, or a minimum of 12 months (whichever is longer) | The period of the order, or a minimum of 12 months (whichever is longer) |
| Absolute Discharge | 6 months | 6 months |
| Conditional Caution | 3 months | 3 months |
| Simple Caution, Reprimand Final Warning | Spent immediately | Spent immediately |
| <i>Some sentences carry variable rehabilitation periods. The main ones are as follows:</i> | | |
| Compensation Order | On the discharge of the order (i.e. when it is paid in full) | On the discharge of the order (i.e. when it is paid in full) |
| Supervision Order | N/A | The period of the order, or a minimum of 12 months (whichever is longer) |
| Bind Over | The period of the order, or a minimum of 12 months (whichever is longer) | The period of the order, or a minimum of 12 months (whichever is longer) |
| Attendance Centre Order | A period ending one year after the order expires | A period ending one year after the order expires |
| Hospital Order | Five years, or a period ending two years after the order expires (whichever is longer) | Five years, or a period ending two years after the order expires (whichever is longer) |