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**TITLE: APPROVAL OF THE ZOO LICENSING POLICY**

COMMITTEE: Licensing Committee

DATE: 14 September 2011

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[L118]

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1.0 ISSUE

1.1 That Members approve the proposed East Cambridgeshire District Council's Zoo Licensing Policy at **Appendix 1** following a twelve-week consultation with relevant stakeholders and members of the general public.

2.0 RECOMMENDATION(S)

2.1 That Members approve the proposed Zoo Licensing Policy to come into force on 15 September 2011.

3.0 BACKGROUND

3.1 On 24 May 2011 Full Council passed a resolution to adopt the Zoo Licensing Act 1981 to enable the Council to regulate zoo premises in the East Cambridgeshire district.

3.2 The Zoo Licensing Act 1981 allows local authorities to adopt provisions concerning the regulation of zoo premises in their districts.

3.3 Under the Zoo Licensing Act 1981 there is no legal requirement for the Council to adopt a policy on how it proposes to licence zoo premises, however, it is considered best practice for the Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

3.4 The Council's Licensing Committee of 13 April 2011 approved a twelve-week consultation exercise to be undertaken on the draft East Cambridgeshire District Council's Zoo Licensing Policy with relevant stakeholders and the general public from 18 April 2011 to 11 July 2011, with all consultation responses to be considered by the Licensing Committee before a finalised policy be approved.

3.5 A copy of the draft Zoo Licensing Policy was displayed on the Council's website and public notice board in the Council reception, with copies made available for viewing in the public libraries within the district for the duration of the consultation period.

- 3.6 A copy of the draft policy was sent to eighty-eight consultees representing stakeholders and members of the public.
- 3.7 Two responses were received within the consultation period from City of Ely Council and Mepal Parish Council.
- 3.8 No adverse comments were raised in the two consultation responses regarding the content of the proposed Zoo Licensing Policy, attached as **Appendix 2** to this document.

#### 4.0 ARGUMENTS/CONCLUSIONS

- 4.1 The proposed policy sets out how East Cambridgeshire District Council would approach its licensing functions under the Zoo Licensing Act 1981 as amended by the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002.
- 4.2 The policy will provide guidance to Members and Licensing Officers when considering applications and will inform potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.
- 4.3 Having a policy in place, which has been subject to consultation with the general public, ensures that communities have had the opportunity to take advantage of the new stronger role that they now have in deciding how the Council carries out its licensing functions in relation to zoo premises.
- 4.4 In preparing the proposed Zoo Licensing Policy, Licensing Officers carried out extensive research with other local authorities both locally and nationally and had regard to the Department for Environment Food and Rural Affairs Circular 02/2003, 'Zoo Licensing Act 1981 (as amended by the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002)'.

#### 5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no costs associated with this report.

#### 6.0 APPENDICES

- 6.1 Appendix 1 Proposed Zoo Licensing Policy.
- 6.2 Appendix 2 Representation responses.

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**Background Documents****Location****Contact Officer**

Zoo Licensing Act 1981 as amended by the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002

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Department for  
Environment Food and  
Rural Affairs Circular  
02/2003

**EAST CAMBRIDGESHIRE**

**DISTRICT COUNCIL**

**ZOO LICENSING POLICY**

**EAST CAMBRIDGESHIRE DISTRICT COUNCIL**

**ZOO LICENSING POLICY**

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- 38. Existing Licences**
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## 1.0 Introduction

- 1.1 This document sets out East Cambridgeshire District Council's policy regarding the regulation of zoo premises and the procedure relating to zoo licensing.
- 1.2 The policy was approved for consultation by the Council's Licensing Committee on 13 April 2011. A twelve week consultation on the draft policy took place from 18 April 2011 to 11 July 2011. Following consultation, the policy was approved by the Council's Licensing Committee on XXXXXX.
- 1.3 The policy will continue to be reviewed in light of developing practices, guidance and secondary legislation.
- 1.4 Any significant future amendment to this policy will only be implemented after further consultation with the individuals and partner agencies originally consulted.
- 1.5 All such amendments to this policy will be undertaken in accordance with the East Cambridgeshire District Council's Constitution.
- 1.6 Any significant amendment under the relevant legislation is defined as one that:
  - is likely to have a significant financial effect on the licence holders;
  - is likely to have a significant procedural effect on the licence holders;
  - is likely to have a significant effect on the community;
  - is likely to have significant effect on the health and welfare of the zoo animals.
- 1.7 Any minor amendments to this policy may be authorised by the Head of Environmental Services and undertaken in accordance with the Council's Constitution.
- 1.8 The Council maintains the right to review the policy as deemed necessary by the Head of Environmental Services, the Council's Licensing Committee or as required due to legislative changes and Government guidance.
- 1.9 When considering and reviewing this policy the Council has and will continue to consider local and regional strategies and policies including crime prevention, equality and disability discrimination law. The Council recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes that place obligations on employers and operators such as the Health and Safety at Work Act 1974, the Environmental Protection Act 1990, Children's Act 2004, Disability Discrimination Act 1995 and the Regulatory Reform (Fire Safety) Order 2005.
- 1.10 The Council is aware of its obligations under the Race Relations Act 1976 as amended with the Authorities Race Equality Scheme and will have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.
- 1.11 The licensing of zoo premises is governed by the Zoo Licensing Act 1981 (as amended by the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002).
- 1.12 East Cambridgeshire District Council adopted the Zoo Licensing Act 1981 on 24 May 2011.
- 1.13 The adoption of the Act enables the Council to control and regulate the operation of zoo premises within the East Cambridgeshire district and no zoo can operate in the district unless it has been granted a licence by the Council.
- 1.14 The Council has regard to the Department for Environment Food and Rural Affairs Circular 02/2003, 'Zoo Licensing Act 1981 (as amended by the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002) ('the 2002 Regulations')'.

- 1.15 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 area.
- 1.16 The policy should be read in conjunction with, and without prejudice to, other existing national and European Union legislation, such as the Human Rights Act 1988 and Disability Discrimination Act 1995.
- 1.17 The policy relates to applications for zoo premises licences which means an establishment where wild animals are kept for exhibition to the public otherwise than for purposes of a circus and otherwise than in a pet shop.
- 1.18 The objectives of the policy are to:
- promote East Cambridgeshire District Council's visions and values; and
  - protect the rights and health and safety of the zoo animals, general public, workers, residents, small businesses, minority and vulnerable groups.
- 1.19 The policy sets out the Council's approach for both applicants and operators. It also aims to guide and reassure the general public and other public authorities, ensuring transparency and consistency in decision-making. When the Council's decision-making powers are engaged, each application will be considered on its own merit.
- 1.20 The procedure outlines:
- the procedure for making an application; and
  - the process the Council will follow in considering and determining applications for zoo licences.
- 1.21 Zoo licences will contain conditions to restrict how the premises may operate within the East Cambridgeshire district.
- 1.22 The policy should not be regarded or interpreted as an indication that any requirement of the relevant law may be overridden.

## **2.0 Consultation**

2.1 Consultation on this policy took place with:

- the Chief Office of Cambridgeshire Constabulary;
- one or more persons who appear to East Cambridgeshire District Council to represent the interests of persons carrying on or proposing to carry on the business of a zoo in the East Cambridgeshire district.
- one or more persons who appear to the Council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy, including the Planning Authority, Fire Authority, Community Safety, Environmental Protection and animal welfare groups;
- interested parties such as resident associations, trade associations and others as considered appropriate;
- ward councillors;
- town and parish councils.



2.2 The Council gave due weight to the views of those consulted and the policy was amended as appropriate. In determining what weight to give particular representations, the factors taken into account included:

- who made the representation and what was their expertise and interest;
- how many other people expressed the same or similar views;
- how the representation related to the matters the Council should include in its policy.

2.3 The policy is published via the Council's website on [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk)

### **3.0 Definitions**

#### **3.1 The Act**

This refers to the Zoo Licensing Act 1981 (as amended by the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002).

#### **3.2 The Policy**

This refers to the East Cambridgeshire District Council Zoo Licensing Policy.

#### **3.3 Zoos**

In this Act 'zoo' means an establishment where wild animals are kept for exhibition to the public otherwise than for purposes of a circus and otherwise than in a pet shop.

(a) a section of a zoo means:

- (i) a particular part of the zoo premises;
- (ii) animals of a particular description in the zoo; or
- (iii) animals of a particular description which are kept in a particular part of the zoo premises;  
and

(b) references to the closure of a section of a zoo to the public mean:

- (i) the closure to the public of a particular part of the zoo premises;
- (ii) ceasing to exhibit animals of a particular description to the public; or
- (iii) ceasing to exhibit animals of a particular description to the public in a particular part of the zoo premises.

#### **3.4 Circuses**

A circus is defined as a place where animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres at that place.

#### **3.5 Pet Shops**

A pet shop is defined as a premises holding a licence or requiring a licence under the Pet Animals Act 1951.

### 3.6 Animals

An animal is defined as any multi-cellular organism that is not a plant or fungus. Animals of wild species are those not normally domesticated in Great Britain

### 4.0 **Zoo Licences**

- 4.1 East Cambridgeshire District Council recognises that it is unlawful to operate a zoo premises to which this Act applies except under the authority of a licence issued under this Act by the local authority for the area within which the whole or the major part of the zoo is situated.
- 4.2 The Act applies to any zoo premises to which members of the public have access, with or without charge for admission, on seven days or more in any period of twelve consecutive months. Circuses and pet shops are excluded from this definition.
- 4.3 The Act applies to zoos that are not open to the public on seven or more days in a twelve-month period, but have a licence in force, such as those that are temporarily closed while they comply with a direction issued under the Act.
- 4.4 The Act applies to zoos that have closed permanently while arrangements are made for the future care or disposal of their animals.
- 4.5 A collection consisting entirely of animals that are normally domesticated in Great Britain is not a zoo within the meaning of the Act.
- 4.6 The Act allows exemptions to some or all of the provisions of the Act to be granted for small zoos on an individual case by case basis.

### 5.0 **Conservation Measures for Zoos**

- 5.1 Section 1A of the Act specifies the conservation measures that zoos are required to undertake.

These are:

- (i) research from which conservation benefits accrue to species of wild animals; and/or
- (ii) training in relevant conservation skills; and/or
- (iii) the exchange of information relating to the conservation of species of wild animals; and/or
- (iv) where appropriate, breeding of wild animals in captivity; and/or
- (v) where appropriate, the repopulation of an area with, or the reintroduction into the wild of, wild animals;
- (vi) promoting public education and awareness in relation to the conservation of biodiversity, in particular by providing information about the species of wild animals kept in the zoo and their natural habitats;
- (vii) accommodating their animals under conditions which aim to satisfy the biological and conservation requirements of the species to which they belong, including providing each animal with an environment well adapted to meet the physical, psychological and social needs of the species to which it belongs; and providing a high standard of animal husbandry with a developed programme of preventative and curative veterinary care and nutrition;

- (viii) preventing the escape of animals and putting in place measures to be taken in the event of any escape or unauthorised release of animals;
- (ix) preventing the intrusion of pests and vermin into the zoo premises; and
- (x) keeping up-to-date records of the zoo's collection, including records of the numbers of different animals; acquisitions, births, deaths, disposals and escapes of animals; the causes of any such deaths; and of the health of the animals.

5.2 The Council is aware that paragraphs (i) to (v) are alternative measures and zoos need to undertake at least one of these options, whereas paragraphs (vi) onwards are mandatory measures. The Council will implement these requirements by attaching appropriate conditions in respect of each requirement to all zoo licences.

5.3 The Council will impose conditions that are appropriate to the size and nature of the zoos and there would be no expectation that small zoos should undertake major conservation and educational projects. The Council would expect the extent of a zoo's conservation and educational activities to be proportionate to its size and the diversity of its collection.

5.4 The Council promotes the guidance on accommodation and general zoo practice as set out in the Secretary of State's Standards of Modern Zoo Practice and the examples of conservation measures in which zoos might participate as set out in the Zoos Forum Handbook, both of which are available on the Defra website at [www.defra.gov.uk](http://www.defra.gov.uk)

5.5 Measures must be taken with the aim of preventing the intrusion of pests and vermin. The Council recognises that not all zoos will be able to prevent all pest intrusions and would expect measures to prevent the intrusion of outside pests and vermin to be realistic and practical and reflect the nature and type of zoo.

## **6.0 Licence Application Procedure**

6.1 East Cambridgeshire District Council will not entertain an application for a zoo premises licence unless, at least two months before making it, the applicant has given notice in writing to the Council of his/her intention to make the application, has published notice of that intention in one local newspaper circulating in the locality and one newspaper with a national circulation and has exhibited a copy of that notice at the site and the said notice shall state that the notice to the Council may be inspected at the Council offices free of charge during normal office hours.

6.2 Any notice given or published must identify the situation of the zoo premises for which the application is to be made, and the notice to the Council must specify:

- (a) the kinds of animals listed in taxonomic category of Order and approximate number of each group kept or to be kept for exhibition on the premises and the arrangements for their accommodation, maintenance and well being;
- (b) the approximate numbers and categories of staff employed or to be employed in the zoo;
- (c) the approximate number of visitors and motor vehicles for which accommodation is or is to be provided;
- (d) the approximate number and position of the means of access provided or to be provided to the premises.

6.3 Any notice given to the Council must also specify how the conservation measures are being or will be implemented at the zoo.

- 6.4 Although the Council is not required to consult with those people and organisations raising representations in respect of any application as set out in the Act, the Council will act reasonably regarding representations raised and in doing so will determine applications on a case by case basis.
- 6.5 The Council will consult the applicant regarding the proposed licence conditions prior to an inspection of the zoo taking place to establish if, before the licence can be granted or refused, the proposed licensing conditions can be granted or refused.
- 6.6 The Council will liaise with the planning authority and the zoo operator to ensure proper provision is being made for the animals and that the prospective new zoo is fully aware of what legislative requirements will apply.

## **7.0 Consideration of Applications**

- 7.1 On the consideration of an application for a licence the Council will take into account any representations made by or on behalf of:
- (a) the applicant;
  - (b) the chief officer of police for the area in which the whole or any part of the zoo is situated;
  - (c) the chief fire officer for the area in which the whole or any part of the zoo is situated;
  - (d) the governing body of any national institution concerned with the operation of zoos;
  - (e) where part of the zoo is not situated in the East Cambridgeshire district, the planning authority for the area in which part is situated (other than the county planning authority);
  - (f) any person alleging that the establishment or continuance of the zoo would injuriously affect the health or safety of persons living in the neighbourhood of the zoo;
  - (g) any other person whose representations might, in the opinion of the Council, show grounds on which the Council has a power or duty to refuse to grant a licence.

## **8.0 Grant or Refusal of a Licence**

- 8.1 Before granting or refusing to grant a licence for a zoo premises, the Council must consider an inspector's report prior to reaching a decision on a new licence application. The report must contain information on the likelihood of the zoo being able to comply with the proposed licence conditions. A copy of the report will be sent to the applicant within one month of receipt for comment.
- 8.2 The Council will refuse to grant a licence for a zoo premises if it is satisfied that the establishment or continuance of the zoo would injuriously affect the health or safety of persons living in the neighbourhood of the zoo, or seriously affect the preservation of law and order.
- 8.3 The Council will also refuse to grant a licence for a zoo if it is not satisfied that the conservation measures defined in the Act will be implemented in a satisfactory manner at the zoo.
- 8.4 The Council may refuse to grant a licence for a zoo if it is not satisfied that the standards of accommodation, staffing or management are adequate for the proper care and well-being of the animals or any of them or otherwise for the proper conduct of the zoo.
- 8.5 The Council may not refuse a licence in a situation where adequate standards are not met but where there are reasonable prospects that improvements would take place. The Council may consider imposing a condition or conditions in accordance with the powers granted to it by the Act or through consultation with the Secretary of State.

- 8.6 The Council may refuse a licence application if anyone associated with the zoo has a conviction under the Zoo Licensing Act 1981 (as amended) or any of the Acts mentioned in section 4(5) of the Act. In exercising this discretion, the Council will need to consider the seriousness of the offence committed.
- 8.7 If the Council is not satisfied that any planning permission required under Part III of [the Town and Country Planning Act 1990] for the establishment of the zoo or for the continuance of the zoo during the period for which the licence would be in force, has been, or is deemed to be, granted, it will either refuse to grant the licence or grant the licence but suspend its operation until the local planning authority within the meaning of [the said Act of 1990] has notified the Council that any such planning permission has been or is deemed to be granted.
- 8.8 A licence should be refused only for one of the reasons set out in the Act. When a licence is refused, the Council will promptly issue the applicant with a written statement stating the grounds of refusal.
- 8.9 When a licence is granted the Council will send it to the applicant and the licence or a copy of it must be publicly displayed at each public entrance to the zoo.
- 8.10 Although there is no statutory requirement for the Council to provide copies of zoo licences to interested parties, the Council may choose to do so in certain circumstances. The Council will provide a copy of the licence or any letter sent to the zoo upon renewal along with a copy of the inspector's report for information and record purposes to the Secretary of State. The Council will also provide the inspector with a copy of the licence.

## **9.0 Periods and Conditions of Licence**

- 9.1 An original licence granted under this Act shall be granted for a period of four years beginning with the date specified in the licence as that on which it is granted or any later date specified in the licence as that on which the licence is to commence.
- 9.2 A fresh licence granted under the Act to the holder of an existing licence shall be granted for a period of six years beginning with the end of the period of the existing licence.
- 9.3 A licence shall be granted subject to conditions requiring the conservation measures defined in the Act to be implemented at the zoo.
- 9.4 A licence may be granted subject to such other conditions as the Council deems necessary or desirable for ensuring the proper conduct of the zoo during the period of the licence, including conditions relating to insurance against liability for damage caused by animals.
- 9.5 In deciding what conditions to attach to a licence, the Council will have regard to any standards specified by the Secretary of State.
- 9.6 The Secretary of State may, after consulting the Council, direct it to attach one or more conditions to a licence and the Council will give effect to such a direction.
- 9.7 The Secretary of State may not direct the Council to attach a condition that is inconsistent with the implementation at the zoo of the conservation measures defined in the Act.
- 9.8 The Council will not attach to a licence any condition inconsistent with one it is so directed to attach.
- 9.9 The Council will not attach to a licence a condition which relates only or primarily to the health, safety or welfare of persons working in the zoo.

## **10.0 Renewal of Licences**

- 10.1 An application must be made to the Council at least six months before the expiry of the existing licence, unless special circumstances arise that, in the opinion of the Council, are sufficient to allow applications later than this. The Council will, nine months or more before the licence expires, give the licence holder written advance notice of the latest date on which to make an application for renewal.
- 10.2 Before extending the period of an existing licence the Council will:
- (a) make arrangements for an inspection to be carried out; and
  - (b) consider the report made to them pursuant to that inspection.
- 10.3 The Council will send a copy of the inspector's report to the zoo operator within one month of receiving it. After considering the inspection report and any response from the operator, the Council may renew the licence by extending the period of the licence by six years.

## **11.0 Directing the Applicant for a Renewal of a Zoo Licence to Apply for a Fresh Licence**

- 11.1 The Council will direct a zoo operator to apply for a fresh licence only where there is good and sufficient reason for doing so, such as where there have been radical changes of the zoo's management structure or of the animals held there since the previous licence was granted, particularly where the additional animals are considered hazardous.
- 11.2 In deciding whether it is appropriate to require an application for a fresh licence, the Council will be mindful that this could involve the applicant in extra expense and consider whether the need might be met in some other way, such as by altering the conditions of a licence. If the application is necessary, the Council will ensure that applicants give at least two months' notice of their intention to make the application.
- 11.3 Where the Council requires the applicant to apply for a fresh licence after the renewal inspection has been carried out, a further inspection would be required if a fresh licence application is made. The Council may choose to combine these inspections using its power under the Act to do so.
- 11.4 The Council is aware that it cannot direct the zoo to apply for a fresh licence until an application for renewal is made. The Council will advise the zoo of its intentions in this respect when giving the licence holder written advance notice of the latest date on which to make an application for renewal.
- 11.5 Where the licence holder applies for a fresh licence, the existing licence continues in force until the application is processed or withdrawn. This is provided that the application is made before expiry of the existing licence or within six months after the issue of the Council's direction to the zoo to apply for a fresh licence.

## **12.0 Duration of a Licence**

- 12.1 The original licence (i.e. the first licence granted to the zoo) shall run for four years.
- 12.2 Any subsequent licence, whether a renewal licence or a fresh licence, shall run for six years.
- 12.3 The Council may issue an original licence to run from a future date so the applicant can have the licence before the zoo is ready to commence, or recommence in the case of temporary closure.

## **13.0 Licence Conditions**

- 13.1 The Council will ensure that every licence always contains appropriate conditions to ensure the zoo gives effect to the conservation measures requirements of the Act. An example of such conditions is set out at Annex B of Circular 02/2003 Zoo Licensing Act.

- 13.2 The Council will use its discretion under the Act to attach any condition deemed necessary or desirable for the proper conduct of the zoo during the period of the licence.
- 13.3 In determining such conditions, the Council will have regard to the Secretary of State's Standards of Modern Zoo Practice as specified under the Act.
- 13.4 The Council is aware that licence conditions must not be inconsistent with any that the Secretary of State directs it to attach and that it must not attach conditions that relate only or primarily to the health, safety or welfare of zoo employees. An example of conditions that have routinely been attached to licences, insofar as they are applicable to the kinds of animals kept at the zoo is at Annex C of Circular 02/2003 Zoo Licensing Act.
- 13.5 Once time-limited conditions dealing with issues not relating to the conservation measures requirements of the Act have been complied with, the Council will remove them from the licence upon renewal.

#### **14.0 Enforcement of Licence Conditions**

- 14.1 Where the Council is not satisfied that a zoo licence holder has complied with a condition (or several conditions) attached to the licence, it will, after giving the zoo licence holder the opportunity to be heard, issue a direction requiring compliance with that condition. The Council will not make a direction if it decides instead to close the zoo permanently in accordance with its powers under the Act.
- 14.2 The direction will detail what licence condition or conditions have not been complied with. For each condition the Council will detail if the condition has been breached at the whole zoo or only a section of the zoo premises. The direction will also stipulate the steps the licence holder must take to comply with the condition or conditions and the period for compliance, which must not exceed two years.
- 14.3 The direction can also require the zoo, or a part of it, to close to the public while the direction is in force, or for part of that period, if the Council considers it appropriate to do so.
- 14.4 The Council's decision to issue a direction to close a zoo, or a section of it for a period of time, will not be taken lightly, and such a direction would be revoked once the zoo has complied with the condition or conditions.
- 14.5 If the licence holder does not comply within the period specified in the Council's direction, taking into account any extensions of time granted under the Act, and the condition not met relates to the conservation measures requirements of the Act, it will be necessary for the Council to either close down the zoo permanently or permanently close the affected section of the zoo.
- 14.6 The Council may vary or revoke a direction by issuing a further Council direction. The Council will not make a decision to vary the direction by increasing the period of compliance beyond two years from the date when the direction was first issued.
- 14.7 Zoo owners will be given the right of appeal against Council directions.
- 14.8 Directions requiring the temporary closure of the zoo or imposing requirements on the licence holder to carry out additional works at the zoo will not take effect until an appeal is decided and is unsuccessful, or abandoned, or where the 28-day period for appeal expires and no appeal is made.

#### **15.0 Transfer, Transmission and Surrender of a Licence**

- 15.1 The Council may approve the transfer of a licence for a zoo premises to another person if it is satisfied that the transferee is suitable to hold the licence and is able to comply with the conservation measures requirements of the Act. In that case the transferee shall become the holder of the licence from the date specified by the Council and notified by them to the transferor and transferee.

- 15.2 The Council considers a transferred licence as not a fresh or renewed licence within the terms of the Act and will not alter the licence expiry date on the transfer of the licence.
- 15.3 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 after the death, or such longer period as the Council may approve.
- 15.4 The licence holder may at any time surrender it to the Council who will thereupon cancel the licence.

## **16.0 Secretary of State's Functions**

- 16.1 The Secretary of State shall, after consultation with the presidents of the British Veterinary Association, the National Federation of Zoological Gardens and the National Zoological Association and with such other persons as he thinks fit, compile a list consisting of two parts.
- 16.2 The first part of the list shall contain the names of veterinary surgeons and practitioners who shall have experience of animals of kinds that are kept in zoos or which in the Secretary of State's opinion might be so kept and shall be competent to advise about the implementation of the conservation measures defined in the Act.
- 16.3 The second part of the list shall contain the names of persons competent in the Secretary of State's opinion to inspect animals in zoos, advise on keeping them and on their welfare, advise on the implementation of the conservation measures defined in the Act and advise on the management of zoos generally.
- 16.4 A person's name may be contained in both the first and the second parts of the list.
- 16.5 After such consultation, the Secretary of State may vary the list by adding names or deleting them (or both).
- 16.6 Persons on the list may charge the Council such amounts in respect of their services and expenses as the Secretary of State may from time to time determine with the approval of the Minister for the Civil Service.
- 16.7 After consulting such persons on the list and such other persons as he thinks fit, the Secretary of State may from time to time specify standards of modern zoo practice in respect to the management of zoos and the animals in them.

## **17.0 Inspections**

- 17.1 There are four types of inspection under the Act: licence inspections, periodical inspections, special inspections and informal inspections.
- 17.2 Periodical inspections and certain licence inspections involve Secretary of State inspectors.
- 17.3 Special, informal and certain licence inspections will be conducted those persons whom the Council considers competent for the purpose of the inspection.
- 17.4 The Council will consult the Secretary of State for the names of inspectors to carry out the periodical inspections and licence inspections before the grant or refusal or renewal of a licence.
- 17.5 The Council will not assume that the Secretary of State nominees from a previous inspection remain the same for any subsequent inspection.
- 17.6 The Council will, except where a direction under the Act has been issued, arrange a mid-term periodical inspection in the third year of the renewed or fresh licence.
- 17.7 In relation to the provisions of the Health and Safety at Work etc. Act 1974 insofar as its provisions are relevant to zoos, the Council will, if possible, arrange an inspection covering both the 1974 and 1981 Acts at the same time to minimise inconvenience to the zoo operator and for



the benefits arising from the coming together of the respective inspectors.

## **18.0 Licence Inspection**

- 18.1 The licence inspection procedure under the Act relates to inspections before the grant, refusal, renewal or significant alteration of zoo licences.
- 18.2 The Council will use a periodical inspection instead of a licence inspection where the periodical inspection is due within 12 months of when arrangements for the licence inspection would be made. Where the Council exercises this discretion, whichever are applicable of the requirements of the licence inspection must be dealt with under the periodical inspection.
- 18.3 The Act allows the Council to combine inspections required prior to the renewal of a licence and a significant change to a licence. Where more than one inspection is required because significant changes to a licence have been identified, the Council can combine them in accordance with the requirements of the Act.
- 18.4 The Council will combine inspections in this way unless there are good reasons not to do so to dispense with the need for two inspections in close proximity and associated costs.
- 18.5 Where an inspection identifies a circumstance that is likely to lead to a significant change to the licence, a separate inspection relating to the significant change is not necessary. The Council will require the inspector(s) to consult the licence holder about the alterations to the licence they consider would be needed, consider whether the new conditions they consider necessary will be met if the licence is altered and cover this matter in the inspection report.
- 18.6 Where the inspection is prior to a new licence application or a renewal of a licence, even if the renewal is combined with an inspection for another purpose, the inspector(s) must be nominated by the Secretary of State from his list of inspectors.
- 18.7 Where an inspection is to consider a significant change to a licence, the Council will require it to be conducted by inspectors considered competent by the Council and authorised by it. If the Council cannot find suitably competent inspectors, it will approach the Secretary of State on this matter.
- 18.8 The Council will give the zoo operator or licence applicant at least twenty-eight days' notice of the inspection after consultation with him, but will endeavour to allow at least six weeks for all parties to agree the inspection date.
- 18.9 The Council will consult the new or existing zoo in advance of the inspection with the conditions they propose to attach to the licence where application is made for a new licence or about the proposed alteration to the licence. Following the inspection, the Council will finalise the conditions and consult with the applicant, as appropriate, about changes to be made to these proposed conditions.
- 18.10 Where an inspection is carried out before the grant of a licence for a new zoo, the inspector(s) are required to consider whether the conditions proposed by the Council are likely to be met if the licence is granted.
- 18.11 Where an inspection is carried out before the grant of a new licence for an existing zoo, the inspector(s) must consider whether existing licence conditions are met as well as whether the proposed conditions for the new licence are likely to be met if it is granted.
- 18.12 Where the inspection is carried out before a licence renewal, the inspector(s) are required to be satisfied that existing conditions are met and are likely to continue to be met if the licence is renewed.
- 18.13 Where the inspection is carried out before a significant alteration of a licence, the inspector(s) must consider if the existing licence conditions are met and if the proposed new or varied conditions are likely to be met and also if the conservation measures defined by the Act would be implemented at the zoo if the proposed alterations were made.

- 18.14 The Council will require the licence holder to supply any records requested by the inspector(s) in respect of conditions relating to the requirements of the conservation measures defined by the Act.
- 18.15 The Council will send a copy of an inspector(s)' report for comment within one month of receipt to a proposed or existing zoo operator.

## **19.0 Periodical Inspections**

- 19.1 In the case of an original (initial) licence, a periodical inspection will take place during the first year and again not later than six months before the end of the fourth year of the period of that licence. For subsequent licences, periodical inspections will be required during the third year and no later than six months before the end of the sixth year of the period of the licence.
- 19.2 Unless the Secretary of State has issued a dispensation to the zoo premises, the periodical inspections must be carried out by a team of inspectors. This team shall comprise not more than three inspectors appointed by the Council and two nominated by the Secretary of State after consultation with the Council. The Council appointees must appear to the Council to be competent for the purpose and at least one must be a veterinary surgeon or practitioner.
- 19.3 Where smaller zoos are involved, generally only one Council appointee may be required. If more than one inspector is appointed, the additional inspectors will be officers from the Council's Environmental Services Section, competent to consider general safety issues of concern to other inspectors.
- 19.4 If the Council encounters difficulty appointing a suitable veterinary surgeon or practitioner, it will appoint a vet from the Secretary of State's list, who will not already be nominated by the Secretary of State to carry out the inspection.
- 19.5 The two Secretary of State nominated inspectors will be from the Secretary of State's list of inspectors. One will be a competent veterinary surgeon or practitioner and the other competent to inspect animals and advise, amongst other things, on the management of zoos generally.
- 19.6 Prior to making any arrangements for the inspection with the zoo operator, the Council will contact the Secretary of State for details of the nominated inspectors, who will be nominated in consultation with the Council. The Council will then appoint these inspectors and also up to three persons as mentioned above.
- 19.7 The Council will allow at least six weeks for all parties to agree the inspection date. The Council will ensure that notice of intention to inspect is given to the operator at least twenty-eight days prior to the proposed inspection date and will provide the operator with the names of the inspecting team.
- 19.8 The Council or the Secretary of State, as appropriate, will decide whether the inspecting team should be changed in the event of an objection, by notice to the Council by a zoo operator to any one or more of the inspectors.
- 19.9 The zoo operator may choose up to three representatives to accompany the inspecting team. The operator or a deputy will be asked to be available to meet inspectors to answer any queries they may have and to direct the inspectors to exhibits and areas of the zoos the inspectors may wish to visit, including those where any records of the animals are kept in the zoo. The inspecting team may require the attendance of the zoo's veterinary surgeon or practitioner during the inspection.
- 19.10 The inspection will cover all features of the zoo that are directly or indirectly relevant to the health, welfare and safety of the public and animals. If the inspection is to be used instead of one needed under section 9A of the Act, it will extend to the zoo's compliance with existing licence conditions and/or the likelihood of complying with proposed new or varied conditions including those implementing the conservation measures defined in the Act.

- 19.11 The inspection will address the zoo's staff involvement in matters, such as they relate to the above-mentioned features. The inspectors will require to see any records that the operator is required to keep as a condition of the licence relating to conservation measures. The inspectors' report may include advice and/or recommendations for any improvements designed to ensure the zoo carries out its conservation, public safety and animal welfare activities. For this purpose the inspectors are required to have regard to the Secretary of State's standards under the Act and are recommended to have regard to any other associated advice.
- 19.12 In the case of any disagreement between inspectors over recommendations in their report relating to animal welfare, conservation and other zoo activities, this may be referred to the Secretary of State who may, after consultation with such persons on his list as he thinks fit, give guidance in regard to the recommendations to be made about animal welfare.
- 19.13 The Council will send a copy of the inspectors' report to the operator of the zoo, within one month of receiving it giving him/her the opportunity to make representations or comment on it.

## **20.0 Special Inspections**

- 20.1 The Council may at any time carry out a special inspection of a zoo for which a licence granted by it is in force if the Council considers it appropriate to do so having regard to:
- (a) any periodical report on the zoo made to it; or
  - (b) any representations made to it on behalf of a properly constituted body concerned with any aspect of the management of zoos or the welfare of animals; or
  - (c) any report on the zoo made to it pursuant to a licence inspection or an informal inspection; or
  - (d) any other circumstances that in the Council's opinion call for investigation.
- 20.2 Where the Council carries out a special inspection in the same year as a periodic inspection falls due, it will endeavour to carry out the necessary compliance checks during the periodic inspection to remove the need for more than one inspection in the same year.
- 20.3 A special inspection can be carried out at any time and the Council will communicate to the zoo operator the purpose and scope of the inspection and the inspection date in case the operator wishes to have any representatives present.
- 20.4 The Council will appoint whomever it considers competent for the purpose of the inspection. Where the purpose of the inspection relates to the health of animals, a veterinary surgeon or practitioner with experience of the animal kinds kept in the zoo will be appointed, unlike the case of a periodical inspection the zoo operator does not have to be told who the inspector or inspectors are.
- 20.5 Where the Council receives representations or complaints about a zoo, otherwise than in an inspectors' report, it will make preliminary inquiries before deciding to undertake a special inspection to ensure that the circumstances appear to warrant one.
- 20.6 The Council considers that special inspections should be carried out by the minimum number of inspectors for the purpose – normally only one, with the inspection and report covering only those matters that are relevant to the reasons for arranging it, which will be communicated to the inspector(s) beforehand. The Council will send a copy of the report to the operator for his/her comment.

## **21.0 Special Inspections of Closed Zoos**

- 21.1 The Council is permitted to carry out a special inspection at a zoo that has closed permanently:

- (a) to supervise implementation of a prepared plan; and/or
- (b) to help to decide whether a direction is necessary under the Act or to ensure that a such a direction is being complied with; and/or
- (c) to help to decide whether the Council needs to make arrangements for the care and disposal of animals at a closed zoo.

21.2 The Council will authorise inspector(s) whom it considers competent to carry out the inspection. If the inspection relates to the health of the animals, the inspector(s) will include a suitably competent vet or veterinary practitioner and if there is only one, he/she will have this veterinary competence. The Council will communicate to the inspector(s) and the zoo operator the purpose and scope of the inspection. The operator may have up to three representatives at the inspection and the inspector(s) may require the zoo's vet to be present during the inspection.

21.3 The Council will require the zoo operator to supply all records of the collection kept by the zoo, should the inspector(s) need to see them. Unless the operator of the zoo cannot be found, the Council will promptly send a copy of the inspectors' report to him/her for comment.

## **22.0 Informal Inspections**

22.1 The Council will carry out an informal inspection in any calendar year in which there is neither a periodical nor a special inspection. The informal inspection will be carried out by a single inspector whom the Council considers to be competent for the purpose. To reduce the likelihood of having both an informal and a special inspection in the same year and thereby minimise the costs to the zoo operator, the Council will carry out informal inspections towards the end of the year as, at this stage, it should be less likely that a special inspection would be necessary.

22.2 The Council will decide on the arrangements for and conduct of informal inspections, but a written report will be required as the Council may need to arrange a special inspection as a result of the inspector's observations.

22.3 The Council, where appropriate, will carry out the inspection without notice. If the zoo has been granted a dispensation under the Act the Council will make prior arrangements, as the inspector will need to be satisfied about the proper conduct of the zoo taking account of the Secretary of State's Standards of Modern Zoo Practice.

22.4 Whether or not prior arrangements are made for the inspection, the Council will require the inspector to check:

- (a) if there are any obvious ways in which the zoo is not being managed satisfactorily;
- (b) if the conditions of the licence are being broken;
- (c) what progress there has been in carrying out the recommendations in the reports of previous inspections;
- (d) whether there have been any new exhibits, improvements or other changes since the previous inspection; and
- (e) that any time limited conditions have been complied with in the time specified.

## **23.0 Local Authority Zoos**

23.1 The Council will nominate an officer to be responsible for any local authority zoo in its area.

23.2 The Council will send the Secretary of State a copy of the zoo licence, or notification in writing of

any extension to it and any inspectors' report together with any inspectors' comments to enable the Secretary of State to direct the inclusion of conditions on the licence.

23.3 The Secretary of State is responsible for issuing directions for permanently closing a local authority zoo or enforcing licence conditions.

23.4 In cases of a closure of a local authority zoo, the Council will make arrangements for the future care of the animals, or their disposal and care until disposed of and supply any information on the care or disposal of the animals to the Secretary of State or be directed by the Secretary of State regarding the care or disposal of animals at permanently closed zoos.

#### **24.0 Dispensation for Particular Zoos**

24.1 If the Council informs the Secretary of State that in its opinion a direction should be made under the Act because of the small number of animals kept in the zoo or the small number of the kinds of animal kept there, the Secretary of State may, after consulting such persons on the list as he thinks fit, relax the requirements of the Act for a small zoo or for a zoo exhibiting only a small number of different kinds of animals. Each case will be treated on its individual merits.

24.2 The Secretary of State may issue a direction to the effect that the Act shall not apply to a particular zoo having taken account of the health, safety or welfare of the animals and visitors to the zoo. The Secretary of State must be satisfied that the direction does not detrimentally impact on the protection of wild fauna or the conservation of biodiversity and that the animals are not of a hazardous nature as listed in category 1 and/or 2 of Appendix 12 to the Secretary of State's Standards of Modern Zoo Practice.

24.3 The Secretary of State's direction should be supported by a letter from a veterinary surgeon or practitioner (not used by the zoo in question) confirming that the collection appears to be run properly and the animals properly cared for.

24.4 Although if a direction is issued by the Secretary of State the Council will have no powers under the Act to inspect the zoo, the Council will keep a check on it by means of inspections carried out under other legislation, such as the Health and Safety at Work Act 1974.

24.5 The Council will review exempt statuses periodically. If the nature of the zoo changes dramatically through expansion or the acquisition of hazardous species, the Council will notify the Secretary of State with information that might suggest the direction is no longer appropriate.

24.6 The Secretary of State has the power, after consulting the Council and operator to revoke any such direction, thereby requiring the zoo operator to obtain a zoo licence or face prosecution if the zoo continues to operate without one.

24.7 If the Council informs the Secretary of State that in its opinion a direction should be made under the Act, the Secretary of State may issue a direction to the effect that either a periodical or special inspection or both (but not an informal or licence inspection) shall not be required. The Secretary of State will take account of the health, safety or welfare of the animals and visitors to the zoo. Consideration will also be given to the conservation status of the animals as well as how hazardous they are.

24.8 The Secretary of State must seek the views of the Council if making a direction that the periodical inspection is to be carried out only by the Secretary of State inspector(s) at the request of the zoo operator.

24.9 In reaching a decision on any request for a direction, the Secretary of State will treat each case on its individual merits in line with current legislation and guidance. The Secretary of State may vary or revoke any direction following consultation with the Council and such persons on the

Secretary of State's list as appropriate and where satisfied that doing so would not be prejudicial to the protection of wild animals and the conservation of biodiversity. The Secretary of State will notify the Council and the zoo operator in writing of any direction made or of any revocation or variation to such a direction.

## **25.0 Fees and Other Charges**

- 25.1 The Council will charge such reasonable fees as it may determine in respect of applications for the grant, renewal, or transfer of licences and subsequent action.
- 25.2 The Council will charge for reasonable expenses incurred by it in respect of inspections, including the costs incurred by the Council in appointing its own inspectors and the costs incurred in meeting the cost of services and expenses of those inspectors appointed by the Secretary of State.
- 25.3 The Council may, if so requested by the zoo operator, accept payments by instalments.
- 25.4 The Council will recover such costs as are reasonably incurred in issuing directions under the Act and exercising its duties for treating and disposing of animals. Where the zoo operator does not pay these costs, the Council will seek to recover them as a civil debt.
- 25.5 Where the Council has generated revenue from the sale of animals that exceeds the charges it is entitled to make for winding up the zoo, this 'profit' will be returned to the zoo operator, but proceeds of sale of animals belonging to persons other than the zoo operator will be returned to the owner although the Council will deduct its costs of caring for the animals and of selling them.
- 25.6 The Council will ensure that the amount of all fees and other sums charged in a particular year is sufficient to cover the reasonable expenditure incurred by the Council in that year. The Council will endeavour to ensure that charges are kept to a minimum in meeting this obligation. The Council is aware that it is not within its powers to levy fees and charges that exceed the costs incurred in administering its duties under the Act and in the case of inspectors, the Council will negotiate rates for fees that do not exceed those payable to persons on the Secretary of State's list.

## **26.0 Power to Alter Licences**

- 26.1 The Council has the power under the Act to alter licences by varying, cancelling, attaching new conditions or by a combination of these methods if in its opinion it is necessary or desirable to do so for ensuring the proper conduct of the zoo during the period of the licence. Before exercising this power the Council will give the licence holder an opportunity to make representations. Any altered licence shall include conditions to ensure compliance with the zoo conservation measures defined in the Act.
- 26.2 Before a significant amendment is made to a licence, the Council will consult the licence holder about the proposed change, arrange an inspection and consider the inspection report. Where the proposed change stems from a direction from the Secretary of State, the Council will send a copy of the inspection report to the Secretary of State.
- 26.3 The Council will decide what justifies a significant change to the licence, such as the introduction of a significantly different animal type into the collection or the introduction of hazardous or conservation sensitive animals, although this will always be a matter of fact and degree.
- 26.4 Where the Council is required to close permanently a section of a zoo where it has made a direction about the breach of a particular licence condition, the period specified in the direction has expired and a section of the zoo remains in breach of that licence condition. To determine which section of the zoo must be closed the Council will apply the following rules:
- (a) where the direction specified that the whole zoo was in breach of a licence condition and only a section of the zoo remains in breach of the condition at the end of the period mentioned in the direction, that section must be closed;

- (b) where the direction specified that a section of the zoo was in breach of the licence condition and the same section remains in breach of the condition at the end of the period mentioned in the direction, that section must be closed;
- (c) where the direction specified that a section of the zoo was in breach of a licence condition and a smaller part of that section remains in breach of the condition at the end of the period mentioned in the direction, that smaller part of the section must be closed.

The Council will effect this permanent closure by altering the licence by attaching appropriate conditions to it.

- 26.5 Where the direction specified that a section of the zoo was in breach of a licence condition and at the end of the period mentioned in the direction that section was no longer in breach but another section was now in breach of the licence condition, there is no requirement to close any section of the zoo and the Council will take enforcement action for the new breach.
- 26.6 Zoo operators have a right of appeal to a Magistrates' Court against a condition(s) being attached to a licence to effect permanent closure. Any alteration to a licence shall not have effect until after the appeal period has expired or if an appeal has been lodged that it has been decided or abandoned. Where a section of the zoo is permanently closed the requirements regarding the welfare of animals following the closure of a zoo will apply.
- 26.7 The Secretary of State may also direct the Council to alter a licence. Any condition proposed by the Council will not be inconsistent with any one attached or varied in pursuance of a direction of the Secretary of State. An alteration to a licence shall not take effect until written notification of it has been received by the licence holder.

## **27.0 Closure of a Licensed Zoo**

- 27.1 The Council has the power under the Act to close permanently a zoo by giving a zoo closure direction.
- 27.2 The Council will permanently close the zoo where:
  - a) the Council is satisfied that a licence condition giving effect to any conservation measure referred to in a direction it has given has not been met in respect of the whole zoo within the period specified in that direction. Before issuing this direction, the Council will give the licence holder the opportunity to be heard;
  - b) the zoo licence holder cannot be found after reasonable enquiries have been made;
  - c) the Council is satisfied, after giving the licence holder an opportunity to be heard, that the zoo no longer opens on seven or more days in a twelve-month period and it will not be opening on seven or more days in any future twelve-month period.
- 27.3 The Council has a discretionary power to close a zoo where:
  - a) the Council is satisfied that a licence condition other than one giving effect to any conservation measure referred to in a direction they have given has not been met within the period specified in that direction. The detailed requirements the zoo closure direction must also be met. Before issuing a direction, the Council will give the licence holder the opportunity to be heard;
  - b) the Council is satisfied that any reasonable requirements relating to the premises or conduct of the zoo as notified to the licence holder in consequence of the report of any inspection under this Act are not complied with in a reasonable period of time;
  - c) the Council is satisfied that the zoo has been conducted in a disorderly manner or that a nuisance has been caused, or there has been a breach of any condition of the licence;

d) the licence holder has been convicted of an offence under the Act or a keeper at the zoo, in the knowledge of the licence holder, has been so convicted;

27.4 The Council will not issue a zoo closure direction while a direction regarding the enforcement of licence conditions is in force and there has been no material change in circumstances since the direction was issued. For cases involving the care and treatment of animals, the Council will consult with such persons as the Secretary of State nominates before going ahead with the zoo closure.

27.5 There is a right of appeal against a zoo closure direction and such a direction only takes effect after an appeal is decided, if unsuccessful or abandoned or where the twenty-eight day period of appeal expires and no appeal is made.

27.6 Where a zoo is closed down under a zoo closure direction, the licence is automatically revoked from the date the zoo closure direction takes effect. A zoo licence holder who does not have a reasonable excuse will be guilty of an offence if the zoo continues to operate once the zoo closure direction takes effect.

## **28.0 Closure of an Unlicensed Zoo**

28.1 A zoo closure direction applies to unlicensed zoos that have no direction issued (zoos to which the Act does not apply) and have been open for more than seven days in the last twelve months in contravention of the Act.

28.2 The Council will issue a zoo closure direction to close any unlicensed zoo that should be licensed when the operator cannot be found after reasonable enquiries have been made.

28.3 Unless the Council is minded to make an application to the Secretary of State on behalf of the zoo for a direction it will notify the operator of its intention to close the zoo in at least 35 days time and of the operator's opportunity to be heard.

28.4 The Council will issue a zoo closure direction if it is satisfied after at least 35 days have passed and the operator has had an opportunity to be heard that the establishment is an unlicensed zoo operating unlawfully and the operator has not issued a notice of intention to apply for a zoo licence.

28.5 The Council will issue a zoo closure direction if no licence application is made within three months of the date of the notice of intention to apply; or the application is refused and there is no appeal or the appeal is unsuccessful or abandoned.

## **29.0 Welfare of Animals following Permanent Closure of a Zoo**

29.1 Zoo operators must make arrangements for the future care or disposal of their animals when:

(a) a zoo closure direction has been made in respect of the zoo and has taken effect;

(b) the zoo's licence has expired;

(c) the zoo's licence has been surrendered.

29.2 Zoos will also be required to make arrangements for the future care or disposal of part of their collection where a section of the zoo has been closed permanently to the public. The requirement may be terminated by further alterations to the zoo's licence, such as where the animals in the permanently closed section of the zoo have been disposed of and the Council subsequently alters the zoo licence to permit their former accommodation to be converted for a different use.

29.3 The zoo operator, as soon as reasonably practicable, must submit to Council a plan setting out the proposed arrangements for the welfare of the animals in the zoo he/she plans to keep and for the disposal of animals he/she plans to dispose of and their care until that disposal takes place. The Council notes that it is acceptable for the plan to show that some or all of the animals will be retained in a private collection. Where that is the case, the Council would need to be satisfied



that they could be properly looked after.

- 29.4 The Council will ensure that the arrangements for the care or disposal of the animals must not be prejudicial to the protection of wild animals or the conservation of biodiversity.
- 29.5 The zoo must supply the Council with any information requested about the care or disposal of the animals kept there.
- 29.6 The Council will consider the plan and decide whether to approve it or whether improvements are needed before it is approved. The zoo operator is not permitted to implement the plan until the Council has approved it. The Council will supervise the implementation of the plan once it has been approved.
- 29.7 In some cases zoo operators may need to dispose of animals before the plan has been approved with the approval of the Council. Zoo operators are permitted to dispose of animals other than in accordance with an approved plan if the Council agrees, such as if the animal was to be moved to a specified new home but before that happened the intended recipient decided it no longer wanted, or could take, the animal.
- 29.8 Where the Council does not approve the plan in the form submitted and is unable to agree changes with the zoo operator, it can make use of its power under the Act to issue a direction to the zoo operator about the treatment or disposal of animals in the zoo.
- 29.9 The Council can use its power to issue a direction to the zoo operator about the future care of the zoo animals or about their disposal and care until they are disposed where it is not satisfied with the way an approved plan is being implemented or where the zoo operator is taking an unreasonably long time to prepare a plan or where it considers urgent steps need to be taken by the zoo to safeguard the welfare of the zoo animals. Before issuing this sort of direction, the Council will give the zoo operator the opportunity to be heard. The Council may vary a direction regarding the welfare of animals following the closure of a zoo, but, unless the zoo operator has disappeared, it will not do so unless the operator is given the opportunity to be heard.
- 29.10 There is a right of appeal against the Council's decision not to approve a plan regarding the welfare of animals following the closure of a zoo; a direction issued by the Council or any variation of such a direction; and arrangements made by the Council.

### **30.0 Powers of the Council to make its own Arrangements for the Welfare of Animals at a Permanently Closed Zoo**

- 30.1 The Act contains a reserve power for the Council to make its own arrangements for the welfare or disposal of animals at a closed zoo. The Council will only need to take such steps when a zoo's operator goes missing or there are severe problems with the zoo operator's arrangements. Where the Council intends to use this reserve power and the operator has not gone missing, the Council will give him/her the opportunity to be heard before they use it.
- 30.2 Where the Council makes arrangements for the zoo animals, it can care for the animals at the zoo or remove them and retain them in the Council's possession or dispose of them.

### **31.0 Power of the Council to Dispose of Animals**

- 31.1 The power of authority to dispose of animals only applies where the Council is itself makes the arrangements for the care or disposal of the animals in a permanently closed zoo. This section applies in no other circumstances.
- 31.2 The Council may sell or dispose of the zoo animals by other means, such as loaning them to another zoo, giving them to another zoo or having them put down, where it is satisfied that:
- (a) the animal is owned by the zoo operator, or, if not owned by the zoo operator; or
  - (b) it cannot trace the true owner; or

- (c) it has the consent of the owner; or
- (d) the owner has failed to respond to a request for permission to dispose of it and has not taken responsibility for it; or
- (e) the owner has arranged to take possession of it, but has failed to do so by the set date.

31.3 Where the Council is advised by a veterinary surgeon that an animal needs to be put down in the interests of its welfare, nothing in the Act shall prevent that action.

31.4 The Council will consult the Zoos Federation, the British Association of Leisure Parks, Piers and Attractions and/or the RSPCA for advice on finding possible new homes for animals. Where the animal is conservation sensitive, the Council will approach advisory groups via the Zoos Federation to find homes for such animals.

31.5 Where the Council is able to sell some or all of the zoo animals, it must pay the zoo operator the balance (if any) of the total proceeds generated by the sale of animals belonging to the operator. The Council is entitled first to deduct the charges it is entitled to make in connection with arranging for the welfare or disposal of animals at the closed zoo.

31.6 Where the Council sells animals belonging to a person other than the zoo operator, it will pay the owner of the animals the total proceeds generated by the sales of any animals disposed of less the Council costs of caring for and disposing of the animals. The Council will make these payments within four months of the date of the sale of the last animal to be sold, but will not make any payment until one month after the date of sale of the last animal. If within the four-month period the Council cannot find the operator or other person to whom to make payments in respect of the sale of animals, the proceeds will be retained by the Council.

31.7 The powers of disposal only apply to animals kept in the zoo that are subject to arrangements for the welfare of animals following closure of a zoo premises. The Council will not sell any pet animals belonging to the zoo operator or the zoo's employees that might be found within the grounds of the zoo.

## **32.0 Powers of Entry**

32.1 Powers of entry apply only where the Council has to enter the zoo to allow the zoo operator to undertake his/her responsibilities for caring for or disposing of the animals in accordance with the Act. The power of entry can be exercised only for inspecting any animal, to which the arrangements relate, or their accommodation, or caring for or removing the animal(s). The Council authorised person must show their authority before entering the zoo premises.

32.2 Where access to the zoo grounds has been denied or the Council needs to enter a private dwelling within the zoo grounds to exercise its functions under the Act, the Council will obtain a warrant from a Justice of the Peace. A warrant may authorise admission by police officers and such other persons as are deemed necessary to accompany the authorised person and it may authorise the use of reasonable force to gain entry if necessary. A warrant should state the period for which it is valid and the times at which entry may be gained and may also contain other restrictions on its use.

## **33.0 Date from which the Zoo Licensing Act ceases to apply to a Closed Zoo**

33.1 The Council will notify the operator of a closed zoo when it determines that the Zoo Licensing Act need no longer apply. The Council must first be satisfied that all disposals of animals have been completed and satisfactory arrangements for the future care of the animals retained by the operator are in place and will continue to be maintained.

## **34.0 Appeals**

34.1 There is a right of appeal against:

- a) the refusal to grant a licence;
- b) any condition attached to a licence;
- c) any variation or cancellation of a condition;
- d) the refusal to approve the transfer of a licence;
- e) a direction to local authorities about the welfare or disposal of animals kept in permanently closed local authority owned zoos or a direction requiring compliance with a licence condition or any variation of such a direction;
- (f) a zoo closure direction;
- (g) the refusal of the Council to approve a plan regarding the welfare of animals in relation to a permanently closed zoo;
- (h) a direction about the welfare or disposal of animals kept in a permanently closed zoo or any variation of such a direction; or
- (i) any arrangements regarding arrangements made by the Council for the welfare or disposal of animals kept in a permanently closed zoo.

Any such appeals must be made within 28 days of receipt of written notification of the decision of the Council. Appeals must be made to a Magistrates' Court acting for the petty sessions area in which the zoo is (or is proposed to be) situated.

34.2 Where the zoo licence holder appeals against a condition or variation of a condition that requires him/her to carry out works which would not otherwise be required to be carried out, the condition or variation shall not be effective during the twenty-eight day period in which an appeal can be lodged, or where an appeal is brought, during the period of any appeal.

34.3 Alterations to a licence following permanent closure of a section of a zoo has effect once the appeal period has expired; or if an appeal is made, if it is unsuccessful or abandoned, on the day after the appeal is determined or abandoned, or any other such day as the Court directs.

34.4 The following types of direction take effect only after the appeal period has expired or the appeal has been determined (if unsuccessful) or abandoned:

- (a) a direction requiring the zoo or a part of it to be closed to the public for a period not exceeding two years;
- (b) a direction requiring an operator to undertake works he/she would not normally do; or
- (c) a direction requiring animals to be disposed of.

34.5 A zoo closure direction has effect:

- (a) when the appeal period expires; or where an appeal is made;
- (b) the day after the Court's decision if it upholds or varies the authorities decision, or any other day the Court directs; or
- (c) the day after the appeal is abandoned or any other day that the Court directs.

## **35.0 Offences and Penalties**

35.1 The following are criminal offences under the Act:

- (a) operating a zoo without a licence in contravention of the Act;
- (b) failing without reasonable excuse to comply with any conditions of the licence;
- (c) intentionally obstructing an inspector in the course of an inspection;
- (d) intentionally obstructing someone who is authorised to enter the premises of a permanently closed zoo or a dwelling within the zoo grounds;
- (e) failing without reasonable excuse to comply with a direction issued to close a zoo or part of it to the public for a period not exceeding two years;
- (f) failing without reasonable excuse to comply with a zoo closure direction;
- (g) failing without reasonable excuse to supply information requested by the Council about the care or disposal of zoo animals in the event of zoo closure;
- (h) failing without reasonable excuse and without the agreement of the Council, to dispose of any animal kept at a permanently closed zoo before the plan has been approved by the Council, or other than in accordance with the agreed plan;
- (i) failing without reasonable excuse to comply with a direction about the welfare or disposal of animals kept in a permanently closed zoo;
- (j) failing without reasonable excuse to display the zoo licence or a copy at each entrance to the zoo.

35.2 Persons found guilty of any offence except obstructing an inspector, failing to supply information about the care or disposal of zoo animals in the event of zoo closure, or failing to display the licence or a copy of it at each zoo entrance are liable, on summary conviction, to a fine not exceeding level 4 on the standard scale of fines for summary offences, as set out in section 37 of the Criminal Justice Act 1982. For obstructing an inspector, failing to supply the information about the care and disposal of the animals or failing to display the zoo licence the maximum fine is a level 3 fine.

## **36.0 Directions**

36.1 The Council will take reasonable steps to ensure the operator of the zoo, or if the operator cannot be found, the person appearing responsible for the zoo, is notified of a direction in writing.

## **37.0 Temporary Removal of Animals from Zoo Premises**

37.1 An animal temporarily removed from the zoo, such as at a television studio or other location outside the zoo premises, will be treated as kept in the zoo when it is in the personal possession of the zoo operator or competent persons acting on his/her behalf. This is to ensure that a separate licence under the Dangerous Wild Animals Act 1976 will not be needed on such temporary excursions. Bearing in mind all the safety and welfare aspects involved the Council will discuss the general arrangements for such excursions with the operator.

## **38.0 Existing Licences**

38.1 The Council will ensure that, for all zoos, the licence has conditions attached to it to secure implementation of the conservation measures set out in the Act. The Council will give the licence holder the opportunity to make representations before attaching such conditions to the licence and the conditions will not take effect until the Council has notified them to the licence holder in writing.

38.2 The Council will have regard to the Secretary of State's Standards of Modern Zoo Practice when deciding what conditions to attach or if the change to the licence does not amount to a significant change or if it does not warrant a pre-inspection in accordance with the Act.

**39.0 Forms**

39.1 Application forms in connection with zoo licensing are available from the Council's website on [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk)

**APPENDIX 2**

**APPROVAL OF THE ZOO LICENSING POLICY  
LICENSING COMMITTEE, 14 SEPTEMBER 2011  
CONSULTATION RESPONSES**

<b>Responding Organisation</b>	<b>Response Date</b>	<b>Respondents Comments</b>	<b>Licensing Authority Comments</b>	<b>Further Action Required</b>
City of Ely Council	10/05/11	Members of the City of Ely Council considered ECDC's draft Zoo Licensing Policy at their Full Council meeting on the 3 May 2011 and had no concerns regarding this.	None	None
Mepal Parish Council	14/06/11	Mepal Parish Council considered this draft policy at the Full Council meeting on 13 June 2011 and as a result, resolved to make no comment.	None	None