



MID SUSSEX DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

Animal Welfare
(Licensing of Activities Involving Animals) (England)
Regulations 2018

Licensing Policy

COMMENCES xx xxx xxxx

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1.0. Introduction

- 1.1. This policy sets out how the Council will exercise its functions under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 1.2. The aim of this policy is to ensure that the Council, current and potential licence holders and the public are familiar with how the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 are administered within the district.
- 1.3. This policy will be reviewed at least every 5 years following first approval, and at other times where considered necessary, for example, to reflect significant changes in relevant legislation or guidance.
- 1.4. This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to be granted, have renewed or continue to hold a licence. In addition to criminal convictions the Council will also take into account other factors such as general character, compliance with licence requirements/guidance/conditions, non-criminal behaviour and police or other relevant records or information from reliable sources.
- 1.5. The policy has been produced having due regard to guidance on the Regulations issued by DEFRA. Whilst the Council will have full regard for both the guidance and its own Statement of Licensing Policy, in determining individual licensing applications, it may depart from either if reason exists for doing so.
- 1.6. This policy supersedes all previous policy decisions relating to the relevant areas made by the Council from the date of this policy being published.

2.0. Policy Objectives

- 2.1. This policy is intended to achieve the objectives of:
 - Ensuring any person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on holds a licence in accordance with the Regulations.
 - Ensuring the licence holder is not disqualified from holding a licence in accordance with the requirements of the Regulations.
 - That the five overarching principles of animal welfare, (known as the “five needs”) introduced by the Animal Welfare Act 2006 are upheld in any decision.
 - The safeguarding of any children or vulnerable persons in contact with a licensable activity is ensured.
 - Each application is considered on its merits.
- 2.2. Existing legislation requires licence conditions to ensure acceptable animal welfare standards. The Animal Welfare Act 2006 introduced five overarching principles of animal welfare, known as the “five needs”, which are:
 - The need for a suitable environment (by providing an appropriate environment, including shelter and a comfortable resting area).

- The need for a suitable diet (by ready access, where appropriate, to fresh water and a diet to maintain full health).
- The need to be able to exhibit normal behaviour patterns (by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate).
- Any need to be housed with, or apart from, other animals (by providing the company of an animal of its own kind, where appropriate).
- The need to be protected from pain, suffering, injury and disease (by prevention or rapid diagnosis and treatment, and ensuring conditions and treatment which avoid mental suffering).

2.3. The Council will base its licensing regime on the following four principles:

- Responsibility to protect the welfare of all fellow creatures.
- Ensuring the welfare of domestic or captive animals by implementing appropriate standards that promote the “five needs”.
- Ensuring that persons responsible for the management of animal welfare observe recognised standards of good practice.
- Ensuring that, so far as it falls within its powers, the requirements of all animal-related legislation will be rigorously and pro-actively enforced.

3.0. Licensable Activities

3.1. On 1 October 2018, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 replaced disparate animal licensing legislation. It provides a single licensing regime for animal licensing activities. Those undertaking the following activities will need to be licensed under the new regime:

- Selling animals as pets
- Providing or arranging for the provision of boarding for cats or dogs (including day care)
- Hiring out horses
- Breeding dogs
- Keeping or training animals for exhibition

3.2. The Regulations replaced previous licensing and registration regimes under the following legislation:

- Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- Riding Establishments Acts 1964 & 1970
- Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
- Performing Animals (Regulation) Act 1925

3.3. A licence is required where any of the above activities are being carried on in the course of a business, whether the operator makes a sale or carries on the activity with a view to making a profit or earns commission or fee from the activity.

4.0. Dog Boarding Franchises and Host Sites

4.1. Mid Sussex District Council has carefully considered the issue of Dog Boarding Franchises and their hosts. The main office and all host sites require a licence in their own right if they

are providing or arranging for the provision of accommodation for other people's dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business by providing home boarding for dogs and earns any commission or fee from the activity.

5.0. Suitability of Applicants

- 5.1. In accordance with the Regulations any individual, who carries on a licensable activity will be designated as the operator of the business and can apply for a licence providing they are not disqualified from holding a licence in accordance with Regulation 11 and Schedule 8.
- 5.2. The Council will consider the conduct displayed by the applicant/licence holder to ensure that they meet the 'fit and proper' test to carry out the proposed licensable activity and meet the conditions attached to the licence.
- 5.3. The term 'fit and proper' is not defined in legislation or guidance. The Council would consider a 'fit and proper' person to be an individual who can demonstrate upon application that they have:
 - The right to work in the UK.
 - No relevant convictions.
 - Not been disqualified from holding a licence.
 - The knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of animals in their care.
 - Made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.
- 5.4. In the case of renewals we will consider any information received about the operation over the period of the existing licence. The Council will expect licensees to demonstrate appropriate professional conduct at all times, act with integrity and demonstrate the conduct befitting the trust that is placed on them to operate their premises and care for the animals.
- 5.5. In determining suitability of an applicant, the Council may also request information from the police or other local authorities. Such requests will be undertaken in accordance with the provisions of Section 17 of the Crime and Disorder Act 1998, which requires that 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.

6.0. Safeguarding

- 6.1. The Regulations have the aims of maintaining and improving animal welfare standards. However there are other safeguarding considerations arising from licensable activities which the Council has a statutory duty to ensure, in particular surrounding the protection of children and vulnerable persons.
- 6.2. The Council is aware that some licensable activities may involve unsupervised contact with children and/or vulnerable persons. For example, the tuition of a young person provided at a Riding Establishment.

- 6.3. To this extent, the Council would expect applicants and licence holders whose activities involve contact with children or young persons to:
- Have a written safeguarding policy and provide training for staff; and
 - Have a procedure for vetting staff who have unsupervised contact with young/vulnerable persons.

7.0. Fees

- 7.1. Licensing fees are split into two categories – application and grant. Both fees can be paid upon application. If the licence is refused the fee for the grant will be refunded.
- 7.2. The current level of licence fee will be displayed on the Council's webpage. Applicants and licence holders will also be required to pay vets fees for inspections where this is required. All fees are calculated and reviewed annually, taking into account the statutory requirements of Regulation 13, with the aim of full cost recovery.
- 7.3. If the licence is approved, any additional fees required (vet fees, etc.) must be paid before the licence can be granted or renewed. If the licence is not approved, the Council will refund part of the fee that relates to the grant of the application.

8.0. Application Process

- 8.1. The Application is to be made via the Council's published application forms.
- 8.2. Applications must be submitted a minimum of 10 weeks prior to renewal or grant. This will allow officers time to consider the application, make enquiries and inspect premises. We will not be able to guarantee processing applications which have been made outside of this window, or have missing documentation.
- 8.3. Written reminders will be sent out by the Council three months prior to renewal of Licence. These will be sent by email where possible.
- 8.4. An application will only be accepted as valid if it is accompanied by the correct fee and any relevant documentation required.
- 8.5. Once a valid application has been received, an appointment will be booked with the applicant to arrange a risk rating assessment /inspection to be conducted of the premises.
- 8.6. Upon receipt of a valid application for the grant or renewal of a licence we will take the following steps:
- The Council will consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet their licence conditions.
 - The Council will inspect the site of the licensable activity and assess if it's likely to meet the licence conditions. The inspection will be completed by a suitably qualified inspector

(as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments).

- The inspector's report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter and state whether or not the inspector considers that the licence conditions will be met.
- This information will be assessed by an Environmental Health Team Manager or suitably qualified nominated Deputy to determine whether a licence can be granted. The Manager (or nominated Deputy) will decide the application. The inspector will not make the final decision.

9.0. Qualifications of Inspectors

9.1. All inspectors must be suitably qualified. This is defined in DEFRA guidance as:

- Any person holding a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing certain animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity;
- Any person holding a formal veterinary qualification, as recognised by the Royal College of Veterinary Surgeons ("RCVS"), together with a relevant RCVS continuing professional development record;
- Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

10.0. Inspections

10.1. Inspections will assess the premises and documentation in accordance with the relevant DEFRA guidance for the type of licence being applied for. This will include the assessment of:

- Records and documentation
- Use, number and type of animal
- Housing with, or apart from, other animals
- Staffing and/or supervision
- Suitable environment
- Suitable diet
- Monitoring of behaviour and training of animals
- Animal handling and interactions
- Protection from pain, suffering, injury and disease
- Emergencies
- Purchase and/or sale of animals

10.2. There will be cases where inspections must be carried out during the term of a licence.

10.3. For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence. The Council must appoint a

listed veterinarian to inspect the premises on which the activity is being carried out before the end of the first year after the licence is granted and then each subsequent year.

- 10.4. Unannounced inspections can also be carried out and will be used in the case of complaints or other information that suggests the licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.
- 10.5. During the course of an inspection the inspector may choose to take samples for laboratory testing from the animals on the premises occupied by an operator. The operator must comply with any reasonable request of an inspector to facilitate the identification, examination and sampling of an animal including ensuring that suitable restraints are provided if requested.

11.0. Standards and Conditions

- 11.1. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 include mandatory conditions for each licensable activity and DEFRA has produced associated guidance. The conditions are divided into two categories namely General Conditions, stipulated in Schedule 2 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and Specific Conditions stipulated as follows in the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018:
 - Schedule 3: selling animals as pets
 - Schedule 4: providing boarding for cats and dogs
 - Schedule 5: hiring out horses
 - Schedule 6: breeding dogs
 - Schedule 7: keeping or training animals for exhibition
- 11.2. The General Conditions cover the following areas:
 - **Licence Display:** A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on. The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.
 - **Records:** The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form. The licence holder must keep all such records for at least three years beginning with the date on which the record was created.
 - **Use, number and type of animal:** No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity. The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.
 - **Staffing:** Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met. The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour. The licence

holder must provide and ensure the implementation of a written training policy for all staff.

- **Suitable environment:** All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained. Animals must be kept at all times in an environment suitable to their species and condition with respect to their behavioural needs, its situation, space, air quality, cleanliness and temperature, the water quality (where relevant), noise levels, light levels, and ventilation. Staff must ensure that the animals are kept clean and comfortable.
- **Suitable diet:** The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them. Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.
- **Monitoring of behaviour and training of animals:** Active and effective environmental enrichment must be provided to the animals in inside and any outside environments. The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay. Where used, training methods or equipment must not cause pain, suffering or injury.
- **Animal handling and interactions:** All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease. The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary. The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.
- **Protection from pain, suffering, injury and disease:** Written procedures must be in place and implemented covering feeding regimes, cleaning regimes, transportation, the prevention of, and control of the spread of, disease, monitoring and ensuring the health and welfare of all the animals, the death or escape of an animal, and covering the care of the animals following the suspension or revocation of the licence or during and following an emergency. All people responsible for the care of the animals must be made fully aware of these procedures.
- **Emergencies:** A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

11.3. Specific Conditions specify additional controls to those in the General Conditions relevant to the animals being cared for. In addition, depending on the licence type, the Specific Conditions also cover:

- Advertisements and sales
- Prospective sales (pet care and advice)
- Purchase and sale of animals
- Insurance

- 11.4. The General Conditions will be applied to the licence, as well as the set of Specific Conditions, as per the type of licence activity being undertaken.
- 11.5. Applicants/licence holders will need to meet all the mandatory conditions, although minor failings may be noted/recorded providing they do not compromise the welfare of the animals (these should be predominantly administrative in nature).
- 11.6. For each activity (except keeping or training animals for exhibition) a number of 'higher standards' have been included in the guidance. Meeting the higher standards is optional but is the only way to gain a higher star rating. The higher standards are classified into two categories – required (mandatory) and optional. To qualify as meeting the higher standards the business must achieve all the required (mandatory) standards as well as a minimum of 50% of the optional higher standards.

12.0. Risk Assessment and Rating

- 12.1. The result of the assessment is translated into a 'Star Rating', which will be used to determine the length of the licence (between one and three years), with the exception of 'Keeping or Training Animals for Exhibition' where all licences are issued for three years.
- 12.2. The scoring matrix is below:

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1 year licence Min 1 unannounced visit within 12 month period	3 Star 2 year licence Min 1 unannounced visit within 24 month period	5 Star 3 year licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1 year licence Min 1 unannounced visit within 12 month period	2 Star 1 year licence Min 1 unannounced visit within 12 month period	4 Star 2 year licence Min 1 unannounced visit within 24 month period

- 12.3. Businesses will be rated from 1 to 5 stars, based on their risk rating and the results of their inspection (determining if the business meets higher or lower standards). The rating will appear on the licence issued by the Council.

13.0. Granting an Application

- 13.1. Where a licence is granted the Council will provide the following documents:
- The Licence with the Star Rating.

- Details of how the business has been rated including a list of the higher standards the business currently fails to meet or a list of the minimum standards the business is failing to meet and resulting in a 'minor failing' category.
- A copy of the risk management assessment table.
- Details of the appeals process and timescales.

13.2. Any fee(s) required upon the grant of the application must be paid in full prior to the grant of the licence.

14.0. Refusing an Application

14.1. The Council will consider the report from the inspector and any comments made by the applicant when deciding whether to issue a licence.

14.2. The Council must refuse to issue a licence if it considers that the applicant cannot meet the licence conditions, the granting of a licence will have a negative impact on animal welfare or if the level of accommodation, staffing or management is inadequate for the wellbeing of animals.

14.3. The Council will also refuse an application if it considers that the applicant does not meet the 'fit and proper' person test.

14.4. A licence cannot be issued to an operator who is disqualified.

14.5. Any application fees or veterinary inspection fees paid will not be refunded for unsuccessful applications.

14.6. Any applicant aggrieved by a decision by a Council to refuse to grant or renew a licence, or to revoke or vary a licence, may appeal to the First-Tier Tribunal. The period within which an operator may bring such an appeal is 28 days beginning with the day following the date of the decision.

15.0. Appeals to Star Rating

15.1. Businesses have 21 days (including weekend and bank holidays) following the issue of their licence in which to appeal the star rating if they consider the star rating awarded does not reflect the licence history and standards found at the time of inspection.

15.2. Businesses should not appeal if they have made improvements to their business and wish for those improvements to be reassessed. This should be achieved by application for a re-inspection.

15.3. Prior to making an appeal, we encourage applicants to discuss their rating with the inspecting officer should they disagree with it. This will afford the opportunity to explain the process that must be followed and may resolve matters without the business having to lodge an appeal.

- 15.4. The Council will determine the outcome of an appeal by considering the paperwork associated with the inspection and the past record of the business. In some circumstances, a further visit to the establishment may be required. The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.
- 15.5. Appeals will be determined by the Business Unit Leader for Environmental Health and Building Control, their appointed Deputy, or by an equivalent person in another authority. No officer involved with the inspection or rating will determine an appeal.
- 15.6. The appeal decision will be notified to the applicant within 21 days of receipt of the request.

16.0. Requests for Re-inspection

- 16.1. A business that has made changes since the inspection and wishes for these to be taken into account should apply for a re-score inspection.
- 16.2. Requests for re-inspection must be made in writing to the Council.
- 16.3. A fee is applicable for re-inspections.

17.0. Variations, Suspensions and Revocations of Licences

- 17.1. The Regulations provide for a local authority at any time to vary a licence:
- On the application in writing of the licence holder, or
 - On the initiative of the local authority, with the consent in writing of the licence holder.
- 17.2. In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
- The licence conditions are not being complied with,
 - There has been a breach of the Regulations,
 - Information supplied by the licence holder is false or misleading, or
 - It is necessary to protect the welfare of an animal.
- 17.3. A suspension or variation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case the local authority may stipulate that the decision has immediate effect.
- 17.4. A decision to vary or suspend the licence must be notified to the licence holder in writing, explaining the reasons for the decision, and providing information regarding when the suspension or variation comes into effect and the rights of the licence holder, as well as any specific changes deemed necessary in order to remedy the situation.

- 17.5. A notice will be delivered in one of three ways, in person, by leaving or sending it by post to the person's current or last known postal address or by emailing it to the person's current or last known email address.
- 17.6. Following the issuing of the notice the licence holder will then have seven working days to make written representation. Upon receipt of this the Council will decide whether to continue with the suspension, variation or revocation of the Licence or cancel the decision to make changes to the Licence. If the licence has been altered to protect the welfare of an animal then the council must indicate that this is the reason and whether the change is still in effect.
- 17.7. The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by either the Council upon being satisfied that licence conditions are being met or by the First-Tier Tribunal.
- 17.8. If a licence is suspended for a significant period of time, the Council will ensure that the animals are checked on regularly to ensure that the welfare of the animals is maintained.
- 17.9. As with applications the licence holder may appeal to a First-Tier Tribunal if they do not agree with the decision made by the Council. This must be done within 28 days of the decision.

18.0. Transfer of a licence upon the death of a licence holder

- 18.1. If a licence holder dies, the procedure in Regulation 12 of the Regulations applies. It allows the personal representative of the deceased to take on the licence provided that they inform the local authority within twenty-eight days of the death that they are now the licence holders. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to remain in force if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.
- 18.2. Additionally the local authority can extend the three month period by up to another three months if requested by the personal representative and if they believe this time is needed to wind up the estate of the former licence holder.
- 18.3. If the personal representative does not notify the local authority within 28 days of the death of the licence holder, the licence will cease to have effect after those 28 days.

19.0. Enforcement

- 19.1. The Regulations introduce a range of enforcement powers to allow the Council to issue a suspension, variation or revocation notice where licence conditions are not being complied with; there is a breach of the regulations or issues relating to the protection of the welfare of an animal.
- 19.2. The service of an enforcement notice is subject to a strict process and includes provision for the right to make written representations and/or appeal.

- 19.3. It is an offence to breach any licence condition. It is also an offence not to comply with an inspector's request in the process of taking a sample from an animal. Samples will be as non-invasive as possible however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals, the provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.
- 19.4. It is an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations.
- 19.5. Committing any of these offences could result in an unlimited fine.
- 19.6. Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both. Section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.
- 19.7. In carrying out its enforcement duties with regards to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council's Environmental Health and Building Control Service has adopted an enforcement policy, which is available at: www.midsussex.gov.uk.

20.0. Information Sharing

- 20.1. In the interests of protecting public safety, the safety and wellbeing of animals and ensuring fitness and propriety of licence holders the Council will share information with other enforcement agencies including the RSPCA, police and other local authorities. Information may also be shared with internal council departments including community safety, revenues and benefits and planning. The Council may also share information with other local authorities. All information will be exchanged in accordance with relevant statute as the law permits.

21.0. Primary Authority

- 21.1. Primary Authority enables local authorities to improve compliance and build better relationships with big businesses that have branches across a large number of areas whilst supporting local economic growth. Under Primary Authority, a local authority partners with a business or group of businesses to provide them with regulatory advice that other authorities have to respect.
- 21.2. Primary Authority establishes statutory duties for all local authorities when they exercise regulatory functions that are within scope of the scheme in respect of any business that has a primary authority. These duties relate primarily to:
- Following an inspection plan for the business, where one has been issued by the primary authority, and providing any feedback required.
 - Notifying the primary authority of enforcement action in relation to the business.

21.3. The Council will consult the secure Primary Authority Register to identify if the business has a partnership in place, and will ensure that their officers have sufficient understanding of the responsibilities of an enforcing authority within Primary Authority.

22.0. How to Contact Us:

All correspondence should be sent to licensing@midsussex.gov.uk

Or

Mid Sussex District Council Licensing Team,
Oaklands Road,
Haywards Heath,
RH16 1SS