



AGENDA ITEM:

COUNCIL:

17 OCTOBER 2018

Report of: Director of Leisure and Environment

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SUBJECT: THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 That the necessary action be taken to adopt and implement the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

2.0 RECOMMENDATIONS

2.1 That the provisions of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 be implemented.

2.2 That the terms of reference for the Licensing and Appeals Committee contained within the Constitution be amended in accordance with Appendix 2 attached to this report.

2.3 That the proper officer provisions and scheme of delegation to the Director of Leisure and Environment contained within the Constitution be amended in accordance with Appendix 3 attached to this report.

2.4 That, with immediate effect, the schedule of fees contained in Table 2 in this report are approved.

3.0 BACKGROUND

3.1 The Council has long had the responsibility to licence commercial activities involving animals and relevant establishments, which includes pet shops and

animal boarding. However, much of this legislation is in excess of 50 years old and therefore does not adequately address present day needs, which has resulted in inconsistent application of the legislation by local authorities.

- 3.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (the Regulations) are made under the Animal Welfare Act 2006 (the Act), and replace, and in some circumstances extend, the existing legislation governing the licensing of commercial activities involving animals and the relevant establishments. Specifically, this includes:
- Boarding of cats and/or dogs in catteries/kennels
 - Boarding of dogs in domestic premises (home boarding)
 - Temporary boarding of dogs in day care
 - Hiring out of horses for the purpose of riding or instruction in riding
 - Selling animals as pets
 - Exhibition of animals for educational or entertainment purposes
- 3.3 Given the aforementioned inconsistencies in application of the relevant legislation, the Regulations seek to improve welfare standards in such businesses by setting explicit requirements for each of the above activities, whilst also placing additional requirements on local authorities in respect of Officer training.
- 3.4 The Regulations also introduce a varied licence duration based on a risk assessment model that takes account of the level of risk posed by each business (based on elements such as past compliance) and the animal welfare standards adopted. Each business is also given a corresponding star rating, ranging from 1 to 5 stars, that aims to provide consumers with information to help them make informed choices when using such businesses. The system also incorporates safeguards to ensure fairness to businesses, which includes an appeal procedure and a mechanism for requesting a re-inspection for the purposes of re-rating when improvements have been made.
- 3.5 With the exception of the activity of “Keeping or Training Animals for Exhibition” (which is set at a 3 year licence on the basis that these activities have hitherto been subject to a registration system), licences can be issued for 1, 2 or 3 years. This will mean that compliant businesses can be issued with longer licences and will therefore receive fewer inspections and pay less fees as a result of their good compliance. The model is summarised in Table 1 below.

Table 1

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 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

3.6 The Regulations also contain transitional provisions whereby existing licence holders are assured that their licences will be unaffected by the Regulations until the expiry date of the existing licence. Upon expiry, the business will be inspected in accordance with the Regulations and new format licences issued accordingly.

4.0 ISSUES

4.1 The Regulations came into force on 1 October 2018, but the formal guidance was not made available until the summer recess, preventing a report to Members until this time. The recommendations contained in this report are therefore required for the Council to adopt and implement the Regulations.

4.2 The terms of reference for the Licensing and Appeals Committee and proper officer provisions and scheme of delegations for the Director of Leisure and Environment already include many of the animal welfare licensable activities outlined above, but not all. It is therefore proposed that the content of Appendices 2 and 3 are approved so that the requirements of the Regulations can be added to the terms of reference for the Licensing and Appeals Committee and proper officer provisions and scheme of delegations respectively. These amendments include the power to undertake the routine review and setting of licence fees on a cost recovery basis.

4.3 Accordingly, the Council is required to set a licence fee for each activity. The proposed fees contained in Table 2 are based on the existing agreed for 2018/19, which follow current guidelines and requirements for licence fee setting. If the recommendations contained in this report are approved, these fees will be

reviewed in December 2018 by the Licensing and Appeals Committee, as part of all locally set licence fees based on estimated budgets for 2019/20.

Table 2 **Proposed fee** **Proposed fee comprised of (a) initial fee; and (b) successful application (enforcement) fee**

Animal Welfare Licences – Cat/Dog Boarding (incl. dog day care / home boarding), Dog Breeding, Pet Shop, Animal Exhibition		
1 year licence New / renewal (+vet fee if required)	£152.87	(a) £97.23; (b) £55.64
2 year licence New / renewal (+vet fee if required)	£208.51	(a) £97.23; (b) £111.28
3 year licence New / renewal (+vet fee if required)	£264.15	(a) £97.23; (b) £166.92
Animal Welfare Licences – Hiring out of horses for the purpose of riding or instruction in riding		
1 year licence New / renewal (+ vet fee)	£200.00	(a) £112.31; (b) £87.69
2 year licence New / renewal (+ vet fee)	£287.69	(a) £112.31; (b) £175.38
3 year licence New / renewal (+ vet fee)	£405.38	(a) £112.31; (b) £293.07

5.0 SUSTAINABILITY IMPLICATIONS

5.1 The new legislation replaces the existing law by clarifying and extending the operational requirements for licensed businesses. The proposals will therefore impact on relevant licensed businesses and the wider public who may use the services of such businesses.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 There are no financial implications associated with this report.

7.0 RISK ASSESSMENT

7.1 The Council has a legal duty to carry out the functions of the Act and the Regulations; therefore failure to do so is a breach under the Act. Accordingly, the Council must adopt and implement the legislation for all relevant businesses.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

None.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Equality Impact Assessment.
2. Proposed amendments to the Constitution: terms of reference for the Licensing and Appeals Committee (relevant sections)
3. Proposed amendments to the Constitution: proper officer provisions and scheme of delegation (relevant sections)

Appendix 1

Equality Impact Assessment Form



Directorate: Leisure and Environment		Service: Licensing
Completed by: Paul Charlson		Date: 17/10/18
Subject Title: THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018		
1. DESCRIPTION		
Is a policy or strategy being produced or revised:	No	<i>*delete as appropriate</i>
Is a service being designed, redesigned or cutback:	No	
Is a commissioning plan or contract specification being developed:	No	
Is a budget being set or funding allocated:	No	
Is a programme or project being planned:	No	
Are recommendations being presented to senior managers and/or Councillors:	Yes	
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations):	No	
Details of the matter under consideration:		
<p><i>If you answered Yes to any of the above go straight to Section 3</i></p> <p><i>If you answered No to all the above please complete Section 2</i></p>		
2. RELEVANCE		
Does the work being carried out impact on service users, staff or Councillors (stakeholders):	Yes	<i>*delete as appropriate</i>
If Yes , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered Yes go to Section 3</i>	A new licence regime is being implemented for relevant commercial animal welfare activities	
If you answered No to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>		
3. EVIDENCE COLLECTION		
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	Licensing Authorities, service users, members of the public.	
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	Sections of the public and businesses use or operate the licences outlined in this report.	

Which of the protected characteristics are most relevant to the work being carried out?	<i>*delete as appropriate</i>
Age	No
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
4. DATA ANALYSIS	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	Sections of the public and businesses use or operate the licences outlined in this report.
What will the impact of the work being carried out be on usage/the stakeholders?	Compliance with the new Regulations is mandatory. The Council has already made routine contact with affected businesses advising them of the implications.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	Compliance with the new Regulations is mandatory, so the Council is not currently seeking public views.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	See above. N/A.
If any further data/consultation is needed and is to be gathered, please specify:	N/A
5. IMPACT OF DECISIONS	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	None.
6. CONSIDERING THE IMPACT	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	N/A
What actions do you plan to take to address any other issues above?	No actions <i>If no actions are planned state no actions</i>

7. MONITORING AND REVIEWING

When will this assessment be reviewed and who will review it?

Implementation and compliance issues will be reported to the Licensing and Appeals Committee when required.

Appendix 2: Proposed amendments to the Constitution: terms of reference for the Licensing and Appeals Committee (relevant sections)

(amendments/additions in bold underline)

Licensing and Appeals Committee – Terms of Reference.

Part 3 – Responsibility for Functions

Licensing and Appeals Committee

Membership - see Appendix at Section 4.1A

Functions

Licensing

- (1) Power to issue licences authorising the use of land as a caravan site (“site licences”).
- (2) Power to license the use of moveable dwellings and camping sites.
- (3) Power to license hackney carriages and private hire vehicles.
- (4) Power to license drivers of hackney carriages and private hire vehicles.
- (5) Power to license operators of hackney carriages and private hire vehicles.
- (6) Power to license performances of hypnotism.
- (7) Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis
- (8) Power to license pleasure boats and pleasure vessels.
- (9) Power to license market and street trading.
- (10) Duty to keep list of persons entitled to sell non-medicinal poisons.
- (11) Power to license dealers in game and the killing and selling of game.
- (12) Power of register and license premises for the preparation of food.
- (13) Power to license scrap yards.
- (14) Power to license the breeding of dogs and cats.**
- (15) Power to license the selling of animals as pets**
- (16) Power to license zoos.
- (17) Power to license dangerous wild animals.
- (18) Power to license the boarding of cats and dogs**
- (19) Power to license the hiring out of horses**
- (20) Power to license the keeping or training of animals for exhibition**
- (21) Power to discharge the functions of the Council as “Licensing Authority” under The Animal Welfare Act 2006**
- (22) Delegation: Power to set all fees as required by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018**
- (23) Power to license knackers’ yards.
- (24) Power to license persons to collect for charitable and other causes.
- (25) Power to grant consent for the operation of a loudspeaker.
- (26) Power to grant a street works licence.
- (27) Powers under the Highways Act 1980 granted to Borough Councils or under agency from Lancashire County Council.
- (28) Power to approve meat product premises.
- (29) Power to approve premises for the production of minced meat or meat preparations.
- (30) Power to approve dairy establishments.
- (31) Power to approve egg product establishments.
- (32) Power to approve fish products premises.
- (33) Power to approve dispatch or purification centres.

- (34) Power to register fishing vessels on board which shrimps and molluscs are cooked.
- (35) Power to approve factory vessels and fishery product establishments.
- (36) Power to register auction and wholesale markets.
- (37) Duty to keep register of food business premises.
- (38) Power to register food business premises.
- (39) Functions under any one of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc., Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.
- (40) Power to make closing order with respect to take away food shops.
- (41) Functions under the Motor Salvage Operators Regulations 2002
- (42) Functions under Part 1 of the Vehicles (Crime) Act 2001 in relation to the registration of motor salvage operators.
- (43) All decisions under Sections 160 to 173 of the Equality Act 2010.
- (44) All functions in relation to the Scrap Metal Dealers Act 2013.

N.B. Where there is a power to fix, increase or amend charges or fees then this is included in the Committee’s functions in respect of the above.

Appendix 3: Proposed amendments to the Constitution: proper officer provisions and scheme of delegation (relevant sections)

(amendments/additions in bold underline)

Constitution 4.2C: Scheme of Delegation to Issue Date
Director of Leisure and Environment

TO THE DIRECTOR OF LEISURE AND ENVIRONMENT

(ii) PUBLIC HEALTH

1. To administer relevant provisions, give directions, serve notices, enforce, carry out work in default, issue formal cautions and to lay informations and complaints to Court in respect of offences in appropriate cases, under the following enactments and any Act or Acts extending or amending the same or incorporated therein and under any Orders or Regulations made under the said Act or Acts.

- Open Spaces Act 1906
- Dogs Act 1906
- Public Health Acts 1936 and 1961
- Prevention of Damage by Pests Act 1949
- Pet Animals Act 1951
- Zoo Licensing Act 1981
- Animal Welfare Act 2006
- **Performing Animals (Regulation) Act 1925**
- **Animal Boarding Establishments Act 1963**
- **Riding Establishments Act 1964**
- Home Safety Act 1961
- Agriculture (Miscellaneous Provisions) Act 1968
- Late Night Refreshment Houses Act 1969
- Local Government Act 1972
- Control of Pollution Act 1974
- Health and Safety at Work etc., Act 1974
- Slaughterhouse Act 1974
- Guard Dogs Act 1975
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Building Act 1984
- County of Lancashire Act 1984
- Public Health (Control of Diseases) Act 1984
- Food and Environment Protection Act 1985
- Environmental Protection Act 1990
- Food Safety Act 1990
- Dangerous Dogs Act 1991
- Clean Air Act 1993
- Noise and Statutory Nuisance Act 1993
- Sunday Trading Act 1994
- Environment Act 1995
- Noise Act 1996
- Clean Neighbourhood and Environment Act 2005

- Sunbeds (Regulation) Act 2010
- Water Industry Act 1991
- Water Act 2002
- The Dogs Act 1871
- The Dangerous Dogs Act 1989
- Control of Dogs Order 1992

2. To undertake the following registration and licensing functions under the relevant enactment and Regulations including the setting and periodic review of licence fees, and the laying of informations and complaints to a Court in respect of legal proceedings in relation to:

- Acupuncture, tattooing, ear-piercing and electrolysis
- Animal Boarding Establishments
- Breeding of Dogs
- Dangerous Wild Animals
- **Selling of animals as pets**
- **Hiring out of horses**
- **Keeping or training animals for exhibition**
- Food and Food Premises
- Game
- Guard Dogs
- Knackers Yard Licences
- Late Night Refreshment Houses
- Pet Animals
- Rag, Flock and Other Filling Materials
- Riding Establishments
- Scrap Metal Dealers
- Sunday Trading
- Zoos
- Sunbeds

3. To appoint officers, where appropriate, as authorised officers or Inspectors and to authorise officers to sign documents and to enter land/premises in connection with their duties under the following enactments or re-enactment thereof:

- Public Health Act 1936 and 1961
- Prevention of Damage by Pests Act 1949
- Pet Animals Act 1951
- Rag, Flock and Other Filling Materials Act 1951
- Agriculture (Safety, Health and Welfare Provisions) Act 1956
- Factories Act 1961
- Animal Boarding Establishments Act 1963
- Riding Establishments Acts 1964 and 1970
- Scrap Metal Dealers Act 1964
- Breeding of Dogs Act 1973
- Control of Pollution Act 1974
- Health and Safety at work etc., Act 1974
- Slaughterhouses Act 1974
- Dangerous Wild Animals Act 1976

- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Building Act 1984
- County of Lancashire Act 1984
- Public Health (Control of Diseases) Act 1984
- Food and Environment Protection Act 1985
- Environmental Protection Act 1990
- Food Safety Act 1990
- Breeding of Dogs Act 1991
- Dangerous Dogs Act 1991
- Clean Air Act 1993
- Noise and Statutory Nuisance Act, 1993
- Sunday Trading Act 1994
- Noise Act 1996
- Clean Neighbourhoods and Environment Act 2005
- Sunbeds (Regulation) Act 2010
- Water Industry Act 1991
- Water Act 2003
- **The Animal Welfare Act 2006**

14. To determine, after consultation with the Borough Solicitor whether or not to prosecute persons contravening legislation relating to **dogs or other animals.**

15. To make arrangements for the seizure of animals, and subsequent action in cases of emergency under the Dangerous Wild Animals Act 1976.

16. To authorise a Veterinary Surgeon, or Veterinary Practitioner, or such other person as he deems competent, to inspect any premises where any animal is, or may be held, in pursuance of a Licence which has been applied for, or granted, under the Dangerous Wild Animals Act 1976.

17. To vary Licence Conditions, to allow removal of any animal that is to be kept at premises outside the Borough for more than 72 hours, under the Dangerous Wild Animals Act 1976.

18. To consult with the Secretary of State and other persons necessary to formulate an inspection team and appoint Inspectors on behalf of the Council under the Zoo.

...

51. To take all measures to administer and enforce the provisions contained in The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018, including but not limited to the grant, refusal, variation, suspension and/or revocation of licences, appointment and/or instruction of inspectors, appointment of a listed veterinarian, serving notices, providing information to the Secretary of State, entering premises, taking prosecutions, responding to appeals, setting fees along with the assessment and recovery of costs.