

Report to	-	Licensing and General Purposes Committee
Date	-	22 October 2018
Report of the	-	Executive Director
Subject	-	Animal Welfare Licensing

Recommendation: It be **RESOLVED:** That the:

- 1) Executive Director and Head of Service be authorised to grant, refuse, suspend revoke and vary licences under the Animal Welfare Act 2006; and
 - 2) proposed fees for licences issued under the Animal Welfare Act 2006, set out at Appendix C, be approved.
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Head of Service: Richard Parker-Harding

Introduction

1. Until 30 September 2018, the Council issued licences for various animal welfare activities, namely the:
 - Animal Boarding Establishments Act 1963
 - Breeding of Dogs Act 1973 and 1991
 - Dangerous Wild Animals Act 1976
 - Pet Animals Act 1951
 - Riding Establishments Act 1964

On 1 October 2018 these Acts (except the Dangerous Wild Animals Act) were repealed. Licences are now issued under the Animal Welfare Act 2006 and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations.

Background

2. The Animal Welfare Act 2006 has brought together and updated existing legislation to promote the welfare of vertebrate animals, other than in the wild. The Act conferred powers on the Secretary of State to introduce secondary legislation and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 updates the licensing system in England for five activities involving animals:
 - Selling animals as pets.
 - Providing for or arranging for the provision of boarding for cats or dogs.
 - Hiring out horses.
 - Dog breeding.
 - Keeping or training animals for exhibition (previously a County Council function).

3. District, Borough and Unitary Councils remain the enforcement authority for the new legislation and the guidance developed through consultation has identified that there is a strong public expectation that animal welfare standards should be robustly enforced by local authorities. There was also a clear expectation that it was important that businesses should be expected to meet the minimum animal welfare standards set out in the Regulations. The new regulations will not replace dangerous wild animal and zoo licensing regimes.

Review of Existing Legislation

4. The conclusion from a review of the previous legislation was that the current application, inspection and enforcement process was too complex and burdensome for both businesses and local authorities. The view was that the legislation was outdated and had not adapted well to the changing types of animal related businesses that had developed and that modern standards of good practice in animal welfare were needed. An example of this is online sales of pets. There has been a dramatic increase over the last decade in this type of activity and the definition of this type of business does not fall clearly within the current definition of a pet shop set out in legislation. This means that the standards within the current licensing system are not being consistently enforced. Another area of serious concern was around 'backstreet dog breeders' (i.e. small-scale dog breeders who breed dogs in poor welfare conditions for profit).
5. Some businesses do however achieve high welfare standards and demonstrate good performance; in fact a few businesses have UK accreditation and meet a higher standard of animal welfare than the current legal minimums. Nationally there were concerns that these businesses are charged the same as other establishments and that this is overly burdensome for them. It was therefore proposed that a fairer more efficient system be introduced of earned recognition to reflect and promote good practice and encourage higher welfare standards.

New Regulations

6. The new system aims to streamline the current licensing process. In summary it will:
 - Remove the calendar year restriction on the length of licenses.
 - Introduce a risk based assessment (for certain premises identified to be lower risk the licensed period can be extended from the current one year limit to three years).
 - Provide greater clarity on inspections.
 - Bar certain individuals from having a licence.
 - Ensure that the Local Authority will have powers to vary suspend and revoke licences.
 - License businesses that exhibit animals and are involved in animal training.
7. There will be tighter controls on pet sales and dog breeding:
 - The sale of puppies, kittens, ferrets and rabbits aged below eight weeks will be prohibited.

- The licensing thresholds for dog breeding are to be amended to:
 - Breeding and advertising a business of selling dogs.
 - Breeding three or more litters in any 12 month period.
 - Pet sellers will be required to provide written information on the animals that they are selling for customers.
 - All advertisements to include detailed information about the license and the pet.
 - All licensees will be required to be registered with a vet.
8. Statutory guidance has also been released in regard to the procedures, scope, fee setting and inspector's qualifications. There are also procedures and guidance notes for conditions in regard to specific areas. The full list of current guidance is set out in Appendix A.
9. There are powers for the Local Authority to vary a licence, with the consent of a licence holder, or suspend, vary or revoke a licence without 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 misleading; or
 - it is necessary to protect the welfare of an animal.
10. Anyone who carries on any of the licensable activities without a licence would be committing an offence and if proven could be liable to a fine or in serious cases up to a six month term of imprisonment or both. A person who is convicted under the Animal Welfare Act 2006 can also be disqualified from owning, keeping, participating in the keeping of animals and from controlling or influencing the way an animal is kept, transported or in dealing in animals. Courts can also cancel an existing licence and disqualify a person from owning a licence for a period it sees fit if a person is convicted of an offence under the Animal Welfare Act.

Existing Premises

11. The Act does not provide for any grandfather rights for premises previously licensed under the former Acts of Parliament, except that licenses previously issued by the Council will remain valid until 31 December 2018. This means that new licences cannot be issued until the premises have been inspected in accordance with the new guidance. This will require a redistribution of resources within the Environmental Health Service to ensure premises are inspected as soon as possible. Some of the premises that have been licensed for up to 50 years do not meet the new minimum standards. As these standards are prescriptive, it is anticipated that some licence holders may choose not to apply for a new licence under the new regulations.

New Risk Based System

12. The guidance advises that a risk based system should be used to determine the star rating to be awarded. Depending on the star rating, licences will be issued for one, two or three years. The expectation is that local authorities would utilise the risk rating set out in the guidance.

13. The procedural guidance describes the risk-based system that must be used when issuing animal activities licences under the Regulations with the exception of “Keeping or Training Animals for Exhibition” where all licenses are issued for three years.
14. The purpose is to ensure that there is a good level of consistency in implementing and operation of the licensing system across local authorities, so that consumers can be confident that the star rating applied to businesses, is an accurate reflection of both their risk level and the animal welfare standards that they adopt.
15. Businesses must be given a star rating, ranging from 1 – 5 stars, based on the criteria set out in the Regulations and the result of the last inspection. The star rating will be listed on the licence issued. The system incorporates safeguards to ensure fairness for businesses; this includes an appeal procedure and a re-inspection for the purposes of re-rating when improvements are made. If a business wishes to appeal or review the outcome of a rating decision then the costs of any required re-inspections will be borne by the applicant, unless it results in a higher rating being awarded.

Improvements

16. The new legislation aims to provide benefits for animal welfare by:
 - Improving standards and compliance – emphasis on encouraging and providing clarity on up to date standards and powers to vary, revoke and suspend licences.
 - Providing clarity on statutory conditions and inspections.
 - Providing a risk based approach which incorporates accreditation schemes – more flexibility, longer licences, fewer inspections.
 - Clarifying who is covered by regulation (internet services, mobile animal exhibits).
 - Maintains the principle of cost recovery for the licensing system including enforcement.
17. The system is also meant to be simpler for applicants:
 - Provides a uniform licencing system – provides a single licence.
 - Provides a rolling system for inspection and renewal.
 - Be less burdensome for the compliant and lower risk.

Financial Implications

18. The impact on the budget, should after the first year, be neutral. There will be a small increase in fees. All inspectors inspecting premises must be suitably qualified. There will be a necessity to undertake additional training for staff involved in inspecting these premises by 2021.

Fees

19. Licence fees are set locally and these should be fair and reasonable. The Local Authority may charge for:

- The costs of consideration of an application, including any inspection relating to that consideration.
 - The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance.
 - The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator.
 - The reasonable anticipated costs of the Local Authority compiling and submitted data return required by the Secretary of State.
20. Appendix C gives details of existing and proposed fees which have been calculated following guidance received.

Conclusion

21. The new Animal Welfare (Licensing of Activities Involving Animals) Regulations have been developed in response to concerns about animal welfare issues that have been identified over the last few years. A Government review concluded that the previous licensing system was outdated and failed to fully deal with changes that were evolving in animal related business activities. The growth of online sales and in how businesses have evolved in order to breed dogs for sale has particularly been cause for concern.
22. The aim of the new regulations and associated guidance is to provide greater clarity and to encourage improved standards in the businesses of those people who are selling, dealing with and caring for animals.
23. Delegations should be granted to Officers to administer the new regime and fees have to be approved.

Malcolm Johnston
Executive Director

Risk Assessment Statement

The Council needs to approve fees to recover the costs associated with animal welfare licensing and make delegations to Officers to efficiently and effectively administer the licensing regime.

Guidance Notes are available at <http://www.cfsg.org.uk>

Click on the following links:

[Procedural Guidance Notes for Local Authorities July 2018](#)

[Guidance Notes for Breeding Dogs July 2018](#)

[Guidance Notes for Boarding Dogs in Kennels July 2018](#)

[Guidance Notes for Providing Home Boarding for Dogs July 2018](#)

[Guidance Notes for Dog Day Care July 2018](#)

[Guidance Notes for Boarding Cats July 2018](#)

[Guidance Notes for Selling Animals as Pets July 2018](#)

[Guidance Notes for Exhibition of Animals July 2018](#)

[Guidance Notes for Hiring out Horses July 2018](#)

CURRENT NUMBER OF ANIMAL LICENCES**Rother District Council**

	2016	2017	2018
Dog breeding	5	5	4
Dog boarding (Kennels)	11	11	11
Dog Boarding (Home)	23	21	23
Dog Day Care	0	0	0
Cat Boarding (Catteries)	13	12	12
Selling animals as Pets (currently Pet shops)	5	4	4
Exhibition of Animals	6	6	6
Hiring of Horses (Riding Establishments)	8	7	9

Appendix C

	Existing fee	Proposed application fee*	Proposed licence issue and enforcement fee*	Proposed combined fee (if paid at the same time)	Proposed re-inspection fee (if a regrading is requested)
	2018/19	2019/20	2019/20	2019/20	2019/20
Dog breeding	£185	£185	£25	£190	£100
Dog boarding (Kennels)	£185	£185	£25	£190	£100
Dog Boarding (Home)	£105	£155	£25	£160	£100
Dog Day Care (proposed from October 2018)	£160	£155	£25	£160	£100
Cat Boarding (Catteries)	£185	£185	£25	£190	£100
Selling animals as Pets (currently Pet shops)	£185	£185	£25	£190	£100
Exhibition of Animals (3 year licence)	N/A	£155	£25	£160	£100
Hiring of Horses	Including one veterinary inspection	Including one veterinary inspection	Including one veterinary inspection	Including one veterinary inspection	Including one veterinary inspection
1-10 horses	£400	£445	£25	£450	£350
11-25	£500	£545	£25	£550	£450
26-40	£600	£645	£25	£650	£550
>40	£750	£745	£25	£750	£650

Transfer / variation fee £50 (from October 2018)

In 2019/20 licences will be issued nine months from validation and will commence from the date of inspection.

Additional fees may be charged for veterinary inspections

*Local authorities are now required to charge separate fees for processing applications and issuing the licence and carrying out enforcement. However, if the two fees are paid at the same then the administration costs are less.