

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

Direct & Trading Advisory Committee - 9 October 2018

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| Report of | Chief Officer Environmental & Operational Services |
| Status | For Decision |
| Also considered by | Cabinet - 11 October 2018 |
| Key Decision | Yes |

Executive Summary: On 1 October 2018 The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018 come into force. This new legislation introduces an updated licensing framework in England for five activities involving animals; selling animals as pets, providing or arranging the provision of boarding for cats/dogs, hiring out horses, dog breeding and keeping or training of animals for exhibition (Performing Animals).

The introduction of these regulations will impact upon the work of the Environmental Protection Team and has highlighted the need to revise our procedures and fee structure.

This report supports the Key Aim of Safe Communities and Sustainable Economy

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| Portfolio Holder | Cllr. Matthew Dickins |
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Recommendation to Direct & Trading Advisory Committee: That it be recommended to Cabinet

- (a) To note the changes required by The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- (b) To agree the associated fee structure produced in accordance with DEFRA guidance, and
- (c) To agree the enforcement approach outlined in the report

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Reason for recommendation: To allow implementation of The Animal Welfare [Licensing of Activities Involving Animals] [England] Regulations 2018 and to agree the fee structure and enforcement approach.

Introduction and Background

- 1 Sevenoaks District Council is responsible for the licensing and regulation of various animal-related activities. Animal Control Officers carry out these functions within the District Council with the assistance of the Licensing Partnership who administer parts of the animal licensing process.
- 2 Officers undertake inspections (where appropriate with a veterinary inspector), generate and review reports in relation to conditions, review and amend license conditions, authorise licenses to be issued or renewed and undertake investigations into breaches of conditions/ licences and enforcement as required.
- 3 Sevenoaks District Council currently licence the following premises:

| | |
|---|------------------------------------|
| Boarding establishments for cats or dogs (Kennel/Cattery) | 17 |
| Homeboarders | 9 (further 2 applications pending) |
| Riding Establishments | 8 |
| Breeding Establishments | 2 |
| Pet Shop | 10 |
| Performing Animal Registrations | 3 |
| Dangerous Wild Animal Licenses | 1 |
| Operating a Zoo | 1 |

Changes to the Animal Licensing Regime

- 4 On 1 October 2018, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. (A copy of the regulations is included in Appendix 1.
- 5 Under the regulations the existing licensing regimes for animal boarding establishments, pet shops, riding establishments and dog breeders have been repealed and have been replaced by a single licensing scheme.

- 6 The licensing regimes which cover Dangerous Wild Animals and Zoos is unaffected by new regulations
- 7 It should be noted that these Regulations and their accompanying guidance were only issued in August 2018. This has given regulators a short timescale to get the relevant systems in place before they come into force on October 1st 2018. In the past few weeks, all relevant officers in the Council have received appropriate update training.
- 8 It is recognised that these regulations are in an ongoing state of being updated and revised. Officers and Council's will therefore need to be in a position to update and amend their fees, systems and procedures accordingly, as those revisions are brought out.
- 9 In addition to sectors already licensed by the District Council the new regulations now encompass Dog Crèches ("Doggy Day Care") where dogs are boarded for periods during the day only.
- 10 The number of litters that a dog breeder can produce in a 12 month period before they are presumed to require a licence has dropped from five litters to three. In addition any breeder which makes a profit (determined in guidance to be an operational income of £1000) now requires licensing.
- 11 Anyone who advertises an animal for sale will now also require a licence. This will include dog breeders who advertise on intermediary sites such as "Pets 4 Homes".
- 12 Performing Animals are now also included within the licensing regime. These animals include those which are being exhibited and those which form part of a performance. Subject to a satisfactory inspection a licence will be granted for three years.
- 13 The regulations require that all businesses undertaking these regulated animal activities meet the same, up-to-date, nationally set welfare standards. Businesses wishing to be licensed will need to meet minimum standards to hold and retain a license. These standardised conditions are prescribed by the regulations rather than each authority determining local conditions for its area.
- 14 Whilst under the previous regimes a licence authorised an animal establishment (i.e. the licence was tied to a property) the new regime will licence an activity. Whilst in the majority of circumstances this will have no practicable impact, licences will in theory be portable between sites which could pose difficulties (such as where a breeder moves home).
- 15 Under the new licensing regime, the District Council will be able to issue licences of 1, 2 or 3 years. Higher rated businesses with a history of good compliance will be able to obtain longer licences, and consequently will pay lower fees reducing the burden upon them. It is hoped that this will incentivise businesses to perform at higher levels which will drive up animal

welfare standards and allow Local Authorities to target resources to those premises struggling to meet standards.

- 16 As with food businesses, animal establishments will now be issued with a “star” rating which will be published on the license and the District Council’s website. These ratings will be determined at inspection using a published score matrices. Consequently there will be minimal local discretion as to how this system will be applied. Ratings are appealable by the business operator and so the Council will need to implement an appeals system to enable any disputes in the star rating awarded to be challenged.
- 17 Licenses will now be able to authorise more than one activity (for example an animal breeding licence with a boarding establishment). However, only one star rating will apply to each licence (with the lower rated premise being used to calculate the score). Therefore we anticipate that most licence holders will wish to separate activities so as not to disadvantage an established business.
- 18 Following the transition period the District Council will be required to invite existing license holders to reapply for their licence. This must happen at least three months prior to the expiry of the existing licence. The business operator is required to apply for the licence a minimum of 10 weeks before the licence is due to expire to ensure there is no gap in coverage.
- 19 Once an application for a licence has been received we will have 10 weeks to determine and either issue or refuse the licence. This includes undertaking all the necessary checks (including where necessary appointing a veterinary inspector).
- 20 The regulations provide new powers to licensing authorities to vary, suspend and revoke licenses where there is non-compliance or it is necessary to protect the welfare of an animal. However in order to exercise these powers it will be necessary to designate officers as Animal Welfare Inspectors under the Animal Welfare Act.
- 21 Officers who are already undertaking licensing inspections will be deemed competent under the new regulations for a three year period. Any new officer employed by the District Council to undertake inspections will be required to hold a level 3 qualification and current inspectors will need to complete this qualification within the three year period.
- 22 Currently the number of authorised trainers able to deliver this training is limited. The City of London do currently offer such a course with a cost of around £1000 per delegate.
- 23 Any licence issued under the existing regime will remain in force and have effect until its original expiry date. At that point the operator will need to make an application under the new licensing scheme.

Implementation Plan

- 24 Administration of the new licensing regime will continue to be undertaken by the Licensing Partnership. They are currently waiting for DEFRA to release proposed application forms for each licensing area.
- 25 The Animal Control Officer will be contacting/visiting existing license holders to update them of the forthcoming changes and provide them with advice and guidance to help them prepare.
- 26 We will be working with the Communications Team to ensure that content on the District Council's website is updated as understanding of the regime increases. We have already published advice on the impact of the new regime and an article will be published within 'In Shape' to help raise awareness amongst the general public.
- 27 Officers within Environmental Health and the Licensing Partnership have attended training on the new regulations.
- 28 The Kent Animal Welfare Officers group (A CIEH subgroup) are meeting to share best practice and consistency across the county.

Anticipated Increase in Licences and Resourcing

- 29 We anticipate the new regulations will lead to an increase in the number of licence applications.
- 30 The legislation and guidance indicate that full costs for issuing licenses must be recovered by the fees. (Please see attached spreadsheet -Appendix 2)
- 31 Based upon our investigations and records of previous enquiries we anticipate the following additional licence applications.
 - Dog Crèche (Doggy Day Care)- estimated up to 10 to 20 licence applications
 - Performing Animal Licences- estimated up to 10 additional licences owing to increase in scope as to what is covered.
 - Breeding Licences- estimated 20-30 additional applications
 - Online animal traders and brokers- 1-2 additional licences.
- 32 We anticipate that our total animal licences will grow from 53 to around 115. With additional interim inspections expected.
- 33 We anticipate that the impact of this increase will increase the staffing requirement from approximately 0.25 FTE to 0.4 FTE (This requirement will be similar for our Dartford animal licensing work).
- 34 This work will continue to be carried out by the Animal Control Officer in addition to her other work managing our stray arrangements, investigating

dangerous and nuisance dogs, general animal welfare issues and promotion, however impact on the demand on existing resources will need to be reviewed as implementation proceeds .

- 35 In addition, the District Council will need to consider the impact of the appeals procedure associated with the 'star rating system'. These assessments will need to be undertaken by an independent officer.
- 36 The EH team will now also be expected to complete a detailed annual return on premises in the district relating to the new Regulations.
- 37 This extra administration and appeal process will likely impact upon the greater workload of the Environmental Health Managers and the EH administration team.

Proposed Enforcement of New Regulations

- 38 Owing to the extensive changes within the new regulations; we anticipate that it will take several months for the new regime to become embedded and fully accepted and understood by businesses and the general public.
- 39 From 1 October 2018 all businesses undertaking the specified animal related activities will technically be required to be licensed. However owing to delays in DEFRA releasing application forms, delays in setting fees and other work priorities it is considered that this will not be possible.
- 40 We therefore propose that initially (until April 2019) Officers be empowered to take a 'light touch' approach to enforcement. It is proposed that Officers would not seek to enforce against a business operating without a licence (having not required one in the previous regime) subject to officers being satisfied that an imminent application will be received by the District Council.
- 41 We consider that this approach is in accordance with the Environmental Health Enforcement policy and in accordance with policies under 'Better Business for All'.
- 42 Under the new regulations we are unable to issue a licence to a premises which is unable to meet/comply with the nationally set conditions. This may result in previously licenced facilities being un-licensable under the new regime. It is also likely to result in some businesses receiving more restrictive licences than were issued under the old legislation (i.e. fewer dogs for home boarders etc).

Proposed Fees

- 43 The guidance provided is such that we are now obliged to review our existing fee structures. Unfortunately the delay in providing the guidance means that we have been unable to consult existing operators.

44 Currently the District Council charges the following fees:

| Licensable Activity | Current Fee |
|---------------------------------------|-------------|
| Animal Boarding | £250 |
| Pet Shops/ Selling of Animals | £250 |
| Riding Establishments | £278 |
| Breeding Establishments | £250 |
| Home boarding establishment | £224 |
| Performing Animals (registration fee) | £95 |
| Dangerous Wild Animal | £343 |
| Zoo (5 year licence) | £2740 |

45 Our proposed fees have been generated in accordance with the guidance provided which itself was based upon responses made to the consultation exercise undertaken by DEFRA when drafting the regulations. Fees set should be on a cost recovery basis as set out in the Regulations and associated guidance.

46 The fundamental difference between the proposed fee structure and that it replaces is that fees should be structured to reflect successful and unsuccessful applications (i.e. a successful application requires additional regulatory effort during the duration of the licence). The fee structure will therefore be broken down into two parts;

- Application Cost (For all applications) (Part A)
 - Administration Process- liaison with customers, checking and entering application on system, managerial oversight
 - Financial Process (collection of fees)
 - Inspectors Input- Review of application, administration of inspection (including veterinary attendance as required), inspection, reviewing licence details and conditions.
 - Managerial oversight and review- review reports, assist with decisions, strategic overview and appeals.

- Miscellaneous costs (spread across all licences) - Officer training, website maintenance, general advice, equipment including vehicle costs, fee setting and committee matters
 - Completion fee (Successful applications only) (Part B)
 - Investigation of complaints about licensed premises
 - Compliance checking
 - Review of disputes etc
- 47 Owing to reduced administration costs from continued licenses; there is an opportunity to offer a small reduction in the fee charged for renewed licences.
- 48 Whilst Zoo and Dangerous Wild Animal licensing is outside the scope of the new regulations, we consider that it is appropriate at this time to restructure the fee for these activities to ensure that they reflect regulatory effort and are in line with those being set under the new regulations.
- 49 The regulations require that Riding schools are inspected by a veterinary inspector on an annual basis. For all other premises veterinary inspections will be undertaken where there is considered, by the Animal Control Officer or other appointed inspector, a need for such expert advice. It is, for example, generally considered best practice for a vet to inspect a new premises alongside the District Council’s inspector.
- 50 Where a veterinary inspection is required this will be billed separately and on top of the District Council’s fee. Fees are determined by the hourly rate of the vet and the duration of the inspection.
- 51 A license cannot be issued until all Part A, Part B and any associated vets fees are paid.

The proposed fees for animal licences issued by Sevenoaks District Council have been determined by a cost analysis exercise (Appendix 2). Whilst administration costs are the same for all premises types, fees vary based upon the type of licence and animal involved. For example, it is our experience that a riding establishment will take significantly longer to inspect than a home boarder.

52 The proposed fees (Part A and B combined) are shown in the table below:

| Licensing Activity | New Application | Renewal Application | Current fee (no variation in new or renewal fee) |
|--------------------|-----------------|---------------------|--|
| Animal Boarding | £418 | £374 | £250 |

| | | | |
|---|-------|-------|---------------------------------------|
| Selling of Animals | £418 | £374 | £250 |
| Hiring out horses (formerly riding establishments) | £483 | £440 | £278 |
| Breeding of Dogs | £402 | £358 | £250 |
| Home Boarders | £386 | £342 | £224 |
| Dog Day Care | £386 | £374 | N/A |
| Performing Animals | £386 | £342 | £95 (previously only registration) |
| Dangerous Wild Animal | £418 | £374 | £343 |
| Zoo (5 year licence) | £2694 | £2650 | £3025 |

- 53 Whilst all of the licence fees have been revised (in line with the new guidance), the scoring matrix and variable license length means that establishments will be incentivised to comply. (Includes Part A and B combined)

| Impact of Star Rating | | | | | | |
|---|-----------------|------|------|---------|------|------|
| Star Risk Rating | 1-2* | 3-4* | 5* | 1-2* | 3-4* | 5* |
| Licence Period | 1 | 2 | 3 | 1 | 2 | 3 |
| Activity | New Application | | | Renewal | | |
| Animal Boarding | £418 | £209 | £139 | £374 | £187 | £125 |
| Selling of Animals | £418 | £209 | £139 | £374 | £187 | £125 |
| Hiring out horses (formerly riding establishments) | £483 | £241 | £161 | £440 | £220 | £147 |

| | | | | | | |
|--------------------|--------------------------|------|------|--------------------------|------|------|
| Breeding of Dogs | £402 | £201 | £134 | £358 | £179 | £119 |
| Home Boarders | £386 | £193 | £127 | £342 | £171 | £114 |
| Dog Day Care | £386 | £193 | £127 | £342 | £171 | £114 |
| Performing Animals | Automatic 3 year license | | £129 | Automatic 3 year license | | £114 |

Other Options Considered and/or Rejected

- 54 To maintain the existing fee structure. Our current fees do not reflect the costs of operating the regime. Guidance issued by DEFRA suggests that District Councils should be achieving cost recovery and our fees should be modified to reflect this.
- 55 To adopt a zero tolerance approach to enforcement of those operating without a license. Owing to delays in DEFRA releasing guidance on the new regulations, delays in publishing license application forms and setting fees for businesses; there will be an inevitable period after the regulations come into force where licensable activities remain unregulated.
- 56 Some newly licensable activities will be existing businesses (dog day care and breeders). Therefore they may be expected to cease trading or risk being pursued for committing a criminal offence should they continue trading prior to being issue a licence. Officers consider that enforcement of these newly licensable activities would be unreasonable until such reasonable time has passed to allow us to process applications and implement the new regime.

Key Implications

Financial

The proposed fees are on a cost recovery basis taking into account the requirements of the new Regulations.

Legal Implications and Risk Assessment Statement.

The new Regulations will be implemented in accordance with DEFRA guidance and the Council's enforcement policy. The impact the new licensing regime places on existing resources will need to be reviewed. The service will be provided on a cost recovery basis.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

It is considered the approach to enforcement and the fees proposed, as outlined in the report, are necessary to successfully implement this new licensing regime for animals.

Appendices

Appendix A - The Animal Welfare [Licensing of activities involving animals] [England] Regulations 2018

Appendix B - Cost Analysis Exercise

Background Papers

Procedural Guidance for Animal Activity Licensing 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involve/b.%20Procedural%20Guidance%20for%20Animal%20Activity%20Licensing%202018.pdf>

Guidance notes for breeding dogs 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involve/c.%20Guidance%20notes%20for%20Breeding%20Dogs%202018.pdf>

Guidance notes for boarding in kennels for dogs 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involve/d.%20Guidance%20notes%20for%20Boarding%20Dogs%20in%20Kennels%202018.pdf>

Guidance note for home boarding of dogs 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involve/e.%20Guidance%20notes%20for%20Home%20Boarding%20Dogs%202018.pdf>

Guidance notes for dog day care 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involve/f.%20Guidance%20notes%20for%20Dog%20Day%20Care%202018.pdf>

Guidance notes for selling animals as pets 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involve/g.%20Guidance%20notes%20for%20Selling%20Animals%20as%20Pets%202018.pdf>

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involved%20in%20Guidance%20notes%20for%20Selling%20Animals%20as%20Pets%202018.pdf>

Guidance notes for the exhibition of animals 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involved%20in%20Guidance%20notes%20for%20Exhibition%20of%20Animals%202018.pdf>

Guidance notes for the hiring out of horses 2018-

<http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involved%20in%20Guidance%20notes%20for%20Hiring%20out%20Horses%202018.pdf>

Dangerous Wild Animals Act 1976-

<http://www.legislation.gov.uk/ukpga/1976/38>

Richard Wilson

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