

Report to Environment and Licensing Committee

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

Date: 6 November 2018

Author: Service Manager, Public Protection

Wards Affected

All wards

Purpose

To advise Members of the changes in animal welfare licensing legislation following the implementation of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018;

To advise Members of the changes in the procedures for the grant and administration of licences relating to the licensable activities;

To approve the proposed fees for the processing and enforcement of licences issued by the Council under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

Recommendation:

That Members:

- **Note the contents of the report and the procedural changes being made by the Council to administer the new animal activities licensing regime.**
- **Approve the fees attached at Appendix 1 for the new animal licensing process.**

- **Delegate authority to the Director of Health and Community Wellbeing to exercise all functions under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.**

Background

- 1.1 The Council is responsible for the regulation and licensing of a number of animal related businesses and the keeping of specified dangerous animals by individuals. Under the current licensing regime the Council is responsible for issuing the following licence types.

- Animal boarding establishments
- Dog breeding establishments
- Pet shops
- Riding establishments
- Zoo and Dangerous Wild Animals licences

Nottingham County Council was until the 1st October 2018 responsible for the licensing of performing animals.

- 1.2 There are numerous pieces of legislation which regulate the licences specified above. However, adoption of conditions and implementation of the process has historically been left to the individual licensing authorities leading to multiple different approaches being taken.

- 1.3 Under the current licensing regime all types of licences mentioned in paragraph 1.1 are standalone licences. A business offering two or more of the licensable activities would have to apply for multiple licences with additional expenditure incurred.

- 1.4 **Changes in legislation**

The Animal Welfare Act 2006 includes provisions for the Secretary of State to create a national set of regulations in relation to the licensing of animal activities. In April 2018 the Government passed the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ('the Regulations'). The Regulations came into force on 1 October 2018 when they amalgamated, and replaced, a number of pieces of legislation that governed the licensing of animals. The licensable activities now covered are:

- Breeding Dogs
- Hiring out horses
- Keep or Training Animals for exhibition (previously carried out by the County)
- Providing Boarding for Cats
- Providing boarding in kennels for Dogs
- Providing day care for Dogs (not previously licensable)
- Providing home boarding for Dogs
- Selling animals as pets

1.5 The new regulations have amended the previous licensing regime in a number of ways but the key changes are:-

- A premise carrying out more than one of the licensable activities can now have a single licence covering a number of licensable activities (similar to premises licences under the Licensing Act 2003). Each licensable activity will be assessed separately and the premise will be given an overall rating by combining the scores for each activity.
- The change of licensing authority from County to District for the consideration of licences pertaining to performing animals. This is now covered by keeping or training animals for exhibition.
- That a licence can last for 1 – 3 years depending upon a risk assessment produced in line with Secretary of State guidance.
- There are now prescribed sets of mandatory and activity specific conditions included within the regulations. This is to ensure that the same conditions apply to all premises across the country.

1.6 Any existing licences granted before the 1 October 2018 will continue until their expiry date. The first renewals after 1 October 2018 will be treated as a new application under the new regime. After this first application all licences will be renewed under the new regulations.

Inspection

1.7 Prior to the grant of a new licence and the renewal of an existing licence a premise inspection is to be carried out. Historically these inspections have been carried out by Environmental Health Officers and a Council appointed vet. The new Regulations require a 'qualified inspector' to

carry out these inspections. A qualified inspector must hold a level 3 certificate granted by an approved training provider relating to inspection and licensing of animal activity businesses. Transitional provisions are in place to enable any person who can show evidence of at least one years' experience in licensing and inspecting animal activities to continue to carry out investigations until October 2021. Current Environmental Health Officers have sufficient experience to continue to carry out inspections.

- 1.8 In addition to the qualification requirements mentioned at paragraph 1.7, in the case of the grant of a dog breeding licence and at the grant and renewal of horse riding establishment licences the inspector must still be accompanied by a veterinary surgeon.
- 1.9 As part of the inspection process the Council will determine the level of risk posed by the activities on site using the DEFRA guidance, this process will establish whether a business is low risk or higher risk. The risk assessment will determine the length of time that a licence will last for, which can be between 1 and 3 years, and give the business a star rating between 1 and 5 stars. (With the exception of a 'Keeping and Training Animals for Exhibition' licence which will last for 3 years as default). The star rating will be included on the licence which is to be displayed in the premises.
- 1.10 Having undertaken an inspection of a premises the Council must attach the general conditions and the relevant activity specific conditions before granting the licence.
- 1.11 If a licence holder is not happy with the star rating they receive they have the ability to appeal against their risk assessment score, this appeal will be determined by the Council. The procedural guidance provided to local authorities states that these appeals should be dealt with at officer level and if the licence holder is still not satisfied as to the outcome of the appeal they can further appeal by way of judicial review.
- 1.12 A licence holder can also request a re-score visit at any time, however, the local authority can charge for this rescore visit, by charging the reasonable costs that they incur in doing so.
- 1.13 When considering the conditions that are placed on a licence the Regulations state that the licensing authority may: suspend, vary or revoke a licence if they are satisfied that –
 - a) The licence conditions are not being complied with
 - b) There has been a breach of the Regulations

- c) Information provided by the applicant was false or misleading
- d) It is necessary to protect the welfare of an animal

- 1.14 Where the authority chooses to vary, suspend or revoke a licence, the licence holder has 7 working days, from the date the Council issues the decision, in which they can make written representations to the authority. This must be considered within 7 working days of receiving the representation accordance with Regulation 15. If the licence holder is not satisfied as to the outcome of such an appeal they can further appeal to the First-tier Tribunal within 28 days of the decision.

Fees

- 1.15 The Regulations allow licensing authorities to charge a reasonable fee to cover the cost of granting and administering licences. Under Regulation 13 the Council can charge a fee for the consideration of an application for the grant, renewal, or variation of a licence. This fee can also include enforcement, compliance and inspection costs.

It is not lawful for the Council to make a profit from its licensing functions, and the proposed fees have to be set, based on the guidance set out in Regulation 13, and a reasonable estimate of the costs of undertaking this.

The fees are split into two parts. An 'application fee' payable at the time of submitting an application to cover the Council's costs in considering and determining the licence, and a 'grant fee' payable on the grant of a licence to cover ongoing costs incurred by the Council for enforcement and compliance. The proposed fees are set out in Appendix 1.

Proposal

- 2.1 It is proposed;
- That Members note the implications of the Regulations and the procedural changes being made by the Council to administer the new licensing regime.
 - That Members approve the Animal Activity Licensing fees attached at Appendix 1.
 - That Members delegate authority to the Director of Health and Community Wellbeing to exercise all functions under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

Financial Implications

- 4.1 The proposed fees and charges are designed to ensure that the service operates on a full cost recovery basis.

Appendices

- 5.1 Appendix 1 – The proposed fees for the new animal licensing application process.

Reasons for Recommendations

This ensures that the Authority is fully compliant with The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

To set the fees for the grant and administration of a licence made under to exercise all functions under the Regulations.

To enable the licensing process to be dealt with at officer level which enables decisions to be made within the short timeframes specified within the regulations and reduces the burden on Environment and Licensing Committee.