

# Non-Statutory Licensing Committee

28 November 2018

<b>Report title</b>	The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Ross Cook, Service Director of City Environment	
<b>Originating service</b>	Licensing Services	
<b>Accountable employee(s)</b>	Michelle James	Licensing Policy Manager
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<b>Report to be/has been considered by</b>	None	

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## Recommendations for decision:

1. To consider and approve the fees and charges proposed to provide the service for the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
2. To agree to the proposed changes in the Scheme of Delegation.

## Recommendation for noting:

The Licensing Committee is asked to note:

1. The implementation of the new Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

## 1.0 Purpose

- 1.1 This report is submitted for the Licensing Committee to note regulations made under the Animal Welfare Act 2006. The new regulations are known as the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

## 2.0 Background

- 2.1 Following recent legislative changes to the Animal Welfare Act 2006, Regulations have been made to amend the licensing regime to a single status licence application and licence to cover a range of different licensable activities. These Regulations are known as The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 2.2 These reforms took effect on 1 October 2018.
- 2.3 The City of Wolverhampton Council (CWC) is currently responsible for the functions in relation to the licensing and registration of various animal-related activities. Licences have previously been issued under a number of different legislative provisions.
- 2.4 A Table detailing the current licensable activity for Animal Welfare and the legislation that the licences were issued under can be found below:

Regulated Activity	Legislation	No of current Licences
Keeping a boarding establishment for cats or dogs (kennels, catteries, home boarding, day care facilities)	Animal Boarding Establishments Act 1963	14
Keeping a riding establishment	Riding Establishments Act 1964 Riding Establishments Act 1970	0
Keeping a breeding establishment for dogs	Breeding of Dogs Act 1973 Breeding and Sale of Dogs (Welfare) Act 1999	2
Performing Animals	Performing Animals (Regulation) Act 1925	2
Keeping a pet shop	Pet Animals Act 1951	6

2.5 Under the new law, several animal related activities will now be covered under a single type of licence known as an Animal Activity Licence rather than the number of different legislative regimes.

“The Animal Welfare Act 2006 Act is the enabling legislation for new regulations that cover the licensing of activities involving animals. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 repeals and amends the following legislation previously used: -

- Animal Boarding Establishments Act 1963
- Breeding of Dogs Act 1973
- Breeding of Dogs Act 1991
- Pet Animals Act 1951
- Performing Animals (Regulation) Act 1925
- Riding Establishments Act 1964.”

2.6 It should be noted that there are additional animal licences which do not fall under scope of the new licensing regime. The new regulations do not have any impact on the licensing of dangerous wild animals or zoos. These functions are unaffected by this legislative amendment and continue as previously under their existing legislative provisions of the Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981.

2.7 The legislation is accompanied by new nationally set licence conditions and guidance.

2.8 These regulations came into effect on 1 October 2018 and replace the licensing and regulation detailed in the above table of items at 2.4. A link to the regulations may be found at <https://www.legislation.gov.uk/ukdsi/2018/9780111165485> for your reference.

2.9 The major differences incorporated into this new licencing regime are:

- A licence will authorise more than one activity  
*(As an example, animal boarding and dog breeding activities will be able to be authorised on the same licence)*
- Licences can be issued on a one, two or three year period  
*(this will be assessed by a formal risk assessment)*
- Standard licence conditions are prescribed by the regulations rather than each authority determining its own.
- The number of litters before a Dog Breeding licence is required has been reduced from five litters to three.
- New powers exist for licensing authorities to vary, suspend and revoke licences. These can be used for non-compliance or where it is necessary to intervene to protect the welfare of an animal.

2.10 All existing licences issued under the previous licensing regime will continue to be in force until they expire. The majority of existing licenses will expire on 31 December 2018.

- 2.11 Any new licences issued from the 1 October 2018, will fall under the new regime. Applications will need to be made in accordance with the new regulations after this date.
- 2.12 All animal welfare establishments must now meet the same minimum standards nationwide. If they do not meet the required standards, they cannot hold a licence.
- 2.13 These establishments will be inspected on a risk assessment basis. Star awards are to be issued to licenced premises and according to their rating, licences may be issued for 1, 2 or 3 years duration. Well managed establishments will score a lower risk rating. As a result, they may hold a licence for a longer term and require fewer inspections and interventions.
- 2.14 Inspections should be carried out by experienced officers. There is a requirement for all officers to have achieved a qualification to inspect Animal Welfare establishments by 2021. This qualification will involve a one-week long training course with assignments. Recovery of these costs will be addressed through the fees and charges.
- 2.15 Premises must be inspected when the application is made, and a further unannounced inspection must be carried out during the licence validity period.
- 2.16 The regulations include stricter controls than before on dog breeding establishments and this may result in an increase in applications. This is as a result of the licensing requirement reducing from five to three litters. Additionally, breeders who sell puppies as a business will also require licensing regardless of the number of litters once reaching a given financial threshold.
- 2.17 New suspension, variation and revocation powers exist for officers within the new regime affording more control over the wellbeing and welfare of the animals licenced.

### **3.0 Fees and Charges**

- 3.1 It will be necessary for CWC to implement the new regime and approve the new fees and charges.
- 3.2 In order to meet the regulations, in setting the fees and charges, a full cost recovery basis has been used.
- 3.3 The newly proposed fees include:
- Time spent assessing, administering and processing applications
  - Time allocation of experienced Licensing Officers reviewing applications
  - System storage of applications
  - The assessment of suitability of applicants and the review of relevant offences
  - Undertaking necessary site inspections and any follow up visits. This is a new requirement.
  - Decision making on whether to issue a licence
  - The cost of issuing licences in a format that can be displayed.

- Ongoing compliance with the regulations
  - Training of officers to meet the new, stricter, requirements
- 3.4 These fees and charges have been calculated having followed the advice in the documents issued by the Department for Environment Food and Rural Affairs entitled Procedural Guidance Notes for Local Authorities dated October 2018, and the Local Government Association document Open for Business, LGA Guidance on locally set licence fees.
- 3.5 In accordance with recent case law, fees have been calculated in two parts. The first being the issue and administration of the system and the second part to be paid post grant and relate to ongoing matters such as follow up inspections. If a licence application is unsuccessful, the applicant will not be required to pay the second part of the licence fee.
- 3.6 The proposed fees and charges for the Animal Welfare Regime are set out in the table attached as Appendix 1.
- 3.7 A review of the cost to deliver the service has taken place and it is anticipated the fees and charges as proposed will be sufficient to cover these costs. However, at this stage, the volume of licences is difficult to predict. Therefore, the position will be reviewed after 12 months and a further update will be brought to committee.
- 3.8 Nationwide, fees have risen significantly following the new regulations. As a result, it should be borne in mind that the smaller premises requiring licensing are likely to be those who are greater affected. This could potentially risk those businesses as a result of a greater financial commitment. Alternatively, there is also potential for an increased number of businesses operating outside of the licensing regime. It is therefore important that our calculated charges are revised more frequently than the three year adjustment normally expected of the licensing regime. Whilst recognising that there is a risk to smaller businesses, there is similarly a duty upon each authority to ensure that their charges enable full cost recovery. For this reason, the fees have been calculated using a very conservative estimate for inspection costs and will need to be kept under careful review.
- 3.9 Additionally, in order to address the Constitution, the Licensing Committee is requested to determine that Licensing Officers are permitted to GRANT a licence under the Constitution scheme of delegation to Licensing Officers where there are no concerns or issues with the licence application.
- 3.10 Where there are concerns, the Licensing Committee is requested to delegate powers to the Licensing Manager or Section Leader to determine on behalf of CWC. Where matters are complex or contentious, Officers request the ability to refer the matter to a Licensing Sub-Committee for determination.

3.11 All decisions with regards to noting the report and agreement of fees are finalised by this Committee. No further reports have been considered or are to be considered in this regard.

#### **4.0 Financial implications**

4.1 The legislation requires additional inspections (and upgraded fee calculations) which impact upon staffing levels to address the additional requirements. This can be met through existing personnel resources.

A review of the cost to deliver the service has taken place and it is anticipated the fees and charges as proposed will be sufficient to cover these costs. For the reasons outlined in the body of the report, this will be kept under careful review. [MK/20112018/P]

#### **5.0 Legal implications**

5.1 Generally, Section 13 of the Regulations provide that a local authority may charge such fees as it considers necessary for:

- The consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation.
- The reasonable anticipated costs of consideration of a licence holder's compliance with these regulations and the licence conditions and the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator.

The fee charged for the consideration of an application for the grant renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.

5.2 All other legal implications are contained within the body of the report. [SH/14112018/D]

#### **6.0 Equalities implications**

6.1 There are no known equalities implications contained within this licensing report.

#### **7.0 Environmental implications**

7.1 There are no known Environmental implications as this report addresses an updated legislative requirement to amend already existing licensing regimes.

#### **8.0 Human resources implications**

8.1 There are no known Human resources implications of this report

## **9.0 Corporate landlord implications**

9.1 The contents of this report have no direct impact upon CWC's property portfolio.

## **10.0 Schedule of background papers**

- 10.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018  
DEFRA – Procedural Guidance Notes for Local Authorities dated October 2018  
LGA – Open for Business – LGA Guidance on locally set licence fees dated May 2017.
- 10.2 Appendix 1 Proposed Fees and Charges