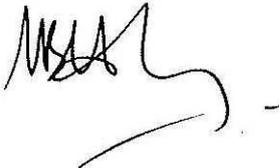




Report to:	Licensing Committee	Date:	24 September 2018
Report title:	Animal Welfare - Changes to Licensing Legislation		
Report from:	Mary Morrissey - Strategic Director, Environment, Housing & Regeneration		
Ward/Areas affected:	Borough Wide		
Chair of Committee/Lead Member:	Councillor Muhammad Sadiq		
Author(s)/Contact Number(s):	David Kingstone, Team Leader Licensing & Environmental Compliance, 020 8770 5162 / 0734 2055 767 Nick Cloke, Licensing Lead Officer, 020 8770 5622 / 020 8547 5600 ext. 4366		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • Making Informed Choices • Keeping People Safe 		
Open/Exempt:	Open		
Signed:		Date:	11 September 2018

1. Summary

- 1.1 This report introduces new legislation coming into effect in October 2018 which changes the licences required by those commercially involved in the keeping of animals. The report informs members of the key changes brought about by the legislation, sets out the application process and introduces the concept of a policy document to set out the Authorities approach to licensing.

2. Recommendations

The Licensing Committee is recommended to:

- 2.1 Note the implementation, with effect from 1st October 2018, of the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018.
- 2.2 Agree that an Animal Activity Licensing Policy be developed and brought to Committee in December.



- 2.3 Agree that applications being considered for refusal, and licences being considered for revocation, are brought before Committee (or a sub-committee thereof) for determination.

3. Background

- 3.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 - hereafter referred to as 'the Regulations' - come into force on 1st October 2018 and introduce a range of changes to the way in which certain activities involving animals are licensed.
- 3.2 The Regulations are made under the Animal Welfare Act 2006 and repeal a number of other pieces of legislation under which licences have been issued, in some circumstances for many years.
- 3.3 It is important to note that the Regulations, and thus the licensing regime, applies only to vertebrate animals (excluding humans) meaning that the regulations do not apply to invertebrates and we are unable to consider those in terms of licensing.
- 3.4 The Regulations provide for licensing of those involved in offering or running a business involved in one or more of the five animal activities:
- Selling animals as pets
 - Providing, or arranging for the provision of, boarding for dogs and cats (including kennels, catteries, dog day care and home boarding)
 - Hiring out horses
 - Breeding of dogs
 - Keeping or training animals for exhibition.
- 3.5 Premises offering these activities are required to apply for an Animal Activities Licence which can be used to offer more than one activity - i.e a person can be licensed for breeding of dogs and selling of pet animals on one licence, rather than needing two. There are standard conditions for each activity, included within the Regulations and there is no longer scope for a Local Authority to apply it's own conditions to licences.
- 3.6 Transitional provisions allow most existing licences to continue until their natural expiry date, which as many types of legislation currently regulated operate on the basis of a licence for a calendar year, means many will expire at the end of December and must be replaced by the new type of licence.
- 3.7 Animal Activity Licences will be issued from 1 October for the activities set out below. Licences are subject to a statutory risk assessment process which will provide a 'star' rating for businesses, and this will determine the length of the licence. Licences will generally last between 1 and 3 years.
- 3.8 Licences - with the exception of dog breeding - are required by anyone providing activities as a business or for commercial reasons, what is being called the 'business test'. The Regulations set out the circumstances which a local authority may take into account in determining whether an activity is being carried on in the course of a business, which include whether the operator

carries on the activity with a view to making a profit or earns any commission or fee from the activity. Other tests can be applied including HMRC guidance, including the trading income allowance.

Selling Animals as Pets

- 3.9 This replaces the Pet Animals Act 1951 and widens the scope of businesses selling, or keeping animals intending to be sold, that become licensable to include sales from the internet, sales from home and wholesalers that supply pet shops.
- 3.10 The regulations introduce a new definition of 'pet', which states 'an animal mainly or permanently, or intended to be mainly or permanently, kept by a person for personal interest, companionship, ornamental purposes, or any combination of these'.
- 3.11 Key changes include a requirement to keep a register of all animals kept and sold and an improvement in the guidance to local authority inspectors on stocking densities and standards required in premises.
- 3.12 In Sutton there are 8 pet shops currently licensed, however there may be businesses operating that now require licences and officers will be working to identify those and bring to their attention the new requirements.

Animal Boarding

- 3.13 Four different types of activity that constitute boarding are included in the new licensable activity, set out in the legislation as:
- Providing boarding for cats
 - Boarding in kennels for dogs
 - Home boarding for dogs
 - Providing day care for dogs.
- 3.14 Whilst the new regime will provide little in the way of any change for kennels and catteries, there are now statutory controls on home boarding and dog day care that didn't previously exist.
- 3.15 Key changes for home boarding include conditions that restrict the number of dogs that can be home boarded - there must be sufficient space to provide an individual sleeping area for each dog with the ability to keep each dog in a physically separate room if required. Restrictions around staffing and children living in the home are also being implemented.
- 3.16 Dog day care licensing is being recognised as a licensed activity for the first time, and comes with it's own set of conditions designed to ensure that dogs welfare needs are met.
- 3.17 Whilst there are 14 boarding establishments in Sutton, the number of dog day care providers is unknown however officers are working to identify those that may now fall within scope of the new Regulations and officers will be working with those to ensure that they comply with the new requirements.



Hiring out Horses

- 3.18 This activity replaces the Riding Establishments Act 1964 and requires anyone hiring out horses for riding or instruction in riding to be licensed. This includes riding schools but also those that hire out horses for trekking, loan horses, offer pony parties (where the ponies are ridden), provide hunter hirelings, polo/polocrosse instruction and pony hire, pony and donkey rides.
- 3.19 The incorporation of this activity isn't likely to bring any businesses that aren't already licensed within scope in Sutton, and there is just one premises in Sutton currently licensed.
- 3.20 Inspections of horses must be carried out every year by a registered veterinary surgeon appointed by the Council. Officers currently have a contract with the City of London Animal Welfare Service who have qualified vets in their employ.

Breeding of Dogs

- 3.21 This area of activity is being significantly tightened by the new Regulations and more individuals who happen to be breeding dogs recreationally are set to come into scope of licensing. Dog breeding is not subject to the business test set out above.
- 3.22 Anyone breeding dogs and advertising a business of selling them now requires a licence, even if only one litter is sold in a year. Individuals who breed and sell 3 litters or more in a 12 month period, but who are not doing so as a business, also require licensing - noting that the litters can be from separate breeding bitches.
- 3.23 Strict controls are applied to dog breeding through the new standard conditions, which include specific requirements for advertising and minimum staffing ratios for example.

Keeping or Training Animals for Exhibition

- 3.24 Replacing the oldest piece of legislation affected by this change, the Performing Animals Act 1925, this new activity widens the scope of animals for which a licence is required and provides for welfare considerations that weren't included within the previous legislation.
- 3.25 Businesses in scope include those that keep animals for exhibition, either for entertainment or educational purposes so incorporates mobile animal exhibits. Newly requiring a licence are those businesses that train animals for exhibition, even if the person training the animals doesn't own or keep them.
- 3.26 In Sutton there are three licence holders currently, however there may be other that previously didn't need a performing animals licence that will now require one under these regulations.

4. Issues

Processing Applications

- 4.1 In considering applications made under these Regulations, the Council is required to have regard to guidance issued by the Secretary of State for the Environment, Food and Rural Affairs (Defra).
- 4.2 Procedural guidance notes have been published by Defra setting out the process of application and how Local Authorities should determine applications, and they set out specific considerations including a fit and proper test of the applicant / licence holder and their conduct.
- 4.3 An inspection must be conducted by a suitably qualified inspector of any premises subject to an application, whether an application for a new licence, a renewal application or an application to vary a licence. For the first inspection of a dog breeding establishment, all licence inspections of riding establishments, a listed veterinarian must also be present.
- 4.4 The guidance requires that officers carrying out inspections under this legislation hold a level 3 qualification in inspecting and licensing animal activity businesses. Local Authorities have 3 years to train and qualify officers, until then inspections can be conducted by officers who have at least 1 year experience in inspecting licensable businesses.
- 4.5 The Regulations and Guidance do not specify whether refusing applications should be an officer or committee function, however in accordance with the way that other licensing legislation is applied, we are recommending that applications being considered for refusal are brought to a committee or sub-committee for determination.
- 4.6 Members are invited to resolve that applications being considered for refusal be a committee (or a sub-committee thereof) function.

Enforcement

- 4.7 Powers contained within the Regulations provide for the Authority to revoke, suspend or vary a licence depending on the severity of the situation. Variations can be made with or without the consent of the licence holder.
- 4.8 Because the Regulations are made under the Animal Welfare Act 2006, Improvement Notices under section 10 of this Act can also be used to secure compliance with licence conditions, or for other matters required to ensure animal welfare.
- 4.9 The legislation does not set out a decision making route for enforcement actions, however all actions will be taken in accordance with the Council's enforcement policy and the Regulators Code.



- 4.10 Given that immediate suspension of a licence may be necessary to protect the welfare of animals, delegation to suspend licences, make variations to licences and issue Improvement Notices will remain with the Group Manager, Regulatory Services.
- 4.11 However, it is intended that for licences where a decision to revoke a licence is being considered, this will be brought to a Committee or sub-committee for determination.
- 4.12 Members are invited to resolve that licences being considered for revocation is a committee (or a sub-committee thereof) function.

5. Options Considered

Licensing Policy

- 5.1 Given that there are a number of areas where the legislation and guidance will benefit from further local clarification, it is recommended that a policy be developed and considered by this Committee in December. The policy could be used to set out how the Authority deals with applications, how it determines fit and proper in terms of applicants, what it considers in the business test and how applications are refused and licences revoked.
- 5.2 Members are invited to recommend the creation of a policy to be brought to the next meeting for consideration.

6. Impacts and Implications

Financial

- 6.1 The legislation sets out that application fees can be set to secure full cost recovery, including veterinary fees where these are required as part of the inspection process. Fees are approved by the Environment and Neighbourhoods Committee.

Legal

- 6.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 provide a new licensing regime for operators (section 3) for certain licensable activities such as selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs, keeping or training animals for exhibition in the course of business.

7. Appendices and Background Documents

Appendix letter	Title
None	

Background documents
Procedural guidance notes for Local Authorities (Defra, July 2018)

Audit Trail		
Version	Final	Date: 11 September 2018
Consultation with other officers		
Finance	No	Not required
Legal	Yes	Guy Bishop
Equality Impact Assessment required?	No	N/A

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