

Wiltshire Council

Licensing Committee

26 September 2018

Procedures and fees in relation to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Summary

To inform the Committee of forthcoming changes to the way in which animal boarding establishments, dog breeding establishments, pet shops and riding establishments are licensed, and the commencement of responsibility for the licensing of the keeping of animals for exhibition.

To recommend adoption of delegation arrangements and approval of fee levels required to administer the new arrangements.

Proposal(s)

It is recommended:

That Committee notes the new powers contained within the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and delegate decisions in relation to the determination of licences and enforcement action to the relevant Head of Service and/ or Licensing Manager - Public Health and Protection from the 1st October 2018.

Having considered the proposed fees table, that the committee approves the fees payable in relation to animal licensing as of 1st October 2018, these fees and charges to be reviewed in line with all fees and charges for 2019/2020

Reason for Proposal

In April 2018 the Government passed the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. This legislation amalgamated, and replaced a number of pieces of legislation that governed the licensing of animals. These regulations come into effect on 1st October 2018.

The proposals are set out to ensure the Council meets its obligations under the new regulations.

Tracy Daszkiewicz
Director Public Health and Protection

Animal Licensing

Purpose of Report

1. This report seeks to make amendments to the list of fees and charges relating to the Public Protection Service which were approved by Council in February 2018.
2. The proposed decision relates to amending fees for some animal licenses as required by new regulations “The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations” coming into effect from 1 October 2018.
3. It is also proposed that the powers and obligations contained within the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 be noted, and that decisions in relation to the determination of licences and enforcement action be delegated to the relevant Head of Service and/ or Licensing Manager - Public Health and Protection from the 1 October 2018.

Relevance to the Council’s Business Plan

4. “People in Wiltshire work together to solve problems locally and participate in decisions that affect them”.
- “People are protected from harm and feel safe”.

Main Considerations for the Council

5. The revisions to the approved fees and charges ensure compliance with statutory fees and guidance, and only affect a small percentage of the service’s range of fees and charges. The new fees levels are required to carry out the new arrangements by legislation.

Background

6. The fees and charges for public protection services were originally approved by full council on the 20 February 2018 as part of the budget setting process. Changes are required to a small number of those fees and charges.
7. The Council is at present responsible for the regulation of a variety of animal-related businesses, as well as the keeping of specified dangerous animals by individuals. The licence types currently issued by the Council are:

- Animal boarding establishment licences (for businesses accommodating dogs or cats – e.g. kennels, catteries, home boarders, pet day care)
 - Dog breeding establishment licences (premises used for, or in connection with, the commercial breeding of dogs)
 - Pet shop licences (any business which keeps animals with a view to selling them as pets)
 - Riding establishment licences (premises which keep horses and ponies for hire for riding, or for riding tuition – excluding livery stables)
 - Zoo licences and Dangerous Wild Animal licences are also issued by Wiltshire Council, however, these will continue to be covered by their own specific legislation
 - Performing Animals.
8. The Animal Welfare Act 2006 introduced the possibility of additional legislation, which would supersede previous provisions. Included in the Act was a new licensing power which enabled nationally set regulations to be made for any animal-related activities which had been specified in secondary legislation.
9. As a result, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were published earlier this year, which will significantly change the way animal related businesses are inspected and licensed from 1 October 2018.
10. Guidance on procedures was released to Local Authorities early in August 2018 – see attached **Appendix 1**, Procedural Guidance.

Forthcoming Changes

11. The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 define the animal based activities that require licences as follows:
- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.
 - Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business.
 - Hiring out horses in the course of a business for either riding, instruction in riding, or both.
 - Breeding three or more litters of puppies in any 12-month period; or breeding dogs and advertising a business of selling dogs.
 - Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology, or both
12. The new regulations have amended the previous licensing regime in a number of ways but the key changes are:-

- A premise can have a single licence covering a number of licensed activities (similar to premises licences under the Licensing Act 2003).
 - That a licence can last for 1 – 3 years depending upon a risk assessment produced in line with Secretary of State Guidance.
 - Inspections to be carried out by a suitably qualified person.
 - The new provisions contain nationally set regulations for each animal based activity, which cannot be amended and form the basis for conditions on the new licences going forward.
13. Existing licences that are issued up to 30 September 2018, will continue on until their stated expiry dates, and will then be renewed under the new regulations.

Fees

14. The Council can charge a fee for the consideration of an application for the grant, renewal, or variation of a licence. Section 13 of the regulation states: “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 to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration,
 - the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
 - the reasonable anticipated costs of compliance with regulation 29.
 - 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.”
15. The proposed fees set out in **Appendix 2** have been set based on the guidance set out above and a reasonable estimate of the costs in undertaking the new regulations.
16. The implications on the changes to the fee bandings are included in the financial implications section of the report.

Inspections & Ratings

17. Inspections of the premises have previously been carried out by several officers from the Licensing Team and Dog Wardens when available. The new regime requires a ‘qualified inspector’ to carry out the inspections. In the case of the grant of a dog breeding establishment and at grant and renewal of horse riding establishments they must be accompanied by a veterinary surgeon. To qualify to inspect these premises, a person must hold a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulations which oversees training and assessment of persons inspecting and licensing certain animal activities businesses, and must have passed an independent exam.

If an inspector is not available, then a qualified veterinary surgeon must carry out the inspection.

18. Grandfather rights for Officers with one years' experience of both Licensing and Animal inspections have been granted until Oct 2021. This means that only a number of Licensing Officers met this criteria and can carry out the inspections at 1 October and all will need to obtain the new qualification by 2021. The new regulations will have significant impact on the Licensing Service.
19. Under the new arrangements, the inspection process will be much more comprehensive, and built around providing the premises with a 'risk rating'. This process will establish whether the business is 'low risk' or 'higher risk' based on the level to which it meets the standards set out in regulations and guidance, and award between one and five stars, thus determining the length of the licence (with the exception of 'Keeping and Training Animals for Exhibition' for which all licences will be issued for 3 years as default).
20. Businesses established as higher risk will attain between one and four stars. If one or two stars are issued they will be issued a one year licence, and can expect a minimum of one unannounced visit during that period. If four stars are attained, the licence will be issued for two years, and the licence holder can expect one unannounced visit during the two year period.
21. Lower risk businesses can be issued a licence for any period between one and three years. Licence holders can expect a minimum of one unannounced visit at any time during the period specified on the licence.

Appeals

22. A person can appeal against a risk assessment score, and it is proposed that this appeal will be determined by the Licensing Manager – Public Health & Protection Service.
23. A licensee that has carried out improvements can request a re-rating visit at any time however the local authority can charge the costs that they incur in doing the revisit.
24. When considering the conditions that are placed on a licence the legislation states that the licensing authority may: suspend, vary or revoke a licence if they are satisfied that –
 - the licence conditions are not being complied with,
 - there has been a breach of the Regulations,
 - Information provided by the applicant was false or misleading,
 - it is necessary to protect the welfare of an animal.
25. Where the authority chooses to refuse to grant, varies or suspends a licence, the licence holder has 7 working days in which they can make written representations to the authority, which must be considered within 7 working days of receiving those representations

26. It is recommended these representations be heard/considered by the relevant Head of Service for Licensing due to time constraints and the Councils scheme delegation be amended accordingly.
27. **Appendix 3** contains a revised scheme of delegation for Licensing functions for approval by the Committee. This removes references to the various pieces of specific animal licensing legislation that are being repealed and replaces it with the new 2018 Regulations. These changes will need to be endorsed by Full Council in due course, when the Scheme of Delegation is next reviewed.

Advising of the Changes

28. All proprietors of establishments, whose licences expire on 31 December each year due to current legislative requirements, were previously advised of the impending changes when they were inspected at the end of 2017. At that time, the regulations had yet to be published and there was very little general information available; therefore, those licence holders were advised to access the Wiltshire Councils website where information would be posted during the coming months.
29. Once regulations were published they were placed on our website, on receipt of the guidance early August 2018, those expressing an interest have been contacted. Letters have been sent out to all existing licence holders advising them of the changes with a link to the Wiltshire Council's website and inviting them to one of the three licensing seminars we are holding early October 2018.

Safeguarding Implications

30. There are no safeguarding implications

Public Health Implications

31. There are minimal public health implications.

Environmental and Climate Change Considerations

32. There is minimal environmental impact of these proposals.

Equalities Impact of the Proposal

33. The impact of these proposals is assessed as 'low' against the Council statutory responsibilities. There are potential implications with respect to human rights.

Risk Assessment

34. Licensing is a statutory undertaking. Should the proposals in this report not be adopted it would leave Wiltshire Council in a position of being unable to effectively undertake its statutory responsibilities and functions under the Animal Welfare Act 2006.

Risks that may arise if the proposed decision and related work is not taken

35. Criticism of the Council and thus compromise the reputation of Wiltshire Council.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

36. There are no particular risks identified from any of the proposals.

Financial Implications

37. A full evaluation has been undertaken to ensure that the new charges meets budget requirements. As a result it has been identified that the additional income that will be raised will amount to £26,443 per annum.
Financial Implications agreed by the S151 Officer (LRM)

Legal Implications

38. Failure to act appropriately under the legislation will make the Council non-compliant with legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the Council area.
39. The Licensing Authority is a high profile regulatory service important for protecting the public and promoting animal welfare but also for ensuring the balance between development of businesses and the local communities of Wiltshire. The fair application of licensing functions is critical for the reputation of the Council and for building trust and confidence in its service provision.

Proposal

40. That Committee
 - a. Notes the adoption of the powers and obligations contained within the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
 - b. Delegate all decisions in relation to the determination of licences and enforcement action to relevant Head of Service and/ or Licensing Manager - Public Health and Protection from the 1st October 2018.
 - c. Recommends to Council that the Scheme of Delegation for Licensing be amended and updated to reflect these changes.
41. The Licensing Committee approves the fees payable in relation to animal licensing as of 1st October 2018, these fees and charges to be reviewed in line with all fees and charges for 2019/2020.

Reason for Proposal

42. In April 2018, the Government passed the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. This legislation amalgamated, and replaced a number of pieces of legislation that governed the licensing of animals. These regulations come into effect on 1 October 2018.

43. The proposals are set out to ensure the Council meets its obligations under the new regulations.

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Background Papers

- Animal Welfare Act 2006
- The Animal Welfare (Licensing of Activities Involving Animals) England Regulations 2018
- Procedural Guidance notes for Local Authorities on the regulations
- Local Government Association: Open for business: LGA guidance on locally set licence fees

Appendix

1. Procedural Guidance notes for Local Authorities on the Regulations
 2. Proposed Fees and Charges
 3. Revised scheme of delegation
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