

Briefing Note – The Animal Welfare (Licensing Of Animals) (England) Regulations 2018

1. Purpose of Briefing Note

The purpose of the briefing note is to update the Licensing Committee on the implementation of the new Animal Activities Regulations in Wiltshire.

2. Background

The new regulations introduce minimum welfare standards, seeking compliance from all those responsible for boarding, breeding, exhibiting and recreational use involving animals. They replace several pieces of old legislation, streamline previous local authority systems and attempt to provide clarity for both local authorities and business.

Schedules attached to the new regulations provide detailed animal welfare standards for each of the activities listed. These standards impose clear welfare conditions on anyone who receives a licence for dog breeding, selling pets, boarding dogs and cats, hiring out horses or keeping or training animals for exhibition.

These regulations endeavour to make it easier for those operating within this industry to understand their responsibilities within legislation and simpler for authorities to administer and control.

Under previous legislation, breaches of conditions or unlawful trading required local authority to prosecute and seek revocation of the licence on conviction.

The new regulations allow the local authority to vary, suspend or revoke a licence without the need for legal action, making the process easier to enforce, with the likelihood of an expedited result.

3. Scope of the new Animal Activities Regulations

A brief summary of the implications of the new regulations:

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. (*Arranging is New – An arranger's licence required*).
- 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. (*New – replaces and expands the performing animals' registration scheme*).

All four existing types of licence, together with the additional activity of keeping and training animals for exhibition, are encompassed by one new 'Animal Activity licence'. If an applicant is running more than one licensable animal related activity, each activity is assessed separately and set out in one licence.

The regulations do however provide for operation of a business under the regulation without requiring a licence dependant on trading income these are deemed as "out of Scope" a number of existing Home Boarders now fall in this category.

DEFRA has left it up to Local Authorities how it ensures that Host families (out of Scope) who work through franchise operator (Arrangers) meet the criteria set out in the regulations. Wiltshire Council has set up a system to run parallel with the Licensing regime, to inspect these premises and ensure they met the required standards.

The length of licence (previously one year in most cases) can be anything between one and three years dependent on the outcome of their inspection, and the type of licence

The new provisions contain nationally set regulations for each animal based activity, which cannot be changed in any way and form the basis for conditions on the new licences.

The fees are now split into two parts – the application fee, payable at the time of submission to cover the Council's costs in considering and determining the application, and the licence fee (grant), which covers ongoing enforcement and compliance requirements.

Links to the new regulations and DEFRA guidance documents are available on our website.

4. Implementation of the new regulations

Four licensing seminars took place in October 2018 when over 200 members of the animal licensed trade used the opportunity provided by Wiltshire Council to learn about the implementation and potential impact of the new regulations.

This applied to both existing and new business falling under the new regime.

Under the old licensing legislations (Prior to December 2018) the following were licensed by this authority:

Boarding Catteries & Kennels	50
Home Boarders	137
Day & Home Boarders (Dual)	11
Dog Crèches (commercial)	5
Dog Breeders	10
Pet Shops	25
Riding schools	21
Performing Animal Registrations	10
	269

New application forms were created and handed out at the seminars; these are also available on our website alongside the relevant DEFRA guidance documents.

Pre-inspection guides for the differing premises types have been developed, these outline what documentation will be required to be presented to the inspecting officer, these are sent out by email when the inspection date is confirmed. They are also available on our website.

The computer software we use for Licensing has had to be managed / manipulated to create a new process for the new licensing procedures and star rating system, allowing for 1 – 3 year licences.

Unfortunately the DEFRA guidance introduced to assist with the interpretation of the new legislation has already been changed significantly, and DEFRA appears to be responding to the trade representatives and softening the animal welfare standards. Numerous updates and clarifications have been issued by DEFRA on an informal basis using the Knowledge Hub, which has not been promulgated to all local authorities. The service has expressed our concern to DEFRA in writing but the reply avoided a direct response to the issues we raised.

5. Inspections

The new regime requires a 'qualified inspector' to carry out the inspections, and 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.

Due to the high volume of inspections and the lateness of the guidance documents from DEFRA, the Licensing Team had to rely on the generous support of the Dog Warden Service to fulfil its obligations to meet the requirements to inspect premises by 31st December 2018.

The new regulations meant most inspections took at least an hour and half with the more complex premises or dual licence premise (Catteries and Kennels) taking a number of hours.

Most applicants had attended one of the four licensing seminars so were aware of the new requirements in relation to documentation in the form of policies and procedures needed to meet the licensing conditions.

Some struggled to understand the importance of demonstrating their common work practices in paper format, and therefore were unable to meet the new required standards.

The inspections were not assisted by DEFRA who sought on a number of occasions to clarify their guidance directly to the trade which often undermined the inspecting officers. This was a source of frustration for both the Local Authority and applicants as the guidance provided to applicants often differed from that published for the Local Authority.

Licensing Authorities were not directly advised of these changes or amendments until sometime after the trade and only through an information portal (The Knowledge Hub) which is not commonly used by all local authorities.

6. Risk Rating

The new regulations provide two guidance tables for inspecting officers, setting out a risk rating process for welfare standards of operators and to determine whether an operator is high or low risk.

All operators receive a star rating from one to five stars, based on the welfare standards that they demonstrate during their inspection and their compliance records.

For example, a new operator (automatically deemed high risk) who has no evidence of compliance could start at two stars and will receive a licence for 1 year.

During the licensed period, the operator will receive an unannounced visit by an inspecting officer where a further assessment will be conducted and the operator will be reassessed to see if they continue to meet the standards. This is a statutory requirement and provides a consistent approach for all operators.

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

7. Current Position

As of the 20th February 2019 the following have applied for and been granted a licence under the new regulations

Boarding Catteries & Kennels	43
Home Boarding & Dog day care	97
Commercial Dog Crèche	6
Dog Breeders	11
Pet Shop	18
Riding Schools	To be rated
Exhibition of Animals	3
Arrangers Licences	2

A small number of premises / establishments have decided not to renew their licence.

To date five (this includes one new premise) have had their applications refused under the regulations whose primary objective is to improve welfare standards.

Of the five refused no formal appeals have been made against the decision of the Licensing Authority to the first tier-tribunal.

One operator has successfully re-applied and has been granted a licence, a further two are seeking to re-apply. These can only be considered following works carried out by the applicants, which they believe will address the concerns found on the initial inspection. There can be no assumption these premises will now meet the required standards until a further inspection is carried out.

8. Impact on the Licensed Trade

The star rating has had a mostly positive reaction from the trade with premises / operators seeking to get the highest rating possible for their business. The star rating reflects the length of the licence, Wiltshire has seen a pleasing result with a considerable number of premises reaching the highest 5 star 3 year licence.

5 star – 3 year licences	83
4 star – 2 year licences	19
3 star – 2year licences	33
2 star – 1 year licences	23
1 star – 1 year licences	9
N/A	9

Public registers are now available on our website displaying premises star ratings.

Pet sales sites can no longer accept adverts without licence numbers being displayed where required.

9. Conclusion

The smooth implementation of the new regulations could not have taken place without the hard work and flexibility of the whole of the Licensing Team who were strongly supported by the dog wardens who assisted with the inspections and colleagues in the wider public protection service who covered some of the day to day work of the technical officers.

The continual explanation of the regulations and guidance notes by DEFRA directly with the licensed trade did not assist Officers and often caused considerable consternation with officers from all Local Authority battling to complete inspections on time.

10. Summary

These changes in legislation have had significant impact on our animal licensing regime. However, these changes will strengthen and support welfare elements of animal licensing, and the increased legislative focus on breeding establishments, specifically dog breeders, is likely to increase activity, demand on resource and our future approach.

The Licensing Committee is asked to support the work of the Licensing Team in implementing and enforcing the new regulations.

Linda Holland
Licensing Manager
Public Health & Public Protection
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