

# Crawley Borough Council

## Report to Licensing Committee

11 November 2024

### **Animal Licensing Policy - The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018**

Report of the Head of Community Services - **HCS/083**

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#### **1. Purpose**

- 1.1. To seek the Licensing Committee's views on the content of the draft Animal Licensing Policy, compiled in connection with the Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018 attached at Appendix A before it goes out to public consultation in December 2024 for a six-week period.

#### **2. Recommendations**

- 2.1 That the Licensing Committee:

- a) Endorses the draft Animal Licensing Policy (included at Appendix A to report HCS/083) and requests that a public consultation commences.
- b) Agrees to adopt the Animal Licensing Policy from 1 February 2025 (with the inclusion of any minor amendments arising from the consultation made by the Head of Community Services as required), unless the Head of Community Services, in conjunction with the Chair of the Licensing Committee, determines that the consultation responses propose significant changes to the policy and that its re-consideration by the Licensing Committee is required.

#### **3. Reasons for the Recommendations**

- 3.1 Whilst it is not a statutory requirement for the Council as Licensing Authority to have an Animal Licensing Policy, it is considered good governance to have such guidance. It has been produced to assist the Council and provides a framework for decision making and provides current and potential licence holders as well as the public information as to the Council's policy on how the animal licensing regime is administered and regulated within the borough. It is proposed that the Policy will be reviewed and republished, following consultation, every five years or as appropriate if there are changes to legislation, Regulations and/or Guidance.

## 4. Background

- 4.1. On the 1 October 2018, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 replaced a range of other animal licensing legislation previously used by local authorities to administer and regulate the regime. It provides a single licensing regime for animal licensing activities. Those undertaking the following activities need to be licensed under the regime:
- Selling animals as pets.
  - Providing or arranging for the provision of boarding for cats or dogs (including daycare).
  - Hiring out horses.
  - Breeding dogs.
  - Keeping or training animals for exhibition.
- 4.2. The Regulations replaced the previous licensing and registration regimes:
- Pet Animals Act 1951
  - Animal Boarding Establishments Act 1963
  - Riding Establishments Acts 1964 & 1970
  - Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) 1999
  - Performing Animals (Regulation) Act 1925
- 4.3. The Animal Welfare (Licensing of Activities involving Animals Activities Involving Animals) (England) Regulations 2018 works in conjunction with the Animal Welfare Act 2006. and are comprehensive and defines the activities specified above in paragraph 4.1 as 'licensable activities'. Licence conditions, previously an area where local authorities had to adopt their own, are now prescribed in the regulations. There are several standard conditions applicable to every licence and specific conditions depending upon the licensable activity authorised. The local authority does not have discretion to impose its own conditions.
- 4.4. Before a licence is issued the premises must be inspected, a report compiled, and a 'star' rating awarded to the premises. The star rating varies from 1 to 5 and determines the length of the licence (1 to 3 years). There is an appeal procedure for the refusal outright of a licence to the First Tier Tribunal. Outside of this, operators can internally appeal the 'star rating.'
- 4.5. Operators can request a re-inspection; this is different from an appeal against the star rating and is generally asked for if suggested remedial work and/or qualifications have been completed since the original inspection and assessment. The method by which this can be achieved is detailed in the draft Policy.
- 4.6. Every premises must be inspected at least once during the term of its licence. Inspections can also take place (both announced and unannounced) if there is a complaint, variation and/or material change to the operation which requires the case to be revisited.

- 4.7. The legislation, Regulations and Statutory Guidance is very prescriptive covering all of the licensable activities. It focusses on the standards and documentation expected of operators, both in terms of the premises and animal welfare to make sure species needs are met. It is far more demanding than previous statutes and all licensable activities are the subject of lengthy Statutory Guidance from DEFRA. Statutory Guidance has also been issued to local authorities to assist with the processing, assessment, and determination of applications.
- 4.8. An area that has attracted a lot of discussion is home boarding for dogs' franchises. These involve a franchise sourcing several addresses operated by households to 'host' dog boarding. Some franchises take the view that the 'host' families do not need to be licensed as they consider that remuneration for their services are below a threshold of £1000 which the government considers not reportable to HMRC i.e. not a business. However, there are 9 other HMRC "badges of trade," the Business Test and other factors that need to be considered when assessing whether a premises requires licensing along with the "business test" (Schedule 1 Part 1 of the Regulations).
- 4.9. It should be noted this draft Policy only deals with the licensable activities described in in paragraph 4.1 above as prescribed in the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 4.10. For clarity, it does not deal with dog walkers who currently fall outside of this licensing regime at this time. However, there is a raft of other legislation that deals with the issues of dog fouling, keeping dogs on leads and proper control of dogs.
- 4.11. The following organisations will be specifically consulted upon as part of the process of adopting the policy:
- Licence Holders for Animal Welfare Licences within the area
  - RSPCA
  - British Veterinary Association
  - Royal College of Veterinary Surgeons
  - DEFRA
  - Elected Members
  - Sussex Police

## **5. Fixed Penalty Notices – Animal Welfare Offences**

- 5.1. From 1<sup>st</sup> January 2024, the Council as the Enforcement Authority or a Police Constable can use penalty notices for animal health and welfare offences under the Animals (Penalty Notices) Act 2022 ('the Act'). A penalty notice under the Act for specific matters as listed by the Act, gives an individual or body the opportunity to avoid prosecution for a criminal offence by paying a financial penalty. Payment of a penalty does not require an admission of guilt and will not result in a criminal record. There is government guidance published regarding the use of penalty notices of animal health and welfare offences, which is accessible via this link:  
<https://www.gov.uk/government/publications/penalty-notices-for-animal-health->

[and-welfare-offences/statutory-guidance-on-the-use-of-penalty-notices-for-animal-health-and-welfare-offences](#)

- 5.2. Penalty notices will add to and complement the current suite of enforcement and regulatory options, such as:
- advice and guidance
  - warning letters or statutory notices
  - movement restrictions
  - cautions and prosecutions
- 5.3. This new enforcement route is to support early redirection through behaviour change, to promote compliance with animal health and welfare rules. Penalty notices are not designed for serious offences, nor for minor breaches where advice and guidance in the first instance would be sufficient in rectifying the issue. Advice and guidance should usually be our primary enforcement action to promote compliance in most cases followed by warning letters or statutory notices. Issuing a penalty notice will usually supplement these actions or be the next enforcement steps.
- 5.4. Consideration is also given as to whether prosecution would be the most appropriate enforcement action in the first instance where there is evidence of:
- a serious animal welfare offence.
  - a significant threat to the human food chain or national biosecurity.

## **6. Policy and Regulation**

- 6.1. There is no legislative requirement to produce a policy for The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, however, it is considered good governance to have such guidance and a framework for decision making.

## **7. Staffing, Equalities, Financial and Legal Implications**

- 7.1. There are no specific financial implications other than the administrative, inspection and regulatory requirements of the regime, including the development, review, and adoption of this draft Policy. Qualified Inspectors within the Licensing Team will be responsible for the administration and enforcement of the various provisions.
- 7.2. However, depending on the level of demand, resourcing will therefore need to be kept under review and may need adjustment dependent upon how many applications or enforcement issues arise. Significant work has already been undertaken by the Licensing Team to secure compliance amongst eligible operators, but work continues to identify illegal animal activities. The costs are generally covered by the licence fees, without recourse to the General Fund.
- 7.3. The details of all current licensed animal activity premises are available via the Council's website: [Animal Activity Licence Register \(crawley.gov.uk\)](http://crawley.gov.uk)

## 8. Staffing, Equalities, Financial, and Legal Implications

- 8.1. It is likely that there will be increased demand on the Licensing Service as a result of the regulatory and enforcement requirements brought about by the Animal Activities Licence regime. The Service is self-financing, and activities should be cost neutral. The fees charged in relation to animal activity licensing are determined locally and comprise of Part A, application fee and Part B, grant fee.
- 8.2. Councillors must ensure that they exercise their decision-making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 8.3. The Crime and Disorder Act 1998 (CDA) established that the responsibility of reducing crime does not fall solely to the police. Section 17 of the CDA requires local authorities to consider the crime and disorder implications of all their activities and functions and do all that they reasonably can to reduce these problems. It states as follows:
  1. *Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent.*
    - a. *Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and*
    - b. *The misuse of drugs, alcohol, and other substances in its area, and*
    - c. *Re-offending in its area.*
  - 1A) *The duty imposed on an authority by subsection (1) to do all it reasonably can to prevent serious violence in its area is a duty on the authority to do all it reasonably can to—*
    - (a) *prevent people from becoming involved in serious violence in its area, and*
    - (b) *reduce instances of serious violence in its area.*
- 8.4. Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'Public Sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-
  - a) Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act.
  - b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.5. The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment
- marriage/civil partnership
- pregnancy/maternity
- race
- religion/belief
- sex
- sexual orientation

An Equality Impact Assessment is included at Appendix B.

<b>Are there any implications for the following?</b>		
	<b>Yes</b>	<b>No</b>
<b>Crime and Disorder</b>	✓ As the Council has an enforcement responsibility in respect of persons operating without the required licence, a number of enforcement cases might now be referred to us which will need to be appropriately dealt with so as to ensure compliance with legal requirements	
<b>Biodiversity and Climate Change Mitigation</b>		✓
<b>Human Rights and Equality Impact.</b>	✓ See Equalities Impact Assessment	
<b>Safeguarding and Early Help</b>	✓ See Equalities Impact Assessment	
<b>General Data Protection Regulations (GDPR)</b>	✓ See Equalities Impact Assessment	
<b>Health and Wellbeing</b>		✓
<b>Other</b> (please specify)	✓ See Equalities Impact Assessment. Licence and business operations may be impacted by the draft Policy.	

## **Background Papers**

[The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018](#)  
[Animal Welfare Act 2006](#)

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