

Crawley Borough Council

Report to Licensing Committee

5th November 2018

ARRANGEMENTS FOR THE LICENSING OF ACTIVITIES INVOLVING ANIMALS

Report of the Head of Community Services – HCS/07

1. Purpose

- 1.1 For Members to consider the new arrangements for the licensing of activities involving animals and approve the revised fee levels.

2. Recommendations

The Committee is asked to:

- 2.1 Agree the new arrangements for the licensing of activities involving animals.
- 2.2 Approve the implementation of revised fee levels

3. Reasons for the Recommendations

- 3.1 To ensure the Council complies with its statutory requirements and also recovers the costs of administration and enforcement of the regime without excessive cost to business.

4. Background

- 4.1 The Animal Welfare Act was brought into force in 2006, and until this point it has had a minimal impact on animal licensing other than influencing licence conditions. The legislation aims to ensure that animals are not mistreated, and statutory guidance made under the legislation introduced the 5 freedoms of animal welfare which are:-
 - For a suitable environment (place to live)
 - For a suitable diet
 - To be housed with or apart from other animals
 - To be protected from pain, suffering, injury and disease
 - To exhibit normal behaviour patterns
- 4.2 The Animal Welfare Act 2006 is the enabling legislation for new regulations that cover the licensing of activities involving animals. New regulations, called the Animal Welfare (Licensing of Activities Involving Animals) Regulations (the regulations) were passed by Government in April 2018 and come into effect 1st October 2018.

- 4.3 These regulations repeal and amend a raft of legislative provisions that currently govern the Council's licensing activities in relation to animal establishments, such as:-
- 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 Etc.
 - (a full list can be found in Schedule 9 and 10 of the act.)
- 4.4 The new Regulations provide for licensing by the Council of the following five activities involving animals:
- Selling animals as pets.
 - Providing for or arranging for the provision of boarding for cats or dogs (includes boarding kennels or catteries, home boarding for dogs and day care for dogs).
 - Hiring out horses.
 - Dog breeding.
 - Keeping or training animals for exhibition (to be transferred from County Councils to District Councils).
- 4.5 Zoos' and 'Dangerous Wild Animal' establishments will continue to operate under their current respective licensing regimes.

Key Changes

- 4.6 All current licences will continue to be subject to the same restrictions until their relative expiry date. Other than current animal exhibition registrations, which will continue to be valid until 1 April 2019, and riding establishments which have unique expiry dates, all current licences affected are due to expire on 31 December 2018.
- 4.7 Licences will no longer be issued in accordance with the calendar year but will be issued for 12 months, or longer for a period up to 3 years.
- 4.8 A new risk rating system resulting in a 1-5 star score for the business will be implemented with businesses licence duration determined by the level of compliance and extent to which they meet or exceed the required standards. Each premises will require an inspection prior to determination of a new or renewal licence application.
- 4.9 Those carrying out inspections will be required to be suitably qualified. In addition inspections of new dog breeders will require a veterinarian to be present. Horse riding establishments will require a listed veterinarian to carry out an annual inspection.
- 4.10 Premises that meet higher standards (as defined within the statutory guidance), and are fully compliant, may be eligible for a licence to be granted for of up to a 3 year duration, which provides a financial incentive to attain higher standards.
- 4.11 There is an appeal process for aggrieved applicants to appeal against a star rating decision. A person can appeal against the risk level determination; the appeal must be heard by a party other than the inspecting officer who carried out the risk assessment.
- 4.12 Licence holders will be required to display their licence number on any of their websites.

- 4.13 Businesses that fail to meet minimum standards in relation to animal welfare (as defined within the statutory guidance) will not be able to renew their licence. An operator who is aggrieved by the Council's decision to grant a licence can appeal to "The First Tier Tribunal" within 28 days.
- 4.14 Licensing Authorities are encouraged to publish a list of licensed business and star ratings on the Council's website.
- 4.15 All licences will be subject to new national standard conditions determined by the type of licensable activity. These will replace the Council's current licence conditions for any licence granted after 1st October 2018, including existing operators. For businesses providing multiple licensable activities, only one licence will be required.
- 4.16 The Council may suspend, vary or revoke a licence in the interests of protecting animal welfare by way of notice at anytime. The Council can consider representations from the licence holder submitted within 7 days. An operator who is aggrieved by the Council's decision following representation can appeal to "The First Tier Tribunal" within 28 days.

5. Description of Issue to be resolved

- 5.1 The law concerning Animal Welfare as enforced by local authorities has been modernised and previous legislation concerning this area has been repealed. It is necessary for the Council to update its procedures and also re licence all extant licensees to ensure it applies the new legal controls in compliance with the new regulatory regime.

6. Information & Analysis Supporting Recommendation

- 6.1 The cost of implementing and operating the new licence regime should be covered by income from animal establishment licensing fees. There may be more work than anticipated due to the unknown numbers of persons needing to be licensed for dog breeding in which case future fees may need adjustment to reflect this possibility.
- 6.2 Implementation of the new licensing regime is a statutory requirement and no other options are available

7. Implications

- 7.1 The new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its costs.
- 7.2 Regulation 13 helpfully sets out what the Council may charge fees for, as follows:
- The costs of considering an application and associated inspections.
 - The reasonable anticipated costs associated with considering a licence holders compliance and associated additional inspections.
 - The reasonable anticipated costs of enforcement in relation to any licensable activity or an unlicensed operator.
 - The reasonable anticipated costs of providing statutory returns.
- 7.3 The licensing service has prepared a new fee schedule (as set out in Appendix A to this report), which reflects the Council's anticipated costs in relation to the matters set out in paragraph 7.2. In preparing this fee schedule the Licensing Service has

had regard to “Open for business: LGA guidance on locally set licence fees” and “BEIS Guidance for Business on the Provision of Service Regulations”. It is intended that fee levels will be regularly reviewed to ensure that fees are kept to a minimum while ensuring Council costs are met. It is not proposed to change existing fees for Dangerous Wild Animal or Zoo licences. The fees have been set to share the costs of running the licence service across all the service users as opposed to splitting into licence types.

- 7.4 The legislation does not provide any statutory requirements in terms of consulting on or publishing new fee levels prior to their adoption. The terms of reference within the Licensing Committee’s constitution permit the committee to make decisions as to whether to charge fees in respect of the new licensing regime and determine what those fees will be.

Impact

- 7.5 The new licence conditions are largely reflective of the Council’s current standards and it is anticipated that most operators are unlikely to have significant difficulties with compliance. However, those that have not updated their facilities may find that the renewal of their licence is refused.
- 7.6 All existing licence holders have been contacted to notify them of these changes and information will be displayed on the web site.
- 7.7 The number of inspections carried out will increase as all premises will require an inspection prior to granting of a licence or renewal of a licence. The Council will have to train additional officers in order to carry out these inspections and consider the possibility of outsourcing some inspections to competent accredited individuals/bodies in order to meet demand.
- 7.8 In accordance with the Council’s constitution the Council officers have delegated responsibility to deal with issues of consents and undertake all aspects of enforcement action pursuant to the Council’s statutory functions relating to animal welfare. In addition environmental health, licensing officers and enforcement officers have delegated authority to carry out enforcement activity under the Animal Welfare Act 2006.
- 7.9 All forms and licence templates have been produced and are available on the Council’s web pages.

8.0 Background Papers

<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

AEL Licence Fee Setting Guidance November 2017

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