

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 18th October 2018

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PART I
FOR INFORMATION

**THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS)
(ENGLAND) REGULATIONS 2018**

1. **Purpose of Report**

To inform the Committee of changes to animal licensing introduced through the new Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to note the report.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The new Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 has replaced a number of existing pieces of animal licensing legislation and reduces the regulatory burden on businesses and operators by having in place national standards and conditions, rather than locally approved standards.

3a. **Slough Joint Wellbeing Strategy Priorities**

The new animal welfare licensing regulations will contribute to and support the Slough Joint Wellbeing Strategy priority:

Priority: 1. Protecting vulnerable children

3b. **Five Year Plan Outcomes**

The new animal welfare licensing regulations will contribute to the 5 Year Plan outcomes of:

1. Slough will be an attractive place where people choose to live, work and visit.
2. Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) **Financial**

The duration of licenses under the new animal licensing legislation and the types of licensable activities will depend on a risk rating, with some licences being granted for a longer period than others and some of our existing licensees may not be suitable for licensing under the new legislation, which could reduce licence fee revenue – although this in turn would reduce administration and costs incurred by the Council. In addition to this, there may be an increase in the number of licences that are granted as the threshold for requiring a licence will be reducing, and increased enforcement powers could lead to more businesses being identified.

(b) **Risk Management**

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
The Committee is requested to note the report.	The current animal licensing legislation will be rescinded to reduce the regulatory burden on businesses and operators, with a risk rating process to grant and issue licenses for 1 to 3 years rather than the current system of renewing licenses annually.	Current varied legislation.	2	New animal welfare licensing regulations to reduce regulatory burden on current and new businesses and operators.

(c) **Human Rights Act and Other Legal Implications**

1. Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has not been conducted as this is primary legislation and applies nationally to all local authorities in England and Wales.

5. Supporting Information

5.1 The Council is at present responsible for the licensing and 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 can also be granted however, these will continue to be covered by their own specific legislation.

5.2 The current number of licences issued by Slough Borough Council are as follows:

- 1 x Animal boarding establishment licences (including home boarding and day care)(duration: one calendar year, expiry 31 December each year)
- 1 x Pet shop licences (duration: one calendar year, expiring 31 December each year)
- 0 x Riding establishment licences (duration: one year, expiry on anniversary of grant)
- 0 x Dog Breeding licences duration: one year, expiry on anniversary of grant)

5.3 Numerous pieces of primary and secondary legislation regulate the six licence types set out in paragraph 5.1. Also, as adoption of conditions and implementation of processes have historically been left to the discretion of individual licensing authorities, requirements as to how to apply for licences and comply with locally set conditions vary widely, which, for businesses that operate in a number of areas, can cause uncertainty and confusion. In addition, currently all types of licence are standalone, so a business that offers two or more of the licensable activities (for example a pet shop that also offers accommodation for dogs and cats while their owners are away) would have to apply for both a pet shop and animal boarding establishment licence, with the additional expenditure incurred.

5.4 The Animal Welfare Act 2006 has since introduced additional legislation, which overrides past 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. 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. The implementation date for the new regulations was 1st October 2018.

- 5.5 Draft guidance on procedures was published in July 2018, and is, at the time of writing this report, subject to further revision. It should therefore be stressed that there could be minor changes to the processes set below. If a final guidance has been published by the date of the Committee, officers will update on any changes.

6. FORTHCOMING CHANGES

6.1. 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.

6.2. The first significant change is that all five types of licence, will be encompassed by one new 'Animal Activity licence'. If an applicant is running more than one licensable animal related activity, each activity will be assessed separately and set out in one licence. The length of licence (previously one year in most cases) may be anything between one and three years dependent on the outcome of their inspection, and the type of licence (See paragraph **7.3**).

6.3. As stated earlier in the report, all existing arrangements included locally set conditions. The new provisions contain nationally set conditions and regulations for each animal based activity, which cannot be changed in any way and form the basis for conditions on the new licences going forward.

6.4 The new regulations comprise of a set of general conditions in respect of matters such as record keeping, types and numbers of animals, staffing, maintaining a suitable environment and diet, monitoring behaviour, handling of the animals, protecting the animals from pain, suffering, injury and disease and dealing with emergencies. Each specific animal activity then has its' own set of more detailed requirements, tailored to that particular area. All the new animal licensing conditions and regulations are attached at **Appendices A**.

- 6.5. Existing licences that are issued up to 31st December 2018, will continue until their stated expiry date, however licence holders will be required to apply for a new type of licence prior to the 31st December 2018 and to take effect from 1st January 2019.
- 6.6. If the grant of a licence is refused, or the licence is suspended, the operator will be able to appeal to a First Tier Tribunal (Magistrates Court), which would comprise a panel with specialist knowledge administered by HM Courts and Tribunal Service.

7. INSPECTION PROCESS AND SCORE RATING

- 7.1. In the past, an inspection of the premises has been carried out by officers from the Licensing Team and where possible an officer from the Trading Standards Team. 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. 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. Their certificate must apply to the specific type of activities they are inspecting. If an inspector is not available, then a qualified veterinary surgeon must carry out the inspection.
- 7.2. Transitional provisions are in place to enable any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses to carry out the inspections until October 2021. After that time, the above requirements will need to be met.
- 7.3. 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). The star rating will be displayed on the licence, and included in the Council's public register, published on the Slough Borough Council website.
- 7.4. 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.
- 7.5. 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.

- 7.6. The recently published draft guidance advises that if a business is certified by a UKAS-accredited body to operate animal welfare certification, it should be considered low risk and receive the higher star rating, unless there is evidence of poor animal welfare or non-compliance. Existing businesses that are not certified must be assessed using a risk scoring table – also set out in the guidance – to ascertain their score, and from this, their star rating. New businesses that are not certified will automatically be considered high risk as they have no operational history.
- 7.7. Operators of businesses will be able to appeal their risk rating, or request a reassessment if they have made improvements.

8. PUBLICISING THE CHANGES

- 8.1. All proprietors of establishments whose licences expire on 31 December each year due to current legislative requirements, have been appraised and provided with information of the impending changes and that further information can be accessed from the SBC website. At the time of preparing this report it is anticipated that DEFRA will be publishing an application form and inspection sheets before or on 1st October 2018.
- 8.3. Once all documentation and guidance has been published by DEFRA and the new arrangements are up and running, officers will work to develop and implement a new policy, which will be brought before members for consideration at a future meeting.

9. FEES

- 9.1. The animal licensing scheme falls within the definition of ‘services’, and is subject to the EU Services Directive, incorporated in to UK law as the Provision of Services Regulations 2009.
- 9.2. The fees that were put before Cabinet on 15th October 2018 are split into two parts: –
- (i) the application fee, payable at the time of submission to cover the Council’s costs in considering and determining the application, and
 - (ii) the licence fee, which covers ongoing enforcement and compliance requirements.

10 . APPEALS

- 10.1. An appeal process will be in place to enable applicants to challenge the initial star rating they are given. It will also be possible for applicants to pay for a re-inspection following the carrying out of improvements that would lead to a higher star rating.

11. Comments of Other Committees

A report for new animal licensing fees is scheduled for approval by Cabinet on 15th October 2018.

12. Conclusion

The Committee is requested to note the report.

13. Appendices Attached

'A' - Animal Welfare Licensing conditions and regulations.

14. Background Papers

- '1' - The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- '2' - DEFRA - The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – Procedural guidance notes for local authorities (July 2018)