
Decision Maker: **GENERAL PURPOSES & LICENSING COMMITTEE**

Date: **Wednesday 26th September 2018**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **Changes to Animal Licensing Legislation - Review of Fees and Conditions**

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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: (All Wards);

1. Reason for report

On the 1 October 2018 a new statutory instrument (2018 No.486) comes into force, namely the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The new legislation introduces an update licensing framework in England for five activities involving animals, selling animals as pets, providing for or arranging for the provision of boarding for cats of dogs, hiring out horses, dog breeding and keeping or training animals for exhibition. The introduction of the legislation has highlighted the need to revise both current procedures and Fee structure.

This report seeks to advise the committee of the changes to animal licensing conditions which are in line with the new legislation.

2. **RECOMMENDATION(S)**

That the Committee:

(a) Note the changes required by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and the associated conditions.

(b) Agree to retain the current fee structure until such time that the new fees can be reviewed and set in accordance with the guidance provided by Defra.

(c) Delegate to the Director of Environment and Community Services the administration of the Council's power to grant or renew a licence for a licensable activity under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council Quality Environment Safe Bromley
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Financial

1. Cost of proposal: Cannot be quantified at this moment in time
 2. Ongoing costs: Cannot be quantified at this moment in time
 3. Budget head/performance centre: Food Safety and Licensing
 4. Total current budget for this head: £350k
 5. Source of funding: Existing total net revenue budget 2018/19
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Personnel

1. Number of staff (current and additional): *5.5 FTE*
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: No
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Procurement

1. Summary of Procurement Implications:

The City Of London Vet Service may decide not to renew their contract in the future. If this inspection function was transferred to the Council, Officers would need to undertake the “animal inspector” level provision qualification. Additional Officers would also need to be employed to fulfil the function (the number cannot be quantified at this time). As the cost of the contract is below £17k, this would not be cost effective, and this measure would not negate the requirement for the provision of a Certified Vet for the Equine and Breeding elements of the licensing regime.

In order to mitigate the risk moving forward, it is proposed that the Licensing Team undertake a market testing exercise to ascertain whether there are additional providers available, and to work with neighbouring Boroughs to establish whether there are alternative options for service delivery thus far not explored.

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There are 64 businesses that hold a relevant license.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not applicable

3. COMMENTARY

Introduction and Background

- 3.1 The Council has responsibility for licensing various animal businesses, pet shops and riding establishments. Businesses are expected to meet the conditions associated with the licence relating to the welfare of the animals concerned.
- 3.2 The Licensing Team currently consider applications and issue a range of animal welfare licences under the following legislation: Domestic Dog Boarding under the Animal Boarding Act 1963, Catteries – Animal Boarding Act 1963, Dog Breeding – Breeding of Dogs Act 1973 and 1991, and Breeding and sale of Dogs (Welfare) Act 1999, Pet Shops – Pet Animals Act 1951, Kennels – Animal Boarding Act 1963, Riding Establishments – Riding Establishments Act 1964 and 1970.
- 3.3 The conditions associated with each type of licence provide a basis to assess compliance with relevant legislation. New legislation namely; The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 comes into force on the 1st October 2018 and this regulation combines all of the above pieces of legislation into one place.
- 3.4 The new legislation outlines general conditions which each licence holder must meet and additional higher standards have also been outlined. These are national conditions and they cannot be amended, deleted or added to.
- 3.5 Any Business with an unexpired licence will continue in force for the rest of the term under the relevant Act. For the majority of businesses this will be the 31st December 2018. The only exceptions within the borough are 2 riding establishments, whose licences expire prior to this date.
- 3.6 Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months until the 1st April 2019.
- 3.7 As a result of this new legislation, conditions have been revised as detailed in Appendices A – H. These update the previous conditions used when issuing licences following an annual inspection. The new conditions will be implemented within the context of the new legislation.
- 3.8 The new legislation also gives Local Authority officers responsibility to issue and enforce licences for Dog Day Care (which was not previously licensable) and Keeping or Training of Animals for exhibition as a result there are further conditions (appendix G and H) which will be enforced.
- 3.9 The licence conditions proposed in this report are based on those which are set down within the legislation and also consideration has been given to the guidance notes which have been issued in conjunction with, and to support the new legislation. There are three levels of criteria

which are applied to each licence, firstly mandatory conditions which a licence holder must meet in order for a licence to be issued (these are black font in the attached conditions), secondly, higher standards which the licence holder is required to meet (these are in underlined font in the attached conditions) and thirdly optional higher standards which the licence holder is not required to meet but which would help them in achieving a higher star rating (*these are underlined in italic font in the attached conditions*). These are national conditions and cannot be amended, deleted or added to.

- 3.10 There are a number of different functions set out within the legislation and these all have a cost attached to them, which can be charged for on a cost recovery basis. For example, a business can now apply for a re-rating at any point during the term of their licence. This would require an additional visit to, or inspection of the premises, and a new cost would be attached to this. As Council Officers do not hold the prerequisite qualifications to carry out inspection work, this element of the service is currently provided by the City of London Vet Service.
- 3.11 In order to ensure that the cost of delivering the licensing process is fully covered, a review will be required to ascertain appropriate fees and charges to be applied for administering the licensing scheme, including for example the additional inspections. The City of London Vet Service has indicated that they will not have the resources necessary to fulfil all of their statutory functions, and that there will be a requirement to employ additional inspectors. As the fees for this work are applied on a cost recovery basis, it is necessary to ensure that the fees set will cover any additional inspections that need to take place, as it is anticipated that the contract price with the City of London Vet Service will increase (this is invoiced based and is currently below £17K PA). However, they have yet to complete their costing exercise, as DEFRA have not yet issued their full guidance on fee structures. This delay has hindered progress in this area, and as such, this report seeks approval to retain the current level of fees set out in Appendix I, until the new fees can be determined. Appendix I also shows for comparison and information the fees for the new 2018 regulation that an outer London Authorities have published even though the formal DEFRA fee guidance has yet to be issued.
- 3.12 As some of areas of licencing are new to the service, (such as dog day care. In these instances, it is proposed that the current fees that most closely match that activity are applied (for example dog kennelling).
- 3.13 The City of London Vet service has made all current licence holders aware of the changes, and whilst no specific consultation has been undertaken by the council, extensive consultation has been undertaken by DEFRA as part of the development of the new regulations and standards.
- 3.14 The Licensing Team will continue to work with legitimate businesses to ensure compliance and will provide support and guidance during this transitional period; licensed businesses will be sent the relevant updated licence conditions with a covering explanatory letter on the different levels of criteria before the renewal date of their licence. This is to ensure that licence holders are aware of the standards at which their business will be assessed. The updated conditions will also be available on the Council's website. The business will also be made aware of the new fees and charges associated with their licence once determined.

4. Financial Implications

- 4.1 At this moment in time it is not possible to quantify the additional costs and income that will result from this change in legislation.
- 4.2 Once DEFRA has issued the full guidance for setting fees under the new legislation, officers will determine what the costs and fee structure will be, to ensure that all costs incurred are recovered through the new fees.

5. Legal Implications

- 5.1 A delegation of the powers granted to the Council to grant or renew a licence for a licensable activity to the Director of Environment and Community Services is required to ensure the day to day implementation of the Council's functions pursuant to the Regulations.

6. Procurement Implications

- 6.1 The City of London Vet Service currently provide the service of inspection for all animal licensing activities for the Council (for both animal inspector and certified vet level inspections), as inspectors need specialist qualifications to carry out their role.
- 6.2 They have confirmed they will continue to provide this service under the new 2018 Regulations. However they have stated that the new provisions will increase demand on their service, which will require the employment of additional staff, and, they have indicated that their new fees (once determined) will be higher.
- 6.3 The City of London Vet Service provides a service for many London Authorities, and there is a risk that they may decide to stop providing the service in the future. It is an option for the Council to fund training for Officers to undertake the "animal inspector" level provision qualification, however, this would not negate the requirement for the provision of a Certified Vet, as the inspection of equine and breeding establishments can only be carried out by certified vets. Moreover, additional Officers would need to be employed to fulfil the function, and as the cost of the contract is below £17k, this would not be cost effective.
- 6.4 In order to mitigate the risk moving forward, it is proposed that the Licensing Team undertake a market testing exercise to ascertain whether there are additional providers available, and to work with neighbouring Boroughs to establish whether there are alternative options for service delivery thus far not explored.

7. Policy Implications

- 7.1 Existing policy

Non-Applicable Sections:	Personnel Implications, Impact on Vulnerable Adults and Children
Background Documents: (Access via Contact Officer)	