

Decision Maker: PUBLIC PROTECTION AND SAFETY PORTFOLIO HOLDER
FOR PRE-DECISION SCRUTINY BY THE PUBLIC PROTECTION & ENFORCEMENT PDS COMMITTEE ON

Date: Tuesday 4th December 2018

Decision Type: Non-Urgent Executive Key

Title: Animal Licensing Legislation - Review of Fees

Contact Officer: Steve Phillips Lead Practitioner Licensing Team
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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) came into force, namely the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The new legislation introduced an updated licensing framework in England for five activities involving animals, these being: selling animals as pets, providing for or arranging for the provision of boarding for cats and 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 the fee structure.

This report sets out the revised fees to be implemented, which have been based upon cost recovery in relation to the licensing of Animals.

2. **RECOMMENDATION(S)**

The Portfolio Holder is asked to:

1. Approve the fees as set out in Appendix 1 to be implemented with effect from the 1st January 2019.

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 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. Or the function is continued to be jointly provided by the Licensing Authority's own officers. There is a need in next three years for the existing Licensing Officers to undertake the prescribed "animal inspector" level provision qualification. This is required as the existing officers competence will only be accepted until the end of 2021 without the new formal qualification. This will then maintain the ability to inspect and deal with complaints of an animal welfare or licensing issues.

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There are 64 businesses that hold a relevant licence.
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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 As part of their responsibility, The Council must 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 New legislation namely; The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on the 1st October 2018 and this regulation combined all of the above pieces of legislation into one place.
- 3.4 The new regulations provide for licensing by the Council of the following five activities involving animals: i. Selling animals as pets. ii. 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). iii. Hiring out horses. iv. Dog breeding. v. Keeping or training animals for exhibition
- 3.5 'Zoos' and 'Dangerous Wild Animal' establishments will continue to operate under their current respective licensing regimes.

Key Changes

- 3.6 Under the new regulations, 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.
- 3.7 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.
- 3.8 A new risk rating system resulting in a 1-5 star score for the business will be implemented, with licence duration for each business being determined by the level of compliance and extent to which they meet or exceed the required standards. All premises will require an inspection prior to determination of a new or renewal licence application.
- 3.9 Those carrying out inspections will be required to be suitably qualified. In addition, inspections of dog breeders will require a veterinarian to be present. Horse riding establishments will require a listed equine veterinarian to carry out an annual inspection.
- 3.10 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.

- 3.11 There is an appeal process for aggrieved applicants to appeal against a star rating decision. If a business appeals against the risk level determination, the appeal must be heard by a party other than the inspecting officer who carried out the inspection and risk assessment.
- 3.12 Licence holders will be required to display their licence number on any of their websites.
- 3.13 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 not to grant a licence can appeal to "The First Tier Tribunal" within 28 days.
- 3.14 Licensing Authorities are encouraged to publish a list of licensed businesses and star ratings on the Council's website.
- 3.15 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. These conditions were presented in the report approved by the General Purposes and Licensing Committee on 26th Sept 2018 (insert report number)
- 3.16 At any time the Council may suspend, vary or revoke a licence in the interests of protecting animal welfare by way of notice. 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.

Fees

- 3.17 Based on the above, 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 full costs.
- 3.18 Regulation 13 helpfully sets out what the Council may charge fees for, as follows: i) The costs of considering an application and associated inspections. ii) The reasonable anticipated costs associated with considering a licence holders compliance and associated additional inspections. iii) The reasonable anticipated costs of enforcement in relation to any licensable activity or an unlicensed operator. iv) The reasonable anticipated costs of providing statutory returns.
- 3.19 The length of the licence can vary between one and three years, and the length is determined from the risk rating (see 3.8). The fee has been calculated to allow for these variables and is shown in appendix A.
- 3.20 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, whilst ensuring Council costs are met. It is not proposed to change existing fees for Dangerous Wild Animal or Zoo licences.
- 3.21 The new fee schedule in Appendix A has been calculated on a full cost recovery basis and reflects the Council's anticipated costs in relation to the matters set out in paragraph 3.18, and also to account for the variables mentioned in 3.19.

- 3.22 In line with current guidance the new fees have been calculated in two parts, Part A which forms the application fee, and Part B which forms the enforcement fee. Both parts are payable before the licence can be issued, however, Part B fees would be refundable to the applicant should the licence for any reason not be issued. This guidance has been followed in calculating both Part A and B fee levels and is presented in appendix B.
- 3.23 Appendix A shows the proposed fee breakdown for all of the new licensable activities and also shows in brackets the current fee in place for comparison.
- 3.24 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

- 3.25 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.
- 3.26 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 City of London Vet Service currently provides 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. 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.
- 3.27 The Licensing Team will continue to work with legitimate businesses to ensure compliance and will provide support and guidance during this transitional period. All licensed businesses have been sent the relevant updated licence conditions with a covering explanatory letter on the different levels of criteria that will need to be met. This is to ensure that licence holders are aware of the standards at which their business will be assessed. The updated conditions are also available on the Council's website.

4. Financial Implications

- 4.1 Officers have assessed the time expected to be spent on processing the new animal licenses, in accordance with the regulation guidance that has been issued. They have included the anticipated amount of officer time that will be involved in processing each application, as well as associated costs including overheads such as administration buildings and computer recharges. The recommended fees are detailed in Appendix A.
- 4.2 At this moment in time, it is not possible to quantify what the actual costs will be, nor the level of income that may be received, as the actual volume of licenses that may be submitted, as officers cannot predict how many applications will be received under the new regulations.
- 4.3 The service will be monitored to assess the level of actual staffing resources required and to review the fees and charges, to ensure that all costs are fully recovered via the charges levied.
- 4.4 A future report will be brought back to Members with details of the review and any recommendations for additional resources and any changes to 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 has been approved 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.

7. Policy Implications

7.1 Existing policy

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