

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

02 October 2018

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 CHANGES TO ANIMAL LICENSING LEGISLATION

1.1 Executive Overview

1.1.1 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.

1.1.2 This new legislation introduce an updated licensing system in England for five activities involving animals: selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs (Home Boarding, Doggie Day Care, Cattery's and Kennels), hiring out horses, dog breeding and keeping or training animals for exhibition. The latter of which was previously administrated by Kent County Council.

1.2 Background

1.2.1 Currently, there are four main Acts which govern licensable activities involving companion animals: the Pet Animals Act 1951; the Animal Boarding Establishments Act 1963; the Riding Establishments Act 1964; and the Breeding of Dogs Act 1973. There is also the Performing Animals (Regulation) Act 1925 which requires individuals who want to exhibit or train any performing animals to register for this purpose under the Act.

1.2.2 At present, local authorities are required by law to issue licences and require registration for specific animal-related establishments and activities, with the aim of maintaining good standards of animal welfare.

1.2.3 Tonbridge and Malling currently has issued seven pet shop licences; eight animal boarding establishments and four home boarding licences; eight riding establishments and one dog breeding establishment.

1.2.4 The existing laws covering the licensing of these activities, are outdated and difficult to adapt to the changing types of animal-related businesses and to new standards of good practice in animal welfare. Moreover, the current application, inspection and enforcement process is complex and burdensome for both

businesses and local authorities. For instance, primary legislation limits licences to a calendar-year framework, arbitrarily focussing inspections at the end of the year, and forcing some businesses with multiple functions to have as many as three separate licences.

- 1.2.5 There are also specific concerns about certain types of activity that are not currently robustly enforced. Online sales of pets have increased dramatically over the last decade. As these types of business do not fall clearly within the definition of pet shop, the current licensing system is not being consistently enforced for such businesses by local authorities. There are also concerns around ‘backstreet dog breeders’ (i.e. smallscale dog breeders who breed dogs in poor welfare conditions for profit), who under current legislation can breed up to four litters per year without requiring a licence.
- 1.2.6 Many businesses under the existing legislation consistently achieve high welfare standards and good performance. Some of these businesses are also members of the UK Accreditation Service’s (“UKAS”) accredited schemes, which can ensure that they meet a higher standard of animal welfare than the current legal minimums. These businesses are currently licensed annually by the relevant local authority, and are charged the same fee as all other establishments. There is a concern that this is overly burdensome for both these high performing businesses and local authorities, and it is suggested that a system of earned recognition could be more efficient, fair and help to promote higher welfare standards.

1.3 Proposed changes

- 1.3.1 The Government believes that new legislation is needed to establish a licensing system that is up to date with modern practices and modern animal welfare standards.
- 1.3.2 This new statute requires that all businesses undertaking these activities meet the same, up-to-date, minimum welfare standards. Businesses will have to be licensed and will have to meet these minimum standards to hold and retain a licence.
- 1.3.3 These are national conditions and cannot be amended, deleted or added to.
- 1.3.4 The instrument will also incorporate “earned recognition” into the licensing system. Local authorities will be able to issue licences of 1, 2 or 3 years, with longer licences going to high performing, low risk businesses. This will result in lower licence fees and fewer inspections for high performing businesses, reducing the burden on them. It will also incentivise other businesses to perform at higher levels which will help to drive up animal welfare standards.
- 1.3.5 Local authorities will be able to issue licences at any point in the year, which will help to spread the workload across the year. The instrument will include new provisions, such as the prohibition on the sale of puppies below the age of 8 weeks and a requirement for a puppy to be shown with its mother by breeders

prior to sale. There will be a requirement for pet sellers to provide animal care information to new owners with every animal sold. Any purchase of a dog must now be completed in the presence of the purchaser at the premises where the dog has been kept for sale by the licence holder. The licensing threshold for dog breeders will be reduced to three or more litters per year to ensure that anyone breeding dogs commercially, including backyard breeders, requires a licence. This instrument will also explicitly highlight the need for online businesses to be licensed, removing the ambiguity in legislation to date.

- 1.3.6 Performing animals will be included in a light touch licensing scheme, in which the licence will be granted for 3 years following a satisfactory inspection. This system will include animals that are being exhibited, but not necessarily performing, to reflect the changes in this industry and the expansion of animal exhibition businesses.
- 1.3.7 Existing unexpired licences granted in accordance with the current animal licensing legislation shall continue in force for the remainder of its term.
- 1.3.8 Zoo licences and dangerous wild animal licences remain unchanged.
- 1.3.9 Existing licence holders have been contacted to advise them of the forthcoming changes and the new conditions relating to their animal activity.
- 1.3.10 A copy of the different Guidance documents for each type of licence is available on the TMBC website at <https://www.tmbc.gov.uk/services/business/licences-and-street-trading/animal-licensing/animal-welfare-licensing>

As the guidance documents are over 300 pages in length they are not attached to this report. I have included the procedural guidance notes for local authorities which is shown at **Annex 1** and a link to the individual guidance notes was emailed out prior to this meeting.

1.4 Transitional Provisions

Extract from The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities

- 1.4.1 Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964, Riding Establishments Act 1970 will continue in force for the rest of their terms under the relevant Act.
- 1.4.2 An unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, the Breeding of Dogs (Licensing Records) Regulations 1999, the Breeding and Sale of Dogs (Welfare) Act 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.
- 1.4.3 Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months from the date on which these Regulations

come into force. These Regulations come into force on 1 October 2018 so this registration will expire on 1 April 2019.

1.5 Inspections

- 1.5.1 All inspectors must be suitably qualified to a Level 3 Certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons in inspecting and licensing animal activities businesses, confirming the passing of an independent examination.
- 1.5.2 Tonbridge and Malling Borough Council (TMBC) currently use a Vet for Inspections of any new Animal Licence application. It is recommended that TMBC continue to use a Vet for Initial and renewal inspections depending on the animal activity being undertaken.
- 1.5.3 For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence

1.6 Fee setting

- 1.6.1 The proposed fees will be available in a supplementary report at the committee meeting following final calculations taking into account the below criteria.

Extract from The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities

- 1.6.2 When setting the fees TMBC offices referenced the Fee setting guidelines
- 1.6.3 Regulation 13 of the Regulations set out what a local authority may charge fees for:
- 1.6.4 (a) The costs of consideration of an application, including any inspection relating to that consideration;
- 1.6.5 (b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- 1.6.6 (c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- 1.6.7 (d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

1.7 Determining the length of a licence and the star rating

- 1.7.1 All “Keeping or Training Animals for Exhibition” licences are issued for 3 years.
- 1.7.2 A star rating will be given to a premises depending on the Welfare Standards and Risk.
- 1.7.3 Businesses will be rated following an inspection that takes place prior to grant/renewal of the licence or a requested re-inspection
- 1.7.4 Where businesses have a licence for multiple activities within the scope of the regulations, the licence holder should receive only one rating, which must cover all the activities. Where they are meeting different standards for different activities
- 1.7.5 The star rating must be added to the licence and the licence should be displayed by the business.

Table 1 – The Scoring Matrix

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

- 1.7.6 Full details of the scoring matrix is shown within **Annex 1**

1.8 Legal Implications

- 1.8.1 See above

1.9 Financial and Value for Money Considerations

1.9.1 Current annual licensing fees vary depending on the type of licence. In addition applicants are also charged for veterinary inspections. Under the new scheme local authorities may continue to charge reasonable fees associated with the grant, renewal or variation of a licence.

1.10 Risk Assessment

1.10.1 The recommended fee levels will be calculated in order to ensure that the consideration and related inspection for a licence does not exceed reasonable costs.

1.11 Equality Impact Assessment

1.11.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.12 Recommendations

1.12.1 The Committee is RECOMMENDED to:

- Agree the licence and Inspection fees as set out in the supplementary report presented at the committee meeting
- That TMBC continue to use a Vet for Initial and renewal inspections depending on the animal activity being undertaken

Background papers:

Statutory instrument (2018 No.486)
The Animal Welfare (Licensing of Activities Involving
Animals) (England) Regulations 2018

Regulation Guidance

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