

BRECKLAND DISTRICT COUNCIL

Report of: Phil Adams, Executive People and Public Protection Manager

To: Licensing Committee 28th March 2018

Author: Donna Hall

Subject: A Report on the New Animal Welfare Regulations

Purpose: To update members on the DRAFT Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and advise on the key differences from the existing regime.

Recommendation:

- 1) That the report be noted for information

1.0 BACKGROUND

- 1.1 This report is to advise the Committee of the draft Regulations which will change the existing licensing regime for animal establishments including animal boarding establishments, dog breeding establishments, pet shops and riding establishments. The report is based on the draft regulations, and whilst further significant changes are not anticipated, they may be subject to amendments.
- 1.2 In 2016 DEFRA consulted on the introduction of new secondary legislation to introduce a single "Animal Establishment Licence". The stated aim was to "relieve the administrative burden on local authorities, simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards by modernising the current animal licensing system in England." DEFRA went on to write draft regulations made under the Animal Welfare Act 2006.
- 1.3 The government, the public, local authorities, welfare organisations and businesses have been calling for changes to legislation and robust enforcement. Current laws are decades old and difficult to adapt to the changing types of animal related businesses. The current process is also quite complex and burdensome in places. For example legislation currently limits licences to a calendar-year framework which arbitrarily focusses inspections at the end of the year, and forces some businesses with multiple functions to have more than one licence.
- 1.4 The new regulations provide for the licensing of persons involved in England in selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition. This replaces the requirement in England, to be registered under the Performing Animals (Regulation) act 1925 or to obtain a licence under the Pet Animals Act 1951; the Animal Boarding Establishments Act 1963; the Riding Establishments Act 1964 or the Breeding of Dogs Act 1973.
- 1.5 The Regulations provide for local authorities to be the licensing authorities. Any person wishing to carry on any of these activities in England must obtain a licence from their local

authority. Carrying on any of these activities without a licence would commit an offence and that person would be liable to imprisonment for up to six months, a fine or both.

- 1.6 Part 2 of the Regulations set out how a person may apply for a licence and matters in respect of which a local authority must be satisfied when considering the grant or renewal of a licence. A local authority can charge fees to cover the costs of performing this function, as is the current situation. Officers will have powers to inspect premises and also to take samples from animals.
- 1.7 Part 3 sets out the circumstances and procedures under which a licence may be suspended, varied or revoked. It also makes it an offence to breach a condition or obstruct any inspector appointed for the purpose of enforcement of these regulations.
- 1.8 There is an appeal provision in Part 4 which can be made against licensing decisions by local authorities in relation to a refusal to grant or renew a licence, or a decision to revoke or vary a licence.
- 1.9 KEY CHANGES:
 - 1.9.1 The Regulations implement a single Establishment Licence which covers the four activities: dog breeding, dog/cat boarding, selling pets, hiring out horses for riding, keeping or training animals for exhibition. Note the use of the term “activities” as opposed to “establishments” which emphasises that activities such as the online sale of pets are included.
 - 1.9.2 General and Specific conditions are laid out in the Regulations for each of the categories, as opposed to these being locally set or based on Chartered Institute of Environmental Health (CIEH) model conditions. The proposed conditions can be seen within the draft Regulations (see link below under Background Papers).
 - 1.9.3 The Regulations provide for a licence to be granted or renewed for a period of one, two or three years in respect of that activity. The local authority must have regard to Secretary of State guidance as may be issued, having regard to the following when determining the period of licence: the risk of an operator breaching any licence conditions; the impact on animal welfare on any such breaches; and whether the operator is already meeting higher standards of animal welfare than are required by the licence conditions. It is anticipated that local authorities will be required to use a national risk-based assessment system.
 - 1.9.4 Legislation governing performing animals has previously fallen to the County Council. This will come under this Council’s remit under the new regulations and will go wider to cover animals that are exhibited, such as mobile animal exhibits. It is anticipated that these will be low volume and so will have minimal impact on workload or income.
 - 1.9.5 Local authorities will be required to submit an annual data return in electronic format to DEFRA on the number of licences and registrations held for the animal activities. The publishing of this information nationally should help to reduce the burden of Freedom of information requests which are common on animal welfare licensing.
 - 1.9.6 Anyone breeding dogs and advertising a business of selling dogs, and/or breeding three or more litters of puppies in any 12 month period, are now covered by the Regulations
 - 1.9.7 The regulations introduce specific requirements about advertisements for the sale of dogs, which will need to include: the licence number; the local authority that issued the licence; a recognisable photo of the dog being advertised, and the age of the dog being advertised.

1.9.8 The sale of puppies below eight weeks of age will be prohibited.

2.0 **OPTIONS**

2.1 Members are asked to note the contents of this report

3.0 **REASONS FOR RECOMMENDATION(S)**

3.1 The report is for information to ensure that Committee members are aware of the draft Regulations which will be enforced by the local authority as the licensing authority.

4.0 **EXPECTED BENEFITS**

4.1 Animal welfare is a subject that Members are often asked about as it is always a matter of concern for the general public. This briefing will give members an understanding of the proposed changes to the licensing regime and how the team will implement these

5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 **Constitution & Legal**

When the final Regulations are published the team will be properly authorised for the purposes of enforcement under the legislation. The Legal Services Manager has been consulted.

5.2 **Corporate Priorities**

5.2.1 The animal welfare licensing framework serves to ensure that the welfare and safety of animals and the public is maintained. It also ensures that there is a fair trading environment for businesses. The new licensing scheme will be implemented to ensure that it is customer friendly and digital where possible. This supports the corporate priorities: Supporting Breckland to develop and thrive; providing the right services, at the right time and in the right way.

5.3 **Crime and Disorder**

5.3.1 The new Regulations will simplify the licensing framework for animal establishments and activities, and create criminal offences for breach of conditions and obstruction of officers.

5.4 **Equality and Diversity / Human Rights**

5.4.1 An impact assessment was carried out by DEFRA prior to the publication of the draft Regulations. It is the opinion of the report author that there will be no adverse effect on the equality, diversity or human rights of any individual.

5.5 Financial

- 5.5.1 There will be an additional burden on the authority, in terms of officer time, in implementing the legislation and making the necessary changes to procedures, database, website, forms, officer training etc.
- 5.5.2 Work will be carried out to determine the new fee structure when the regulations have been finalised. We are also anticipating national guidance on fee setting. When we have this information the team will work with the finance team to ensure any impact on licensing income is considered.

5.6 Staffing

- 5.6.1 Officers will receive training when this is made available nationally and will have access to all guidance and support material.

5.7 Stakeholders / Consultation / Timescales

- 5.7.1 Consultation has been carried out nationally in respect of the new legislation. The results of the DEFRA consultation were taken into account when preparing the draft Regulations.
- 5.7.2 The draft Regulations are due to come into force on 1st October 2018. It is anticipated that any unexpired licences under the current legislation will continue in force for the remainder of the term.

6.0 WARDS/COMMUNITIES AFFECTED

- 6.1 The legislation is coming into force nationally and will affect all wards.

7.0 ACRONYMS

- 7.1 DEFRA – Department for Environment Food and Rural Affairs
- 7.2 CIEH - Chartered Institute of Environmental Health

Background papers:-

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
http://www.legislation.gov.uk/ukdsi/2018/9780111165485/pdfs/ukdsi_9780111165485_en.pdf

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service

