

Report to Licensing Committee

Date of meeting: 23 October 2018

By the Head of Environmental Health and Licensing



**Horsham
District
Council**

DECISION REQUIRED

Not Exempt

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Executive Summary

The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018, came into force on 1st October 2018. Under these Regulations the existing licensing schemes for 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of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition has been repealed and replaced by a new single licensing scheme that will regulate all of these activities. Due to the changes introduced by these Regulations a new fee structure is required. Each local authority must determine its own fees and in order to provide consistent fee structure across Sussex the East and West Sussex Licensing Liaison Group has agreed a fee calculator with each local authority can use to calculate their fees.

Recommendations

That the Committee is recommended:

- i) Note the contents of the report.
- ii) To approve the fees set out at Appendix 1 of this report to take immediate effect.

Reasons for Recommendations

- i) To ensure openness and transparency in decision making.
- ii) The setting of fees for licences is the responsibility of the Licensing Committee.

Background Papers: The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and associated Guidance

Wards affected: All

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Background Information

1 Introduction and Background

- 1.1 Horsham District Council is responsible for functions in relation to the licensing and regulation of various animal related establishments. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, came into force on 1st October 2018. Under these Regulations the existing licensing schemes for 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of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition has been repealed and replaced by a new single licensing scheme that will regulate all of these activities.
- 1.2 Due to the changes introduced by these Regulations a new fee structure is required. Each local authority must determine its own fees and in order to provide consistent fee structure across Sussex the East and West Sussex Licensing Liaison Group (E&WSLLG) has agreed a fee calculator which each local authority can use to calculate their fees.

2 Relevant Council policy

- 2.1 The various animal licensing functions currently undertaken by Horsham District Council are carried out under a variety of different pieces of legislation and the licence conditions attached to each type of licence have been adopted by the Licensing Committee to ensure the health, welfare and safety of the animals

3 Details

- 3.1 Horsham District Council is responsible for functions in relation to the licensing and regulation of various animal related establishments. These various functions are currently carried out under a variety of different pieces of legislation as detailed in the table below:

Regulated Function	Legislation
Keeping of a boarding establishment for cats or dogs (kennels, catteries, home boarding, day care facilities)	Animal Boarding Establishments Act 1963
Keeping of riding establishments	Riding Establishment Act 1964 Riding Establishment Act 1970
Keeping a breeding establishment for dogs	Breeding of Dogs act 1973 Breeding and Sale of Dogs (Welfare) Act 1999
Keeping a pet shop	Pet Animals Act 1951
Keeping a Dangerous Wild Animal	Dangerous Wild Animals Act 1976
Operating a Zoo	Zoo Licensing Act 1981

- 3.2 In addition to this, West Sussex County Council (Trading Standards) is currently the authority responsible for the registration of those who train or exhibit performing animals under the Performing Animals (Regulation) Act 1925
- 3.3 The current legislation is decades old and difficult to adapt to the changing types of animal related businesses. The government, the public, local authorities, welfare organisations and businesses have been calling for changes to the legislation. The Animal Welfare Act 2006 provides the Secretary of State with powers to repeal parts of the existing legislation and replace it with a new licensing or registration regime.
- 3.4 In 2016 the Department for Environment, Food and Rural Affairs (DEFRA) consulted on proposals to introduce new secondary legislation to implement a single “Animal Activities Licence” for 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. Following the consultation DEFRA drafted The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018, which came into force on 1st October 2018
- 3.5 Under these new regulations the existing licensing schemes for animal boarding establishments, pet shops, riding establishments, dog breeders and performing animals will be repealed and replaced by a single licensing scheme that will regulate all of these activities.
- 3.6 The current licensing schemes for zoos and those who keep dangerous wild animals are not affected by these new regulations and will continue to be regulated under the existing legislative provisions.
- 3.7 The Regulations implement a single “Animal Activities Licence” for 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. Some of the main differences in the new licensing scheme are:
- A licence will be able to authorise more than one activity on the same licence.
 - Licences will be able to be issued for a one, two or three year period based on an assessment of risk.
 - Standard licence conditions are prescribed by the regulations rather than each local authority deciding its own licence conditions for its area. As well as minimum standards, there are higher ones that are designed to incentivise better practice.
 - The number of litters a dog breeder can produce in a 12 month period before they are presumed to require a licence will be reduced from five litters to three. The sale of puppies below eight weeks will be prohibited.
 - There are new powers for licensing authorities to vary, suspend and revoke licences where there is non-compliance or it is necessary to protect the welfare of an animal.
- 3.8 Licences issued under the existing legislative provisions that remain in force on 1st October 2018 will continue to have effect until they expire. At that point an application will need to be made by the operator for a licence under the new licensing scheme.

- 3.9 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 allows for a local authority to charge a fee as it considers necessary for undertaking the animal licensing function and may take into account all reasonable costs of running the licensing scheme when setting the licence fee. In the absence of a prescribed licence fee the E&WSLLG have developed an animal licensing fee calculator (as set out at Appendix 1) which is being recommended for adoption by all Sussex Authorities. The fee calculator is based on the average times it takes to undertake the various steps that are required to operate the new licensing regime and uses the local hourly rate for each local authority. Should all Sussex authorities adopt this approach then there will be consistent approach to fee setting across the County, although the actual fees will differ slightly to take into account local costs.

4 Next Steps

- 4.1 The Committee is recommended to adopt the animal licensing fee structure as set out in Appendix 1.

5 Outcome of Consultations

- 5.1 The proposed fee structure has been developed by the E&WSLLG which has officer representation from all authorities in East and West Sussex. They have the full support of all officers and are being recommended for adoption by all Sussex Authorities.
- 5.2 The Monitoring Officer advises that where the Council has discretion to set fees and charges for licensing that function is delegated to Licensing Committee.
- 5.3 The Director of Corporate Resources is content that if the fees are calculated to cover the cost of issuing the licence and ensuring compliance with the licence conditions then these costs do not impact the outturn of the Council's overall revenue budget.

6 Other Courses of Action Considered but Rejected

- 6.1 The animal licensing fee structure takes account of the time it takes to operate the new licensing scheme but allows each local authority to use its locally calculated hourly rate for officer's costs, thereby ensuring full cost recovery. The only other alternative is not to charge a fee and for the cost of operating the scheme to fall on the general charge payer. This was rejected as it is the Council's policy, where appropriate, to recover the costs of the services it provides from those using the service.

7 Resource Consequences

- 7.1 The financial consequences of the review of the fees has been incorporated into the budget for 2019 / 2020.
- 7.2 There will 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.

7.3 Officers will receive training when it is made available nationally.

8 Legal Consequences

8.1 Officers are properly authorised for the purposes of enforcement under this legislation.

8.3 The Council has discretion to set fees and charges for licensing that function is delegated to Licensing Committee.

8.4 Failure to act appropriately under the legislation will make the Council non-compliant with legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the Council area

9 Risk Assessment

9.1 There are no risks associated with this proposal. The new Regulations and Guidance properly enforced will be a significant step forward in improving animal welfare and developing a more effective licensing regime. Failure to regulate animal welfare activities may result in serious harm to animals and have serious reputational impact on the Council.

10 Other Considerations

10.1 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.

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

10.3 An impact assessment was undertaken by DEFRA prior to the publication of the Regulations and in their opinion there will be no adverse effect on equality, diversity or human rights of any individual.

Appendix 1

Proposed Animal Welfare Licensing Fees

	New/renewal application				Variation	Re-score	Appeal
	Part A (application fee)	Part B (for granted licences)	Total fee due	Vet fees due in addition to licence fees			
Main Activity							
Pet Shops	£194.00	£137.00	£331.00	no	£171.00	£119.00	£84.00
Boarding for cats/dogs	£194.00	£137.00	£331.00	no	£171.00	£119.00	£84.00
Dog Day Care	£194.00	£137.00	£331.00	no	£171.00	£119.00	£84.00
Home Boarding	£182.00	£126.00	£308.00	no	£159.00	£107.00	£73.00
Horses (up to 10)	£194.00	£137.00	£331.00	Yes	£171.00	£119.00	£84.00
Horses (Between 11 and 20)	£217.00	£160.00	£377.00	Yes	£194.00	£142.00	£107.00
Horses (More than 20)	£240.00	£183.00	£423.00	Yes	£217.00	£165.00	£130.00
Breeding Dogs	£194.00	£137.00	£331.00	Yes (first inspection only)	£171.00	£119.00	£84.00
Keeping or training animals for exhibition	£171.00	£35.00	£206.00	no	£170.00	n/a	n/a

Additional activities (for more than one activity an additional fee is due under part A) (same as unannounced inspection fee, RA and rate, grant/refuse)

Pet Shops	£115.00
Boarding for cats and dogs	£115.00
Dog Day Care	£115.00
Home Boarding	£104.00
Horses (up to 10)	£115.00
Horses (Between 11 and 20)	£138.00
Horses (More than 20)	£161.00
Breeding Dogs	£115.00
Keeping or training animals for exhibition	£57.00