

Report to Licensing Committee

Date of meeting: 15th December 2016

By the Environmental Health and Licensing Manager

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Animal Boarding Establishments Act 1963 – Amended Licence Conditions for Home Boarding (Dogs)

Executive Summary

The Animal Boarding Establishments Act 1963 requires any person who keeps a boarding establishment for cats and/or dogs to be licensed by the Local Authority. It is now popular for some households to offer dog boarding services in their own homes for other people's dogs. People providing home boarding are also required to be licensed. All licenses when issued will have a list of conditions attached to ensure the health, welfare and safety of the animals during their stay. Horsham District Council's licence conditions following the Model Conditions published by LACORS. Whilst most of these conditions are still relevant it is considered that two of the conditions require amending to make them more appropriate and enforceable.

Recommendations

The Committee is recommended:

- i) To approve the amended conditions set out at Appendix 1 to this report to take immediate effect.

Reasons for Recommendations

- i) The setting of conditions for licences is the responsibility of the Licensing Committee, and
- ii) To ensure appropriate and enforceable conditions.

Background Papers:

Wards affected: All

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Background Information

1 Introduction and Background

- 1.1 The Animal Boarding Establishments Act 1963 requires any person who keeps a boarding establishment for cats and/or dogs to be licensed by the Local Authority. It is now popular for some households to offer dog boarding services in their own homes for other people's dogs. People providing home boarding are also required to be licensed. All licenses when issued will have a list of conditions attached to ensure the health, welfare and safety of the animals during their stay. Horsham District Council's licence conditions following the Model Conditions published by LACORS. Whilst most of these conditions are still relevant it is considered that two of the conditions require amending to make them more appropriate and enforceable.
- 1.2 Set out at Appendix 1 to this report, for the Committee's consideration, are the proposed amendments to two of the Council's licence conditions for home boarding.

2 Relevant Council policy

- 2.1 Where the Council issues a licence under the Animals Boarding Establishments Act 1963, conditions will be attached to the licence to ensure the health, welfare and safety of the animals during their stay. Horsham District Council's licence conditions following the Model Conditions published by LACORS.

3 Details

- 3.1 Running a business for looking after cats and dogs is controlled by the Animal Boarding Establishments Act 1963. Since that date commercial boarding kennels and catteries in the United Kingdom have been legally required to hold a licence to look after people's dogs and cats. An alternative to this kind of accommodation is where people offer dog boarding services in their own homes for other people's dogs, known as home boarding. Home boarding has become nationally popular over the last few years. In the Horsham District, of the 37 licensed dog boarding establishments, 23 are home boarders. People providing home boarding are also required to be licensed. All licenses when issued will have a list of conditions attached to ensure the health, welfare and safety of the animals during their stay
- 3.2 Horsham District Council's licence conditions following the Model Conditions published by LACORS. These conditions have been in place since 2005 and whilst most of these conditions are still relevant officers have expressed concern over two conditions which they do not consider to be reasonable or easily enforceable.
- 3.3 The first of these conditions is:

Condition 3.2 Only dogs from the same household may be boarded at any one time. Dogs must not be boarded with any cat, unless they normally live together in the same household.
- 3.4 Dogs are principally social animals and many dog owners choose home boarding over kennelling to address the issue of isolation, confinement and a dogs health and

wellbeing. Many home boarders see the social and familiar aspects of a home environment as the benefit to home boarding. The interaction of other dogs can be an attraction to dog owners and an important part of the dog's acclimatisation to unfamiliar environments and change. The issues that have been raised with the existing condition 3.2 are:

- The condition is not consistent with other comparable (non-licenced) businesses for example dog walking and dog grooming.
- There is potentially less risk of a dog on dog attack than at a commercial kennel if they have shared exercise areas due to stress and the number of dogs.
- Some dogs may be familiar with each other and are highly unlikely to present a risk.
- Enforcement would be problematic as it would require extensive monitoring.

3.5 Whilst there is no evidence, officers are of the opinion that a considerable number of licensed home boarders from time to time take in dogs from different households. Some internet booking sites have an option button to identify whether boarding with other dogs is an objection or a request, although some franchise organisations who administrate home boarders do state dogs from one household only.

3.6 It is considered that condition 3.2 is impractical to enforce and unclear in its objective. A greater risk exists with the territorial nature of resident dogs. A more risk based approach supported with advice and guidance would be far more effective and address any current noncompliance. The following condition, to replace the existing condition 3.2 is proposed:

Condition 3.2 Only compatible dogs should be collectively boarded. Acquaintance and familiarisation sessions must take place before boarding begins to assess each dog's suitability for home boarding.

3.7 The second of these conditions is:

Condition 5.8.3 No home where there are children under 5 years of age will be licensed.

3.9 The main purpose of the Animal Boarding Establishments Act 1963 is to ensure the welfare of the animals and the conditions attached to a licence reflect this. The Licence conditions do, as a secondary issue, include matters of personal safety and children are considered particularly at risk. The issues that have been raised with the existing condition 5.8.3 are:

- The condition is not consistent with other comparable (non-licenced) businesses for example dog walking, dog grooming and in particular Ofsted registered childminders.
- The condition is unspecific to the risk it addresses.
- The condition is unfair as impacts on the ability of expectant mothers and parents of young children to maintain their home boarding business.
- Enforcement would be problematic as it would be necessary to monitor the number and age of the children in the property. In addition if enforcement action was taken it may well fail the Health and Safety/ Enforcement Management Model.

3.10 In order to gauge other local authority's opinions, officers sent an Ehnet message asking if other local authorities had issues with this condition and whether any authorities have considered the use of risk assessments. We received fourteen replies and nine authorities advised that they were using risk assessments as an option for this condition. Those Authorities which were not using risk assessments as a control measure advised that they had not taken any enforcement action in respect of this condition.

- 3.11 It is considered that condition 5.8.3 is impractical to enforce and unclear in its objective. The following condition, to replace the existing condition 5.8.3 is proposed:

Condition 5.8.3 A written risk assessment is required where children under five years of age and/or vulnerable adults will be present on the premises.

4 Next Steps

- 4.1 The Committee is recommended to approve the amended conditions set out at Appendix 1 to this report to take immediate effect.

5 Outcome of Consultations

- 5.1 The Monitoring Officer advises that the Council has discretion to make licence conditions and the function is delegated to the Licensing Committee.

6 Other Courses of Action Considered but Rejected

- 6.1 None.

7 Resource Consequences

- 7.1 None

8 Legal Consequences

- 8.1 The Council has discretion to make licence conditions and the proposed amended conditions are appropriate, precise and enforceable.

9 Risk Assessment

- 9.1 Conditions 3.2 and 5.8.3 are difficult to enforce and would require continual monitoring to ensure compliance. Currently it is likely that some home boarding establishments are not complying fully with these conditions and some may be operating without a licence as they are not willing to comply with these conditions. By introducing risk assessments the risks can be adequately addressed and the proposed amendments ensure that the conditions are precise, proportionate, and capable of being met.

10 Other Considerations

- 10.1 Conditions 3.2 and 5.8.3 are difficult to enforce and by making the recommended changes it is considered that the risks would be adequately addresses and compliance can be monitored
- 10.2 The proposed amended condition 5.8.3 is fairer on expectant mothers and parents of young children as it enables them maintain their home boarding business.