

# RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No. 9

meeting date: THURSDAY, 8 NOVEMBER 2018  
 title: ANIMAL WELFARE AND LICENSING  
 submitted by: CHIEF EXECUTIVE  
 principal author: KEN ROBINSON – (TEMPORARY) HEAD OF ENVIRONMENTAL HEALTH SERVICES

## 1 PURPOSE

1.1 To inform the Committee of the legislation that came into force on 1 October 2018 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The Regulations bring a number of existing animal licensing regimes together under one broad set of regulations and introduce additional powers to suspend, vary or revoke licenses.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – To sustain a strong and prosperous Ribble Valley.
- Corporate Priorities – } The Council aims to be a well-managed Council;  
a robust enforcement team/process contributes
- Other Considerations – } to this objective.

## 2 BACKGROUND

2.1 In 2016 following a wide public consultation exercise, the Government signalled its intention to modernise the animal welfare registration and licensing schemes to improve and simplify the process with a view to harmonising a number of animal licensing schemes under one piece of legislation, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 comes into force on 1 October 2018.

2.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 require persons in England involved 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 to be licensed for those purposes. The requirement to be licensed under the 2018 Regulations replaces the current requirements to be registered under the Performing of Animals (Regulations) 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.

2.3 The 2018 Regulations amongst other things sets out how a person may apply to the local authority for a licence and sets out matters in respect of which a local authority must be satisfied when considering the granting or renewing of a licence. It provides for a local authority to charge fees to cover the costs it incurs in performing this function, considering a licence holder's compliance with these Regulations, enforcement and administration. It allows licenses to be granted for periods of 1, 2 or 3 years (subject to a rating system based on risk and compliance) and requires a local authority to have regard to guidance issued by the Secretary of State in carrying out their functions under the Regulations. It also makes provision for the inspection of premises and provides powers for inspectors to take samples from animals.

- 2.4 In addition the Regulations set out the circumstances and procedures under which a licence may be suspended, varied or revoked and that a breach of a condition of a licence or the obstruction of any inspector appointed for the purposes of enforcing the Regulations is an offence, applies relevant post-conviction powers contained in the Animal Welfare Act 2006, as well as detailing the appeals procedures (to the First-tier tribunal) for appeals against licensing decisions of the local authority.
- 2.5 Each local authority must provide prescribed information to the Secretary of State including the number of licences in force and fees charged on an annual basis starting on 1 April 2019.

### 3 ISSUES

- 3.1 Any action required by the local authority in relation to issuing licenses or notices will be in line with the new Regulations, Secretary of State guidance and the prevailing Ribble Valley Borough Council, Environmental Health Enforcement Policy.
- 3.2 The new Regulations allow for a transitional period for any existing licenses in place as of the 30 September 2018 (the day before the date that the 2018 regulations come into force) to continue in force for the remainder of their term (subject to the provisions of the Act it was granted under). No action under the new Regulations will be taken against any persons holding such licences until the expiry date of those licences or in the case of a person registered under the Performing Animals (Regulation) Act 1925 for a period of six months starting from 1 October 2018.
- 3.3 Currently all animal related registrations and licenses are issued on an annual basis to run from 1 January for a twelve month period. The new Regulations allow for licences to be issued for up to one, two or three year periods at any time during the calendar year, and for fees to be charged for consideration of applications, renewal or variations and the reasonable anticipated costs of the licence holders compliance with the licence conditions. In addition a fee for the reasonable anticipated costs of enforcement in relation to any licensable activity of unlicensed operators together with costs of making the annual return to the Secretary of State can be made.
- 3.4 So far in 2018 Ribble Valley Borough Council has issued 37 animal related licences including 1 riding establishment, 3 pet shops, 1 dog breeder and 32 animal boarders. The 2018 Regulations expand and clarify definitions of activities subject to the new licensing regime e.g. animal boarding now covers four distinct activities including providing home boarding for dogs and providing day care for dogs. Further, the definition the licensable activity of breeding dogs is amended to breeding three or more litters of puppies in any 12-month period; and/or breeding dogs and advertising a business of selling dogs. These changes are expected to result in a rise in new applications and licences issued by local authorities. For example the Government estimates the number of dog breeders to be licensed will increase country wide from the present 650 to around 4950. There is one registered exhibitor of animals to be transferred from Lancashire County Council.
- 3.5 Existing Environmental Health staff resource dealing with animal licensing is one member of staff who also undertakes food and health and safety duties. Whilst this resource may be sufficient to cope with the new licensing scheme relating to existing licences, existing resources may not be sufficient to deal with investigation work, following up complaints and enforcement work in policing illegal operators. A further report on staff resources will be brought back to the Committee once the full impact of the new regime is known.

- 3.6 In the past, an inspection of the premises has been carried out by an authorised officer from Environmental Health, and in the case of a dog breeding establishment or a horse riding establishment, accompanied by a veterinary surgeon. The new regime requires the Council to appoint a ‘qualified Inspector’ to carry out the inspections, again accompanied by a vet as before. To qualify to inspect these premises, from October 2021 a person must be a vet or hold a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulations, and must have passed an independent exam. Their certificate must apply to the specific type of activities they are inspecting. The current staffing arrangement can continue until October 2021, if the current post holder remains with the Authority.
- 3.7 Ribble Valley Borough Council will need to carry out a number of pieces of work in preparation for the implementation of the new regulations including:
- calculating appropriate licence fees to ensure full cost recovery;
  - drafting application forms and guidance notes for applicants;
  - informing existing licence holders of the forthcoming changes;
  - updating content on the Council website;
  - liaising with Lancashire County Council Trading Standards with regards to those currently registered under the Performing Animals (Regulation) Act 1925;
  - identifying people carrying out licensable activities who previously did not need to be licensed;
  - training officers on the new licensing scheme;
  - updating computer systems to support the implementation of the new regulations.

### **Setting Fees and Charges**

- 3.8 The Council can charge a fee for the consideration of an application for the grant, renewal or variation of a licence. Section 13 of the regulation states:

“13 – (1) A local authority may charge such fees as it considers necessary for –

- (a) the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration and for the grant, renewal or variation,
- (b) the reasonable anticipated costs of consideration of a licence holder’s compliance with these regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in subparagraph (a) including any inspection relating to that consideration,
- (c) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
- (d) the reasonable anticipated costs of compliance with regulation 29.

(2) the fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection”.

- 3.9 It is not lawful for the Council to make a profit from its licensing functions, and the proposed fees must be set based on the law set out above and a reasonable estimate of the costs in undertaking this.
- 3.10 The animal licensing scheme falls within the definition of ‘services’ and is subject to the EU Services Directive, incorporated into UK law as the Provision of Services Regulations 2009.
- 3.11 We propose to set fees under the new regulations as follows:
- a) – All existing licence holders wanting a licence granted, renewed or varied from 1 January 2019 and anyone wanting a new licence granting will be written to from early October 2018 onwards to start the licensing process, which will follow the new regulations. As this is the first year, they will be charged the current licence fee for **application for grant of a licence** and be subsequently charged a further fee for **compliance (unannounced inspection)** after that unannounced inspection has taken place and the new compliance fee is set (see below).
- b) – The new licence fees to be charged under the regulations will be set at the Health and Housing Committee meeting on 21 March 2019. This will allow time for the fees to be costed and set on the basis of more accurate time-taken information and estimates from undertaking initial inspections for granting a licence after mid-Oct 2018 and having more information to set compliance (unannounced inspection) fees, enforcement fees and re-score fees.
- 3.12 Our approach to setting the new fees and charges under the regulations is set out at Appendix 1 of the report.

## 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
- Resources – Potential impact on staffing resources and level of fees income.
  - Technical, Environmental and Legal – Training by October 2021 is required for staff to meet the “suitably qualified inspector” status required by the regulations.
  - Political – None.
  - Reputation – None.
  - Equality & Diversity – None.

## 5 CONCLUSION

- 5.1 The current animal welfare legislation has been repealed and has been replaced by a new framework, extending the range of activities that require a licence. The length of a licence can vary according to a risk assessment of the animal welfare provisions and a Star rating system has been introduced. The local authority must appoint a suitably qualified inspector for each licence application, and may recover reasonably incurred costs in administering the legislation.

## 6 RECOMMENDED THAT COMMITTEE

- 6.1 Authorise the Chief Executive and the Head of Environmental Health Services to appoint a suitably qualified person to act as an inspector for the purpose of enforcing the Regulations in Ribble Valley Borough Council’s area.

- 6.2 Authorise the Chief Executive and the Head of Environmental Health Services to issue any applicable notices and grant, suspend, vary, revoke or reinstate licences under the regulations.
- 6.3 Approve the interim approach to charging fees in the current year before new fees are considered at the Health and Housing Committee in March 2019.

KEN ROBINSON  
(TEMPORARY) HEAD OF ENVIRONMENTAL  
HEALTH SERVICES

MARSHAL SCOTT  
CHIEF EXECUTIVE

#### BACKGROUND PAPERS

The Animal Welfare Act 2006  
The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018  
The Environmental Health & Licensing Enforcement Policy (Current edition April 2015)

For further information please ask for Ken Robinson extension 4466.

REF: HB/EL/H&H/081118

## APPENDIX 1

Fee Area Per New Regulations	Fees Charged Before and After March 2019
Application for grant, renewal or variation of licence (including inspection)	<p>Charge current licence fee for any grant, renewal or variation of licence between now and when new fee is set in March 2019. This is because:</p> <ul style="list-style-type: none"> <li>- we have no sound basis yet to set a new fee; and</li> <li>- we will not overcharge those requiring licences (the fee charged will cover or be less than estimated costs involved in granting the licence because the new process involves more inspection work to grant a licence than the current system).</li> </ul> <p>New fee to be set in March 2019, based on estimate of time to be taken for each licence type – based on work done on granting licences for 1 Jan 2019 onwards.</p>
Compliance (unannounced inspection during the life of the licence)	<p>No fees set for this before March 2019, unless any visits are undertaken.</p> <p>New fee to be set in March 2019 based on anticipated costs (from further information from DEFRA/information from other LAs) OR set on actual costs if any visits have been undertaken and time taken information is available.</p>
Enforcement	<p>No fees to be set before March 2019.</p> <p>New fee to be set in March 2019 - Potential for there to be no standard fee for this because it is for enforcement re unlicensed operator so may be just an hourly rate or one-off charges based on enforcement work undertaken in each individual case.</p>
Re-score fee - at request of a licence holder	<p>No fees set for this before March 2019, unless any visits are undertaken.</p> <p>New fee to be set in March 2019 based on anticipated costs (from further information from DEFRA/information from other LAs) OR set on actual costs if any visits have been undertaken and time taken information is available.</p>
Reasonable anticipated costs of compliance with Regulation 29 (to provide information to the Secretary of State).	<p>No plans to charge fees to those applying for licences, because this is information provided to the Secretary of State, and it should be readily available.</p>