

Gloucester City Council

Meeting:	Licensing & Enforcement Committee	Date:	9th December 2014
	Constitutional and Electoral Working Group		24 February 2015
	Council		18 March 2015
Subject:	Animal Welfare Act 2006 powers		
Report Of:	Cabinet Member for Housing, Health and Leisure		
Wards Affected:	All		
Contact Officer:	Lisa Jones – Food, Licensing and Markets Manager		
	Email: lisa.jones@gloucester.gov.uk	Tel: 396047	
Appendices:	1. Scheme of delegated powers under the Animal Welfare Act 2006		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To inform Members about the powers available to the Council under the Animal Welfare Act 2006 ('The Act') and detail the benefits of authorising both this Council's Officers and Officers of Gloucestershire's District Councils to utilise powers under the Act within Gloucester City boundaries.
- 1.2 To seek delegated authority to appoint Inspectors under section 51 of the Act and to use the full range of powers available under the Act.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that the contents of the report be noted.
- 2.2 Constitutional and Electoral Working Group is asked to **RECOMMEND** that:
 - (1) the use of the powers available under the Animal Welfare Act 2006 be approved;
 - (2) that the Terms of Reference for the Licensing and Enforcement Committee be amended to include 'Undertaking matters in relation to the Animal welfare Act 2006 (save to the extent that such responsibility has been delegated to an Officer of the Council)';
 - (3) authority be delegated to the Corporate Director of Services and Neighbourhoods to exercise the Council's powers under the Animal Welfare Act 2006;

(4) the specific delegations to Officers as set out in Appendix 1 to the report be approved.

2.3 Council is asked to **RESOLVE** that:

- (1) the use of the powers available under the Animal Welfare Act 2006 be approved;
- (2) that the Terms of Reference for the Licensing and Enforcement Committee be amended to include 'Undertaking matters in relation to the Animal welfare Act 2006 (save to the extent that such responsibility has been delegated to an Officer of the Council)';
- (3) authority be delegated to the Corporate Director of Services and Neighbourhoods to exercise the Council's powers under the Animal Welfare Act 2006;
- (4) the specific delegations to Officers as set out in Appendix 1 to the report be approved.

3.0 Background

3.1 Gloucester City Council is responsible for the control and regulation of certain animals and animal establishments through a statutory licensing regime including:-

- The Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- The Breeding of Dogs Act 1973 / 1991 (as Amended by the Breeding and Sale of Dogs (welfare) Act 1999)
- Dangerous Wild Animals Act 1976
- Riding Establishments Act 1964/1970
- Zoo Licensing Act 1981

3.2 The Animal Welfare Act 2006, which came into force on 6th April 2007, brought together and updated legislation that exists to promote the welfare of vertebrate animals, other than those in the wild. The categories of animals that are protected under the Act depend on the offence in question. For example, the duty to ensure an animal's welfare only applies to animals that are owned or for which someone is otherwise responsible, but the cruelty offences have a wider application.

3.3 Section 9 of the Animal Welfare Act 2006 created five overarching principles of animal welfare. The Act refers to these as the 'five needs' of all animals. It is the duty of any person responsible for an animal to ensure that each of these five needs are met.

The 'five needs' are:

- The need for a suitable environment;
- The need for a suitable diet;
- The need to be able to exhibit normal behaviour patterns;
- Any need to be housed with, or apart from, other animals; and
- The need to be protected from pain, suffering, injury and disease.

3.4 The Act introduced additional discretionary powers for local Authorities and the Police to promote the animal welfare needs. These powers include:

- Service of Statutory Improvement Notices in relation to the 5 welfare needs.
- Power to enter premises to investigate potential offences.
- Power to take into possession animals suffering unnecessarily or whose needs are not being met.
- Prosecuting those responsible for specified offences.

3.5 For Local Authorities the key powers include enforcing the duty of care placed on owners and keepers of animals and the ability to deal with behaviour likely to cause unnecessary suffering, rather than having to wait until animals have already suffered. This will assist staff in their work in animal establishments and the other areas of officer work where animals are involved (e.g. dog barking complaints/ stray dogs etc). The government expects that many of the powers will help local authority officers carry out their existing duties more effectively, with an extra focus on prevention of suffering before it occurs.

3.6 When the Act first took effect, animal suffering was not a key objective for the local authority with concerns that the powers would require further resources on these issues. However, in discussions with local authority officers who already use the powers, the additional powers help prevent problems occurring in unlicensed premises but also build closer working relationships with the RSPCA allowing a handover for them to deal with animal cruelty effectively.

3.7 The day-to-day enforcement of animal welfare law should not change significantly. The Act provides for certain specific enforcement powers for the police and inspectors such as the power of entry, inspection and search and the power to seize documents. The Act (like most legislation) is a 'common informers' Act', and this means that anyone is allowed to bring a prosecution for an offence. Whilst it is envisaged that the RSPCA will continue to investigate offences and bring prosecutions, particularly in relation to cruelty to domestic animals, RSPCA inspectors will not have formal enforcement powers under the Act. So, for example, where access to premises without the owner's consent is sought, the RSPCA will have to be accompanied by a local authority or Trading Standards Animal Health inspector or a Police Officer, as was previously the case.

3.8 The proposal for cross border appointment of Officers from other local authorities as Inspectors under the Animal Welfare Act 2006 has developed through the Gloucestershire Animal Welfare Group; an Officer Group which share good practice and seek to develop shared working policy and practice to increase service efficiency. If inspectors from other authorities are appointed, this will be done on a case by case basis ensuring the inspectors have relevant qualification or experience.

3.9 The powers and duties contained in some of the provisions of the Act are set out in Appendix 1 of this report.

4.0 Alternative Options Considered

4.1 An alternative option would be not to use the Act. However, the Council would not then benefit from having a wider range of enforcement approaches which could make responses to complaints more efficient.

5.0 Reasons for Recommendations

- 5.1 Officers in Gloucester City Council are not currently authorised to exercise the Council's powers under the Animal Welfare Act 2006 and the primary legislation does not empower Officers to gain entry to investigate unlicensed premises for animal related licensable activities. The additional powers would strengthen the Council's current licensing powers when investigating complaints and will also empower Inspectors to regulate the sale or giving away of animals a prizes to persons under 16.
- 5.2 The recommendation for cross border appointment of Officers from other local authorities as Inspectors under the Animal Welfare Act 2006 will allow partner authorities in Gloucestershire to not only support business continuity but will also build resilience, providing additional support to promptly address potential County wide issues such as 'Rabies Contingency Plans'.

6.0 Future Work and Conclusions

- 6.1 The use of these powers will help the Council deal with animal related complaints and the increased range of powers will help officers to be more effective when responding to these complaints.
- 6.2 Use of this legislation will also give Officers greater powers to deal with situations where previous powers are more limited (e.g. unlicensed breeding establishments).
- 6.3 Upon prosecution for offences, the Act allows for greater fines and terms of imprisonment, providing greater incentives for people to act and keep animals in a more appropriate way.

7.0 Financial Implications

- 7.1 There are no direct financial implications associated with this report. Any costs associated with the training of staff in the application of powers they would be authorised to use would be minimal and delivered locally in partnership with other authorities, keeping costs low and within existing service budgets.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 The Animal Welfare Act 2006 provides discretionary powers for animal protection but the powers have not previously been used. If the recommendations in the report are approved, the Council's Constitution will be amended accordingly.
- 8.2 There is no duty for the local authorities to use the powers introduced by the Act and the Act itself empowers inspectors to act in respect of cruelty and welfare offences.
- 8.3 *Subsection (1)* of Section 51 defines the term "inspector" for the purposes of the Act. An inspector is a person appointed either by a local authority or by the

appropriate national authority (either the Secretary of State or the National Assembly for Wales). In practical terms, an inspector of the appropriate national authority is currently likely to be a State Veterinary Service inspector.

- 8.4 The Local Government Act 1972 (as amended) provides that a local authority may arrange for the discharge of any of their functions by a Committee, a Sub-Committee or an Officer of the authority or by any other local authority, including its Officers.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 The resource required to support neighbouring authorities is likely to be infrequent and will only be provided if it can be managed without significantly impacting on this Council's own workload. This will be monitored and reviewed.
- 9.2 There are opportunities to request support from partner authorities, where the Council's own resources are stretched.

10.0 People Impact Assessment (PIA):

- 10.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 The overall aim of the animal licensing regimes are to promote animal welfare and public safety.

Sustainability

- 11.2 The need for Officers to travel to other districts to perform additional powers will be very limited and for that reason there should not be a notable increase in travel and fuel usage.

Staffing & Trade Union

- 11.3 It is not anticipated that the adoption of the Animal Welfare Act will increase Officer workload. It should provide more options for dealing with problems which in some cases will be a quicker, more effective solution. Authorisation of Officers across partner authorities will provide support of Officers.

Background Documents: Animal Welfare Act 2006