

Gloucester City Council

Meeting:	Licensing & Enforcement Committee	Date:	11 September 2018
Subject:	Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018		
Report Of:	Head of Communities		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 2. Proposed set of Fees and Charges for the period 1 Oct 2018 to 31 Mar 2019		

1.0 Purpose of Report

- 1.1 To update Members on the new Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) that will have effect from 1 October 2018 and to outline the key differences from the existing Animal licensing regime.
- 1.2 To present to members a proposed set of fees and charges to cover the cost of administering and enforcing the new regulations.

2.0 Recommendations

- 2.1 that members delegate the powers under the Animal Welfare Act 2006 (“the 2006 Act”) and the Regulations to the Head of Communities and/or, the Head of Place.
- 2.2 That members approve the proposed set of fees and charges that will cover the period 1 October 2018 to 31 March 2019.

3.0 Background Information

- 3.1 In 2015 the Committee resolved that the powers under the 2006 Act be delegated to the Corporate Director of Services and Neighbourhoods. This report is to advise the Committee of the regulations which will change the existing licensing regime for animal establishments including animal boarding establishments, dog breeding establishments, pet shops and riding establishments from 1 October 2018.
- 3.2 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.

- 3.3 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.
- 3.4 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.
- 3.5 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 is an offence and that person would be liable to imprisonment for a term of up to six months, a fine or both.
- 3.6 Part 2 of the Regulations 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 requires a local authority to have regard to guidance issued by the Secretary of State in carrying out its functions under these Regulations. It makes provision for the inspection of premises and provides powers for inspectors to take samples from animals.
- 3.7 Part 3 sets out the circumstances and procedures under which a licence may be suspended, varied or revoked. It also provides that the breach of a condition of a licence or the obstruction of any inspector appointed for the purposes of enforcement of these Regulations is an offence.
- 3.8 Part 4 provides for appeals 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.
- 3.9 Key Changes
 - 3.9.1 The Regulations implement a single 'animal activities' licence which covers the five 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 activity’s such as the online sale of pets is included.

- 3.9.2 General and Specific conditions are laid out in the Regulations for each of the categories, as opposed to those being locally set or based on Chartered Institute of Environmental Health (CIEH) model conditions. The proposed conditions can be seen within the new regulations which are attached as **Appendix 1** of this report.
- 3.9.3 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 for which a licence may be issued: the risk of an operator breaching any licence conditions; the impact on animal welfare of 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.
- 3.9.4 Legislation governing the registration of performing animals has previously been a function carried out by Gloucestershire County Council’s Trading Standards department. Under the new regulations this will come under the City Council’s remit and is extended to include 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.
- 3.9.5 Anyone breeding dogs and advertising a business of selling dogs, and/or breeding three or more litters of puppies in any 12 month period, is now covered by the Regulations.
- 3.9.6 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 photograph of the dog being advertised, and the age of the dog being advertised.
- 3.9.7 The sale of puppies below eight weeks will be prohibited.

3.10 Transitional Arrangements

- 3.10.1 At the commencement date of the regulations, all licences currently in force under the Pet Animals Act 1951, the Animal Boarding Establishments Act 1963. The Riding Establishments Act 1964 or the Breeding of Dogs Act 1973 will remain in force until the expiry/renewal date, in most cases this will be 31 December 2018. Any registration under the Performing Animals (Regulation) Act 1925 that is in force shall continue in force, for a period of six months from the date on which the regulations come into force.
- 3.10.2 The number of animal establishment licences currently in force for premises in Gloucester City are as follows:

Licence Type	Number	Duration
Animal Boarding (all home boarders)	11	12 months
Dog Breeding Establishments	1	12 months
Pet Shops	7	12 months

Riding Establishments (city farm)	1	12 months
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3.11 Review of the Regulations and Annual Local Authority Returns

3.11.1 The regulations include a requirement for the Secretary of State to carry out reviews of these regulations so that they can make sure that they are working as effectively as possible. The report for the first review must be published on or before 1 October 2023, subsequent reports at no more than five yearly intervals.

3.11.2 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 animal activities and the average costs of these licences. A local authority will be able to recover any costs of collecting this extra data through the licence fees. The publishing of this information nationally should help to reduce the burden of Freedom of Information requests which are common for animal welfare licensing.

4.0 **Asset Based Community Development (ABCD) Considerations**

4.1 There are no ABCD considerations for the purpose of this report.

5.0 **Alternative Options Considered**

5.1 None considered

6.0 **Reasons for Recommendations**

6.1 This report is for information to ensure that Members are aware of the new regulations which will be enforced by the local authority as the licensing authority, to give delegated authority to those named Officers to administer the scheme and to ask Members to approve the fees and charges necessary to administer and enforce these regulations.

7.0 **Future Work and Conclusions**

7.1 None

8.0 **Financial Implications**

8.1 Initially there will be an additional burden on the authority in terms of officer time in implementing the regulations and making the necessary changes to procedures, database, website, forms, officer training etc.

8.2 Following the recent publication of national guidance which includes a section on setting fees, the Community Wellbeing Team working with Finance and having regard to the LGA Guidance on locally set licence fees have produced a table of proposed fees and charges for members approval. The proposed fees and charges are attached as **Appendix 2** of this report.

8.3 The proposed fees and charges cover the cost of administering and enforcing the new regulations and for collecting data to submit an annual return to DEFRA.

- 8.4 The Community Wellbeing Team will review the fees and charges before the start of the next financial year.

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

9.0 Legal Implications

- 9.1 The 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.
- 9.2 Regulation 3 specifies these activities for the purposes of Section 13(1) of the 2006 Act and provides for Local Authorities to be the licensing authorities.
- 9.3 The 2006 Act was adopted by the council in 2015 and the Licensing and Enforcement Committee resolved that the Council's powers thereunder be delegated to the Corporate Director of Services and Neighbourhoods. The Regulations now provide for a mechanism whereby a Licence may be suspended varied or revoked (Part 3) and a mechanism for appeals against Licensing decisions by local authorities. Part 6 makes transitional and saving provisions for unexpired licences or registrations.
- 9.4 The purpose of this report is to delegate the Council's powers under the 2006 Act and the Regulations to the Head of Communities and the Head of Place as necessary and to allow those officers to sub-delegate specific functions to Officers under the 2006 Act and the Regulations. Such delegation shall allow the Head of Communities and the Head of Place to determine any appeal under the Regulations. Any appeal against the refusal to grant renew or revoke a licence shall be by way of appeal to a First Tier Tribunal. The period within which an operator may bring any appeal is 28 days beginning with the day following the date of the officer decision.
- 9.5 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 for the authority or by any other local authority, including its officers.

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

10.0 Risk & Opportunity Management Implications

- 10.1 Existing licence holders have been written to in order to make them aware of the forthcoming changes, giving them time to prepare for the new licensing regime.
- 10.2 The 'Animal Licences' pages of the Council's website have also been updated to reflect the changes, and links to the new regulations and the recently published national guidance have been provided.

11.0 People Impact Assessment (PIA) and Safeguarding:

11.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

12.1 The new regulations are expected to improve animal welfare standards. No negative impact on community safety has been identified.

Sustainability

12.2 None

Staffing & Trade Union

12.3 The impact on Human Resources will be minimal.

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