

WIRRAL COUNCIL

CABINET – 20 JUNE 2007

REPORT OF THE DIRECTOR OF REGENERATION

SCHEME OF DELEGATION – ANIMAL WELFARE ACT 2006

1.0 EXECUTIVE SUMMARY

- 1.1 This report asks Cabinet to recommend to Council an amendment to the scheme of delegation so that the Director of Regeneration be given delegated authority to exercise the powers and duties arising under the provisions of The Animal Welfare Act 2006.
- 1.2 The recommendation is to enable me to authorise officers to carry out additional animal welfare duties required by The Animal Welfare Act 2006 and any subsequent amendments and secondary legislation that arises thereunder.

2.0 BACKGROUND

- 2.1 From 6 April 2007 in England animal welfare law is being strengthened. The Animal Welfare Act marks a major milestone in animal welfare legislation. It aims to reduce animal cruelty and promote animal welfare by enabling enforcers to take preventive action where those who are responsible for animals have failed to fulfil their duty of care. It also aims to simplify legislation for animal keepers and enforcers by bringing together and modernising current outdated legislation,
- 2.2 With the implementation of The Animal Welfare Act 2006 it will still be illegal to be cruel to an animal but now owners must also ensure that all the welfare needs of their animals are also met.

3.0 WHAT DOES THE NEW LAW AIM TO DO?

- 3.1 The new act will apply to all animals kept by man for whatever purpose. The legislation will provide enabling powers for secondary legislation which will regulate animal related activities and place a duty on all people keeping or responsible for animals not only to avoid cruelty but also to provide for the welfare needs of their animals. For the first time, companion animal owners will have a duty of care towards those animals. The responsibility will be firmly on the animal owner to make sure that they know about and understand their animal's needs and to ensure that they are provided for.
- 3.2 The legislation will provide enabling powers for regulations to be made regarding animal related activities in a wider range of premises than are currently covered. This will include, for example, premises such as livery stables that were not previously covered by the Riding Establishment Act. Wirral has one of the highest numbers of livery stables in the region with an estimated 160 livery premises all of which will need to be licensed and inspected on an annual basis. This will have a significant impact on the workload of the Health and Safety Team based in Environmental Health.

3.3 The new law makes owners and keepers responsible for ensuring that the welfare needs of their animals are met.

3.4 These include the need:

1. For a suitable environment (place to live)
2. For a suitable diet
3. To exhibit normal behaviour patterns
4. To be housed with, or apart from, other animals (if applicable)
5. To be protected from pain, injury, suffering and disease

3.5 The new law also increases to 16 the minimum age at which a person can buy an animal and prohibits giving animals as prizes to unaccompanied children under this age. Anyone who is cruel to an animal, or does not provide for its welfare needs, may be banned from owning animals, fined up to £20,000 and/or sent to prison.

4.0 **ENFORCEMENT POWERS UNDER THE ACT**

4.1 It is envisaged that day-to-day application of animal welfare law will not change significantly. The Act provides for certain specific enforcement powers for inspectors such as the power of entry, inspection and search and the power to seize documents.

4.2 Whilst there are new powers available to local authority inspectors in the Act in relation to animal welfare, there is no obligation on local authorities to use these powers. The Government expects that many of the new powers will help inspectors carry out their existing duties more effectively, with an extra focus on prevention of suffering before it occurs. Inspectors are those persons with responsibility for animal welfare appointed under section 51 of the Act by either a local authority or the Secretary of State. This includes Environmental Health Officers.

4.3 The Department of Environment and Rural Affairs (DEFRA), Local Authority Co-ordination of Regulatory Services (LACORS), Animal Health (formerly – State Veterinary Service) the Police, and the RSPCA are drawing up a 'Statement of Intent' which will set out the usual procedures for enforcement of the Act. In broad terms, Animal Health and local authorities will continue to take the lead on enforcement of farmed animal welfare. The RSPCA will deal with most cases relating to companion and domestic animals. The police are likely to be involved only in cases involving very serious offences or issues of public order.

4.4 There are several powers that are available to local authorities and inspectors under the Act, many of which update and improve the powers available under previous law. These include:

- Emergency powers in relation to animals in distress
- Powers of entry and inspection including the power to seize documents
- Prosecution powers
- Improvement notices
- A new addition to the law is that an inspector can issue an 'improvement notice' if a welfare problem is found.

4.5 The Act now enables action to be taken where there is a welfare problem, but before an animal is actually suffering. It is hoped that this will lead to a reduced need for intervention as welfare problems can be addressed before they become serious and more difficult to deal with.

4.6 In line with the government's focus on better regulation, DEFRA will encourage local authorities to take a risk-based approach to inspections and focus resources on activities where welfare problems are most likely.

5.0 **SECONDARY LEGISLATION, INCLUDING LICENSING REGIMES**

5.1 Secondary legislation and codes of practice to be introduced under the Act will update and replace much of the existing licensing and registration schemes relating to animals. LACORS and local authority representatives will be consulted during more detailed development of policy. Advice and guidance will be provided to local authorities on each issue as it is formally approved.

5.2 The Animal Welfare Act 2006 allows the Government to issue and from time to time revise codes of practice. The main purpose of these codes is to give practical advice to owners and others responsible for animals on how they can ensure that their animals' welfare needs are met. Welfare codes for farmed animals have been in existence for some years and the Act will allow these to be issued for companion animals too. Failure to comply with a code will not be an offence in itself. However, whether or not a person complied with a code could be used as evidence in court if a prosecution is taken.

5.3 The Government has made a commitment to produce certain general codes that will provide guidance on the keeping of certain species, such as dogs, cats and primates. Codes will also be produced to give more detail to other secondary legislation such as the sale of pets and the welfare of racing greyhounds. Other codes will be issued as and when necessary.

6.0 **FINANCIAL & STAFFING IMPLICATIONS**

6.1 DEFRA accepts that financial demands on local authorities are bound to change and considers that there needs to be a considerable degree of flexibility in the powers and duties given by any new schemes. It is envisaged that the cost of schemes introduced under the Act will continue to be met locally by setting the cost of a license or registration scheme to meet administration and enforcement costs. There is also provision in the Act to apply for reimbursement of costs associated with the necessary seizure or destruction of animals under the Act.

6.2 The increasing workload and the increased responsibilities expected from the Animal Welfare Act will have a significant impact on the workload of the Health and Safety Team and the Animal Control and Welfare Sections (formerly the Dog Warden Service).

7.0 **EQUAL OPPORTUNITIES IMPLICATIONS**

7.1 None.

8.0 **LOCAL AGENDA 21 IMPLICATIONS**

8.1 None.

9.0 LOCAL MEMBER SUPPORT IMPLICATIONS

9.1 None.

10.0 HUMAN RIGHTS IMPLICATIONS

10.1 None.

11.0 COMMUNITY SAFETY IMPLICATIONS

11.1 None.

12.0 PLANNING IMPLICATIONS

12.1 None.

13.0 BACKGROUND PAPERS

13.1 None.

14.0 RECOMMENDATION

14.1 That Council be recommended that an amendment be made to the scheme of delegation, that the Director of Regeneration be given delegated authority to exercise the powers and duties arising under the provisions of The Animal Welfare Act 2006.

Alan Stennard
Director of Regeneration

This report has been prepared by Phil Dickson who can be contacted on tel 691 8474.