

# WIRRAL COUNCIL

## CABINET MEMBER OCTOBER 2018

<b>SUBJECT:</b>	<b>THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>COLIN CLAYTON, SENIOR MANAGER ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS, COMMUNITY SERVICES</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR ANITA LEECH</b>
<b>KEY DECISION</b>	<b>YES</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise the Portfolio Member for Environment that new legislation is coming into force on 1<sup>st</sup> October 2018. The Member is being requested to approve the adoption of revised Standard Licence Conditions for animal establishments as set out in this report and appendices 1 to 10 linked to the five licensable animal activities and to approve the introduction of the new Licensing Fee Charges required for all licensable activities covered by this new legislation. The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 are made under The Animal Welfare Act 2006, Section 13 which covers the Licensing or registration of Activities involving animals. The Regulations introduce a much needed update to the animal activities licensing system and allows the local authority to recover all of the costs associated in administering these new regulations through the charge of a revised licencing fee.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 The purpose of licence conditions is to protect animal welfare and the law gives the responsibility of enforcing the legislation to Local Authorities. The Animal Welfare Act was introduced in 2006; this is the overarching law that covers the welfare requirements for all vertebrate animals. It places a duty upon a person who is responsible for an animal to take all reasonable steps to ensure that the welfare needs of that animal are met. These are generally referred to as the “five welfare needs”.

Wirral’s current licence conditions will no longer have any legal standing after the current licence expires. Therefore when a current licence expires, until a new licence has been issued under the new regulations, no enforcement action will be possible for any breaches or contraventions linked to a licensable animal related activity.

The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 brings in 1, 2 and 3 year system for the licencing of animal establishments. The new regulations also introduce a star rating system which relates to level of compliance and number of licensable activities removing the requirement for licences to only run for a calendar year. Establishments which are licensed for multiple

activities will only receive a single star rating covering all activities irrespective of the assessed level of compliance.

### **3.0 LEGISLATIVE FRAMEWORK**

3.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 cover the following five licensable activities;

- Selling animals as pets
- Providing or arranging for the provision of boarding for cats and dogs (traditional kennels and catteries, dog day care and home boarding)
- Hiring out horses
- Breeding of Dogs
- Keeping or training animals for exhibition

3.2 The following legislation is to be repealed or amended so as to ensure that the relevant affected legislation will no longer apply to Licensable Activities operating in England from the 1 October 2018;

- The Pet Animals Act 1951
- The Animal Boarding Establishments Act 1963
- The Riding Establishments Act 1964
- The Breeding of Dogs Act 1973, 1991
- The Breeding and Sale of Dogs Act 1999
- The Sale of Dogs (Identification tag) Regulations 1999
- The Performing Animals (Regulation) Act and Rules 1925
- The Dangerous Wild Animals Act 1976

### **4.0 CURRENT SYSTEM FOR ANIMAL LICENSING**

4.1 Currently all licensable animal establishments are inspected annually with the inspections planned to take place before the annual licence renewal date, these inspections are unannounced and the licences are valid for 1 year. (Pet Shops, Boarding Establishments and Dog Breeders are licenced 1<sup>st</sup> January – 31<sup>st</sup> December, Riding Establishments are licenced 1<sup>st</sup> June – 31<sup>st</sup> May, and Performing Animals are currently a one off registration). Where complaints are received or where establishments are considered to be high risk in terms of achieving satisfactory compliance standards, additional inspections may take place during the year. As required further action may be considered in-line with Wirral Council's enforcement policy to address compliance issues identified during these inspections.

### **4.2 THE CHANGES REQUIRED UNDER THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018**

Under the new requirements The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 all licensable animal establishments will be visited initially by way of a pre-arranged inspection, depending on levels of compliance and a risk based matrix, licences will be issued for 1, 2 or 3 years and each establishment may then require further unannounced inspections.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 includes provision for the Suspension, variation or revocation of a licence.

The Local Authority must advise each licence holder in writing 3 months before their licence expires that they need to renew it and the licence holder must apply for a renewed licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break.

Under the procedural guidance notes associated with the new regulations all inspecting officers authorised to issue animal licences must be suitably qualified by October 2021. Within these guidance notes the required suitable qualification has been defined as a Level 3 certificate, granted by a body recognised and regulated by the Office of Qualifications and Examinations Regulation which oversees the training and assessment of persons inspecting and licensing animal activities.

## **5.0 RELEVANT RISKS**

5.1 The local authority has a statutory duty to enforce these new regulations and therefore arrangements must be put in place to ensure the timely implementation of them. Any failure to fully implement the regulations will also place a risk to the welfare of the animals protected by these regulations and may lead to unacceptable practices being used by unregulated operators. To ensure that reasonable costs associated with implementing these regulations are fully recovered it is proposed that the existing fees are amended as shown below. Accepting the revision of the costs as shown will prevent the Local Authority incurring any additional unbudgeted costs in implementing these new powers.

## **6.0 OTHER OPTIONS CONSIDERED**

6.1 No other options have been considered as there is a statutory duty for the Local Authority to implement these regulations.

## **7.0 CONCLUSIONS**

7.1 Wirral consumers have a right to expect that all Wirral licenced animal establishments satisfy basic standards relating to animal welfare. Customers also have a right to expect that the licensee is a fit and proper person to hold such a licence, and that they have the comfort, welfare and safety of the animals in their care as a priority. Furthermore from a business point of view, by adhering to the laws and the licensing conditions for licenced animal establishments, proprietors help to guarantee the highest standards of animal care and customer assurance across Wirral.

## **8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

8.1 There are none arising directly from this report.

## **9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

9.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 states:

“When setting fees, local authorities should have regard to Open for business: LGA guidance on locally set licence fees, which sets out the steps that must be taken to set fair and reasonable fees, and explains the EU Services Directive upon which the LGA guidance is based”. Local authorities should also have regard to the BEIS Guidance for Business on the Provision of Services Regulations. As with other areas of

licensing, regard should also be had to the principles in the Regulators' Code. "Reasonable anticipated costs" will be fact specific and dependent on the local authority in question. The "Open for business: LGA guidance on locally set licence fees" guidance includes information on what could be considered reasonable.

Activities covered by the licensing fees;

Regulation 13 of the Regulations set out what a Local Authority may charge fees for:

- (a) The costs of consideration of an application, including any inspection relating to that consideration;
- (b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- (c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- (d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 what is that to the Secretary of State.

The required training of inspecting officers must also be factored into the fee setting to ensure there are a suitable number of qualified officers to inspect the establishments within the required time frames. Due to the legislative changes any current fees will be required to increase sufficiently to ensure full cost recovery, which may impact on licence holders.

## 9.2 LICENCE FEE CHARGES

Having due consideration to Regulation 13, the relevant cost setting guidance and the financial need to fully recover all of the projected costs that will be incurred with implementing and administering these new regulations the following revision to Licensing fee formulas and charges are being proposed. Whilst the fees appear to have increased significantly for the licences under the new regulations the licence can be issued for 1, 2 or 3 years depending on the level of compliance found during the licence application inspection. For those businesses that have a high level of compliance the licence can be issued for 3 years at the same cost and the business will be awarded a three star rating. Under those circumstances these businesses will benefit from a net reduction in licence fee costs when considered over the three year period. All applications that have been received and undergone an initial desk top assessment but rejected before any sites visits take place will be refunded the licence fee. However, the initial application fee of £58 will not be refunded.

**New Proposed Animal Licence fees depending on level compliance issued for 1 to 3 years (all plus VET fees which are individual to each application);**

Category	Initial Application cost formula		Application fee £	Inspection & Licence completion costs formula		Inspection fee Cost £	Total Licence Fees (exc VET Fees) £
	Time to process application (mins)	Hr Rate used in calculation (*1) £		Time to complete (mins)	Hourly Rate (*2) £		
Boarding Cats	114	30.54	58	450	39.92	299	<b>357</b>
Boarding Dogs in Kennels	114	30.54	58	450	39.92	299	<b>357</b>
Selling Animals as Pets	114	30.54	58	450	39.92	299	<b>357</b>
Hiring Out Horses	114	30.54	58	470	39.92	313	<b>371</b>
Breeding Dogs	114	30.54	58	420	39.92	279	<b>337</b>
Home Boarding Dogs	114	30.54	58	410	39.92	273	<b>331</b>
Dog Day Care	114	30.54	58	400	39.92	266	<b>324</b>
Exhibition of Animals	114	30.54	58	300	39.92	200	<b>258</b>

(\*1) hourly rate assumes 50:50 split between Technical Services Manager and Staff = £30.54

(\*2) hourly rate assumes 50:50 split between Technical Officer and Environmental Health officer= £39.92

**Additional fees for larger business**

Category	Note	Additional Fees (excluding VET Fees) £
Boarding Cats	First 50 animal enclosures	20 per each additional 50 animal enclosures
Boarding Dogs in Kennels	First 50 animal enclosures	20 per each additional 50 animal enclosures
Breeding Dogs	First 3 breeding bitches	20 per each extra 3 breeding bitches
Dog Day Care	First 50 dogs	20 per each extra 50 dogs

## Existing fees 2018-2019

Boarding Establishment Act 1 - 10 enclosures application and thereafter annual renewal fee (excl Vet Fees)	£155.00
Boarding Establishment Act 11 - 50 enclosures application and thereafter annual renewal fee (excl Vet Fees)	£178.00
Boarding Establishment Act 51 - 100 enclosures application and thereafter annual renewal fee (excl Vet Fees)	£205.00
Boarding Establishment Act 101 - 150 enclosures application and thereafter annual renewal fee (excl Vet Fees)	£235.00
Boarding Establishment Act 151 - 200 enclosures application and thereafter annual renewal fee (excl Vet Fees)	£270.00
Boarding Establishment Act over 200 enclosures application and thereafter annual renewal fee (excl Vet Fees)	£310.00
Dog Creche application and thereafter annual renewal fee 1 - 10 dogs (excl Vet Fees)	£155.00
Dog Creche application and thereafter annual renewal fee 11- 50 dogs (excl Vet Fees)	£178.00
Dog Creche application and thereafter annual renewal fee 51 - 100 dogs (excl Vet Fees)	£205.00
Dog Creche application and thereafter annual renewal fee over 100 dogs (excl Vet Fees)	£235.00
Dog Home Boarding application and thereafter annual renewal fee 1 - 5 dogs (excl Vet Fees)	£155.00
Dog Home Boarding application and thereafter annual renewal fee 6 - 10 dogs (excl Vet Fees)	£178.00
Dog Home Boarding application and thereafter annual renewal fee 11 - 15 dogs (excl Vet Fees)	£205.00
Dog Home Boarding application and thereafter annual renewal fee over 16 dogs (excl Vet Fees)	£235.00
Breeding - application and thereafter annual renewal (excl Vet Fees)	£155.00
Performing Animals Act 1925 (excl Vet Fees)	£155.00
Pet Shop Licence application and thereafter annual renewal fee (excl Vet Fees)	£155.00
Riding Establishment Act application and thereafter annual renewal fee (excl Vet Fees)	£155.00

## Animal Licence fees unaffected by the new regulations

Dangerous Wild Animals Act – 2 year licence (excl Vet Fees)	£415.00
Zoo Licence (excl Vet Fees)	£721.00

## **10.0 LEGAL IMPLICATIONS**

10.1 Under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Local authorities must make sure that the person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on, the “operator”, either does not need a licence due to not meeting the requirements in the Regulations, holds a licence in accordance with the Regulations or that appropriate enforcement action is taken on unlicensed activity.

## **11.0 EQUALITIES IMPLICATIONS**

11.1 There are no implications arising from this report.

## **12.0 CARBON REDUCTION IMPLICATIONS**

12.1 There are no implications arising from this report.

## **13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

13.1 Where planning would be required for a new animal establishment it would follow the current Planning Application process. Community safety has been taken into account with regards to the containment of animals at licensed animal establishments and is included in the revised standard licence conditions.

## **14.0 RECOMMENDATIONS**

14.1 The Cabinet Member is requested to;

(1) Approve adoption of the revised Standard Licence Conditions for animal establishments as set out in this report and appendices 1 to 10.

(2) Authorise the requirement for the inspection and licensing of the five animal related activities as set out in the regulations, these being;

- Selling animals as pets
- Providing or arranging for the provision of boarding for cats and dogs (traditional kennels and catteries, dog day care and home boarding)
- Hiring out horses
- Breeding of Dogs
- Keeping or training animals for exhibition

(3) Authorise the Director of Delivery Services in consultation with the section 151 Officer, to use delegated authority to revise the existing Animal Licence fees relating to the implementation and administration of these new regulations to enable all the associated incurred costs to be recovered.

## 15.0 REASONS FOR RECOMMENDATIONS

15.1 There is a statutory requirement to implement these new regulations. Approval of these recommendations will ensure compliance with the authority's statutory duties and allow officers to inspect, and where the activity is compliant with the regulations and standard conditions, issue the appropriate licence. This will ensure a level operating field for businesses that provide these licensable animal services and help protect the animals by ensuring that the required standards of care and welfare are met.

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**APPENDICIES - 10** APPENDIX 1/10 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

APPENDIX 2/10 Procedural guidance notes for local authorities July 2018.  
APPENDIX 3/10 Guidance notes for conditions for breeding dogs July 2018.  
APPENDIX 4/10 Guidance notes for conditions for providing boarding in kennels for dogs July 2018.  
APPENDIX 5/10 Guidance notes for conditions for providing home boarding for dogs July 2018.  
APPENDIX 6/10 Guidance notes for conditions for providing day care for dogs July 2018.  
APPENDIX 7/10 Guidance notes for conditions for providing boarding for cats July 2018.  
APPENDIX 8/10 Guidance notes for conditions for selling animals as pets July 2018.  
APPENDIX 9/10 Guidance notes for conditions for keeping or training animals for exhibition July 2018.  
APPENDIX 10/10 Guidance notes for conditions for hiring out horses July 2018.

## BACKGROUND PAPERS/REFERENCE MATERIAL

### BRIEFING NOTES HISTORY

Briefing Note	Date

### SUBJECT HISTORY (last 3 years)

Council Meeting	Date