



GUILDFORD
BOROUGH

James Whiteman
Managing Director

www.guildford.gov.uk

Contact Officer:

Sophie Butcher, Committee Officer.
Tel no: 01483 444056

21 May 2019

Dear Councillor

Your attendance is requested at a meeting of the **LICENSING COMMITTEE** to be held in the Council Chamber, Millmead House, Millmead, Guildford, Surrey GU2 4BB on **WEDNESDAY 29 MAY 2019 at 7.00pm.**

Yours faithfully

James Whiteman
Managing Director

MEMBERS OF THE COMMITTEE

Chairman: Councillor David Goodwin
Vice-Chairman: Councillor Will Salmon

Councillor Tim Anderson
Councillor Joss Bigmore
Councillor Dennis Booth
Councillor Graham Eyre
Councillor Gillian Harwood
Councillor Nigel Manning
Councillor Ted Mayne

Councillor Ann McShee
Councillor Marsha Moseley
Councillor George Potter
Councillor Maddy Redpath
Councillor James Steel
Councillor Catherine Young

QUORUM 5



THE COUNCIL'S STRATEGIC FRAMEWORK

Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

Three fundamental themes and nine strategic priorities that support our vision:

- | | |
|---------------------|--|
| Place-making | Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes |
| | Making travel in Guildford and across the borough easier |
| | Regenerating and improving Guildford town centre and other urban areas |
| Community | Supporting older, more vulnerable and less advantaged people in our community |
| | Protecting our environment |
| | Enhancing sporting, cultural, community, and recreational facilities |
| Innovation | Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need |
| | Creating smart places infrastructure across Guildford |
| | Using innovation, technology and new ways of working to improve value for money and efficiency in Council services |

Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

AGENDA

1 APOLOGIES FOR ABSENCE

2 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, the councillor must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

3 MINUTES (Pages 1 - 2)

To confirm the minutes of the meeting of the Licensing Committee held on 25 March 2019.

4 ANNOUNCEMENTS

To receive any announcements from the Chairman of the Committee.

5 LICENSING COMMITTEE ITEMS

5.1 **Licensing Policy for Activities Involving Animals (Pages 3 - 56)**

6 LICENSING COMMITTEE WORK PROGRAMME (Pages 57 - 62)

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AN ALTERNATIVE FORMAT**

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LICENSING COMMITTEE

* Councillor David Elms (Chairman)
Councillor Dennis Paul (Vice-Chairman)

* Councillor Graham Ellwood	Councillor Nigel Manning
* Councillor David Goodwin	* Councillor Marsha Moseley
* Councillor Gillian Harwood	* Councillor David Quelch
* Councillor Christian Holliday	Councillor Tony Rooth
Councillor Mike Hurdle	* Councillor James Walsh
* Councillor Jennifer Jordan	Councillor David Wright
Councillor Nigel Kearse	

*Present

L59 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mike Hurdle, Nigel Manning, Tony Rooth and David Wright.

L60 LOCAL CODE OF CONDUCT - DISCLOSABLE PECUNIARY INTERESTS

No disclosures of interest were declared.

L61 MINUTES

The minutes of the Licensing Committee held on 7 January 2019 were confirmed and signed by the Chairman.

L62 ANNOUNCEMENTS

The Chairman reported that the Lead Councillor for Licensing, Environmental Health and Community Safety had requested that the Committee trial holding Licensing Sub-Committee and Regulatory Sub-Committee Hearings in the evening. Historically, these hearings had been scheduled during the day. By holding such hearings in the evening, it was hoped that more councillors on the Licensing Committee would have the opportunity to volunteer and use their skills and training. To date, two Licensing Sub-Committee Hearings had been scheduled and had resulted in the same Councillors putting themselves forward for daytime hearings. The Chairman encouraged councillors to volunteer in the evening so that the responsibilities for acting as a Sub-Committee can be more equally shared in the future.

The Chairman and the Lead Councillor for Licensing, Environmental Health and Community Safety thanked the Committee for all of their hard work to date given this was the Committee's last meeting prior to the local elections to be held in May 2019.

L63 OBJECTIONS TO THE TAXI AND PRIVATE HIRE FEES AND CHARGES 2019-20

The Committee received a report regarding the Taxi and Private Hire Fees and Charges 2019-20 and recalled that the Committee, on 7 January 2019, had approved the proposed taxi and private hire fees and charges for the financial year 2019/20 for consultation. Two objections had been received during the consultation period and one was subsequently withdrawn. The advertised fees and charges could not come into effect until the remaining objection had been considered. Mr and Mrs Simmonds did not wish to withdraw their objection, despite having an in depth meeting with the Licensing Team Leader who set out the rationale for the fee setting process. The Committee noted that Mr and Mrs Simmonds were also unable to attend the meeting.

The Committee noted the proposed fee for the Private Hire Operator's application and renewal was £970.97 for a 5-year licence and asked for clarification as to why the fee was set so high. The Licensing Team Leader confirmed that the proposed Operator cost was calculated by taking the costs associated with the operator function over 5-years, divided by the total number of operators currently. It was explained that the Council was not currently recovering its costs through the current operator's fee. If the Council had more Private Hire Operators, moving forward, the costs could be reviewed. The Licensing Team Leader confirmed that he had spent two hours with the objectors Mr and Mrs Simmonds clarifying the fee setting process and reiterated that a considerable amount of temporary staff time had been removed and not passed onto the licensed trade through fees.

The Committee having considered the report

RESOLVED

To approve the Taxi and Private Hire Fees and Charges for 2019/20 to take effect from 1 April 2019.

L64 LICENSING COMMITTEE WORK PROGRAMME

The Committee noted its work programme for 2019-20 and that its next meeting was scheduled on 29 May 2019.

The meeting finished at 7.15 pm

Signed

Date

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Chairman

Licensing Committee Report
Report of the Licensing Team Leader
Author: Mike Smith
Tel: 01483 444387
Email: mike.smith@guildford.gov.uk
Lead Councillor responsible: To be confirmed
Tel: To be confirmed.
Email: To be confirmed.
Date: 29 May 2019

Licensing Policy for Activities Involving Animals

Executive Summary

On 1 October 2018 changes to the way in which animal boarding establishments, dog breeding establishments, pet shops and riding establishments are licensed were introduced and the Council commenced responsibility for the licensing of the keeping of animals for exhibition.

This report seeks to inform the Committee of the result of the public consultation on a draft policy concerning the licensing of Activities Involving Animals.

Recommendation to Licensing Committee

That the Committee approves the draft Animal Welfare Licensing Policy following public consultation.

Reasons for Recommendation:

To improve the regulation of the licensing of activities involving animals in the Borough by recommending the adoption of a Policy covering animal licensing.

1. Purpose of Report

- 1.1 The report informs the Committee of the results of the public consultation on the proposed introduction of a Council Policy concerning the Licensing of Activities Involving Animals in the Borough.
- 1.2 It asks the Committee to approve the new Animal Licensing Policy in Appendix I.

2. Strategic Framework

- 2.1 The changes to the licensing of animals will contribute to our fundamental themes and priorities as follows:

Economy – supporting business, growth and employment

Sustainability – safe borough

3. Background

- 3.1 Before 1 October 2018, the Council was responsible for the regulation of a variety of animal-related businesses, as well as the keeping of specified dangerous animals by individuals. The licence types historically issued by the Council are:
- **Animal boarding establishment licences** (for businesses accommodating dogs or cats – e.g. kennels, catteries, home boarders, pet day care)
 - **Dog breeding establishment licences** (premises used for, or in connection with, the commercial breeding of dogs)
 - **Pet shop licences** (any business which keeps animals with a view to selling them as pets)
 - **Riding establishment licences** (premises which keep horses and ponies for hire for riding, or for riding tuition – excluding livery stables)
 - **Zoo licences** and **Dangerous Wild Animal** licences are also issued by Guildford, however, these will continue to be covered by their own specific legislation.
- 3.2 In addition to the licences issued by Guildford, Surrey County Council were responsible for registering any performing animals based within the county.
- 3.3 Before 1 October 2018, numerous pieces of legislation and secondary legislation regulated the six licence types set out in paragraph 3.1. Also, as adoption of conditions and implementation of processes were left to the discretion of individual licensing authorities, there were a wide variation of requirements as to how to apply for licences and comply with locally set conditions, which, for businesses that operate in a number of areas, could cause uncertainty and confusion. In addition, all types of licence were standalone, so a business that offers two or more of the licensable activities (for example a pet shop that also offers accommodation for dogs and cats while their owners are away) would have to apply for both a pet shop and animal boarding establishment licence, with the additional expenditure incurred.
- 3.4 The Animal Welfare Act 2006 introduced a new licensing power which enabled nationally set regulations to be made for any animal-related activities specified in those regulations. As a result, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were published last year, which will significantly change the way animal related businesses are inspected and licensed. The Regulations came into force on 1 October 2018.

4. Changes

4.1 The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 (“the Regulations”) define the animal based activities that require licences as follows:

- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.
- Providing or arranging for the provision of accommodation for other people’s cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business.
- Hiring out horses in the course of a business for either riding, instruction in riding, or both.
- Breeding three or more litters of puppies in any 12-month period; or breeding dogs and advertising a business of selling dogs.
- Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology.

4.2 The first significant change is that all four existing types of licence, together with the additional activity of keeping and training animals for exhibition, which is brought over from Surrey County Council, will be encompassed by one new ‘Animal Activity licence’. If an applicant is running more than one licensable animal related activity, each activity will be assessed separately and set out in one licence. The length of licence (previously one year in most cases) may be anything between one and three years dependent on the outcome of their inspection, and the type of licence (See paragraph 4.9).

4.3 As stated in paragraph 3.3 previous arrangements included locally set conditions. The Regulations specify conditions for each animal activity which must be included in each licence issued.

4.4 If the grant of a licence is refused, or the licence is revoked, the operator will be able to appeal to a First Tier Tribunal, which would comprise a panel with specialist knowledge administered by HM Courts and Tribunal Service.

4.5 The Regulations comprise a set of general conditions in respect of matters such as record keeping, types and numbers of animals, staffing, maintaining a suitable environment and diet, monitoring behaviour, handling of the animals, protecting the animals from pain, suffering, injury and disease and dealing with emergencies. Each specific animal activity then has its own set of more detailed conditions, tailored to that particular activity.

Inspection Process

4.6 In the past, an inspection of the premises has been carried out by the Council’s Dog Warden. The new regime requires a ‘qualified inspector’ to carry out the inspections, and in the case of the grant of a dog breeding establishment and at grant and renewal of horse riding establishments they must either be or be

accompanied by a veterinary surgeon. To qualify to inspect premises, a person must hold a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulations which oversees training and assessment of persons inspecting and licensing certain animal activities businesses, and must have passed an independent exam. Their certificate must apply to the specific type of activities they are inspecting. A qualified veterinary surgeon is also a qualified inspector.

- 4.7 Transitional provisions are in place to enable any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses to carry out the inspections until October 2021. After that time, the above requirements will need to be met.
- 4.8 Under the new arrangements, the inspection process will be much more comprehensive, and built around providing the premises with a 'risk rating'. This process will establish whether the business is 'low risk' or 'higher risk' based on the level to which it meets the standards set out in the regulations and guidance, and will award between one and five stars, thus determining the length of the licence (with the exception of 'Keeping and Training Animals for Exhibition' for which all licences will be issued for 3 years as default). The star rating will be displayed on the licence, and included in the Council's public register.
- 4.9 Businesses established as higher risk will attain between one and four stars. If one or two stars are issued they will be issued a one year licence, and can expect a minimum of one unannounced visit during that period. If four stars are attained, the licence will be issued for two years, and the licence holder can expect one unannounced visit during the two year period.
- 4.10 Lower risk businesses can be issued a licence for any period between one and three years. Licence holders can expect a minimum of one unannounced visit at any time during the period specified on the licence.
- 4.11 The recently published guidance advises that if a business is certified by a UKAS-accredited body to operate animal welfare certification, it should be considered low risk and receive the higher star rating, unless there is evidence of poor animal welfare or non-compliance. Existing businesses that are not certified must be assessed using a risk scoring table – also set out in the guidance – to ascertain their score, and from this, their star rating. New businesses that are not certified will automatically be considered high risk as they have no operational history.
- 4.12 Operators of businesses will be able to appeal their risk rating, or request a reassessment if they have made improvements.

Suitable Applicants

- 4.13 Any individual who carries on a licensable activity will be designated as the operator of the business, and can apply for a licence providing they:-
 - are not disqualified from holding a licence in accordance with Regulation 11 and Schedule 8.

- 4.14 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, the Council has drafted a policy setting out criteria which will ensure that only suitable applicants are granted a licence.
- 4.15 The draft policy sets out that upon application the Council:-
- Will require the applicant to provide a basic disclosure (DBS) certificate; and
 - May request information from Surrey Police under our information sharing agreement about any relevant convictions an applicant may hold. This information sharing is possible under Section 17 of the Crime and Disorder Act 1998, which requires that local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can to prevent crime and disorder in their area.
- 4.16 An applicant will be granted a licence if the Council is satisfied that the licence conditions will be met. In considering this, the Council will take into account whether the applicant is a fit and proper person to be the operator of the activity. The term 'fit and proper' is not defined in the legislation or guidance. The draft Policy states that the Council will consider a 'fit and proper person' to be an individual who can demonstrate upon application that they have:-
- the right to work in the UK
 - no relevant convictions
 - not been disqualified from holding a licence
 - the knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of animals in their care
 - made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.

5. Consultation

- 5.1 Officers and the Council's Web and Communications Teams have carried out publicity work to highlight the legislative changes.
- 5.2 On 28 November 2018, the Licensing Committee approved a draft Animal Licensing Policy for public consultation.
- 5.3 Following the Committee's approval Officers followed our consultation standards by carrying out a public consultation over a 12 week period between 21 December 2018 to 15 March 2019 by:
- Writing to relevant authorities (for example the Police, Defra)
 - Writing to interested parties (for example current licence holders)
 - Publicising the consultation on the Council's website
 - Using social media to inform the public of the consultation and direct them to the website.

- 5.4 Seven (7) responses were received to the consultation. Three (3) responses were from organisations representing the interests of animal welfare (RSPCA, PDSA and Dogs Trust). Four responses were from establishments which hold Animal Activities licences with the Council (Greenways Stables, Five Acres Cattery, Five Acres Kennels and Stringers Farm). The full consultation responses are included as Appendix II.
- 5.5 Of the four responses to the Policy from licence holders, three amounted to general disagreements with the legislation, standard conditions and cost of fees. As the legislation and conditions are set by Defra and implemented by the Council, these comments have not been considered further. Similarly the Council operates a time recording system and has set fees in line with guidance to ensure cost recovery and comments as to the level of fees have also not been considered.
- 5.6 Comments received about the proposed policy, with comment from Officers are summarised as follows:

Comment from	Comment	Response
PDSA	Paragraph 5.6 Also add in those related to fraud, smuggling, tax evasion, domestic violence offences or any offences relating to abuse of a minor. Re domestic violence and abuse of a minor, we work as part of the Links Group	These offences would be included in the 'dishonesty' category. Offences involving a minor have been added for clarity. These offences would be included in the 'violence; category.
	Paragraph 8.3 Also add that a new applicant will automatically be considered as high risk. See paragraph 11 in Defra's Procedural guidance notes for local authorities.	As this is already part of the guidance there is no need to repeat this in the Policy.
	Paragraph 11.5 Disqualified from keeping animals? Is it as per point 18.6 below?	Yes.
	Paragraph 13.4 For consistency should 'operator' be replaced with 'license holder' throughout this document? Or each term defined if they are different?	The policy applies to new applicants as well as licence holders, so 'operator' would encompass both.
	Paragraph 14.2 And there is no impact on the welfare of any animal in their charge ??	The process of transfer is laid out in guidance.
Greenway s Stables	As part of our Pony Club approval and work with local schools, both members of staff at the stables have DBS certificates already. To have to provide another one for the purpose of licensing within 3	It is important that a recent DBS is provided so as to ensure the information is up to date. The draft has been updated so that a recent DBS

	<p>months of the date of application seems quite costly and timely to do. If establishments do not have them already then I completely agree they should be done but for those of us who have paid for DBS checks within the last year, to do another one seems unfair (as I assume the cost will be at our own expense)</p>	<p>is required for all new applications, and that the DBS can be up to 3 years old for renewal applications, as such 'high risk' businesses whose licence lasts one year do not have to incur the cost of applying for a new DBS every year. This is in line with other licensing regimes such as taxis and street trading where a 'new' DBS is required every 3 years.</p>
	<p>I am unclear as to how you decide on who is appropriate/ qualified to be an "Inspector"- surely they should be industry experts (as the appointed vets are), not just someone with the right piece of paper?</p>	<p>The qualification requirement for inspectors is laid out in legislation.</p>
	<p>When will the new inspection procedure actually come into effect? I am assuming if there's no meeting until May, then this won't be until at least 2020. In the meantime, does an inspection remain the same as it has been up until now?</p>	<p>The new inspection procedure has been in effect since 1 October 2018.</p>
<p>RSPCA</p>	<p>Overall, the policy is excellent: strong, concise and user friendly for both those applying for licenses and staff using the policy. From an animal welfare/protection perspective there's nothing missing. The only suggestion I would make would be to include your processes for investigating and acting on complaints from the public in it more explicitly, perhaps in the latter sections on enforcement.</p>	<p>A section has been added to include the investigation of complaints.</p>
	<p>Once the policy is agreed and in force, I would strongly encourage you to apply for one of our PawPrints Awards (which recognise local authorities who are delivering best practice in animal welfare provision). The policy as it is currently drafted would certainly be eligible for recognition in our licensing category. There's more about the awards online here, though of course the criteria for licensing will be reviewed quite significantly this year to reflect the new</p>	<p>This will be considered.</p>

	realities of the 2018 Regulations.	
Dogs Trust	Policy should define animals as 'vertebrates other than man' and not 'fellow creatures'.	Comment noted.
	The Animal Welfare Act does not unify all animal legislation, as there is other legislation.	Comment Noted. The Council's powers of licensing derive from the Animal Welfare Act.
	Applicants should be over 16 and be able to demonstrate adequate knowledge and be able to provide for the welfare of animals in their care.	The policy sets out that applications should have sufficient knowledge/experience.
	Any person with a conviction involving danger or suffering to animals, irrespective of the species, should not be granted a licence under any circumstances.	This has been updated for clarity.
	The criteria should apply to persons residing at an address of a person with convictions.	Although this is a laudable aim, the legislation only considers applicants/licence holders with convictions, not any persons resident with them. The policy proposes that a check may be conducted with the Police where other relevant information may be disclosed.
	Persons with convictions for domestic violence should not be licensed.	This offence would be included in the 'violence' category.
	Licence holders should be given a longer window between notification that their licence is due for renewal and submission of their application 10 weeks before expiry.	The time period is suggested in the guidance, and it is up to responsible operators to ensure they submit their applications in good time.
	Establishments should be clear on works required to raise standards.	This is part of the inspection and scoring process already.
	The Council should ensure there is a contingency plan in place to ensure the welfare of animals in cases where licences are suspended/revoked.	The policy's aims are to ensure animal welfare and the Council will work with other stakeholders such as the RSPCA in such cases.
	Dogs trust supports annual or more frequent inspections of businesses.	Whilst this is laudable, the inspection frequency is based upon licence duration, with one inspection mid licence. If however there are valid concerns then more frequent visits may be conducted as necessary.
The costs of re-inspection should be borne by the licensee.	This is set out in the fees.	
If premises are re-rated, this should not	Comment noted. Businesses	

	affect the licence duration.	who have improved should be allowed to be benefit from any difference to licence duration.
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6. Equality and Diversity Implications

- 6.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 6.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 6.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of equality duty.
- 6.4 There are no Equality and/or Diversity issues arising from the new Regulations, or approval of an Animal Welfare Licensing Policy. The Regulations and Policy allow an application to be made and assessed against standard criteria, irrespective of any protected characteristics of the applicant.

7. Financial Implications

- 7.1 The duration of the licences granted will depend on a risk rating, with some licences being granted for a longer period than others.
- 7.2 The animal licensing scheme falls within the definition of ‘services’, and is subject to the EU Services Directive, incorporated in to UK law as the Provision of Services Regulations 2009.
- 7.3 The fees are split into two parts – the application fee, payable at the time of submission to cover the Council’s costs in considering and determining the application, and the licence fee, payable by successful applicants which covers ongoing enforcement and compliance requirements.
- 7.4 All fees have been calculated and will be reviewed annually, taking into account the requirements of Regulation 13 with the aim of full cost recovery.

8. Legal Implications

- 8.1 The Regulations and guidance issued by DEFRA under the Regulations, set out the activities which must be licensed, who may apply for a licence and how the Council must determine applications for a licence. The Regulations also set out the conditions which must be applied to any licence granted.

- 8.2 Should the Council refuse to grant or renew a licence, the applicant may appeal to a First-tier Tribunal. This must be done within 28 days of the decision.
- 8.3 Once a licence has been granted, the Council may suspend, vary or revoke the licence if the licence conditions are not complied with, the Regulations have been breached, information supplied is found to be false or misleading or it is necessary to do so to protect the welfare of an animal. There is no right of appeal against a suspension, however the licensee may make written representations to the Council and upon receipt of those representations, the Council must re-consider its decision. A licence may only be suspended for a maximum of 28 days, following which the licence must be reinstated, with or without variation or revoked. When a licence is varied or revoked, the licence holder may appeal to a First-tier Tribunal. This must be done within 28 days of the decision.
- 8.4 The statutory guidance issued by DEFRA requires the Council to provide an appeal process to enable applicants to challenge the initial star rating they are given. The guidance sets out the timescales and the level of officer who should hear the appeal. If a business is still dissatisfied, they can challenge the appeal outcome by way of judicial review. It will also be possible for applicants to pay for a re-inspection following the carrying out of improvements that would lead to a higher star rating.
- 8.5 The adoption of a licensing policy will assist the Council to carry out its functions under the Regulations in a fair and transparent way.

9. Human Resource Implications

- 9.1 The Council has dealt with 47 applications under the new licensing regulations since 1 October 2018. Previously, this number was 25. The number of investigations into unlicensed activities has also increased with the expanding requirements, further increasing the demand on Officer time.
- 9.2 As the Regulations set out specific qualifications which local authority inspectors must hold by 2021, Officers will be required to attend training and obtain the relevant qualification.

10. Summary of Options

- 10.1 The Licensing Committee approved a draft Animal Licensing Policy for public consultation on 28 November 2018. The Committee is asked to consider the results of the public consultation and adopt the Policy presented for approval.
- 10.2 There are three options available after considering the results of the public consultation and the information in this report:
1. Approve the Policy as set out in Appendix 1; or
 2. Approve a modified policy; or
 3. Not to approve a Policy.

11. Conclusion

- 11.1 In October 2018, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into effect replacing all the existing legislation. The new legislation also significantly expands the type of animal activity that requires licensing and introduces a star rating scheme for licensed animal activity businesses.
- 11.2 The new regulations expand the animal licensing regime to offer greater protection to animals being looked after, displayed or sold by third parties.
- 11.3 Fees for the new animal licences are locally set and can recover all costs but the Local Authority can make no profit. The Council has set fees for the activities which it will be licensing from 1 October 2018.
- 11.4 A Policy concerning the new Licensing Arrangements has been drafted which seeks to ensure the suitability of applicants and licence holders.
- 11.5 The policy has been consulted upon and is presented with some minor amendments for approval. Appendix III shows highlighted tracked changes to the draft version of the Policy.
- 11.6 The Committee is asked to approve the policy in Appendix I following public consultation.

12. Background Papers

[Animal Welfare \(Licensing of Activities Involving Animals\) Regulations 2018](#)

[Procedural Guidance Notes for Local Authorities 2018](#)

13. Appendices

Appendix 1: Animal Welfare Licensing Policy for Approval

Appendix 2: Consultation responses received

Appendix 3: Policy for approval showing tracked changes to draft consulted upon

14. Consultation

Service	Sign off date
Regulatory Service Manager	<i>24 April 2019</i>
Finance / 151 Officer	<i>26 April 2019</i>
Legal / Governance	<i>09 April 2019</i>

HR	<i>05 April 2019</i>
Equalities	<i>05 April 2019</i>
Lead Councillor	<i>26 April 2019</i>
CMT	<i>23 April 2019</i>
Committee Services	<i>10 April 2019</i>



Animal Welfare Licensing Policy

Approved (date)

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1. Introduction

- 1.1 This policy sets out how the Council will exercise its functions under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981.
- 1.2 This policy has been introduced pursuant to the commencement of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) on 1 October 2018. It will be reviewed at least every 3 years following first approval, and at other times where considered necessary, for example, to reflect significant changes in relevant legislation or guidance.
- 1.3 This policy sets out the principles we will use when dealing with applicants and licence holders with whom the Council is responsible for.
- 1.4 This policy provides guidance to any person with an interest in Animal licensing. In particular, but not exclusively:
- Applicants for licenses,
 - Existing licence holders whose licences are being reviewed,
 - Licensing Officers,
 - Members of the Licensing Committee, and
 - Courts and Tribunals hearing appeals against local authority decisions.
- 1.5 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to be granted, have renewed or continue to hold a Licence. In addition to criminal convictions the Council will also take into account other factors such as general character, compliance with licence requirements/guidance/conditions, non-criminal behaviour and police or other relevant records or information from reliable sources.

2. Policy Objectives

- 2.1 The Policy is designed to ensure that:-
- any person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on holds a licence in accordance with the Regulations,
 - the licence holder is not disqualified from holding a licence in accordance with the requirements of the Regulations,
 - that the five overarching principles of animal welfare, (known as the “five needs”) introduced by the Animal Welfare Act 2006 are upheld in any decision,
 - the safeguarding of any children or vulnerable persons in contact with a licensable activity is ensured
 - each application is considered on its merits
 - decisions made by the Council are transparent and consistent
 - relevant objectives of the Council’s Corporate Business Plan are supported
 - that the obligations of the Council’s Public Sector Equality duty under the Equality Act 2010, section 149 are fulfilled by eliminating discrimination, harassment, victimisation and other conduct prohibited by the Act,

advancing equality of opportunity and fostering good relations between persons who share and those who do not share protected characteristics.

2.2 In addition, the Council will base its licensing regime on the following principles which arise from the responsibilities arising under the Animal Welfare Act 2006:-

- Responsibility to protect the welfare of all fellow creatures;
- Ensuring the welfare of domestic or captive animals by implementing appropriate standards that promote the “five needs”;
- Ensuring that persons responsible for the management of animal welfare observe recognised standards of good practice;
- Ensuring that, so far as it falls within its powers, the requirements of all animal-related legislation will be rigorously and pro-actively enforced.

3. Animal Welfare Act

3.1 The Animal Welfare Act 2006 (the Act) established that reasonable welfare standards must be maintained whilst unifying much animal legislation, including responsibilities falling to other enforcement agencies.

3.2 The Act introduced five overarching principles of animal welfare, known as the “five needs” which are:

1. The need for a suitable environment;

(by providing an appropriate environment, including shelter and a comfortable resting area)

2. The need for a suitable diet;

(by ready access, where appropriate, to fresh water and a diet to maintain full health)

3. The need to be able to exhibit normal behaviour patterns;

(by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate)

4. Any need to be housed with, or apart from, other animals;

(by providing the company of an animal of its own kind, where appropriate); and

5. The need to be protected from pain, suffering, injury and disease;

(by prevention or rapid diagnosis and treatment, and ensuring conditions and treatment which avoid mental suffering).

4. Licensable Activities

4.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on 1st October 2018 and will have an impact on establishments licensed under the previous animal health legislation. This includes those previously licensed as pet shops, catteries, kennels, home boarders, dog crèche, riding establishments, dog breeders and performing animals.

- 4.2 A licence is required when any of the licensable activities outlined in Schedule 1 of the regulations are undertaken. These are:
- selling animals as pets (Part 2);
 - providing or arranging for the provision of boarding for cats or dogs (including the provision of boarding for cats; kennels for dogs; home boarding for dogs; or day care for dogs (Part 3);
 - hiring out horses (Part 4);
 - breeding dogs (Part 5);
 - keeping or training animals for exhibition (Part 6).
- 4.3 The Regulations replace previous licensing and registration regimes under the following legislation:
- Pet Animals Act 1951
 - Animal Boarding Establishments Act 1963
 - Riding Establishments Acts 1964 & 1970
 - Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
 - Performing Animals (Regulation) Act 1925
- 4.4 The Regulations do not impact on the licensing of Dangerous Wild Animals under the Dangerous Wild Animals Act 1976 and Zoos under the Zoo Licensing Act 1981, which remains unaffected by the legislative changes, however will fall within the scope of this Policy.

5. Suitability of Applicants

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

- 5.1 In accordance with the Regulations any individual, who carries on a licensable activity will be designated as the operator of the business and can apply for a licence providing they are not disqualified from holding a licence in accordance with Regulation 11 and Schedule 8.
- 5.2 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council:-
- Will require the applicant to provide a basic disclosure (DBS) certificate (issued within 3 months of the date of application for new applications, and within 3 years for renewals) showing that they are not disqualified from holding a licence, and/or hold no relevant convictions which may affect whether they are a 'fit and proper' person to hold a licence; and
 - May request information from Surrey Police under our information sharing agreement about any relevant convictions an applicant may hold. This information sharing is possible under Section 17 of the Crime and Disorder Act 1998, which requires that local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can to prevent crime and disorder in their area.
- 5.3 An applicant will be granted a licence if the Council is satisfied that the licence

conditions will be met. In considering this, the Council will take into account whether the applicant is a fit and proper person to be the operator of the activity. The term 'fit and proper' is not defined in the legislation or guidance. For the purpose of this Policy, the Council will consider a 'fit and proper person' to be an individual who can demonstrate upon application that they have:-

- the right to work in the UK
- no relevant convictions
- not been disqualified from holding a licence
- the knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of animals in their care
- made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.

Dangerous Wild Animals and Zoos

5.4 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council:-

- Will require the applicant to provide a basic disclosure (DBS) certificate issued within 3 months of the date of application for new applications, and within 3 years for renewals); and
- May request information from Surrey Police under our information sharing agreement about any relevant convictions an applicant may hold.

Relevance of convictions

5.5 The purpose of this section is to offer guidance on how the Council can determine whether an applicant/licence holder suitable to either be granted a licence in the first place or retain such a licence. In all cases, the Council will consider the conviction or behaviour in question, what weight should be attached to it and each and every case will be determined on its own merits, but in light of these guidelines. Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that people do make mistakes, and it is further accepted that many learn from those mistakes and do not continue to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, will not prevent the grant or renewal of a licence.

5.6 The council will not normally grant a licence to a person with one (or more) convictions for any of the following offences:

- Offences involving violence
- Possession of a weapon
- Sex and indecency offences
- Offences involving a minor
- Offences involving dishonesty
- Offences involving drugs

- Licensing offences
- Offences involving Animals, including but not limited to offences involving danger or suffering caused to animals

5.7 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

6. Safeguarding

6.1 The regulations have the aims of maintaining and improving animal welfare standards. However there are other safeguarding considerations arising from licensable activities which the Council has a statutory duty to ensure, in particular surrounding the protection of children and vulnerable persons.

6.2 The Council is aware that some licensable activities may involve unsupervised contact with children and/or vulnerable persons. For example the tuition of a young person provided at a Riding Establishment, or entertaining at a children's party with an exhibition of animals.

6.3 To this extent, the Council would expect applicants and licence holders whose activities involve contact with children or vulnerable persons to:-

- Have a written safeguarding policy and provide training for staff; and
- Have a procedure for vetting staff who have unsupervised contact with young/vulnerable persons.

7. Application Process

7.1 Licence applications must be submitted in writing on the prescribed application form, along with any supporting information (as detailed in the application form and as required under this Policy), together with the appropriate fee. Proof of the planning permission required for the relevant activity on the premises should also be provided.

7.2 The Council will notify licence holders when their existing licence will expire (3 months prior to expiry) and licence holders must make a new application at least 10 weeks before the licence expires to continue the activity without a break. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

7.3 Payment for vet inspections required either by legislation or by the Council in order to determine the application, will be an additional charge passed on to the applicant/license holder.

7.4 The Guidance stipulates that once a local authority receives an application for the grant or renewal of a licence it must do all of the following before granting or renewing a licence:

- The Council must consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable

activity and meet their licence conditions.

- The Council must inspect the site of the licensable activity and assess if it is likely to meet the licence conditions. The inspection must be completed by a suitably qualified inspector present (as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments). The inspector must prepare a report, in accordance with the requirements of regulation 10, to be submitted to the local authority following their inspection.
- The inspector’s report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter and state whether or not the inspector considers that the licence conditions will be met.
- Ensure that the appropriate fees have been paid, these can include fees for the consideration of the application, the reasonable anticipated costs of consideration of a licence holder’s compliance with the Regulations, the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator and any costs reasonably anticipated in relation to the provision of information to the Secretary of State.

8. Rating and Licence duration

8.1 Licences can be issued for a period of either one, two or three years depending on the risk rating and level of compliance. This also corresponds with the Star Rating for the establishment.

8.2 The Scoring matrix is below:

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

8.3 Licences for the keeping or training animals for exhibition are issued for three years.

9. Standards and Conditions

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations

- 9.1 The Regulations include mandatory conditions for each licensable activity and DEFRA has produced associated guidance. The conditions are divided into two categories namely General Conditions (stipulated in Schedule 2) and Specific Conditions from the associated Schedule of the Regulations.
- 9.2 Applicants/licence holders will need to meet all the mandatory conditions, although minor failings may be noted/recorded providing they do not compromise the welfare of the animals (these should be predominantly administrative in nature).
- 9.3 For each activity (except keeping or training animals for exhibition) a number of “higher standards” have been included in the guidance. Meeting the higher standards is optional but is the only way to gain a higher star rating.
- 9.4 The higher standards are classified into two categories – required (mandatory) and optional. These will usually be colour coded into blue and red respectively. To qualify as meeting the higher standards the business must achieve all the required (mandatory) standards as well as a minimum of 50% of the optional higher standards.
- 9.5 The Regulations make provision for Officers to take samples for laboratory testing from any animals on premises occupied by an operator for the purposes of ensuring the licence conditions are being complied with. A Licence holder must comply with any reasonable request of an inspector to facilitate the identification and examination of an animal and the taking of samples and, in particular, must arrange the suitable restraint of an animal if so requested by an inspector.
- 9.6 Samples should be as non-invasive as possible, however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals. The provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.

Dangerous Wild Animals

- 9.7 The Council will usually impose Defra’s standard conditions, in addition to any premises/animal specific conditions deemed to be required by the Inspecting Officer/Vet.

Zoos

- 9.8 The Council will usually impose Defra’s standard conditions, in addition to any premises/animal specific conditions deemed to be required by the Inspecting Officer/Vet.

10. Granting an application

- 10.1 Where a licence is issued the Council will provide the following details:

- the Licence with the Star Rating;
- details of how the business has been rated including a list of the higher standards the business currently fails to meet or a list of the minimum standards the business is failing to meet and resulting in a “minor failing” category;
- a copy of the risk management assessment table;
- details of the appeals process and timescales.

10.2 Any fee(s) required upon the grant of the licence must be paid in full prior to the issue of the licence.

11. Refusing Applications

11.1 The Council will consider the report from the inspector and any comments made by the applicant when deciding whether to issue a licence.

11.2 The Council will refuse to issue a licence if it considers that the applicant cannot meet the licence conditions, for example, if the granting of a licence will have a negative impact on animal welfare or if the level of accommodation, staffing or management is inadequate for the well-being of animals.

11.3 The Council will also refuse to issue or renew a licence if the applicant has a history of non-compliance with licensing conditions or requirements, is obstructive towards officers, or if there are safeguarding concerns arising from the licensed activity. The above list is not exhaustive, but indicative of the circumstances where they Council will want to refuse an application.

11.4 The Council will also refuse an application if it considers that the applicant does not meet the ‘fit and proper person’ test.

11.5 A licence cannot be issued to an operator who is disqualified.

11.6 Any application fees or veterinary inspection fees paid will not be refunded for unsuccessful applications.

11.7 If a licence is refused, the applicant will have the right of appeal to a First-tier Tribunal within 28 days of the decision notice.

12. Appeals to Star Rating

12.1 To ensure fairness to the business, the Council has an appeals procedure in place for the operator to dispute the star rating given.

12.2 The business will be provided with supporting information (the inspection reports) which will highlight the inspecting officer’s decision on how the risk rating, compliance level and star rating has been determined. The business is encouraged to discuss the matter initially with the inspecting officer where possible.

12.3 A business may appeal if they consider their star rating to be wrong - in other words it does not reflect the standards found at the time of inspection. Any appeal to the rating given must be made in writing within 21 days.

- 12.4 A business may wish to apply for a re-inspection or re-rating on a chargeable basis following completion of works to rectify any non-compliance or improvements to achieve higher standards.
- 12.5 An appeal will be assessed and determined by an appointed manager within the Department, who will conduct a 'desk based' appraisal of the rating given.
- 12.6 The appointed managers for this purpose are the Licensing Team Leader, or Regulatory Services Manager in their absence.
- 12.7 If the business disagrees with the outcome of the appeal they can only challenge the decision by means of judicial review.

13. Variations, Suspensions and Revocations of Licences

- 13.1 The Regulations provide for a local authority at any time to vary a licence:
- On the application in writing of the licence holder, or
 - On the initiative of the local authority, with the consent in writing of the licence holder.
- 13.2 In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
- The licence conditions are not being complied with,
 - There has been a breach of the Regulations,
 - Information supplied by the licence holder is false or misleading, or
 - It is necessary to protect the welfare of an animal.
- 13.2 A suspension or variation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case the local authority may stipulate that the decision has immediate effect.
- 13.3 A decision to vary or suspend the licence must be notified to the licence holder in writing, explaining the reasons for the decision, and providing information regarding when the suspension or variation comes into effect and the rights of the licence holder to make written representation, as well as any specific changes deemed necessary in order to remedy the situation.
- 13.4 The decision to vary, suspend or revoke a license will be dependent on the severity of the situation. If an operator fails to meet administrative conditions or provide information when requested then this could potentially lead to the suspension of a licence. If such a scenario happens repeatedly, the Council may consider revocation appropriate. Revocation of a licence will also occur in an instance where poor welfare conditions are discovered or it would otherwise benefit the welfare of the animals involved to be removed from the activity. Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.
- 13.5 Following the issuing of the notice of suspension or variation, the licence holder will have 7 working days to make written representation. Upon receipt

of this the Council will decide whether to continue with the suspension or variation of the licence or cancel the decision.

- 13.6 If the licence has been altered with immediate effect to protect the welfare of an animal then the Council must indicate that this is the reason.
- 13.7 The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by the local authority upon being satisfied that licence conditions are being met.
- 13.8 There is no right of appeal against the suspension of a licence. After 28 days of suspension the licence must be revoked or reinstated.
- 13.8 A licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the local authority to vary or revoke a licence. This must be done within 28 days of the decision.

14. Transfer of a licence upon the death of a licence holder

- 14.1 If a licence holder dies, the procedure in regulation 12 of the Regulations applies. It allows the personal representative of the deceased to take on the licence provided that they inform the local authority within twenty-eight days of the death that they are now the licence holders. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to remain in force if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.
- 14.2 Additionally the local authority can extend the three month period by up to another three months if requested by the personal representative and if they believe this time is needed to wind up the estate of the former licence holder.
- 14.3 If the personal representative does not notify the local authority within 28 days of the death of the licence holder, the licence will cease to have effect after those 28 days.

15. Inspections During the Course of a licence

- 15.1 There will be cases where inspections must be carried out during the term of a licence.
- 15.2 For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence. The local authority must appoint a listed veterinarian to inspect the premises on which the activity is being carried out before the end of the first year after the licence is granted and then each subsequent year.
- 15.3 Unannounced inspections can also be carried out and will be used in the case of complaints or other information that suggests the licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.

15.4 During the course of an inspection the inspector may choose to take samples for laboratory testing from the animals on the premises occupied by an operator. The operator must comply with any reasonable request of an inspector to facilitate the identification, examination and sampling of an animal including ensuring that suitable restraints are provided if requested.

16. Qualifications of Inspectors

16.1 All inspectors must be suitably qualified. This is defined in the Guidance as:

- Any person holding 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 in inspecting and licensing certain animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity;
- Any person holding a formal veterinary qualification, as recognised by the Royal College of Veterinary Surgeons (“RCVS”), together with a relevant RCVS continuing professional development record;
- Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

17. Fee Structure

17.1 The current level of licence fee will be displayed on the Council’s webpage.

17.2 All fees have been calculated and reviewed annually, taking into account the statutory requirements of Regulation 13, with the aim of full cost recovery.

18. Enforcement

18.1 The Regulations introduce a range of enforcement powers to allow the Council to issue a suspension, variation or revocation notice where licence conditions are not being complied with; there is a breach of the regulations or issues relating to the protection of the welfare of an animal.

18.2 The service of an enforcement notice is subject to a strict process and includes provision for the right to make written representations and/or appeal.

18.3 It is an offence to breach any licence condition. It is also an offence not to comply with an inspector’s request in the process of taking a sample from an animal.

18.4 It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing any of these offences could result in an unlimited fine.

18.5 Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both. Section 30

of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

- 18.6 The post-conviction power from section 34 of the Animal Welfare Act 2006 is in place whereby a person convicted of an offence under the Act or Regulations may be disqualified from owning, keeping, participating in the keeping of animals and/or from being party to an arrangement under which they can control or influence the way an animal is kept. They may also be disqualified from transporting or dealing in animals. Breaching these disqualifications is an offence.
- 18.7 The post-conviction power from section 42 of the Animal Welfare Act is also in place whereby a court can cancel a currently existing licence and disqualify a person from holding a licence for any period it sees fit when that person is convicted of an offence under the Act or Regulations.
- 18.8 The Council works closely with partners in accordance with a locally established joint enforcement protocol and will aim to promote the welfare of animals and safety of the public.
- 18.9 The main enforcement and compliance role for the Council in terms of the Regulations will be to ensure compliance with the conditions placed upon the licence and investigate and take appropriate action on unlicensed premises.
- 18.10 The Council will log and investigate as it considers necessary all complaints relating to Animal Establishments which are currently licensed or may require a licence. The Council will require complainants to provide their name and contact details so as to ensure that a complaint is not malicious in nature, and so that witness evidence may be obtained if required for further action. When investigating complaints officers will take care to not reveal the identity of the complainant, unless the complainant has agreed otherwise, or unless it is necessary for the progression of legal proceedings.
- 18.11 We aim to achieve and maintain a consistent approach when we investigate complaints and make our decisions. In reaching any decision we will consider the following criteria:
- seriousness of any offences or breach of conditions
 - operator's past history
 - consequence(s) of non-compliance
 - likely effectiveness of the various enforcement options
 - danger to the welfare of animals and/or public
- 18.12 In carrying out its enforcement duties with regards to the inspection of premises, the variation, suspension or revocation of licences, investigation of complaints and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council has adopted an enforcement policy, which is available on www.guildford.gov.uk.

Animal Licensing Policy Consultation
The Licensing Team
Guildford Borough Council
Millmead House
Millmead
Guildford
GU2 4BB

Monday 11th March 2019

Dear Sir/Madam

Re: Animal Welfare Licensing Policy

Dogs Trust is pleased to be able to respond to your consultation on Animal Licensing Policy, which is welcome groundwork following the repeal of the older legislation governing this area and its replacement with new Regulations under the Animal Welfare Act 2006.

Dogs Trust is the UK's largest dog welfare charity. We have twenty rehoming centres across the UK, through which we care for more than 15,000 dogs each year, and invest substantial resources in information services, community outreach programmes, and education on responsible dog ownership. In preparation for the introduction of the new Regulations, in August and September last year we worked with animal health inspectors from the City of London Corporation to deliver a training roadshow to more than 300 Local Authority inspectors across England. The aim of these was to help ensure the officers tasked with enforcing the new Regulations understand the changes being introduced and the part they play in implementing them.

As the UK's largest dog welfare charity, we would like to make some comments on the Animal Welfare Licensing Policy for consideration.

Policy Objectives

The Policy sets out that the Council will base its licensing regime on a number of principles which arise from the responsibilities under the Animal Welfare Act 2006 (AWA), one of which is the responsibility to protect the welfare of all 'fellow creatures'. The AWA defines animal as 'a vertebrate other than man'. Dogs Trust recommends amending the Policy in line with this as 'fellow creatures' could be interpreted as including man.

Animal Welfare Act

Where the Policy notes that the AWA unifies all animal legislation, we would disagree as there are other pieces of legislation relating to animals and that impact on their welfare, for example legislation relating specifically to wildlife.



Suitability of Applicants

Dogs Trust agrees with the criteria the Council sets out for the applicant to be considered a 'fit and proper person'. However, we would also add that the applicant should be aged 16 or over.

We agree that anyone wishing to obtain a licence should also have demonstrable animal welfare knowledge and be able to adequately provide for the welfare of the animals within their care. We encourage the Council to include in their Policy what is required by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, that:

The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

Relevance of convictions

The Animal Welfare Policy sets out that the council would not normally grant a licence to a person with one (or more) convictions for a number of offences including those involving danger or suffering caused to animals. Dogs Trust strongly argues that, irrespective of the species the offences were against, anyone with a conviction for animal welfare offences or other animal related criminal convictions should not be granted a licence under any circumstances. This should also include convictions under the Pet Animals Act, Non-commercial Movement of Pet Animals Order and the Dangerous Dogs Act.

We recommend extending such a ban to cover any address where a person with one or more of these convictions is residing.

It should also be checked that the licensee has not been involved in domestic abuse cases. Dogs Trust is a member of The Links Group, a multi-agency group that promotes the welfare and safety of vulnerable children, animals and adults so that they can live a life free from violence and abuse. We know through our work on this group that animal abuse is closely linked with domestic abuse.

Application Process

The Policy sets out that the Council will notify licence holders when their existing licence will expire (3 months prior to expiry) and licence holders must make a new application at least 10 weeks before the licence expires to continue the activity without a break. This only gives the licence holders a 2 week window to apply for a new licence after being notified of its impending expiry. Whilst this is per the legislation Dogs Trust recommends the Council considers giving licence holders a bigger window to do this to ensure everyone applies within the timeframe and nobody ends up operating without a licence.

Standards and Conditions

Where minor technical failings are noted/recorded, providing they do not compromise the welfare of the animals, improvement plans should be agreed between the council and licensee along with a timeline for their implementation. The establishment should be very clear about what needs to be done to improve standards, how this can be achieved, and a timeline for the implementation of necessary improvements. This will ensure the maintenance of high welfare standards but also provide necessary support to licence holders striving to improve their establishments.

Variations, Suspensions and Revocations of Licences

Dogs Trust agrees with the points made under this section of the policy but would encourage, where a licence is revoked or suspended, the council ensures there is a contingency plan in place to protect the welfare of the animals at the premises, particularly where they are being kept for breeding and sale. We also believe that a contingency plan is vital for ensuring that the council is not constrained from taking action because it does not have a way of caring for the animals at the establishment.

Inspections during the course of a licence

We strongly urge the council to regularly inspect any premises licenced to keep and care for animals to ensure the highest standard of welfare. Dogs Trust also believes unannounced inspections are essential to protect animal welfare. Although we certainly welcome a shift towards risk-based assessment, we fear that a lack of monitoring of “good” practitioners may result in their complacency and deterioration. Things can change significantly within one year, let alone three, and so we support annual inspections as a minimum and more frequent inspections for some establishments, in particular where concerns have been identified.

According to the scoring matrix included in the Policy, if a licence holder is awarded 4 Stars for welfare standards, they can be given a two year licence with a minimum of one unannounced visit within a 24 month period. Dogs Trust advocates all premises which are licensed for the first time to have an unannounced inspection in the first twelve months irrespective of their star rating.

Appeals to Star Rating

The Policy sets out that a business may wish to apply for re-inspection or re-rating on a chargeable basis following completion of works to rectify any non-compliance or improvements to achieve higher standards. Firstly, Dogs Trust recommends it should be made clear that the cost of re-inspection and re-rating must be borne by the licensee. We also recommend the Council includes a note in the Policy to point out that if an establishment is re-inspected or re-rated, this would not affect the licence period i.e. the licence would still expire on the same day and the licence holder will have to re-apply regardless of whether they have recently been inspected and re-rated.



Agenda item number: 5(1)

Appendix 2

Dogs Trust

Once again we welcome the opportunity to respond to your Animal Welfare Policy and we hope that you will consider the points set out above.

Lastly, Dogs Trust works with local authorities to help improve responsible dog ownership standards within the community. If you would like to find out more about how we can work together, please do not hesitate to contact our Campaigns Team via campaigns@dogstrust.org.uk.

Yours faithfully,

A handwritten signature in blue ink that reads "P. Boyden".

Paula Boyden
Veterinary Director

Dogs Trust

Clarissa Baldwin House
17 Wakley Street
London EC1V 7RQ

T 020 7837 0006

F 020 7833 2701

www.dogstrust.org.uk

Patron: Her Majesty The Queen

Registered Charity Numbers: 227523 & SC037843

From: Stringers Farm
Sent: 14 March 2019 19:19
To: Regulatory Services
Subject: Animal Licensing Policy Consultation

Dear Sir or Madam,

The animal licensing requirements are mainly given by national laws, but the licensing fees set by Guildford Borough Council are multiple times higher than in other Boroughs.

(Please, compare Doncaster as 1 example:

<http://www.doncaster.gov.uk/services/business-investment/animal-licensing>)

This will unproportionally affect small businesses and a lot of positive activities will not be provided in Guildford in the future!

As example, if our small farm would like to offer animal encounters for the local nursery (in the past offered for free), we would have to pay around 400 £ for a licence (nearly 5-times the amount due in Doncaster). This is of course not sustainable and these activities cannot be offered in the future anymore!

Please, might you reconsider your licensing scheme, especially with regards to small businesses.

Thank you and kind regards
Ralf Hartung

Agenda item number: 5(1)
Appendix 3

From: joanna quinlan
Sent: 14 March 2019 15:58
To: Regulatory Services
Subject: Animal licensing policy consultation.

To whom it may concern,
please consider my additional concerns to those already raised by the Cattery during your meeting regarding the matter.

Whilst I appreciate the new licensing conditions are to try to improve animal establishments and to allow councils to better regulate them I feel as a existing business with an outstanding reputation (providing excellent care for dogs myself for the past 12 years and previously run for decades before that for which some of I worked for with a equally good reputation) the licensing regulations are somewhat prejudice in that it is impossible for me to obtain a higher star rating than 5 without for example knocking down the existing kennels and rebuilding them to a slightly larger size. For one thing I do not believe that doing so would enhance the welfare for my boarders (and I would welcome proof that this would be the case) and the cost for doing so including loss of earnings whilst building I would never make back in my working life even if I was 21 and not 37 years old.

The star rating seems complete nonsense in any case in that as a low risk establishment I am only able to obtain 1, 3 or 5 stars, where as a high risk establishment could obtain 2 or 4 stars. This scoring system just does not make sense and is misleading to potential customers.

I am also concerned about the consistency of the scoring throughout the UK. I have been assured by the dog warden that regular meeting with some of the other local district councils have been in place to try to ensure their consistency however due to our current excellent reputation our customers travel from all over the including central london, Hampshire, Berkshire. There are so many near by boroughs that it is very important for us to know that everybody is marked fairly so that potential customers are not put off for unfair reasons.

kind regards
Joanna Young
Five Acres Kennels

From, Five Acres Village Cattery Ltd
13/03/2019

Animal Licensing Policy Consultation Team

The new regulations introduced as of 1st October 2018 attempted to create a single standard nationwide animal licensing framework to cover not only Catteries and Kennels but also home boarding, Zoo's and Circuses.

The final regulations were only made available to the local licensing councils. Guildford Borough Council did not then pass on to relevant local businesses until mid-November 2018! Given that the regulations came into effect as of 1st October 2018 and our licenses expire on 31st December each year, this put an enormous load on all effected.

Five Acres Village Cattery has always prided itself on improving standards for the welfare of the cats in our care and the service and support given to our clients.

While we support the general intentions of the new regulations there are a number of flaws with the regulations that are not in the interests of the cats in our care, are not what our clients desire, some which are discriminatory in our view and other that we believe to be illegal.

We have raised all these concerns to the licensing officer of GBC, who whilst sympathetic, is powerless to vary from the Defra guidelines.

Defra have knowingly introduced legislation that is prejudice against any existing cattery built to previous regulations and industry standards. It is not reasonable or practical and in some areas such as the larger pen sizes possible to meet these higher standards. Defra have not provided any alternative means to allow existing facilities to achieve a 5 star rating. It is therefore discriminatory against any person that owns a cattery built to these previously accepted standards and requirements. We believe this to be illegal and this means that GBC as a council are being asked to implement on an illegal basis. This predefined exclusion of our facilities may have a financial detrimental effect on our daily business and the future sale of our business. There are simple, viable and effective best practices to achieve the same results as described below which we believe should be included as an alternative.

We will be writing to the "Head of" the relevant Defra division (as there is no document owner) for these areas to be addressed immediately - we would at least expect them to be reviewed at the next scheduled review but there is no "document review date" which is strange as all our policies and procedures must be reviewed annually as is typical in any ISO type implementation.

License Charges & general comments

Historically since licenses have been issued, more then one name has been allowed on them, thus allowing for the running of two separate businesses at the same address, ie; Cattery & Kennels, as is the situation with ourselves.

It is somewhat surprising to no longer allow this established practise and we feel that there could be a legal precedent for it to continue as names on the license in no way affects the welfare of the animals. Surely this is supposedly what this legislation is all about?

As to the cost; our joint £100 licence now costs ten times more, just under £1000 for both. Inflation or what ???

There is also no key for the license checklist so it is meaningless to the uninitiated.

5 Star Rating System

The introduction of the new 5 Star-rating system is intended to give potential new clients a clear indication of the quality of the Cattery in question.

Five Acres Village Cattery has not advertised for 5 years + and even before that we only advertised in the local parish news to support the local publication.

We rely purely on our reputation and the recommendation of our existing clients and Veterinary practices who recommend us. As our regular clients know too well, we are booked up very early and already taking bookings into 2020.

The 5 star rating under the new system is only available to Catteries that meet all the minimum standards and ALL the higher standards.

Five Acres Village Cattery achieves all minimum standards and all but two of the higher standards and has been given a one star rating.

It is impossible for us to achieve the 5 star rating without major structural changes to the cattery which are not viable physically, let alone cost effective, are also not in the best interest of the cats and are not what our clients wish us to make.

We understand that there is also no option ever to progress from 1 star to a 3 or 5 star - a 4 star rating is only for a 5 star Cattery at high risk of failing?? - Go figure. This is against any other star rating system used in any other relevant sector such as food hygiene or hotel accommodation and as such is fundamentally flawed making the star rating system invalid.

The 5 Star rating does not in any way look at the customer service levels, customer policies and operating practices a Cattery gives its clients.

It is clear that the star rating is not a fair representation of the quality of care given to the cats boarded with us or the customer service levels we give and below is further detailed explanation of the two requirements we "fail" on for you to make an informed judgement yourselves.

Higher Standard 1 not achieved

"Units must be 1.5 times the minimum sizes stated."

All our pens met or exceeded the existing size requirements prior to 1st October 2018, and without major reduction in the number of cats boarded - which is not

economically viable or undertaking major structural changes - which is not reasonable or practical; it is impossible for us to meet this requirement.

The Higher standard for accommodation is purely arbitrary, why not 1.4 times or 1.6 times?

There is no scientific evidence provided to show that not having more space is detrimental or more space is beneficial to the cats and as such is invalid as a higher standard requirement.

It also fails to understand that we operate on a best practice basis that all our borders are given the largest space available.

We believe that our best practice approach is what Defra should be working with, as this can easily be included in Policies and Procedures.

Higher Standard 2 not achieved

"There must be completely opaque sneeze barriers rather than translucent up to 600mm and behind any shelves."

The Higher standard for Opaque screens is again not defined correctly and is invalid as a higher standard requirement.

Opaque means "not transparent or translucent".

The guidance by Defra suggest that "full height full width translucent sneeze barriers" which should "be at a minimum translucent (allowing light to pass through, but only diffusely so that objects on the other side cannot be clearly distinguished) to reduce stress caused by cats seeing one another"?? - Which is it Defra - Opaque or Translucent?

Assuming they mean translucent (they will no doubt correct this at the next review... oh yes there is not one scheduled), there is no specification given as to the amount of light permitted or not permitted. An ECDC inspector has not been given means or equipment to test this properly either and therefore cannot properly make this assessment so have been told to use their judgement - hmmn how does that fit with a national standard?

This is not a reasonable or practical requirement on a cost basis alone but it would have been impossible for us to implement in the time frame given.

Seriously though this is the one area that we will not change in our Cattery to just to get more stars.

A major part of the new legislation is there to ensure the welfare and well being of the cats - a good thing and has always been our highest priority here.

To comply with this requirement would darken the pens, which is detrimental to the cats well being (Section 5.2 (e) of the Defra regulation) as well as other issues as below, and undesirable from all the clients we have canvassed.

Having opaque screens precludes any interaction between cats, which is contrary to Sections 7.0, 7.1 and 7.2 of the Defra regulations as cats in general are social creatures.

Many cats whilst boarding like to interact and play with the other neighbouring cats, this would be impossible with opaque panels.

When a new cat comes to the Cattery for the first stay we always try and place them to cats that have been before so that the new boarder can see that the other cats are happy and relaxed and also to watch and learn the new routine.

Where a cat is not sociable simple and effective best practice measures such as temporary screens are put in place. Again these best practice measures can easily be included in Policy and Procedures.

It is part and parcel of what we do to know your cat and the specific requirements of each and every cat - this is not something you can get a qualification in or document in a procedure.

We believe that this is an ill-conceived part of the legislation, poorly implemented and fundamentally not in the best interest of the majority of cats and should be removed.

Summary

It is more than frustrating that a faceless government body who clearly do not understand that running a Cattery is a life style business and not a corporate "maximise profits at every turn" business has created this mess that they are now trying to distance themselves from.

Corporate processes of policies and procedures and ISO type documentation are not appropriate for this kind and size of business.

It is clear to us that Defra have a flawed understanding of what we do, the real world requirements of what the cats boarded require, and what our clients want and wish for.

Yes we do find it insulting and it makes us angry as we have worked extremely hard over the past 6 years to create our reputation that this rating system does not in any way fairly reflect.

There was nothing in the new regulations that we were not already doing and all we have had to do is extra paperwork to update our policies and improve our audit trails We are fortunate that we have the knowledge, experience and skills to have been able to implement these new regulations but other Catteries have closed or are planning to sell up as a direct result of these new regulations.

Yours sincerely

Danny & Sue Page BSc (Hons)
(*Directors & Owners*)

From: Emma Tipton
Sent: 13 March 2019 16:10
To: Regulatory Services
Cc: Vicki Betton
Subject: FW: Guildford Borough Council - Animal Licensing Policy Consultation [UNC]

Hello,

Thank you for letting us know about this important consultation.

Here are our thoughts (below). If you need any more information or if any of our comments aren't clear please do get in touch.

This new piece of legislation should result in some great improvements in the welfare of pets so it is brilliant to see that you are taking measures to make sure that it beds in well in your area.

Kind regards

Emma
Emma Tipton BSc BVSc CertIAWEL MRCVS
Evidence and Policy Manager



Paragraph 5.6

Also add in those related to fraud, smuggling, tax evasion, domestic violence offences or any offenses relating to abuse of a minor.

Re domestic violence and abuse of a minor, we work as part of the Links Group on this topic:

www.thelinksgroup.org.uk/

Paragraph 8.3

Also add that a new applicant will automatically be considered as high risk. See paragraph 11 in Defra's Procedural guidance notes for local authorities.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762430/animal-welfare-licensing-procedural-guidance.pdf

Paragraph 11.5

Disqualified from keeping animals? Is it as per point 18.6 below?

Paragraph 13.4

For consistency should 'operator' be replaced with 'license holder' throughout this document? Or each term defined if they are different?

Paragraph 14.2

And there is no impact on the welfare of any animal in their charge ??

Agenda item number: 5(1)
Appendix 3

From: Greenways Stables
Sent: 01 February 2019 17:45
To: Licensing Unit
Subject: Draft Animal Licensing Policy

I have read through the above and as a proprietor of a busy riding school in the borough, overall, I think it is a good idea.

However, I have 3 concerns/ queries:

1. As part of our Pony Club approval and work with local schools, both members of staff at the stables have DBS certificates already. To have to provide another one for the purpose of licensing within 3 months of the date of application seems quite costly and timely to do. If establishments do not have them already then I completely agree they should be done but for those of us who have paid for DBS checks within the last year, to do another one seems unfair (as I assume the cost will be at our own expense)
2. I am unclear as to how you decide on who is appropriate/ qualified to be an "Inspector"- surely they should be industry experts (as the appointed vets are), not just someone with the right piece of paper?
3. When will the new inspection procedure actually come into effect? I am assuming if there's no meeting until May, then this won't be until at least 2020. In the meantime, does an inspection remain the same as it has been up until now?

These are my responses to the Draft Policy and I hope that they are taken into consideration.

Best regards,
Sally Blackmore.

From: Rachel Williams
Sent: 04 January 2019 11:38
To: Licensing Unit
Subject: Draft licensing policy feedback

Hello,

One of our local branches has alerted me to the consultation on your new draft licensing policy and I wanted to send you some feedback.

Overall, the policy is excellent: strong, concise and user friendly for both those applying for licenses and staff using the policy. From an animal welfare/protection perspective there's nothing missing. The only suggestion I would make would be to include your processes for investigating and acting on complaints from the public in it more explicitly, perhaps in the latter sections on enforcement.

Once the policy is agreed and in force, I would strongly encourage you to apply for one of our PawPrints Awards (which recognise local authorities who are delivering best practice in animal welfare provision). The policy as it is currently drafted would certainly be eligible for recognition in our licensing category. There's more about the awards online [here](#), though of course the criteria for licensing will be reviewed quite significantly this year to reflect the new realities of the 2018 Regulations.

Best wishes,
Rachel

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Rachel Williams
Senior Parliamentary Advisor
RSPCA

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Animal Welfare Licensing Policy

Approved (date)

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1. Introduction

- 1.1 This policy sets out how the Council will exercise its functions under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981.
- 1.2 This policy has been introduced pursuant to the commencement of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) on 1 October 2018. It will be reviewed at least every 3 years following first approval, and at other times where considered necessary, for example, to reflect significant changes in relevant legislation or guidance.
- 1.3 This policy sets out the principles we will use when dealing with applicants and licence holders with whom the Council is responsible for.
- 1.4 This policy provides guidance to any person with an interest in Animal licensing. In particular, but not exclusively:
- Applicants for licenses,
 - Existing licence holders whose licences are being reviewed,
 - Licensing Officers,
 - Members of the Licensing Committee, and
 - Courts and Tribunals hearing appeals against local authority decisions.
- 1.5 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to be granted, have renewed or continue to hold a Licence. In addition to criminal convictions the Council will also take into account other factors such as general character, compliance with licence requirements/guidance/conditions, non-criminal behaviour and police or other relevant records or information from reliable sources.

2. Policy Objectives

- 2.1 The Policy is designed to ensure that:-
- any person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on holds a licence in accordance with the Regulations,
 - the licence holder is not disqualified from holding a licence in accordance with the requirements of the Regulations,
 - that the five overarching principles of animal welfare, (known as the “five needs”) introduced by the Animal Welfare Act 2006 are upheld in any decision,
 - the safeguarding of any children or vulnerable persons in contact with a licensable activity is ensured
 - each application is considered on its merits
 - decisions made by the Council are transparent and consistent
 - relevant objectives of the Council’s Corporate Business Plan are supported
 - that the obligations of the Council’s Public Sector Equality duty under the Equality Act 2010, section 149 are fulfilled by eliminating discrimination, harassment, victimisation and other conduct prohibited by the Act,

advancing equality of opportunity and fostering good relations between persons who share and those who do not share protected characteristics.

2.2 In addition, the Council will base its licensing regime on the following principles which arise from the responsibilities arising under the Animal Welfare Act 2006:-

- Responsibility to protect the welfare of all fellow creatures;
- Ensuring the welfare of domestic or captive animals by implementing appropriate standards that promote the “five needs”;
- Ensuring that persons responsible for the management of animal welfare observe recognised standards of good practice;
- Ensuring that, so far as it falls within its powers, the requirements of all animal-related legislation will be rigorously and pro-actively enforced.

3. Animal Welfare Act

3.1 The Animal Welfare Act 2006 (the Act) established that reasonable welfare standards must be maintained whilst unifying much animal legislation, including responsibilities falling to other enforcement agencies.

3.2 The Act introduced five overarching principles of animal welfare, known as the “five needs” which are:

1. The need for a suitable environment;

(by providing an appropriate environment, including shelter and a comfortable resting area)

2. The need for a suitable diet;

(by ready access, where appropriate, to fresh water and a diet to maintain full health)

3. The need to be able to exhibit normal behaviour patterns;

(by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate)

4. Any need to be housed with, or apart from, other animals;

(by providing the company of an animal of its own kind, where appropriate); and

5. The need to be protected from pain, suffering, injury and disease;

(by prevention or rapid diagnosis and treatment, and ensuring conditions and treatment which avoid mental suffering).

4. Licensable Activities

4.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on 1st October 2018 and will have an impact on establishments licensed under the previous animal health legislation. This includes those previously licensed as pet shops, catteries, kennels, home boarders, dog crèche, riding establishments, dog breeders and performing animals.

- 4.2 A licence is required when any of the licensable activities outlined in Schedule 1 of the regulations are undertaken. These are:
- selling animals as pets (Part 2);
 - providing or arranging for the provision of boarding for cats or dogs (including the provision of boarding for cats; kennels for dogs; home boarding for dogs; or day care for dogs (Part 3);
 - hiring out horses (Part 4);
 - breeding dogs (Part 5);
 - keeping or training animals for exhibition (Part 6).
- 4.3 The Regulations replace previous licensing and registration regimes under the following legislation:
- Pet Animals Act 1951
 - Animal Boarding Establishments Act 1963
 - Riding Establishments Acts 1964 & 1970
 - Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
 - Performing Animals (Regulation) Act 1925
- 4.4 The Regulations do not impact on the licensing of Dangerous Wild Animals under the Dangerous Wild Animals Act 1976 and Zoos under the Zoo Licensing Act 1981, which remains unaffected by the legislative changes, however will fall within the scope of this Policy.

5. Suitability of Applicants

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

- 5.1 In accordance with the Regulations any individual, who carries on a licensable activity will be designated as the operator of the business and can apply for a licence providing they are not disqualified from holding a licence in accordance with Regulation 11 and Schedule 8.
- 5.2 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council:-
- Will require the applicant to provide a basic disclosure (DBS) certificate (issued within 3 months of the date of application for new applications, and within 3 years for renewals) showing that they are not disqualified from holding a licence, and/or hold no relevant convictions which may affect whether they are a 'fit and proper' person to hold a licence; and
 - May request information from Surrey Police under our information sharing agreement about any relevant convictions an applicant may hold. This information sharing is possible under Section 17 of the Crime and Disorder Act 1998, which requires that local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can to prevent crime and disorder in their area.
- 5.3 An applicant will be granted a licence if the Council is satisfied that the licence

conditions will be met. In considering this, the Council will take into account whether the applicant is a fit and proper person to be the operator of the activity. The term 'fit and proper' is not defined in the legislation or guidance. For the purpose of this Policy, the Council will consider a 'fit and proper person' to be an individual who can demonstrate upon application that they have:-

- the right to work in the UK
- no relevant convictions
- not been disqualified from holding a licence
- the knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of animals in their care
- made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.

Dangerous Wild Animals and Zoos

5.4 In order to ensure compliance with our duties to ensure that an individual has not been disqualified from holding a licence, upon application the Council:-

- Will require the applicant to provide a basic disclosure (DBS) certificate issued within 3 months of the date of application for new applications, and within 3 years for renewals); and
- May request information from Surrey Police under our information sharing agreement about any relevant convictions an applicant may hold.

Relevance of convictions

5.5 The purpose of this section is to offer guidance on how the Council can determine whether an applicant/licence holder suitable to either be granted a licence in the first place or retain such a licence. In all cases, the Council will consider the conviction or behaviour in question, what weight should be attached to it and each and every case will be determined on its own merits, but in light of these guidelines. Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that people do make mistakes, and it is further accepted that many learn from those mistakes and do not continue to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, will not prevent the grant or renewal of a licence.

5.6 The council will not normally grant a licence to a person with one (or more) convictions for any of the following offences:

- Offences involving violence
- Possession of a weapon
- Sex and indecency offences
- Offences involving a minor
- Offences involving dishonesty
- Offences involving drugs

- Licensing offences
- Offences involving Animals, including but not limited to offences involving danger or suffering caused to animals

5.7 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

6. Safeguarding

6.1 The regulations have the aims of maintaining and improving animal welfare standards. However there are other safeguarding considerations arising from licensable activities which the Council has a statutory duty to ensure, in particular surrounding the protection of children and vulnerable persons.

6.2 The Council is aware that some licensable activities may involve unsupervised contact with children and/or vulnerable persons. For example the tuition of a young person provided at a Riding Establishment, or entertaining at a children's party with an exhibition of animals.

6.3 To this extent, the Council would expect applicants and licence holders whose activities involve contact with children or vulnerable persons to:-

- Have a written safeguarding policy and provide training for staff; and
- Have a procedure for vetting staff who have unsupervised contact with young/vulnerable persons.

7. Application Process

7.1 Licence applications must be submitted in writing on the prescribed application form, along with any supporting information (as detailed in the application form and as required under this Policy), together with the appropriate fee. Proof of the planning permission required for the relevant activity on the premises should also be provided.

7.2 The Council will notify licence holders when their existing licence will expire (3 months prior to expiry) and licence holders must make a new application at least 10 weeks before the licence expires to continue the activity without a break. It is the licence holder's responsibility to ensure that any renewal application is made in good time, and the Council cannot be held responsible for any delays or lapses of a licence caused by an incomplete or late application.

7.3 Payment for vet inspections required either by legislation or by the Council in order to determine the application, will be an additional charge passed on to the applicant/license holder.

7.4 The Guidance stipulates that once a local authority receives an application for the grant or renewal of a licence it must do all of the following before granting or renewing a licence:

- The Council must consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable

activity and meet their licence conditions.

- The Council must inspect the site of the licensable activity and assess if it is likely to meet the licence conditions. The inspection must be completed by a suitably qualified inspector present (as well as a veterinarian for the initial inspection of a dog breeding establishment, or a listed veterinarian for inspections of horse riding establishments). The inspector must prepare a report, in accordance with the requirements of regulation 10, to be submitted to the local authority following their inspection.
- The inspector’s report will contain information about the operator, any relevant premises, any relevant records, the condition of any animals and any other relevant matter and state whether or not the inspector considers that the licence conditions will be met.
- Ensure that the appropriate fees have been paid, these can include fees for the consideration of the application, the reasonable anticipated costs of consideration of a licence holder’s compliance with the Regulations, the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator and any costs reasonably anticipated in relation to the provision of information to the Secretary of State.

8. Rating and Licence duration

8.1 Licences can be issued for a period of either one, two or three years depending on the risk rating and level of compliance. This also corresponds with the Star Rating for the establishment.

8.2 The Scoring matrix is below:

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period

8.3 Licences for the keeping or training animals for exhibition are issued for three years.

9. Standards and Conditions

- 9.1 The Regulations include mandatory conditions for each licensable activity and DEFRA has produced associated guidance. The conditions are divided into two categories namely General Conditions (stipulated in Schedule 2) and Specific Conditions from the associated Schedule of the Regulations.
- 9.2 Applicants/licence holders will need to meet all the mandatory conditions, although minor failings may be noted/recorded providing they do not compromise the welfare of the animals (these should be predominantly administrative in nature).
- 9.3 For each activity (except keeping or training animals for exhibition) a number of “higher standards” have been included in the guidance. Meeting the higher standards is optional but is the only way to gain a higher star rating.
- 9.4 The higher standards are classified into two categories – required (mandatory) and optional. These will usually be colour coded into blue and red respectively. To qualify as meeting the higher standards the business must achieve all the required (mandatory) standards as well as a minimum of 50% of the optional higher standards.
- 9.5 The Regulations make provision for Officers to take samples for laboratory testing from any animals on premises occupied by an operator for the purposes of ensuring the licence conditions are being complied with. A Licence holder must comply with any reasonable request of an inspector to facilitate the identification and examination of an animal and the taking of samples and, in particular, must arrange the suitable restraint of an animal if so requested by an inspector.
- 9.6 Samples should be as non-invasive as possible, however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals. The provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.

Dangerous Wild Animals

- 9.7 The Council will usually impose Defra’s standard conditions, in addition to any premises/animal specific conditions deemed to be required by the Inspecting Officer/Vet.

Zoos

- 9.8 The Council will usually impose Defra’s standard conditions, in addition to any premises/animal specific conditions deemed to be required by the Inspecting Officer/Vet.

10. Granting an application

- 10.1 Where a licence is issued the Council will provide the following details:

- the Licence with the Star Rating;
- details of how the business has been rated including a list of the higher standards the business currently fails to meet or a list of the minimum standards the business is failing to meet and resulting in a “minor failing” category;
- a copy of the risk management assessment table;
- details of the appeals process and timescales.

10.2 Any fee(s) required upon the grant of the licence must be paid in full prior to the issue of the licence.

11. Refusing Applications

11.1 The Council will consider the report from the inspector and any comments made by the applicant when deciding whether to issue a licence.

11.2 The Council will refuse to issue a licence if it considers that the applicant cannot meet the licence conditions, for example, if the granting of a licence will have a negative impact on animal welfare or if the level of accommodation, staffing or management is inadequate for the well-being of animals.

11.3 The Council will also refuse to issue or renew a licence if the applicant has a history of non-compliance with licensing conditions or requirements, is obstructive towards officers, or if there are safeguarding concerns arising from the licensed activity. The above list is not exhaustive, but indicative of the circumstances where they Council will want to refuse an application.

11.4 The Council will also refuse an application if it considers that the applicant does not meet the ‘fit and proper person’ test.

11.5 A licence cannot be issued to an operator who is disqualified.

11.6 Any application fees or veterinary inspection fees paid will not be refunded for unsuccessful applications.

11.7 If a licence is refused, the applicant will have the right of appeal to a First-tier Tribunal within 28 days of the decision notice.

12. Appeals to Star Rating

12.1 To ensure fairness to the business, the Council has an appeals procedure in place for the operator to dispute the star rating given.

12.2 The business will be provided with supporting information (the inspection reports) which will highlight the inspecting officer’s decision on how the risk rating, compliance level and star rating has been determined. The business is encouraged to discuss the matter initially with the inspecting officer where possible.

12.3 A business may appeal if they consider their star rating to be wrong - in other words it does not reflect the standards found at the time of inspection. Any appeal to the rating given must be made in writing within 21 days.

- 12.4 A business may wish to apply for a re-inspection or re-rating on a chargeable basis following completion of works to rectify any non-compliance or improvements to achieve higher standards.
- 12.5 An appeal will be assessed and determined by an appointed manager within the Department, who will conduct a 'desk based' appraisal of the rating given.
- 12.6 The appointed managers for this purpose are the Licensing Team Leader, or Regulatory Services Manager in their absence.
- 12.7 If the business disagrees with the outcome of the appeal they can only challenge the decision by means of judicial review.

13. Variations, Suspensions and Revocations of Licences

- 13.1 The Regulations provide for a local authority at any time to vary a licence:
- On the application in writing of the licence holder, or
 - On the initiative of the local authority, with the consent in writing of the licence holder.
- 13.2 In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
- The licence conditions are not being complied with,
 - There has been a breach of the Regulations,
 - Information supplied by the licence holder is false or misleading, or
 - It is necessary to protect the welfare of an animal.
- 13.2 A suspension or variation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case the local authority may stipulate that the decision has immediate effect.
- 13.3 A decision to vary or suspend the licence must be notified to the licence holder in writing, explaining the reasons for the decision, and providing information regarding when the suspension or variation comes into effect and the rights of the licence holder to make written representation, as well as any specific changes deemed necessary in order to remedy the situation.
- 13.4 The decision to vary, suspend or revoke a license will be dependent on the severity of the situation. If an operator fails to meet administrative conditions or provide information when requested then this could potentially lead to the suspension of a licence. If such a scenario happens repeatedly, the Council may consider revocation appropriate. Revocation of a licence will also occur in an instance where poor welfare conditions are discovered or it would otherwise benefit the welfare of the animals involved to be removed from the activity. Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.
- 13.5 Following the issuing of the notice of suspension or variation, the licence holder will have 7 working days to make written representation. Upon receipt

of this the Council will decide whether to continue with the suspension or variation of the licence or cancel the decision.

- 13.6 If the licence has been altered with immediate effect to protect the welfare of an animal then the Council must indicate that this is the reason.
- 13.7 The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by the local authority upon being satisfied that licence conditions are being met.
- 13.8 There is no right of appeal against the suspension of a licence. After 28 days of suspension the licence must be revoked or reinstated.
- 13.8 A licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the local authority to vary or revoke a licence. This must be done within 28 days of the decision.

14. Transfer of a licence upon the death of a licence holder

- 14.1 If a licence holder dies, the procedure in regulation 12 of the Regulations applies. It allows the personal representative of the deceased to take on the licence provided that they inform the local authority within twenty-eight days of the death that they are now the licence holders. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to remain in force if that time period is shorter. The new licence holder should then apply for a new licence one month before the expiry of this new period.
- 14.2 Additionally the local authority can extend the three month period by up to another three months if requested by the personal representative and if they believe this time is needed to wind up the estate of the former licence holder.
- 14.3 If the personal representative does not notify the local authority within 28 days of the death of the licence holder, the licence will cease to have effect after those 28 days.

15. Inspections During the Course of a licence

- 15.1 There will be cases where inspections must be carried out during the term of a licence.
- 15.2 For the activity of hiring out horses, there is a requirement for an annual inspection by a listed veterinarian, regardless of the total length of the licence. The local authority must appoint a listed veterinarian to inspect the premises on which the activity is being carried out before the end of the first year after the licence is granted and then each subsequent year.
- 15.3 Unannounced inspections can also be carried out and will be used in the case of complaints or other information that suggests the licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.

15.4 During the course of an inspection the inspector may choose to take samples for laboratory testing from the animals on the premises occupied by an operator. The operator must comply with any reasonable request of an inspector to facilitate the identification, examination and sampling of an animal including ensuring that suitable restraints are provided if requested.

16. Qualifications of Inspectors

16.1 All inspectors must be suitably qualified. This is defined in the Guidance as:

- Any person holding 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 in inspecting and licensing certain animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity;
- Any person holding a formal veterinary qualification, as recognised by the Royal College of Veterinary Surgeons (“RCVS”), together with a relevant RCVS continuing professional development record;
- Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses.

17. Fee Structure

17.1 The current level of licence fee will be displayed on the Council’s webpage.

17.2 All fees have been calculated and reviewed annually, taking into account the statutory requirements of Regulation 13, with the aim of full cost recovery.

18. Enforcement

18.1 The Regulations introduce a range of enforcement powers to allow the Council to issue a suspension, variation or revocation notice where licence conditions are not being complied with; there is a breach of the regulations or issues relating to the protection of the welfare of an animal.

18.2 The service of an enforcement notice is subject to a strict process and includes provision for the right to make written representations and/or appeal.

18.3 It is an offence to breach any licence condition. It is also an offence not to comply with an inspector’s request in the process of taking a sample from an animal.

18.4 It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing any of these offences could result in an unlimited fine.

18.5 Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both. Section 30

of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

- 18.6 The post-conviction power from section 34 of the Animal Welfare Act 2006 is in place whereby a person convicted of an offence under the Act or Regulations may be disqualified from owning, keeping, participating in the keeping of animals and/or from being party to an arrangement under which they can control or influence the way an animal is kept. They may also be disqualified from transporting or dealing in animals. Breaching these disqualifications is an offence.
- 18.7 The post-conviction power from section 42 of the Animal Welfare Act is also in place whereby a court can cancel a currently existing licence and disqualify a person from holding a licence for any period it sees fit when that person is convicted of an offence under the Act or Regulations.
- 18.8 The Council works closely with partners in accordance with a locally established joint enforcement protocol and will aim to promote the welfare of animals and safety of the public.
- 18.9 The main enforcement and compliance role for the Council in terms of the Regulations will be to ensure compliance with the conditions placed upon the licence and investigate and take appropriate action on unlicensed premises.
- 18.10 The Council will log and investigate as it considers necessary all complaints relating to Animal Establishments which are currently licensed or may require a licence. The Council will require complainants to provide their name and contact details so as to ensure that a complaint is not malicious in nature, and so that witness evidence may be obtained if required for further action. When investigating complaints officers will take care to not reveal the identity of the complainant, unless the complainant has agreed otherwise, or unless it is necessary for the progression of legal proceedings.
- 18.11 We aim to achieve and maintain a consistent approach when we investigate complaints and make our decisions. In reaching any decision we will consider the following criteria:
- seriousness of any offences or breach of conditions
 - operator's past history
 - consequence(s) of non-compliance
 - likely effectiveness of the various enforcement options
 - danger to the welfare of animals and/or public
- 18.12 In carrying out its enforcement duties with regards to the inspection of premises, the variation, suspension or revocation of licences, investigation of complaints and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council has adopted an enforcement policy, which is available on www.guildford.gov.uk.

Licensing Committee Report
Report of Director of Finance
Author: Sophie Butcher
Tel: 01483 444056
Email: sophie.butcher@guildford.gov.uk
Date: Wednesday 29 May 2019

Licensing Committee work programme: 2019-20

Recommendation to Licensing Committee

The Committee is invited to review and approve its current work programme for the remainder of the 2019-20 municipal year.

Reason for Recommendation:

To ensure that the Licensing Committee has an opportunity to review its work programme.

1. Purpose of Report

1.1 The work programme is presented to enable necessary changes to be made and to provide updated information on items for future meetings. Appendix 1 to this report sets out the Committee's work programme to date, including any items currently unscheduled.

2. Financial Implications

2.1 There are no specific financial implications arising from this report.

3. Human Resource Implications

3.1 There are no specific human resources implications arising from this report.

4. Legal Implications

4.1 There are no specific legal implications arising from this report.

5. Background papers

None

6. Appendices

Appendix 1: Licensing Committee - Draft Work Programme: 2019-20

Licensing Committee
Draft Work Programme 2019-20

29 May 2019		
Item	Details of decision to be taken	Officer
Animal Welfare Licensing Policy	To seek approval of the Animal Welfare Policy.	Mike Smith, Licensing Team Leader 01483 444387

24 July 2019		
Item	Details of decision to be taken	Officer

25 September 2019		
Item	Details of decision to be taken	Officer
Purple Flag Update	The Committee to receive a verbal update on Purple Flag.	Mike Smith, Licensing Team Leader 01483 444387
Best Bar None Update	The Committee to receive a verbal update on Best Bar None.	Mike Smith, Licensing Team Leader 01483 444387
	The Committee to receive a verbal update on CSE training.	Mike Smith,

CSE Training Update		Licensing Team Leader 01483 444387
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27 November 2019		
Item	Details of decision to be taken	Officer

6 January 2020		
Item	Details of decision to be taken	Officer
Taxi and Private Hire fees and charges 2020-21 – for consultation	To consider for consultation the Taxi and Private Hire fees and charges 2020-21.	Mike Smith, Licensing Team Leader 01483 444387

23 March 2020		
Item	Details of decision to be taken	Officer
Taxi and Private Hire fees and charges 2020-21 – objections	To consider any objections received in relation to the Taxi and Private Hire fees and charges.	Mike Smith, Licensing Team Leader 01483 444387
Licensing Act Policy – Consultation	To seek approval to consult on the Licensing Act Policy.	Mike Smith, Licensing Team Leader 01483 444387

May 2020

Item	Details of decision to be taken	Officer
Taxi Policy Consultation	To seek approval to consult on the Taxi Policy Consultation.	Mike Smith, Licensing Team Leader 01483 444387

July 2020

Item	Details of decision to be taken	Officer

September 2020

Item	Details of decision to be taken	Officer
Purple Flag Update	The Committee to receive a verbal update on Purple Flag.	Mike Smith, Licensing Team Leader 01483 444387
Best Bar None Update	The Committee to receive a verbal update on Best Bar None.	Mike Smith, Licensing Team Leader 01483 444387

November 2020

Item	Details of decision to be taken	Officer
Licensing Act Policy Approval	The Committee to consider the consultation responses and consider approval of the Licensing Act Policy.	Mike Smith, Licensing Team Leader

		01483 444387
Taxi Policy Approval	The Committee to consider the consultation responses and consider approval of the Taxi Policy.	Mike Smith, Licensing Team Leader 01483 444387

UNSCHEDULED ITEMS		
Item	Details of decision to be taken	Officer

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