



## Formal Response to Guildford Borough Council - Animal Licensing Policy Consultation

Submitted on 3rd August 2023 by: The Kennel Club, 10 Clarges Street, London W1J 8AB

The Kennel Club is the largest organisation in the UK devoted to dog health, welfare, and training. Our objective is to ensure that dogs live healthy, happy lives with responsible owners.

### Business test

It is our view that the proposed changes to the Animal Welfare Licensing Policy, specifically the new policy in relation to the business test do not appropriately reflect Government guidance or the Government's stated scope of the legislation.

The Council's proposal in relation to the trading income allowance (para 5.10), fails to reflect what is contained within the Government's statutory guidance.

Which reads as follows -

"If someone has a trading income below the HMRC trading income allowance, they do not require a licence for their activities.

If someone has a trading income above the HMRC trading income allowance, they do not automatically qualify as a business."

The Government's guidance is explicit those under the trading income allowance do not require a licence, while being over it doesn't automatically indicate a licence is required. We do not believe that this is appropriately reflected within the Council's draft licensing policy.

Furthermore, we believe that the draft licensing policy in relation to the business test does not appropriately take into account the Government's position in relation to licensing of hobby breeders.

In March 2023, the Government was asked the following parliamentary question<sup>1</sup> - "To ask the Secretary of State for Environment, Food and Rural Affairs, what assessment her Department has made of the impact of dog breeding regulations on breeders who breed two or fewer litters per year."

The formal response of the Government was as follows – "Under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (the 2018

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<sup>1</sup> Parliamentary question - <https://questions-statements.parliament.uk/written-questions/detail/2023-03-28/175624>



Regulations) anyone in the business of breeding and selling dogs and/or who breeds three or more litters in a twelve-month period needs to have a valid licence from their local authority.

The 2018 Regulations are targeted at businesses and individuals/operators which operate on a commercial basis. They are not intended to capture or regulate hobby breeders. We are currently conducting a post-implementation review of the 2018 Regulations which will consider the need for any refinements in light of evidence provided by stakeholders, licensed and unlicensed dog breeders, and local authorities.”

The Government has been clear that it is not the intention of the dog breeding legislation to regulate hobby breeders. The Government’s statutory guidance reflects this position that hobby breeders, breeding under the litter threshold, are not required to be licensed. With the following points contained within the dog breeding and pet vending guidance –

‘Business test’ statutory guidance within dog breeding section -

“You should consider these factors when determining whether someone is ‘advertising a business’:

- high volumes of animals sold or advertised for sale could indicate a business
- high range and variability in the breeds traded - a wide variety of breeds being advertised could indicate the commercial nature of the activity
- the sale of animals with non-UK documentation or microchip could indicate commercial activity”

A one or two litter hobby breeder will not meet these criteria.

Furthermore, the guidance contained within the pet vending guidance, for which the same statutory test is in place, is clearer still -

“Activities that fulfil one or more of the following criteria do not require a licence:

- selling a small number of surplus offspring or excess stock from animals bred as a hobby, for pleasure, exhibition for prize, or for education, study or scientific advancement and for low value species that may produce large numbers of excess stock, consider the value of the stock and the likelihood that the seller is making a profit

An operator is not likely to be selling animals as pets as a commercial business and will not need a licence if they can demonstrate:

- their transactions are irregular, with low numbers, frequency or volume of sales or adverts
- they sell animals as a hobby, for education or scientific advancement, and that they sell only surplus stock, not for profit - evidence could include reports or studies about the



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species published in scientific journals, pet trade or hobby media or self-published, contributions to conservation projects, competition entry forms, or membership of a relevant club or society”

We would urge the council to better reflect the Government’s position in relation to the ‘business test’ and its applicability to hobby breeders, operating under the licensing threshold.