

# **WAVERLEY BOROUGH COUNCIL**

## **EXECUTIVE**

**4 DECEMBER 2018**

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**Title:**

**The ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018**

**[Portfolio Holder: Cllr Andrew Bolton]  
[Wards Affected: All]**

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**Summary and purpose:**

This report informs the Executive about The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and recommends a proposed fee structure for adoption by the Council.

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**How this report relates to the Council's Corporate Priorities**

The adoption of the schedule of fees will enable the Council to meet the legal requirements of the new regulations, and therefore contributes to the *Prosperity* theme.

**Equality and Diversity Implications**

There are no equality and diversity implications arising.

**Financial Implications**

The new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its full costs.

**Legal Implications**

The legal implications are set out within the report.

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**Background**

1. The Animal Welfare Act 2006 aims to ensure that animals are not mistreated, and statutory guidance made under the legislation introduced five welfare needs:
  - For a suitable environment (place to live)
  - For a suitable diet
  - To be housed, with or apart, from other animals (if applicable)
  - To be protected from pain, suffering, injury and disease
  - To exhibit normal behaviour patterns
2. The Animal Welfare Act 2006 is the enabling legislation for the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. These

Regulations came into effect on 1st October 2018 and introduce updated practices.

3. These regulations repeal and amend previous regimes for the Council's licensing activities in relation to animal establishments, such as:
  - Animal Boarding Establishments Act 1963
  - Breeding of Dogs Act 1973
  - Breeding of Dogs Act 1991
  - Pet Animals Act 1951
  - Performing Animals (Regulation) Act 1925
  - Riding Establishments Act 1964 Etc.
4. The new regulations provide for licensing by the Council of the following five activities involving animals:
  - a) Selling animals as pets.
  - b) Providing for or arranging for the provision of boarding for cats or dogs (includes boarding kennels or catteries, home boarding for dogs and day care for dogs).
  - c) Hiring out horses.
  - d) Dog breeding.
  - e) Keeping or training animals for exhibition (to be transferred from County Councils to District Councils).
5. 'Zoos' and 'Dangerous Wild Animal' establishments will continue to operate under their current respective licensing regimes, namely the Zoo Licensing Act 1981 and the Dangerous Wild Animals Act 1976 respectively.
6. Local authorities must have regard to guidance issued by the Secretary of State in carrying out their functions under these Regulations.

### **Main Changes from Current Licensing Arrangements**

7. Day care for dogs (doggy day care) will now require a licence, however, dog walking and dog grooming services remain unlicensed activities.
8. All current licences will continue to be subject to the same restrictions until their relative expiry date. Other than current animal exhibition registrations, which will continue to be valid until 1 April 2019, and riding establishments which have unique expiry dates, all current licences affected are due to expire on 31 December 2018.
9. Licences will no longer be issued in accordance with the calendar year but will be issued for 12 months, or longer for a period up to 3 years, except in relation to animals for exhibition where licences are granted for a 3 year period.
10. In considering grant or renewal, a local authority must take account of the applicant's conduct as the operator of the licensable activity, whether the applicant is a 'fit and proper' person and any other relevant circumstances
11. A new risk rating system resulting in a 1-5 star score for the business will be implemented with licence duration determined by the level of compliance and extent to which they meet or exceed the required standards. Each premises will require an

inspection prior to determination of a new or renewal licence application.

12. Those carrying out inspections will be required to be suitably qualified. In addition, inspections of new dog breeding establishments will require a veterinarian to be present. Horse riding establishments will still require a listed veterinarian to carry out an annual inspection.
13. Premises that meet higher standards (as defined within the statutory guidance), and are fully compliant, may be eligible for a licence to be granted for of up to a 3 year duration, with fewer inspections, which provides a financial incentive to attain higher standards.
14. There is an appeal process for aggrieved applicants to appeal against a star rating decision. A person can appeal in writing/email against the risk level determination within 21 days; the appeal must be heard by a party other than the inspecting officer who carried out the risk assessment, such as the Environmental Health Manager or Deputy Environmental Health Manager.
15. Licence holders will be required to display their licence number on their website(s). In addition, the star rating must be added to the licence which should be displayed by the business.
16. Businesses that fail to meet minimum standards in relation to animal welfare (as defined within the statutory guidance) will not be able to renew their licence. An operator who is aggrieved by the Council's decision to grant a licence can appeal to the First Tier Tribunal within 28 days.
17. Licensing Authorities are encouraged to publish a list of licensed business and star ratings on the Council's website.
18. All licences will be subject to new national standard conditions determined by the type of licensable activity. These will replace the Council's current licence conditions for any licence granted after 1<sup>st</sup> October 2018, including existing operators. Prescribed conditions attached to each licence, include general and relevant specific conditions. The general conditions cover licence display, records, use number and type of animal, staffing, suitable environment, suitable diet, monitoring of behaviour and training of animals, animal handling and interactions, protection from pain suffering injury and disease, and emergencies. The relevant specific conditions vary according to type of activity. For businesses providing multiple licensable activities, only one licence will be required.
19. At anytime the Council may suspend, vary or revoke a licence where licence conditions are not complied with, there is a breach of the regulations, the licence holder has supplied false or misleading information or where it is necessary to protect animal welfare by way of notice. The Council can consider representations from the licence holder submitted within 7days. An operator who is aggrieved by the Council's decision following representation can appeal to the First Tier Tribunal within 28 days.

## **Enforcement and offences**

20. It is an offence for a person without lawful authority or excuse to breach a licence condition or obstruct an inspector in the exercise of their powers, which is punishable by fine. A person who carries on licensable activity without a licence also commits an offence and is liable to imprisonment for up to 6 months, a fine or both.
21. Following conviction a Court may also cancel any licence held, and disqualify a person from holding a licence and or owning or keeping animals.

## **Fees**

22. The new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its full costs.
23. Regulation 13 sets out what the Council may charge fees for:
  - a. The costs of considering an application and associated inspections.
  - b. The reasonable anticipated costs associated with considering a licence holders compliance and associated additional inspections.
  - c. The reasonable anticipated costs of enforcement in relation to any licensable activity or an unlicensed operator.
  - d. The reasonable anticipated costs of providing statutory returns.
24. A new fee schedule is proposed (see attached spreadsheet Annexe 1) and reflects the Council's anticipated costs in enforcing legislation and has regard to:
  - Open for business: LGA guidance on locally set licence fees.
  - Compliance with welfare standards.
  - Time spent by officers enforcing legislation.
25. Businesses which do not meet the minimal animal welfare standards will have a 1 year licence and pay considerably more than they do now. Businesses which meet the minimal welfare standards will have a 2 year licence and will generally pay similar or slightly higher fees than they do now. Businesses which meet higher welfare standards will have a 3 year licence and will generally pay less/similar as they do under the current regime.
26. It is intended that fee levels will be regularly reviewed to ensure they are kept to a minimum while ensuring Council costs are met. The Head of Environmental Services has delegated authority to change the fees structure to reflect the Council's costs in the future.
27. It is not proposed to change existing fees for Dangerous Wild Animal or Zoo licences.
28. The legislation does not provide any statutory requirements in terms of consulting on or publishing new fee levels prior to their adoption.

## **Implications for the Council**

29. It is anticipated that most operators are unlikely to have significant difficulties with compliance. However, those that have not updated their facilities could find that the renewal of their licence is refused.
30. Enquiries about the enforcement of the new requirements have increased over the past few weeks. All existing licence holders will also need to be contacted to notify them of these changes, and information will be displayed on the web site.
31. The number of inspections/visits carried out is likely to increase. All premises will continue to require an inspection prior to granting of a licence or renewal of a licence, and a minimum of one unannounced visit during the period of the licence.
32. Inspections are likely to take longer to complete, and time will be required to draft inspection reports and risk the activity.
33. The Council will have to train officers in order to enforce this legislation and carry out inspections. All inspectors must be suitably qualified. Until October 2021 inspectors must have at least one years of experience in licensing and inspecting animal activities businesses. After October 2021 inspectors must hold a level 3 certificate or equivalent in inspecting and licensing animal activities businesses.
34. A review of administrative processes, forms and licence templates is currently being undertaken.

## **Recommendation**

That the Executive notes the new requirements relating to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and recommends to Council that the proposed fee structure be adopted.

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## **References**

1. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
2. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – Procedural guidance notes for local authorities October 2018
3. Open for business: LGA guidance on locally set licence fees

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## **Background Papers**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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