

WELWYN HATFIELD BOROUGH COUNCIL
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE– 10 JUNE 2019
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING AND
GOVERNANCE)

ANIMAL WELFARE ACT 2006 ANIMAL ACTIVITIES LICENSING FEES

1 Executive Summary

- 1.1 This report is to update members regarding national changes to animal welfare licensing and to seek the recommendations of members that the proposed fees are sent to cabinet for approval so that the budget book can be adjusted.
- 1.2 The Statutory Instrument number 486 / 2018 entitled “The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018” was made on 16 April 2018 and came into force on 1 October 2018, and allows for full cost recovery when licensing certain animal activities.
- 1.3 The intention of this Instrument is to promote the welfare of animals, via a new licensing system, and will apply to persons selling animals as pets, providing for or arranging for the provision of boarding for cats or dogs, day care for dogs, hiring out horses, dog breeding and keeping or training animals for exhibition. These fees will be reviewed on a three year basis to ensure that they any profits or deficits are adjusted accordingly.

2 Recommendation(s)

- 2.1 That Members note the report and recommend that the fees and charges listed in Appendix A are sent to Cabinet for consideration for recommendation to Full Council so that the budget book can be adjusted accordingly.

3 Explanation

- 3.1 The new licensing regime requires that all applicants meet the same, up-to date, minimum welfare standards for animals across the country. Businesses are licensed by the relevant local authority and have to meet minimum standards in order to hold and retain a licence. In carrying out its duties a local authority “must have regard” to any guidance that may be issued by the Secretary of State. The new scheme incorporates “earned recognition” into the animal licensing system for the first time. Local authorities are able to issue licences of 1, 2 or 3 years duration, with longer licences going to high performing, low risk businesses.
- 3.2 Businesses are “star rated” for the first time from between 1 to 5 stars. A 1 star rating means a 1 year licence, and a 5 star rating meaning a 3 year licence. Appendix B.
- 3.3 When authorities issue a licence they are required to write to applicants explaining how the star rating was determined.

If applicants are not happy with their rating they are able to either:

- i) Appeal it (the appeal being determined either by the head of the department that issued the licence within the local authority, or by a designated deputy, or by the equivalent in another authority. No officer involved in the production of the rating, or in the inspection on which the rating is based should consider the appeal);
or,
- ii) Apply for a re-inspection in order to improve it (this will be subject to a further fee).

- 3.4 The “risk scoring” matrix Appendix C has to be utilised to determine the risk rating for any premise and this is provided to new applicants for transparency purposes.
- 3.5 The proposed fees are at Appendix A and are based on the Local Authority guidance on locally set licence fees issued by the ‘Local Government Association’.
- 3.6 The principal behind the fees is that the council recovers the full costs of the licensing regime from the businesses regulated. It is recognised that the new application fee represents a significant increase on the fee levied in previous years. This is due to the fact that in previous years the council did not recover the full costs of inspection associated with processing animal licenses.
- 3.7 The new licensing regime also allows the council to recover the costs of activities that underpin the process of determining license applications and the costs of enforcement and monitoring on-going compliance. Unlike the previous regime there are now also additional mandatory routine visits that councils must undertake.
- 3.8 In many cases this increased cost will be mitigated by the fact that licenses can be issued for a maximum period of 3 years to those business that reach high standards of compliance with welfare requirements. The license fee is now levied for each application not for each year it is active. Therefore although the upfront cost of a license will be more expensive a business that secures a full 3 year license will only pay this fee once in a three year period which will represent a significant saving for those businesses with the highest standards.
- 3.9 Applicants will be able to have a number of separate licensing activities on the one licence rather than having to apply for different licences for different activities. An additional 50% fee will be charge for additional licenced activities as all the activities have different conditions attached to them generating longer inspection times and follow up activities.
- 3.10 All fees are levied in two parts to comply with the requirements of the EU Services Directive. These two separate fees are:
 - Fee 1 Application Fee – This is the cost of administering an application for a license and will include the cost of processing the application, inspecting the premises and determining the application. This fee is chargeable to all applicants and applies whether or not the application is successful. The fee must be paid at the time of application. An application cannot be considered until that fee has been paid.

- Fee 2 Compliance and Enforcement Fee – This fee is chargeable to all successful applicants and will include the costs associated with the compliance and enforcement of the licensing regime. This will include the cost of routine inspections required under the regulations, investigation of complaints, enforcement and professional costs. Fee 2 must be paid prior to a license being issued. A license will not be issued until fee 2 is paid in full.
- 3.11 National conditions are applied to all licences issued. There are general conditions which are applicable for every licence and specific conditions which are be tailored to each individual licensable activity.
- 3.12 Existing licences will remain in force until they expire at which time businesses will be expected to have a licence issued under the new scheme.
- 3.13 Each local authority will be required annually to provide the following information In writing to the Secretary of State:
- i) The number of licences in force for each licensable activity in its area on each reference date, and
 - ii) The average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.
- 3.14 The DEFRA guidance recognises that some “home boarding” businesses may not directly provide accommodation for other people’s animals and operate by placing pet owners in touch with other home boarders who will care for their pet in their own home. That business must maintain a list of all the home boarders they use and ensure that they reach the standards set out in the legislation. The local authority must also satisfy itself that all homes used for boarding reach adequate standards. Therefore all business that operate by finding pet owners accommodation for their pets must obtain a valid license for the activity of arranging home boarding – this license will specify the homes that provide accommodation for animals. There is a fee for the arrangers licence and a separate fee for all home boarders whether they operate independently, as part of a franchise or in some cases do both. If during the course of a license period the business involved in finding accommodation for pets wishes to add an additional home boarder to their license this will be treated as a variation and an additional fee of £50 will be charged plus the inspection costs and general on costs.
- 3.15 The fee levied will be reviewed annually to ensure that full costs of the animal licensing service are recovered in a fair and proportionate manner. In particular the costs of the underpinning activities and compliance and enforcement will be reviewed in the context of the anticipated number of license holders to ensure those costs are evenly distributed.
- 3.16 Under the new process a local authority may charge fees for:
- i) the costs of consideration of an application, including any inspection relating to that consideration;
 - ii) the reasonable anticipated costs of consideration of a licence holder’s

- compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- (iii) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
 - (iv) the reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.
- 3.17 Taking the above into account and in order to effect actual cost recovery (as far as is possible) it is therefore proposed that the following fees be charged in respect of this new process. Appendix A

Implications

4 Legal Implication(s)

- 4.1 Fees will be reviewed every three years to ensure true cost recovery for the work undertaken and any profits or deficits are adjusted accordingly.
- 4.2 If a business appeals against a star rating and disagrees with the outcome of the appeal they can challenge the local authority's decision by means of judicial review.
- 4.3 Any operator who is aggrieved by a decision by a local authority to refuse to grant, renew, revoke or vary a licence can appeal to the First- tier tribunal.

5 Financial Implication(s)

- 5.1 Our finance business partner has assessed the fee calculations as acceptable in the parameters used.
- 5.2 There may be an increase in income in the next three years as more people become aware that a licence is required to undertake certain activities. It is also possible that people will not apply for a licence and therefore more enforcement action is required.

6 Risk Management Implications

- 6.1 The risks related to this proposal are:
- 6.2 Welwyn Hatfield Borough Council is required to have a list of fees and charges that are regularly reviewed. Other Councils have been successfully challenged if they cannot show the fee only covers the cost of the service.

7 Security and Terrorism Implication(s)

- 7.1 The council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism, in the context of this report, there are no additional concerns.

8 Procurement Implication(s)

- 8.1 None arising directly from this report.

9 Climate Change Implication(s)

The proposal does not imply an increase in greenhouse gas emissions or water use. The proposal appears to be resilient to climate change and does not require adaptations to be made.

10 Human Resources Implication(s)

10.1 None directly arising from this report. Our Licensing team has always processed these animal licences.

11 Health and Wellbeing Implication(s)

11.1 The new regulations have been developed to improve the national standards in relation to animal activity licensing. The welfare of animals has always been an emotive subject and for those who care about animals, knowing that they are kept in approved establishments, which are covered by a robust licensing regime will have a positive impact on the health and wellbeing of those individuals.

12 Communication and Engagement Implication(s)

12.1 All current licence holders have been notified of the changes and information is available on our website. The fees are being set now as there were a lot of deviation between the regulations and the guidance so it was difficult to know the extent of the work involved. We have now begun to carry out the regulatory visits and are able to justify the fees being proposed.

13 Link to Corporate Priorities

13.1 The subject of this report is linked to the Council's Corporate Priority 'promoting equality and fairness', and is linked to a statutory requirement, under the Animal Welfare Act 2006.

14 Equality and Diversity

14.1 An EqIA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

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Background papers to be listed (if applicable)

Statutory instrument 486/2018

Appendices to be listed

Appendix A - Proposed fees

Appendix B - Star ratings

Appendix C - Risk scoring matrix