

Report of:	Meeting	Date	Item no.
Mark Broadhurst, Service Director Health and Wellbeing	Licensing Committee	27 September 2018	6

<p align="center">The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</p>
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1. Purpose of report

- 1.1 To inform Members about the new legislation which will govern how the Council licenses activities involving animals from 1 October 2018.
- 1.2 To set out the proposed fees to be charged for each licensable activity.

2. Outcomes

- 2.1 That the report be noted and the fees agreed.

3. Recommendation

- 3.1 That Members consider the report and agree the proposed fee schedule.

4. Background

- 4.1 Wyre Council is responsible for regulating a variety of animal related activities and issues licences covering:

- Animal boarding establishments
- Dog breeding
- Pet shops
- Riding establishments
- Zoo licences
- Dangerous wild animals

- 4.2 The Council currently licences:

- 14 Animal Boarding Establishments (kennels and catteries)
- 19 Home Boarders
- 2 Dog Crèches
- 7 Pet Shops

- 6 Riding Schools

All of these licences are issued for a maximum of twelve months and expire on the 31 December each year, in accordance with the current legislation.

- 4 Dog Breeders

These licences are issued for 12 months and expire on the anniversary of the grant.

- 1 Zoo

This licence is issued for six years under the Zoo Licensing Act 1981 and will not be affected by the new Regulations.

- 4.3** There are currently no licences in Wyre issued under the Dangerous Wild Animals Act 1976 and like Zoos, Dangerous Wild Animal licensing will not be affected by the new Regulations.
- 4.4** Wyre Council licences for kennels, catteries, pet shops, dog breeders and riding establishments, are issued subject to the Chartered Institute of Environmental Health's model conditions.
- 4.5** Home boarding and dog crèche licences are issued subject Wyre Council's own standard conditions, as there are no published model conditions for these relatively new areas of animal businesses.
- 4.6** Lancashire County Council is currently responsible for registering any performing animals based within the county and enquiries have established that there are three such registrations in force in Wyre at the moment. These registrations do not have an expiry date.

5. Detailed Considerations

- 5.1** The Government have introduced the Animal Welfare (Licensing of activities involving animals) (England) Regulations 2018, which will significantly change the way animal businesses are inspected and licensed after 1 October 2018.
- 5.2** DEFRA finalised the procedural guidance for Local Authorities in July and these nine separate guidance documents were published on the Canine and Feline Sector Group's website in early August (www.cfsg.org.uk).
- 5.3** With the exception of dog breeding, relevant activities that form part of a business will require licensing. The circumstances which a local authority must take into account in determining whether an activity is being carried on in the course of a business include; whether the operator makes any sale by, or otherwise carries on, the activity with a view to making a profit, or earns any commission or fee from the activity.
- 5.4** The new regulations define the various animal activities that will be regulated as follows:

- Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business. This is further broken down into kennels, catteries, home boarding and dog day care.
- Breeding three or more litters of puppies in any twelve month period; or breeding dogs and advertising a business of selling dogs.
- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business.
- Hiring out horses in the course of a business for either riding or instruction, or both.
- 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, or both.

- 5.5** Licences will be issued for one, two or three years, with the length of licence being determined following a comprehensive inspection of the applicant's premises and completion by the inspecting officer, of the prescribed risk matrix.
- 5.6** Licences for the exhibition of animals will be granted for three years and are not subject to the risk rating.
- 5.7** Each licensed premises should also receive one unannounced inspection during the currency of their licence.
- 5.8** The Regulations require the local authority to appoint one or more suitably qualified inspectors. Until 1 October 2021 existing local authority officers who have at least twelve months experience in inspecting licensed animal premises will be deemed to be suitably qualified. Wyre currently has two such officers.
- 5.9** After that date inspecting officers will have to hold 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 animal activities businesses, confirming the passing of an independent examination.
- 5.10** All licences issued, except exhibiting animals, must be given a star rating, of between one and five stars, similar to the scores on the doors for food establishments. The star rating must be shown on the licence and DEFRA also recommends that the star rating for each licence is also published on the council's website.
- 5.11** Each of the eight animal activities have prescribed conditions that must be applied to each licence issued, creating consistency across England of the standards to be applied to licensable activities involving animals.

- 5.12** The transitional arrangements provide for all existing licences issued up to the 30 September 2018 under the current legislation, to remain in force until their natural expiry. Thereafter applicants wishing to continue to provide relevant activities involving animals will have to apply for and be granted new licences under the new Regulations.
- 5.13** Existing performing animal registrations will remain valid until 1 April 2019. After this date anyone training or keeping animals for exhibition will need a new licence.
- 5.14** To ensure fairness, local authorities must have an appeal procedure in place for operators to dispute their star rating, if they feel that the star rating given does not reflect the animal welfare standards and risk level of their business at the time of the inspection.
- 5.15** Businesses have twenty one days following the issue of a licence, in which to appeal their star rating.
- 5.16** Provision has been made for appeals in this respect to be determined by the Head of Environmental Health and Community Safety or in his absence by the Food Safety and Licensing Manager.
- 5.17** If an operator makes improvements to their business and wishes to increase their star rating, they may apply for a re-rating inspection. They must pay a fee for this type of inspection.
- 5.18** Any operator who is aggrieved by a decision by a local authority to refuse to grant or renew a licence, or to revoke or vary a licence, may appeal to the First-tier Tribunal, which will be administered by HM Courts and Tribunal Service. Any such appeal must be lodged within twenty eight days following the decision.
- 5.19** The animal licensing scheme falls within the definition of ‘services’ and is therefore subject to the EU Services Directive.
- 5.20** In preparing the proposed fee schedule (Appendix 1) officers have had regard to the LGA guidance on locally set licence fees, the Provision of Services Regulations 2009, the draft guidance on setting fees for activities involving animals and the principles in the Regulators’ Code.
- 5.21** In accordance with relevant case law, the proposed fees have been 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, with the remainder of the licence fee, which covers ongoing enforcement and compliance requirements, being payable before the licence becomes effective.
- 5.22** The proposed fees are based on the reasonably anticipated costs involved in administering the new licensing regime. Officers will undertake a full review of these fees in 2020/21, once a full year of data is available on the actual hours and costs involved in dealing with animal licensed premises.

Financial and legal implications	
Finance	<p>Assuming that all existing licence holders apply for new licences and are granted 1 year licences, the anticipated income from fees will be £11,571 which is in line with current estimates. However some licences may attract a higher fee in 2018/19 if they are eligible for a 2 or 3 year licence following the initial inspection.</p> <p>There is likely to be an increase in the number of licences applied for after 1 Oct 2018 as the new regulations increase the scope of activities which require a licence. However it is also possible that at the point of renewal in 2019/20, some existing licenced premises may be unable to satisfy the new higher standards, despite being given 12 months to upgrade their facilities and would no longer qualify for a licence.</p>
Legal	The Council has a statutory duty to implement the new Regulations and deliver the revised animal licensing regime.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

risks/implications	✓ / x
community safety	✓
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
data protection	x

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List of background papers:		
name of document	date	where available for inspection
The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, SI 2018/486	16 April 18	Licensing Office
DEFRA Procedural guidance notes for local authorities	July 2018	Licensing Office
DEFRA Guidance notes for conditions for providing boarding in kennels for dogs	July 2018	Licensing Office

DEFRA Guidance notes for conditions for providing boarding for cats	July 2018	Licensing Office
DEFRA Guidance notes for conditions for providing home boarding for dogs	July 2018	Licensing Office
DEFRA Guidance notes for conditions for providing day care for dogs	July 2018	Licensing Office
DEFRA Guidance notes for conditions for breeding dogs	July 2018	Licensing Office
DEFRA Guidance notes for conditions for selling animals as pets	July 2018	Licensing Office
DEFRA Guidance notes for conditions for hiring out horses	July 2018	Licensing Office
DEFRA Guidance notes for conditions for keeping or training animals for exhibition	July 2018	Licensing Office
Open for business: LGA guidance on locally set licence fees	May 2017	Licensing Office
Draft Animal Welfare Licence fees – a practical guide to fee setting	Aug 2018	Licensing Office
Provision of Services Regulations 2009	28 Dec 09	Licensing Office
Process mapping and officer cost calculations	Sept 2018	Licensing Office

List of appendices

Appendix 1 – Proposed fee schedule