



Key Decision [No]

Ward(s) Affected: All

**Animal Welfare Licensing Policy
The Animal Welfare (Licensing of Activities Involving Animals) (England)
Regulations 2018.**

Report by the Director for Communities

Executive Summary

1. Purpose

- 1.1 To consider the introduction of an Animal Welfare Licensing Policy (Appendix A) pursuant to requirements under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981.

2. Recommendations

- 2.1 The Worthing Borough Council Licensing Committee considers the report and recommends that the Council adopts the Animal Welfare Licensing Policy.

3. Context

- 3.1 On 1 October 2018, The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 come into force. These regulations replaced a number of pieces of existing legislation set to be repealed at the end of 2018, and will provide a new single licensing regime for a number of animal licensing activities. Selling animals as pets, providing or arranging for the provision of boarding for cats or dogs (including day care), hiring of horses,

breeding of dogs and keeping or training animals for exhibition are activities that need to be licensed under the new regime.

- 3.2 The Animal Welfare Licensing Policy aims to ensure that the authority and prospective licence holders are informed on how the animal licensing regimes will be administered within the borough. The policy has been introduced pursuant to the commencement of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 on 1 October 2018.
- 3.3 Various pieces of legislation exists that gives the Local Authority the power to regulate animal establishments through licensing. These are the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 made under section 13(1) of the Animal Welfare Act 2006, Zoo Licensing Act 1981 and the Dangerous Wild Animals Act 1976.
- 3.4 The Authority will base its licensing regime on the following four principles:
- 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 in line with the enforcement principles within the Public Health & Regulation Enforcement Policy.
- 3.5 The “five needs” referred to above are:
- The need for a suitable environment;
 - The need for a suitable diet;
 - The need to be able to exhibit normal behaviour patterns;
 - Any need to be housed with, or apart from, other animals; and
 - The need to be protected from pain, suffering, injury and disease.
- 3.6 In conjunction with programmed inspections a risk based star rating system has been introduced which ultimately acts as a tool to determine how long a licence may be issued for. The only exception is the activity of “Keeping or Training Animals for Exhibition” where all licences are issued for 3 years. The rating is determined by the animal welfare standards adopted by a business as well as their level of risk, based on elements such as past compliance. The model will be used every time a licence is granted or renewed.

4. Issues for consideration

- 4.1 The Council adopts the Animal Welfare Licensing Policy. This Council currently does not have an equivalent policy in place.

5. Engagement and Communication

- 5.1 In developing this policy, the Council has consulted with the persons, businesses and professional bodies as set out in Appendix B. The consultation period was from 16 November 2018 to 31 December 2018.
- 5.2 Two responses to the consultation were received (Appendix C).

6. Financial Implications

- 6.1 The Head of Wellbeing approved the revised fee charging system in October 2018, in consultation with the relevant Executive Members. Fees are calculated on a cost recovery basis (Appendix D). Applicants and licence holders will also be required to pay vets fees for inspections, where this is required.
- 6.2 Fees payable consist of an application fee and a compliance fee. Both must be paid in total together, and the latter part of the fees will be refunded where an applicant is unsuccessful. Licences will not be issued until the full fee has been paid, including vets fees where applicable.

7. Legal Implications

- 7.1 The *Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018* provides that an application must be accompanied by a fee set by the Local Authority on a cost recovery basis. Under *Directive 2006/123 art.13(2)* and the *Provision of Services Regulations 2009 reg.18(4)*, the costs of enforcing a licensing system against unlicensed operators can be reflected in licence fees charged by a Local Authority; this was endorsed in the case of *Hemming v WCC (2013)*. DEFRA has circulated draft guidance on fees and charges as a guide for Local Authorities setting animal welfare licence fees under the *Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018*. The Head of Wellbeing has determined the fee, in consultation with the Executive Members for Health and Wellbeing and Environment, and her decision was recorded and published on 23rd October 2018 in decision notice HofW/008/18-19.

- 7.2 The Head of Wellbeing will carry out a review of the animal welfare licensing fees after the first year of operating, and on at least an annual basis thereafter, to assess whether they are appropriate and make any amendments, in consultation with the Executive Member for Resources, as necessary.
- 7.3 The new Regulations should be implemented in accordance with DEFRA guidance and the Worthing Borough Council Enforcement Policy. The impact the new licensing regime places on existing resources will need to be reviewed.
- 7.4 It is likely that there may be a number of appeals against imposed conditions, suspensions or refusals of license applications. To ensure sufficient independence in the decision making process and for there to be appropriate oversight and scrutiny of decisions, appeals should be determined by the Head of Wellbeing or the Public Health and Regulation Manager in consultation with the Chair of the Licensing Committee. (The Scheme of Delegations will be amended to reflect this). In rare situations where a conflict arises, an appeal will be referred to the Licensing Committee for determination. Any appeals against a decision to revoke a licence would be heard by the First Tier Tribunal in accordance with the legislation.
- 7.5 Equality Assessment - The decisions recommended through this paper have a remote relevance to the substance of the Equality Act. There is no perceived impact on end users.
- 7.6 Consultation: There is no specific requirement for formal public consultation as the fee is set on a cost recovery basis in accordance with guidance issued by the Government to accompany the regulations and guidance from the Local Government Association. It is however advisable for the Council to liaise with potentially affected trades on establishing process and practice and the affected trades are being provided with advice and guidance on complying with legal requirements. As per the body of the report a consultation process has been undertaken and the results are annexed to the report.
- 7.7 Failure to act appropriately under the legislation will make the Council non-compliant with legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the Council area.

Background Papers

None.

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Sustainability & Risk Assessment

1. Economic

1.1 The introduction of this policy encourages competition between animal establishments in maintaining good standards in animal welfare practices. The administration of this function is based on cost recovery.

2. Social

2.1 Social Value

The Star Rating Scheme allows customers to make informed decisions on which animal establishments they may wish to use which in turn may drive up standards on the less well performing establishments.

2.2 Equality Issues

Matter considered and no issues identified.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

Matter considered and no issues identified.

3. Environmental

Matter considered and no issues identified.

4. Governance

Matter considered and no issues identified.