

North Tyneside Council

Report to Council

27 September 2018

ITEM 7

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

Portfolio(s): Community Safety and Engagement

Cabinet Member(s): Councillor C Burdis

Report from Service Area:

Environment, Housing and Leisure

Responsible Officer:

Phil Scott
Head of Environment, Housing and Leisure

Tel: 0191 643 7295

Wards affected:

All

PART 1

1.1 Executive Summary:

North Tyneside has a proud reputation for supporting animal welfare and welcomes the new Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018. The Regulations, which replace a number of powers to protect animal welfare, will come into force on 1st October 2018.

This report seeks delegated authority for the Head of Environment, Housing and Leisure to exercise all powers and duties under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ("the Regulations"). This will include determining the level of fees under the Regulations following consultation with the Cabinet Member for Community Safety and Engagement, the Head of Finance and Senior Manager: Legal Services and Information Governance and the appointment of a suitably qualified inspector and where appropriate a listed veterinarian to undertake inspections of premises on which licensable activities are to take place.

1.2 Recommendations:

It is recommended that Council authorise:

- (1) the Head of Environment, Housing and Leisure to exercise all powers and duties under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018; and
- (2) the Head of Environment, Housing and Leisure to determine the level of fees required to implement the provisions of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 following consultation with the Cabinet Member for Community Safety and Engagement, the Head of Finance and the Senior Manager: Legal Services and Information Governance.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 3 August 2018.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2018-20 “Our North Tyneside Plan”:

Our Places will:

- Provide a clean, green, healthy, attractive, safe and sustainable environment

Our Economy will

- Grow by supporting new business and building on our strengths.

1.5 Information:

1.5.1 Background

In April 2018 the Secretary of State made the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 which consolidate and replace a number of pieces of legislation that governed the licensing of animals. The new licensing regime will control the following licensable activities:

- Selling animals as pets
- Providing or arranging for the provision of boarding for cats or dogs
- Hiring out horses
- Breeding dogs
- Keeping or training animals for exhibition

1.5.2 The Regulations come into force on 1st October 2018 and will replace the licensing and registration systems currently in place under the following legislation:

- Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- Riding Establishments Acts 1964 & 1970
- Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999
- Performing Animals (Regulation) Act 1925

1.5.3 The reforms introduce a wide range of improvements. In particular they:

- Require all licensed dog breeders and licensed sellers of all pet animals, including sellers who are not also breeders, to adhere to enhanced strict statutory minimum welfare standards linked to the animals’ welfare needs set out in the Animal Welfare Act 2006.
- Prohibit the sale of puppies, kittens, ferrets or rabbits below eight weeks of age.
- Require any licensed pet seller advertising pets for sale to include their licence number in the advert as well as identifying the local authority that issued it, a photo of the pet, its age, country of residence and country of origin. This is intended to

help people identify pets offered for sale from unlicensed sellers including those based abroad.

- Require the sale of a dog to be completed in the presence of the purchaser on the premises where the licensed seller or licensed breeder has been keeping the dog, thereby banning online sales by licensed sellers and breeders.
- Ensure licensed dog breeders must show puppies alongside their mother before a sale is made and only sell puppies they have bred.

1.5.4 Licences held under the current system relating to pet shops, animal boarding establishments, riding establishments or dog breeding will continue to apply until the end of their current term. Licence holders will then need to make an application for a licence under the new regime and comply with the new requirements.

1.5.5 The Regulations have amended the previous licensing regime in a number of ways but the key changes are:-

- A premises can have a single licence covering a number of licensable activities (similar to premises licences granted under the Licensing Act 2003).
- That a licence can be granted or renewed for between 1 – 3 years depending upon an assessment produced by the Authority having regard to the Secretary of State's guidance.

1.5.6 Zoos and Dangerous and Wild Animals will continue to be licensed under existing legislation.

1.5.7 Delegations

Currently the exercise of all powers and duties, relating to animal health, are delegated to the Head of Environment, Housing and Leisure. It is proposed that the powers and duties given to the Authority by the Regulations are delegated to the Head of Environment, Housing and Leisure in the same way. The delegation given to the Head of Environment, Housing and Leisure will also include, but is not limited to, the power to appoint a suitably qualified inspector and when appropriate appoint a veterinarian to undertake inspections of premises.

1.5.8 Fees

The legislation provides for a local authority to charge such fees as it considers necessary to cover the cost it incurs in performing its functions under the Regulations. Any proposed fee will reflect predicted outgoings for considering the grant of a licence, the cost of enforcement of both licensed and unlicensed premises and the cost of providing the annual return.

It is expected that provision will be made for additional staffing to undertake the new requirements which will include all enforcement activities. The level of fees will be set to cover all associated staffing costs.

There will be a review of the fees after the first year of operation to assess whether the level of fees continue to be appropriate. It is proposed that the Head of Environment, Housing and Leisure be delegated to determine the level of fees following consultation with the Cabinet Member for Community Safety and Engagement, the Head of Finance and the Senior Manager: Legal Services and Information Governance.

1.6 **Decision options:**

The following decision options are available for consideration by Council:

Option 1

To agree to the recommendation set out in paragraph 1.2 of the report.

Option 2

To not approve the recommendation set out in paragraph 1.2 of the report.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

Failure to act appropriately under the legislation will make the Authority non-compliant with the legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the borough.

If the Authority is not in a position to exercise its functions under the Regulations, the Authority will not be in a position to license and regulate any of the activities set out in the Regulations.

1.8 Appendices:

There are no appendices attached to this report.

1.9 Contact officers:

Frances McClen, Environmental Health Group Leader, Tel. (0191) 6436640
Joanne Lee, Public Protection Manager. Tel. (0191) 6436901
Colin MacDonald, Senior Manager, Technical & Regulatory Services, Tel. (0191) 6436620
Alison Campbell, Senior Business Partner, Tel: (0191) 643 7038.

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

<https://www.legislation.gov.uk/ukdsi/2018/9780111165485>

- (2) Local Authorities (Functions and Responsibilities) (England) Regulations 2000

<https://www.legislation.gov.uk/uksi/2000/2853/contents/made>

- (3) Local Government Association: Open for business: LGA guidance on locally set licence fees

(4) Equality Impact Assessment

<https://my.northtyneside.gov.uk/sites/default/files/meeting/related-documents/Animal%20Welfare%20EIA.pdf>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The proposed fees for the licences should provide a cost neutral approach to the animal licensing regime to ensure that costs are covered but that fee levels would stand up to any legal challenge.

2.2 Legal

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) come into force on 1 October 2018 and provide for the licensing of persons involved in selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition by local authorities acting as a licensing authority.

The Regulations replace older animal welfare and licensing legislation and gives the Authority the power to grant, renew or vary licences for those operators providing one of the licensable activities referred to above and to charge a fee for considering any application that is received by it.

The Authority is also responsible for the enforcement of the Regulations and can suspend, vary or revoke an operator’s licence if it is considered appropriate to do so.

An operator who is aggrieved by a decision taken by the Authority to refuse to grant or renew a licence or to revoke or vary a licence may appeal to the First-tier Tribunal which may either overturn or confirm the Authority’s decision.

The Regulations will amend Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Schedule 1 of the 2000 Regulations lists functions that are “Functions not to be the Responsibility of an Authority’s Executive”. In particular the Regulations will amend Paragraph B of Schedule 1 (Licensing and registration functions) of the Functions and Responsibility Regulations and replace the older animal licensing functions currently listed in Schedule 1 with the new functions to be exercised under the Regulations. This amended will mean that the licensing functions under the Regulations will be the responsibility of Council in common with other licensing functions that are the responsibility of the Authority.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Proposals have been developed following internal consultation with officers in consultation with the responsible Cabinet Member.

2.3.2 External Consultation/Engagement

Officers have formed part of the regional animal welfare group and have received information directly from the Department for environment, food and rural affairs.

The changes to the licensing scheme will be made known to current licencees and full information about the Regulations and those who are likely to require a licence will be placed on the Authority's website.

2.4 Human rights

Article 6 of the European Convention entitles an individual to a fair hearing. Any individual who appeals a decision will appear before a First-tier Tribunal and will be given an opportunity to express their views as provided by the Regulations.

Article 1 of the First Protocol entitles a person to the peaceful enjoyment of his possessions. A possession may include a licence or the goodwill that such a Licence would generate. However, balanced against that is the ability of the Authority to enforce such laws under the Regulations as is necessary to control the use of such property, including a licence.

2.5 Equalities and diversity

An Equality Impact Assessment is in place for the implementation of the Regulations. Actions as a result of the EIA were to ensure that all staff are made aware of applicants and existing operators having access to an interpretation service and documents in different formats and languages if requested by them. Officers have been made aware of the availability of such services.

2.6 Risk management

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the Technical Services Partnership risk arrangements included within the strategic partnership governance framework.

2.7 Crime and disorder

There are several offences created under the Regulations and officers will enforce the offences against licensed operators and any persons acting without an appropriate licence.

2.8 Environment and sustainability

There are no direct implications for environment and sustainability arising from this report.

PART 3 - SIGN OFF

- Acting Chief Executive ☒
- Head(s) of Service ☒
- Mayor/Cabinet Member(s) ☒
- Chief Finance Officer ☒
- Monitoring Officer ☒
- Head of Corporate Strategy ☒