

LICENSING COMMITTEE

Review of Licensing Fees for Animal-related Licensing 29 August 2019

Report of Director for Communities & the Environment

PURPOSE OF REPORT

To review the costs and licensing fees for animal-related licensing to enable Members to approve the level of fee for 2019/20, giving particular consideration to substantive changes introduced by The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018.

This report is public.

RECOMMENDATIONS

- (1) **That the licensing fees for animal-related licences be determined for 2019/20 on consideration of the information and options contained within this report.**

1.0 Introduction

- 1.1 This report is concerned with the setting of the level of licence fees for 2019/20 for the following licensable activities introduced by The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018:-

- Selling animals as pets
- Boarding for cats or dogs in kennels or catteries
- Home boarding for dogs
- Arranging boarding for dogs or cats
- Day care for dogs
- Hiring out horses
- Dog breeding
- Keeping or training animals for exhibition

together with the following activities licensable under pre-existing legislation:-

- Keeping dangerous wild animals (Dangerous Wild Animals Act 1976)
- Operating a zoo (Zoo Licensing Act 1981)

Animal licensing is a statutory duty for the local authority.

- 1.2 It is currently assumed that there will be in the region of 60 licensable activities needing licensing during 2019/20.

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

2.1 These regulations bring under one umbrella the eight activities listed in 1.1 which were previously regulated by various pieces of statute. The regulations came into force on 1 October 2018 with very short notice from Defra. As they completely change the licensing regime, this resulted in local authorities having very little time to prepare for the implications.

2.2 The changes include:-

- The introduction of licensing for 'Keeping or Training Animals for Exhibition' as a function of the district council. This replaces Performing Animals Registration which was a function of the county council.
- The introduction of licensing for 'Arranging Boarding for Cats or Dogs'. This applies for example to home boarding franchises who arrange customers for their hosts.
- A risk-based system that must be used when issuing licences, with the exception of 'Keeping or Training Animals for exhibition' where all licences are issued for three years. This system is used to determine both the length of licence, which may be one, two or three years; and the star rating, which may be one to five stars.
- From October 2021 inspectors must hold a suitable qualification.
- Inspectors must prepare comprehensive inspection reports.
- The local authority must submit an annual return to the Secretary of State.
- New conditions must now be met by activity operators, including 'Minimum standards' which must be complied with before a licence can be issued, and optional 'Higher standards', which may lead to a higher star rating being awarded.
- The Minimum Standards require activity operators to produce comprehensive documenting of policies, procedures and record-keeping, to the local authority's satisfaction.
- Local authorities must now advise licence holders in writing three months before their licence expires that they will need to renew it. The licence holder must apply for the renewed licence at least ten weeks before their current licence expires. Local authorities must carry out an inspection before renewing the licence. As most current licences run from 1 January this timescale means the majority of inspections will have to be carried out within the same very short window of time.
- New licences, however, no longer run from 1 January to 31 December. Instead they will commence from the date of issue.
- The local authority must have in place an appeals procedure for businesses to dispute their star rating. The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded.
- The local authority must have a procedure in place for undertaking re-inspections at the request of the business for re-assessing their star rating. The business will be required to pay for the costs of the inspection.
- The licence holder may apply to have a licence varied and the costs of this may

be re-charged

3.0 Setting Fees

3.1 The regulations set out what a local authority may charge fees for:-

- a) The costs of consideration of an application, including any inspection relating to that consideration;
- b) 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;
- c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- d) The reasonable anticipated costs of the local authority compiling and submitting the data required to the Secretary of State.

3.2 The council's Fees & Charges Policy states that when setting charges, the general aim is to cover the cost of the service, accurately reflecting the full cost of provision including recharges. This ensures that those benefitting from the activities permitted by holding a licence should not be subsidised by local tax payers.

3.3 The methodology used to calculate fees is to allocate officer time against each of the elements involved in processing the licence application and in monitoring and enforcing against unlicensed and licensed operators. The appropriate proportion of an hourly rate (constructed from direct costs and indirect costs for all officers involved in the process) is applied and totalled to give a cost per licence.

3.4 The time allocations of the officers involved in animal licensing have been monitored over the period 1 April 2018 – 31 March 2019, and used in the calculations described in 3.3. The resulting cost per licence is set out in **Appendix 1**.

3.5 This was an extremely difficult period for staff who, at very short notice, had to familiarise both themselves and licence holders with the complex new licensing regime, and set up the necessary systems. It is anticipated that future years will be less time-intensive and the time allocations used in the calculations were therefore adjusted down to allow for this.

3.6 **Appendix 2** compares the calculated cost of each licence to the current licence fee and shows the percentage change.

4.0 Proposal

4.1 There are substantial increases in the calculated costs of the new licences due to increased officer time. The reasons for this are due to the changes introduced by the new Regulations as detailed in 2.2. The increased workload resulting from the new regulations has to date been absorbed within the dog warden service and by employing external contractors, however this is not sustainable for future years.

4.2 Members may feel that full-cost recovery as set out in Appendix 1 could be a challenge for small businesses requiring these licences, however this income is essential in future, to fund additional resources for the animal licensing function. An animal licensing part-time post was in place until three years ago, but when the postholder left, this post was

absorbed into the dog warden service. The increase in workload introduced by the new regulations, together with a general increased workload in dog warden and reactive animal licensing issues, mean this is no longer achievable.

- 4.3 It is proposed that the 2019/20 fees be set to achieve full cost recovery.
- 4.4 The majority of current licences came up for renewal on 1 January 2019, as prescribed under the old licencing legislation. Although these licences were issued under the new regulations (these having been introduced on 1 October 2018), the fees charged were those previously set for 2018/19 and did not reflect the increased workloads involved for staff. Most current licence holders have been granted licences for periods of two or three years but have only paid the 2018/19 one-year fee. They have been advised that additional payments are likely to be required once the new fees are set.
- 4.5 Similarly, a number of licence holders operate multiple activities from a single site, for example, dog boarding, cat boarding and dog daycare. Under the old legislation this was covered by one licence and one fee under the Animal Boarding Establishments Act 1963. Under the new regulations the different activities are considered separately and will each require a separate fee. It will, however, take proportionately less time for officers to inspect multiple activities on the same site and it is therefore proposed to charge full fee for the first activity plus 50% of the fees of any additional activities. Additional payments are likely to be required from these licence holders once the new fees are set.
- 4.6 Zoo licensing and Dangerous Wild Animal licensing, although not affected by the new regulations, are included in the costing calculations.

5.0 Details of Consultation

- 5.1 In September 2018 the animal licensing staff organised a seminar for licence holders, to explain the new Regulations and their implications. During discussions, licence holders accepted that the licensing function would in future be much more onerous for the local authority and that this was likely to be reflected in future fee-setting.
- 5.2 **Appendix 3** sets out a comparison of the fees set by other local authorities under the new regulations. To simplify the information received, the comparison relates only to new one-year licences (although in the case of one or two local authorities this was not clearly identifiable).

6.0 Options and Options Analysis (including risk assessment)

The options are:-

Option 1 Fully recover all costs by charging the fees set out in Appendix 1.

Option 2 Increase fees by 2.1% in line with inflation.

Option 3 Propose an alternative fee structure.

	Option 1: Fully recover all costs	Option 2: Increase fees by 2.1% inflation	Option 3: Propose an alternative fee structure
Advantages	Results in increased income, necessary to fund the additional	More affordable for operators, many of	Members may wish to increase fees by more than 2.1% but

	<p>resources needed for the council to implement the new regulations.</p> <p>Consistent with increases to other licensing fees within council</p>	whom are small businesses	below full cost recovery level, which would be more affordable for the operators
Disadvantages	Substantial price increase for most operators, many of whom are small businesses	Does not recover the cost of providing the service, leading to the council subsidising the cost of the animal licensing function	<p>As Option 2 but to a lesser degree</p> <p>Alternative options would need to be further appraised to determine full budgetary impact for the Council</p>
Risks	<p>Price increase may encourage unlicensed activity, hence risk to animal welfare.</p> <p>Increase in unlicensed activity requires additional reactive investigation and enforcement by officers</p>	None identified	As Option 1 but to a lesser degree

Officer Preferred Option

Option 1 is the Officer Preferred Option

7.0 Conclusion

- 7.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 have introduced a new regime for animal licensing, substantially increasing the workloads of animal licensing staff. This function cannot be carried out without additional resources, and full cost recovery is necessary in order to fund the additional resources.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):

None applicable to this report.

LEGAL IMPLICATIONS

The legal basis for the setting of fees is contained within the report.

FINANCIAL IMPLICATIONS

Members are reminded that animal licensing is a statutory function legislated by the relevant Acts listed within the report, although it is for the Local Authority to determine the appropriate charge.

The Council has not previously been recovering its costs on Animal Licensing. A review of the charges, taking into account the new legislation, has been undertaken and the table below shows the income that would be generated should Option 1 – to fully recover all costs be selected. Over the next four years and beyond, licensing income will increase but will also be subject to annual fluctuation due to licences being issued as 1, 2 or 3 year licences from date of issue. Previously they were mainly for 1 year and the renewal date was 1st January. Zoo Licences can be up to 6 year Licences.

As renewals on the 1st January, 2019 were issued at the old rate there would need to be an income adjustment for the difference between the new rate and the old rate. This income will fall into 2019/20 and the amount recovered will depend on which Option is selected.

Licence Type	Estimated Income 2019/20	Estimated Income 2020/21	Estimated Income 2021/22	Estimated Income 2022/23
Selling Animals	£194	£483	£1,698	£483
Home Boarding	£2,191	£4,218	£4,890	£4,218
Dog Day care	£654	£0	£654	£0
Commercial Boarding	£859	£3,694	£2,133	£3,694
Dog Breeding	£1,626	£1,985	£3,254	£1,985
Exhibiting Animals	£1,748	£0	£0	£1,748
Hiring Horses	£0	£375	£986	£375
Operating a Zoo	£0	£0	£802	£0
Full Cost Recovery	£7,271	£10,756	£14,418	£12,504
Budgeted Income	£7,200	£7,300	£7,500	£7,700
Additional income	£71	£3,456	£6,918	£4,804

Option 2 - a 2.1% incremental increase would not slot easily into the new classifications and multiple years. For the basis of calculation, it has been assumed that the current flat rate would be multiplied up for each year and in many cases would be the same for new and renewals giving no incentive to good providers. On this basis, and over time, income will remain as budgeted but annual fluctuations would occur depending on renewal dates and lengths of future renewals.

With regard to either option the future years budget will require updating and this will be done as part of the forthcoming budget process

Should members opt for a different fee structure/percentage then this would need to be calculated accordingly and reported back at a later date.

SECTION 151 OFFICER'S COMMENTS

The 151 Officer has been consulted and has no further comment.

MONITORING OFFICER'S COMMENTS

The Licensing Committee's terms of reference provide that the Committee is "to set the levels of any fee for an approval, consent, licence, permit, notice, order or registration which is the responsibility of the Committee."

Animal related licensing is a matter within the responsibility of the Committee.

BACKGROUND PAPERS

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – Procedural guidance notes for local authorities – October 2018 - DEFRA

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