

Licensing Committee

4 September 2018

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Review of Animal Licensing Conditions

Final Decision-Maker	Licensing Committee
Portfolio Holder(s)	Councillor Dr Ronen Basu
Lead Director	Paul Taylor, Director of Change and Communities
Head of Service	Gary Stevenson, Head of Housing, Health and Environment
Lead Officer/Author	Nollaig Hallihan, Food and Safety Team Leader
Classification	Non-exempt
Wards affected	All

This report makes the following recommendation to the final decision-maker:

1. To approve the fees and charges that are set out in Appendix I which will come into force with effect from 1 October 2018.

Explain how this report relates to the Corporate Priorities in the Five Year Plan:

- A prosperous borough

Timetable

Meeting	Date
Licensing	4 September 2018

Review of Animal Licensing Conditions

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Tunbridge Wells Borough Council has responsibility for licensing various animal businesses, pet shops and riding establishments. Businesses are expected to meet the conditions associated with the licence relating to the welfare of the animals concerned.
 - 1.2 The conditions associated with each type of licence provide a basis for officers to assess compliance with relevant legislation. There is new legislation coming into force on the 1st October 2018 which outlines general conditions which each licence holder must meet and additional higher standards have also been outlined. These are national conditions and they cannot be amended, deleted or added to.
 - 1.3 This report seeks to advise the committee of the changes to animal licensing conditions which are in line with the new legislation that comes into force on the 1st October 2018 set out in Appendices A to H of this report.
 - 1.4 In addition, due to the change in the conditions and the level of work required, the existing fees and charges have been reviewed and amended. This report seeks the approval of the fees set out in appendix I. The revised fees and charges will come into effect on the 1st October 2018.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Environmental Health Team currently have responsibility for considering applications and issuing a range of animal welfare licences under the following legislation:
 - Domestic Dog Boarding under the Animal Boarding Act 1963
 - Catteries – Animal Boarding Act 1963
 - Dog Breeding – Breeding of Dogs Act 1973 and 1991, and Breeding and sale of Dogs (Welfare) Act 1999
 - Pet Shops – Pet Animals Act 1951
 - Kennels – Animal Boarding Act 1963
 - Riding Establishments – Riding Establishments Act 1964 and 1970.
- 2.2 New legislation namely; The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 comes into force on the 1st October 2018 and this regulation combine all of the above pieces of legislation in one place.

- 2.3 Any Business with an unexpired licence will continue in force for the rest of the terms under the relevant Act. For the majority of businesses this will be the 31st December 2018.
- 2.4 Any registration of a person under the Performing Animals (Regulation) Act 1925 will continue in force, for six months until the 1st April 2019.
- 2.5 As a result of this new legislation, the revised conditions (appendices A – F) update the previous conditions used by officers to issue licences following an annual inspection. The new conditions will be implemented within the context of the new legislation.
- 2.6 The new legislation also gives Local Authority officers responsibility to issue and enforce licences for Dog Day Care(which was not previously licensable) and Keeping or Training of Animals for exhibition (previously a registration with Kent County Council), as a result there are further conditions (appendix G and H) which will be enforced by local authority authorised officers.
- 2.7 The licence conditions proposed in this report are based on those which are set down within the legislation and also consideration has been given to the guidance notes which have been issued in conjunction with, and to support the new legislation. There are three levels of criteria which are applied to each licence, firstly mandatory conditions which a licence holder must meet in order for a licence to be issued (these are black font in the attached conditions), secondly, higher standards which the licence holder is required to meet (**these are blue font in the attached conditions**) and thirdly optional higher standards which the licence holder is not required to meet but which would help them in achieving a higher star rating (**these are red font in the attached conditions**).
- 2.8 These are national conditions and cannot be amended, deleted or added to.
- 2.9 As some of these areas of licencing are new to the service, there is currently no fee set out in the current fees and charges. In addition due to the change in legislation, a review has been undertaken on how we can deliver this service and as a result the fees and charges for our current licensable activities have been reviewed. Appendix I contains the information with regard to the new fees. There are a number of different functions set out within the legislation and these all have a cost attached to them which is on a cost recovery basis, for example a business can now apply for a re-rating at any point during the term of their licence which is an additional visit to the premises, therefore there is now a cost attached to this.
- 2.10 Additional qualifications are required for officers who will be carrying out this work and a weeks long training course with assignments must be completed, there is a cost element to this as well as time, this cost will be covered by the existing budget, but will be recovered through fees and charges. By 2021, all officers involved in this work must have undertaken and passed the qualification.

- 2.11 In light of the additional requirements of the new legislation, the current resource that is available has been considered and it has been identified that there will be additional statutory function to be undertaken and that there is insufficient resource for this within the team. Having researched the number of Dog Day Care services available within the borough and the threshold of requirement for dog breeders to be licenced has been lowered, it is envisaged that an additional 50 licensable activities will require inspection. This would be approximately 250 hours work. In addition to this, there will be additional administration function required. (this is a rough estimate currently). At this point, there is not a growth bid in place, as this area of work will be self funded and covered by the fees and charges that have been set.
- 2.12 The department will continue to work with legitimate businesses to ensure compliance and will provide support and guidance during this transitional period.
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3. AVAILABLE OPTIONS

- 3.1 The committee can approve the fees and charges (Appendix I) as drafted. This will ensure that standards in animal licensed businesses in Tunbridge Wells Borough Council are comparable to those across the country and reflect best practice and guidance and the council can obtain reasonable costs for carrying out this work.
- 3.2 The committee could choose to amend the fees and charges set out.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is 3.1 above, to approve new licensing fees and charges, they provide a clear distinction between various aspects of the licence for the licence holder.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Existing licence holders have been made aware of the changes. No specific consultation has been undertaken by the council; however extensive consultation has been undertaken by DEFRA as part of the development of the new regulations and standards.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 All licensed businesses will be sent the relevant updated licence conditions with a covering explanatory letter on the different levels of criteria before the renewal

date of their licence. This is to ensure that licence holders are aware of the standards at which their business will be assessed. The updated conditions will also be available on the Council's website. The business will also be made aware of the new fees and charges associated with their licence.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	The authority is that there is new national legislation that we are obliged to comply with.	Robin Harris Senior Lawyer – Contentious, Mid Kent Legal 23.08.2018
Finance and other resources	The fees are necessary to make a contribution towards the cost of providing the service and will be incorporated within the service budgets	Lee Colyer, Director of Finance, Policy and Development. 22.08.2018
Staffing establishment	There will be a need for additional staff to deliver the new requirements, a business case for this will need to be detailed	Nicky Carter, Head of HR, Customer Service & Culture 23.08.2018
Risk management	The review of licence conditions provides a reduction in risk for the council and improved standards of animal welfare conditions for animals within these establishments	Nollaig Hallihan Food and Safety Team Leader 21.08.2018
Data Protection	<p>Some limited personal data processing will take place as part of granting and renewing the licences proposed in this report, but the majority of data collected will relate to businesses, which is not data that is covered by the Data Protection Act 2018 or GDPR 2016.</p> <p>The personal data that is collected through the licensing process will be stored securely on the Council's systems, and will not be published publicly unless there is a specific legal reason to do so.</p>	Jane Clark Head of Policy and Governance 23.08.2018

Environment and sustainability	No significant issues identified	Karin Grey Sustainability Manager 21.08.2018
Community safety	No significant issues identified	Terry Hughes Community Safety Manager 21.08.2018
Health and Safety	The current risk assessment will need revision due to the performing animals once we are fully aware of the type of animals involved. In addition there is potential for further home visits where dogs are present which needs to be incorporated into the current risk assessment.	Mike Catling Health and Safety Advisor 21.08.2018
Health and wellbeing	No significant issues identified	Stuart Smith Health Lifestyles Co-ordinator 21.08.2018
Equalities	The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users.	Sarah Lavallie Corporate Governance Officer 22.08.2018

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: Conditions for Home Boarding for Dogs
- Appendix B: Conditions for Boarding for Cats
- Appendix C: Conditions for Breeding Dogs
- Appendix D: Conditions for selling animals as pets
- Appendix E: Conditions for Boarding in kennels for dogs
- Appendix F: Conditions for Hiring of Horses

- Appendix G: Conditions for Dog Day Care
 - Appendix H: Conditions for Training of animals for exhibition
 - Appendix I: Fees and Charges
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9. BACKGROUND PAPERS

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
 - <https://www.legislation.gov.uk/ukdsi/2018/9780111165485>