

LEISURE, ENVIRONMENT AND COMMUNITY COMMITTEE - 19 AUGUST 2020

PART I – PART DELEGATED

5. ANIMAL ACTIVITIES LICENCING FEE REVIEW DCES

1 Summary

- 1.1 This report sets out the proposed fees for licenses that fall under the scope of the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018.
- 1.2 It is not within the remit of Leisure, Environment and Community Committee to set these fees.
- 1.3 The current fees are attached to this report as Appendix 1 and enable the Council to recover its reasonable costs in processing and determining applications and ensuring compliance with the Regulations and conditions of the licence.
- 1.4 In calculating these fees officers have taken into account DEFRA Guidance “The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 - Procedural guidance notes for local authorities”, the LGA Guidance “Open for Business - A practical guide for fee setting” and the Supreme Court’s rulings in the Hemmings v Westminster City Council case.

2 Details

- 2.1 The Animal Welfare (Licensing of Activities Involving Animals)(England)Regulations 2018 came into force in October 2018. The enabling legislation was the Animal Welfare Act 2006. The stated aim was to maintain and improve existing animal welfare standards by modernising the current animal licensing system in England. They cover the following activities: dog /cat boarding (kennel /cattery), home boarding for dogs, dog day care, dog breeding, selling animals as pets (including online sales), hiring out horses for riding and keeping or training animals for exhibition. All previous legislation relating to these activities has been revoked.
- 2.2 The Regulations provide for licenses to be granted or renewed for a period of one, two or three years in respect of that activity (except for the keeping or training of animals for exhibition).
- 2.3 Keeping or training animals for exhibition previously fell to the County Council (under the Performing Animals (Regulation) Act 1925); but became this Council’s remit under these Regulations and include mobile animal exhibits and animal encounters. If operators of these activities meet the minimum standards, an automatic 3 year licence is issued.

3 Options and Reasons for Recommendations

- 3.1 To ensure compliance with statutory requirements placed on the Council, while keeping costs to business operators to a minimum.
- 3.2 During the Covid-19 lockdown these businesses were closed in March by the Government. Their clients were working from home or furloughed and holidays had been cancelled meaning care for their animals was not required. No income for circa four months has had a big financial impact on the businesses, with some struggling to continue.

- 3.3 Although since early July they were permitted to reopen, business is slow in picking up as holidays and breaks away are still not being booked to pre-covid-19 levels.
- 3.4 Due to the businesses being closed and site visits not being undertaken, officer time spent on ensuring business compliance, a function that had been factored into the recommended fees, has been reduced.
- 3.5 One of the issues raised in Westminster v Hemmings was that the fees had not been approved in accordance with the process laid out within the authority, and particularly that fees had not been referred for Member approval where they had been reviewed by an officer and remained unchanged. The outcome of that case is that the approval of fees by Members is vital, even where fees remain unchanged
- 3.6 To assist these small local businesses to recover, and for Council transparency, Committee is being asked to agree that no change is made to the current fees between October 2020 and March 2021, but that a review is undertaken during that time to gauge business recovery and any business closures. Should any amendments be identified these will be contained within the fees and charges report brought to Committee in November 2020 and form part of the fees and charges report.

4 Policy/Budget Reference and Implications

- 4.1 Whilst the recommendations in this report are within the Council’s agreed policy and budgets it is for the Policy and Resources Committee to review all the services fees and charges therefore the recommendation will be presented to them on 7 September 2020 for ratification.

5 Environmental, Community Safety, Public Health, Customer Services Centre, Risk Management and Health & Safety Implications

- 5.1 None specific.

6 Financial Implications

- 6.1 When setting the fees there is a statutory requirement to consider the income received for a licensing scheme compared to the overall cost of delivering the scheme. The fee level must be set to not generate income in excess of the cost associated with delivery.

7 Legal Implications

- 7.1 This is nationally set legislation with which we are obliged to comply.
- 7.2 The regulations have broadened the scope of activities covered and clarity given to offences. This may lead to an increase in regulation and enforcement.

8 Equal Opportunities Implications

- 8.1 Relevance Test

Has a relevance test been completed for Equality Impact?	Yes
Did the relevance test conclude a full impact assessment was required?	No

9 Staffing Implications

- 9.1 Additional qualifications are required for officers carrying out this work. DEFRA defined this as a Level 3 qualification granted by a body, recognised and regulated by the Office of Qualifications and Examinations, which oversees the training and assessment of persons inspecting and licensing animal activities businesses, confirming the passing of an independent examination. A person is only considered to be qualified to inspect a particular type of activity if their certificate applies to that activity. The Animal Welfare and Licensing Inspector has completed and passed each module enabling the inspections of every activity detailed in the Regulations. The cost element to this has been factored into the calculations to be recovered through fees and charges.
- 9.2 In the light of the additional requirements of this legislation, the resource that is available has been considered and it has been identified that there is additional statutory function to be undertaken and that there is insufficient resource for this.

10 Communications and Website Implications

- 10.1 It is a requirement that all licensed business within the district are listed on the Council website under a public register.
- 10.2 Information about only using a licensed operator will be put on the website and social media groups.

11 Risk and Health & Safety Implications

- 11.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
Due to the increase a number of people will operate unlicensed	Animal welfare will be jeopardised in these premises	Promote the requirement to be licensed. Actively seek and take enforcement	Treat	2
The Council may receive challenge on its decisions or the way the decisions are determined	Decisions and their determination may be scrutinised	All guidance, including fee setting guidance, will be followed to reduce risk to the Council	Treat	1

- 11.2 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- ▼ Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
Impact ----- Low -----> Unacceptable				

Impact Score

4 (Catastrophic)

3 (Critical)

2 (Significant)

1 (Marginal)

Likelihood Score

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Remote (≤5%))

- 11.3 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

12 Recommendation

- 12.1 That Committee agree to recommend to Policy and Resources Committee that no change is made to the current fees of Animal Activities Licences between October 2020 and March 2021.
- 12.2 That a review is undertaken during this time with any amendments identified contained in the Fees and Charges report to Committee in November 2020.

Report prepared by: Debra Sandling, Animal Welfare and Licensing Inspector

Data Quality

Data sources:

Data checked by: Malcolm Clarke, Waste and Environment Manager

Data rating: Tick

1	Poor	
2	Sufficient	X
3	High	

Background Papers

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

LGA Guidance "Open for Business - A practical guide for fee setting"

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

APPENDICES / ATTACHMENTS

Appendix 1 – Current fees

APPENDIX 1 - CURRENT FEES

New Application			Renewal			2 year		3 year		
	App £	Grant £	Total £	App £	Grant £	Total £	Grant £	Total £	Grant £	Total £
Home Board	233	32	255	143	34	177	167	310	300	443
Dog Day Care - commercial	243	25	295	143	54	197	247	390	440	583
Exhibit ≤5 species	233	300	523	143	300	443				
Exhibit ≥6 species	263	480	743	143	480	623				
Breeding - residential	232	32	264*	183	34	217*	175	358*	316	499*
Breeding - commercial	292	52	344*	183	54	237*	295	478*	536	719*
Kennels	263	52	315	143	54	197	267	410	480	623
Cattery	263	52	315	143	54	197	267	410	480	623
Hiring Horses	149**	52	201**	143	54	197**	172	315**	291	434**

Selling pets (retail)	263	52	315	183	54	237	267	450	480	663
Selling Pets (small)	243	32	275	163	34	197	187	350	340	503
Combination Kennel & Cattery	306	103	409	246	108	354	363	609	619	865
Franchises	84	Per host 173		84	Per host 133		Per host 196		Per host 259	

***Plus Inspector costs at hourly rate * Plus vet fees**

Additional costs to all applications – all costs relating to any appeal; vet/expert fees if necessary for inspections throughout duration of licence. Variation/transfer- proportionately charged using Inspector costs at hourly rate; re-inspection charged at Inspector costs at hourly rate.