

WRS Joint Board

Date: 4th October 2018

Licensing of Animal Activity

Recommendation	That the Board notes the report
Background	<p>Each District Council is currently responsible for functions in relation to the licensing and regulation of various animal-related activities. Worcestershire Regulatory Services carries out these functions on each Council's behalf. These licensing regimes are being amalgamated into a single licence type with each aspect becoming a specific activity named on the "Animal Activity Licence".</p> <p>The new regime is designed to bring these activities into the 21st century and reflects Government's and the public's concern to ensure that animal welfare is paramount in the operation of these businesses. The new regulations are made under the Animal Welfare Act 2006, which is designed with the RSPCA's concept of the 5 Freedoms at its heart. These are:</p> <p>Freedom from Hunger and Thirst: By ready access to fresh water and a diet to maintain full health and vigour</p> <p>Freedom from Discomfort: By providing an appropriate environment including shelter and a comfortable resting area</p> <p>Freedom from Pain, Injury or Disease: By providing appropriate preventative measures, along with rapid diagnosis and treatment.</p> <p>Freedom to Express Normal Behaviour: By providing for species specific requirements with respect to space, enrichment and social needs</p> <p>Freedom from Fear and Distress: By ensuring species specific conditions and treatment which avoid mental suffering.</p> <p>Whilst the previous regimes had regard to these matters, they were not embedded at the heart of each one. This change will require officers to be better equipped to make judgements about what they see at licensed premises and the associated inspection regime will create a significant increase in workload for the service.</p>
Report	The table below sets out the animal activities currently regulated by the six partners

and the legislation under which each Council currently licences people and premises to carry out the activities:

Regulated Activity	Legislation
Keeping a boarding establishment for cats or dogs (kennels, catteries, home boarding, day care facilities)	Animal Boarding Establishments Act 1963
Keeping a riding establishment	Riding Establishments Act 1964 Riding Establishments Act 1970
Keeping a breeding establishment for dogs	Breeding of Dogs Act 1973 Breeding and Sale of Dogs (Welfare) Act 1999
Keeping a pet shop	Pet Animals Act 1951

In addition to those licences mentioned above, Worcestershire County Council via its Trading Standards service is currently the authority responsible for the registration of people who train or exhibit performing animals under the Performing Animals (Regulation) Act 1925. This legislation is also replaced by the new regime and becomes part of the district's functions. During the consultation process the Department for Environment, Food and Rural Affairs (DEFRA) did raise this matter with Heads of Trading Standards in two tier areas and they were content for this work to fall under the new regime.

Members should note that licences to operate a zoo or to keep a dangerous wild animal are not included in these changes and remain a separate licence in their own right.

Section 13 of the Animal Welfare Act 2006 provided the Secretary of State with powers to repeal parts of the existing legislation and replace it with a new licensing or registration regime. To that end in December 2015, DEFRA launched a consultation on proposals to introduce new secondary legislation to implement a single "Animal Establishment Licence" for animal boarding establishments, dog breeding establishments, pet shops, riding establishments and performing animals.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 entered the statute books on 16 April 2018 and are scheduled to come into force on 1 October 2018. A copy of the regulations can be seen on the .GOV website should members wish to review them fully.

Under these new regulations the existing licensing schemes for animal boarding establishments, pet shops, riding establishments and dog breeders will be repealed

and replaced by a new single licensing scheme that will regulate all of these activities and will also incorporate the licensing of those who train or exhibit performing animals.

The description of these functions has changed and the new regulations cover more activities than the previous legislation. The new categories are:

- Selling animals as pets (not just through pet shops,)
- Providing for or arranging for the provision of boarding for cats or dogs (includes kennels or catteries, home boarding for dogs and day care for dogs).
- Hiring out horses
- Dog breeding
- Keeping or training animals for exhibition.

Some of the main differences in the new licensing scheme are as follows:

- A licence will be able to authorise more than one activity (for example animal boarding and dog breeding activities will be able to be authorised by the same licence)
- Licences will be able to be issued for a one, two or three year period (based on an assessment of risk and star rating)
- Standard licence conditions are prescribed by the regulations rather than each authority deciding its own conditions for its area. This should ensure uniform welfare standards nationally.
- The number of litters a dog breeder can produce in a 12-month period before they are presumed to require a licence will be reduced from five litters to three
- There are new powers for licensing authorities to vary, suspend and revoke licences where there is non-compliance or it is necessary to protect the welfare of an animal – where previously the only option available to the local authority was prosecution.
- Inspections of premises will be required on a more frequent basis between 2 and 3 per year dependent on risk and the star rating of the business.

Detailed guidance on the implementation of the new regulations has recently been issued by DEFRA and these documents have been made available via all partner websites.

Licences issued under the existing legislative provisions that remain in force on 1 October 2018 will continue to have effect until they expire, with the majority of licences expiring on 31st December 2018 due to previous scheduling arrangements for renewals.

Worcestershire Regulatory Services has been preparing for the implementation of the new regulations by:

- Liaising with the district councils through Committee processes on setting appropriate licence fees to ensure full cost recovery
- Ensuring the appropriate delegations are in place for each district
- Informing existing licence holders of the forthcoming changes

Financial and Budgetary Implications - Setting Fees

- Updating content on each Council's and WRS's websites
- Liaising with Worcestershire County Council Trading Standards team with regard to those currently registered under the Performing Animals (Regulation) Act 1925
- Training officers on the new licensing scheme
- Updating computer systems to support the implementation of the new regulations

The costs of implementing the new reforms and the administration of the new licensing scheme will require additional resources. The new fees were calculated and set to reflect this additional staffing requirement and the additional work involved, the funding of which will be shared between partner authorities on a proportionate basis based on the number of licences currently granted in each district.

Officers have calculated proposed fees and charges with regards to the regulations and have included in the calculations the costs arising from:

- Time spent assessing, administering and processing applications
- Time spent reviewing/deciding applications
- Storage of applications
- Assessing the suitability of applicants and reviewing relevant offences
- Undertaking the necessary site inspections and additional visits which are now required
- The cost of issuing licences in a format that can be displayed.
- Ongoing compliance with the regulations
- Costs associated with dealing with any contested licence applications, have also been included in these calculations.

A schedule of the proposed fees and charges has been prepared which is attached to this report at "**Appendix A**". The proposed fees and charges for licences issued under the new regulations will need to be approved by all Councils prior to 1 October 2018, or as soon as practicable thereafter. This process is currently underway and should be completed by the end of October.

Across the County there are approximately 265 currently licensed businesses that will be affected by the change in regulations; namely:

- 142 Animal Boarding Licences
- 17 Dog Breeding Licences
- 32 Pet Shops
- 45 Performing Animals
- 29 Riding Establishments

It is anticipated though that a number of businesses which were previously outside the scope of the old regulatory regimes will now be covered and those running such businesses will need to apply for a licence and be subject to the inspection regime under the new legislation.

Legal and

The new regulations are very prescriptive as to how matters should be conducted in

Governance Implications

the granting, suspension, variation, refusal and revocation of a licence, with the welfare of the animals concerned at the very heart of any action to be taken. It has therefore been recommended that each of our partners delegate the work associated with this regime to the "Head of Worcestershire Regulatory Services" i.e. the power to grant, suspend, vary, refuse or revoke a licence in accordance with the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The Head of Service will then use his powers in the legal agreement between the partners to delegate these activities to relevant officers in the service.

Whilst the service will report on numbers and activities to members through local licensing committees to continue to involve the wider elected member cohort, this does mean that licensing committees will only be asked to make decisions in relation to these licenses in situations where officers feel there are particular sensitivities. Day to day decision making will sit with WRS officers and appeals by any applicant will go to the First Tier Tribunal in the event of any refusal.

This approach to decision making mirrors that taken by the partners in relation to the Environmental Permitting regime, which is equally, if not more technical and complex than this new legislation, although we believe this is the first time that regulatory appeals have been directed via a mechanism other than the Courts.

Given that environmental permitting is reported to members of the Joint Board and this new regime is to be operated along these lines, we will also include the activities in our quarterly performance reporting here.

In order for these changes to be facilitated and implemented, all six Worcestershire District Councils need to agree that the items listed in this report are recommended to Full Council and following this are enacted correctly via the appropriate pathway to be incorporated into the WRS Shared Services Agreement and Statement of Partnership Requirements.

At the time of writing this report five out of the 6 districts have met and recommended to Full Council the report in its entirety. Malvern Hills is due to consider the report on the 25th September 2018 at its Executive Committee. Dates shown below:

District	Date Of Licensing /Exec Committee	Date of Full Council
BDC	11 th September 2018	19 th September 2018
MHDC	25 th September 2018	30 th October 2018
RBC	3 rd September 2018	17 th September 2018
WC	10 th September 2018	30 th October 2018
WDC	12 th September 2018	19 th September 2018
WFDC	6 th August 2018	26 th September 2018

Contact Points

Sue Garratt, Licensing and Support Services Team Manager
01562 738037
susan.garratt@worcsregservices.gov.uk

Background Papers

Appendix A: Table of proposed fees.