

## CHANGES TO LICENSING ARRANGEMENTS FOR ANIMAL BASED BUSINESSES

### 1. PURPOSE OF REPORT

- 1.1 To inform the Committee of changes to the way in which animal boarding establishments, dog breeding establishments, pet shops and riding establishments are licensed, and the commencement of responsibility for the licensing of the keeping of animals for exhibition.
- 1.2 To update delegations to allow for enforcement of the provisions of the new Regulations.

### 2. BACKGROUND - EXISTING ARRANGEMENTS

2.1 The Council is at present responsible for the regulation of a variety of animal-related businesses, as well as the keeping of specified dangerous animals by individuals. The licence types currently issued by the Council are:

- Animal boarding establishment licences (for businesses accommodating dogs or cats – e.g. kennels, catteries, home boarders, pet day care)
- Dog breeding establishment licences (premises used for, or in connection with, the commercial breeding of dogs)
- Pet shop licences (any business which keeps animals with a view to selling them as pets)
- Riding establishment licences (premises which keep horses and ponies for hire for riding, or for riding tuition – excluding livery stables)
- Zoo licences and Dangerous Wild Animal licences – these will continue to be covered by their own specific legislation.

2.2 The current number of licences issued in the New Forest are as follows:

Regulated Activity	Previous Legislation	Number
Animal Boarding Establishments	Animal Boarding Establishments Act 1963	15 (10 cats, 3 dogs, 2 combined)
Home Boarding Establishments	Animal Boarding Establishments Act 1963	106
Dog Breeding Establishments	Breeding of Dogs Act 1973, Breeding and Sale of Dogs (Welfare) Act 1999	6
Pet Shops	Pet Animals Act 1951	7
Riding Establishments	Riding Establishments Act 1964 and 1970	11
Keeping Dangerous Wild Animals	Dangerous Wild Animals Act 1976	1
Operating a Zoo	Zoo Licensing Act 1981	3

The majority of these are one year licences which expire on 31 December each year. However, dog breeding establishments licences expire yearly on the anniversary of

granting, horse riding licences are of three year duration, and zoo licences have a six year duration.

- 2.3 In addition to the above licences, Hampshire County Council is currently responsible for registering those who train or exhibit performing animals under the Performing Animals (Regulation) Act 1925.
- 2.4 Numerous pieces of legislation regulated these licence types set out in paragraph 2.1. Historically, implementation of the legislation and adoption of licensing conditions was left to the discretion of each licensing authority, resulting in variations of conditions and the application process. This has created confusion for businesses which operate in a number of areas. In addition, all current licence types are standalone, so a business that offers two or more licensable activities (i.e. a pet shop offering accommodation for dogs and cats whilst their owners are away) would have to apply for two separate licences.

### **3. LEGISLATIVE CHANGES**

- 3.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were published this year under The Animal Welfare Act 2006. These significantly change the way in which animal related businesses are inspected and licensed. The implementation date was 1 October 2018.
- 3.2 The existing licensing schemes for animal businesses have been repealed and replaced by this single licensing scheme that regulates all activities including those who train or exhibit performing animals.
- 3.3 At the centre of the new regulations are the 5 freedoms of animal welfare, which are; freedom from hunger and thirst, the provision of a suitable environment, protection from pain, injury or disease, freedom to exhibit normal behaviour and freedom from fear and distress.
- 3.4 The current licensing schemes for zoos and those who keep dangerous wild animals are not affected by the regulations and will continue to be carried out under the existing legislative provisions.
- 3.5 Some of the main differences in the new licensing scheme are:
  - An 'Animal Activity Licence' will be able to authorise more than one activity Licences will be able to be issued for a one, two or three year period (based on an assessment of risk and level of compliance)
  - Standard licence conditions are prescribed by the regulations rather than each authority deciding its own licence standard conditions for its area
  - 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
  - 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
  - If the licensing authority refuses to grant, or suspends a licence, the operator will be able to appeal to First Tier Tribunal, comprising of a panel with specialist sector knowledge
- 3.6 Existing licences will remain in place until their expiry; any renewals will then take place under the new Regulations.

## **4. INSPECTION PROCESS**

- 4.1 In recent years, premises have been inspected by Environmental Health Officers and technicians; in the case of dog breeding and horse riding establishments, they must be accompanied by a veterinary surgeon. Under the new regime, the inspection must be carried out by a suitably qualified inspector (defined as a person holding a Level 3 certificate granted by a recognised and regulated body, or by a veterinary surgeon).
- 4.2 Consequently officers carrying out these inspections will require further training including examination. Transitional provisions are in place to enable any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses to carry out the inspections until October 2021.
- 4.3 Under the new arrangements, the inspection process will be much more comprehensive and at the conclusion of the inspection the premises will be provided with a star rating of between 1 and 5 stars. The star rating is based on the animal welfare standards of the business, as well as the business's level of risk – based on elements such as past compliance. Lower risk businesses can receive a licence for any period between one and three years and will receive between 1 and 5 stars. Higher risk businesses are licenced for one or two years, and can receive between 1 and 4 stars. All businesses will get one unannounced visit during their licence period.
- 4.4 New businesses will initially be considered as high risk due to the lack of any operational history, however any business that is certified by a UKAS-accredited body and has three or more years of compliance history will be considered low risk. This is unless there is significant evidence of poor animal welfare or non-compliance.
- 4.5 Under the new arrangements business operators will be able to appeal their star rating, or request a re-assessment if they have made improvements. Any re-assessment will be undertaken on a cost recovery basis.

## **5. PUBLICISING THE CHANGES**

- 5.1 A considerable amount of work has been undertaken since the regulations were published, and also following the recent publication of a series of DEFRA guidance notes. The website has been updated <http://www.newforest.gov.uk/animal-licence> to include important information, including links to guidance for each animal based activity, information on how to apply and the fees for each activity. Specific guidance has been provided on a one to one basis on interpretation and enforcement of the new legislation.
- 5.2 Contact will be made with all licence holders prior to the expiry of their existing licence to invite them to apply under the new legislation, although for this year, it will not be within the 10 week timescale laid out in the guidance.

## **6. FEES**

- 6.1 Local Authorities may recover reasonable costs from licensees to cover the costs of the operation of the licensing regime, in line with the provisions of the EU Services Directive. All fees must be fair and evidentially based. Defra has produced draft guidance on fee setting which has been used.

6.2 The fees have been split into two components, which are;

- the application fee, which covers the cost of the application process, development work, administrative costs, inspection and preparation of the report and,
- the licence fee which covers any compliance and enforcement activities.

Although both fees will be charged together upon application, the licence component would be refunded if the application was unsuccessful.

6.3 Detailed work has been undertaken to calculate the cost of administering the service, based upon the expected workflow and known staffing costs for each animal based activity licence. These have been benchmarked locally and with other local authorities further afield. The fees have been approved through a Portfolio Holder's Decision.

## **7. REQUEST FOR DELEGATION OF POWERS**

7.1 New Forest District Council is the licensing authority in the New Forest District for the purposes of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 which amends the Animal Welfare Act 2006. The powers described in Appendix 1 to this report are recommended to be delegated to respective posts.

7.2 Delegations of the above powers supersede references to existing delegations with respect to the Animal Boarding Establishments Act 1963, Breeding of Dogs Act 1973, Breeding of Dogs Act 1991, Breeding and Sale of Dogs (Welfare) Act 1999, Pet Animals Act 1951 and the Riding Establishments Act 1964 and 1970. It is recommended that references to these regulations within delegations GP&L 53, GP&L 112, GP&L 114, GP&L 115, GP&L 118, GP&L P7, GP&L Auth 1, GP&L Auth 2, GP&L Auth 3, GP&L Auth 4, GP&L Auth 5 be removed – see Appendix 2. References to other legislation within these delegations should be retained.

## **8. FINANCIAL IMPLICATIONS**

8.1 Implementation of the new legislation will increase the staffing resource to ensure all businesses are licensed in accordance with the new requirements.

8.2 The set fees should ensure this additional resource is covered and the fees will be reviewed once the legislation has been in force for 12 months.

## **9. ENVIRONMENTAL CRIME & DISORDER EQUALITY & DIVERSITY IMPLICATIONS**

9.1 The new regulations will simplify the licensing framework for animal establishments and activities, and create criminal offences for breach of conditions and obstruction of officers.

## 10. CONCLUSION

10.1 The new regulations replace a number of licences with a single licence, which may be issued for one, two or three years based upon an assessment of the risk and the compliance history of the establishment. Prescribed licence conditions will assist local authorities to consistently apply the regulations, and will provide clarity to licence holders. Local authorities will have new powers to revoke, amend or vary licences to deal with non-compliances, or to safeguard animal welfare.

## 11. RECOMMENDATIONS

11.1 That the committee notes the contents of this report.

11.2 That officers be delegated the powers as set out in Section 7.1 (Appendix 1) of this report and the current delegations which refer to the Animal Boarding Establishments Act 1963, Breeding of Dogs Act 1973, Breeding of Dogs Act 1991, Breeding and Sale of Dogs (Welfare) Act 1999, Pet Animals Act 1951 and the Riding Establishments Act 1964 and 1970 as set out in section 7.2 (Appendix 2) of this report, be deleted from the Council's delegations.

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### Background Papers:

None

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None

## Appendix 1

### Recommended delegations to be added

Source	Power Delegated	Delegated to
Animal Welfare Act 2006	To enter premises for the purposes of the Act	Service Managers, Environmental and Regulation Team Managers, Environmental Health Officers, or Environmental Health Technicians
Animal Welfare Act 2006	To administer and enforce the provisions of the Act in the name of the Council.	Service Managers, Environmental and Regulation Team Managers, Environmental Health Officers, or Environmental Health Technicians
Animal Welfare Act 2006	To appoint a listed veterinarian to inspect premises i.e. A person registered in the register of veterinary surgeons maintained under section 2 of the Veterinary Surgeons Act 1966, or a person registered in the supplementary veterinary register maintained under section 8 of that Act.	Service Manager

## Appendix 2

### Parts of delegations to be removed

No	Source	Power Delegated	Delegated to
GP&L 53	Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 Pet Animals Act 1951 Riding Establishments Acts 1964 and 1970	To appoint a veterinary surgeon or veterinary practitioner, or other suitable qualified inspector to enter premises on behalf of the Council for the purposes of the Act	Executive Head, or Service Manager
GP&L 112	Pet Animals Act 1951 Riding Establishments Acts 1964 and 1970	To serve any relevant notice, issue any necessary authorisation, licence or permit and inspect where applicable at any reasonable time any premises and enforce the relevant legislation for the purposes specified in the Acts which are delegated to the Committee	Executive Head, or Service Manager, or Corporate Health and Safety Advisor, or Team Manager (Environmental Protection), or Team Manager (Food and Safety), or Environmental Health Officers, or Senior Building Surveyors
GP&L 114	Riding Establishments Acts 1964 and 1970 Pet Animals Act 1951 Breeding of Dogs Act 1973 Animal Boarding Establishments Act 1963	To appoint a veterinary surgeon or veterinary practitioner or such other competent person to enter premises to carry out inspections and to administer and enforce the provisions of the Acts in the name of the Council	Executive Head, or Service Manager
GP&L 114	Riding Establishments Acts 1964 and 1970 Pet Animals Act 1951 Breeding of Dogs Act 1973 Animal Boarding Establishments Act 1963	To enter premises to carry out inspections and to administer and enforce the provisions of the Acts in the name of the Council	Environmental Health Technicians
GP&L 115	Animal Boarding Establishments Act 1963	To consent in writing to the maximum number of dogs and cats accommodated at boarding establishments laid down in the licence conditions, being exceeded	Executive Head, or Service Manager
GP&L 118	Breeding and Sale of Dogs (Welfare) Act 1999	To take action under the Act	Executive Head, or Service Manager, or Team Manager (Environmental Protection), or Team Manager (Food and Safety), or Environmental Health Officers, or Environmental Health Technicians, Enforcement Manager, or Environmental

			Enforcement Officer, or Enforcement Supervisor, or Enforcement Officer, or Dog Warden, or veterinary surgeon or veterinary practitioner appointed by the Executive Head or Service Manager under their delegated powers (G P & L 53)
GP&L 119	Breeding of Dogs Act 1991	To take action under the Act	Manager, or Team Manager (Environmental Protection), or Team Manager (Food and Safety), or Environmental Health Officers, or Environmental Health Technicians Enforcement Manager, or Environmental Enforcement Officer, or Enforcement Supervisor, or Enforcement Officer, or Dog Warden, or veterinary surgeon or veterinary practitioner appointed by the Executive Head or Service Manager under their delegated powers (G P & L 53)
GP&L P7	Riding Establishments Acts 1964 and 1970	To inspect riding establishments on behalf of the Council	A veterinary surgeon or veterinary practitioner appointed by an Executive Head, or Service Manager pursuant to their delegated powers (G P & L 53)
GP&L Auth 1	Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 Pet Animals Act 1951 Riding Establishments Acts 1964 and 1970	Authority to enter for the purposes of the Acts and any amending Statutes and Regulations in respect of functions which are delegated to the Committee	Executive Head, or Service Manager, or Corporate Health Manager, or Corporate Health and Safety Advisor, or Team Manager (Environmental Protection), or Team Manager (Food and Safety), or Environmental Health Officer, or Environmental Health Technicians
GP&L Auth 2	Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 s.1 Breeding and Sale of Dogs (Welfare) Act 1999 Pet Animals Act 1951 Riding Establishments Acts 1964 and 1970	To enter premises for the purposes of the Act	Executive Head, or Service Manager, or Team Manager (Environmental Protection), or Team Manager (Food and Safety), or Environmental Health Officer, or Environmental Health Technician, or Licensing Compliance Officer, or Dog Warden, or veterinary surgeon, veterinary practitioner or other suitably qualified inspector



			appointed by the Executive Head or Service Manager
GP&L Auth 3	Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 s.1 Breeding and Sale of Dogs (Welfare) Act 1999	To enter premises for the purposes of the Act	Enforcement Manager, or Environmental Enforcement Officer, or Enforcement Supervisor, or Enforcement Officer
GP&L Auth 4	Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 s.1 Pet Animals Act 1951 Riding Establishments Acts 1964 and 1970	To administer and enforce the provisions of the Act in the name of the Council	Executive Head, or Service Manager, or Team Manager (Environmental Protection), or Team Manager (Food and Safety), or Environmental Health Officer, or Environmental Health Technician, or Licensing Compliance Officer , or Dog Warden, or veterinary surgeon, veterinary practitioner or other suitably qualified inspector appointed by the Executive Head or Service Manager
GP&L Auth 5	Animal Boarding Establishments Act 1963 Breeding of Dogs Act 1973 s.1	To administer and enforce the provisions of the Act in the name of the Council	Enforcement Manager, or Environmental Enforcement Officer, or Enforcement Supervisor, or Enforcement Officer