



## EAST STAFFORDSHIRE BOROUGH COUNCIL

### REPORT COVER SHEET

<b>Title of Report:</b>	Animal Licensing Enforcement Policy Update
<b>Meeting of:</b>	Licensing Committee
<b>Date:</b>	19 <sup>th</sup> November 2018
<b>Is this an Executive Decision:</b>	YES
<b>Is this a Key Decision:</b>	NO
<b>Is the Report Confidential:</b>	NO
<b>If so, please state relevant paragraph from Schedule 12A LGA 1972:</b>	NA

**Essential Signatories:**

**ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE**

Monitoring Officer: **Angela Wakefield**

Date ..... Signature .....

Chief Finance Officer: **Sal Khan**

Date ..... Signature .....

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Licensing Committee**

**Date: 19 November 2018**

**REPORT TITLE:           Animal Licensing Enforcement Policy Update**

**PORTFOLIO:             Regulatory Services**

**HEAD OF SERVICE:     Mark Rizk**

**CONTACT OFFICER:     Rachel Liddle       Ext. No. x1838**

**WARD(S) AFFECTED:   All Wards**

**1.    Purpose of the Report**

- 1.1. To propose an updated policy and tiered fee structure for the licensing of activities involving animals following an amendment to Legislation that comes into force from 1<sup>st</sup> October 2018.

**2.    Executive Summary**

- 2.1. This report updates the policy and fee structure for animal licensing following amendments to Legislation which reforms the animal based activities that require licences. This has the effect of consolidating the previous legislation under one piece of legislation with the exception of zoo licences and dangerous wild animals which remain the same. Under the new legislation all animal activities will be encompassed by one new 'Animal Activity Licence'.
- 2.2. Each premises will be provided with a 'risk rating' based on the level to which it meets the standards set out in regulations and guidance, and will be awarded with a star rating ranging between one and five stars. The risk rating and star rating determines the length of the licence to be granted (with the exception of 'Keeping and Training Animals for Exhibition' for which all licences will be issued for 3 years as default). Operators of businesses will be able to appeal their risk rating, or request a reassessment if they have made improvements.

- 2.3. Fees have been calculated to provide full cost recovery for the delivery of the animal licensing regime which have been separated into a fee for application and a fee for compliance in accordance with the procedural guidance notes for local authorities which was released by DEFRA in late July 2018 and draft guidance on fee setting dated January 2018 which is awaiting formal publication.

### **3. Background**

- 3.1. East Staffordshire Borough Council is responsible for the control and regulation of certain animals and animal establishments through a statutory licensing regime.

- 3.2. The licence types currently issued by the Council are:

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

- 3.3. The current number of licences issued by East Staffordshire Borough Council are as follows:

Type of Licence:	Number of Licences Granted:
Animal boarding establishment	30
Pet shop	6
Riding establishment	3
Dog Breeding	8
Dangerous Wild Animal	0
Zoo	0

- 3.4. In addition to the licences issued by East Staffordshire Borough Council. Staffordshire Borough Council is currently responsible for registering any performing animals based within the county.

- 3.5. Animal licensing is currently granted under the following legislation:

- 3.5.1. Animal Boarding Establishments Act 1963
- 3.5.2. Breeding of Dogs Act 1973 & 1991
- 3.5.3. Pet Animals Act 1951
- 3.5.4. Performing Animals (Regulation) Act 1925
- 3.5.5. Riding Establishments Act 1964
- 3.5.6. Dangerous Wild Animals Act 1976
- 3.5.7. Zoo Licensing Act 1981

- 3.6. The Animal Welfare Act 2006 has since introduced the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulation 2018, which amends and repeals the legislation detailed in para 3.5. This comes into force on the 1<sup>st</sup> October 2018.
- 3.7. The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 define the animal based activities that require licences as follows:
- 3.7.1. Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.
  - 3.7.2. Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business.
  - 3.7.3. Hiring out horses in the course of a business for either riding, instruction in riding, or both.
  - 3.7.4. Breeding three or more litters of puppies in any 12-month period; or breeding dogs and advertising a business of selling dogs.
  - 3.7.5. Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology, or both.
- 3.8. Under the new legislation all four existing types of licence, together with the additional activity of keeping and training animals for exhibition will be encompassed by one new 'Animal Activity Licence'. If an applicant is running more than one licensable animal related activity, each activity will be assessed separately and set out in one licence. The length of licence (previously one year in most cases) may be anything between one and three years dependent on the outcome of their inspection, and the type of licence.
- 3.9. Each premises will be provided with a 'risk rating'. This process will establish whether the business is 'low risk' or 'higher risk' based on the level to which it meets the standards set out in regulations and guidance, and award between one and five stars, thus determining the length of the licence (with the exception of 'Keeping and Training Animals for Exhibition' for which all licences will be issued for 3 years as default). The star rating will be displayed on the licence, and included in the Council's public register, published on the Council's website. Operators of businesses will be able to appeal their risk rating, or request a reassessment if they have made improvements.
- 3.10. Procedural guidance notes for local authorities was released by DEFRA in July 2018 and draft guidance on fee setting dated January 2018 is awaiting formal publication.

#### **4. Contribution to Corporate Priorities**

- 4.1. Promoting Local Economic Growth - improved and transparent framework detailing what is required of applicants, and the provision that are required to secure the welfare of animals.

- 4.2. Protecting and Strengthening Communities- the provision of public safety through a consistent approach to enforcement.

## 5. Licensing of Activities Involving Animals

- 5.1. Following the implementation of legislation to reform animal licensing the Animal Licensing Enforcement Policy has been updated to incorporate the legislative changes and guidance released in July 2018 detailing how the reforms should be implemented.
- 5.2. The Animal Licensing Enforcement policy is provided in Appendix 1 and incorporates the following amendments:
- 5.2.1. Update to the scope of animal licensing activities to include performing animals
- 5.2.2. Guidance on the consideration and calculation of the risk rating and length of licence.
- 5.2.3. Procedures for renewing, appealing, varying, suspending or revoking a licence.
- 5.2.4. Review of the fees associated with animal licensing applications to provide full cost recovery.
- 5.3. The new licensing regime comes into force from 1<sup>st</sup> October 2018 and new operators are required to comply with the requirements by this date. For operators with current licences transitional arrangements are in place that apply until the expiry of their licence. The updated policy is therefore required to assist operators in meeting their legal duties.
- 5.4. Based on the above it is recommended that the Council adopts the following fees and charges in relation to the granting of licences under the Act:

Licence Type	Proposed Application Licence Fee 1/2/3 years	Proposed Licence Compliance Fee 1/2/3 years	Total Fee
Initial Licence for a single Licensable Activity	£170	£100	<b>£270</b>
Initial Licence for an additional Licensable Activity	£97	£65	<b>£162</b>
Renewal Licence for a single Licensable Activity	£152	£95	<b>£247</b>
Renewal Licence for an additional Licensable Activity	£83	£65	<b>£148</b>
Vets Fees	<b>Vets fees as applicable (to be arranged and paid by the applicant)</b>		
Rescore Visit	<b>£95 per re-score application</b>		

- 5.5. It is anticipated that an additional 20 operators will fall within the scope for animal licensing. This figure incorporates licences for performing animals, previously provided by Staffordshire County Council along with enquiries

received by the Council from unlicensed operators that will fall under the scope of the legislation from 1<sup>st</sup> October 2018.

## 6. **Financial Considerations**

*This section has been approved by the following member of the Financial Management Unit: Anya Murray*

- 6.1. The main financial issues arising from this Report are as follows:
- 6.2. The Council can charge a fee for the consideration of an application for the grant, renewal, or variation of a licence. Section 13 of the Regulations allows the Local Authority to charge fees for:
  - 6.2.1. the costs of consideration of an application, including any inspection relating to that consideration;
  - 6.2.2. 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;
  - 6.2.3. the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
  - 6.2.4. the reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the secretary of state.
- 6.3. The licence fees have been separated into an initial fee for application covering the cost of processing the application and a subsequent fee following approval to cover the costs of administering and enforcing the licensing regime.
- 6.4. Fees have been calculated in accordance with DEFRA guidance and recommended accounting practice to provide full cost recovery of proposed works to be undertaken.
- 6.5. The current budget in the MTFS was based on recovering costs for a licence regime based on annual renewal of a one year licence recovering application costs. The work associated with the licence and consequently the income to recover costs will now become variable depending on how many of any one type of licence are issued in any one year.
- 6.6. The table illustrates the impact if all our current licences are renewed on a 3 year basis compared with a proportionate view of how many will be 1/2/3 licences (25/50/75 respectively)

Table 1: 3 year licences only

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
MTFS 2019/20	5,000	5,000	5,000	5,000	5,000	5,000
Proposed licensing regime 3 year licences only	11,115	0	0	11,115	0	0
Variance	6,115	(5,000)	(5,000)	6,115	(5,000)	(5,000)

Net loss						(7,770)
----------	--	--	--	--	--	---------

Table 2: A proportionate view (25/50/25)

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
MTFS 2019/20	5,000	5,000	5,000	5,000	5,000	5,000
Proposed licensing regime A mix of 1/2/3 year licences	11,115	2,779	8,336	5,558	8,336	2,779
Variance	6,115	(2,221)	(3,336)	558	3,336	(2,221)
Net gain						8,903

This variability reflects the risk and the amount of work required to be undertaken (see paragraph 3.9).

## 7. **Risk Assessment and Management**

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

7.2.1. The policy aims to provide high standards of welfare for animals that fall within the scope of this policy.

7.3. **Negative** (Threats):

7.3.1. Failure to have an Animal Licensing Enforcement Policy in place could result in an inconsistent approach and a greater likelihood of challenge to particular enforcement decisions.

7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

## 8. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:  
Angela Wakefield*

8.1. The main legal issues arising from this Report are as follows.

8.2. The Animal Welfare Act 2006 is the enabling Act for the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulation 2018, which amends and repeals the legislation detailed in para 3.5. This comes into force on the 1<sup>st</sup> October 2018.

8.3. The new provisions contain nationally set regulations for each animal based activity, which comprise a set of general conditions in respect of matters such as record keeping, types and numbers of animals, staffing, maintaining a

suitable environment and diet, monitoring behaviour, handling of the animals, protecting the animals from pain, suffering, injury and disease and dealing with emergencies. Each specific animal activity then has its' own set of more detailed requirements, tailored to that particular area. The general conditions and those that apply to each animal activity are set out within the policy.

- 8.4. Existing licences will continue on until their stated expiry dates, and will then be renewed under the new regulations.
- 8.5. If a licence application is refused, or the licence is suspended, the operator will be able to appeal to a First Tier Tribunal, which would comprise a panel with specialist knowledge administered by HM Courts and Tribunal Service.

## **9. Equalities and Health**

- 9.1. **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is being revised. The equality and health impact assessment has not resulted in any significant findings.
- 9.2. **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

## **10. Human Rights**

- 10.1. There are no Human Rights issues arising from this Report.

## **11. Sustainability (including climate change and change adaptation measures)**

- 11.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) No

## **12. Recommendation(s)**

- 12.1. To approve and adopt the updated Animal Licensing Enforcement Policy 2018 and proposed fee structure.

## **13. Background Papers**

- 13.1. Animal Licensing Enforcement Policy 2014
- 13.2. DEFRA- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018- Procedural Guidance Notes for Local Authorities. July 2018

## **14. Appendices**

- 14.1. Appendix 1: Animal Licensing Enforcement Policy 2018