



Report Reference Number: L/20/1

To: Licensing Committee
Date: 20 August 2020
Status: Non-Key Decision
Ward(s) Affected: Whole District
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Lead Executive Member: Councillor Pearson, Lead Member for Housing, Health and Culture
Lead Officer: Alison Hartley, Solicitor to the Council

Title: Animal Licensing Policy 2020

Summary:

This report seeks to inform the Licensing Committee of the result of the public consultation on the draft Animal Licensing Policy 2020 ("the Policy") that consolidates existing procedures and incorporates the Animal Welfare (Licensing Activities Involving Animals) (England) Regulations 2018 ("the Regulations"). The adoption of the policy is an Executive function and will be reported on 3 September 2020 to the Executive with any comments the Licensing Committee may have.

1. Recommendations:

The Committee are recommended to: -

- i. Consider the responses to the consultation at Appendix B and refer any comments to the Executive.
- ii. Recommend to Full Council that the Solicitor to the Council be authorised to suspend Animal Activities Licences and amend part 3 of the constitution accordingly.

2. Introduction and background

2.1 The Regulations came into effect on 1 October 2018 and are now the primary legislation for the licensing of the following animal activities:

- Animal Boarding (Catteries and Kennels)
- Home Boarding of Dogs
- Dog Day Care
- Dog Breeding
- Hiring out of Horses (formally riding establishments)
- Sales of animals (formally pet shops)

- Training or Exhibiting Animals (formally Performing animals)

2.2 The Regulations implement a single 'Animal Activities Licence' for any of the Activities shown in section 2.1 above.

2.3 Prior to the new legislation coming into effect the Licensing Committee resolved to issue one-year licences only. After the 1 October 2018 there were several updates to the guidance issued by DEFRA and moving forward the star rating will determine the length of the licence. Licences will be able to be issued for a one, two- or three-year period based on an assessment of risk.

2.4 Standard licensing conditions are prescribed by the Regulations rather than each local authority deciding its own licence conditions for its area. As well as minimum standards, there are higher ones that are designed to incentivise better practice.

2.5 There are now powers for licensing authorities to vary, suspend and revoke licences where there is non-compliance, or it is necessary to protect the welfare of the animal.

2.6 Delegation and Authorisation

2.6.1. The following delegations and authorisations are presently in place:

- i. Granting, renewal and variation of any licence:
 - Delegated to the Solicitor to the Council in accordance with Part 3 of the Constitution.
- ii. Refusal and revocation of any licence application
 - Delegated to the full Licensing Committee.
 - Appeal of the Committee's decision to be heard by the First Tier Tribunal.

2.6.2. The following delegation is required:

- i. Suspension of licence:
 - To be delegated to the Solicitor to the Council and amend part 3 of the Constitution accordingly.

2.6.3. This delegation is required to allow Officers to act expediently to matters such as administrative and procedural requirements or following an officer's inspection of premises it is necessary to protect the welfare of an animal.

2.6.4. The Regulations and the guidance issued by DEFRA allows the Council to suspend Animal Activities Licences on the following grounds:

- i. The licence conditions are not being complied with,

- ii. There has been a breach of these Regulations,
- iii. Information supplied by the licence holder is false or misleading,
or
- iv. It is necessary to protect the welfare of an animal

2.6.5. The Regulations also provide the procedure to be followed when suspending an Animal Activities Licence.

2.7 Within the Regulations is a star rating system to allow customers to see how Businesses perform against the Regulation standards. The star rating is issued by the inspecting licensing officer/animal specialist. The applicant will be provided with the supporting information (inspection reports) which will highlight the inspecting officer's decision on how the risk rating, compliance level and star rating has been determined. The business is encouraged to discuss the matter initially with the inspecting officer. Any appeals against the star rating assigned to the business will be dealt with in accordance with the guidance issued by DEFRA and the proposed appeal procedure set out in the proposed policy.

2.8 As with all decisions made by the Council there is always an appeal process. If a first-tier appeal were made the Courts would look at the following documents in the following order:

- The relevant legislation
- The Council's Policy
- Guidance

Selby District Council does not currently have a Policy for Animal Licensing. It is therefore recommended that the Council adopts a Policy that incorporates the new legislation and shows our basic requirements for such Licenses.

2.9 Unlike other licensing regimes, there is no statutory requirement for local authorities to set policies in relation to animal welfare licensing. The Council do, however, consider it is best practice to do so as benefits bring transparency, accountability, certainty, consistency, and the promotion of good standards in licensing. Policies are an integral part of the decision-making process. A policy guides, but does not bind, a local authority.

2.10 The proposed policy is based on the Regulations and proposes the following:

- Introduction of a fit and proper test, this includes, the right to work in the UK, no relevant convictions, not being disqualified from holding a licence, the knowledge, experience, compliance history and ability to comply with licence conditions and safeguard the welfare of the animals in their care, made suitable management and training arrangements to safeguard and protect any staff and/or members of the public who may be affected by the licence activity.

- A Basic Disclosure (DBS) certificate (issued within 3 months of the date of application) showing that they are not disqualified from holding a licence, and/or hold no relevant convictions which may affect whether they are a 'fit and proper' person to hold a licence.
- We may request information from North Yorkshire Police under our information sharing agreement about any relevant convictions an applicant may hold.
- Details on conditions placed on a licence for Dangerous Wild Animals.
- Details of conditions placed on a licence for Zoos.
- Requirement of a written safeguarding policy and a procedure for vetting staff, for applicants and licence holders whose activities involve contact with children or vulnerable persons
- A list of offences where the Council will not issue a licence if the applicant has been convicted.

3.0 Consultation

3.1 On the 3 February 2020 the Licensing Committee approved a draft Animal Licensing Policy to go before the Executive Council for approval to consult. Executive approval to consult was given on the 11 June 2020.

3.2 A 6-week consultation commenced on the 29 June 2020 and ended on the 10 August 2020. We consulted via the following means:

- Consultation with existing licence holders
- Published on the Councils website
- Published on Selby's Facebook site
- Advertised in a local newspaper

3.3 24 responses were received to the consultation.

3.4 The full consultation responses are included in Appendix B.

4. Implications

Failure to act appropriately under the legislation will make the Council non-compliant with the legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the Council area.

4.1 Legal Implications

- a) There is no statutory requirement to adopt an Animal Licensing Policy, however, the Council believes it is best practice to do so.
- b) The Regulations and the statutory guidance issued by DEFRA provides a new licensing regime for activities which must be licensed, who may apply for a licence and how the Council will determine the applications for a licence.

- c) If the Council refuse to grant or renew a licence, the applicant may appeal to the First-Tier Tribunal, which must be done within 28 days of the decision. Once the Licence is granted, the Council may suspend, vary or revoke the licence.
- d) The statutory guidance issued by DEFRA requires that the Council must have an appeal process for applicants to challenge the initial star rating they are given. The Council proposes the procedure as set out in the proposed policy.

4.2 Financial Implications

There are no financial implications

4.3 Policy and Risk Implications

Failure to regulate animal welfare activities may result in serious harm to animals and have serious reputational impact on the Council.

4.4 Corporate Plan Implications

The consultation process, although not necessary will help us to achieve our corporate priority of making Selby a great place to make a difference. Through allowing local people and businesses to contribute to the development of the policy we are achieving a key focus of the priority, namely, 'empowering and involving people in decisions about their area and services'.

4.5 Resource Implications

N/A

4.6 Other Implications

N/A

4.7 Equalities Impact Assessment

There are no Equality and/or Diversity issues arising from the new Regulations, or approval of an Animal Welfare Licensing Policy. The Regulations and Policy allow an application to be made and assessed against standard criteria, irrespective of any protected characteristics of the applicant.

5. Conclusion

The Licensing Committee approved the draft Animal Licensing Policy for public consultation on 3 February 2020. The Committee is now asked to consider the responses of the public consultation and refer any comments to the Executive Committee.

6. Background Documents

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

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – Procedural Guidance notes for Local Authorities, October 2018 (*guidance issued by DEFRA*).

7. Appendices

Appendix A – Proposed Animal Licensing Policy 2020

Appendix B – Consultation responses

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