

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
15 January 2019

**Subject:** ANIMAL WELFARE REGULATIONS 2018

**All Wards**

**Portfolio Holder for Environmental Health, Waste and Recycling: Councillor S Watson**

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 The purpose of this report is to introduce the requirements of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 which came into force on the 1 October 2018 and are made under the Animal Welfare Act 2006.
- 1.2 The primary aim of the Regulations is to protect animal welfare by introducing modern and consistent welfare standards, simplifying the current licensing model and ensuring that there is a risk based approach to inspection and licensing.
- 1.3 The new licensing regime applies to the selling of animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition. The Regulations prescribe conditions for all the activities, removing any locally agreed conditions and the Chartered Institute of Environmental Health's model conditions.
- 1.4 The Regulations replace the individual statutes that applied to the activities described above, including the legislation that governed performing animals which was previously enforced by the County Council. The remit for performing animals is widened in the Regulations to include animals that are exhibited, for example, mobile animal attractions.
- 1.5 Following an application for a licence the Council must be satisfied that the application provides the required information relating to the licensable activity and then must carry out an inspection of the activity to assess compliance with the Regulations and the licence conditions. The inspecting officer will determine whether a licence is granted for one, two or three years using the risk assessment criteria provided in the Procedural Guidance to the Regulations. Activities where high standards of compliance are identified will be granted a three year licence, generally very good standards a two year licence and where minimum compliance is identified a one year licence will be granted. Where new licence applications are received and the applicant has no compliance history they will be regarded as high risk for the purposes of the risk assessment. Licences for performing animal activities will be granted for three years and a risk assessment is not required. Unannounced enforcement monitoring visits will be undertaken at those premises which are granted a two or three year licence.
- 1.6 Inspections of new breeding establishments and riding establishments must also be undertaken by the Council's appointed veterinarian. Inspecting officers will also use the services of appointed veterinarians in any premises where there are risks or potential risks to animal welfare.
- 1.7 A star rating scheme (one to five, with five being the best) has been introduced which is determined from the risk assessment criteria. The star rating must be included on the licence and the licence must be displayed at the premises. Safeguards are built into the scheme in particular there is an appeal process if an operator disputes the rating that has been awarded and the right to request a re-inspection to improve the rating given to the business. Appeals against star ratings will be determined by a competent officer in the Council or another local authority if required. The information relating to licences and star ratings will be published on the Council's website.

- 1.8 Enforcement powers are provided both in the Regulations and the Animal Welfare Act 2006 and include powers to vary, suspend and revoke a licence with or without consent and to take immediate action to protect animal welfare. The right of appeal is provided in the Regulations for a business operator who is aggrieved by a decision to refuse to grant or renew a licence or to revoke or vary a licence. Appeals must be made to the First-tier Tribunal (General Regulatory Chamber) which is part of HM Courts and Tribunal Service to handle appeals against decisions made by regulatory bodies.
- 1.9 The Regulations allow for local authorities to charge fees to cover the reasonable costs of carrying out their responsibilities. The fees are related to the licensing regime as follows:
- Consideration of the licence application (application fee).
  - Consideration of the licence holder's compliance with the Regulations and the licence conditions including the cost of inspection (compliance visit).
  - The anticipated costs of enforcement in relation to the licensable activity (annual enforcement fee).
- 1.10 Additional fees will be charged for any variation or addition to a licence and for re-rating inspections. A licence is automatically revoked if the fees are not paid. The fee structure is provided at Appendix A.
- 1.11 The Regulations require local authorities to submit an annual data return in electronic format to the Department for the Environment Food and Rural Affairs. This will include information relating to the number of licences granted and the average level of fees charged in the reporting period.
- 1.12 It is anticipated that by publishing information relating to the star rating and from the annual return this will reduce the burden on the Environmental Health service to respond to 'Freedom of Information' requests.
- 1.13 The new regime will place an increased demand on the Environmental Health service. In 2017-18 45 licence inspections were carried out and in 2018-19 it is currently anticipated that 62 inspections will be required; however this could increase as the Regulations introduce new criteria for breeders which will result in an increase to those requiring a licence.
- 1.14 To enforce the Regulations officers must be appointed as Inspectors and hold an accredited Level 3 certificate in inspecting and licensing animal activities. Officers who do not hold this certificate must be able to demonstrate at least one year of experience in this field; however by 2021 all officers must have undertaken and passed the Level 3 training to continue to enforce the Regulations. Presently officers in the Environmental Health service do not hold this certificate however two officers are able to demonstrate suitable experience. Therefore at least two officers must undertake the Level 3 certificate which is a five day course with assessment and the current cost of the course is almost £1000 plus travel expenses and lost productivity whilst the officers are away from their normal duties. It is intended that this expense will be covered by the licence fees.
- 1.15 The Environmental Health service will provide for the enforcement of the Regulations through the Animal Welfare Licensing Enforcement Policy and ensure that only suitably qualified and competent officers are authorised to enforce the Regulations in accordance with the Councils Scheme of Delegation and delegated powers. The updated Animal Welfare Licensing Enforcement Policy is provided at Appendix B and should be read in conjunction the Leisure and Environment Directorate Enforcement Policy.

## **2.0 LINK TO COUNCIL PRIORITIES:**

2.1 Enforcing the requirements of Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 will contribute to the delivery of three of the Council's key priorities: Enhancing Health and Well Being, Driving Economic Vitality and Providing a Special Place to Live.

## **3.0 RISK ASSESSMENT:**

3.1 There are no key risks with implementing the recommendation.

3.2 The key risk is in not approving the recommendation as shown below:-

<b>Risk</b>	<b>Implication</b>	<b>Prob*</b>	<b>Imp*</b>	<b>Total</b>	<b>Preventative action</b>
Failure to enforce the Regulations and not fulfil the Council's statutory duty.	Risks to animal welfare standards if the Regulations are not suitably enforced and non-compliant businesses are allowed to operate creating an unfair trading environment. This could also result in reputational damage to the Council.	4	3	12	The Regulations are enforced and suitable penalties are in place.

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

3.3 Overall the risk of agreeing with the recommendation outweighs the risk of not agreeing the recommendation and is considered acceptable as the Authority has a statutory duty to enforce the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

## **4.0 FINANCIAL IMPLICATIONS:**

4.1 At this stage it is estimated that the implementation of the Regulations will be cost neutral. As identified in paragraphs 1.8 and 1.12 the costs associated with the introduction will be covered by the income generated from the new scheme. Uncertainty with the number and frequency of inspections, and therefore the officer time required and consequent income generated, make it difficult to accurately predict the financial implications, however, regular quarterly monitoring will ensure that any variation from cost neutrality is reviewed. The income from the licence fees will be used to fund the costs of enforcing the Regulations and will therefore be within the existing revenue budget for the Environmental Health service.

## **5.0 LEGAL IMPLICATIONS:**

5.1 The Regulations identify local authorities as the enforcing authority, providing powers to ensure compliance with the Regulations in respect of prescribed activities within its area.

## **6.0 EQUALITY/DIVERSITY ISSUES**

6.1 Equality and Diversity issues have been considered however there are no implications associated with this report.

## **7.0 RECOMMENDATIONS:**

7.1 That Cabinet approves and recommends to Council:

- (1) the introduction and enforcement of the requirements of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018;
- (2) the licence fees and charges included in Appendix A, with future authority being delegated to the Chief Executive to review these as necessary; and
- (3) the revised Animal Welfare Licensing Enforcement Policy at Appendix B and that this be added to the Leisure and Environment Directorate Enforcement Policy.

PAUL STAINES  
DIRECTOR OF LEISURE AND ENVIRONMENT

### **Background papers:**

Animal Welfare Act 2006

<https://www.legislation.gov.uk/ukpga/2006/45>

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

<https://www.legislation.gov.uk/ukdsi/2018/9780111165485>

Guidance to the Regulations

[http://www.cfsg.org.uk/\\_layouts/15/start.aspx#/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involvi/Forms/AllItems.aspx](http://www.cfsg.org.uk/_layouts/15/start.aspx#/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involvi/Forms/AllItems.aspx)

Leisure and Environment Directorate Enforcement Policy

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