



Report author: Scott Higgins
Tel: 0113 378 6586

Report of: Food & Health Team Manager

Report to: Chief Officer Elections & Regulatory

Date: 30th November 2018

Subject: Licence Fees for activities under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Are specific electoral wards affected?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

Summary of main issues

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force 1 October 2018 and replaced a number of existing animal welfare licensing regimes. Businesses & commercial premises carrying out any of the activities covered by the regulations are required to be licensed by Leeds City Council as the Licensing Authority.

The new regulations allow for the local authority to recover the reasonable anticipated costs for the administration and enforcement of the licensing regime from applicants & licensed premises.

Approval is sought from the Chief Officer Elections & Regulatory to implement a new fee structure calculated in accordance with the requirements of the new regulations and associated DEFRA & LGA guidance.

Recommendations

The Chief Officer Election & Regulatory is recommended to note the content of this report and give approval to the new fee structure presented in the report for the licensing regime under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

1. Purpose of this report

1.1 The purpose of this report is to seek approval from the Chief Officer Elections & Regulatory for the introduction of a new fee structure for licences issued by the Environmental Health Team under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

2. Background information

2.1 The Environmental Health Team enforce legislation and licence specific animal related commercial activities to maintain animal health & welfare standards, and protect public health.

2.2 On the 1st October 2018 the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations came into force. These replaced multiple pieces of animal welfare legislation including:

- Animal Boarding Establishments Act 1963;
- Breeding of Dogs Acts 1973 & 1991, as amended by the Breeding & Sale of Dogs (Welfare Act) 1999;
- Pet Animals Act 1951;
- Riding Establishments Acts 1963 & 1970;
- Performing Animals (Regulation) Act 1925.

2.3 The new regulations create a single licensing regime with up-to-date minimum standards of health, safety & welfare for commercial activities & establishments involving animals. Activities requiring a licence issued by Leeds City Council as Licensing Authority include:

- Selling animals as pets, including pet shops;
- The boarding of cats & dogs, including kennel, catteries, home boarding, doggy day-care and doggy crèches;
- Horse riding establishments, including hiring out horses and pony trekking;
- Breeding of dogs, where there are 3 or more litters of puppies in 12 months;
- Keeping or training animals for exhibition.

To require a licence, the applicant must also satisfy a business test within the regulations.

2.4 The regulations now cover internet sales & home sales of animals as well as franchise businesses for dog care and boarding. The licensing of zoos and dangerous wild animals remains unchanged.

2.5 Although subject to change, under the previous legislation across the city Leeds City Council licenced:

- Pet shops = 36;
- Animal boarding establishments = 36;
- Dog breeding establishments = 3;
- Home boarding of dogs = 157;
- Horse riding establishment = 9;

- Performing Animals = 6;

Total = 247.

- 2.6** This figure does not include an estimated 80+ doggy day-care businesses not previously required to be licenced. As this was a previously un-regulated business model, the exact number has yet to be established.
- 2.7** The regulations set out the procedures for applying for a licence and matters the local authority must be satisfied with when considering granting or renewing an existing licence. Under Regulation 4, this includes previous conduct of the applicant, the results of a premises inspection, the ability of the applicant to meet statutory conditions, and payment of the appropriate fee.
- 2.8** The regulations require that applicants are subject to an inspection by an Animal Welfare Officer prior to licence issue, along with a further inspection during the licence period to monitor ongoing compliance.
- 2.9** To ensure minimum standards are met, licences will only be issued subject to compliance with the general and specific conditions within the regulations. To assist businesses and local authorities with this, the regulations are supported by guidance issued by the Department of the Environment, Food & Rural Affairs (DEFRA).
- 2.10** Under the previous legislation, except for performing animal registrations, licences were issued annually from 1st January to 31st December. Under the new regime, licences are granted for 1, 2 or 3 years based on risk and compliance with the statutory conditions and guidance issued by DEFRA. Premises will be risk assessed after each inspection to determine the date of the next inspection and length of licence. Premises will be assessed as being high or low risk and given a star rating from 1 to 5 depending on welfare standards. High risk premises with minimum standards will be inspected, require a new licence, and pay the appropriate fee annually. Medium risk premises will require inspection, licence renewal, and pay the appropriate fee every two years. For low risk compliant premises, this will be every three years. Licences issued for performing & exhibiting animals will last for 3 years from the date of issue.
- 2.11** The new licensing regime contains an appeals process to allow an applicant to appeal the star rating they are given following their inspection. The applicant can also request a re-assessment of the star rating, including a re-inspection.
- 2.12** Carrying out activities covered by the regulations without a licence, or breaching the statutory conditions, are offences for which offenders are liable to prosecution by the authority. The local authority also has the power to suspend, vary or revoke a licence in certain circumstances, including for non-compliance with licence conditions.
- 2.13** As part of transitional arrangements under the regulations, any unexpired licence or registration issued under the previous legislation will remain in force until expired on the 31st December 2018. Any new applications received after 1st October 2018 will be administered and subject to the new regulations.

3. Main issues

- 3.1** Under Regulation 13 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, the local authority may charge such a fee as it considers necessary for:
- a) The consideration of an application for the grant, renewal or variation of a licence, including any inspection relating to that consideration, and for the grant, renewal or variation,
 - b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulation and the licence conditions to which the licence holder is subject in circumstances other than those described in a), including any inspection relating to that consideration,
 - c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
 - d) The reasonable anticipated costs of compliance with Regulation 29 (Provision of Information to the Secretary of State).
- 3.2** In setting fees, the local authority should have regard to 'Open for Business: LGA Guidance on Locally Set Licence Fees' which includes information on what could be considered reasonable. The local authority should also have regard to BEIS Guidance for Business on the Provision of Services Regulations. As with other areas of licensing, regard should also be had to the principles in the Regulators Code.
- 3.3** When calculating 'reasonable anticipated costs', DEFRA guidance advises that the local authority should recover any reasonable costs of administering and enforcing each licence and charge separately for application processing and for enforcement. This can also include any activities underpinning and supporting the licensing process, for example annual review of related policies, guidance & fees.
- 3.4** Regulation 13 makes it clear that licence fees can be charged to cover all activities directly relating to the administration and issuing of a licence, including inspections, applications, renewals & variations, and any subsequent direct costs such as enforcement. In accordance with Regulation 13 and following LGA & DEFRA guidance, proposed fees under new regulations are outlined in Appendix I. Fees are divided into the different licensable activities and size of business to reflect variations in complexity & length of time administering the licence regime between the different premises types.
- 3.5** Fees have been calculated for new applicants and existing licences holders wishing to renew, and are split into Part A – Licence Application Fee and Part B Licence Grant Fee. If an applicant does not wish to proceed after applying for a licence at Part A, they will not be required to pay the Part B fee. Before being issued, applicants are required to pay both Part A and Part B fees. The outlined total cost for each licences type is presented in Appendix I. Further fees have been calculated for variations of licences and for re-assessments of star ratings. In outline:
- **Part A - Licence Application Fee (New Applicant)** – this is the reasonable anticipated costs of the application process for new businesses including review of the activity history for the applicant, officer preparation for inspection, premises inspection, travel to/from any premises, administration costs & post-inspection activities, annual review of licence documentation & fees by a senior officer;

- **Part A - Licence Application Fee (Renewal)** - this is the reasonable anticipated costs of the application process for existing licences premises, review of the activity history for the applicant and officer preparation for the inspection, travel to/from any premises, premises inspection, administration costs & post-inspection activities, and annual review of licence documentation & fees by a senior officer;
 - **Part B - Licence Grant Fee** - this is the reasonable anticipated costs of the grant of the licence, a mid-term visit to check on-going compliance, review of the activity of the licensee, the licence inspection, travel to/from the premises, administration costs & post inspection activities, and annual review of licence documentation by a senior officer, along with provision of information to the Secretary of State;
 - **Variation of Licence** – this is reasonable anticipated costs for either a minor or major variation to the licence;
 - **Star Rating Reassessment** - this is the reasonable anticipated costs for the review of the activity history of the licensee, the licence inspection, travel to the premises, administration costs & post inspection activities, and annual review of the licence documentation by a senior officer.
- 3.6** As required under the legislation, businesses carrying multiple licensed activities will be issued with one licence but quoted a license fee upon application. This will ensure any reasonable anticipated costs are recovered as well as account for the specific circumstances at the premises.
- 3.7** Certain licensable activities, such as dog breeding and horse riding establishments also require an inspection by a veterinary surgeon and the submission of an inspection report to the local authority prior to licence issue. The cost of the associated vet fees will be required to be paid by the applicant before a licence is issued and is not included in the licence costs outlined in Appendix I. The costs associated with a veterinary inspection are dependent on the rates charged by the veterinary practice, the type & complexity of premises, length of inspection & time to produce the report.
- 3.8** The annual charges for licences issued under the previous legislation are outlined in Appendix II. The proposed new charges represent full cost recovery for providing the licensing regime and takes into account the requirement for a more detailed inspection process than under the old regime. It should also be noted that the current level of fees charged have not been formally reviewed & updated for a number of years and do not cover the costs of providing the existing service.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The changes to the animal welfare licensing regime are due to legislative changes and the introduction of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. As the Licensing Authority, Leeds City Council are statutory obliged to implement the regulations within its area.
- 4.1.2 In accordance with Section 61 of the Animal Welfare Act 2006 and Regulation 13 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, a 12 week public consultation was carried out by DEFRA from 20th December 2015 until 12th March 2016. The consultation provided an

opportunity for all interested parties and stakeholders to scrutinise and comment on the proposed legislative changes before the final regulations were drafted and laid before Parliament.

- 4.1.3 When confirmed, the new fee structure will be published on the Leeds City Council animal welfare web-pages and made available upon application for a licence.
- 4.1.4 Existing licensed premises have already been contacted by letter to inform them of the changes to the legislation and potential changes to fees. When finalised they will be informed of the new fee structure on application for renewal and prior commencing the licensing process to enable them to make a decision on whether to proceed or not.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 No specific issues identified.

4.3 Council policies and best council plan

- 4.3.1 The implementation and maintenance of the animal welfare licensing regime supports the Best Council Plan and the Council's policies on public protection, priorities on Health & Wellbeing, and supporting economic growth & local businesses with compliance with legal requirements.

4.4 Resources and value for money

- 4.4.1 In setting the fee options outlined in Appendix I, regard has been given to 'Open for Business': LGA Guidance on Locally Set Licence Fees', BEIS Guidance for Business on the Provision of Services Regulations, principles in the Regulators Code and draft DEFRA guidance on calculation of fees.
- 4.4.2 As required by Regulation 13 and in-line with LGA & DEFRA guidance, the proposed licence fees have been calculated to cover all 'reasonable anticipated costs' associated with administering and enforcing the new licensing regime. This includes activities directly relating to the administration and issuing of a licence, including inspections, applications, renewals & variations, and any subsequent direct costs such as enforcement. The cost also includes activities underpinning and supporting the licensing process, for example annual review of related policies, guidance & fees.
- 4.4.3 The licensing process and fees have been split into Part A – Licence Application Fee and Part B Licence Grant Fee. If an applicant does not wish to proceed after applying for a licence at Part A, they will not be required to pay the Part B fee. Before being issued, applicants are required to pay both Part A and Part B fee and the total costs outlined in Appendix I depending on relevant licence type.
- 4.4.4 The proposed fee structure has been split into different licence types and size of business to account for size, complexity and risk of business & premises type. Under the proposed fee structure larger, more complex business with greater risk will pay a greater fee than small low risk business.
- 4.4.5 As indicated in Appendix II, under both new proposed fee structure, licence fees are subject to substantial increases. However, the fees charged under the previous licensing regime have not been reviewed for a number of years and do not cover the costs of administering & enforcing of the previous licensing regime.

- 4.4.6 The costs have been calculated using the current costs at grade C1 - C3 (£36 per hour) for administrative tasks, with costs at grade SO2 - PO2 (£64 per hour) for enforcement & underpinning activities, including inspections, annual review of policy, guidance, and fees (Appendix I). This cost include direct staffing costs such as wages, NI & pension contributions and associated on-costs associated with that grade. These rates are currently used to calculate costs associated with other activities carried out by Environmental Health Services including cost recovery, works in default, enforcement of other legislation, & prosecutions. To ensure that fees continue to cover the reasonable anticipated costs, they will be subject to an annual review.
- 4.4.7 Under the previous licensing regime the applicants were required to be licensed and pay the full fee annually. Under the new licensing regime, licences will be issued for 1, 2 or 3 years depending on compliance and welfare standards. High risk non-compliant businesses will be re-licensed and pay the proposed fee annually, with compliant well run business potentially being licensed and paying the fee every 3 years. As outlined in Appendix III, taken over the 3 years the cost of the proposed fee will be greatly reduced and reflect the reduced level of costs to the authority for administering and enforcing the new licensing regime.
- 4.4.8 Under the previous licensing regime the fees brought in a total budgeted income of £13,240. However this did not cover the reasonable anticipated costs of administering and enforcing the licencing regime. Under the proposed new fee structure, assuming that all 247 currently licensed premises successfully re-apply and are issued a 1 year licence, the estimated annual income will be in the region of £84,524.75. If all premises are issued a 3 year licence this projected income will be aggregated over the 3 years, or £28,174.92 per annum.
- 4.4.9 The proposed costs have been compared with those of the other West Yorkshire local authorities where available. They are generally comparable to other West Yorkshire fees (Appendix IV). In comparisons with other Core Cities, fees are not yet publicly available for the new licensing regime. Where available at Birmingham City Council, are greater (Appendix V).

4.5 Legal implications, access to information, and call-in

- 4.5.1 Leeds City Council have a legal duty to enforce and administer the licensing regime under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. Under Regulation 3, Leeds City Council are the licensing authority for any licensable activities specified within the regulations carried out at premises with in its area. Regulation 13 makes it clear that licence fees can be charged to cover all activities directly relating to the administration and issuing of a licences under the regulations, including inspections, applications, renewals & variations, and any subsequent direct costs such as enforcement.
- 4.5.2 As required by Regulation 14, the local authority has had regard to guidance issued by the Secretary of State in developing the proposed licence fees, including in relation to administration of the licensing process and calculation of licence fees.
- 4.5.3 At £84,524.75 the projected income is below £250,000 per annum and will not have a significant impact on a specific ward or community. The reports does not contain any exempt or confidential information and is not subject to call-in.
- 4.5.4 Although in terms of income this decision may be classed as an Administrative Decision, due to its nature it is taken as a Significant Operational Decision and published by the local authority accordingly.

- 4.5.5 The Chief Officer, Elections & Regulatory has delegated authority to approve the new fee structure under section 16c Miscellaneous Licences, Executive Functions – Specific Delegations in the Director of Communities & Environment Sub-Delegation Scheme.

4.6 Risk management

- 4.6.1 Without approval of fees, the authority will not be able to charge the appropriate fee, recover the reasonable anticipated costs for administering the new licensing regime and fully discharge their duties under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 4.6.2 As a potential increase in business costs, the increase in fees may result in an unknown number of currently licensed businesses not re-applying for a licence under the new regulations and cease trading. Similarly an unknown number will not be able to comply with new legal requirements, will not be issued with a licence, and therefore may also have to cease trading or be subject to enforcement action.
- 4.6.3 However the new regulations and fee increases only will affect specific businesses carrying out activities covered by the regulations. This includes the 247 businesses currently licenced, 80+ doggy day previously unlicensed businesses, and any new applications. The new regulations and statutory conditions have been subject to national consultation with stakeholders and are being introduced to modernise the sector, ensure and maintain standards of animal welfare, animal and public health. Fees have also been calculated in accordance with the regulations & guidance issued by DEFRA and the LGA, and are in-line with those of other neighbouring and comparable local authorities. They also allow the local authority to recover the 'reasonable anticipated costs'.

5. Conclusions

- 5.1 The proposed fees have been calculated in accordance with the requirements of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 5.2 Under the proposal animal welfare licence fees will be subject to significant increases. However, fees have been calculated following legal requirements & supporting guidance, to ensure the local authority recovers all reasonable anticipated costs of administrating the new licensing regime.

6. Recommendations

- 6.1 The Chief Officer Election & Regulatory is recommended to note the content of this report and give approval to the fee structure for licensing regime under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

8. Appendices

8.1 Appendix I –Proposed fee structure (total costs for Part A & Part B). (*Plus vet fees).

Licence Type	New Application (£)	Renewal (£)	Star Rating Re-assessment (£)	Licence Variation (£)
Home Boarding & Domestic Doggy Day-care	376.70	344.60	259.40	259.40
Commercial Boarding & Doggy Day Care (1 to 10 cats or dogs)	376.70	344.60	259.40	259.40
Commercial Boarding & Doggy Day Care (11 to 25 cats or dogs)	424.85	371.35	259.40	259.40
Commercial Boarding & Doggy Day Care (26 plus cats or dogs)	569.30	424.85	291.50	291.50
Pet Sales (Small/Single Species)	376.70	344.60	259.40	259.40
Pet Sales (Large/Multiple Species)	473.00	376.70	291.50	291.50
*Dog Breeding (Small - 1 to 5 Bitches)	419.50	376.70	291.50	291.50
*Dog Breeding (Medium - 6 to 10 Bitches)	473.00	424.85	291.50	291.50
*Dog Breeding (Large - 11 plus Bitches)	569.30	424.85	291.50	291.50
*Horse Riding Establishments (5 or Less Horses)	376.70	360.65	291.50	291.50
*Horse Riding Establishments (6 to 15 Horses)	424.85	376.70	291.50	291.50
*Horse Riding Establishments (16 plus Horses)	569.30	473.00	291.50	291.50
Animal Exhibitor & Trainer (Single Species)	238.00	205.90	-	259.40
Animal Exhibitor & Trainer (Multiple Species)	270.10	238.00	-	259.40
Businesses with Multiple Activities	Price on application	Price on application	Price on application	Price on application

8.2 Appendix II – Former fee structure under previous legislation & licensing regimes

Licence Type	Previous Fee (£)
Home boarding of dogs	101.00 (Renewal = 44.00)
Animal boarding establishments	115.00
Pet shops	115.00
Dog breeding	101.00
Horse riding establishments	118.00
Performing animals	122.00

****Dependant on premise size & application type (i.e. new application or renewal).**

8.3 Appendix III - Proposed fee costs as 3 year comparison. (*Plus vet fees)

Licence Type	Yearly fee comparison (£)	New Application (£)	Renewal (£)
Home Boarding & Domestic Doggy Day Care	1 year	376.70	344.60
	2 year	188.35	172.30
	3 year	125.57	114.87
Commercial Boarding & Doggy Day Care (1 to 10 cats or dogs)	1 year	376.70	344.60
	2 year	188.35	172.30
	3 year	125.57	114.87
Commercial Boarding & Doggy Day Care (11 to 25 cats or dogs)	1 year	424.85	371.35
	2 year	212.43	185.68
	3 year	141.62	123.78
Commercial Boarding & Doggy Day Care (26 plus cats or dogs)	1 year	569.30	424.85
	2 year	284.65	212.43
	3 year	189.77	141.62
Pet Sales (Small/Single Species)	1 year	376.70	344.60
	2 year	188.35	172.30
	3 year	125.57	114.87
Pet Sales (Large/Multiple Species)	1 year	473.00	376.70
	2 year	236.50	188.35
	3 year	157.67	125.57
*Dog Breeding (Small - 1 to 5 Bitches)	1 year	419.50	376.70
	2 year	209.75	188.35
	3 year	139.83	125.57
*Dog Breeding (Medium - 6 to 10 Bitches)	1 year	473.00	424.85
	2 year	236.50	212.43
	3 year	157.67	141.62
*Dog Breeding (Large - 11 plus Bitches)	1 year	569.30	424.85
	2 year	284.65	212.43
	3 year	189.77	141.62
*Horse Riding Establishments (5 or Less Horses)	1 year	376.70	360.65
	2 year	188.35	180.33
	3 year	125.57	120.22
*Horse Riding Establishments (6 to 15 Horses)	1 year	424.85	376.70
	2 year	212.43	188.35
	3 year	141.62	125.57
*Horse Riding Establishments (16 plus Horses)	1 year	569.30	473.00
	2 year	284.65	236.50
	3 year	189.77	157.67
Animal Exhibitor & Trainer (Single Species)	1 year	238.00	205.90
	2 year	119.00	102.95
	3 year	79.33	68.63
Animal Exhibitor & Trainer (Multiple Species)	1 year	270.10	238.00
	2 year	135.05	119.00
	3 year	90.03	79.33

8.4 Appendix IV - Comparison of West Yorkshire local authority licence fees for new applications. (*Plus vet fees)

Licence Type	Leeds (£)	Bradford (£)	Calderdale (£)	Kirklees (£)	Wakefield (£)
Home Boarding & Domestic Doggy Day Care	376.70	Not currently available	300.36	300.00 to 395.00	320.00
Commercial Boarding & Doggy Day Care	376.70 to 569.30	Not currently available	409.00 to 450.40	333.00 to 409.00	370.00 to 680.00
Pet Sales	376.70 to 473.00	Not currently available	354.92	321.00 to 398.00	350.00 to 410.00
*Dog Breeding	419.50 to 569.30	Not currently available	409.00 to 450.40	329.00 to 383.00	380.00 to 418.00
*Horse Riding Establishments	376.70 to 569.30	Not currently available	409.00 to 491.24	358.00 to 486.00	370.00 to 415.00
Animal Exhibitor & Trainer	238.00 to 270.10	Not currently available	172.74	121.00	218.00

8.5 Appendix V – Comparison with selected core city licence fees for new applications (*Plus vet fees)

Licence Type	Leeds (£)	Birmingham (£)	Sheffield (£)	Manchester (£)	Nottingham (£)
Home Boarding & Domestic Doggy Day Care	376.70	245.00	Not currently available	Not currently available	Not currently available
Commercial Boarding & Doggy Day Care	376.70 to 569.30	314.50	Not currently available	Not currently available	Not currently available
Pet Sales	376.70 to 473.00	432.50	Not currently available	Not currently available	Not currently available
* Dog Breeding	419.50 to 569.30	314.50	Not currently available	Not currently available	Not currently available
* Horse Riding Establishments	376.70 to 569.30	322.50	Not currently available	Not currently available	Not currently available
Animal Exhibitor & Trainer	238.00 to 270.10	245.50	Not currently available	Not currently available	Not currently available