

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

PART 1 – PUBLIC DOCUMENT

SERVICE DIRECTORATE: LEGAL AND COMMUNITY

1. DECISION TAKEN

To amend the existing Animal Licensing Policy to incorporate legislative changes and new national standards.

2. DECISION TAKER

CLlr Gary Grindal
Executive Member for Housing and Environmental Health

3. DATE DECISION TAKEN

20 August 2020

4. REASON FOR DECISION

- 4.1 To ensure that the Council has an up-to-date licensing policy that reflects existing legislation and national standards, and provides clear guidance to licence holders, applicants, the public and officers.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 No alternative options were considered as legislative changes required the Council to amend its policy.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 The proposed amendments to the existing policy were publicised on a specific licensing consultation webpage on the Council's website. All existing licence holders were contacted and signposted to the consultation page.
- 6.2 The Executive Member for Housing and Environmental Health was consulted throughout the process.
- 6.3 Two consultation responses were received, one from an existing licence holder and one from the RSPCA.
- 6.4 The existing licence holder commented as follows:

*"For new applications or renewal of licence
3.1.2 & 3.4.2 Basic Disclosure – I don't think the applicant should be required to pay for this as it is yet another financial burden for the applicant.
As a suggestion, we ask potential employee applicants to apply and pay for a Basic Disclosure. If the Disclosure shows no concerning entries, then we refund the applicant in full. In the council's case, you could ask the applicant to provide the Basic Disclosure, and provided no relevant details are disclosed, a reduced charge (or credit) could be applied to reflect the current cost of the disclosure application.
If you do not like this idea, you should clarify under what circumstances the council 'may' require a Basic Disclosure because it is ambiguous.*

6.1.3.3 In exceptional circumstances, a provisional licence may be issued where minor improvements need to be made.

This gives the impression that it is highly unlikely i.e. exceptional, that a provisional licence will ever be issued. Is this the intention of this clause? Or is the intention that in cases where minor issues are identified, a provisional licence may be issued?

Sections 6 & 15 Further clarification of fees due in the event of refusal of licence would be welcome unless I have missed something. I understand that if the application is rejected, then the application fee is forfeited. If the applicant decides to drop out or withdraws the application at this stage, is the licence fee element still payable. In addition, will NHDC be expecting applicants to pay the whole fee (application plus licence) at the time of application, 10 weeks before issue of the licence?"

6.5 The RSPCA commented as follows:

"Thank you for alerting the RSPCA to the consultation you're running on your new draft animal activity licensing policy. I've had a chance to review this and it looks fine to me: clear, helpful for your officers, applicants and licensees and a succinct expression of your responsibilities under the Regulations. My only suggestion would be to pull out the section on complaints (para 16.5) into a separate section, or at least give it a subheading, so that anyone looking to make a complaint is able to find it more easily. Other than that, the document looks good to me."

7. FORWARD PLAN

7.1 This decision is a key Executive decision that was first notified to the public in the Forward Plan on 1 November 2019.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

Background

8.1 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 introduced a single animal activity licence that can include one or more of the following licensable activities:

- Selling animals as pets
- Providing or arranging for the provision of boarding for cats
- Providing or arranging for the provision of boarding in kennels for dogs
- Providing or arranging for the provision of home boarding for dogs
- Providing or arranging for the provision of day care for dogs
- Hiring out horses
- Breeding dogs
- Keeping or training animals for exhibition

Previous legislation regulating these activities was repealed.

8.2 New national standards were introduced for animal activity licences by way of mandatory licence conditions.

8.3 The existing legislation in respect of Dangerous Wild Animals and Zoos remains in place and is not amended by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

Considerations

8.4 With the legislative changes prescribing mandatory conditions, the main focus of the amendments was to reflect these changes in a clear and transparent way for applicants, licence holders and the public.

8.5 In response to the comments made by the existing licence holder:

- (i) The cost of a DBS to ensure that an applicant has no convictions that would preclude a licence being issued should be borne by the applicant as it is part of the administrative process of the Council determining an application;
- (ii) The issuing of a provisional licence is intended for genuinely exceptional circumstances as stated, as the legislation requires compliance with national standards for a licence to be issued. This paragraph allows the Council some discretion where there are easily remedied works required to comply with national standards.
- (iii) Some additional clarification on the two separate fee elements has been included in section 15.

8.6 In response to the comments made by the RSPCA, a sub-heading for the complaints section has been added as suggested.

9. LEGAL IMPLICATIONS

9.1 By virtue of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, adoption of a local policy in respect of animal establishment regulation is a matter for the Council's Executive.

9.2 Section 14.6.17 (w) of the Constitution states that an Executive Member has authority for:

“making minor amendments to adopted strategies, policies and procedures.”

9.3 The proposed amendments to the existing Policy do not change the licensing objectives or its main focus; all amendments are proposed to reflect the new legislative requirements of the Animal Welfare Act 2006. For those reasons, this can be considered a minor amendment to an existing policy therefore falls within the remit of the Executive Member.

10. FINANCIAL IMPLICATIONS

10.1 The amended policy would have no additional financial implications for the Council. Case law has determined that a Council can recover its reasonable costs of administration and enforcement through licensing fees.

11. RISK IMPLICATIONS

11.1 The risk to the Council of not periodically reviewing and amending policy is that the Policy may become outdated and no longer fit for purpose. Given that the Policy is a fundamental element of consistent decision making, a policy that was not fit for purpose would increase the risk of judicial challenge.

12. EQUALITIES IMPLICATIONS

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 The proposed Policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion or any other protected characteristic. Officers work with all applicants and consent holders, where

appropriate, to ensure that the Council's duty under the Equality Act 2010 is met, for example, guidance notes could be provided in other languages upon request.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and "go local" policy do not apply to this decision.

14. ENVIRONMENTAL IMPLICATIONS

14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 The policy will not place any new human resource implications on the Council.

16. BACKGROUND PAPERS

16.1 [Animal Welfare Act 2006](#)

16.2 [The Animal Welfare \(Licensing of Activities Involving Animals\) England Regulations 2018](#)


17. APPENDICES

17.1 [Amended Policy](https://www.north-herts.gov.uk/home/council-and-democracy/decisions/delegated-decisions-2020) – on Delegated Decision Page: <https://www.north-herts.gov.uk/home/council-and-democracy/decisions/delegated-decisions-2020>

NOTIFICATION DATE: Friday 21 August 2020

LAST DATE FOR CALL-IN: Friday 28 August 2020

Signature of Service Director Consulted:



Date: 17.8.2020

Signature of Decision Taker: Cllr Grindal approved this decision
by email dated 19/08/202

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.