

<b>Title of meeting:</b>	Environment and Community Safety Portfolio Decision Meeting
<b>Date of meeting:</b>	7 <sup>th</sup> November 2018
<b>Subject:</b>	Animal Welfare Licencing
<b>Report by:</b>	Director of Culture and City Development
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

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## **1 Purpose of report**

1.1 To set out how Portsmouth City Council (the Council) will fulfil statutory duties imposed upon it relating to animal welfare licencing for 2018 / 2019 by providing:

- a summary of the new statutory duties placed upon the Council and animal related business operators (ARBO) within Portsmouth;
- the scope of the animal welfare service (AWS) and the demands made on it;
- a profile of animal related businesses in Portsmouth;
- the business priorities of the Council and AWS relating to animal welfare and licencing;
- a summary of the service delivery in terms of animal related business premises inspections;
- a review of key AWS activities identified for 2017 / 2018;
- how ARBO are likely to be regulated in the future.

## **2 Recommendations**

2.1 **It is RECOMMENDED that the Cabinet Member for Environment and Community Safety:**

- a) acknowledges the increased animal welfare licencing related demands placed on available resources as set out in Section 7 and 8 of this report, and the impact of forthcoming changes to governmental regulatory requirements as set out within Section 7;**
- b) approves the continuation of a demand based approach to the statutory regulatory inspection of licenced animal related businesses and an approach in line with the Council's Enforcement policy in response to breaches of animal welfare related legislation as set out in Appendix 1;**

- c) **approves the continuation of the fees and charges currently levied as set out in section 7, Table 1.**

### **3 Reasons for recommendations**

- 3.1 To protect public health, contribute to a healthy community; and protect the welfare of animals in Portsmouth by preventing the spread of animal disease, to humans and other animals.
- 3.2 To safeguard the welfare of animals by ensuring they are provided with the necessary food; shelter and enrichment to ensure their health and well-being through education and appropriate intervention.

### **4 Legal background**

- 4.1 Portsmouth's AWS has historically been delivered in accordance with the statutory requirements laid down in the following key statutes: The Animal Boarding Act 1964; The Animal Breeding Establishments Act 1963; The Animal Welfare Act 2018; The Pet Animals Act 1951; The Dangerous Wild Animals Act 1976; The Animal Health Act 1981 The Rabies Control Order 1974; The Trade in Animals and Related Products Regulations 2011; The Riding Establishments Act 1964.
- 4.2 In 2016 the Government consulted on whether to update the law in England concerning the licensing of various animal activities, namely; selling animals as pets, providing or arranging for the provision of boarding for cats and dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition. They proposed to bring in secondary legislation under the Animal Welfare Act 2006 that would allow for an updated licensing regime for these activities. In September 2016 a summary of responses was produced and Defra further developed their proposals that could update and improve the legislation in this area. In February 2018 the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were laid before Parliament. These came into force on 1<sup>st</sup> October 2018.
- 4.3 DEFRA states that the new Regulations are an important step forward in modernising and streamlining a number of previous Acts and Regulations. As well as updating the powers of local authorities to ensure high standards of animal welfare, the AW regulations also provide robust charging mechanisms that allow local authorities to more effectively recover their costs for this work.
- 4.4 DEFRA has published procedural guidance in relation to the new Regulations, along with guidance notes on the conditions that will apply to licenses issued to authorised different licensable activities. The effect of the new regulations is to replace some existing licensing regimes and to put in place a new licensing regime to control "licensable activities". The new licensing will replace the licensing and registration regimes currently in place. Individuals and businesses currently licensed under one of the above pieces of legislation (Section 4.1) will continue to be valid until the licence is due to expire.
- 4.5 The new Regulations are jointly enforced with local and central government partners; Hampshire County Council's Animal Health Service (HCC) who provide

trained animal health inspectors and The Animal Plant and Health Agency (APHA) who provide intelligence and inspectors to assist with animal welfare issues both inland and at Portsmouth International Port. Additionally, Defra inspectors and veterinarians provide specifically skilled professionals to assist in inspections / interventions at specialist animal business operations such as zoos.

## **5 Current scope of the Animal Welfare Service**

5.1 Animal welfare activities currently undertaken by the Council include:

- Programmed inspections and interventions at licenced animal related businesses at a frequency determined by the licence duration; (currently between 1 and 3 years);
- Revisits to premises following programmed inspections to secure compliance with legal requirements;
- Investigating alleged illegally landed animals at Portsmouth International Ferry Port (IFP) and inland, taking appropriate action such as placing suspected animals into quarantine;
- Investigating complaints of breaches of animal welfare provisions such as unlicenced animal breeders/boarders and pet shops;
- Investigating complaints about the standard of animal welfare in animal related businesses in Portsmouth;
- Signatory and key stakeholder to the local and national emergency outbreak contingency plan in the event of an animal borne disease outbreak such as Rabies; Foot and Mouth (*Aphthae epizooticae*); and Avian Influenza. (HN51);
- Promoting animal welfare by education, training and business support and working with other organisations to assist ARBOs;
- Member of Trading Standards South East Ltd (TSSEL) animal health specialist panel;
- Member and key stakeholder of South East Local Authorities Emergency planning panel for animal related matters.

## **6 Legal background – animal related businesses operators**

6.1 ARBO's must ensure that they comply with the statutory requirements by:

- Submitting a fee and a licence application for a licencable animal related business activity;
- Complying with all licence conditions stipulated by the AWS and/or relevant inspector;
- Not importing animals into the UK that do not comply with animal health requirements and are not accompanied by the requisite health documentation;
- Not engaging in the activities of an animal related business such as a pet shop; zoo; boarder; or breeder without the required licence;
- Not keeping animals classed as dangerous wild animals by statute whether for business purposes or not without the required licence;
- Not mistreating any animal by causing it any unnecessary suffering whether by way of not supplying necessary food; shelter or enrichment or by other means.

## 7 Impact of the new animal welfare legislative requirements

- 7.1 Under the new Regulations the AWS will continue to enforce the licensing schemes but will be allowed to issue licences that run beyond the existing fixed 1 year term. The service will assess each individual business on a risk rating. Those that are considered to be at high risk of breaching the licence conditions will be issued with a 1 year licence. There will be a risk-rating matrix which will us to decide how a particular business should be rated. Risk will be assessed on the basis of past performance and compliance and whether the business is seeking to apply higher standards than the minimum. Voluntary higher standards are set out in guidance. The Regulations will set out the minimum allowable standards.
- 7.2 Licences of 2 or 3 years will be for those individual businesses that local authorities consider to be of medium and low risk. Licences of 2 or 3 years should produce savings for those businesses as there will be fewer inspections. However, those businesses with 1 year licences (high risk businesses) will still have to pay for annual inspections and so will not have any savings. This idea is to encourage businesses to gain earned recognition, become low risk and thereby save money. In the process good compliance and higher standards are encouraged.
- 7.3 All licensing inspectors must be suitably qualified and must hold a suitable qualification to continue to inspect such premises. A transitional provision applies until 2021 so that officers acquire the relevant qualifications.
- 7.4 Defra confirm that locally set fees are a vital means of ensuring that costs can be recovered by local authorities, rather than relying on subsidy from local tax payers. Businesses that benefit from an Animal Welfare License will therefore be asked to pay any reasonable costs incurred by us in providing that licence. However, they must also be able to depend on our fees being fair and reasonable. Our current fees are shown in Table 1.
- 7.5 At this point in time there are no plans to revisit the charges currently in place. Should there be a necessity for dog walkers be incorporated into the animal licensing schemes then these will be levied at the same costs as animal boarders.

**Table 1**

<b>Licence</b>	<b>Fee</b>
Pet Shops	£175 (plus vet's fees)
Dog breeding	£175 (plus vet's fees)
Animal boarding	£175 (plus vet's fees)
Dangerous Wild Animals	£210 (plus vet's fees)
Riding Establishment	£245 (plus vet's fees)
Zoos	£280 (plus vet's fees)

## 8 Animal related business profile and compliance

- 8.1 The profile of the licenced animal related businesses in Portsmouth by category, as

1<sup>st</sup> April 2018, is shown in Table 2. The city is characterised by a number of regular animal related businesses who have been trading for some time, the majority of which are animal boarders.

- 8.2 The city has two zoos, neither of which are a zoo in the conventional sense. One is an aquatic centre housing marine animals the other is a butterfly house.
- 8.3 The new Regulations are likely to see a significant increase in licence applications from animal day only boarders who were previously not required to be licenced. As necessary the AWS will advise ARBOs of this type and publish the new licensing requirements.
- 8.4 A profile of the licenced animal related businesses in Portsmouth is listed in Table 2

**Table 2**

<b>Category</b>	<b>No of premises</b>
Animal Boarders	40
Animal Breeders	2
Keepers of Dangerous Wild Animals (DWA)	2
Pet Shops	6
Zoos	2
Horse Riding Establishments	1
<b>Total</b>	<b>53</b>

- 8.5 Demands on the service continue to be far higher in other areas of responsibility. 100% programmed interventions were achieved in animal related businesses and 6 reactive service requests were dealt with in 2017 / 2018. The focus remains on working in partnership with animal related businesses which has led to a low level of enforcement activity during the year.
- 8.6 Of the 59 animal related interventions achieved in 2017 / 2018, 53 were scheduled premises inspections, 4 were visits in response to complaints and 2 involved education and business support.
- 8.7 It is policy that proportionate action will be taken against any business found to be in breach of animal welfare requirements to ensure it improves its compliance with the legislation. The action taken depends on the issue identified and the risk it presents to the animals and public. In 2017 / 2018 6 animal welfare warning letters were issued. This level of enforcement activity represents 11% of the total number of registered animal welfare related businesses in the city.
- 8.8 There is animal welfare business activity associated with the IFP. This entry point serves freight and ferry routes to France, Spain and the Channel Islands and receives animal imports from the European Union (EU). A significant number of passenger vessels dock at the IFP with passengers travelling with their animals on the Pet Passport Scheme. Intelligence has been received of possible illegal animal imports through Portsmouth Port. As yet the AWS is unaware of the changes that Brexit might bring to this area of its function.

8.9 Animal welfare licencing inspections are carried out by appropriately qualified and authorised environmental health and trading standards practitioners. The officers deliver a single "regulatory service" to a diverse customer base which, in addition to animal welfare, the service covers food safety, health and safety in the workplace, infectious disease control, and port health. As a consequence, the maximum resource that is available to deal with animal welfare is approximately 0.2 FTE officers.

## **9. Service delivery priorities in 2018 / 2019**

9.1 Service delivery priorities in 2018 / 2019 include:

- Ensuring that authorised officers are appropriately trained and authorised to meet the new legislative requirements to enable the Council to meet its obligations to protect public safety and animal welfare;
- The implementation of the new risk based inspection system across all animal related licenced businesses;
- Instigating appropriate action against poorly performing businesses including proportionate enforcement measures in line with the council's enforcement policy;
- The use of necessary use of resource to maintain 100% inspection of licenced animal related businesses;
- Investigate all incidents of alleged illegal landings of animals and the instigation of appropriate action including the quarantining of animal(s);
- Examine the implications of EU exit for the delivery of the animal welfare controls at the IFP.

## **10 Equality impact assessment**

10.1 The application of animal welfare enforcement has been subject to a preliminary equality impact assessment (Appendix 2). Implementation will not affect the concept of fairness established under the adoption of the council's enforcement policy, which ensures that all AWBO are being inspected and enforced equally in accordance with governmental requirements regardless of ethnicity or other matters relating to equality.

## **11 Legal implications**

11.1 Legal Services has confirmed that there are no specific issues relating to the enforcement of animal welfare related business licencing other than the usual range of issues associated with local authority enforcement of legislative requirements.

11.2 They additionally confirm that the move to a risk-based approach for licensing and inspections will benefit those businesses deemed 'low risk' as they move to either a 2 or 3 year licence renewal as opposed to annual. In turn, we will benefit from fewer inspections for those businesses. Businesses that have multiple functions will benefit from only having to apply for a single licence that covers all activities.

11.3 The updated legislation and guidance should result in a clearer, simpler and more consistent licensing system. Licensing will no longer be restricted to the calendar

year, allowing for a more evenly distributed administrative burden for local authorities. Animal welfare conditions should improve as a result of bringing licensing standards in line with the Animal Welfare Act 2006.

## **12 Director of Finance's comments**

12.1 There will be one-off familiarisation costs to regulatory services from the updated regulation and the necessary training of officers to the required standards. The activities proposed and summarised in Section 8 of this report will be funded from the existing service portfolio budgets, as approved by Full Council.

## **13 Service Director remarks**

13.1 The activities of the AWS are an expression of the Councils' continuing commitment to the preservation of animal welfare and public safety in Portsmouth.

13.2 The AWS service contribution, although modest compared to other service delivery areas, is of significant importance to Portsmouth. The Government have made animal welfare a high priority as reflected in the new legislation. The AWS ensures that animal borne disease is prevented from entering the country and spreading putting public safety at risk. Animals are protected ensuring that they receive food, shelter and protection from disease and cruelty.

13.3 Maintaining high compliance with animal welfare requirements is essential. Not only because of the health benefits but because animals are in the public consciousness and the public feel extremely strongly about their welfare which, in turn, highlights the importance of the AWS across all sections of the community.

13.4 The new legislation is a further example of how Local Government regulatory framework continues to undergo far reaching changes which we must adapt to. The AWS has identified service risks relating the range, depth and number of demands placed upon it and the resources assigned to it. Whilst the AWS develops appropriate protocols to maintain the level of skills needed within the team to deliver our responsibilities the levels of resourcing currently assigned to must be recognised. Resources are considered to be low when bearing in mind the maximum service cover available. Public confidence in the council's ability to maintain animal welfare is important and the Council must continue to ensure that the AWS is suitably resourced to ensure that the spread of animal borne disease and cruelty to animals is prevented from happening in Portsmouth.

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Signed by: Stephen Baily - Director of Culture and City Development

## **Appendices:**

**Appendix 1: PCC Enforcement Policy**

**Appendix 2: Preliminary Equalities Impact Assessment**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following list of documents discloses facts or matters which have been relied upon to a material extent by the author in preparing this report:

<b>Title of Document</b>	<b>Location</b>
The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	<a href="https://www.legislation.gov.uk/uksi/2018/486/contents/made">https://www.legislation.gov.uk/uksi/2018/486/contents/made</a>

The recommendations set out in 2.1. above were approved/ approved as amended/ deferred/ rejected by the Cabinet Member for the Environment and Community Safety on 7<sup>th</sup> November 2018.

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 Signed by: Councillor Dave Ashmore, Cabinet Member for Environment and Community Safety