



REPORT TO: LICENSING COMMITTEE ON 8 DECEMBER 2021

SUBJECT: ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (SCOTLAND) REGULATIONS 2021

BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)

1. REASON FOR REPORT

1.1 The reason for this report is to present to the Committee the application forms and supporting documents for the provision of new licencing regimes for various animal related licences in Moray.

1.2 This report is submitted to the Committee in terms of Section III (H) (1) of the Council's Scheme of Administration relating to the exercise of the function of the Council as licensing authority for The Moray Council area.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- i) consider and approve the full licence package including application form, fees and supporting documents to licence the following licence types in Moray:**
 - a) Selling animals as pets (to replace pet shop licences) produced at Appendix 1;**
 - b) Engaging in animal rehoming activities (new licence type) produced at Appendix 2;**
 - c) Operating an animal welfare establishment (new licence type) produced at Appendix 3;**
 - d) Breeding of dogs or cats or rabbits produced at Appendix 4 (to replace existing dog breeding licence and add new similar licences in respect of cats and rabbits);**
- ii) consider and approve proposed application procedures including variations and fees; Appendix 5; and**
- iii) agree an immediate implementation date for the complete licensing systems above.**

3. BACKGROUND

3.1 The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 (“the Regulations”) came into force on 1 September 2021.

3.2 The Regulations provide for the licensing of certain activities and that applications are to be made to the appropriate licensing authority in the form required by the authority.

3.3 The licensable activities include licences to replace certain existing licence types and thereby bring old animal related legislation up to date as well as new licence types, not previously provided for, to ensure the welfare of animals. The licensable activities are:

- Selling animals as pets (to replace pet shop licences);
- Engaging in animal rehoming activities (new licence);
- Operating an animal welfare establishment (new licence);
- Breeding of dogs, cats or rabbits (to replace dog breeding licence).

3.4 Certain people are prevented from making an application for a licence if they have been made the subject of a disqualification order under the Animal Health and Welfare (Scotland) Act 2006 following conviction for a relevant offence.

The Application and Process

3.5 Upon receipt of a valid application and fee the licensing authority is required to instruct one or more inspectors to inspect the premises involved in selling animals as pets, rehoming animals or breeding animals. In respect of an animal welfare establishment the authority may instruct an inspector. The Council has retained vets for pet shop and dog breeding licences. It is proposed that an officer from Environmental Health (“EH”) jointly inspects premises with an appointed vet prior to the granting of any licence and the licence applicant will be responsible for the cost of the vet’s inspection in addition to the application fee. Also time and expenses for EH will generally be incorporated into the application fees. The inspection is designed to ensure the applicant will at least meet the standards of animal welfare required by the Regulations as well as suggesting any further conditions for inclusion on the licence. Specifically the inspector’s report must: contain information about the applicant, any relevant premises, any relevant records, the condition of any animals and any other relevant matter the inspector considers relevant; state whether or not the inspector considers that the standard licence conditions are likely to be met; and for the purpose of animal breeding licences recommend a maximum number of breeding female animals.

3.6 There is no specific provision for consultation with the police but it is proposed that, as with all licence types, such consultation takes place. In addition existing licence types ask applicants if they have sought relevant planning permission and or building warrant approval. Again it is proposed such consultations with other council services continue. Licensing will not duplicate other regulatory regimes but it may alert other services to regulatory issues.

- 3.7 Relevant considerations will include consultee responses and by virtue of section 6(7): the applicant's conduct as the operator of the licensable activity to which the application relates; whether the applicant is a fit and proper person to be the operator of that activity; and any other relevant circumstances.
- 3.8 A licensing authority may grant a licence for a licensable activity for a period of 1 or 2 or 3 years and must be satisfied the length of the licence is appropriate having regard to various matters including the likelihood of breaches of conditions and their potential effect on animal welfare. Also whether applicants already exceed the standards of welfare required by the conditions. The current licences runs for one year.
- 3.9 The licence will be subject to both a prescribed set of standard conditions that apply to all licences, as set out in the Regs, as well as a set of prescribed conditions relevant to each licence type, again set out in the Regs. These conditions are repeated in the guidance to accompany applications within relevant Appendices. On top of these the licensing authority has the power to add such further conditions to licences as it considers necessary for the purposes of securing the welfare of animals for which the applicant is responsible.
- 3.10 There is provision for variation of licences either on application or of the Committee's own motion. This has not been the case before with animal licence types.
- 3.11 It is proposed that where application has been made for an application of 3 years then it should be granted for 3 years by default as there is further provisions for review if necessary.
- 3.12 The Regs provide that the licensing authority may charge such fee as is necessary to: (a) consider the application; (b) cover any inspection; (c) the anticipated cost of monitoring compliance including any inspection; and (d) the reasonable anticipated cost of enforcement. The fee must not exceed the reasonable cost so is designed to be cost recovery as with other licence fees. However, unlike other licence fees, there is specific statutory authority to recover the anticipated cost of ongoing inspection and enforcement rather than just processing the application. Vet fees will still be applicable on top of the application fee.
- 3.13 Each licence bundle includes a suggested fee based on these principles for the Committee's approval. However it should be noted that animal rehoming activities are usually carried out by charities. Therefore the Committee may wish to consider a reduced fee for registered charities. For example the fee scale for public entertainment licences provides for a 50% reduction for registered charities and a 25% reduction for organisations that are not registered as a charity but have general charitable purposes. We propose that the fee to sell animals as Pets remain the same. The current breeding licence costs £115, we propose that the new breeding licence fee be increased to £183.
- 3.14 As with all civic and animal related licence types, the fees will be reviewed as part of the wholesale licence fee review planned for 2022. Given the end of

the financial year is in March, accountancy figures are produced some time after the financial year end and that local government elections are in May, the wholesale review of licence fees will need to be delayed and brought to a meeting of the Committee as soon as possible after the next local elections.

- 3.15 There is no requirement for the licensing authority to produce a statement of policy for these licence types. However the licensing authority is obliged to take notice of the Scottish Government guidance, a copy of which is produced at **Appendix 6**.
- 3.16 As with other licence types it is proposed that most application will be determined under delegated powers and the delegated powers list should be amended accordingly.
- 3.17 However where a consultation response or other circumstances dictate, an application will be referred to the Licensing Committee for determination. It is also proposed that where, during the currency of a licence, an inspection report or other matter such as a complaint indicates a review of the licence is warranted, then the Licensing Committee delegate power to the Head of Governance Strategy and Performance to initiate a review and refer it to the Committee for determination. The Regulations set out powers to the licensing authority to suspend, revoke or vary a licence where there is a breach of a licence condition or the Regulations or it is necessary to protect the welfare of an animal.
- 3.18 As with many existing licence types, should the licence holder die then the licence will be deemed to be held by the former licence holder's personal representative(s) and shall remain in force for 3 months. This is to allow time for another operator to apply for a licence in their own name as there is no provision to transfer a licence.
- 3.19 It is suggested that the new licence types come into effect immediately. If any operator already has a licence (for a pet shop or dog breeding) in force then that licence will continue until expiry, which is usually at the end of the calendar year. The new licence will not be needed unless and until the existing one expires.

4 SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The provisions of licensing directly relate to the priorities within the 10 Year Plan in relation to healthier citizens, a growing and diverse economy and safer communities. Licensing exists to promote public safety, in this context for both staff and customers. Industries that undertake licensable activities can have positive effects on tourism and aid a growing economy.

(b) Policy and Legal

Policy and Legal implications have been explained above.

(c) Financial implications

The costs associated with the new licence types and replacement of existing ones represents a large amount of staff time engaged in gathering and presenting information. Considerable staff time has been required to develop a full application process and policy should the Committee decide to proceed with this licensing regime. This time is being met from existing budgets.

(d) Risk Implications

None identified. It is a legal requirement to implement these licence types and amend the current licence types.

(e) Staffing Implications

Staff time is being met from existing resources.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

No impact identified over and above the usual equalities considerations for licensing.

(h) Consultations

Full consultation has been carried out as previously described

5 CONCLUSION

- 5.1 The Committee is invited to consider and approve all documents and processes created for the new licence type of Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 including the policy and supporting documents to be the Licensing regime to start on the 11th of January 2021.**

Author of Report: Sean Hoath

Background Papers:

Ref: