

CABINET - 17TH FEBRUARY 2016

SUBJECT: ANIMAL WELFARE (BREEDING OF DOGS) (WALES) REGULATIONS 2014

REPORT BY: CORPORATE DIRECTOR SOCIAL SERVICES

1. PURPOSE OF REPORT

- 1.1 To inform Cabinet of new statutory legislation to licence Dog Breeding Establishments in Wales
- 1.2 To note and agree the proposals for determining the licence applications received by the Authority and to set a licence fee under the above legislation.
- 1.3 That the report be presented to Council to authorise the Council's Monitoring Officer to make the necessary changes to the Constitution to reflect the implementation of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

2. SUMMARY

- 2.1 The Breeding of Dogs Act 1973 has been replaced within Wales by the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 which came into force on the 30 April 2015. The Regulations were brought into force under the Animal Welfare Act 2006 ("the 2006 Act"). Any person wishing to breed dogs in Wales must obtain a licence from their local authority in compliance with the new regulations and relevant licence conditions.
- 2.2 The 2006 Act and Regulations are silent upon the issue of the responsibility for exercising the function under the Act. Consequently the provisions of S 9 (D) of the Local Government Act 2000 and/or the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 are triggered giving responsibly for exercising the function to the Executive.

3. LINKS TO STRATEGY

- 3.1 Licensing of dog breeding establishments contributes to the Prosperous Caerphilly and Safer Caerphilly Priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers, and Objective 1 of the Council's Strategic Equality Plan 2012.

4. THE REPORT

- 4.1 The Breeding of Dogs Act 1973 has been replaced within Wales by the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 which came into force on the 30 April 2015. The 2014 regulations were made under the Animal Welfare Act 2006 ("the 2006 Act"). Any person wishing to breed dogs in Wales must obtain a licence from their local authority in compliance with the new regulations and relevant licence conditions.

- 4.2 Prior to the introduction of the Regulations the licensing regime under the Breeding of Dogs Act 1973 was the responsibility of the Licensing Committee which included delegated powers to officers to exercise these functions. The 2006 Act and supporting Regulations are silent upon the issue of the responsibility for exercising the function. Consequently the provisions of S 9 (D) of the Local Government Act 2000 are triggered which provide if an Act is silent on this issue then by default the function will be exercised by the Executive
- 4.3 It is proposed that applications will be determined by Licensing officers under delegated powers. This will include the power to grant, refuse, renew, vary, impose conditions and or suspend a licence. Where a licence holder disputes a decision to suspend or vary a licence he/she may in the circumstances set out in the regulations make representations to the local authority in respect of such a suspension or variation of the licence. It is therefore proposed that such disputes are determined by the Trading Standards, Licensing and Registrars Manager together with the power to reinstate or revoke a licence. Any person who is aggrieved by the refusal to grant or renew or the decision to revoke a licence may appeal to the Magistrates Court.
- 4.4 The new regulations specify requirements that must be complied with before a licence can be issued by the authority. The legislation covers fee setting and circumstances under which a licence may be varied, suspended or revoked. There are rights of appeal to the Magistrates court against licensing decisions and a breach of licence condition is also an offence under the regulations. New powers also allow inspectors to gain entry and take samples for the purposes of DNA testing of dogs kept at the premises.
- 4.5 Under the regulations a person carries on the activity of dog breeding if they keep on the premises 3 or more breeding bitches and
- (a) breeds on those premises 3 or more litters of puppies in any 12 month period;
 - (b) advertises for sale from those premises a puppy or puppies born from 3 or more litters of puppies for sale in any 12 month period;
 - (c) supplies from those premises a puppy or puppies born from 3 or more litters of puppies in any 12 month period; or
 - (d) advertises a business of breeding or selling puppies from those premises.
- 4.6 Schedule 1 of the regulations establish a set of compulsory conditions which must be attached to each licence in addition to a local authority's standard conditions i.e:-
- Implementation of an enhancement and enrichment programme that has been approved by the local authority.
 - Implementation of a socialisation programme that has been approved by the local authority.
 - A requirement that the Licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.
 - Set limits in respect of age of mating, frequency and number of litters
 - Restrictions on change of ownership of puppies until at least 56 days (8 weeks old)
 - Requirement to maintain written records for each breeding bitch and birth of each puppy.
 - Requirement to maintain written records for each puppy at the licensed premises.

- 4.7 The enhancement and enrichment programme is a document that details how dogs will have the opportunity to express normal behaviour. The socialisation programme is a document detailing how puppies will be introduced to human handling, domestic environments, play and how they will be prepared for separation from the dam.
- 4.8 The All Wales Technical Panel for Animal Welfare has consulted local authorities in Wales on an appropriate suite of conditions to ensure compliance with these regulations. A further report will therefore be brought before Cabinet to adopt a new suite of conditions. In the meantime the compulsory conditions listed in 4.6 will be applied to each licence in addition to our existing licence conditions as set out in the background papers.
- 4.9 There have been a number of important cases before the High Court regarding the setting of licensing fees and the Local Government Association (LGA) have issued guidance to local authorities. The underlying principle in setting fees is that Councils must not use fees to make a profit or act as an economic deterrent to deter certain business types from operating in an area. Charges must be reasonable and proportionate to the cost of the processes associated with the licensing regime.
- 4.10 The all Wales Licensing Expert Panel devised a fee calculator toolkit that has been approved by the Directors of Public Protection in Wales. In principle the toolkit calculates two elements, which cover the costs to the authority for the provision of the service and the cost of processing and producing a licence. Officers have used the toolkit and the latest LGA guidance to establish a licence fee for Dog breeding establishments. The proposed fees are as follows with existing fees under the previous legislation shown in brackets:-
- Home Dog Breeders - £138 (£100)
 - Commercial Dog Breeders - £231 (£200).

5. EQUALITIES IMPLICATIONS

- 5.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 8 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report.

6. FINANCIAL IMPLICATIONS

- 6.1 None, the number of licensed breeders are low.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications arising directly from this report.

8. CONSULTATIONS

- 8.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

9. RECOMMENDATIONS

- 9.1 That Cabinet consider the contents of this report and agree:
- a) to note the implementation of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014

- b) that Licensing officers be given delegated authority to determine Licences under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 in accordance with paragraph 4.3 of the Report
- c) that revocations and disputed decisions referred to in paragraph 4.3 of the Report are determined by the Trading Standards, Licensing and Registrars Manager .
- d) that the fee structure set out at paragraph 4.9 of the Report is approved for implementation from 1/4/2016.
- e) That the report be presented to Council to authorise the Council's Monitoring Officer to make the necessary amendments to the Constitution to reflect the implementation of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 In order to comply with statutory requirements and to ensure proper and effective enforcement of the legislation.

11. STATUTORY POWER

- 11.1 The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014. Animal Welfare Act 2006.

Author: Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
Consultees: Councillor Nigel George, Cabinet Member for Community and Leisure Services
Rob Hartshorn, Head of Public Protection
Dave Street, Corporate Director, Social Services
Gail Williams, Interim Head of Legal Services/Monitoring Officer
Mike Eedy, Finance Manager
Shaun Watkins, Human Resources Manager
David A. Thomas Senior Policy Officer (Equalities and Welsh Language)
Myra McSherry , Licensing Manager
Lisa Lane, Legal Services

Background Papers :
Open for business LGA guidance on licensing fees Nov 15
Guidance Document Dog Breeding (Wales) Regulations 2014
CCBC Home Dog Breeding Conditions
CCBC Commercial Dog Breeding Conditions