



CABINET - 26TH JANUARY 2022

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

REPORT BY: CORPORATE DIRECTOR FOR ECONOMY AND ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 To inform Cabinet of new legislation to licence businesses or those operating on a commercial basis who are involved in the licensable activities of selling pets. The above regulations replace and revoke the Pet Animals Act 1951 which was formerly the responsibility of the Taxi & General Licensing Committee.
- 1.2 To note and agree an appropriate scheme of delegated authority for Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021.
- 1.3 To seek approval for the Council's Monitoring Officer to make the necessary changes to the Constitution to reflect the implementation of the Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021, and revocation of the Pet Animals Act 1951, and this be reflected in the update of the Constitution at the Annual Meeting of Council in May 2022.

2. SUMMARY

- 2.1 The Pet Animals Act 1951 which controlled the sale of animals in pet shops and other settings has been replaced by the Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021, made under the Animal Welfare Act 2006. Similar legislation has been in place in England since October 2018.
- 2.2 The new regulations require, subject to qualifying criteria, any person wishing to sell animals in the course of a business including keeping with a view to their being sold or resold to obtain a licence from their local authority.
- 2.3 The 2006 Act and the Regulations are silent upon the issue of responsibility for exercising the function under the Act. Consequently the provisions of S9(D) of the Local Government Act 2000 and / or the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 are triggered giving responsibility for exercising the function to the Executive.

3. RECOMMENDATIONS

3.1 That Cabinet consider the content of the report and agree:

- a) To note the implementation of the Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021.
- b) That Licensing officers be given delegated authority to determine Licences under the above Regulations in accordance with paragraph 5.6 of the report.
- c) That any appeals against the Star Rating of premises can be determined by either of the Head of Public Protection, Community & Leisure Services, Trading Standards, Licensing & Registrars Manager or the Licensing Manager in accordance with paragraphs 5.10 and 5.11.
- d) That the Council's Monitoring Officer makes the necessary amendments to the Constitution to reflect the implementation of the Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021 and revocation of the Pet Animals Act 1951.

4. REASONS FOR THE RECOMMENDATIONS

4.1 Delegated Authority is required in order to deal efficiently with applications and animal welfare issues under the Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021.

5. THE REPORT

5.1 The regulations replace the requirement to obtain a licence under the Pet Animals Act 1951. They introduce stricter welfare standards for those that sell animals as pets and increase standardisation in the sector via the application of mandatory licensing conditions. Though the Regulations were implemented in September 2021 the Statutory Guidance which includes the detail of the requirements was not issued to local authorities until the end of October 2021.

5.2 The regulations require, subject to qualifying criteria, any person wishing to sell animals in the course of a business including keeping with a view to their being sold or resold to obtain a licence from their local authority.

5.3 Puppies and kittens can only be sold by their breeder at the premises effectively introducing a ban on third party sales of puppies and kittens. The sale of Dogs and Cats over 6 months of age would be covered by this legislation.

5.4 Statutory Guidance produced by Welsh Government specifies mandatory general and specific conditions for a variety of pet animals covered by the legislation e.g. dogs, cats, rabbits, fish, reptiles and birds.

- 5.5 Prior to the introduction of the Regulations the licensing of pet sales was the responsibility of the Taxi & General Licensing Committee which included delegated powers to officers to exercise these functions. The 2006 Act and the Regulations are silent upon the issue of responsibility for exercising the function under the Act. Consequently the provisions of S9(D) of the Local Government Act 2000 and / or the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 are triggered giving responsibility for exercising the function to the Executive.
- 5.6 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, suspend, revoke, re-instate a suspended licence.
- 5.7 The decision to vary or suspend the licence must be notified to the licence holder in writing, explaining the reasoning for the decision. Such a suspension, variation or revocation of licence will normally take effect seven working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal, in which case it may be stipulated that the decision has immediate effect.
- 5.8 Following issue of a notice the licensee will have seven working days to make written representation. On receipt of this, the Authority must decide whether to continue with the suspension, variation or revocation of the licence or cancel the decision to make changes to the licence.
- 5.9 A licensee who disagrees with any refusal of an initial application, suspension or revocation of licence may appeal to the magistrate's court within 28 days of the decision.
- 5.10 The Statutory Guidance also enables the implementation of a star rating system for these types of premises to be introduced in Wales in the future. A star rating scoring matrix would be used to determine the star rating to be awarded. Businesses will be given a star rating from 1 to 5 based on the matrix and result of inspection. The system incorporates safeguards to ensure fairness to business with an appeal procedure and a mechanism for requesting re inspection of premises for the purposes of re-rating when improvements have been made.
- 5.11 The Statutory Guidance states that an appeal against a star rating should be determined by the head of the department that issued the licence or by a designated deputy or by the equivalent in another authority. No officer involved in the production of the rating, or in the inspection on which the rating is based will consider the appeal.
- 5.12 The star rating will not be implemented immediately in Wales but in readiness for this it is proposed that the Head of Public Protection, Community & Leisure Services, and the Trading Standards, Licensing & Registrars Manager be authorised to consider any such appeals in addition to the Licensing Manager.

5.13 **Conclusion**

The Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021 replaces the Pet Animals Act 1951. As a result of this change delegated authority is required for officers as specified in the report in order to determine licences, deal effectively with non-compliances and to administer a star rating for premises should such a scheme be implemented in Wales in the future.

6. ASSUMPTIONS

6.1 No assumptions have been made within this report.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

7.1 An Integrated Impact Assessment has not been carried out as this Report relates to governance and delegated powers.

8. FINANCIAL IMPLICATIONS

8.1 There are no significant financial implications associated with this report, fees for specific licence types are set on a cost recovery basis. No major change in numbers of premises licensed in future is expected as a result of the change in legislation.

8.2 Fees will be reviewed for 2022/23 and a further report will be submitted to Cabinet to consider fees under this legislation along with those for Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 and The Scrap Metal Dealers Act 2013.

9. PERSONNEL IMPLICATIONS

9.1 There are no personnel implications associated with this report.

10. CONSULTATIONS

10.1 The report has been sent to the Consultees listed below and all comments received are reflected in the report.

11. STATUTORY POWER

11.1 Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021, Animal Welfare Act 2006.

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Consultees: Councillor Nigel George, Cabinet Member for Waste, Public Protection
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Anwen Cullinane - Senior Policy Officer (Equalities, Welsh Language, and Consultation)

Background Papers:

The Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021

<https://gov.wales/statutory-guidance-pet-sales-licensing-regime>