



## AGENDA ITEM: 7

Report for:	Licensing and Health & Safety Enforcement Committee
Date of meeting:	26 January 2016
PART:	I
If Part II, reason:	

Title of report:	<b>Animal licensing reform – consultation</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To inform the Committee of proposals from DEFRA to reform the licensing of animal boarding establishments, dog breeding establishments, pet shops and riding establishments.
Recommendations	That Committee approve the draft response to DEFRA’s consultation
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>• Maintain a clean and safe environment</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>• Performance excellence</li> </ul>
Implications:	<p><u>Financial</u> This an initial consultation on possible legislative change, and as such it is too early to state definitively what the implications will be if the proposals are taken forward. One of the proposals involves giving licences a longer duration, which would reduce licence fee revenue – however, it would also reduce licence administration, and thus the costs incurred by the Council, by a corresponding amount.</p> <p><u>Value for Money / Risk / Community Impact / Health And Safety</u> None identified at this time.</p>
Consultees:	N/A
Background papers:	DEFRA consultation documents: <a href="https://consult.defra.gov.uk/animal-health-and-welfare/consultation-on-the-review-of-animal-licensing">https://consult.defra.gov.uk/animal-health-and-welfare/consultation-on-the-review-of-animal-licensing</a>
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

1.1. The Council is responsible for the regulation of a variety of animal-related businesses, as well as the keeping of specified dangerous animals by individuals. The licence types which can be issued by the Council are:

- **Animal boarding establishment licences** (for businesses accommodating dogs or cats – e.g. kennels, catteries, home boarders, pet day care)
- **Dangerous wild animal licences** (for keeping one or more dangerous wild animals, from a prescribed list, at premises within the borough)
- **Dog breeding establishment licences** (premises used for, or in connection with, the commercial breeding of dogs)
- **Pet shop licences** (any business which keeps animals with a view to selling them as pets)
- **Riding establishment licences** (premises which keep horses and ponies for hire for riding, or for riding tuition – excluding livery stables)
- **Zoo licences** (for zoos, aquariums and animal parks, which exhibit wild animals to the public)

1.2. The number of licences issued by Dacorum, as of 31 December 2015, was:

- 20 x Animal boarding establishment licences (duration: calendar year)
- 2 x Dangerous wild animal licences (duration: 2 years)
- 1 x Dog breeding establishment licence (duration: 1 year)
- 8 x Pet shop licences (duration: calendar year)
- 5 x Riding establishment licences (duration: 1 year)
- 0 x Zoo licences (duration: 4-6 years)

1.3. In addition to the licences issued by Dacorum, Herts County Council is responsible for registering any performing animals based within the county, and for recording movements of farm animals.

1.4. The legislation governing all of the above licence types has grown up piecemeal – in the case of the licences listed in para 1.1, between 1951 and 1981, with various amending pieces of legislation following. The effect of this is that there are now 10 Acts of Parliament governing the above six licence types, plus numerous pieces of secondary legislation. Additionally, as all conditions and procedures are left to the discretion of each individual licensing authority, there is wide variation from area to area in what must be done to obtain a licence, and in the steps which must be taken to comply with licences, leading to uncertainty and confusion for businesses trading in multiple areas. Additionally, all licences are standalone – a business which offered two or more of the licensable activities (for example, a pet shop which provided accommodation for dogs/cats while their owners were away) would have to apply separately for multiple licences, for a single premises.

1.5. Additional overriding legislation was later introduced by the Animal Welfare Act 2006. Among a range of powers and offences relating to the wellbeing of animals, the Act contains a new licensing power for any animal-related activities which have been specified in secondary legislation. To date, this power has not been utilised.

## **2. CONSULTATION**

2.1. Through DEFRA, the Government are now consulting on a proposal to activate the licensing powers in the 2006 Act in respect of four of the activities which currently require licences under standalone legislation. If this proposal is taken forward, a new single licensing scheme will be introduced for the following activities:

- Accommodation of dogs and cats belonging to others
- Sale of animals as pets
- Breeding of dogs for sale
- Keeping of horses for riding tuition or hire

2.2. The full details of the proposal are set out in the consultation documents, linked above. The proposal envisages that the existing legislation for the activities would be repealed upon the introduction of the new scheme.

2.3. Officers have reviewed the proposal, and prepared the attached draft response, shown at Annex A, for submission on behalf of the licensing authority. The Committee are asked to approve this response, ahead of its submission.

## **Annex A – Draft response to DEFRA consultation**

***Question 1: To what extent do you agree or disagree with the proposal to introduce a single Animal Establishment Licence? Please provide any comments or evidence to support your answer.***

Agree. We are happy to support measures which will reduce administrative burdens and costs, both for regulated businesses and local authorities. The model of a single 'premises licence' for multiple interlinked activities provided in a single location has worked well in respect of the regulation of alcohol sales, entertainment and late night refreshment (the Licensing Act 2003), and is one which licensing authority officers and our computer systems will be able to implement fairly easily.

***Question 2: To what extent do you agree or disagree with the proposal to promote or require use of the Model Conditions by local authorities, for activities where they have been agreed? Please provide any comments or evidence to support your answer.***

Agree. This broadly corresponds with the current model of mandatory licence conditions used in both the Licensing Act 2003 and Gambling Act 2005.

Dacorum has adopted the CIEH's recent model conditions and applies these to our current licences, with the exception of dog boarding where the CIEH's updated document is keenly awaited. However we have noted an issue when these documents have subsequently been updated again, as further changes to our standard licence conditions must then be readopted by our Licensing Committee. We would prefer to see a more stable formulation of such conditions, and therefore ask DEFRA to consider enshrining these within secondary legislation rather than extra-statutory documents.

We believe that all licences nationally should be subject to the same basic restrictions and conditions, possibly following the model of 'default licence conditions' under the Gambling Act 2005, where applicants can request particular conditions be disapplied or substituted if a suitable case for doing so exists. However, licensing authorities should retain the ability to impose additional conditions on individual licences, if particular issues or concerns arise.

***Question 3: To what extent do you agree or disagree with the proposal to prohibit the sale of puppies below the age of eight weeks? Please provide any comments or evidence to support your answer.***

Agree.

***Question 4: To what extent do you agree or disagree with the proposal to make clear that the statutory licensing threshold for dog breeders is set at three or more litters per year? Please provide any comments or evidence to support your answer.***

Agree, although we would wish to see the licensing requirement for any person breeding dogs on a commercial basis is also retained, to ensure that a commercial breeder would continue to be subject to licence terms and conditions in any year when he happened to breed a smaller number of litters (for example, if he happened to have an outbreak of disease leading to the loss of dogs, or was otherwise replacing breeding stock).

***Question 5: To what extent do you agree or disagree with the proposal to legally require pet sales to provide written information when selling animals? Please provide any comments or evidence to support your answer.***

We would suggest that, for common pet species, it would be sufficient for pet shops to have such written information available on request, rather than requiring it to be supplied with each sale. A customer with a large tropical aquarium at home, for example, is likely to buy additional fish on a reasonably regular basis, to maintain stock in an established system, and is unlikely to need the information afresh with each purchase. We would also suggest that much of this information, particularly relating to the suitability of accommodation and care requirements, is required in advance of the purchase of animals, to enable customers to fully

appreciate the responsibility they are taking on by making the purchase – a requirement to supply information at the time of purchase is likely to be too late to safeguard the welfare of the animals concerned.

***Question 6: What other proportionate measures could address concerns around the care of exotic animals?***

For exotic animals requiring particularly specialist care, habitats, and so on, we would expect sellers to be satisfied that the prospective customer has appropriate skills, knowledge and resources to care for the animal in question, and to refuse the sale otherwise. Whether this needs to be legislated for is open to debate. We do have a specialist exotic pet shop licensed in our area where this expectation is met without being mandated, the proprietor and his staff regularly advise individuals and organisations on the welfare and safe keeping of exotic animal species, and are also involved in the rescue and rehabilitation of exotic animals which have not received adequate care.

***Question 7: To what extent do you agree or disagree with the proposal to allow licences to be issued for a fixed term, set at any point in the year? Please provide any comments or evidence to support your answer.***

Strongly agree. This is a common-sense approach which will spread the administrative burden of licence applications over the year, rather than concentrating them into an arbitrary period.

***Question 8: To what extent do you agree or disagree with the proposal to increase the maximum length of a licence that local authorities may issue to up to three years? Please provide any comments or evidence to support your answer.***

Strongly agree with longer-duration licences. We would ask DEFRA to consider going further and introducing open-ended licences, subject to a power for LA's to inspect at any reasonable time (likely to remain on an annual basis, with an appropriate annual fee being payable to cover the costs of this), and licence review/revocation powers being introduced. This would mirror the Licensing Act 2003 (alcohol/entertainment licences), and would see the largest reduction of administrative burden for licence-holders. We would however disagree with introducing variable length licences, as this will simply increase the variation between licensing authority areas, which we view as the biggest weakness of the current system.

***Question 9: To what extent do you agree or disagree with the proposal to allow licence holders to transfer licences to new owners of the same premises, subject to notification of and approval by the local authority? Please provide any comments or evidence to support your answer.***

Agree. This is a sensible proposal, as if a business is sold in its entirety it is likely that it will continue to operate in a very similar manner under its new owner, often with the same staff. We are aware of cases where a licence-holder has retired and left a business to a relative or assistant who has a long-standing involvement in that business, yet has had to apply for new licences as if they were brand new. A simplified licence transfer application mechanism would address this, although we would suggest that LA's should retain a power to refuse such applications in the event that the transfer applicant is unsuitable – a notification procedure is unlikely to be sufficient for this purpose.

***Question 10: To what extent do you agree or disagree with the proposal to require licence holders to notify local authorities of major changes, such as a change of premises or scale of activities? Please provide any comments or evidence to support your answer.***

Little detail is given here, meaning it is difficult for us to answer this. We would agree with a licence variation mechanism for changing stocking/capacity numbers in the event of expansion at an existing site. However, we would suggest that moving to new premises

should require a new licence application, as this will have the potential to drastically change the operation of the licensed business, and should therefore be reassessed by the licensing authority.

**Question 11: To what extent do you agree or disagree with the proposal to maintain the registration requirement for performing animals? Please provide any comments or evidence to support your answer.**

**Question 12: To what extent do you agree or disagree with the proposed changes to the registration system for performing animals? Please provide any comments or evidence to support your answer.**

We currently have no involvement in the registration of performing animals, and therefore cannot comment on these questions. However, if retained, DEFRA may wish to consider consolidating this function with other animal licensing functions at district council level, rather than county councils in two-tier administrative areas.

**Question 13: To what extent do you agree or disagree with these proposals on powers of entry? Please provide any comments or evidence to support your answer.**

Agree, although we would disagree on a legislative cap of four persons permitted to enter premises under a warrant. Were intelligence to be received of a large breeding operation for example, where hundreds of animals were present, a larger number of persons would be required to execute the warrant. The application for a warrant will detail any persons who it is proposed would accompany the lead officer, and it is for the courts to determine if this is proportionate and reasonable. We believe this should be left to the courts to determine on a case by case basis.

**Question 14: To what extent do you agree or disagree with the proposal to allow an exemption from licensing requirements for businesses affiliated to a body accredited by UKAS? Please provide any comments or evidence to support your answer.**

Disagree. This has the potential to create a fragmented system with variable standards, particularly if multiple bodies receive UKAS-accreditation, and ultimately cause confusion to the public. Maintaining a single system whereby a district council is responsible for the regulation and inspection of all premises in a geographic area will ensure consistent application of standards throughout that area and, if suggestions made earlier for standardising licence durations, conditions, etc are implemented, across LA boundaries. A single system will also ensure a single point of contact in an area for complaints about poor standards of welfare at animal business premises, enabling members of the public to report their concerns and be assured that they will be investigated by a body with no commercial links to the trader concerned.

**Question 15: Do you think sector-led UKAS-accredited certification schemes could improve animal welfare in unlicensed areas? If so, what would work best and how could this process be encouraged?**

Agree. This authority has previously written to DEFRA to express its concerns about the proliferation of commercial but unlicensable pet-related businesses, such as dog walkers, pet sitters, mobile groomers, and so on, for whom there is no structure of formal regulation/accreditation, no clear regulatory oversight, and no ready means for authorities to identify perpetrators and take enforcement action in response to wrongdoing. If DEFRA is not minded to introduce formal regulation for such businesses, we would strongly support trade-led accreditation schemes to raise the standards of such businesses and weed out businesses not providing adequate care and service to their clients.