

To: Communities and Housing Policy Board

On: 31 October 2023

Report by: Director of Environment, Housing & Infrastructure

Heading: Consultation on Licensing of Activities Involving Animals

1. Summary

- 1.1 On 18 August 2021, the Regulatory Functions Board approved a report outlining new and revised duties regarding certain animal licensing activities under the <u>Animal Welfare (Licensing of Activities Involving Animals)</u> (Scotland) Regulations 2021.
- 1.2 Scottish Government have now launched a consultation exercise on the extension of the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 proposing to licence further commercial animal related activities, and to replace existing legislation covering animal boarding and riding establishments. Under these regulations, the Local Authority where the premises are located is considered to be the relevant licensing authority, with one specific exception where Scottish Ministers are the licensing authority.
- 1.3 The consultation seeks views on proposals to extend the current licensing regime to include sectors such as dog walking, dog grooming, providing livery services and businesses offering canine fertility services. Any new licensable activities will have mandatory general and activity-specific conditions attached these conditions are proposed to be detailed within the Regulations.
- 1.4 The proposal allows for fees to be set locally, which will enable Local Authorities to recover reasonable costs relating to the processing of applications, inspections and enforcement activities. There will be resource implications for the Council, should the provisions of the Regulations be enacted in full and at this stage these are not fully understood, as the Council has no information on specific numbers of traders currently operating in Renfrewshire who will require to be licensed.

- 1.5 It is proposed (as is currently the case for existing licensable activities) that Licences will be issued for either 1, 2 or 3 years and their duration will depend on a number of factors including previous compliance, confidence in management of the activity, or whether the licensee is already operating to higher standards than the minimum set.
- 1.6 The response to the consultation was collated from the experience of relevant services within the wider Climate & Public Protection service including Environmental Health, Trading Standards & Licensing and the Community Safety Partnership Hub (Animal Warden). The response was due to be submitted by 26 September, and a copy of this response this has been included in Appendix A.

2. Recommendations

It is recommended that the Board:

- 2.1 notes the consultation proposals, and homologates the submitted response, as detailed within Appendix A, and
- 2.2 requests a further report is brought to a future meeting of this Policy Board, when the regulations have been finalised with an update on implications for the Service.

3. Background

- 3.1 The Scottish Government introduced new legislation in 2021 (the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021) to regulate certain activities involving animals, which included dog, cat and rabbit breeding; the sale of animals as pets; animal rehoming premises and animal welfare premises.
- 3.2 To improve animal welfare across other areas of currently unregulated activities, and to modernise legislation which covers certain activities, the Scottish Government are collating views on a number of areas which they intend regulating through extension of the 2021 Regulations. This is in response to a number of concerns raised about potential harm to animals subject to being in such premises which are detailed throughout each part of the consultation document. Concerns include, mistreatment, abuse, illegal use of medicines, overworking and animals being kept within unsuitable conditions. There are also concerns within some licensable activities of humans being subject to unsafe practices, putting them at risk as well as the animals eg, horse riding establishments mis-matching inexperienced riders with unsuitable horses.

- 3.3 New licensable activities include:
 - Commercial dog walkers,
 - Dog groomers,
 - Livery services of all kinds,
 - Canine fertility businesses, and
 - Greyhound racing (currently only two operational tracks in Scotland).
- 3.4 The consultation document further proposes to revoke the Animal Boarding Establishments Act 1963 and the Riding Establishments Act 1964, both being considered as outdated and not fit for the purposes of licensing such establishments. Establishments currently licensed under these Acts will require to transition across to the proposed new licensing regime. It is possible this may have implications for their business model, in terms of the premises and staff qualifications and training.
- 3.5 It is proposed that licensable activities involving animal boarding and riding establishments will be updated, as follows:
 - Catteries and dog kennels,
 - Commercial day boarding of dogs,
 - Home boarding of dogs,
 - Equine activities including horse riding, donkey hire, donkey riding, pony parties.

In Renfrewshire, there are around 48 businesses licensed for these activities under the current legislative regime.

- 3.6 Board members will note that the response is generally supportive to the proposals to extend what is considered as a licensable activity under the Regulations. However, in terms of dog fertility services, the consultation response recommends that whilst the introduction of a mandatory licensing scheme is supported, the regulation of this would be better served through an amendment to the Veterinary Surgeons Act 1966, making it an offence for any person to engage in canine fertility services unless they meet the requirements of that Act. This position is predicated on the level of knowledge and detail of fertility practices required to regulate such activities (and what is deemed to be medical interventions) being outwith the scope of knowledge and training of Local Authority officers.
- 3.7 It is recognised within the consultation response that the proposals whilst likely to improve standards in sectors which will be subject to licensing will also require a greater input for Inspecting Officers and Local Authorities. This will place a significant burden on Officers and will require competencies out with normal enforcement capabilities including animal condition scoring. A recommendation is made throughout the response that funding to effectively resource this licensing system is provided by the Scottish Government. It will be challenging to effectively resource this significant additional work with the existing resources available to the Local Authority to regulate current animal licensing services.

3.8 A further report will be brought to a future meeting of this Policy Board, when the regulations have been finalised, with an update on implications for the Service.

Implications of the Report

- 1. **Financial** minimal impact, as any reasonable costs incurred from the licensing process are recoverable from the owners of the supply.
- 2. HR & Organisational Development None.

3. Community/Council Planning –

- Our Renfrewshire is thriving regulation of animal welfare and licensing
 of persons involved in activities which are subject to a licence will ensure
 that operators maintain high standards, are effectively regulated and will
 reduce the negative impacts on legitimate businesses from unlicensed
 operators. This will provide confidence for businesses and the public
 providing or using these services.
- 4. Legal None.
- 5. **Property/Assets** None.
- 6. **Information Technology** None.
- 7. Equality & Human Rights
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
- 8. Health & Safety None.
- 9. **Procurement** None.
- 10. **Risk** None.
- 11. **Privacy Impact** None.
- 12. **COSLA Policy Position** N/A.
- 13. Climate Risk N/A.

List of Background Papers

(a) Background Papers – <u>Minutes of the Regulatory Functions Board of 18</u> <u>August 2021, Agenda point 8</u>

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Renfrewshire Council response to the 'Licensing of activities involving animals' Consultation

Full consultation can be viewed at: <u>https://www.gov.scot/publications/licensing-activities-involving-animals-consultation-document/</u>

• Licensing of commercial dog walkers

Q1. Do you agree that dog walking businesses should be subject to a statutory licensing scheme?

Yes, Renfrewshire Council supports the introduction of a statutory licensing scheme for dog walking businesses. Renfrewshire Council has seen an increase in the number of dog walking businesses over recent years and this has raised concerns as these are unregulated; dog walkers have been seen with too many dogs to be safely controlled and being walked in unsuitable environments, often off-lead, which can pose risks to members of the public, their pets and livestock. Whilst the Council has a voluntary responsible dog walkers scheme, this is for the general community and does not include commercial dog walkers and therefore does not bring any degree of control over dog walking businesses.

The licensing of dog walking businesses is likely to place additional, significant burden on local authorities and Renfrewshire Council would recommend funding is provided by the Scottish Government to allow effective resourcing of a licensing system for the multiple proposed areas within this consultation document. Without this funding, it is difficult to see how Renfrewshire Council will have sufficiently trained Officers to undertake these additional, onerous duties.

Q2. If you do not support the introduction of statutory licensing, what controls, if any, would you otherwise recommend?

N/A

Q3. Do you think that license applicants should be required to hold recognised, relevant qualifications (for example, in dog behaviour, canine first aid, animal welfare)? If yes, what level of training do you consider appropriate?

Yes, Renfrewshire Council would support a requirement that persons in control of dogs as part of a business have some level of training in dog behaviour, canine first aid and animal welfare as it will not be possible to demonstrate an understanding of responsibilities without such training. The Council has not explored what training is available for business operators and their staff, however a formal qualification demonstrates a commitment to learn and develop skills appropriate and necessary to care for dogs in the course of a business.

Q4. Do you agree that the licensing authority should, where appropriate, be able to stipulate on any licence granted the maximum number of dogs that can be walked at any one time?

Yes, it is considered essential that a facility to limit the number of dogs per responsible person is available within the licensing process and Renfrewshire Council consider that to exert proper control over dogs, this should be a maximum of four dogs per responsible person.

Q5. Are there any further controls or measures that you would like to see introduced as part of a licensing scheme for dog walking businesses?

Renfrewshire Council would recommend and support a full expense recovery model to fund the proposals for licensing dog walking businesses, including provisions to introduce a charging scheme for processing a licence application, issuing the licence and the investigation of complaints and non-compliance with licence conditions.

Q6. Do you support the proposal that applicants for a dog walking business licence are required to demonstrate that they maintain an acceptable level of record keeping and have clearly set out and established standards of service and care? Please provide reasons for your answer.

Yes. Renfrewshire Council supports this proposal which will be in line with other animal licensing requirements and will allow local authority enforcement officers the ability to access information where required as part of the inspection and complaint investigation process.

Q7. Do you know of any challenges or negative consequences that may arise from the introduction of statutory licensing for dog walking businesses? If yes, what are they and how best could these be addressed?

No.

Q8. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

No - the introduction of a licensing scheme for dog walking will not have any adverse impact on those with protected characteristics.

• Licensing dog groomers

Q1. Do you agree that dog grooming businesses should be subject to a statutory licensing scheme?

Yes. Renfrewshire Council supports the introduction of a statutory licensing scheme for dog grooming businesses. The significant increase in the popularity of such businesses has seen a rise in numbers and it is noted that there is minimal regulation of dog groomers. It is understood and well documented that dog grooming businesses often offer other services which are outwith the scope of grooming but if undertaken by untrained staff, could give rise to injury, infection and suffering for dogs eg anal gland draining. The introduction of a mandatory scheme, with a requirement for public liability insurance, meeting model standards of operation and requirements for training/qualifications will see an improvement how dogs are looked after when in the care of a business.

The licensing of dog grooming businesses is likely to place additional, significant burden on local authorities and Renfrewshire Council would recommend funding is provided by the Scottish Government to allow effective resourcing of a licensing system for the multiple proposed areas within this consultation document. Without this funding, it is difficult to see how Renfrewshire Council will have sufficiently trained Officers to undertake these additional, onerous duties.

Q2. If you do not support the introduction of statutory licensing, what controls, if any, would you otherwise recommend?

N/A

Q3. In your opinion, should any future licensing scheme apply to dog groomers only or should it apply more widely, for example to all pet animals?

The licensing scheme should be introduced for all pets who may be subject to grooming activity, unless there is another scheme already in place to regulate this.

Q4. There is currently no requirement for dog groomers to hold any qualifications (although many do). Do you think that holding a recognised qualification should be a requirement under any future licensing scheme? If yes, what qualification as a minimum should be required?

Yes, qualification should be required. Renfrewshire Council would support a requirement that persons in control of dogs as part of a business have some level of training in dog behaviour, canine first aid and animal welfare as it will not be possible to demonstrate an understanding of responsibilities without such training. The Council has not explored what training is available for business operators and their staff, however undertaking qualifications demonstrates a commitment to learn and develop skills appropriate and necessary to care for dogs in the course of a business.

Q5. Are there any further controls or measures that you would like to see introduced as part of a licensing scheme for dog grooming businesses?

Renfrewshire Council would recommend and support a full expense recovery model to fund the proposals for licensing dog grooming businesses, including provisions to introduce a charging scheme for processing a licence application, issuing the licence and the investigation of complaints and non-compliance with licence conditions.

Q6. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. If yes, please explain your answer.

No.

• Licensing of livery services

Q1. Do you support the proposal to introduce statutory licensing for operators of livery yards?

Yes. Renfrewshire Council supports the introduction of a statutory licensing scheme for operators of livery yards. The introduction of a mandatory scheme, with a requirement for public liability insurance, meeting model standards for operation and requirements for training/qualifications will see an improvement in how equines are looked after when in the care of a business.

The licensing of livery yards is likely to place additional, significant burden on local authorities and Renfrewshire Council would recommend funding is provided by the Scottish Government to allow effective resourcing of a licensing system for the multiple proposed areas within this consultation document. Without this funding, it is difficult to see how Renfrewshire Council will have sufficiently trained Officers to undertake these additional, onerous duties.

Q2. If you do not support the introduction of statutory licensing, what controls, if any, would you otherwise recommend?

N/A

Q3. Should licensing apply to all livery services, regardless of type or scale?

Yes. given the concerns raised within this consultation document it would be considered prudent to require all livery services to be regulated to the same standard, providing consistency across the industry and will also allow liveries to amend their business model, without falling foul of licensing requirements.

Q4. Are there any further controls or measures, beyond those set out above, that you would like to see introduced as part of a licensing scheme for operators of livery yards?

Renfrewshire Council would recommend and support a full expense recovery model to fund the proposals for licensing livery businesses, including provisions to introduce a charging scheme for processing a licence application, issuing the licence and the investigation of complaints and non-compliance with licence conditions.

Q5. Do you know of any challenges or negative consequences that may arise from the introduction of statutory licensing for livery yards? If yes, what are they and how best could these be addressed?

No

Q6. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

No

• Licensing canine fertility businesses

Q1. Do you agree that businesses offering canine fertility services should be made subject to a statutory licensing scheme?

Yes. Renfrewshire Council supports the introduction of a statutory licensing scheme for canine fertility businesses. The introduction of a mandatory scheme, with the proposed future licensing requirements will see an improvement in the welfare of dogs whilst in the care of a business operating within this sector. The requirement for persons to meet a fit and proper test will assist in removing unsuitable persons from operating within this sector however, there are concerns that the level of knowledge and detail of fertility practices, what is deemed to be medical interventions which only RVCS registered veterinary surgeons are permitted to undertake and the detail around illegal practice is outwith the scope of knowledge and training of local authority Officers. It is considered that canine fertility services (as described within the consultation document) would be better regulated through an amendment to the Veterinary Surgeons Act 1966 making it an offence for any person to engage in canine fertility practice unless they meet the requirements of that Act.

Where it is decided that the licensing of canine fertility services rests with local authorities, it will place additional, significant burden on them and Renfrewshire Council would recommend funding is provided by the Scottish Government to allow effective resourcing of a licensing system for the multiple proposed areas within this consultation document. Without this funding, it is difficult to see how Renfrewshire Council will have sufficiently trained Officers to undertake these additional, onerous duties.

Q2. If you do not support the introduction of statutory licensing, what controls, if any, would you otherwise recommend?

N/A

Q3. If you do support the introduction of statutory licensing, which services should be regarded as "canine fertility services" and therefore require a licence?

The type and level of services provided by a canine fertility business could be extensive and in terms of what is required to be covered by a licence would depend on whether a veterinary surgeon is named as being associated with the business, and whether they are present to undertake/supervise suitably qualified staff to undertake procedures.

Given the level of knowledge and understanding of what is involved with related procedures this question should specifically be directed to veterinary surgeons. They will have a greater understanding of how invasive the fertility procedures are, with a knowledge of what adverse health impacts an unqualified/trained person carrying out procedures can have on a dog.

Q4. Do you support the proposal that any veterinary surgeon named as being associated with a canine fertility business needs to be present during any inspection undertaken, or arranged by, the licensing authority when the authority so requests?

Yes. this will ensure that businesses have a legitimate veterinary surgeon in place and can discuss issues which may arise during an inspection of the business by the appropriately appointed inspector for this purpose.

Q5. Do you support the proposal that as part of the licence application process, canine fertility businesses would be required to submit evidence of the health screen testing undertaken for all dogs used by the business, including testing to assess a dog's temperament?

Yes, Renfrewshire Council would support this requirement to ensure dogs undergoing any treatment service offered by a business is healthy and will not suffer as a consequence of the treatment.

Q6. Should screening also include veterinary certification of health and genetic suitability of all dogs/semen and bitches used for breeding whether or not owned by the business?

Yes, Renfrewshire Council would support this requirement to ensure that dogs not considered suitable are not used within any breeding programme, regardless of whether the dog is under the ownership of the business. If a dog is not healthy or genetically suitable for breeding, the ownership of this animal is largely irrelevant and for the purposes of regulating canine fertility businesses any fit and proper person working within this field would not breed from such dogs.

Q7. Do you support the proposal that as part of the licence application process, canine fertility businesses would be required to provide information on any stud dogs owned by or intended for use by the business (for example ownership details, microchip number, where kept)?

Yes, Renfrewshire Council would support this requirement which would form part of a reputable businesses' operating plan and record keeping to demonstrate puppy lineage, and suitability for being used to breed. It is expected however, that new businesses may not have such information at the time a licence application is made but could be a condition that such records are provided annually to the licensing authority.

Q8. The current licensing framework to which we propose to add canine fertility businesses, allows for licences to be granted for a period of 1 to 3 years, depending on assessed risk. Do you agree with the proposal that canine fertility businesses are instead required to renew their licence annually, due to the higher animal welfare risks associated with such businesses?

Renfrewshire Council would support the requirement that licences for canine fertility businesses are licenced on an annual basis as it is accepted that such businesses are open to abuse and placing the welfare of animals within their care at risk. It is recognised that organised crime is increasingly becoming involved within this market which places animals at even greater risk.

Renfrewshire Council would recommend and support a full expense recovery model to fund the proposals for licensing canine fertility businesses, including provisions to introduce a charging scheme for processing a licence application, issuing the licence and the investigation of complaints and non-compliance with licence conditions.

Q9. Are there any further controls or measures that you would like to see introduced as part of a licensing scheme for canine fertility business?

No.

Q10. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

No.

• Greyhound Racing

Q1. Do you agree that operators of greyhound racing tracks should be made subject to a statutory licensing scheme?

Whilst Renfrewshire Council supports the introduction of a statutory licensing scheme for greyhound racing tracks and acknowledging there are only two such tracks within Scotland, there is no further comment which the Council would wish to raise in respect of this.

Q2. If you do not support the introduction of statutory licensing, what controls, if any, would you otherwise recommend?

N/A

Q3. Do you support the proposal to require veterinary presence when greyhounds are racing to allow pre and post-race health checks of dogs and ensure prompt veterinary care of any injured dog?

N/A

Q4. The current licensing framework to which we propose to add canine greyhound racing allows for licences to be granted for a period of 1 to 3 years duration, depending on assessed risk. Do you agree with the proposal that greyhound tracks are instead required to renew their licence annually, due to the higher animal welfare risks?

N/A

Q5. Do you know of any challenges or negative consequences that may arise from the introduction of statutory licensing for greyhound racing? If yes, how best could these be addressed?

N/A

Q6. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

N/A

• Animal Boarding (including day care)

Q1. Do you support our proposal to revoke the 1963 Act and bring animal boarding under the scope of the 2021 licensing framework? Please explain the reason for your answer.

Yes. Renfrewshire Council supports the 1963 Act being revoked and replaced with a new modern and more flexible licensing scheme for the boarding of animals. The proposed improvements to the licensing scheme will see an improvement in how animals are looked after when in the care of a business.

Whilst LAs currently licence animal boarding establishments, it is recognised that the new licensing requirements will require greater input for inspecting officers/Local Authorities and is therefore likely to place additional, significant burden on them and Renfrewshire Council would recommend funding is provided by the Scottish Government to allow effective resourcing of a licensing system for the multiple proposed areas within this consultation document. Without this funding, it is difficult to see how Renfrewshire Council will have sufficiently trained Officers to undertake these additional, onerous duties.

Q2. Are there specific conditions or measures that you would like to see included in any future licensing scheme for animal boarding?

Renfrewshire Council would recommend and support a full expense recovery model to fund the proposals for licensing animal boarding establishments, including provisions to introduce a charging scheme for processing a licence application, issuing the licence and the investigation of complaints and non-compliance with licence conditions.

Q3. Do you know of any challenges or negative consequences that may arise from revoking the 1963 Act and licensing instead under the 2021 licensing framework? If yes, what are they and how best could these be addressed?

No

Q4. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

No

• Licensing of riding establishments and wider equine activities

Q1. Do you support the proposal to revoke the 1964 Act and bring riding establishments under the scope of 2021 licensing framework instead? Please explain the reasons for your answer.

Yes. Renfrewshire Council supports the 1964 Act being revoked and replaced with a new modern and more flexible licensing scheme for riding establishments. The proposed improvements to the licensing scheme will see an improvement in how equines are looked after when in the care of a business.

Whilst LAs currently licence riding establishments, it is recognised that the new licensing requirements will be more onerous on both businesses and will require greater input for inspecting officers/Local Authorities. Whilst Renfrewshire currently use veterinary services to inspect horse riding establishments, there are currently only a handful of these within the area and the burden on veterinarian staff is relatively low. There is concern that extending this to additional areas for regulation could increase this burden which may result in veterinary support being less likely to be provided. This is likely to place additional, significant burden on them and Renfrewshire Council would recommend funding is provided by the Scottish Government to allow effective resourcing of a licensing system for the multiple proposed areas within this consultation document. Without this funding, it is difficult to see how Renfrewshire Council will have sufficiently trained Officers to undertake these additional, onerous duties.

Renfrewshire Council would recommend and support a full expense recovery model to fund the proposals for licensing equine activities, including provisions to introduce a charging scheme for processing a licence application, issuing the licence and the investigation of complaints and non-compliance with licence conditions.

Q2. Do you support the proposal to extend statutory licensing to other riding/equine activities such as those discussed above (donkey hire, pony parties etc)? Please explain the reason for your answer.

Yes. given the concerns raised within this consultation document it would be considered prudent to require all riding/equine services to be regulated to the same standard, providing consistency across the industry.

Q3. If riding establishments and other equine activities were in future regulated under the 2021 licensing framework, what conditions of licence would you support or like to see included?

No.

Q4. The 2021 licensing framework, to which we propose to add riding establishments, allows for licences to be granted for a period of 1 to 3 years duration, depending on assessed risk. Do you agree that local authorities should be able to licence riding establishments that operate to consistently demonstrable high standards for periods of more than 1 year?

Yes. However, as this is a new licensing regime and will have many new conditions which establishments will require to be compliant with, Renfrewshire Council would consider issuing any new licence under the 2021 licensing framework for one year initially, thereafter considering compliance with the new framework conditions could be assessed, alongside prior compliance under the previous Act (if it is a riding establishment) to thereafter consider potential to extend the licensed period to a longer period, up to the maximum three years.

Q5. Do you think there should be any exemptions from the licensing system for certain types of equine activities or businesses, and if so, which ones and why?

No - all establishments meeting the definition within the future framework should be required to be licensed.

Q6. Do you know of any challenges or negative consequences that may arise from revoking the 1964 Act and licensing instead under the 2021 licensing framework? If yes, what are they and how best could these be addressed?

No.

Q7. What other measures do you think could be taken to improve equine welfare in Scotland, and how could they be integrated into a modern licensing system for equine activities?

Renfrewshire Council has no opinion in respect of this question.

Q8. Are you aware of any examples of how any of the proposals above may impact, either positively or negatively, on those with protected characteristics? These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. If yes, please explain your answer.

No.