

To: INFRASTRUCTURE, LAND AND ENVIRONMENT POLICY BOARD

On: 7 NOVEMBER 2018

Report by: DIRECTOR OF COMMUNITIES, HOUSING & PLANNING SERVICES

**Heading: CONSULTATION ON THE PROPOSAL FOR NEW REGULATIONS
FOR THE LICENSING OF DOG, CAT AND RABBIT BREEDING
ACTIVITIES IN SCOTLAND**

1. Summary

- 1.1 The trade in illegally imported puppies, or puppy farming is on the rise, as the demand for puppies increases. As the demand grows, the concerns for animal welfare increase. In the Programme for Government 2017-18, the Scottish Government have made a commitment to introduce new legislation to improve and enhance the licensing of dog, cat and rabbit breeding activities in Scotland. This would replace the current legislation in Scotland and will be done under powers conferred by the Animal Health & Welfare (Scotland) Act 2006. Introducing new legislation under these powers will allow for relevant amendments to be made more easily in future, without changing primary statute.
- 1.2 The practice of breeding dogs in Scotland is currently governed by the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999. Under these pieces of legislation, a licence is required for any individual who either a) undertakes the business of breeding dogs for sale, or b) owns or is responsible for breeding bitches which produce a total of five or more litters between them in a 12-month period. The breeding of cats and rabbits is currently unregulated.
- 1.3 The proposals seek to extend the requirement for a licence to the breeding of both cats and rabbits, as well as lowering the threshold for licensable dog breeding. It is further proposed that breeders who hold some form of independent accreditation will be subject to a lower frequency of inspection.
- 1.4 At present in Renfrewshire, these dog breeding licences are processed by either Environmental Health (Environmental Improvements Team or Business Regulation Team) or the Trading Standards and Licensing Team within Communities & Public Protection. There are currently no dog breeders in the local authority area who fall within the current licensing regime.

- 1.5 The final date for submissions to the consultation is 30 November 2018. A response will be submitted to Scottish Government by the Council within the timescales set following this Board. The proposed response is attached as Appendix 1 and indicates that Renfrewshire Council are supportive of the proposal to strengthen and extend the licensing regime for animal breeding in Scotland.
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2. Recommendations

- 2.1 It is recommended that the Board:
- (i) notes the consultation on the proposals to regulate the breeding of dogs, cats and rabbits in Scotland; and
 - (ii) approves the Council's consultation response as detailed in Appendix 1 to this report.
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3. Background

- 3.1 Dog Breeders in Scotland are currently licensed under the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999. Within Renfrewshire, this legislation is enforced by both Environmental Health (Environmental Improvements Team or Business Regulation Team) and the Trading Standards & Licensing Team within Communities & Public Protection.
- 3.2 There are currently no licensed Dog Breeders within the Renfrewshire boundary. This is due to the high threshold under the current legislation which only requires a breeder to be licensed when they produce more than 5 litters of puppies in a year, which is not breached by most hobby breeders.
- 3.3 The current fee for a Breeders' Licence in Renfrewshire (2018/19) is £70.55, however a separate fee is also incurred for veterinary fees. A Vet is required to provide a report on the welfare of the breeding stock (and any offspring) on the premises at the time of inspection.
- 3.4 Communities & Public Protection receive a low number of reports (1-3 complaints annually) of unlicensed dog breeders within Renfrewshire, although this is likely to increase under the proposed legislation. To date, no complaints have been substantiated under the current legislation.
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4. Implications of the proposals

- 4.1 The aims of the proposed bill are to set out a stronger licensing framework for pet breeders in Scotland, which in turn should better protect the welfare of these animals.
- 4.2 This proposal addresses measures that fall to the local authority in their role as the licensing authority and seeks to ensure that all local authorities maintain a consistent and appropriate standard of inspection and enforcement.
- 4.3 Key weaknesses of the current regime under existing legislation are that:
- When issuing a license a local authority must have regard to a number of specific welfare needs, but licensing officers are not required to have any specific animal welfare training and there is only very general statutory guidance for the imposition of licence conditions.

- Local authorities are given the power to inspect licensed premises but have limited powers to deal effectively with non-compliance.
- The licensable threshold is too high. Most hobby breeders will find it impossible to reach the threshold of 5 litters per year.

4.4 Some of the key elements of the proposed bill include:

- Extension of the regime to the breeding of cats and rabbits.
- Reducing the threshold for pet breeding to three or more litters per year.
- Improving flexibility by allowing authorities to issue licences for longer periods on a risk assessed basis.
- Improving the powers available to a local authority to allow licences to be revoked or suspended for certain contraventions.
- Discouraging the breeding of dogs, cats and rabbits whose breeds are known to have a predisposition towards genetic health conditions which can cause health and welfare problems in later life.
- Alleviating some of the burden on both local authorities and breeders by reducing the inspection frequency for accredited breeders.

4.5 The proposed response from Renfrewshire Council is generally supportive of the new bill, however, it should be noted that the changes will have a resource implication for the Council. The current cost of a licence will be reviewed to offer the potential for the Council to cover appropriate costs.

Implications of the Report

1. **Financial** – None
2. **HR & Organisational Development** – None
3. **Community Planning** –

Renfrewshire is thriving – ensuring that all pet breeders comply with appropriate and standardised licensing requirements will ensure the safety of animals and businesses.

4. **Legal** – This consultation could lead to a change in legislation enforced by Renfrewshire Council
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** – Not applicable
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List of Background Papers

None

MC/OR
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CONSULTATION ON THE PROPOSAL FOR NEW REGULATIONS FOR THE LICENSING OF DOG, CAT AND RABBIT BREEDING ACTIVITIES IN SCOTLAND

Consultation questions

1. The Scottish Government proposes that dog, cat and rabbit breeding activities should be regulated. Do you agree?

Yes

Regulation is necessary to ensure high standards of animal welfare, and to provide a fair framework for commercial activity.

2. Do you agree with the proposal to set the licensing threshold for dog, cat and rabbit breeders at three or more litters a year?

Yes

The current limit of five is too high – in the last five years in this authority this has only been met by one “hobby” breeder, and that was met in one year only.

3. Do you have any comments on the thresholds that should apply? Should these be different for the separate species?

No comment.

4. Do you agree with the proposal that a breeding dog, cat or rabbit must not give birth to more than six litters in their lifetime?

Yes

No further comment.

5. Do you agree with the proposal that as a condition of licensing, premises should only be allowed a maximum of 20 breeding dogs or cats within one calendar year?

Yes

No further comment.

6. Do you agree that individuals with unspent convictions for animal welfare offences or other criminal convictions (e.g. fraud) should not be allowed to hold a licence for breeding activities?

Yes

This would be in line with other licensing legislation and is imperative to ensure animal welfare. The extension to other criminal convictions should cover all consumer protection legislation, as well as common law fraud.

7. Are there other considerations, apart from criminal convictions, that should be part of a 'fit and proper person' test for those running dog, cat or rabbit breeding activities?

No comment.

8. The Scottish Government proposes that reasonable costs of inspections should be charged to recover costs to inspectors approved by Scottish Ministers or local authorities. Do you agree with that proposal?

Yes

Licensing of breeders who are not specifically in business as a breeder is likely to create a substantial burden on local authorities. These persons will require enhanced support and guidance, and this cannot be met under current resourcing levels. A reasonable fee will allow appropriate staffing to be retained.

9. Should licence fees be set by the authorised inspectors, local authorities or by the Scottish Government? Do you have any comments on what cost is reasonable and what should be included in this? (For example, this might include recovery of administrative costs, or payment for the inspector's time etc).

Scottish Government

At present, fees vary across Scotland, and often do not accurately reflect the cost to the Local Authority. This creates a "postcode lottery" for applicants, as well as a varying burden on both business and enforcement agencies. We would recommend that Scottish Government set fees in statute (or statutory guidance) if possible. As per recommendations in other recent animal licensing consultations (e.g. pet shops, sanctuaries) different fees could be set for different sizes or types of breeding establishment. It would be useful if that fee could then also be extended by local authorities to take into account mileage and/or travelling time. It is essential that any statute should state that Vet fees are chargeable in addition to any licence fee. It would also be useful if statute could clarify if the fee is an "application fee" (chargeable in terms of any application, whether successful or not, and generally all renewed on 1st January annually), or if the fee is a "licence fee" (chargeable only if successful, and renewable annually on the date of application).

10. The Scottish Government considers that licences lasting from one to three years may be issued on the basis of a welfare risk assessment. Do you agree?

Yes

We would support this proposal as it would minimise burden on both authorities and businesses.

11. Do you think that a national list of licensed premises and activities should be kept?

Yes

No further comment.

12. Do you have any comments on who should be able to access information from the list, and if a charge should be made for information?

Yes

We would recommend that this register is made a public record.

13. The Scottish Government believes that enforcement agencies should be able to suspend, vary or revoke licenses or issue improvement notices for minor irregularities.

Do you agree with this proposal?

Yes

We would support this proposal, which is in line with other recent proposals in the field of animal establishments' licensing. This also allows authorities greater flexibility to work towards compliance with businesses without resorting to prosecution.

14. The Scottish Government proposes that new legislation will require compliance with any relevant Scottish Government guidance as one of the licence conditions. Do you agree that this should be a condition of licensing? If you are aware of any other relevant standards please comment.

Yes

No further comment.

15. Do you agree that appropriate fixed penalties should be available for minor non-compliance with the licensing legislation? (These are not currently available for animal welfare offences but may be introduced in future.)

Yes

Fixed penalties can be an effective way of ensuring compliance with legislation, without having to over-burden the Courts system.

16. Do you agree that the Scottish Government should discourage the breeding of dogs, cats and rabbits with a predisposition for specific genetic conditions, which lead to health problems in later life?

Yes

No further comment.

17. Do you agree that as a condition of licensing, any breeding practices which are likely to cause the offspring suffering in later life should be prohibited?

Yes

No further comment.

18. Do you have any comment on any other appropriate measures the Scottish Government could take to discourage harmful breeding practices?

No

No further comment.