

To: Regulatory Functions Board

On: 18 August 2021

Report by: Director of Communities and Housing Services

**Heading: The Animal Welfare (Licensing of Activities Involving Animals)
(Scotland) Regulations 2021**

1. Summary

- 1.1 The trade in illegally imported puppies, or puppy farming, is on the rise as demand for puppies increases and with associated concern for animal welfare also increasing. 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 Acts, 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.
- 1.2 The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 come into effect on 1 September 2021 and replace the Acts regulating the breeding and sale of dogs and further extends the requirements to include licensing of cat and rabbit breeders. 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 new licensing regime also regulates animal rehoming activities, animal welfare premises (which includes animal sanctuaries and rehoming centres) and the selling of animals as pets, which includes the sale of animals from pet shops (currently regulated under the Pet Animals Act 1951).
- 1.4 All licenses issued will have mandatory general and activity-specific conditions attached – with these conditions detailed within the Regulations.

- 1.5 The regulations allow for fees to be set to recover reasonable costs relating to the processing of applications, inspections and enforcement activities. There will be resource implications for the Council to enact the provisions of the Regulations in full and at this stage these are not fully understood as the Council has no information on how many dog, cat and rabbit breeders currently trade within Renfrewshire who will meet the threshold for a licence.
 - 1.6 On the basis of the best information available a schedule of Fees has been proposed for the consideration of Board members.
 - 1.7 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 and whether the licensee is already operating to higher standards than the minimum set.
 - 1.8 As further guidance is issued and more information is identified relating to the expected resource implications further reports will be brought back to future meetings of the Board for consideration.
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2. Recommendations

- 2.1 It is recommended that the Board
 - (i) notes the content of this report and that a further report on the full extent of the new regulations will be brought to a future meeting of the Board; and
 - (ii) agrees the proposed scheme of proposed charges for licence fees detailed within appendix 1 of 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. There are currently no licensed dog breeders within Renfrewshire, which is due to the high threshold to be met within the current legislation, which only requires a breeder to be licensed when they produce more than 5 litters of puppies in a year, and is not breached by most hobby breeders.
- 3.2 Under existing animal licensing legislation and these new Regulations, the Local Authority within the area where the licensable activity takes place is the relevant licensing authority, however there is one specific exemption whereby Scottish Ministers are the relevant licensing authority which relates to the licensing of animal rehoming activities where the applicants neither reside or have a place of business in Scotland.
- 3.3 The licensing of cat and rabbit breeders has been, until the introduction of these new regulations, completely unregulated and it is not known how many breeders of such animals will require to be licensed. Although not requiring to be licensed, there is currently a provision to regulate the sale and supply of ferrets as pets.

- 3.4 With the implementation of these Regulations from 1 September 2021, animal rehoming centres and animal welfare premises will also require to be licensed. It is acknowledged within guidance which the Scottish Government has produced that these are often charity-based organisations and that the costs to such premises should be minimised, where possible.
- 3.5 The regulations will also require anyone engaged in the selling of animals as pets, or the expectation they will be resold as pets, or keeping animals for these purposes will require to be licensed. The definition of an animal is any vertebrate which will include all mammals, reptiles and fish. This will include pet shops, currently licensed under the Pet Shops Act 1951, which is repealed on the implementation of these new regulations.
- 3.6 For dog, cat and animal breeders the regulations provide thresholds which require to be met for anyone engaged in this activity, reducing the current requirement for dog breeders. This will potentially capture current dog breeders who do not meet current thresholds and the thresholds, for information are:
- Dog breeders - any person breeding 3 or more litters of puppies in any 12-month period must be licensed.
 - Cat Breeders - any person breeding 3 or more litters of kittens in any 12-month period must be licensed.
 - Rabbit breeders - any person breeding 6 or more litters of kits in any 12-month period must be licensed.
- 3.7 These thresholds apply regardless of whether the breeder sells or otherwise supplies the animals to be kept as a pet to another person, with some limited exceptions eg a dog breeder intending to supply the offspring for training as assistance dogs.
- 3.8 The Regulations make provision for local authorities to charge a fee for the consideration of an application for grant, renewal or variation of a licence and the subsequent grant, renewal and variation of the licence. The fee for consideration of an application can include the cost of any related inspection. The fee charged for the consideration of an application and for any related inspection must not exceed the reasonable costs of the consideration and inspection. As licences can be issued for durations of one, two or three years the fees set for administering the licensing and inspection of premises requires to be the same, regardless of the licence duration. This rewards good compliance by operators of licensable activities where they demonstrate consistently high levels of compliance and operate to high animal welfare standards; such premises being likely to be granted licences for a longer duration.
- 3.9 Upon receipt of any application, Local Authorities are required to arrange for the premises to be inspected by an appointed person for this purpose, who requires to be suitably qualified and experienced, with a sound understanding of animal welfare. Currently Environmental Health Officers and Regulatory Officers within Communities and Housing undertake this role for the inspection of animal licensed premises, however the Regulations extend the inspection requirements for new activities where Officers may not be appropriately experienced, particularly on welfare of some animals, such as

rabbits and cats. The Regulations permit the use of veterinary surgeons to undertake inspections where they are appropriately trained and the Council is exploring this avenue with Abbey Vets who are the Council's currently contracted veterinary surgeons. It would be the intention of the Service to engage the services of an appropriate vet to undertake inspections for the purposes of these Regulations for the first three years to allow the licensing regime to settle and provide opportunities for Officer training during these inspections. Abbey Vets currently undertakes inspections for animal welfare purposes on behalf of the Council eg, for premises applying for a Horse Riding Establishment licence.

- 3.10 The Regulations require that any licence issued is subject to the list of general conditions and activity-specific conditions within the schedules being attached to the licence. These are mandatory conditions for all licences issued and are significantly more onerous for licence holders than is currently the case. Local authorities are also permitted to attach further licence conditions as they consider necessary to secure the welfare of animals under the holder's responsibility. These additional conditions are subject to appeal by the applicant if they object to these conditions being attached. the Scottish government guidance considers Local Authority specific conditions to be by exception, rather than the norm.
- 3.11 There are various enforcement options provided within the Regulations to address concerns with any premises which have been licensed including powers to suspend, vary or revoke a licence. This includes procedures for the immediate revocation of a licence where the conditions are considered necessary to warrant this action. Where action is taken by the Local Authority, there is a process for the licence holder to make representations to the Local Authority which requires that the decision to take the action is reviewed, with a final decision being notified to the licence holder on whether the enforcement action is being upheld, varied or cancelled. This final decision is subject to appeal through the Sheriff Court. There are certain criminal offences provided for within the Regulations, with fines up to £40,000 for breaching these, one of which includes engaging in activities without a licence.
- 3.12 There is a requirement that a public register of licence holders for each licensable activity is published on the Council website, on the basis that this will enable anyone to quickly and easily check whether they are dealing with a licensed operator. The provision of a register will assist the public in avoiding dealing with unlicensed breeders/sellers, particularly those operating within the area of 'puppy farming' which is a growing concern. Those involved in this trade have little regard for the welfare of those animals which they breed/sell.
- 3.13 There are some limited exemptions to the requirement for breeders to be placed on a register and this will include licence holders for pet selling or the breeding of dogs, cats or rabbits where all animal sales in the course of the activity are to persons buying the animals for the purpose of reselling them. The example given in the Scottish Government guidance is where a rabbit breeder solely sells offspring to a business such as Pets at Home who then would re-sell the rabbits as pets from their stores. Registers of licence holders published by a local authority must include the following information:

- the name of the licence holder (see below),
 - the licence number,
 - the postcode, or postcodes, of the licenced premises to which the licence relates within the local authority area (note additional information below regarding engaging in animal rehoming activities),
 - the date on which the licence was granted,
 - if a licence has been renewed, the date on which it was renewed,
 - the date on which the licence is due to expire,
 - in the case of a pet selling licence, the animals or types of animals that can be sold by the licence holder,
 - whether the licence is currently suspended.
- 3.14 Transitional arrangements exist within the Regulations to allow current animal licences under those Acts which are being repealed to remain in effect until their renewal is due and any new licence will then require to be considered within the regime enacted by these Regulations.
- 3.15 As these regulations require a number of new activities to be licensed, as well as reducing the threshold at which dog breeders require to be licensed, there is current uncertainty on the numbers of establishments which will require to be licensed and hence the demands on resource.
- 3.16 Information on the requirements within these new Regulations will be published on the Council website and all current licensed premises subject to the new licensing requirements will be advised in advance of their current licences expiring. Work on identifying anyone who may be engaged in a licensable activity will be undertaken over the coming weeks and as a matter of routine going forward, with Officers also acting upon intelligence received about persons engaging in such activities.

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- None

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Appendix 1

Proposed Fees for All Licence Applications under the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021

Task	Indicative Time (FTE hours)	Cost per hour	Other Costs	Total Cost
Receiving, logging, and storing information relating to the application for a licence/renewal/variation, including checking and authorising the application by manager, processing fees.	3	£29.82	£0	£89.46
Site inspection and assessment (<i>Site inspection carried out by 1 Officer (initial and verification parts of inspection).</i>)	2	£29.82	Hourly rate for Veterinary Surgeon to undertake inspection will be added to overall costs* TBC	£59.64
Determination of application (<i>Processing inspection report; further discussion with applicants; drafting licence approval and conditions; processing of appeals and representations; legal advice and support.</i>) Checking and authorising the application by manager	3	£29.82		£89.46
Any additional site visits required and in respect of complaints or where enforcement activity is undertaken	Hourly rate applied for 2 Officers	£67.04		-
TOTAL				£238.56

*Where there is no veterinary inspection and it is solely an Officer from the Council, the inspection fees may be adjusted for any additional hours to undertake this element at a rate of £29.82 per hour, or part thereof.