

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 18 AUGUST 2022

ANIMAL WELFARE LICENSING REGIME

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this Report is to inform members of the licensing regime introduced by the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 and to seek approval of proposals to implement the new regime.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) Note the introduction of a new licensing regime under the Animal Welfare (Licensing of Activities Involving Animals)(Scotland) Regulations 2021;
- (ii) Consider the fees and charges outlined in Appendix 2 of the report and determine fees and charges;
- (iii) Consider whether there should be any reduction in fee for registered charities and if so what the reduction should be;
- (iv) Decide that, in year one of the licensing regime, that all new licences should be granted for an initial period of one year;
- (v) Consider whether and in what circumstances an inspection should be carried out in respect of an application for a licence for animal rehoming activities;
- (vi) Decide that, after year one of the licensing regime, inspection Reports should include a recommendation as to the duration of any licence to which it relates;
- (vii) Delegate authority to the Director of Legal and Democratic Services to instruct mandatory inspection reports and in respect of such non-mandatory inspection reports as the Committee may decide;
- (viii) Delegate authority to the Director of Legal and Democratic Services to grant or renew licences under the regime subject to mandatory or standard conditions, for the number of years recommended in the inspection report and subject to any additional condition recommended within the inspection report and which is agreed by the applicant (subject to having issued any statutory Notice required in terms of Regulation 6(5));
- (ix) Delegate authority to the Director of Legal and Democratic Services to issue notices of the Committee's decisions to refuse a licence and to impose a licence condition, in terms of Regulation 7;
- (x) Delegate authority to the Director of Legal and Democratic Services to reject or refuse applications which are incompetent or do not otherwise meet the minimum requirements of applications under the Regulations;
- (xi) Delegate authority to the Director of Legal and Democratic Services to vary a licence condition which is agreed with the applicant/licence holder, in terms of Regulation 11, and the Director of Vibrant Communities and Sustainable Growth;

- (xii) Delegate authority to the Director of Legal and Democratic Services, in cases of urgency, in consultation with the Convener and Vice Convener of the Civic Licensing Committee, to order immediate suspension or give notice of variation of a licence in terms of Regulation 18(2); and
- (xiii) Delegate authority to the Director of Legal and Democratic Services to establish, maintain and publish a register of licences, in terms of Part 6 of the Regulations.

2. LEGAL

- 2.1 The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 (“the Regulations”), which aim to promote animal welfare, came into force on 1 September 2021. They place new statutory duties on local authorities. The Regulations replace and expand upon previous provisions for licensing pet sales and dog breeding. They introduce licensing requirements for cat and rabbit breeders, animal welfare establishments (such as animal sanctuaries and rehoming centres) and other pet rehoming activities. Animal Boarding licensing is a separate regime and it remains in place.
- 2.2 Existing Pet shop and dog breeder licences remain in effect until their expiry date whereupon, when the new regime has been put in place, they will require to be licensed under the new regime. Licences will be required for cat and rabbit breeders and welfare establishments as prescribed by the Regulations. The Regulations are currently in effect but to allow time for the application process to be fully in place it is proposed that applications will be invited for processing from 1 September 2022.
- 2.3 Angus Council is regulator of activities when they are carried out by any person who resides in or has a relevant place of business within the Angus local authority area. Would-be licence holders will be expected to apply by submitting a completed application form. It is suggested that different application forms are used for different activities but that the forms are broadly similar. An example application form, for Animal Welfare Establishments, is shown at **APPENDIX 1**.
- 2.4 Regulation 15 makes provision for licensing authorities to charge fees with respect to the regime as follows: -
 - A licensing authority may charge such fees as it considers necessary for: -*
 - (a) *the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation;*
 - (b) *the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration, and*
 - (c) *the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator. The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection*
- 2.5 Officers have conducted an analysis of the anticipated costs to Angus Council for administering the regime in terms of paragraph 15 of the Regulations. Suggested fees and charges have been identified and are shown at **APPENDIX 2**. Fees will cover all costs associated with determining an application, including initial inspections by officers and any monitoring visits. There will be full recovery of veterinary costs from the licensee as is currently done for other licences (e.g. riding establishments licensing etc.).
- 2.6 Angus Council does not generally charge discounted fees for licence applications or renewals. However, in the case of applications for a public entertainment licence, the Council resolved on 31 October 2019 to allow a discounted fee for applications from Scottish registered charitable organizations. As it is anticipated that a number of charities will require to be licensed under the Regulations, the Committee may wish to consider whether or not to charge registered charity applicants a discounted fee to apply for a licence or its renewal.

- 2.7 On receipt of a completed application form and the relevant fee the Regulations require that for all types of application, apart from animal rehoming, the local authority must instruct an inspection or inspections of the premises. In the case of animal rehoming the Local Authority may choose whether or not to inspect the premises. It is anticipated that inspections will be arranged by Angus Council's Environmental and Consumer Protection Service. The Committee may wish to decide whether or not to instruct an inspection in respect of animal rehoming applicants. In terms of the Regulations the licensing authority must grant or renew the licence, in accordance with the application, if it is satisfied that: -
- (a) the standard conditions are likely to be met,
 - (b) any licence condition which it intends to attach to the licence is likely to be met; and
 - (c) the grant or renewal is appropriate, having taken into account any report submitted to it.
- It is recommended that in order to be satisfied as to requirements (a) and (b) there should be an inspection on first application.
- 2.8 The Regulations stipulate standard conditions to be attached to licences. These comprise General conditions applicable to all such licences and Specific Conditions which apply to all licences of a kind. In addition, a copy of Regulation 2, listing definitions, must be attached to all licences.
- 2.9 The Regulations provide for one, two and three year licences. The number of years for which any licence is granted is subject to a) the licensing authority's assessment of the risk of the applicant breaching any standard conditions or additional conditions to be attached to the licence, b) the impact on animal welfare of any such breaches, and c) whether the applicant is already meeting higher standards of animal welfare than are required by the licence conditions. In order to allow assessment of the risk of any conditions being breached it is anticipated that licences should not be granted for longer than one year on first application.
- 2.10 The Regulations stipulate what must be included in the inspection report. After the first year, the Committee may also wish to request that the inspection report includes a recommendation of the number of years the licence should last, if granted. It is respectfully requested that the Committee delegate authority to the Director of Legal and Democratic Services to grant or renew licences under the regime subject to mandatory or standard conditions. If the Committee are minded to request that inspection reports recommend a licence duration, it is respectfully requested that authority is delegated to the Director of Legal and Democratic Services to grant or renew licences under the regime subject to mandatory or standard conditions for the number of years recommended in the inspection report and subject to any additional conditions agreed with the applicant in terms of Regulation 11, (subject to having issued any statutory Notice in respect of such additional conditions, in terms of Regulation 6(5), and referred to in paragraph 2.11 of this report).
- 2.11 The Regulations provide that persons subject to specified animal welfare disqualification orders may not apply for a licence. It is respectfully requested that the Committee delegate authority to the Director of Legal and Democratic Services to reject or refuse applications which are incompetent or do not otherwise meet the minimum requirements of applications under the Regulations.
- 2.12 The Regulations provide that when granting or renewing a licence the licensing authority may attach such further conditions as it considers necessary for the purposes of securing the welfare of animals for which the applicant is or will be responsible. A licence condition may also be proposed in writing by the applicant/licence holder. Before attaching an additional licence condition, it is a requirement that the applicant is served with a notice in terms of Regulation 7(b). It is respectfully requested that authority to issue such notices and those under Regulation 7(a) notifying of the Committee's decision to refuse a licence is delegated to the Director of Legal and Democratic Services.
- 2.13 Regulation 17 makes provision for the suspension, revocation or variation of a licence, if satisfied that a licence condition is not being complied with, there has been a failure to comply with the Regulations, information supplied by the licence holder is false or misleading, or it is necessary to protect the welfare of an animal. In any case where it is considered to be immediately necessary to protect the welfare of an animal, delegated authority is respectfully requested to enable the Director of Legal and Democratic Services, following consultation with the Convenor and Vice Convenor, to give Notice of immediate suspension or variation of a licence, by attaching

or removing a condition, in terms of Regulation 18(2).

3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report other than as relate to the setting of fees for the administration of the process as set out within the body of the Report.

4. EQUALITIES AND HUMAN RIGHTS IMPLICATIONS

There are no Human Rights issues arising directly from this report. An Equalities Impact Assessment is attached.

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APPENDIX 1 – Animal Welfare Establishment Licence Application Form

APPENDIX 2 – Proposed Fees and Charges

APPENDIX 3 - EIA