

Introduction of Animal Welfare Policy

Meeting	11th June 2024
By	Alison Stocker - Senior Licensing Officer
Cabinet Portfolio	Cllr Heather KEEN
Key Decision	N/A
Decision classification	Unrestricted
Ward:	Thanet

Purpose of the Report

There is currently no animal licensing policy covering the Thanet District Council area. Whilst there is no statutory requirement for a policy under any of the legislation relating to these types of licence, it is considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to animal licensing. The adoption of a policy supports the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

Recommendation(s):

The instructions of the Board are requested.

1. Summary of Reasons

- 1.1 In accordance with the Animal Welfare Act 2006, Thanet District Council, in its role as Licensing Authority, is responsible for licensing operators of businesses carrying out prescribed activities involving animals. In addition, the Council is also responsible for licensing keepers of animals that are defined as dangerous wild animals and for the licensing of zoos.

2. Background

- 2.1 The draft Animal Licensing Policy ("the Policy") provides guidance on the various application processes, a brief overview of relevant legislation and links to statutory guidance. The legislation and regulations under which animal licences are issued require the Council to determine, among other factors, whether the applicant is suitable or in the case of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 "fit and

proper” in terms of their ability to comply with licence conditions and to be an operator for that type of activity. Whilst there is no legal definition of “fit and proper” in the regulations, the Policy provides an opportunity to outline matters which the Council will take into consideration when deciding if someone is suitable to hold a licence.

3. Relevant Issues

- 3.1 On 1 October 2018, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. These regulations (the Regulations) replace some of the existing legislation in relation to animal licensing regimes, which were repealed at the end of 2018. They will provide a single licensing regime for a number of animal related activities.
- 3.2 There is currently no animal licensing policy covering the Thanet District Council area. Whilst there is no statutory requirement for a policy under any of the legislation relating to these types of licence, it is considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council’s approach to animal licensing.
- 3.3 The adoption of a policy supports the Council’s commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.
- 3.4 The refusal to adopt an overarching single policy to outline the council’s approach to animal licensing activities would result in a less consistent approach to the application of primary legislation and reduced public transparency.

4. Alternative Options

Members are requested to review the new Policy, and to decide either:

- 4.1 To agree to the introduction of the new Policy
- 4.2 To refuse to the introduction of the new Policy

5. Consultation

- 5.1 There is no statutory or public law duty to consult in respect of this matter.

6. Corporate Implications

- 6.1 **Finance and Resources**

- 6.1.1 Costs associated with processing applications are taken from licensing fee income. Work in relation to the Animal Licensing regime is undertaken by the Licensing Team in Regulatory Services within existing resources.
- 6.1.2 The policy will be reviewed as legislative changes occur and updated accordingly, ensuring that it is fit for purpose. A formal review will be carried out at least every 5 years. All of this work will be performed by officers in-house.
- 6.1.3 There are no direct financial implications arising from the LAIA Policy.

6.2 Legal and Constitutional

- 6.2.1 The Licensing Board must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.
- 6.2.2 Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"
- 6.2.3 In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.
- 6.2.4 There is a right of appeal to a First-tier Tribunal within 28 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or to revoke or vary a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence based and proportionate.

6.3 Council Policies and Priorities

- 6.3.1 The council's Corporate Plan sets out what the council will do over the next four years. It identifies the main priorities for the district. There is a ten-year vision and the focus will be on working towards it on five key priorities.

The report relates to the following corporate priorities: -

To keep our district safe and clean
To protect our environment

To create a thriving place

6.4 Risk Management

- 6.4.1 The options set out in 4.0 allow discretion to Licensing Board members in reaching fair and proportionate decisions.
- 6.4.2 As well as the need to comply with the different statutory licensing requirements, it is of public interest to ensure the general safety and wellbeing of animals, those responsible for them and members of the public who may come into contact with them. The adoption of a Policy will also give the Council an opportunity to set out its expectations around safeguarding for operators of businesses whose activities take place around children and vulnerable persons.

6.5 Climate Change and Biodiversity

- 6.5.1 Ensuring consistently high quality, safe and clean animal boarding facilities locally in Thanet, which meet the animal's welfare needs, will help prevent Thanet residents from travelling out of the district to use other animal boarding establishments.

7. Equality, Equity and Diversity Implications

- 7.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.
- 7.2 Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.
There are no Equality Act 2010 or Public Sector Equality Duty implications from this policy. It reflects national legislation and guidance and applies equally to all businesses and individuals.
- 7.3 All Licensing Officers involved in this policy will be made aware of their responsibilities under the Public Sector Equality Duty and TDC's Equality Policy. They will be expected to treat people equally at all times and have regard to the needs of vulnerable people and protected groups where appropriate.

8. Crime and Disorder Implications and Community impact

- 8.1 None identified. This policy sets out a clear and consistent framework and expectations for the Council's approach to animal licensing with respect to existing legal duties under animal welfare legislation.

9.0 Subject History

- 9.1 On 1 October 2018, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. These regulations (the Regulations) replace some of the existing legislation in relation to animal licensing regimes, which were repealed at the end of 2018. They provide a single licensing regime for a number of animal related activities, including Riding Establishment Act 1964, Pets Animals Act 1951, Breeding of Dogs Act 1973, Animal Boarding Establishments Act 1963, Performing Animals Act 1925.
- 9.2 This policy also covers additional animal licensing requirements under the following acts. Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981.

Annexes

1. Animal Welfare Licensing Policy

Background Papers

Report Author(s)

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Report Sign Off - Morgan Sproates - Regulatory Services Manager
Date sent - 24th May 2024

Date signed off Initials - AKS/MS

Legal Yetunde Olaniyi (Principal Litigation Solicitor)
Finance N/A