

## FEES FOR ANIMAL RELATED APPLICATIONS AND CHANGES TO THE LICENSING PROCESS

**Cabinet Member(s):** Colin Slade  
**Responsible Officer:** Tom Keating, Lead Licensing Officer

### Reason for Report:

- 1) To recommend the adoption of application fees set out in this report.
- 2) To amend and clarify the licensing process for dog boarding establishments.

### RECOMMENDATION:

- 1) That the Regulatory Committee approves the fees set out in this report and they be introduced from 1 January 2018.
- 2) That the Regulatory Committee note that future applications for dog home boarding licences may be referred to a Sub-Committee for a decision when an officer believes that the total number of dogs onsite is unreasonable, unsuitable and/or inappropriate.
- 3) That the Regulatory Committee delegate authority to Licensing officers to decide whether or not a dog home boarding premises requires a vet inspection prior to the grant of a licence. This discretion would only apply when the application is to board 3 dogs or less from the same household and there is no more than 1 resident dog.

**Relationship to Corporate Plan:** These fees link directly to the licensing function with the aim of ensuring the safety and wellbeing of our community.

**Financial Implications:** Setting fees at the appropriate level helps to ensure the Councils costs are recovered.

**Legal Implications:** Fees must be set lawfully. This means that they must be 'reasonable' and only seek to recover the cost to the specific licensing regime. Fees that are not lawful can be challenged.

**Risk Assessment:** In the event of a successful challenge to the fees, the Council could be liable for costs.

**Equality Impact Assessment:** There are no equality issues.

## **1.0 BACKGROUND**

- 1.1 Mid Devon District Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allow the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion of the costs) of the administration of those licence types. In some cases, costs can include other aspects of providing the regulatory scheme, such as monitoring compliance.
- 1.2 The general principle in setting these fees is to ensure cost recovery, or as close to this as possible. A number of legal cases over the years have confirmed that licensing fees may not be used to generate a profit for Councils, and that fees should be reviewed regularly to ensure they remain accurate. Additionally, it has become increasingly clear that local authorities must be able to demonstrate how fees have been calculated.
- 1.3 Although every effort can be made to predict future income and expenditure there are always variables that are difficult to foresee. Examples include complaints received that then need to be investigated and the work required to implement a new legislative requirement. Because of these potential 'unknowns' it is important that consideration is given to previous surpluses or deficits that have accrued. These can legitimately be carried forward and redistributed or recouped, as necessary.
- 1.4 Some application fees are set nationally (i.e. fees under the Licensing Act) therefore the local authority has no discretion on what it charges. Other fees are set by the Council themselves and this includes the fees for animal related applications.

## **2.0 THE LEGISLATION AND LICENSING PROCESS**

- 2.1 The Council is responsible for licensing a number of animal related businesses. These include:
  - Boarding of dogs and cats
  - Dog Breeding
  - Pets Shops
  - Riding Establishments
  - Zoos
- 2.2 Additionally, the Council is also required to licence Dangerous Wild Animals. These licences are not usually related to businesses, but are for keepers of animals that appear on a prescribed list and are considered to be wild, dangerous or exotic.
- 2.3 The licensing regime is ultimately in place to ensure the welfare of the animals, along with the safety of those working or looking after the animals. There are separate pieces of legislation covering the above activities and each one allows the licensing authority to attach conditions to a licence. Model conditions have been adopted by

this Council for a number of these licences, but conditions can be (and are) tailored to suit specific premises and circumstances.

- 2.4 In accordance with legislative requirements, a veterinary surgeon inspects premises in relation to new applications for animals and those renewing licences for riding establishments, dangerous wild animals and zoos. Dog breeding premises require a visit from the vet on initial application but not necessarily on renewal.
- 2.5 In 2014, this Council decided to introduce a policy whereby a veterinary surgeon should inspect all new animal boarding establishments and pet shops. This was in recognition of the importance of animal welfare. With regards to the renewal of these licences, a vet inspection is not necessarily required but can take place if a licensing officer has concerns.
- 2.6 Where a visit from the vet is required, the applicant is recharged for their time. To be clear, the cost of the vet inspection is not included in the Councils application fee and is an additional charge to the applicant.

### **3.0 LICENSING FEES – FEE SPREADSHEET**

- 3.1 The proposed new fees are set out in Annex 1, alongside a list of the current charges. A comparison of the proposed fees with some neighbouring local authorities is attached as Annex 2.
- 3.2 If Members of the Committee (or any interested party) wish to see or discuss the full cost matrix before the committee meeting, we ask that they contact the Licensing team.
- 3.3 The fees have been calculated using a similar cost spreadsheet to the one used for calculating other licensing fees, like those for Hackney Carriage and Private Hire applications. The spreadsheet sets out all of the relevant information and produces a final chargeable fee for each application. It also contains a number of tabs and pieces of information, the main points of which are highlighted below:
  - An ‘overview’ tab which details the sections of the relevant legislation which provides the local authority to make a charge.
  - A ‘fee’ tab which provides an overview of the total final cost of each application, by adding together the cost of processing an application and the general administration cost that applies.
  - A ‘comparison’ tab which compares the proposed fees with those of some neighbouring local authorities.
  - An ‘administration and monitoring’ tab which outlines the general times and costs allocated year on year to the maintenance of the regime (not specific to an application as such). This includes things like general admin, fee work, web page

updates, staff development and policy and procedural amendments. This tab also contains a breakdown of the anticipated number of applications.

- Each individual application process then has its own tab which tracks the time of an average application, from initial enquiry to the issuing of a licence. This includes the inspection of the premises. Where possible these timings have been mirrored across similar applications to ensure consistency.

- 3.4 The fees spreadsheet now also includes a new process tab called 'additional activity'. It is important to clarify that this applies to boarding related applications only. These are for kennels, catteries, home boarding and day crèches. The licensing team have found that it is becoming more common for premises to want to provide more than one of these services i.e. full kennels providing a day crèche. This fee would therefore be added to the standard fee payable for either new applications or renewals.
- 3.5 Additionally, it is proposed to reduce the cost of new applications in certain circumstances where the licence would be restricted to the current calendar year (i.e. boarding establishments and pet shops). The legislation is restrictive in the sense that these licences can only run for the calendar year period so, for example, a licence granted in November would have to expire at the end of December, at which point the premises would need to renew the licence.
- 3.6 It is therefore proposed to reduce the application fee by £55.00 when the licence is issued from July or onwards in the year (i.e. any licence that has less than 6 months on it). This figure is justified in that it represents half of the annual costs that make up the 'administration and monitoring' total. There is no current requirement to reduce this fee, but the licensing team have dealt with a number of applications made in the latter part of the year and the current pricing structure does not reflect this. Additionally such a reduction may encourage those operating without a licence to apply immediately which helps to ensure compliance.
- 3.7 These animal fees were last reviewed in 2015 and at that point, the accounts showed that a deficit had been made for these licence types. Fees were then set at a level to try and ensure cost recovery going forward, the rationale being that it was the first time the cost matrix was used for setting these fees and previous costs could not necessarily be specifically determined.
- 3.8 Looking at the costs of providing the licensing regime since this period, overall deficits are likely to have been made. The likely income and costs for 2016-17 are as follows:

Licence type	Income	Cost	Totals
Animal Boarding	£4,309	£5,195	-£886
Dangerous Wild Animal	£0	£0	£0
Dog Breeding	£221	£194	£27
Pet Shop	£845	£1,046	-£201
Riding Establishment	£689	£776	-£87
Zoo	£0	£0	£0
<b>Totals</b>	<b>£6,064</b>	<b>£7,211</b>	<b>-£1,147</b>

- 3.9 It is clear that the Licensing team are now spending more time with animal related licences which implies, with all things being equal, a fee increase is required. This is evidenced by the increasing number of animal related applications received year on year. In 2014/15 it numbered 24, in 15/16 it was 30 and in 16/17 it was 36.
- 3.10 The proposed fees do not include a recharge for the potential deficits outlined above. In light of the price increases already established, the majority of which are increases of 32 - 34%, it is suggested that this situation be reviewed again next year. Although the number of licence holders is increasing, the total number is still relatively small compared to other areas that the council licence (i.e. taxis). As a result, the impact of recouping any deficits on each individual business is significant. It is not intended to continually run deficits however and this point will be explored in more detail when the fees are next reviewed.
- 3.11 The issue of unlicensed premises is something the Licensing team are looking to address and the successful prosecution of an unlicensed dog breeder earlier this year emphasises this point. It is highly likely that further unlicensed premises need to be investigated and this is a crucial element of the licensing regime. It is important that both the public and those we licence have confidence in the Councils ability to enforce the legislation.
- 3.12 Additionally, another factor to be considered is that there are going to be changes to animal licensing in 2018. More information on this can be found here:  
<https://www.gov.uk/government/consultations/animal-welfare-reviewing-animal-establishments-licensing-in-england>
- 3.13 One of the changes that we believe has the potential to cause significant work is in relation to dog breeding. At present, anyone that breeds dogs and sells puppies as a business requires a licence. However, anyone breeding 5 litters or more in a 12 month period is automatically assumed to be carrying on a business and therefore requires a licence. This 5 litter limit was meant to give true hobby breeders the ability to operate without a licence however, in the Licensing teams experience; it is often cited by people who in reality are not hobby breeders. The Government is now

proposing to change this number to 3 litters in a 12 month period and this could mean a lot more premises requiring a licence.

- 3.14 When the Licensing team have more information about this we will try to raise awareness in Mid Devon and when appropriate, try to educate people and encourage submissions of applications. However, where this approach is not effective, enforcement action will need to be taken.
- 3.15 To give an indication of the overall difference in income that would occur as a result of introducing the new fees we can compare projected income using the current fees against the proposed fees. We predict that we will receive 34 applications in the year, resulting in an income of £5,401 based on the current fees. The proposed fees would generate an income of £7,438, an additional £2,037.

#### **4.0 MODEL CONDITIONS AND DOG BOARDING ESTABLISHMENTS**

- 4.1 The Committee will remember that in November 2016 the Licensing team proposed consulting on new model conditions for dog boarding establishments (i.e. full kennels). This consultation was going to run in early 2017 however, following the Governments response to a review of all animal licensing (referenced in Paragraph 3.13) a decision was taken to delay this consultation until all of the Governments proposals are clear and confirmed. It is hoped that we will have information on this in early 2018.
- 4.2 The Governments 'next steps' document, published in February 2017 indicates a number of likely changes to animal licensing, all of which will require significant contact with the animal boarders we currently licence. One potential change may be the enshrining of model conditions into law and it therefore seems sensible to wait for the outcome of this before consulting current licence holders.
- 4.3 Additionally, in 2018 the Licensing team will work on a new animal licensing policy with the aim of having one unified document which contains all of the relevant information. It will also condense all legal requirements in recognition of the fact that it looks like the Government are planning on introducing one 'animal activity' licence. This would cover dog breeding, dog and cat boarding, pet shops and riding establishments. The proposed policy will include reference to new and/or updated model conditions for all animal related activities and a complete consultation will be carried out before the policy is brought to this committee for approval.
- 4.4 Although the latest model conditions have not yet been adopted for full dog kennels, the Sub-Committee should be aware that this does not prevent the Licensing team from applying its content to specific premises if there is a need to. If we do receive an application for a new kennels, Licensing Officers will have regard to these conditions.

## 5.0 UPDATES TO THE LICENSING PROCESS

### Number of dogs for home boarders

- 5.1 The increasing popularity of home boarding for dogs has led to some people trying to push the boundaries of what it is designed to cover. Essentially, home boarding should be seen as a relatively low level activity where dogs are kept as they would be in a normal house, like a pet. Where the intention is to keep large numbers of dogs, the premises should be looking to have purpose built kennels and apply for a full boarding licence. This difference is reflected in the fees charged and the conditions applied to these two licences.
- 5.2 Each application must be considered on its individual merits and so it is very difficult to set one figure for the total number of dogs that can be boarded. Licensing Officers will consider issues like the supervision of dogs, available isolation facilities and ability to separate dogs if required.
- 5.3 With this in mind, it is suggested that if for any reason the licensing team believe that an applicant wishes to keep too many dogs then the application should be referred to a Sub-Committee. Importantly, the number of dogs is the combined total of dogs to be boarded and also the resident dogs.
- 5.4 This is considered important because it will allow the Sub-Committee to determine what level is right for home boarders in Mid Devon. It is not anticipated that many will actually need to be referred to a Sub-Committee, but Licensing Officers can at least flag this up with applicants who may then decide to re-evaluate their application. For Member's information, when issues like this are referred to a Sub-Committee, it will always be accompanied by a vet report, having taken into consideration the potential risks of boarding a higher number of dogs.

### Vet inspections and home boarders

- 5.5 At the other end of the scale, some home boarding applications are considered to be particularly low risk. In certain circumstances the Licensing team would like to alter the current licensing process and have the ability to decide, at Licensing Officer level, whether or not an inspection by a vet is required. To be clear, this would be in very specific circumstances and this would be as follows:
- The number of dogs applied to board on a home boarding basis is no more than 3
  - The dogs being boarded are from the same household
  - The applicant has no more than 1 dog of their own
- 5.6 This proposal is based on -the Licensing teams experience and importantly, a vet inspection can still be required if there are any concerns. Officers have had applications from premises meeting these requirements and have found that the risks are relatively low. Additionally, it will hopefully help to encourage those

operating without a licence to apply as they would have previously been recharged for the vet inspection which could be an approximate cost of £100.00 to £200.00.

## **6.0 RECOMMENDATIONS AND TIMESCALE**

- 6.1 It is recommended that the Regulatory Committee approves the fees set out in this report and that the fees be introduced from 1 January 2018. There is no statutory duty on the Council to consult on these fees.
- 6.2 It is recommended that the Regulatory Committee note that future applications for dog home boarding licences may be referred to a Sub-Committee for a decision when an Officer believes that the total number of dogs onsite is unreasonable, unsuitable and/or inappropriate.
- 6.3 It is recommended that the Regulatory Committee delegate authority to Licensing Officers to decide whether or not a dog home boarding premises requires a vet inspection prior to the grant of a licence. This discretion would only apply when the application is to board 3 dogs or less from the same household and there is no more than 1 resident dog.