

DATA LABEL: PUBLIC



ENVIRONMENT POLICY DEVELOPMENT AND SCRUTINY PANEL

THE LICENSING OF ACTIVITIES INVOLVING ANIMALS REGULATIONS

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to make the panel aware of new regulations requiring the licensing of various activities involving animals and the need to update and approve council policies, procedures and fees covering these activities.

B. RECOMMENDATION

It is recommended that the panel notes and considers the following recommendation which is intended to be submitted to Council Executive:

1. notes the content of the report; and
2. approves the policies, procedures and fees for implementation of the regulations set out in Appendix 1 of the report.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; being honest, open and accountable; developing employees; making best use of our resources; working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	<p>The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021.</p> <p>These regulations came into force on 1 September 2021, and place new obligations on local authorities for licensing various establishments involved in the breeding, sale, welfare and rehoming of animals.</p> <p>There is no requirement for strategic environmental assessment. The regulations and associated guidance deal with equality issues which are recognised in the proposals in this report.</p>
III	Implications for Scheme of Delegations to Officers	There are no implications for the scheme of delegation. This is an extension of the licensing provisions and requirements already addressed by the environmental health and trading standards service.

IV	Impact on performance and performance Indicators	There are no specific impacts on performance indicators identified at this stage. The implications and obligations of these regulations do however place additional burdens on service delivery within environmental health and trading standards.
V	Relevance to Single Outcome Agreement	SOA 3 Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.
VI	Resources - (Financial, Staffing and Property)	The regulations permit the charging of licensing fees. These will be established to reasonably reflect the work involved in the licence process and be in line with existing approved fees and charges. The work will be carried out by existing staff in line with other workload priorities. Any costs of external inspectors will be passed to the licence applicant. This is the current arrangement, but is likely to be extended due to increased specialist assessments introduced by new regulations.
VII	Consideration at PDSP	This is the first report on this matter to the PDSP.
VIII	Other consultations	None.

D. TERMS OF REPORT

D1 Background

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 came into force on 1 September 2021.

Licensing of establishments involved in the breeding, sale, keeping and boarding of animals is required by various pieces of legislation and is administered and enforced by environmental health and trading standards on behalf of the council. This is supported by veterinary specialists where specific issues of animal welfare are being considered.

The new regulations have consolidated and expanded legislative requirements covering the breeding, sale, welfare and rehoming of animals. The regulations have placed additional requirements on local authorities for the inspection, licensing and administration of licensed establishments, and also specified requirements for officer competence in carrying out regulatory duties.

The new regulations will require a revision of licensing and enforcement policies, procedures and fees and Appendix 1 of this report provides a proposed set of arrangements and charges in relation to these matters.

D2 Summary of new requirements

The main implication of the new regulations is the consolidation of some pieces of existing legislation regarding the breeding of dogs, and sale of pet animals, but also expanding the requirement for licence to breeding of cats and rabbits, rehoming activities and operation of animal welfare establishments. The regulations provide details in terms of the extent of operations requiring to be licensed. For example, a licence for breeding is only required where a specified number of breeding animals, or litters, are exceeded.

It is difficult to quantify the workload demand these changes will have on the service, suffice to say the demand will be greater than currently and will come at a time when there are many competing requirements and an on-going difficulty of recruiting suitably qualified staff.

In addition to the extended range of establishments and activities requiring to be licensed, the regulations have also increased the requirements to be met by local authorities and establishments in ensuring compliance with administration, enforcement and animal welfare. The following are some of the impact issues for the council to adopt and adapt to in terms of policies and procedures for licensed animal establishments.

- The regulations require local authorities to ensure an inspection is carried out and a report produced for every licence application and licence renewal application. Previously the inspection of establishments, particularly for renewal, was not specified as mandatory, and this gave significant flexibility to managing workload in focusing on new establishments, or establishments requiring closer monitoring. This was also reflected in a lower cost to establishments of renewing licences. This now has to be reflected in proposed fees.
- There is now a greater focus on animal welfare knowledge and training in determining officer competence. This means that the service will need to initially appoint external inspectors to carry out most inspections as the level of knowledge is not fully held inhouse at this time, and the costs and practicality of doing so require to be considered in line with other public health priorities and workload demands in the service. The situation will be kept under review as we gain more understanding of the work demand of the new regulations. External veterinary support is currently provided only as required. The costs are passed to the applicant. There is, however, no way of knowing if this external support can be met with increasing demand, particularly as veterinary support is limited, and other local authorities may require to seek similar support resulting in a increased overall demand
- Licences can be issued for 1, 2 or 3 years. Currently all licences can only be issued for 1 year. Local authorities cannot charge a different fee depending on length of licence issued. It is intended to encourage better compliance within establishments. The suggestion is that better performing establishments benefit from longer licence periods. It is for local authorities to determine criteria for licence periods, and this will be in addition to potentially more administration in managing the licensing system. Proposed criteria are set out in Appendix 1.
- The local authority must publish a public register of all licences issued, and keep it up to date. To date this has been done voluntarily with less information included than is required by the new regulations. It generally only gets updated once a year during the annual licence programme. It will now require to be completed at various points through the year. It is, however, recognised that there are benefits of doing so in that it will help those seeking to buy animals from a licensed establishment.

- The previous requirement for licences, and for some ongoing animal licences, was for the licence to be in place for the calendar year. This meant administration and processing was focused on a certain time of year. The service would be more proactive in reminding applicants regarding renewal. This now no longer applies. This will create a challenge for administering the scheme, but will be mitigated by putting the responsibility for renewal completely with the licence holder.

D3 Other issues

There was an opportunity to report these matters for approval through the Environment PDSP and Council Executive earlier, but at the time a number of concerns were being raised by other local authority colleagues with Scottish Government, and it was appropriate to see how the situation developed in terms of guidance to local authorities to ensure we had the best understanding possible for establishing our own policies, procedures and fees.

The proposals set out in Appendix 1 are, therefore, presented for approval with an understanding that elements may have to be updated or adapted as we learn from application of the regulations, or respond to changes in guidance and policy at a national level. There will undoubtedly be a number of issues and consequences with the new regulations yet to be realised.

It is important to appreciate that a balance has to be taken in terms of a number of aspects of these requirements, particularly in terms of impact on the local authority and other workload demands regarding public health priorities. In developing the proposals, particularly in relation to licence periods and fees, it is important to emphasise that it is the legislation which has introduced demands on local authorities, businesses, charities and individuals, and every effort has been made to ensure fairness and consistency with other existing licensing costs and processes.

E. CONCLUSION

Ensuring the safety and welfare of animals is the key consideration of these regulations, and the proposals for licensing establishments by this local authority hopefully provide an appropriate assurance that this can be achieved in line with other demands and priorities.

F. BACKGROUND REFERENCES

1. [The Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021](#)

Appendices/Attachments:

Appendix 1 – Policy, procedures and fees

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Appendix 1

Policy, procedures and fees – The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021

Policy

Enforcement of the new regulations will be in line with the [Environmental Health and Trading Standards enforcement policy](#) approved by the Council Executive. A copy is publicly available on the council website.

We will ensure fees charged are reasonable and reflective of cost impacts on local authority. Costs for external inspectors will be charged separately to applicant. At this time the regulations require that inspectors are appointed by the local authority and provide report to the local authority to allow consideration of application.

Cancellation of appointments with externally appointed inspectors will incur a charge if within 48 hours of appointment. This is in accordance with fees and charges previously agreed by the Council Executive for other licensed animal establishments.

Licence fee is not refundable if application is refused. The fee is charged for the consideration and processing of application. It is up to applicant to ensure that establishment meets the requirements of the legislation.

If licence application / renewal is rejected and matters can be / are resolved within 3 months, then no new application fee will be charged. However, if verification requires further inspection and report, then external inspector costs will be charged.

It will be the responsibility of existing licence holders to ensure applications for renewal are submitted for consideration before expiry of existing licence. Expiry date is included on the licence issued.

The duration of licence will be from the date approved and stated on the licence. Licence duration will be determined in line with the criteria stated in the procedures section.

Legal rights of appeal against decisions are provided for in the legislation.

The council complaints procedure exists for other issues.

Licence conditions will be applied as set out in the regulations. As standard, this will be the general conditions, and relevant specific conditions for that establishment. Licence conditions will be attached to every licence issued.

Procedures

Application forms will be available online or on request from service. Inspection templates will also be available to assist establishment preparation for visits and ensure ongoing compliance.

Payment for licence application must be made at time of application. Payment proof will be required at time of application, otherwise application will not be processed.

Payment for external inspectors will be required after inspection completed. Costs will be invoiced to applicants.

Applications will be logged, and reviewed by a competent officer to ensure application meets requirements for consideration. The applicant will be advised that application is satisfactory for consideration, or that it is not and is being returned to ensure proper completion and submission of necessary information.

All new applications will be set up as establishments on the environmental health and trading standards management information system. Actions, inspection reports and relevant correspondence and communication regarding the establishment and application will be recorded on the management information system.

An inspection will be arranged with inspector and applicant (where required).

The inspection will be carried out using the necessary inspection form required by West Lothian Council. The completed inspection report will be submitted to environmental health and trading standards within 7 working days of inspection being completed.

The inspection report will be reviewed and the determination of the inspector regarding compliance noted. Any points for clarification will be discussed with the inspector. This will be considered along with any previous reports, complaints, information held regarding the establishment to determine the decision on the licence application. For applications to be approved and licence granted, the officer will determine the licence duration against the criteria for that purpose.

Application determinations will be notified to the applicant in writing within 5 working days of the inspector's report being received, or clarified if required.

The public register will be updated once the applicant has been advised in writing.

The public register will only contain details of establishments which hold a licence. This is a requirement of the legislation.

Criteria for duration of licences

1 year licence	<p>All new licence applications required under regulations. This will include establishments licensed under previous legislation covering dog breeding and pet shops.</p> <p>Establishments applying for renewal but with previous verified licence breaches requiring follow up by local authority during previous licence period.</p> <p>Establishments applying for renewal and had previous licence issued with understanding that minor issues would be resolved, and these remain unresolved at time of renewal.</p> <p>Establishments applying for renewal after the expiry of the previous licence.</p> <p>Establishments that don't otherwise meet the criteria for a 2 year licence.</p>
2 year licence	<p>Establishments applying for renewal that have held licence under these regulations for minimum of 2 years and no concerns regarding compliance have been established or required further</p>

	<p>action during that period of time.</p> <p>Establishments that don't otherwise meet the criteria for a 3 year licence.</p>
3 year licence	<p>Establishments applying for renewal that have held licence under these regulations for minimum of 3 years and no concerns regarding compliance have been established or required further action during that period of time.</p> <p>AND</p> <p>Licence holder / establishment is recognised through membership of accredited animal welfare scheme or governing body.</p>

Fees

Licence fees have already been approved by Council Executive for establishments breeding dogs or operating as pet shops, under previous legislation. These establishments are now covered by the new regulations. The fees agreed were reflective of different levels of work demand in terms of new applications and renewal applications. The new regulations place additional obligations on local authorities to consider applications for new or existing establishments.

This will have to be reflected in changes to the fees for renewals, and also the requirements for licensing establishments not previously requiring to be licensed.

The fees reflect the reasonable costs to the local authority in granting, renewing, and varying licences and ensuring ongoing compliance with statutory obligations. The cost of external inspection and reporting for the purpose of licence application determination is separate to the local authority fee and will be recovered from the licence applicant by the local authority who will have paid the inspector fee.

The licence fee will be the same whether a licence is issued for 1, 2 or 3 years. This should help compliant businesses off-set any increase in costs from previous licence scheme.

Licences will not be issued without payment of appropriate fees.

Fees will be included in future fees and charges report for approval by Council Executive. Fees will normally rise in line with agreed inflationary increases by Council Executive. Fees will also be kept under review, and any significant changes required will be reported to Council Executive for approval.

It is appreciated that these costs will be new to some establishments, and for existing establishments they will see an increase in some costs. It is however important to appreciate that the sale prices of many pet animals can be significant, with some animals being sold for many hundreds, if not, thousands of pounds.

The following table gives an indicative overview of time and cost impacts considered in setting fees for establishment licences. This does not however reflect that the establishment will also require to pay the costs of external specialist inspector separately.

Activity	Time	Cost
Application received, reviewed and logged on management information system. Correspondence and communication with applicant regarding receipt and suitability of application. May include return of application. Set up of new establishments on management information system. Process application fee.	2 hours	£60
Make arrangements with inspector and applicant to carry out inspection of establishment. Provide copies of relevant paperwork and inspection forms for completion. Discuss any issues prior to inspection. Process invoice for inspector fees. Process payment of inspector fees.	1.5 hours	£45
Review establishment history and any issues for consideration. Carry out site visit with inspector to ensure matters properly considered, and verify concerns. This could include further visits to assess remedial action prior to final determination. Travel time and travel costs.	5 hours	£150
Review and log inspector's report, and any additional officer reports / observations regarding licence application / site visits. Determine licence application outcome and licence duration. Correspondence regarding licence outcome decision. Update and publish public register.	1.5 hours	£45
Other indicative cost considerations which would be covered by fee - Request for variation of licence, or need to vary licence following further intervention at the establishment. Further visits by local authority, and / or inspectors for purpose of variation, or for intervention as result of enquiry or complaint about the establishment. Ongoing communication with establishment regarding licence conditions, and updates that impact operation. Appeals, enforcement action, regarding application or licence variation.	Difficult to quantify but could be a significant time impact depending on circumstances.	

Licence application and renewal application fees are proposed as follows –

Establishment Application Type	New application / renewal application fee	
	2021/22	2022/23
Dog breeding	£300.00	£309.00
Cat breeding	£300.00	£309.00

Rabbit breeding	£300.00	£309.00
Sale of pet animals (pet shop)	£300.00	£309.00
Animal welfare establishment	£300.00	£309.00
Re-homing (with establishment inspection)	£300.00	£309.00
Re-homing (no establishment inspection)	£150.00	£154.00