



Department
for Environment
Food & Rural Affairs

The review of animal establishments licensing in England

Next steps

February 2017



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Introduction

This document provides a summary of the next steps in the review of animal establishment licensing in England. A public consultation on proposed changes ran for 12 weeks, from the 20th December 2015 until the 12th March 2016, and a summary of the responses was published on 15 September 2016.

The consultation responses have been considered carefully and decisions have been made on the way forward. This document outlines these decisions and the next steps for each of the proposals.

Regulations will be drafted over the next few months. We plan to consult stakeholders through the sector groups on those draft Regulations before they are laid in Parliament.

Background

Local authorities are required by law to issue licences for specific animal-related establishments and activities, with the aim of maintaining good standards of animal welfare. There is a registration requirement for performing animals, and licensing systems for pet shops, animal boarding, riding establishments and dog breeding.

Estimates show that there are approximately 2,300 licensed pet shops, 650 licensed dog breeders, 1,800 licensed riding establishments, and 6,300 licensed animal boarding establishments in England. These comprise the fourth largest group of business licences issued by local authorities, after premises, taxi and gambling licences.

There is a strong public expectation that animal welfare standards will be robustly enforced by local authorities. However the laws, and their specific requirements, are often decades old, and difficult to adapt to the changing types of animal-related businesses, and to new standards of good practice in animal welfare. Moreover, the current process is complex and burdensome for both businesses and local authorities. For instance, primary legislation limits licences to a calendar-year framework, arbitrarily focussing inspections at the end of the year, and forcing some businesses with multiple functions to have as many as three separate licences.

The Government is committed to improving the effectiveness of existing regulation whilst lifting the regulatory burdens on businesses to support growth, productivity and innovation. These proposals should relieve the administrative burden on local authorities, simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards by modernising the current animal licensing system in England.

Animal establishments licences

a) Generic licences

Question 1: To what extent do you agree or disagree with the proposal to introduce a single Animal Establishment Licence?

The majority of respondents to the consultation were positive about this proposal, but many highlighted the importance of retaining specific standards for each of the different activities.

We are planning to introduce one 'animal activities' licence which will cover four animal activities; dog breeding, dog/ cat boarding, selling pets and hiring out horses for riding. This will help to streamline the administrative process for local authorities and businesses. There will be separate sets of standards for each activity within the Regulations.

We intend to use the term 'animal activities' rather than 'animal establishment' to make it clear that activities such as the online sale of pets (which may not occur from a particular establishment) are included as licensable activities.

b) Model conditions

Question 2: To what extent do you agree or disagree with the proposal to promote or require use of the Model Conditions by local authorities, for activities where they have been agreed?

The majority of respondents to the consultation were positive about this proposal.

We are currently exploring a mechanism for enshrining the key requirements from the Model Conditions into law and will work with the Canine and Feline Sector Group and the Equine Sector Council on this. We will continue to encourage the use of the full Model Conditions by local authorities.

c) Breeding and sale of dogs

Question 3: To what extent do you agree or disagree with the proposal to prohibit the sale of puppies below the age of eight weeks?

The majority of respondents to the consultation were positive about this proposal.

At present, the Breeding and Sale of Dogs (Welfare) Act 1999 makes it an offence to sell a dog at less than eight weeks of age, "otherwise than to the keeper of a licensed pet shop." We wish the sale of puppies below the age of eight weeks to be prohibited in all cases. The exemption of sale of young puppies by licensed breeders to pet shops is a free standing provision in the Breeding and Sale of Dogs Act 1999, and primary legislation is

needed to make the amendment. Such an amendment might be suitable for a Private Member's Bill. In the meantime, it is proposed that the requirements from the Model Conditions for Pet Vending on not selling pets at too young age will be transposed in the Regulations. For both puppies and kittens this is at less than eight weeks of age.

Question 4: To what extent do you agree or disagree with the proposal to make clear that the statutory licensing threshold for dog breeders is set at three or more litters per year?

The majority of respondents to the consultation were positive about this proposal.

This proposal should be seen in the context of the requirement that anyone operating a business selling pets needs a licence irrespective of the number of pets sold. This requirement will apply equally to businesses that: i) breed and also sell pets, ii) are third party sellers of pets (those that sell pets that they did not breed) and iii) operate from home or online. The requirement also applies in the case of business to business sales as well as sales to the public.

Against that background and notwithstanding the recommendations of the EFRA Select Committee in its recent report "Animal welfare in England: domestic pets", we propose to set the statutory licensing threshold for dog breeders at three or more litters per year which is the same level as currently applies in Wales. Specifically, the test will be set as anyone breeding three or more litters per year and selling the puppies. We will retain the existing exemption in the dog breeding legislation for breeders who can show they do not sell any of their puppies as well as the requirement that each breeding bitch should have only one litter per year. Given this, any person with three or more breeding bitches on the premises and selling dogs would need a licence. We consider that three litters or more provides the right balance of being proportionate and reasonable to enforce, and will help target regulatory effort on those breeders producing dogs on a commercial basis. In terms of the impacts, in 2015 the Kennel Club registered 4,443 dog breeders in the UK that had two litters per annum and they estimate that their membership represents around 40% of all breeders. Reducing the threshold to two litters would considerably increase the number of breeders needing a licence. Recent evidence shows there could be around 600 licensed dog breeders in England at the moment. In contrast Kennel Club registered 2,039 breeders breeding either 3 or 4 litters per annum in 2015 in the UK.

There was also a suggestion from consultation respondents that those breeding and selling a puppy should be required to register with their local authority and display their registration number when advertising. This would mean that every household which had just one litter of puppies and sold them would have to register with their local authority. We consider that such a registration requirement would be disproportionate and challenging to enforce by local authorities. Evidence from similar regimes, such as the dog licensing regime which used to exist in the past, suggests that schemes applying to much of the population are difficult to enforce with compliance rates being low. Furthermore such a regime would present a burden on responsible hobby breeders and families who choose to breed from their dog once in its lifetime.

Instead we consider that the focus of enforcement action and regulatory effort should be on repeat breeders and those profiting from the sale of puppies. To encourage better traceability and assurance for those seeking to acquire a dog, we propose to include in the Regulations a requirement for licensed sellers of pets to display their licence number when advertising. This is one of the Pet Advertising Advisory Group's (PAAG's) minimum standards¹ for online classified advertisements. This will allow responsible consumers to check that they are securing a dog from a properly licensed breeder and ties in with the desire of many to see regulation of online sales. In addition we will explore the scope for requiring other elements of the PAAG minimum standards to be applied by licensed pet vendors.

Currently, under the Pet Animals Act 1951, individuals that sell the progeny of their own pets or of pedigree animals are exempt from requiring a licence as a pet vendor. We intend to remove these exemptions, so that anyone selling pets as a business will require a licence. We intend to require local authority officers to have regard to the following non-exhaustive list when deciding whether or not an individual is running a business. A person is likely to be running a business if they are selling regularly to make a profit, earning commission from selling goods for other people, breeding animals regularly to sell for profit or selling online, either through websites or classified adverts, on a regular basis.

d)Pet sales

Question 5: To what extent do you agree or disagree with the proposal to legally require pet sales to provide written information when selling animals?

The majority of respondents to the consultation were positive about this proposal.

We intend to include this requirement as a mandatory licence condition on those selling pets. We will require the information to cover the five freedoms in the Animal Welfare Act 2006. Many pet sellers already supply such information, which is often freely available to download from welfare and industry groups. A number of sector groups have agreed to refine and develop such information where it needs updating or is not available. Overall this should not entail a significant burden on businesses.

Question 6: What other proportionate measures could address concerns around the care of exotic animals?

Consultation respondents made a number of useful suggestions which could be taken forward by the industry. It was suggested, for example, that pet shops could ask prospective buyers what they know about the animal they are trying to purchase, to make sure they are fully aware of the needs of the animal. Many responsible retailers already do

¹ <http://paag.org.uk/about-paag/minimum-standards/>

this and some refuse to sell if there are concerns about the capacity of the buyer to care for the pet.

Consultation respondents also highlighted that local authority inspectors often do not have the specialist knowledge to inspect establishments selling exotic pets. We are currently working with the National Companion Animal Focus Group (NCAFG) to develop guidance and training for local authority inspectors, as well as information on how to select inspectors with specialist knowledge where needed.

Length of licences

a) Removing the calendar-year restriction

Question 7: To what extent do you agree or disagree with the proposal to allow licences to be issued for a fixed term, set at any point in the year?

The majority of respondents to the consultation were positive about this proposal.

We intend to allow licences to be issued for a fixed term, set at any point in the year. This will reduce the burden on local authorities and businesses by spreading licence applications throughout the year, and by ensuring that all licences last for their full term rather than to the end of the calendar year.

b) Increasing the maximum licence length

Question 8: To what extent do you agree or disagree with the proposal to increase the maximum length of a licence that local authorities may issue to up to three years?

Consultation responses to this question were very mixed. Overall, there was considerable support for the proposal as it was felt that this would lead to a reduced burden on local authorities and businesses. The incorporation of earned recognition into the current system was also seen to be beneficial, by awarding longer licences to lower risk establishments with higher welfare standards. It was commented that this may help to drive up standards. However, many respondents added the caveat that this would need to be underpinned by a robust and consistent risk-based system.

We intend to increase the maximum length of a licence that local authorities may issue to up to three years. However, this will be linked to a requirement for local authorities to use a standard risk-based assessment system which is nationally agreed. The National Companion Animal Focus Group is working with us to help to develop a template for this risk-based assessment.

In addition there were comments relating to the competence of local authority inspectors in relation to animal establishments. Whilst in many cases a veterinarian will be involved in inspection of premises, in many cases a local authority inspector may have other duties and areas of expertise other than say on dog breeding or horse riding. We are exploring, therefore, with the National Companion Animal Focus Group and other stakeholders, the scope for setting standards and training needs for local authority inspectors and potentially the development of a list of inspectors that meet such standards. This links to the practice of local authorities pooling inspection resource and developing expertise and is a natural extension of the use of primary authority.

c) Transferring licences

Question 9: To what extent do you agree or disagree with the proposal to allow licence holders to transfer licences to new owners of the same premises, subject to notification of and approval by the local authority?

The majority of respondents to the consultation were negative about this proposal, commenting that the person holding the licence has a strong impact on the level of welfare in the establishment.

We do not intend to take this proposal forward.

d) Notification of major changes

Question 10: To what extent do you agree or disagree with the proposal to require licence holders to notify local authorities of major changes, such as a change of premises or scale of activities?

The majority of respondents to the consultation were positive about this proposal, as it was felt that any major changes could have an impact on animal welfare.

We intend to require licence holders to notify local authorities of major changes. The responses to the consultation highlighted a concern that 'major changes' would need to be clearly defined. We intend to define 'major changes' as any changes which affect the licence conditions.

Performing animals registration

Question 11: To what extent do you agree or disagree with the proposal to maintain the registration requirement for performing animals?

The majority of respondents to the consultation were positive about this proposal.

We intend to maintain the principles behind registration for these animals and to make improvements, including to clarify that the animals do not have to be 'performing' to be included. Many respondents commented on the need to update the Performing Animals Act 1925 so that it includes modern businesses, such as mobile animal exhibits. The current definition of a 'performing animal' was seen to be restrictive and to be inconsistently applied.

To address this issue, we intend to repeal the requirement to be registered in order to exhibit or train a performing animal in the Performing Animals Act 1925 as it applies to England and replace it with a scheme under the Animal Welfare Act 2006 for animals that are exhibited. We will ensure that the definition is drafted so as not to capture unintended activities and we will work closely with the devolved Governments on these proposals and explore the scope for a shared approach.

Concerns were also raised that the animals kept are often not specified on registration. We intend to require businesses to list the number and species of animals they are exhibiting (including both common names and scientific names). In addition we will work with the sector and other interested organisations to encourage the development of good practice guidelines for these activities.

Question 12: To what extent do you agree or disagree with the proposed changes to the registration system for performing animals

A small majority of respondents were positive about this proposal. Many respondents did not feel qualified to comment.

The specific changes suggested were to update the legal standards to refer explicitly to the welfare needs set out in the Animal Welfare Act 2006, to remove the need for local authorities to send copies of paperwork to Defra and to extend powers of entry to areas where the animals are kept.

We intend to update the legal standards to refer explicitly to the welfare needs set out in the Animal Welfare Act. In addition, we intend to remove the need for local authorities to send copies of paperwork to Defra. Instead, local authorities will be requested to submit annual data (in electronic format) on all licences and registrations.

By bringing the principles behind the registration system into Regulations under the Animal Welfare Act, the scheme will be covered by the powers of entry in the Animal Welfare Act. This will mean that local authorities will have powers of entry to areas where the animals are kept.

Powers of entry

Question 13: To what extent do you agree or disagree with these proposals on powers of entry?

The majority of respondents were supportive of the principle of powers of entry. Some concerns were raised about the need for a warrant and the need to give prior notice of the application for a warrant, as well as limiting powers of entry to four people.

The Regulations will be made under the Animal Welfare Act 2006 and local authorities' powers of entry will be on the same basis as under the Act. This will not include a restriction on the number of people that can make use of the power of entry. It will require a warrant to enter dwelling premises, with reasonable notice given of the application for a warrant unless such notice would defeat the object of the entry.

Accreditation

a) UK Accreditation Service (UKAS) accreditation of independent regulators

Question 14: To what extent do you agree or disagree with the proposal to allow an exemption from licensing requirements for businesses affiliated to a body accredited by UKAS?

Consultation responses to this question were mixed. Whilst there was support for the principle of earned recognition and the potential for this to drive up welfare standards, concerns were raised about the creation of a perceived two-tier system and the loss of local authority control of licensing. In particular, concerns were raised that the proposal would lead to a loss of revenue and expertise for local authorities, and confusion over where complaints should be sent.

We intend to incorporate the concept of earned recognition into the current licensing system, by including a consideration of any affiliation to a body accredited by UKAS in the risk-based assessment process that we are developing with the NCAFG. In the system being developed it is likely businesses affiliated to a body accredited by UKAS will receive a lower risk score, and may receive a longer licence term at lower annual cost. This would ensure a reduced burden on low risk businesses and on local authorities whilst maintaining local authority control over the licensing scheme.

This proposal was suggested by a number of respondents to the consultation, including local authorities, industry stakeholders and animal welfare organisations.

b) Voluntary accreditation

Question 15: To what extent do you think sector-led UKAS-accredited certification schemes could improve animal welfare in unlicensed areas? If so, what would work best and how could this process be encouraged?

This was not a proposal and so no changes will be made. Many of the respondents were positive about the potential for sector-led UKAS-accredited certification schemes to improve animal welfare and this is something that we will be encouraging.

Additional proposals

One of the difficulties in developing policy in this area has been a general paucity of data on the number of licences currently issued by local authorities. Some data has been made available through Freedom of Information requests to local authorities. In order to improve the information that is available, Defra proposes to request local authorities to submit annual data (in electronic format) on the number of licences and registrations they hold for the animal activities in the scope of this review which would then be published. This will ensure that there is better information and data on the numbers of such establishments and businesses in England and help to address concerns about consistency between local authorities and a lack of oversight and public scrutiny, which were raised repeatedly in the responses to the consultation.

As noted, local authorities have been subject to recent and regular Freedom of Information requests seeking such data, and the need for those would be reduced if data was more freely available; so the overall burden on local authorities should not change. Furthermore, it is good administrative practice for local authorities to keep records on the number of licences they issue.

The lack of consistency around licence fees was also raised in responses. We intend to maintain the current fee structure, which is based on full cost recovery. However, we are also working with the NCAFG to develop guidance for local authorities on setting reasonable fees and charges, which will help to improve consistency and transparency.

Concerns were raised about difficulties with enforcement. We are looking at the possibility of bringing in fixed penalty notices to aid enforcement.

Next steps

Defra will develop draft Regulations based on these conclusions and will continue to work with stakeholders through the National Companion Animal Focus Group, the Canine and Feline Sector Group and the Equine Sector Council to put in place the necessary supporting policies, guidance and documentation.