

## **BARNSELEY METROPOLITAN BOROUGH COUNCIL**

**This matter is not a Key Decision within the council's definition and has not been included in the relevant Forward Plan**

**Report of Matt Gladstone**

### **A REPORT TO ADVISE LICENSING BOARD ON THE INTRODUCTION OF NEW LEGISLATION RELATING TO ANIMAL LICENSING ACTIVITIES**

#### **1. Purpose of report**

- 1.1 This report is a follow on from the report seeking approval to deviate from the Model Licensing Conditions (MLCs) for animal licensing in some circumstances, which was brought to the Board in December 2017. Following this report Licensing Board asked for a follow up report on how the new proposals were working.
- 1.2 However, since the December 2017 Report, things have moved on, so this report is to advise Licencing Board on the introduction of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which are due to come into force on 1<sup>st</sup> October 2018. A draft of these regulations has been published, and some aspects of the new legislation differ from the current Model Licensing Conditions.
- 1.3 This report also informs the board on the number of licensed animal establishments, including catteries and kennels in the Borough.

#### **2. Recommendation**

- 2.1 In light of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which are due to come into force on 1st October 2018, the board is asked that in circumstances where BMBC Animal Health Officers have confirmed there are no welfare concerns, businesses are allowed to continue to operate as they currently do until they become Licensed under the above Regulations. The reason for this is that elements of the draft of the new Regulations differ from the MLCs, and although the MLCs are adopted by BMBC as the standard to be achieved, they are guidance, and not legislation.

#### **3. Introduction**

- 3.1 Barnsley MBC is required to license certain business activities in relation to animals. Under the current system this is done under a number of different pieces of legislation. In order to rationalise the system and update standards, a new, single piece of legislation is to be introduced to cover all aspects of animal welfare licensing, which are shown in the table in paragraph 3.2 below.

- 3.2 Licences are issued on an annual basis. The following table shows the premises currently licensed, the dates for which the licensing period for that sector runs, the number of licences issued to businesses in that sector and the annual charge.

<b>Licence Type</b>	<b>Licence Period</b>	<b>No. of Licences of this type issued</b>	<b>Licence cost</b>
Kennel	1st September- 31st August	4	£159.00
Cattery	1st September- 31st August	3	£159.00
Kennel & Cattery	1st September- 31st August	9	£159.00
Dog Breeder	1st January-31st December	8	£139.00
Home Boarding	1st June- 31st May	69	£107.00
Day Care- Home	1st June- 31st May	3	£107.00
Day Care- Commercial	1st June- 31st May	2	£139.00
Riding Schools	1st January-31st December	4	£139.00
Pet Shop	1st April- 31st March	16	£130.00

NB. Zoos and Greyhound Racing are also licenced by the Service, but this is not included in the new regulations and will continue to be licensed under current legislation.

- 3.3 The Service currently employs 2 Regulatory Services Field Officers whose duties include the Licensing of Animal Welfare Establishments. Both are fully trained and competent to assess animal health and welfare issues. Part of the Licensing regime involves a visit to the premises, which includes an assessment of the business's paperwork and procedures, as well as a physical inspection of the environment, all which is assessed against required standards. Any complaints which are received about licensed premises are investigated. The level and detail of investigation will be dependent upon the nature of the complaint and previous complaints against the business.
- 3.3 A draft of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 has been published, and the regulations are due to come into force on 1<sup>st</sup> October 2018. Any Licenses issued prior to this date will be issued under the current legislation until the next renewal date. An example of this is the cattery or kennel licence. Licences are due to be issued on 1st September 2018, until 31<sup>st</sup> August 2019, so these will be issued under the current legislation, which is the Animal Boarding Establishments Act 1963. The New Regulations will come into

force on 1<sup>st</sup> October 2018, so licences will be issued under the new legislation for the licensing period 1<sup>st</sup> September 2019 – 31<sup>st</sup> August 2020.

- 3.4 On reading the draft of the new Regulations, it appears there are a number of differences with the current Model Licensing Conditions. An example of this is in relation to kennel sizes. In the current MLCs there are sizing requirements. However, in the draft of the new regulations the specified sizing requirements only apply to kennels which are built after the date on which the new regulations come into force.
- 3.5 At the present time the regulations are in draft format, and there is a possibility they may change, however, if they do not change, to mirror the current MLCs it seems unfair to make a business comply with the MLCs now, for them to then have to make further changes in order to comply with the new legislation.
- 3.6 MLCs are guidance which Barnsley BMC has adopted as the standard to be achieved. However, this is guidance, and not a legal requirement. When the new Regulations come into force they will be the law, and businesses will need to be compliant. At the time of writing the report it is not clear if there will be a lead in time for any businesses which need to make alterations to comply with the new legislation, or if there will be new MLCs to go with the new legislation.
- 3.7 The proposal in this report is to allow businesses to continue to operate as they are currently, until the introduction of the new Regulations. Once the final draft of the new Regulations has been issued, the Service will write to all licensed businesses to advise them of the new regulations and that they will need to comply with the requirements of these regulations.

#### **4. Consideration of alternative approaches**

- 4.1 The Authority could insist on businesses complying with the current MLCs. However, as MLCs are guidance rather than legislation, and as the new draft legislation differs from the MLCs, it would be unfair to businesses to get them to make alterations to comply with guidance, which would then not be compliant with new legislation which is to be introduced in the next few months. Also, the MLCs are guidance, and the authority is likely to be challenged if it took this approach.
- 4.2 The Authority could ask for verification from an independent vet, however, this would have cost implications for businesses.

#### **5. Proposal and justification**

- 5.1 To allow businesses to continue to operate in their current format until the new Regulations come into force. As the Licensing year for catteries and kennels runs from 1<sup>st</sup> September - 31<sup>st</sup> August, they will have 11 months to comply with the new Regulations (subject to any further lead in period allowed when the legislation is introduced), until they are licensed under the new Regulations. It will also support the Council priority of Thriving and Vibrant Economy, by supporting local businesses, by applying a pragmatic approach to the interim period between now and the introduction of the new Regulations.

**6. Implications for local people / service users**

- 6.1 MLCs are guidance which BMBC have adopted as the standard to be achieved. Insistence on complying with the current MLCs, some elements of which differ from the new draft Regulations will place an unnecessary burden on local businesses, and may cause them to close, and result in a number of job losses. The Service has had representations from businesses indicating this will be the case. This approach is also likely to be challenged by businesses. Waiting and applying the requirements of the new legislation would make better sense for the Authority, and for the business.

**7. Financial implications**

- 7.1 If businesses close, as a result of non-compliance, either with the current MLCs or the new Regulations, there would be a reduction in income for the Authority.

**8. Employee implications**

- 8.1 No implications.

**9. Communications implications**

- 9.1 Licensed premises in the Borough have been written to, to advise them of the new draft Regulations. Further correspondence will be sent to all businesses licensed for animal welfare once the new Regulations have been finalised. If these businesses were to close, this would impact on residents on Barnsley who would have a reduced choice in where to board their animals, and may mean they use businesses outside the borough.

**10. Consultations**

BMBC finance/legal services will be consulted on this report.

**11. Tackling Health Inequalities**

- 11.1 No implications.

**12. Background Papers**

- 12.1 Copies of the MLCs and draft Regulations are available on request from the officer below:

Office Contact: Rachel McCormack Telephone No: 772521 Date: 13.4.18
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Financial Implications / Consultation ..... Date: .....
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Consultations have taken place with representatives of the Executive Director, Finance
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