

**Body:** General Licensing Committee  
**Date:** 15<sup>th</sup> October 2006  
**Subject:** Raising Of Standards In Licensed Animals Establishments  
**Report Of:** Karen Plympton, Licensing Manager  
**Ward(s)** All  
**Purpose**  
1) To advise the Licensing Committee of the current position in relation to the licensing of pet shops, animal boarding houses, breeding establishments and related activities.  
2) To advise the Licensing Committee about the implementation of the Animal Welfare Act 2006, and its implications for Eastbourne Borough Council Review the Councils current licence conditions relating to pet shops, boarding and breeding establishments in the Borough  
3) Aim to raise standards and adopt a range of new model operating conditions as part of this process.

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## **1. Introduction**

- 1.1 Local Authorities issue licences to proprietors for a range of activities which are defined as licensable under a broad range of legislation, including:
- The Pet Animals Act 1951 (As amended)
  - The Animal Boarding Establishments Act 1963
  - The Breeding of Dogs Act 1973
- 1.2 Currently, Eastbourne Borough Council licences 5 pet shops and 2 animal boarding establishments, 2 of which are categorised as home boarding units.
- 1.3 In addition, at the next full meeting, the Licensing Committee will be asked to review the conditions relating to the keeping of dangerous wild animals, riding establishments and zoos. However, at this stage, no such premises are licensed within the Borough albeit the Licensing Department are fielding general enquiries in this regard.

## **2.0 The Eastbourne Context**

- 2.1 Historically, the Eastbourne Borough Council has licensed animal establishments covering a range of activities, and has sought to stipulate its own licence conditions, which do not appear to have been revised for some time.
- 2.2 These conditions are broad in scope and aim to ensure:

- that animals are kept in suitable accommodation.
- that animals are fed and watered adequately.
- that the licensee shall take all reasonable steps to prevent the spread of infectious or contagious disease.
- that appropriate steps will be taken in the event of an emergency.

2.3 The licensee is also required to take steps to ensure that the safety of animals, and that proper records are kept. A copy of the current licence conditions relating to pet shops and boarding are attached at Appendix 1.

### **3.0 Animal Welfare Act 2006 – An Overview**

3.1 From 6 April 2007 in England, animal welfare law is being improved.

3.2 It is still against the law to be cruel to an animal. However, the new Act also requires that individuals must ensure that all the welfare needs of animals are met.

3.3 It makes owners and keepers responsible for ensuring that the welfare needs of their animals are met.

3.4 These include the need to provide:

- A suitable environment (place to live)
- A suitable diet
- To exhibit normal behaviour patterns
- To be housed with, or apart from, other animals (if applicable)
- To be protected from pain, injury, suffering and disease

3.5 The new law also increases the minimum age at which a person can buy an animal to 16, and prohibits giving animals as prizes to unaccompanied children under this age.

3.6 Anyone who is cruel to an animal, or does not provide for its welfare need, may be banned from owning animals, fined up to £20,000 and/or sent to prison.

3.7 Whilst there are new powers available to duly authorised Local Authority Officers in the Act in relation to animal welfare, there is no obligation on Local Authorities to use these powers. The Government expects that many of the new powers will help inspectors carry out their existing duties more effectively, with an extra focus on the prevention of suffering before it occurs. Inspectors are those persons with responsibility for animal welfare appointed under section 51 of the Act by either a Local Authority or, in England, the Secretary of State.

### **4.0 Who enforces the Act?**

4.1 It is envisaged that day-to-day enforcement of animal welfare law will not change significantly. The Act provides for certain specific enforcement powers for the police and Authorised Officers such as the power of entry, inspection, seizure and search and the power to seize documents.

- 4.2 The Act, like most law, is a 'common informers' Act. This means that anyone is allowed to bring a prosecution for an offence. Whilst it is envisaged that the RSPCA will continue to investigate offences and bring prosecutions, particularly in relation to companion and domestic animals, RSPCA inspectors will not have formal enforcement powers under the Act. So, for example, where access to premises without the owner's consent is sought, the RSPCA will have to be accompanied by a local authority or Animal Health inspector or police officer, as was the case in previous law.
- 4.3 Authorised Officers can also be accompanied by an expert in relation to particular welfare issues, for example, in inspecting exotic species.
- 4.4 There are several powers that are available to Local Authorities and inspectors under the Act, many of which update and improve the powers available under previous law. These include:
- Emergency powers in relation to animals in distress
  - Powers of entry and inspection including the power to seize documents
  - Prosecution powers
  - Improvement notices
- 4.5 A new addition to the law is that an inspector can issue an 'improvement notice' if a welfare problem is found but it is felt best to inform the owner asking them to rectify the situation.
- 4.6 Under the Animal Welfare Act 2006, powers exist for secondary legislation and codes of practice to be made to promote the welfare of animals. The government is currently looking at a number of specific issues with a view to updating or bringing in new regulations or codes.
- 4.7 Whilst the Act provides a general framework for the protection for animals, the Government intends to make more specific laws for particular situations or kinds of animals where it is felt that this would be useful; such as what kind of procedures pet shops should follow to look after animals, or in what circumstances it is acceptable to dock a dog's tail.
- 4.8 The Animal Welfare Act 2006 allows the Government to issue and from time to time revise codes of practice.
- 4.9 The main purpose of these codes is to give practical advice to owners and others responsible for animals on the steps they can take to ensure that their animals' welfare needs are met. Welfare codes for farmed animals have been in existence for some years and the Act will allow these to be issued for companion animals too.
- 4.10 Failure to comply with a code will not be an offence in itself. However, whether or not a person complied with a code could be used as evidence in court if a prosecution is taken.
- 4.11 The Government has made a commitment to produce certain general codes that will provide guidance on the keeping of certain species, such as dogs, cats and primates. Codes will also be produced to give more detail to other secondary legislation such as the sale of pets and the welfare of racing greyhounds. Other codes will be issued as and when necessary bearing in mind that a good deal of

guidance is already available to animal owners from specialist clubs and animal welfare bodies such as the RSPCA.

- 4.12 All codes of practice issued by government will be subject to public consultation and parliamentary approval. The table at Appendix 2 shows the Government's current intentions on secondary legislation and codes of practice to be made under the Animal Welfare Act. All Regulations and codes of practice are subject to public consultation and parliamentary approval. The proposed implementation period is included at Appendix 2.
- 4.13 In due course, delegations will be sought to duly authorise Officers under the Animal Welfare Act. However, until such new provisions are made and fully implemented existing laws will continue to apply as follows.

## **5.0 Current Legislative Framework**

### **5.1 The Pet Animals Act 1951**

- 5.2 The Pet Animals Act 1951, as amended in 1983, protects the welfare of animals sold as pets. The Act requires any person keeping a pet shop to be licensed by the Local Authority. Before granting a licence, the Local Authority must be satisfied that the animals are kept in accommodation that is both suitable and clean; that they are supplied with appropriate food and drink; and are adequately protected from disease and fire.
- 5.3 The Local Authority may attach any conditions to a licence, may inspect a licensed premises at all reasonable times and may refuse a licence if the conditions at the premises are unsatisfactory or if the terms of the licence are not being complied with and can take resultant enforcement action as appropriate.. Under Section 2 of the Pet Animals Act 1951, pets cannot be sold in the street, including on barrows and markets. A copy of the current conditions imposed on such is included in Appendix 1.

### **6.0 Animal Boarding Establishments Act 1963**

- 6.1 Establishments where the boarding of animals is being carried on as a business are subject to the 1963 Act. This requires such establishments to be licensed by the Local Authority. For the purpose of this Act the keeping of such establishments is defined as the carrying on at any premises, including a private dwelling, of a business of providing accommodation for other people's cats and dogs.
- 6.2 The licence is granted at the discretion of the Local Authority which may take into account the suitability of the accommodation and whether the animals are well fed, exercised and protected from disease and emergency, for example, fire.

### **7.0 The Breeding of Dogs Act 1973, The Breeding of Dogs Act 1991 and the Breeding and Sale of Dogs (Welfare) Act 1999**

#### **'Puppy Farms'**

- 7.1 Anyone who is in the business of breeding and selling dogs will require a licence from the Local Authority under the 1973 Act as amended by the 1999 Act. The Local Authority has discretion whether to grant a licence and must ensure that

the animals will be suitably accommodated, fed, exercised and protected from disease and emergency, for example, fire.

- 7.2 It is for Local Authorities, who have extensive powers to check on the standards of health, welfare and accommodation of the animals, to enforce the requirements of the Act.
- 7.3 The 1999 Act provides that bitches are not mated until they are at least one year old and that they give birth to no more than six litters in a lifetime and no more than one litter per year. Accurate breeding records must be maintained by the establishment to enable tighter controls on the sale of dogs by dealers and pet shops; for identification for traded dogs; and stiffer penalties, including imprisonment.
- 7.4 In addition, the Breeding of Dogs Act 1991 extended the powers of Local Authorities to obtain a warrant to enter any premises, excluding a private dwelling house, in which it is believed that a dog breeding business is being carried out. All outbuildings, garages and sheds are open to inspection. Previously, Authorised Local Authority Officers could enter and inspect only premises which were already licensed.

## **8.0 Review Of Conditions**

- 8.1 In September 1992, a working group of the organisation now known as the Local Government Association, British Veterinary Association and the organisation known as the Pet Care Trust published a set of licence conditions for pet shops. This was in response to concerns expressed by the industry, enforcement authorities and those concerned with animal welfare. It had become apparent that the standards applied to pet shop conditions were not always consistent and did not therefore necessarily ensure the highest practicable standards.
- 8.2 Further, a range of model conditions relating to animal breeding and boarding have been developed with a view to raising standards and achieving minimum standards have also been developed in consultation with the trade and recognised welfare organisations for use by Local Authorities. A copy of the proposed conditions relating to pet shops, animal boarding and breeding are included at Appendix 3, 4 and 5.

## **9.0 Consultation**

- 9.1 In January 2006, sites currently licensed by the Borough were written to and feedback sought about the proposed adoption of minimum standards and conditions. A copy of this correspondence is included at Appendix 6.
- 9.2 Following this consultation exercise, feedback was received from Southwinds Boarding Cattery regarding the proposed conditions and implementation period. A copy of this feedback is included at Appendix 7.
- 9.3 Taking into consideration this feedback, it is proposed to allow for a transitional period to be included. This is to enable sites already licensed within the Borough to continue to trade and to take any action required to meet the minimum standards and new conditions. It is also proposed that such steps will be taken and any works completed no later than 15<sup>th</sup> October 2009.

- 9.4 It is proposed that the new conditions have immediate effect and that any new sites seeking to be licensed within the Borough after 15<sup>th</sup> October 2007 must meet the specified conditions from the outset.

### **10.0 Financial Implications**

- 10.1 The cost of any new regime is largely recovered by way of a licence fee. Applicants and/or licensed site operatives may also be required to meet the additional costs of veterinary fees and/or the instruction of a specialist where it is deemed necessary by the Licensing Authority in ensuring the health, safety and well being of any animal.

### **11.0 Human Rights Act 1998-Implications**

- 11.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions.
- 11.2 Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property. Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

### **12.0 Conclusion**

- 12.0 The Licensing Committee is asked to note the aims and objectives of the Animal Welfare Act 2006, its proposed implementation timetable.
- 12.1 There are currently a range of establishments licensed in the Borough. The public have a right to expect that all of these premises satisfy basic standards for the health, safety and welfare of animals. It is also equally important that the premises proprietors have a clear understanding of the minimum standards to be attained. The proposed new conditions and guidance obtained in this document have been agreed by bodies involved in the provision and control of licensed establishments. The proposed revisions set a benchmark standard, responding to concerns expressed by the industry, enforcement authorities and those concerned with animal welfare, aiming to raise standards and some degree of consistency of approach.

### **13.0 Recommendations**

The Full Licensing Committee is asked to:

- (1) To note the progress and implementation timetable of the Animal Welfare Act 2006, and its implications for Eastbourne Borough Council

- (2) Amend the Council's current licence conditions relating to pet shops, boarding and breeding establishments in the Borough, with a view to raising standards.
- (3) Adopt a range of model operating conditions as detailed in the Report

### **Background Papers**

- Animal Welfare Act 2006
- Pet Animals Act 1951 & Model Conditions
- Animal Boarding Establishments Act 1963 & Model Conditions
- Breeding of Dogs Act 1973/1991 & Model Conditions
- Breeding & Sale of Dogs (Welfare) Act 1999 & Model Conditions
- DEFRA – Advice Section
- Wealden District Council – Model Conditions