

APPENDIX C - Proposals for fees - Animal Welfare Regulations 2018 and Housing Act 2004

Animal Welfare Key Issues:

1. This is new legislation and the PPP have reviewed the impact of the changes over the last 12mths. There is a better understanding of the risks posed by this area of business.
2. The new legislation was brought in to improve animal welfare.
3. The governments assessment of impact on both local authorities and businesses was defined by the level of compliance expected i.e. there will be a reduced financial burden on both if business comply with the new model conditions.
4. The PPP has reviewed its hourly rate this year and at £59 per hr compares favourably with other LA's.

1. Background

- 1.1. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 sets out the duties of local authorities in England to license activities involving animals and the relevant establishments relating to this. The implementation of this new regime by the PPP has happened incrementally over the last 2 years and we have worked with licensees taking a light touch approach to support them in reaching compliance.
- 1.2. The aim of the Animal Welfare Act is to improve the welfare of animals, promote greater responsibility of their carers and provide greater investigation and entry powers for police and local authority to deal with offences. These aims were supported by the introduction of a legal requirement for the PPP to carry out 2 inspections during the lifetime of the licence.
- 1.3. In the governments assessment of why the law needed to change it was noted in their explanatory memorandum that there was a strong public expectation that animal welfare standards would be robustly enforced by local authorities. The changes were supported by the vast majority of respondents to the public consultation and it was fully acknowledged that small businesses would be affected but through 'earned recognition' fees could be set in a way that reflected risk.

2. Setting of Fees

- 2.1. PPP discretionary fees are based on a full cost recovery model. This has been agreed by all committees covering the Public Protection Partnership.
- 2.2. The fees for 2020/21 were also agreed by the full council. Regard was had to [Open for business: LGA guidance on locally set licence fees](#), the guidance for the Regulations also advises having regard to BEIS Guidance for Business on the Provision of Services Regulations, however this is now withdrawn.

2.3. Regulation 13 of the Regulations set out what a local authority may charge fees for:

- a) The costs of consideration of an application, including any inspection relating to that consideration;
- b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
- c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
- d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

3. Previous Committee Considerations

3.1. [Annex D](#) of Joint Public Protection Committee 7th November 2019 report on Fees and Charges set out how the Animal Welfare fees were calculated and set out an example using Dog Boarding fees.

3.2. The new regulations contain more detailed requirements than those under the previous licensing regime and the licensing parameters are substantial. The 2018 regulations require premises to be awarded star ratings in much the same way as food premises are risk assessed. Those premises deemed as low risk being awarded a higher star rating resulting in a longer term licence being issued.

4. Relevant Factors for Setting a Fee

4.1. Last year (2020/21) the fee of £570 was based on an overall time taken of 10 hour at £57 hourly rate. This was based on a data that was available at the time.

4.1.1. Administration - checking of applications, data imputing, liaising with internal/external officers, preparation of the licence for issue, renewal notifications, maintenance of data base, processing appeals where applicable. **2 hours** of officer time has been allowed for this work.

4.1.2. Inspections – these include pre visit checks - licence holders compliance history/previous inspection report/complaints prior to new/renewal. Inspections (x2 announced and unannounced, including time for aborted unannounced visits), travel time (x 2 announced and unannounced) on site premise inspection (x 2 announced and unannounced), report preparation, risk rating score determination, ongoing compliance costs. **8 hours** of officer's time had been allowed for this work in 2019/20.

4.2. We have reviewed our time recording and have determined that for 2021/22 a reduction of 2 hours per licence can be provided for all animal welfare licences where 2 inspections by a competent officer is required (with a minimum of 2 hours for any licence). This is now appropriate as efficiencies have been developed in the last year with processing of licences, understanding and

building relationships with existing premises and a greater understanding by all involved in the application of the regulations.

- 4.3. The regulations allow for the Licensing Authority to include reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and the reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State. Officer's chargeable hourly rate has been set at **£59.00ph** for 2021/2022 (as detailed in the main report). It is appropriate to use this figure as it already takes into account that during the issuing of a licence or permit a number of levels of staff are involved from administrative, professional and management. The fee has been divided into two categories application and grant fee this decision came about because there are two areas of licensing work involved that of administration and inspections/compliance and complaint work.
- 4.4. A licensing regime is not allowed to generate a surplus and the PPP discretionary fees are therefore based on a cost recovery basis. The fee set is for the period of the licence so a licence holder who satisfies all the requirements of the highest standard will be able to obtain a 3 year licence.
- 4.5. Where other local authorities have stated their hourly rate the PPP compares favourably (ranges between £100 and £60 on a recent google search for 20/21 published fees and charges).

5. Financial Impact of the Legislative Changes

- 5.1. When implementing significant legislative changes that impact on business costs it is common to receive a level of negative response. The COVID-19 incident has placed significant pressures on a variety of businesses and this is clearly impacting on the businesses operating in this sector. The PPP has no desire to create further financial hardship but must operate in a way that avoids any legitimate business costs being covered by the general taxpayer. Where inspections haven't been able to be carried out we have extended existing licences for three months and we have been happy to discuss phased payment options with any licence holders' on a case by case basis.
- 5.2. Fees set for 2020/21 did lead to an increase in costs for Home Boarders. It should be noted that many businesses required multiple visits, repeated advice and support to adapt to the new framework and these costs needed to be recovered. This is all legitimate work to be incorporated in the costs of compliance as per the Local Government Associations guidance and findings from relevant case law.
- 5.3. The most affected were businesses operating within the Bracknell Forest Council area who were previously paying an initial fee of £142 then an annual renewal of £119 (£380 over 3 years). These fees were not set on a cost recovery basis.

5.4. Based on the PPP's current assessment of time and resources spent managing this process it has been possible, through a number of efficiencies (generally as a result of improved familiarity with the legislation by both the businesses and the PPP), to reduce the overall amount of time required to manage the system.

5.5. This review has led to the reduction of 17% from 20/21 fees. The vast majority of businesses will benefit from these changes.

5.6. To quantify the worst case scenario for business (those operating in the Bracknell Forest Council area) this means that a business classed as low risk will see an increase of 24%. The proposed fee of £472 would provide a 3 year licence (annual cost of £157.30p).

5.7. There is generally a high level of compliance of businesses within the PPP area and a commitment to animal welfare. Currently the risk profile is as follows:

Current licences issued within the PPP (at September 2020)

	Licence Length				Total
Type	1yr (1 or 2 star)	2yr (3 or 4 star)	3yr (5 stars)	6yr (Zoo licence)	
Animal Boarding	11	1	2		14
Home Boarding	13	23	7		43
Performing Animals			3		3
Selling Animals as Pets	1	4	2		7
Riding Establishment		3	2		5
Grand Total	25	31	16	0	72
% of total in Star Categories	35%	43%	22%	0%	

West Berkshire	Licence Length				Total
Type	1yr (1 or 2 star)	2yr (3 or 4 star)	3yr (5 stars)	6yr (Zoo licence)	
Animal Boarding	4	6	2		12
Home Boarding	9	17	4		30
Animal Breeding	1	5	2		8
Performing Animals			4		4
Selling Animals as Pets		1	2		3
Riding Establishment		1	5		6
Dangerous Wild Animal		1			1
Zoo Licence	1			1	2
Grand Total	15	31	19	1	69
% of total in Star Categories	23%	47%	29%	2%	

Wokingham	Licence Length				Total
Type	1yr (1 or 2 star)	2yr (3 or 4 star)	3yr (5 stars)	6yr (Zoo licence)	
Animal Boarding	1	4	2		7
Home Boarding	16	22	2		40
Dog Breeding	3	1			4
Performing Animals			3		3
Selling Animals as Pets	3	7	4		14
Riding Establishment		1	3		4
Dangerous Wild Animal		1			1
Grand Total	23	36	14		73
% of total in Star Categories	32%	49%	19%	0%	

PPP Service	Licence Length				Total
Type	1yr (1 or 2 star)	2yr (3 or 4 star)	3yr (5 stars)	6yr (Zoo licence)	
Total	63	98	49	1	211
% in each licence length/Star rating group	30%	46%	23%	0%	

6. Penalties for Non-Compliance

6.1. In part 3 Regulation 20 of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 it sets out the following:

‘(1) It is an offence for a person, without lawful authority or excuse—

(a) to breach a licence condition;

(b) to fail to comply with regulation 7 or 19.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine.’

6.2. The procedural guidance note for local authorities identifies the offence for anyone who carries on any of the licensable activities without a licence:

‘is liable to imprisonment for a term of up to six months, a fine or both, section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.’

6.3. Section 32 of the Animal Welfare Act also identifies that the fine is not to exceed level 5 on the standard scale i.e. up to £5,000.

7. Options for Animal Welfare Fees and Charges

7.1. There are 3 options for fees in 2021/22:

7.1.1. Option 1: Do nothing other than add the CPI of 0.6% to last year's fee.
Home Boarding Fee = £456

7.1.2. Option 2: Use the generic hourly rate and not include the additional work identified as part of the review. Home Boarding Fee = £478 (rounded up)

7.1.3. Option 3: implement the fees as per the briefing note for public questions i.e. breakdown each activity following the LGA Guidance, reflect the different rates and add it all together. Home Boarding Fee = £685 (round up)

8. Recommendation for Animal Welfare Fees and Charges

8.1. **Option 2** is recommended by officers as it reflects the greater understanding of risk, with more data to refer to in the overall impact of managing the system. It also reduces the overall costs to the majority of licensees if they operate a compliant business.

9. Options for Houses in Multiple Occupation

9.1. There are 3 options:

9.1.1. **Option 1:** Do nothing other than add the CPI of 0.6% to last year's fee. HMO Licence Fee = £1,197

9.1.2. **Option 2:** Apply the new generic hourly rate and stick to the original time allocation. HMO Licence Fee = £1,204

9.1.3. **Option 3:** Implement the fees as per the briefing note for public questions i.e. breakdown each activity following the LGA Guidance, reflect the different rates and add it all together. HMO Licence Fee = £1,098

10. Recommendation for Houses in Multiple Occupation

10.1. **Option 3** is recommended by officers as it reflects the greater understanding of risk, with more data to refer to in the overall impact of managing the system.

Note 1

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	3 Star 2yr licence Min 1 unannounced visit within 24 month period	5 Star 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star 1yr licence Min 1 unannounced visit within 12 month period	2 Star 1yr licence Min 1 unannounced visit within 12 month period	4 Star 2yr licence Min 1 unannounced visit within 24 month period