



Report to Licensing (Regulatory) Committee

Date: 26th July 2022

Title: Harmonisation of animal licensing fees and charges

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Recommendation:

1. To approve the proposed animal licensing fees and charges set out in Appendix 1 for Buckinghamshire. Once approved new fees and charges will come into effect from the 29th August 2022.


1. Background

- 1.1 In accordance with the Animal Welfare Act 2006, Buckinghamshire Council, in its role as Licensing Authority, is responsible for authorising businesses that provide animal activities and ensuring that these activities meet statutory licensing and welfare standards that are prescribed by DEFRA. In addition, the Council is also responsible for licensing kept animals that are defined as dangerous wild animals under the Dangerous Wild Animals Act 1976 and for the licensing of zoos under the Zoo Licensing Act 1981.
- 1.2 The Council is currently operating different charging structures for these licence activities across the legacy council areas. This report seeks approval of a single harmonised fee structure for animal licensing activities across the Buckinghamshire Council area.

2. Main content of report

2.1 Statutory provisions

- 2.2 The relevant statutory provisions that enable the local authority to set and recover fees for animal licensing activities are set out within the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, made under the Animal Welfare Act 2006, the dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981. DEFRA and the Local Government Animal Welfare Group also issue guidance to local authorities to support fee setting.

- 2.3 **Animal Welfare Act 2006 and Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018**
- 2.4 The Licensing Authority is responsible for issuing licences to an individual (or ‘operator’) under the Animal Welfare Act and associated regulations, including for the following primary activities, providing or arranging provision of boarding for cats and dogs, the breeding of dogs for commercial purposes, keeping or training animals for exhibition, selling animals as pets and hiring out horses. The legislation and associated statutory guidance (produced by DEFRA and which the Council must operate to) are very prescriptive in nature and have become increasingly so in recent years as growing public concern and awareness around animal welfare issues has been reflected in statute. There are very significant obligations placed on Licensing Authorities to ensure that licenced premises meet at least the minimum standards of animal welfare required.
- 2.5 On the 1st April 2022 Buckinghamshire Council licensed 172 operators under the Regulations; 16 dog kennels, 24 catteries, 58 animal boarders (dog and cat), 9 dog day care providers, 19 dog breeders, 14 pet shops, 20 riding establishments and 12 animal exhibitors.
- 2.6 Under Regulation 13 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, local authorities can charge fees for:
- a) considering an application, including any inspections,
 - b) compliance checks on existing licence holders, this includes the costs of inspections
 - c) enforcement costs against an unlicensed operator doing licensable activities
 - d) compiling and submitting data needed by the Secretary of State
- 2.7 **Dangerous Wild Animals Act 1976**
- 2.8 The Licensing Authority is responsible for issuing licences to private individuals (the ‘keeper’ of the animal) that keep certain species of dangerous wild animals with the intention of ensuring that they do so in circumstances that create no risk to the public and safeguard the welfare of the animals. The Council has statutory duties to licence the keeping of any animal controlled by the Act. This requirement does not apply to dangerous wild animals kept in a zoo or a circus, nor to premises licensed for selling animals as pets, or a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986. The types of animals that require a licence are specified within the Schedule to the Act and include primates, wild cats and dogs, bears, ostriches, crocodiles and alligators and some species of snakes, lizards, scorpions and spiders.
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- 2.9 In April 2022 Buckinghamshire Council licensed 3 dangerous wild animal keepers to keep capuchins, lemurs, black buck and ostrich. Previously the authority has licensed wild Boar, Chinese freshwater alligators, African servals and savannah cats.
- 2.10 Section 1(2)(e) of the Act states that a local authority shall not grant a licence unless the application for it is 'accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application)'.
- 2.11 **Zoo Licensing Act 1981**
- 2.12 The Licensing Authority is responsible for issuing zoo licences under the Zoo Licensing Act 1981 to anyone who keeps an establishment where wild animals (as defined in Act) are kept for exhibition to the public, other than for purposes of a circus or pet shop, and the public have access with or without charge on seven days or more in a 12-month period.
- 2.13 On the first April 2022 Buckinghamshire Council licensed 3 zoos. All are small scale specialist collections and as such have been given statutory dispensation by the Animal and Plant Health Agency (APHA) which reduces the requirements under the Act. Inspections of zoos with an APHA dispensation are carried out by a licensing officer and an APHA nominated expert veterinarian.
- 2.14 Under section 15 of the Act local authorities have the power to charge such reasonable fees as they may determine in respect of applications for the grant, renewal, or transfer of licences and subsequent action. Local authorities may also charge for reasonable expenses incurred by them in respect of inspections. This charge includes both the costs incurred by the local authority in appointing their own inspectors and the costs incurred in meeting the cost of services and expenses of those inspectors appointed by the Secretary of State (where required). Under section 15(5) the local authority is required to ensure that the amount of all fees and other sums charged in a particular year is sufficient to cover the reasonable expenditure incurred by the authority in that year by virtue of the Act.
- 2.15 **Harmonisation of fees**
- 2.16 There are currently historic differences in the level of fees that are charged across the legacy council areas which should be harmonised to provide a consistent approach and level of service across the county.
- 2.17 The Council's constitution provides delegated responsibility to officers to set fees but recognises that it may be appropriate, under consultation with the portfolio holder, to refer a decision to the relevant Committee. Given the level of the changes proposed it is considered that Licensing Committee should review the proposed fees and charges and decide on the level to be set. There is no statutory requirement for public consultation when setting fees under the Acts and the proposed fees and charges are included within this report solely for the purposes of consideration and

approval by the Committee. Fees should be set at a level to ensure full cost recovery whilst also being fair and providing value for money for the businesses. Councils are required to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost, but not make a surplus.

- 2.18 The general methodology behind the review of these fees is determined by the document 'Open for business: Local Government Association (LGA) guidance on locally set licence fees'. The core principles in the LGA guidance are that fees should be non-discriminatory; justified; reasonable and proportionate to the cost of the processes associated with a licensing scheme; clear; objective; made public in advance; transparent; and accessible. It is also an accepted principle that licensed activities should be funded on a cost-recovery basis, paid for by those benefiting from the licensed activity, rather than drawing on the public purse.
- 2.19 The LGA guidance acknowledges that Councils are free to design their licensing service in a manner that best serves the needs of their community and recover the costs accordingly. It provides a number of elements that Councils may wish to consider. These include administration, visits, third party costs, liaison with interested parties, management costs, local democracy costs, staffing on-costs, development, determination and production of licensing policies, web material, advice and guidance, setting and reviewing fees, monitoring and inspection visits and maintaining statutory registers.
- 2.20 A comprehensive review of the cost of delivering animal licensing services has been carried out and new fees are proposed that reflect both the full staffing costs of running the service as well as the support service costs. The proposed fees and charges are provided at Appendix 1.
- 2.21 The review considered the average time spent on each regime activity and included receipt, review and validation of the application, research, travel, inspections (initial and mid-term) and report writing as well as issue of the licence documents. Compliance and enforcement costs for administering the regime were also attributed e.g., for complaint investigations and advice requests. The vast majority of this activity is carried out with operators that are licensed with the Council rather than un-licensed operators. As required, this review has also factored in recoverable costs incurred by the Council such as Democratic Services and Committees, corporate governance, IT provision, administration, supplies and services etc.
- 2.22 Some animal licensing inspections are undertaken alongside an expert veterinarian including for operators breeding dogs (at first inspection), hiring out horses and those keeping a dangerous wild animal. The services of a vet are also used occasionally on an ad-hoc basis, as required to support decision-making. Where the services of a vet are required, the third-party vet fees are separated from the application fee and reflect the cost of the vet visit solely for that particular operator.

This is considered fairer to businesses than including the vet fee within the application fee, as inspections of smaller operators and those that are more compliant tend to require less input and time from a vet than a larger, and/or non-compliant business and will be cheaper. The Licensing Service sources the approved vet and pays the practice directly. The fee is then recovered from the operator/keeper.

- 2.23 The duration of an animal licence ranges from 1-3 years dependent upon the level of compliance and welfare standards adopted by the business. All operators are subject to an inspection prior to the grant of a licence and are then subject to one unannounced visit within the term of the licence. Premises with lower levels of compliance at inspection are subject to additional scrutiny during the licence period which can be by way of ad-hoc visits and/or contact. In addition, officers will carry out additional visits to a licensed premises as a result of intelligence or information received and at the request of an operator to vary their licence e.g., to increase animal numbers or species. Officers also work closely with current and future business operators to support and advise them regarding statutory requirements and compliance.
- 2.24 Prior to the formation of Buckinghamshire Council in April 2020 animal licensing was delivered in different ways and within different services dependent on legacy area, with Environmental Health Services historically responsible in the legacy Wycombe area and Licensing Services delivering the regimes in the legacy Aylesbury and Chiltern and South Bucks areas. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 introduced new prescriptive requirements for the qualification of officers undertaking animal licensing activities which requires that they undertake a formal qualification and produce a portfolio of work-based experience prior to being considered suitably qualified. These requirements have been subject to a grace period up to 1st October 2022 to enable local authorities to arrange and undertake training. Since the new Council was formed and as part of the harmonisation of licensing services, responsibility for animal licensing moved wholly to Licensing Services from 1st October 2021 and we have been working to train and qualify additional specialist staff prior to the 1st October 2022. Alongside this we have also sought to centralise the information we hold on animal licences and to improve and align processes and ways of working, supported by the new Licensing Services structure. Work is currently underway to create new Buckinghamshire Council webpages and centralised application forms for customers. Harmonising fees and charges across the legacy areas also supports this activity.
- 2.25 There is limited clarity on the historic budget position for animal licensing as financial information prior to the formation of the new Council is not easily available. In addition, animal licensing continued to be delivered in different Directorates up until October 2021. The proposed fees have been set based on an understanding of the

existing service activity and costs, particularly in the legacy Aylesbury Vale area where information was more available, and the anticipated activity and costs going forward. Recent changes to the statutory guidance for animal licensing has resulted in changes and additions to the DEFRA prescribed inspection forms that must be completed on site which has also fed into the fee review process.

- 2.26 Fees should be reviewed on an annual basis. The majority of animal licensing activity is carried out under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the current legacy area fees would have been set following the implementation of these Regulations in October 2018. Since fees were set by the legacy councils, increases appear to have been applied in line with inflation only rather than because of systematic review. Generally, fees are subject to full service review on a 3 year basis but as work to harmonise the animal licensing activity across Buckinghamshire commenced only relatively recently, this work was not undertaken in 2021. The legislation and guidance were new to local authorities in 2018 at the point that the Regulations were implemented, and as such initial fees would have been set based on the anticipated costs that were considered likely to be incurred. We now have the benefit of administering the regime across the Council area since October 2021 and are in a better position to set fees based on the known costs and anticipated whole Service budget position.
- 2.27 Benchmarking of the proposed fees was undertaken with neighbouring local authorities, and with other licensing authorities where fee review had taken place since the introduction of the legislation in 2018. Current fees charged in the legacy district council areas, and the proposed fees and benchmarking against other local authority areas is attached at Appendix 2 and shows that there is significant disparity across local authority areas in terms of the fee levels charged. It appears that many local authorities, as was the case for the legacy Buckinghamshire council areas, have not carried out full fee review since the Regulations were introduced in 2018. Animal licensing is often a low volume activity for local authorities, and many have only a very small number of operators. This could, in part, explain the lack of fee review that has taken place.
- 2.28 Of the 13 authorities reviewed as part of the benchmarking exercise, 4 (Central Beds, Slough, South and Vale and Cherwell) have set all of their animal fees at the same level across the different regimes. There is a considerable difference in the amount of work and associated activity required for each regime (based on time taken and volume of premises). Where fees are all the same level across the regimes it is indicative of fees that were probably set at the start of the legislative regime, when limited information was available to inform setting, and have then not been reviewed since. As it appears that many local authorities have not reviewed their fees since the introduction of the legislation in 2018, the benchmarking exercise was extended to include authorities where an internet search indicated that review had

taken place (Dacorum, Royal Borough of Windsor and Maidenhead, Westminster, Herefordshire and Richmond) to provide comparative figures. A comparison of the proposed fees and charges with authorities that have reviewed their fees since 2018 is attached as Appendix 3.

- 2.29 The proposed Buckinghamshire Council fees have increased considerably on what was previously set for the legacy Aylesbury Vale and Chiltern and South Bucks areas, largely because of no significant review occurring of the regime since its initial introduction in 2018 when fee setting would have been wholly anticipatory. Whilst the fees are also an increase on what was originally charged in the legacy Wycombe area (where all regime fees were previously charged at £520) the increase, at an average of 14%, is less significant than for the other areas. For dangerous wild animal and zoo licences the proposed fees are 16% and 22% lower respectively than what must be paid currently in the Wycombe area. Where fees have been reviewed in other local authority areas, generally the proposed fees for Buckinghamshire compare relatively favourably, with the majority of the proposed fees lower than those in place in Dacorum, Royal Borough of Windsor and Maidenhead, Westminster, Herefordshire and Richmond.
- 2.30 Buckinghamshire is now a reasonably large animal licensing authority and, it is proposed that a full-service review of fees is carried out on a rolling three-year basis in line with the maximum 3-year licence duration period, thus affording the opportunity to reconcile any surplus or deficit accrued. A lighter touch fee review will also be undertaken by the Service annually. Where appropriate an increase will be applied to the fee in line with RPI to recover related increased costs to the Council. If another inflationary measure is prescribed by Government in the future, then this would be applied to the fee to recover related increased costs to the Council

3. Next steps and review

- 3.1 If approved, the fees will come into effect on the 29th August 2022 to provide time for the Licensing Service to notify current licence holders of the change in advance of it coming into effect, and to make the necessary website and system changes. Most animal licence renewal applications are received by the Licensing Service in September and October therefore harmonising fees prior to this peak in demand will help to provide a consistent service across the County area and ensure that the Council is effectively covering the costs of the activity and service provided.
- 3.2 The Animal Welfare (Kept Animals) Bill is currently progressing through Parliament and is at report stage prior to third reading in the House of Commons. If the Bill becomes law as drafted it will introduce further legal requirements and activities which are likely to fall to local authorities to carry out. These include plans to tackle

puppy smuggling, compulsory cat microchipping, the expansion of existing licensing regimes to include animal sanctuaries and rescue centres for cats, dogs and horses, and changes to dangerous wild animal legislation on the keeping of primates which will mean a new licensing regime in this area. The Service continues to monitor the progress of the Bill, as if it becomes law there could be a need for significant additional skilled staff resource requirements, as well as the introduction of new inspection and fee regimes.

4. Other options considered

- 4.1 None. The setting of fees is a statutory requirement. Animal licensing fees are required to be cost neutral and a reasonable fee must be charged to cover the cost of the service. The creation of the new Council area requires that a single set of fees should be charged to all licence holders.

5. Legal and financial implications

Animal licensing legislation allows for the recovery of a reasonable fee for the grant of a licence. The fees must be set at a level which ensures that the Council does not make a profit and any deficit or surplus should be taken into consideration in subsequent fee reviews, to be recovered or refunded over a rolling three-year cycle.

6. Corporate implications

- 6.1 Property – N/A

- 6.2 HR – N/A

- 6.3 Climate change – N/A

- 6.4 Sustainability – N/A

Equality – N/A Data – N/A

- 6.5 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum. As a result of harmonisation work within the Service for animal licensing activities it may be possible to realise additional efficiencies going forward. This will be captured as part of the rolling fee review process.

Key documents:

“Open for Business”, LGA Guidance on locally set fees:

<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>