

**The Highland Council**  
**Community Services Committee**

**3 November 2016**

Agenda Item	<b>15</b>
Report No	<b>COM 50/16</b>

**Licensing of Animal Establishments**

**Report by Director of Community Services**

**Summary**

Members will be aware of a number of recent incidents relating to animal welfare at facilities licensed by the Council. These incidents have highlighted the lack of enforcement options available to the Council in relation to animal welfare and licensing. The Committee are asked to note these and agree that the Council raises these concerns formally with the Scottish Government.

**1. Background**

1.1 Members will be aware that the Council has a statutory duty to licence businesses that carry out activities covered by the following legislation:

- Performing Animals (Regulation) Act 1925
- Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- Riding Establishments Act 1964
- Riding Establishments Act 1970
- Breeding of Dogs Act 1973
- Dangerous Wild Animals Act 1976
- Pet Animals Act 1951 (Amendment) Act 1983
- Breeding of Dogs Act 1991
- Breeding and Sale of Dogs (Welfare) Act 1999

1.2 The current number of licences in Highland are given below:

Animal Boarding Establishments Act 1963	47
Breeding Of Dogs Act 1973	3
Dangerous Wild Animals Act 1976	2
Pet Animals Act 1951	8
Riding Establishments Acts 1964 & 1970	20

1.3 As Members will note, a number of Acts are very old. The Animal Health and Welfare (Scotland) Act 2006 contained provisions for Scottish Ministers to bring in appropriate regulations to licence businesses involved with animals, and powers to revoke the above acts. This has not been taken forward.

1.4 In December 2015, the Department for Environment, Food and Rural Affairs (Defra) consulted on revoking the Acts in England. The consultation recognised that the laws are 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.

- 1.5 They proposed to modernise the animal licensing system to 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. The proposal was to introduce a single 'Animal Establishment Licence' for animal boarding establishments, pet shops, riding establishments, and dog breeding.

## **2. Issues in Highland**

### **2.1 Enforcement:**

- 2.1.1 A number of the Acts do not contain powers that would be expected in any modern licensing legislation e.g. powers for the Council to suspend or revoke a licence. The following acts do contain powers to revoke but only following a successful prosecution.

- Pet Animals Act 1951
- Animal Boarding Establishments Act 1963
- Riding Establishments Act 1964
- Riding Establishments Act 1970
- Breeding of Dogs Act 1973
- Pet Animals Act 1951 (Amendment) Act 1983
- Breeding of Dogs Act 1991
- Breeding and Sale of Dogs (Welfare) Act 1999

- 2.1.2 This approach does not provide an immediate response and is not seen to be best use of Court time given current pressures on the Crown office. Legislation such as the Civic Government (Scotland) Act 1982 contains well established suspension procedures that provide proportionate powers to the Council.

- 2.1.3 The Council have had particular problems recently in enforcing the Riding Establishments Acts. There has been Elected Members, MSP and press interest in recent cases.

### **2.2 Administrative Burden:**

A number of the Acts contain a fixed licence period from 1 January to 31 December. Modern licensing regimes such as the Civic Government Act allow greater licence periods e.g. up to 3 years that relieve administrative burdens on both Councils and businesses.

## **3. Actions**

- 3.1 The Council, through our Environmental Health service, raised these issues in 2015 through the National Animal Health and Welfare Panel. The issues were also raised in August 2016 with the Scottish Government as a response to consultation on enforcement powers under the Animal Health and Welfare (Scotland) Act 2006. The item was also raised again at the last meeting of the National Animal Health and Welfare Panel held in September.

- 3.2 There are wider interests in amending the legislation, particularly in relation to riding establishments. Bodies such as the British Horse Society are keen for a modern licensing scheme for riding establishments to be introduced.

- 3.3 It is suggested that improvements to the regulatory framework should be prioritised as proposed below:
- a) Concerns regarding the lack of powers to suspend a licence, and the relatively short licensing period (calendar year) should be addressed as a matter of urgency through the amendment of primary acts. These amendments to the legislation would bring them into line with a modern regulatory regime.
  - b) Proposals relating to increased enforcement powers, what activities to licence, and appropriate licensing conditions would streamline the legislation and provide greater consistency.
- 3.4 To keep up momentum on bringing in changes it is suggested the Committee raise our concerns about the legislation formally with the Scottish Government and seek improvements as outlined in 3.2.

#### **4. Implications**

- 4.1 There are no known risk, legal, equality, climate change/Carbon Clever, Gaelic or rural implications arising from this report.

#### **Recommendation**

Members are invited to raise the problems with the legislation formally with the Scottish Government.

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Background Papers:

20/12/15 – DEFRA Consultation on the review of animal establishments licensing in England

[https://consult.defra.gov.uk/animal-health-and-welfare/consultation-on-the-review-of-animal-licensing/supporting\\_documents/Consultation%20Letter%20%20Review%20of%20Animal%20Establishments%20Licensing%20in%20England.pdf](https://consult.defra.gov.uk/animal-health-and-welfare/consultation-on-the-review-of-animal-licensing/supporting_documents/Consultation%20Letter%20%20Review%20of%20Animal%20Establishments%20Licensing%20in%20England.pdf)