

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 17

Brighton & Hove City Council

Subject: Pet Vending Model Licensing Conditions

Date of Meeting: 20 November 2014

Report of: Director of Public Health

Contact Officer: Roy Pickard

Tel: (01273) 29-2154

Ward(s) affected: All

FOR GENERAL RELEASE

PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report outlines the results of the consultation required by the committee recommendation of 26th June 2014.
- 1.2 The committee recommended:
- 1.3 That progress has been made regarding the possible use of the CIEH published Model Licence Conditions for Pet Vending and that the issue warrants further discussion and consultation;
- 1.4 That progress has been made regarding the possible mandatory distribution of the EMODE leaflet to prospective pet shop customers and that the issue further warrants discussion and consultation;
- 1.5 That officers are directed to consult further on the EMODE leaflet, to explore whether objections from all trade bodies can be satisfied; that a full review is conducted, and that this item is brought back to the scheduled November 2014 Licensing Committee (Non Licensing Act 2003 Functions) for full discussion' ; and
- 1.6 That the committee note the work done in the use of CIEH model licence conditions for pet vending.
- 1.7 The committee request that further research is done into how these proposed changes will improve/not improve the lives of animals in the pet trade, and as such, that the item is brought back post-publication of the review, and work done by officers, for full discussion at the next scheduled meeting of the Committee in November 2014.

2. RECOMMENDATIONS:

- 2.1 That the committee does not agree the use of this version of the new CIEH published model licence conditions 2013 for Pets Vending.
- 2.2 That committee agree that pet shops be encouraged to stock and distribute the EMODE leaflet to prospective customers on a voluntary basis.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Chartered Institute of Environmental Health (CIEH) have drawn up new model licence conditions for Pet Vending. (Appendix 1). Contributing consultees were the British Veterinary Association, Cats Protection League, Department for Environment, Food and Rural Affairs (Defra), Dogs Trust, Federation of Companion Animal Societies, Feline Advisory Bureau, Local Government Association, Ornamental Aquatic Trade Association, Pet Industry Federation, Rabbit Welfare Association & Fund, Reptile and Exotic Pet Trade Association, Royal Society for the Prevention of Cruelty to Animals,
- 3.2 Pet Shops in the city are regulated under the Pet Animals Act 1951. The current licence conditions were devised in 1998. (Appendix 2).
- 3.3 The Animal Protection Agency has approached the Council to request that the EMODE leaflet is given to pet purchasers by Pet Shops as a condition of the licensing process. (Appendix 3 & 4).

4. Recent peer review of the CIEH Model Licence Conditions by the Animal Protection Agency.

- 4.1 The Animal Protection Agency has recently carried out a peer review. (Appendix 5).
- 4.2 The paper was published in the journal of Animal Welfare, Science, Ethics and Law journal underwent strict scientific scrutiny prior to publication by two independent peer-review experts selected entirely by the journal editor, as well as by the veterinary editor of the journal. The recommendations of the journal's peer-reviewers as well as the editor were incorporated into the article, resulting in its acceptance and formal publication.
- 4.3 Its conclusion was that: "We regard the premises for the MCPVL to be important and timely, and the CIEH itself provides an appropriate and 'natural' medium in the UK for the dissemination of the guidance. It may, however, be noteworthy that of the approximately 20 organisations, and scientific and veterinary experts who worked to develop the guidance, 10 withdrew from the project. The MCPVL document is a lateral, and in some cases retrograde, rather than progressive move in pet animal husbandry that blurs weak standards rather than improves them. The 6 AWSELVA Journal 18(1) 2014 guidance is arguably an example of what occurs when consultations go wrong, science is ignored, and soft options are adopted. Whilst strong reviewer cautions have resulted in a considerable amount of very poor material being deleted since prepublication drafts (most notably regarding the reptile and amphibian, and public health sections), in our view the MCPVL remains unfit for purpose. That said, the document has certainly been improved by the extensive deletions. However, improving material by expunging much of its substance must be considered a guarded compliment."

- 4.4 The Veterinary Times recently published an article on this, detailing the concerns of the Animal Protection Agency and the response by the CIEH. (Appendix 7)
- 4.5 **The CIEH has responded to this peer review with a statement as follows:**
- 4.6 Chartered Institute of Environmental Health rejects criticism of its Pet Shop Guidance.
- 4.7 The 'Model Conditions for Pet Vending Licensing' published by the Chartered Institute of Environmental Health (CIEH) in September 2013 are intended to offer local authorities and pet shops updated guidance on pet shop husbandry and sales practices but have been criticised by the Animal Protection Agency as being: “unfit for purpose.”
- 4.8 Graham Jukes, OBE, CIEH Chief Executive said: “We know of and reject the criticism of the guidance by the Animal Protection Agency. During the process of production of the guidance we entertained extensive correspondence and having considered all the information presented to us, the guidance we have produced represents good and effective practice in the field and is designed to assist those who set licence conditions in such premises.”
- 4.9 The groups consulted in putting the guidelines together included the British Veterinary Association, Cats Protection, Department for Environment, Food and Rural Affairs (Defra), Dogs Trust, Federation of Companion Animal Societies, Feline Advisory Bureau, Local Government Association, Ornamental Aquatic Trade Association, Pet Industry Federation, Rabbit Welfare Association & Fund, Reptile and Exotic Pet Trade Association and the Royal Society for the Prevention of Cruelty to Animals
- 4.10 Bob Mayho, CIEH Principal Policy Officer, said: “A working party was convened to prepare the document, which met over several months and consultation with all the parties involved was a continuous process. Immediately prior to publication on the CIEH web site, in September 2013, all of the organisations were asked to confirm they were content for the document to be published. The guidance has been widely welcomed and adopted by local authorities.”

5. Consultation

- 5.1 A number of work streams were developed as a result of the committee decision of the 26th June 2014. Officers consulted with the Chartered Institute of Environmental Health, the RSPCA, the Animal Protection Agency, The Pet Federation Agency, Pet Shops, Animal Sanctuaries and the general public. The results of this consultation is below:

5.2 The Chartered Institute of Environmental Health.

- 5.2.1 The CIEH was asked whether there are any changes proposed to the recent Model Licence Conditions or whether you are aware of any possible legal or scientific challenge of the model licence conditions.

5.2.2 The CIEH responded that they were unaware of any legal challenge to the model licence conditions.

5.3 The RSPCA

5.3.1 We asked the RSPCA their views on the CIEH model licence conditions and the lack of an RSPCA logo on the document. The following response was received from Lenny Rolles, Senior Parliamentary Adviser, Local Government:

5.3.2 “In terms of the RSPCA's involvement, we are happy to be listed as one of the groups that were consulted but we cannot endorse it. Whilst we feel the document does represent an improvement on the current situation, it does not go as far as we would like. An official endorsement could make it difficult for the Society to push for better practice. It was for these reasons that we asked for our logo to be removed from the cover.

5.3.3 “I hope this clarifies the situation for you. Should you wish to discuss this or any other animal welfare matter please don't hesitate to contact me.”

5.4 The Animal Protection Agency.

5.4.1 We asked the Animal Protection Agency whether they planned to change the EMODE leaflet in light of committees comments relating to ease of use and the health question.

5.4.2 The Animal Protection Agency confirmed that they have no plans to change the EMODE leaflet and responded as follows concerning this and the consultation process:.

5.4.3 “With regard to the point relating to ease of use, the leaflet has already been tested with members of the public and no issues were raised on this front. The requirement for research to answer the specific questions is unavoidable if the system is to provide a sound and reliable result. This is the only scientifically-based assessment system of its kind that is accessible to non-scientists and has been simplified as far as possible in leaflet form. We accept that not everyone will make use of it, but it is important that potential animal purchasers do at least have access to objective information.

5.4.4 With regard to the point relating to the 'intrusive' health question. As the leaflet user does not have to show the leaflet to anyone else, we fail to see how it could be intrusive any more than self-check questions in health advice pamphlets displayed in doctor's surgeries. This important self-assessment question also raises awareness of the fact that vulnerable individuals are particularly at risk from animal-to-human diseases from pets.

5.4.5 Additionally, the Animal Protection Agency wish to Convey that, for reasons we have set out in previous correspondence, your consultation does not conform to normal standards and thus cannot be used to inform the Council.

5.4.6 To convey that we along with independent lawyers and legal counsel experienced in the Pet Animals Act do not agree with city council's narrow

interpretation of the Act, and instead these more senior figures maintain that there are no legal obstacles to EMODE being attached as a licence condition.

5.4.7 Convey that, for reasons set out in the AWSELVA review, the CIEH guidance should not be adopted by the Council as a licence condition.

5.4.8 Convey that 72% of Councils have not adopted the CIEH MCPVL”.

5.5 The Pet Industry Federation

5.5.1 We asked the Pet Industry Federation their views on the recommendations of the 26th June, in particular

5.5.2 that officers are directed to consult further on the EMODE leaflet, to explore whether objections from all trade bodies can be satisfied; that a full review is conducted, and that this item is brought back to the scheduled November 2014 Licensing Committee (Non Licensing Act 2003 Functions) for full discussion' ; and

5.5.3 The committee request that further research is done into how these proposed changes will improve/not improve the lives of animals in the pet trade, and as such, that the item is brought back post-publication of the review, and work done by officers, for full discussion at the next scheduled meeting of the Committee in November 2014.

5.5.4 The Pet Industry Federation comments were:

5.5.5 The Animal Protection Agency (APA) is a UK organisation committed to ceasing the trade in wildlife for pets.

5.5.6 The Pet Industry Federation refutes the APA's claim that the CIEH MLC for pet shop licensing is “unfit for purpose” and also refutes its claim that pet shops commonly lie about the origins of their livestock. This statement cannot be substantiated with factual evidence.

5.5.7 The Pet Industry Federation also contests the group's claim that the trade contributors on the Model Conditions for Pet Vending Licensing were unqualified.

5.5.8 The contributions to the drafting of the Model Conditions for Pet Vending Licensing from the Pet Industry Federation (formally the Pet Care Trade Association) were forwarded by a group of experts including vets, zoologists, and others with considerable experience in animal husbandry.

5.5.9 The 2013 revision of the Model Conditions for Pet Vending Licensing were developed and endorsed by a wide and wholly representative range of experts in animal health, husbandry and welfare, covering a plethora of taxa. It included representatives from the veterinary profession, animal charities and the pet industry.

5.5.10 The 2013 revision vastly surpasses the conditions published in 1992 and 1998 and exceeds the standards required in pet shops, as set out in the 1951 Pet Animals Act (the Act which pet shop licences are issued against). The 2013

revision is based on robust data and evidence to enable local authority representatives to inspect and license pet retail establishments in a consistent way, and with the welfare of those animals at its core.

5.5.12 Comment on EMODE.

5.5.13 After consultation with some of our MRCVS qualified advisors, the Pet Industry Federation would not recommend that this document be handed out at point of sale.

5.5.12 Retailers selling pets have the responsibility, as detailed in the Model Conditions for Pet Vending Licensing, to provide written pet care information. We do not believe this leaflet provides the right kind of information for these purposes. We further believe that insisting that this particular leaflet be handed out is in excess of the council's legal authority (ultra-vires). (appendix 8)

5.5.13 Please see the attached statement with further views on the EMODE publication.(Appendix 9)

5.6 Pet Shops

All 12 pet shops were written to, asking them: The Councils licensing committee is looking at the issue of implementation of the new Model Licence Conditions, and would like to hear your views on whether you foresee any practical difficulty on their implementation or any other comments you may have.

We had had no response from the 12 pet shops.

5.7 Local Animal Sanctuaries

10 local animal sanctuaries were emailed asking them their views on the committees recommendation:

That officers are directed to consult further on the EMODE leaflet, to explore whether objections from all trade bodies can be satisfied; that a full review is conducted, and that this item is brought back to the scheduled November 2014 Licensing Committee (Non Licensing Act 2003 Functions) for full discussion' ; and

The committee request that further research is done into how these proposed changes will improve/not improve the lives of animals in the pet trade, and as such, that the item is brought back post-publication of the review, and work done by officers, for full discussion at the next scheduled meeting of the Committee in November 2014.

The animal sanctuaries contacted were the RSPCA, Raystede Centre For Animal Welfare, Dogs Trust Shoreham Rehoming Centre, Paws Animal Sanctuary, International Animal Rescue, WRAS, Old Clayton Kennels and Cattery, Rogers Wildlife Rescue, Lumpy Lodge Rescue Sanctuary For Rabbits & Guinea Pigs and Hen Heaven.

We have had no response from the animal sanctuaries.

5.8 The Public

11 people responded to the public consultation,(Appendix 6) on the councils consultation portal. This consultation was publicised by the press office in a press release.

9 people agreed that the Council should adopt the CIEH new model licence conditions for pet shop licensing. 1 disagreed and 1 did not know. The comments were:

- I understand from my involvement in animal welfare groups that the CIEH document has been met with much criticism whereas EMODE is published & in the public domain & has much scientific evidence in support.
- Its about time pet shops became accountable to animal welfare as being paramount ,instead of just profit & minimal regulations, and stopped the trade in exotic animals
- All exotic pets should be banned from future sale.

11 people agreed that the EMODE leaflet should be given to potential purchasers of pets by pet shops. The comments were:

- However I do think step 1 table 1 is VERY confusing. It should be made MUCH clearer. Which end do you look at it from? Which colour is the one to watch? Why do dogs and cats float in the middle?
- Yes but I think the table should be a little clearer to interpret.
- The leaflet isn't very good, is it?

6. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 The costs associated to the recommendations in this report will be met from the existing Animal Welfare revenue budget within the Environmental Health and Licensing service. The net budget for the service in the 2014-15 financial year is approximately £279,000, which includes the direct costs of the service, support service costs and management and administration support..

Finance Officer Consulted Steve Bedford

Date: 02/10/14

Legal Implications:

- 6.2 The relevant legislation is the Pet Animals Act 1951. Breach of a condition is an offence under this Act and liable on summary conviction to a fine not exceeding level 2 (£500)and/or to imprisonment for a term not exceeding 3 months. The pet animals act 1951 states at paragraph 1 (3) that any conditions imposed should be necessary or expedient and related to the objects specified in paragraphs a) to e) of the subsection: (a) that animals will at all times be kept in accommodation suitable as respects size, temperature, lighting, ventilation and cleanliness; (b) that animals will be adequately supplied with suitable food and drink and (so far as necessary) visited at suitable intervals; (c) that animals, being mammals, will not be sold at too early an age;

(d) that all reasonable precautions will be taken to prevent the spread among animals of infectious diseases;

(e) that appropriate steps will be taken in case of fire or other emergency;

The act gives a right of appeal against the imposition of any condition and breach of such condition is liable to prosecution. The model conditions contain a condition at 14.1 which states that the licensee must ensure that the purchaser is informed of the correct care of the animal covering feeding, housing etc. The guidance then states that pet care leaflets should be made available. A further condition in recommendation 2.2 relating to this and favouring one particular leaflet is not necessary, or enforceable and is a duplication and open to challenge. Given the resistance expressed in the consultation from the Pet Federation Industry, legal challenge is likely and would have merit. There would be a potential cost for the Council. Legal advice is that the recommendation in the report at 2.2 should be amended to remove the reference to imposition of a formal condition and instead to suggest a voluntary approach along the following lines: 'The committee agree that pet shops be encouraged to stock and distribute the EMODE leaflet to prospective customers on a voluntary basis.'

Lawyer Consulted: Rebecca Sidell

Date: 09.11.14

Equalities Implications:

6.3 None.

Sustainability Implications:

6.4 None.

SUPPORTING DOCUMENTATION

Appendices:

1. New CIEH Model Licence conditions
2. Current Model Licence conditions.
3. EMODE leaflet
4. Assigning Degrees of Ease or Difficulty for Pet Animal Maintenance: The EMODE System Concept.
5. Resource Review: Model Conditions For Pet Vending Licensing, 2013. Chartered Institute for Environmental Health.
6. The public consultation results
7. The Veterinary Times.
8. Pet Industry Federation - Comments on the Model Conditions for Pet Vending Licensing 2013 and EMODE for Brighton Council.
9. The Pet Industry Federation's Response to the Pets: easy or difficult to keep (EMODE) publication

