
TITLE: MISCELLANEOUS LICENSING POLICY AMENDMENTS

COMMITTEE: LICENSING COMMITTEE

DATE: 27 MARCH 2019

AUTHOR: SENIOR LICENSING OFFICER

[T227]

1.0 PURPOSE OF REPORT

- 1.1 To inform Members of the creation of a Scrap Metal Dealers Act 2013 policy and guidance document.
- 1.2 To ask Members to approve minor amendments to the existing Private Hire and Hackney Carriage Licensing Policy.
- 1.3 To ask Members to approve minor amendments to the existing animal licensing fees schedule.

2.0 RECOMMENDATION(S)

2.1 That Members:

- i) note the new Scrap Metal Dealers Act 2013 policy and guidance document.
- ii) approve the minor amendments to the Private Hire and Hackney Carriage Licensing Policy to come into effect immediately.
- iii) approve the minor amendments to the Animal Licensing fees schedule to come into effect immediately.

3.0 **SCRAP METAL DEALERS ACT 2013: POLICY AND GUIDANCE**

BACKGROUND

3.1 The Council has been responsible for licensing scrap metal dealers under the Scrap Metal Dealers Act 2013 (“SMDA 2013”) since it came into effect on 1 October 2013. In 2016 the administration and enforcement of this Act passed to the Licensing Authority from the Domestic Environmental Services Team.

SUMMARY OF PROPOSAL

3.2 Unlike some other forms of licensing, there is no statutory guidance accompanying the SMDA 2013, and no requirement to create a local policy. Despite this, officers believe it is best practice to be as open and transparent as possible when it comes to administering and enforcing the legislation under

our control. To this end, officers have created a simple document which pulls together all of the available information and guidance, and presents it in a concise and simple way.

- 3.3 Where officers are minded to refuse an application, or revoke/vary a licence, the SMDA 2013 does not require representations submitted by an applicant or licence holder to be heard by a licensing sub-committee. The Act only requires that an applicant be given the right to address a person appointed by the Authority. Due to this, the policy document states that representations submitted by an applicant will be heard by a Licensing Panel made up of one Member selected from the Licensing Committee, and two officers. It is likely that these individuals will be the Chair or Vice Chair of Licensing, the Environmental Services Manager and the Senior Licensing Officer.

IMPLICATIONS

- 3.4 There are no adverse implications on those in the trade or those wishing to enter the trade. Nothing in the guidance document exceeds the legal boundaries, or amends any of the processes that officers have been applying to the administration and enforcement of the SMDA 2013 since it came into effect.
- 3.5 It is envisaged that this document will be a clear transparent document that can be relied upon by applicants, licence holders, and officers alike.

4.0 PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY

BACKGROUND

- 4.1 Members approved a new hackney carriage and private hire licensing policy in 2017 which came into effect on 1st January 2018. This new policy has been very effective, however, officers have identified a number of points in need of amendment.

SUMMARY OF PROPOSED AMENDMENTS

- 4.2
- i) adding the words, “a completed and signed D4 medical report and” after “provide” in the first sentence in section 3.6.2 on page 17.
 - ii) correcting the numbering in section 3.12 on page 20.
 - iii) adding of (smoking includes vaping, or the use of any other apparatus capable of producing smoke) after the word smoking to section 26.1 on page 45, section 4.0(iii) on page 68, and smoking reference on page 105.
 - iv) correcting the numbering in section 10 on page 54
 - v) adding of “viii) not display unauthorised signage or advertising “ to number 1 on page 66.

vii) adding of “ix) not display or contain unauthorised signage or advertising” to number 2 on page 66.

viii) correcting the numbering in section 3.2 on page 79.

ix) adding of “the Council”, or” to the Suspension/refusal/revocation section on pages 89.

x) the drink driving section on page 93 amended to the following:

Any driver charged with the offence(s) of being in charge of a vehicle whilst under the influence of drink and/or drugs will be revoked with immediate effect. Where a driver is charged and revoked, but is subsequently found not guilty, they may apply for a new licence to be re-issued in an expedited manner following the Council’s expedition policy.

Any driver found guilty of drink or drug driving will not generally be granted a licence for a period of 5 years following the restoration of their DVSA licence.

xi) the dishonesty section on page 95 amended to reword the 2nd paragraph to:

Accordingly any licensed driver charged with a dishonesty offence should expect to have their licence revoked with immediate effect. Where a driver is charged and revoked, but is subsequently found not guilty, they may apply for a new licence to be re-issued in an expedited manner following the Council’s expedition policy.

Any driver found guilty of a dishonesty offence will not generally be granted a licence for a period of 7 years beyond the completion of any sentence served.

xii) the 4th paragraph in the dishonesty section on page 95 to be deleted.

xiii) Penalty point table to be amended as follows:

Item 55 on page 103 amended to 6-12 points to be consistent with other over charging sections.

Item 73(1)(c) on page 104 amended to 6-12 points to be consistent with 73(1)(a) and (b).

IMPLICATIONS

- 4.3 There are no adverse implications on those in the trade or those wishing to enter the trade.

5.0 ANIMAL WELFARE LICENSING FEES SCHEDULE

BACKGROUND

- 5.1 In September 2018 Members approved a new animal licensing policy, scheme of delegation and fee structure in order to administer the new Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018. Between the 1 October 2018 and the publishing of this report Officers have processed, inspected, and issued 43 animal welfare licences.
- 5.2 During the first five months of administering the new regulations, national guidance has been updated, and a better understanding of the new law and regulations has developed. As a result of the above areas where the current charging scheme is flawed have been identified.

SUMMARY OF PROPOSED AMENDMENTS

- 5.3 The current table of fees fails to take into account dog breeders who breed wholly within the domestic house, and only have one litter per annum. Due to the revenue which can be made per puppy (£800 av.), a standard litter easily exceeds the £1000 turnover business test stated in the guidance. A number of these pregnancies are unplanned, and the owners find themselves in need of licensing in order to register the puppies with the Kennel Club, and in order to sell them on various websites. The amount of time required to inspect these domestic premises is less than that required for larger breeding establishments and therefore, the splitting of breeding fees to reflect the different amount of time spent on these is proposed.
- 5.4 The guidance surrounding “boarding arrangers”, which are businesses who invite bookings from dog owners and then place the owner’s dog(s) with a host of theirs, is not overly clear. These businesses do not have any boarding accommodation themselves, and usually are run from a home based office, or a small office on a business park. The law suggests that they only need to be licensed in the area where they are based, irrespective of where the hosts they have operate. However, Defra guidance (which is not classified as “statutory guidance”), states that every arranger should licence with every authority where they have hosts irrespective of whether those hosts are within scope of requiring their own licence or not. As a result of this inconsistency, it is difficult to set fees.
- 5.5 Our current fees state that arranger licences will be charged an inspection fee per host in our area, plus the application fee and relevant maintenance fee based on the length of licence to be issued. They also state that any host outside our area will be charged at the fee charged by that authority. This was to ensure that any charges we incur from the other authority inspecting premises on our behalf would be recovered. However, if the Defra guidance is followed, the arranger is required to licence with each authority, and therefore, there is no need to look to recover these costs for hosts outside of our area.

- 5.6 In addition to the above, the hosts used by arrangers tend to fall outside the scope of the Regulations, as their own turnover is under £1,000 per annum, and the number of hosts is constantly being revised by the arranger due to hosts no longer wishing to accept bookings, or due to the arranger's business growing or reducing in size. Due to this a great deal of trust and confidence in the arranger's processes is required, as it is not strictly possible to inspect "out of scope" hosts.
- 5.7 All of the points raised in 5.4 to 5.6 makes it very difficult to assess arranger fees. A number of local authorities are interpreting the law and guidance very differently resulting in some questionable charging schemes. This is not a criticism of these other authorities, but is testament to how complex the new regulations are, and how ineffective the guidance is. Despite this, it is necessary to arrive at a charging scheme that adequately reflects the level of work involved in this type of licensing work, and the ever changing nature of the businesses involved in this type of regulated activity. Officers believe the amendments in the table below best reflect these factors.

Licensable Activity		Application fee	Initial rating or re-rating inspection fee	Maintenance fee			Variation of a licence requiring a re-inspection	Copy of licence, change of details not requiring an inspection
				1 yr	2 yr	3 yrs		
Boarding of animals	Up to 10 animals	£48.00	£72	£218	£440	£666	£72	£10.50
	11 to 30 animals		£96				£96	
	31 to 60 animals		£120				£120	
	61 to 99 animals		£144				£144	
	100+ animals		£168				£168	
Arranging boarding	N/A		£96 + £24 per host ¹				£96 + £24 per host ¹	
Dog Breeding – Domestic	One litter per year max ²		£72 + VET fee ³				£72	
Dog Breeding – Commercial	More than one litter per year		£120 + VET fee ³				£120	
Hiring of Horses	N/A		£96 + VET fee				£96	
Selling Animals as Pets	N/A		£120				£120	
Exhibiting Animals	N/A	£72	N/A	N/A	£666	£72		

¹ Out of scope hosts only. In scope hosts will be required to apply for their own licence and pay the relevant fees.

² Breeding and whelping must occur wholly within the domestic house. Outbuildings or garages are not included in this definition.

³ VET fees are paid directly to the VET pre-inspection. No VET inspection is required upon subsequent renewals of a dog breeding licence.

Where more than one licensable activity occurs on the same site, only one application fee will be payable, however, the total fee will be calculated by adding the combined charges of the activity with the highest fee to 50% of the applicable inspection and maintenance fee for the additional activities.

IMPLICATIONS

- 5.8 There are no implications on those currently licensed. Those wishing to commence domestic dog breeding activities will find the process easier and the fee more reflective of the activity they are undertaking. Those wishing to offer the service of arranging dog boarding will pay fees that better reflect the fact that they are responsible for inspecting their hosts, and the Council's role is one of auditing.

6.0 REPORT CONCLUSION

- 6.1 The combining of the available scrap metal guidance, application procedures and scrap metal law into a clear policy document will benefit all parties.
- 6.2 Approving the minor amendments to the Hackney Carriage and Private Hire Licensing Policy will remove some minor inconsistencies and provide greater clarity.
- 6.3 Approving the minor amendments to the animal welfare schedule of fees will result in fees that more fairly reflect the level of work involved, and make it easier for domestic breeders to obtain the necessary licence.

8.0 APPENDICES

- 8.1 Appendix 1 Scrap Metal: Statement of Licensing Policy and Guidance.

Background Documents

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

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
Guidance in relation to licensing of dog boarding franchises
October 2018

Hackney Carriage and Private Hire Policy 2018 with tracked changes.

Location

Room SF208
The Grange,
Ely

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