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**TITLE:** ANIMAL BOARDING ESTABLISHMENTS ACT 1963 –  
PROPOSED AMENDMENTS TO THE HOME BOARDING  
OF DOGS LICENSING CONDITIONS

Committee: Licensing Committee

Date: 9 September 2015

Author: Stewart Broome - Senior Licensing Officer

[Q63]

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1.0 ISSUE

1.1 To consider the formal responses from the Animal Boarding Establishments Act 1963 (“the 1963 Act”) consultation, which was held between the 18<sup>th</sup> June 2015 and 3<sup>rd</sup> August 2015.

2.0 RECOMMENDATION(S)

2.1 That Members consider the information contained in this report and determine to keep the existing Animal Boarding conditions in place, or approve the proposed conditions in their entirety or in part.

2.2 That Members recommend any amendments to the Animal Boarding conditions to come into effect immediately.

3.0 BACKGROUND/OPTIONS

3.1 On 17<sup>th</sup> June 2015, Members of the Licensing Committee agreed that a six week consultation was to be carried out on the proposed amendments to the Council’s “home boarding of dogs licensing conditions” set out in 3.2 below and the results of the consultation were to be brought back to a future Committee for determination.

3.2 **Existing conditions**

5.8.3 - No home where persons under 16 years of age are resident will be licensed

5.8.4 - Only people over 16 years of age are allowed to walk home boarded dogs in public places.

**Proposed conditions**

5.8.3 - No home where persons under 5 years of age are resident will be licensed

5.8.4 - Only people over 18 years of age are allowed to walk home boarded

dogs in public places.

- 3.3 During the consultation period, the Licensing Authority received 3 formal responses which were all considered to be valid. The following table details a summary of these comments, but the full content of the responses can be found attached as **appendix 1**, **appendix 2**, and **appendix 3**.

Respondent	Point	Response
1	5.8.3	Disagreed with change. Strong concerns about safety of young children in proximity to boarding animals.
	5.8.4	Agreed with proposal providing insurance covered this.
2	5.8.3	Agreed, believing it to be sensible, and proportionate.
	5.8.4	Agreed with the proposal.
3	5.8.3	No comment made on this point.
	5.8.4	Disagreed with change. Questioned insurance implications.

#### 4.0 ARGUMENTS/CONCLUSIONS

- 4.1 The Animal Boarding Establishments Act 1963 does not stipulate specific conditions that a Council must apply to those who wish to operate controlled businesses under it. However, it does state that when determining an application the Council shall in particular (but without prejudice to their discretion to withhold a licence on other grounds) have regard to the need for securing:

- i) that animals will at all times be kept in accommodation suitable as respects construction, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness;
- ii) that animals will be adequately supplied with suitable food, drink and bedding material, adequately exercised, and (so far as necessary) visited at suitable intervals;

- iii) that all reasonable precautions will be taken to prevent and control the spread among animals of infectious or contagious diseases, including the provision of adequate isolation facilities;
- iv) that appropriate steps will be taken for the protection of the animals in case of fire or other emergency;
- v) that a register be kept containing a description of any animals received into the establishment, date of arrival and departure, and the name and address of the owner, such register to be available for inspection at all times by an officer of the local authority, veterinary surgeon or veterinary practitioner authorised under section 2(1) of this Act

4.2 The vast majority of Councils like East Cambridgeshire adopted the model home boarding conditions created by LaCORS (a now defunct government department that co-ordinated regulatory activities at Local Authority level), to comply with the requirements of the 1963 Act, with some choosing to amend them slightly to suit their local circumstances.

4.3 The amending of condition 5.8.3 and 5.8.4 will reverse a decision made by committee on 16 May 2012 and will once again align our home boarding conditions with those contained in the original LaCORS document.

4.4 The potential impact of keeping the status quo or amending the conditions is documented in the table below:

Condition	Advantages/ Disadvantages	<b>Option 1:</b> Keep the current conditions	<b>Option 2:</b> Change to the proposed conditions
5.8.3	Advantages	Removes the potential of young children being exposed to risk from boarded dogs.	Consistency with LaCORS.  Assists local businesses by removing restrictions
	Disadvantages	Potential to reduce the availability of home boarding in the district.  Potential to force home boarding under the radar.	Potential for a child to be harmed if condition 5.8.1 (a “fit and proper” person to be present at all times) is not complied with.
5.8.4	Advantages	Provides a higher level of culpability as the person walking the dog(s) would be an adult.	Less restrictive and provides for greater flexibility regarding employing part-time staff.
	Disadvantages	Potential for higher running	Potential for dog walker to

		costs due to higher wages needing to be paid to workers.	be unable to cope physically, although it should be noted that age does not always provide physical strength.
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- 4.5 Amending the conditions will not impact on the Council’s ability to comply with the 1963 Act.
- 4.6 It is a requirement of a licence to hold adequate and suitable public liability insurance at all times whilst holding a licence (condition 1.3).
- 4.7 It is a requirement of a licence to complete a risk assessment where children are likely to visit the premises, to include risks to and from the child (condition 3.9)
- 4.8 It is a requirement of a licence that a “fit and proper” person with relevant experience is always present to supervise and deal with emergencies (condition 5.8.1). The 1963 Act is silent regarding the minimum age a “fit and proper” person must be, but the Council has always considered this to be 18.
- 4.9 Dog walking where the dog is not being walked as a consequence of being boarded is not licensable, and therefore, not controllable.
- 4.10 Public safety is the prime objective of the Licensing Authority, and is a central theme to the policies it creates. It is not possible to exclude all potential safety concerns, and a balanced approach must be taken. Animal boarding is an area likely to cause public safety concerns, but the information available to officers shows that East Cambridgeshire District Council has never received an incident report or complaint specifically concerning the issues that condition 5.8.3 and 5.8.4 control both prior to 16 May 2012 when the proposed conditions were last in force, and post 16 May 2012 when the current more restrictive conditions were agreed.
- 4.11 Officers have concerns that placing overly burdensome conditions on people wishing to licence may force the trade underground thus creating more of an issue regarding public safety.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 5.1 There are no financial implications arising from this report for the Council.

5.2 An Equality Impact Assessment (INRA) was completed. If Members determine to adopt the proposed conditions the impact will be positive, as the resulting conditions will be less onerous.

6.0 APPENDICES

6.1 Appendix 1 – Consultation response one

6.2 Appendix 2 – Consultation response two

6.3 Appendix 3 – Consultation response three

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**Background Documents**

Animal Boarding  
Establishments Act 1963

LaCORS model dog  
boarding establishment  
conditions

Previous minutes regarding  
animal boarding.

**Location**

Room SF208  
The Grange,  
Ely.

**Contact Officer**

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**Stewart Broome**

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**From:** Yvonne Mackender  
**Sent:** 22 June 2015 09:48  
**To:** Licensing  
**Subject:** Proposed Amendments to Home Boarding of Dogs Licensing Conditions  
**Attachments:** Irish setter and child.jpg; boy-hugging-his-dog-15102272.jpg; boy-hugging-dog-4513690.jpg  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged  
  
**Categories:** Lin

Dear Lin

Thank you for the invitation to comment on the proposed changes to your licensing conditions for the Home Boarding of Dogs.

I will start by saying that as a boarding kennel owner, qualified Pet Behaviour Counsellor and tutor on Ofqual regulated pet behaviour counselling courses, that I fully support GOOD home boarding, and I am pleased that the Council take the licensing of this activity seriously.

In so far as licence condition 5.8.4, I agree with the proposal to bring ECDC Licensing conditions in line with national guidance, as long as the individual's Home Boarding business insurance supports this change.

I do have a problem with 5.8.3 and I am proud that ECDC have (previously) made a stance against national guidance, which in my opinion is what should be changed and my response to this change is "at your peril".

I feel strongly that national guidance of the Home Boarding of Dogs is in direct **contravention** of the Government's Policy on Safeguarding of Children and Vulnerable Adults and I feel that it is national guidance which ought to be changed in line with East Cambridgeshire District Council's licensing conditions as opposed to the other way around.

I am concerned, from a behavioural point of view, of dogs being boarded in homes where children as young as 5 are resident. I appreciate that home boarders that are parents would argue that their children are their primary concern, but the press is full of incidents where accidents have happened and children are maimed or killed, often by dogs that are not normally resident in the household.

A 5 year old is not capable of reading the subtle signs that indicate that a dog is uncomfortable and as the photographs I have attached illustrate, often the parent misses these signs too (otherwise I would suggest this parent would have told the child "Move away from the dog" rather than taking the photograph).

On the surface these may look like cute pictures, but look closer at the dog's body language and you will see:-

- the dogs are leaning away from the children,
- the dogs mouths are open, but the retracted tongue indicates that this is more related to stress than heat,
- the dogs eyes are rolling and I suspect were we able to zoom in, a bit of the whites of his eyes would be exposed,
- there is tension in the dogs mouths, particularly in the brow and corners of the mouth,
- their ears are flat against their head.

These are all signs of discomfort in the dog that the child and photographer have missed. The dogs in these images are obviously used to (but not comfortable) with children cuddling them, but a dog that has not used to children invading his personal space in such a manner could react very differently to this kind of intrusion.

I therefore propose that condition 5.8.3 remains unchanged and that ECDC lead on national changes.

As a compromise, the absolute minimum age should be 12 years.

As further support for my proposal to leave 5.8.3 unchanged, I draw your attention to the Anti-social Behaviour, Crime and Policing Act 2014 that has strengthened the provisions of the Dangerous Dogs Act 1991 making it an offence for a dog to injure a person within its own home (or place where it is boarded). I would therefore question that, should a child get injured as a result of a licensed home boarding activity whether or not the licensing officer and the licensing authority would bear responsibility as they have not identified that such activity contravenes the safeguarding policy.

I hope you consider my concerns in determining that ECDC are correct in their interpretation of 5.8.3 and that they should lobby CIEH to egt changes in national guidance.

Thank you

Yvonne Mackender

**Charlie Mackender & Yvonne Mackender DipCABT (QCF Level 5)  
Chairperson and Practitioner of the COAPE Association of Applied Pet Behaviourists and Trainers  
Tutor at the Centre of Applied Pet Ethology (COAPE)  
Association of Pet Dog Trainers (APDT) Member No 253**

**Cloverleigh Kennels**







**Stewart Broome**

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**From:** Anna Bailey  
**Sent:** 22 June 2015 10:24  
**To:** Licensing  
**Cc:** Lin Bagwell  
**Subject:** Proposed Amendments to ECDC's Home Boarding of Dogs Licensing Conditions

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Lin

Dear Sir / Madam

I am writing to express my support for the proposed amendments to East Cambridgeshire District Council's Home Boarding of Dogs Licensing Conditions, as set out in the Council's consultation letter of 19th June 2015.

- The proposal to amend the age at of residents of licensed homes to under 5 years of age brings the Council into line with other local authorities and is a sensible and proportionate approach.
- I also agree with the proposal to amend the age at which people are allowed to walk home boarded dogs in public places to 16 years of age.

I hope that you will note my consultation response and that it will be taken into account in the final determination of the Council's policy.

Yours faithfully

Anna Bailey

ECDC, District Councillor - Downham Villages

**Stewart Broome**

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**From:** Amberlea Country Kennels [REDACTED]  
**Sent:** 25 June 2015 12:08  
**To:** Licensing  
**Subject:** Home Boarding - Proposed Amendments to Licensing Conditions

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Lin

Dear Sir

We refer to your letter, dated 19 June 2015, in respect of the above.

It is a matter of record as to our standpoint on this matter. We do not agree to the proposed amendment for the following reasons:-

- 1) At the age of 16 a person is not licensed to drive a car that can be considered a potentially lethal machine, so why then should they be licensed to handle dogs in a public area putting their charge, themselves and others at risk; particularly when they may well not even know the dog that they are handling or have the strength or ability to control a dangerous situation, never mind the first aid qualifications should it be required in an emergency?
- 2) At the age of 16 a person is not eligible to vote, presumably based on the national assessment of responsibility and understanding of consequence and actions?
- 3) Generally, in our proven experience of running a large boarding kennels for 13 years, we do not and will not employ full time, part time or weekend/holiday workers under the age of 18, except in the odd exceptional circumstance, when applicants are approaching the age of 18 and can physically demonstrate their ability and the level of responsibility required to satisfactorily and safely handle and control the dogs. During this period we have exercised and walked over 1/2 million dogs of all breeds, without incident. This we believe is a direct result of our Policy arising out of the regular Risk Assessments that we carry out.
- 4) We have been approved and contracted to the Cambridgeshire Police Dog Handlers Section for the past 3 years and therefore feel qualified to make these statements.
- 5) Further, I think that you may find it a Public Liability Insurance requirement, which you may wish to double check

**Notwithstanding the above, it begs the question as to the motivation to effect this change, which can only increase the risk to the Dogs, the Public and the Council?**

I hope this helps you to come to the correct decision not to change Licensing Condition 5.8.3

Yours faithfully

W G Bridges