

REPORT TO INFRASTRUCTURE SERVICES COMMITTEE - 15 MARCH 2018

RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION ON THE REGISTRATION AND LICENSING OF ANIMAL SANCTUARIES AND REHOMING ACTIVITIES IN SCOTLAND

1 Recommendations

The Committee is recommended to:

- 1.1 **Note the use by officers of delegated powers (as provided in the Scheme of Governance by reason of special urgency, as summarised in paragraph 2.5), in order to submit a Council response to the consultation on Registration and Licensing of Animal Sanctuaries and Rehoming Activities in Scotland.**

2 Background / Discussion

- 2.1 The Scottish Government is seeking views on proposals to introduce a system of registration and licensing of animal sanctuaries and rehoming activities in Scotland. These premises and activities are not currently regulated.
- 2.2 The consultation document can be found here:-
<https://consult.gov.scot/animal-welfare/animal-sanctuaries-and-rehoming-activities/>
- 2.3 The consultation considers amongst other things, how thresholds for licensing and registration may be determined depending on the size of the undertaking and its associated activities. Of particular interest to Local Authorities is the suggestion in Question 5 that organisations such as the Scottish Society for the Prevention of Cruelty to Animals (SSPCA) be able to carry out inspections.
- 2.4 The deadline for the consultation response was 4 March 2018.
- 2.5 The Scheme of Governance allows a decision to be made by officers on any matter which ordinarily requires to be determined by the Council or committee but, by reason of special urgency, it is impractical to convene a meeting of the full Council or the relevant committee to make the decision.
- 2.6 After due consideration, the Head of Economic Development and Protective Services (“the Delegated Officer”) determined that it was impractical to convene a meeting of the committee before a decision was necessary and that consequently the decision on this matter would be taken by officers. The consequences of not treating this matter as of one of special urgency would mean that the Council would have missed the deadline for submitting the consultation response.

- 2.7 The Chair, Vice Chair and Opposition spokesperson were consulted on the response, and their comments incorporated before submission. The submitted response is contained in Appendix 1.
- 2.8 The submitted response largely agrees with the proposals, although further clarification is sought on some aspects. There is disagreement in respect of proposed enforcement powers and involvement of external bodies.
- 2.9 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3 Scheme of Governance

- 3.1 Section B1 and B2 of the Specific Delegations to Officers, as set out in Part 2B of the Scheme of Governance are applicable to this report.
- 3.2 Section B1 authorises the Delegated Officer to take a decision on any matter which, in their opinion requires to be determined by Full Council, Committee or Sub-Committee, but by reason of special urgency it is impractical to convene a meeting of the Full Council, Committee or Sub-Committee.
- 3.3 Section B2 provides that any decision taken by the Delegated Officer shall be taken following consultation with the Chief Executive and Chair and Vice-Chair and the main opposition spokesperson of this Committee.
- 3.4 Any decisions taken by Delegated Officers using this delegation must be reported to the next meeting of this Committee.
- 3.5 The Committee is able to consider this item in terms of Section F.1.1 as it relates to policy and resource issues relating to Economic Development and Protective Services of which Environmental Health forms part and Section F.3.2 as it relates to a response to an external consultation on a policy matter falling within the remit of this Committee.

4 Implications and Risk

- 4.1 An equalities impact assessment is not required because this report is principally to note the use by officers of emergency powers and there will be no differential impact, as a result of the report's recommendations, on people with protected characteristics.
- 4.2 There are no staffing and financial implications arising directly from this report. However, should the proposals be implemented there may be both staffing and financial implications, although those are not thought to be significant, and will be managed within existing staffing resources.
- 4.3 Any financial impact may be eased by the recovery of application fees.
- 4.4 The following Risks have been identified as relevant to this matter on a Corporate Level: Working with other organisations, Social Risk, changes in government policy, legislation and regulation. The following risks have been

identified as relevant on a strategic level: Scottish Regulators Code of Practice.

- 4.5 A Town Centre Assessment is not required as the proposals will have no impacts on town centres.

Stephen Archer
Director of Infrastructure Services

Report prepared by John Grant (Team Manager – Public Health)
Date 9 February 2018

Consultation questions

1. The Scottish Government proposes that animal sanctuaries and rehoming centres should be regulated. Do you agree?

Yes No

Comments – This will help regulate so-called “sanctuaries” seeking public donations but keeping animal in unsatisfactory conditions.

2. Do you agree with the principle that registration is appropriate for those with fewer animals and that licensing is appropriate for those with more animals?

Yes No

Comment - Aberdeenshire Council agrees in principle with this proposal however much would depend on the number and breed of animals being kept, the experience of the operator and the facilities available to secure acceptable standards of animal welfare. Clarification required regarding this distinction.

3. Do you have any comments on the thresholds that should apply? Should these be different for separate species?

Comment – Thresholds should be adaptable/flexible, and would depend on the experience of the operator, the breeds handled and the source of the animals being cared for. Depends also on the facilities available. Sufficient finance should be available to cater for the welfare needs of the animals housed.

4. Larger organisations and charities that may have a network of homes and smaller branches in different local authority areas should be able to apply centrally for the relevant licensing. Do you agree?

Yes No

Comment – The same standards would apply nationally however the Local Authority should be obligated to licence premises in their area. This would facilitate better enforcement based around local knowledge and experience.

5. The Scottish Government believes that all premises must be inspected before licensing (but not registration). We propose that, as well as local authorities, expert independent bodies, such as Scottish SPCA, should be able to carry out inspections. Do you agree?

Yes No

Comment - The SSPCA for example is primarily a charitable organisation which operates its own shelter facilities. It would not be appropriate for it or any other similar organisation to licence other independently operated premises. Allowing such a regime begs a number of questions - Who would they be accountable to, what premises would they be expected to inspect and under what circumstances, who would inspect their premises? In short, there would be a conflict of interest.

It is unclear whether the SSPCA would issue Registration and Licences or recommend to Local Authorities that they issue.

6. Do you agree that individuals with unspent convictions for animal welfare offences or other criminal convictions (e.g. fraud) should not be allowed to register or hold a licence for an animal sanctuary or rehoming activity?

Yes No

Comment – Police Scotland would presumably be consulted as part of the licence application process and any applicant with a relevant conviction would not be issued with a licence.

7. Are there other requirements, apart from criminal, that should be part of a 'fit and proper person' test for those running animal sanctuaries or rehoming activities?

Comment - Operators should prove, by written submissions and references, that they have relevant experience in handling and caring for animals. They should have sufficient experience and knowledge in the handling and caring for all species/breeds handled. They should provide written assurances that they have adequate finances available to provide for the day to day care and any veterinary treatment an animal may require.

8. The Scottish Government proposes that reasonable costs of inspections should be charged to recover costs to inspectors approved by Scottish Ministers or local authorities. Do you agree with that proposal? *To note: It is expected that registration will be free or incur a nominal fee.*

Yes No

Comments - The proposal suggests that there will be little work involved in the registration of premises; what checks would be expected of local authorities? There should be full cost recovery.

9. Should licence fees be set by the authorised inspectors, local authorities or by the Scottish Government? Do you have any comments on what cost is reasonable and what should be included in this? *(For example, this might include recovery of administrative costs, or payment for the*

inspectors time etc).

Comment - Fees should be set by Local Authorities and based around the ability to recover the full cost of inspection, licensing and monitoring. Steps should be taken to ensure consistency across Scotland as far as possible but as local circumstances will vary fees will vary to some extent. The Scottish Government should set appropriate criteria when calculating costs/fees.

10. The Scottish Government considers that licences lasting more or less than one year may be issued on the basis of a welfare risk assessment. Do you agree?

Yes **X** No

11. Do you consider that the relevant Local Authority should have a duty to enforce the regulations on animal sanctuaries and rehoming activities in Scotland?

Yes **X** No

12. Do you consider that the Scottish SPCA should be able to act on behalf of the relevant Local Authority using the powers contained in Animal Health and Welfare (Scotland) Act 2006 to enforce proposed regulations on animal sanctuaries and rehoming activities in Scotland?

Yes No **X**

Comment – As the SSPCA is a charitable organisation, with their own licenceable premises their involvement in licencing may create a potential conflict of interest.

13. Do you think that a national list of licensed premises and activities should be kept?

Yes **X** No

Comment - A public register of operators should be mandatory and held by the local authority. This information could feed into a national database.

14. Do you have any comments on who should be able to access information from the list, and if a charge should be made for information?

Yes **X** No

Comment - A National database of all animal licences may satisfy the demand through freedom of information for such data. Certain personal data may require to be protected.

15. The Scottish Government believes that enforcement agencies should be able to suspend, vary or revoke registrations and licences or issue improvement notices for minor irregularities. Do you agree with this proposal?

Yes No

Comment – This proposal focusses on minor irregularities; this is a disproportionate approach, unless such irregularities were recurring or likely to lead quickly to more serious matters. This proposal would be more appropriate for significant (and/or for recurring breached of licence conditions). Other means exist eg Care Notices, for dealing with minor breaches. Clarification is required as to the proposed enforcement regime.

16. The Scottish Government proposes to adopt welfare standards based on those published by the Association of Dog and Cat Homes that all licensed animal sanctuaries and rehoming organisations should follow for the species they hold. Do you agree that this should be a condition of licensing? If you are aware of any other relevant standards please comment.

Yes No

Comment – It is anticipated that some “sanctuaries” might accommodate farmed livestock and as such would be expected to comply with the relevant guidance and legislation. What guidance would be followed in such cases?

17. Do you agree that appropriate fixed penalties should apply for minor non-compliance with the legislation?

Yes No

Comment – Clarification is required on what would constitute “minor non-compliance”. In our view FPN should only be considered following non-compliance with eg a Care Notice, however, willing to reconsider that standpoint upon receipt of clarification.

About the consultation

While we have done our best to explain the issues facing us clearly, there may be aspects that you feel we have not explained well or have not covered at all. The following questions in this consultation paper are to provide you with the opportunity to raise such points, and to provide us with feedback on the consultation itself.

1. Are there any other measures you consider should be included in

legislation for animal sanctuaries and rehoming activities in Scotland?

Yes X No

Comment - Background checks should be carried on individuals being allocated animals by the rehoming organisation. Ensuring that people being allocated animals receive on going advice and support as necessary. Operators should have a policy for the recovery of animals who may have been allocated to an unsuitable recipient.

“Sanctuaries” should be required to prepare a contingency plan for the re-location of animals in the event of unforeseen closure (cessation of business).

2. Do you consider that that consultation explained the key issues sufficiently to properly consider your responses?

Yes X No

3. Do you consider that you had sufficient time to respond to the consultation?

Yes X No

4. Do you have any other comments on the way this consultation has been conducted?

Comment - No.