



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

Response to Draft Regulations of 22nd September 2017

Dog Breeding Reform Group (DBRG) comments will relate in the main to the breeding of dogs.

1 General

1.1 DBRG welcomes the changes to Animal Licensing Regulations. We appreciate the relation of the licensing conditions specified in the Draft Regulations to the five main welfare needs under Section 9 of the Animal Welfare Act (2006).

1.2 We value the comprehensive licensing conditions specified, and recognise the benefit of requiring both general and activity-specific conditions.

1.3 As a core concern of ours is the prevention of inherited disease and poor conformation, we are particularly pleased with the inclusion for breeding of dogs of the condition under Schedule 6(3),

'No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health that breeding from it could have a detrimental effect on its health or welfare or that of its offspring.'

This represents a step forward in recognising the importance of genetic and conformational health and welfare, if properly enforced.

1.4 We value the comprehensive requirements for record-keeping (eg re breeding dogs, litters, puppies, and sale) under Schedule 2(1) re selling of pets, and Schedule 6(5), 6(6), 6(7), 6(8) and 6(11) re breeding of dogs.

Such records are essential to ensure effective inspection, protect the welfare of animals, and enable traceability, leading to accountability.

1.5 We are pleased to see the requirements to protect animal health including (for example) the requirements under Schedule 2(7) for appointment of a vet, under Schedule 2(5) for prompt attention to sick animals, under Section 2(11) that only a vet may euthanize an animal, and under Schedule 6(10) for a preventative healthcare plan agreed with a vet.

Too many dogs in breeding establishments fail to be treated for health conditions, and too many suffer through failure to adopt preventative measures (eg re worming, flea-treatment, skin, eye and teeth conditions and infectious disease). Dogs should not be disposed of by operators.

1.6 We value the requirement under Schedule 6(9) that the licence holder must make arrangements for appropriate re-homing for any dogs no longer required.

Far too many ex-breeding dogs are euthanised or are otherwise unaccountable from dog breeding establishments.

1.7 The emphasis on enrichment, social interaction and opportunities for socialisation of dogs (and other species) across both general and specific conditions is very much welcomed (e.g. Schedule 2(6)(1); 2(6)(2); 2(6)(5), 2(7)(1); 2(7)(2), 2(7)(3); and Schedule 6(4)1; 6(4)(2); 6(4)(3); 6(5)(1); 6(5)(2)).

The welfare of dogs (and other species) depends critically on adequate opportunities for exercise, stimulation, and social interaction. Socialisation of immature animals (eg puppies) is critical to their behavioural adjustment.

1.8 The requirement under Part 2(14) that local authorities 'must have regard' to Guidance provided is critical for the effective implementation of the Regulations.

Local authority inspectors require clear, detailed guidance on which to base their decisions. If such Guidance is not statutory it will be ignored.

1.9 While the general and specific licensing conditions are extensive DBRG does not believe that these can protect the welfare of dogs (in particular) sold through pet shops, or other third-party outlets. The process of such sale militates against purchasers seeing a puppy with its mother, precludes consideration by the purchaser of the rearing environment disincentivising improvement of standards by breeders, creates risk of disease and stress through mixing and transport to the sale site, encourages impulse buying and obscures traceability.

1.10 DBRG is opposed to the third-party sale of dogs, and is disappointed that at this point the Government is not seeking to prevent it. We are particularly concerned that the Regulations as drafted will continue to allow the practice of pet 'dealing', that is the purchase in order to sell on for **further** sale by others. We ask whether the Government really wishes to continue to enable this, and suggest that there is now an opportunity to specifically prohibit pet 'dealing', even if third party sale of dogs (eg through pet shops) continues. There are strong arguments against pet 'dealing' (see Licensable Activities below).

1.11 With no statutory obligation upon local authorities to enforce the Animal Welfare Act, 2006 (AWA), there seems to be a discrepancy as to how the provision of secondary legislation under the Act will work in practice. Does the Government need to amend the AWA to place a statutory duty upon local authorities for enforcement? Otherwise what will compel local authorities to implement the new animal licensing regulations, areas previously addressed outwith the AWA through primary legislation?

1.12 For future development, we recommend that relevant Codes of Practice (for example for breeding of dogs) be developed. These would enable expectations under the Animal Welfare Act to have a broader remit extending beyond licensable activities to all circumstances where relevant activities take place. They may represent a useful vehicle for communication of relevant guidance. More generally we note the importance of public education in helping to enable good welfare practice and effective translation of the Regulations into practice.

1.13 We note that no interpretation has been included for 'breeder', or 'breeding', although these terms are highly significant within the Regulations and there may be situations where the exact definition of a breeder would be essential. E.g. if the act of whelping and rearing puppies takes place at a different premises other than the

bitch's normal place of residence, is the legal owner of the bitch classed as the breeder or the person responsible for overseeing the birth and rearing?

2 Offences and penalties

2.1 Section 20(1) states that it is an offence for a person to a) breach a licence condition or b) obstruct an inspector. There appears to be no explicit reference to it being an offence to operate without a licence. Should there be?

2.2 Section 20(2) states that a person who commits one of the above offences is liable to a fine 'not exceeding level 3 on the Standard Scale'. Level 3 on the standard scale is currently set at £1000.00. This appears to be a low maximum. Why is the maximum fine not set higher (eg Level 4 on the Standard Scale at £2500.00). Breeders and sellers often make very substantial profits and such fines may be viewed as of little consequence by some.

The consequences of failure to meet licence conditions may be severe both for dog welfare and for purchasers.

2.3 Section 20(2) refers to 'breach of a licence condition'. Does this mean it is a separate offence for each licence condition breached, or is the level 3 fine limit applied however many licence conditions are breached?

2.4 Section 22 provides for Post-conviction powers for an offence under Section 20. These include under Section 34 AWA power to disqualify from owning or keeping animals and, under Section 42 AWA power to cancel a licence, or to prevent holding of a licence. However, the Section does not provide for application of Section 35 AWA which allows seizure of animals in connection with disqualification. This power would reasonably be applied here since there may be circumstances where animals kept are at risk and need to be removed from the owner. Why is the Post-conviction power under Section 35 not specified? We recommend it should be.

Cases have occurred where dog breeders have been prosecuted for operating without a licence and in breach of relevant conditions under the AWA, but have been allowed to keep and dispose of dogs without any accountability and at severe risk to dog welfare. This should not occur and dog welfare needs to be protected by seizure where necessary.

2.5 We welcome the provision of powers under Section 15 (et seq.) for the suspension, variation or revocation of a licence by local authorities without recourse to a magistrate's court.

This should enable action by authorities which might otherwise be reluctant to pursue the costly and time-consuming process of action through courts. It is of concern, however, that the appeal provisions may mean in practice that such action is much delayed.

3 Conditions of grant or renewal of a licence and inspection of premises

3.1 Part 2 (4)(2)b requires that a suitably qualified inspector inspects any premises to be licensed. There needs to be provision for unannounced inspections as well as scheduled inspections as part of the licensing process. These are essential to ensure actual compliance, and are key to further provisions relating to potential revocation or suspension of licences.

4 Inspector's report

4.1 Part 2(10) The inspector's report should be in an authorised and standardised format and should enable comments relating to each licence condition. Reports to be held on record by the local authority for a minimum period of three years. These expectations might be included in the associated guidance.

5 Fees

5.1 Part 2,(13)c allows for fees charged to include potential enforcement costs. It is unclear however how this may work. For example, How will local authorities determine in advance the likely costs of enforcement activity against unlicensed operators? Should all licensed operators in a local authority be compelled to pay a contribution charge towards enforcement of all illegal activities, or will dog breeders for instance pay for enforcement against dog breeders but riding schools only pay for enforcement against unlicensed riding schools? In areas where there are few licensed businesses, will these few individually pay a greater contribution than areas where there are numerous licensed businesses?

6 Period of licence

6.1 Part 2, 5 (b) (iii) allows for a licence to be awarded for two or three years if 'the operator is already meeting higher standards of animal welfare than are required by the licence conditions'.

DBRG is anxious that a three year licence is too long however high the original standards of welfare were on the previous inspection. It would not take long in some cases for standards to deteriorate if a breeder knew s/he will not be inspected for three years. A strong risk assessment framework is essential, and will require review.

7 Licensable activities

7.1 Part 1 a) refers to the criteria for meeting the 'business test' including sale 'with a view to making a profit'. How is 'profit' to be determined? Will a profit of £50-£100 be viewed in the same way as an 'income' from the activity?

7.2 Schedule 1, Part 2 requires licensing of the selling of animals as pets. It refers to *'selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold'*. This allows explicitly for a longer chain of reselling to occur, where the final vendor does not purchase animals directly from the breeder but from an intermediary dealer.

7.3 The practice of dealing (eg in puppies) directly facilitates the operation of remote puppy farms which rely on peripatetic dealers to distribute puppies bred, and compromises welfare. It creates a chain of transfer of dogs often involving mixing with others from different sites increasing potential for infectious disease and stress. Intermediary dealers who sell to other licensed sellers rather than directly to the pet owner, will not be subject to any public scrutiny. Assessment of overall standards and compliance with the licence conditions is therefore entirely dependent upon the official licence inspection, usually undertaken once per annum. The process of

dealing with intermediaries between the original breeder and final sale point makes traceability back to the original breeder particularly difficult.

7.4 Does the Government really want to set up a licensing regime which continues to enable puppies to pass through one or more intermediaries before reaching the final point of sale? There is a real opportunity in the Regulations to prevent the resale of dogs (and potentially cats) prior to reaching the final point of sale, by imposing a restriction that licensed pet sellers must only purchase these directly from the person who bred the animal, even if third-party sales involving sale direct from a breeder to the final seller is allowed to continue.

7.5 DBRG notes that the general requirement under the Draft Regulations that anyone selling pets as a business will require a licence may have some unintended consequences, that could require further consideration. These include that:

- very large numbers of breeders of pets including companion animal, bird, reptile and fish breeders would require inspection before sale, and that this has implications for administrative resources.
- that dog breeders in particular would require licensing under two sets of conditions in order to sell puppies bred. We note that the 'General conditions' would though be common to both breeding and sale activities.

7.6 Part 5 (8) (a) states that a dog breeding activity is licensable if three or more litters are bred in any 12 month period.

DBRG believes that, in principle, two or more litters in any 12 month period should be the cut off point for requiring a licence. The second litter bred could not be considered to be 'accidental.' Two litters of eight puppies, costing £600 each would earn £9600 for the breeder in one year. We note also that such a threshold would legally capture anyone breeding and selling from two litters bred 'back-to-back' within 12 months. As it stands 'back-to-back' breeding from bitches would only be illegal for licensed breeders exceeding the three-litters per year criterion.

We note, however, that reducing the licensing threshold would require additional local authority resources. In Wales, the evidence has been that the reduced threshold has not resulted in increased number of licensed premises. How to enable effective identification and licensing of smaller breeders may require further consideration by local authorities and Government.

7.7 A key problem which remains for local authorities is identifying how much an individual is breeding. This would be made much easier with registration of every litter bred and DBRG continues to advocate compulsory registration of all litters, alongside a licensing regime with suitable thresholds. Registration details (eg number) should be required to be published in advertisements.

8 General conditions

8.1 Schedule 2(2) refers to numbers of animals that may reasonably be kept. The number of animals permitted should be stated on the licence.

8.2 Schedule 2 (3)(1) states re 'Staffing' that 'sufficient numbers of people who are competent ...' must be available. Schedule 2(7)(1) states 'all people responsible for the care of the animals must be competent ...'. How is 'competence' to be

determined and assured? How is 'sufficiency of numbers to be determined and assured'?

8.3 Schedule 2(4)a states that 'animals must be kept at all times in an environment suitable to their species and condition with respect to their behavioural needs. We note re selling of pets that this condition is intrinsically not possible to achieve in a pet shop or similar environment.

8.4 Schedule 2(6)(5)a and b states that all immature animals must be given suitable and adequate opportunities to learn how to interact with people, their own species and other animals, and be habituated to noises, objects and activities in their environment (by implication those that they may experience in adult life). We note re selling of pets that these conditions are intrinsically unachievable in a pet shop or similar environment.

8.5 Schedule 2(7)(3) states 'the animals must have daily opportunities to interact with people..'. How is the extent of such 'opportunities' to be defined? An irresponsible breeder may 'interact' with dogs kept in kennels only briefly in the morning (eg when cleaning out kennels) and the evening (eg when feeding) and claim 'opportunities for interaction have been provided'. There needs to be a benchmark of expectation of level and frequency of interaction.

8.6 The statutory guidance needs to clearly address such issues of interpretation to enable effective and consistent enforcement by local authority inspectors.

8.7 Schedule 2(6)(4) re training of animals states, 'Where used, training methods or equipment must not cause unnecessary pain, fear, suffering or injury'. There should be no reason to state 'unnecessary' in this sentence - it is not the case that training/equipment used for training will be an urgent situation and therefore any training aids/methods/equipment should not cause pain, injury, fear or suffering - these are not required for successful training and this is not the methodology employed by modern behaviour science.

9 Specific conditions

9.1 Selling animals as pets

9.1.1 Schedule 3(2)(5) lists requirements for pet advertisements. We would add f) the country of origin.

9.1.2 Schedule 3(2)(5)e requires that an advertisement must 'state the country of residence of the animal..'. If this implies the sale of animals from the EU or third countries there should also be a requirement that confirmation of passport is provided.

9.1.3 Schedule 3(2)(5)a states 'Any advertisement for the sale of an animal must, a) include the number of the licence holder's licence...'. Will dog breeders require to obtain a separate licence for selling dogs and breeding them? If a licence number is to be quoted will this distinguish between those selling puppies as the breeder and those selling puppies as a third-party seller? This is important, otherwise there is the potential for third-party sale to be encouraged, and for buyers to be misled at the point of advertising, if the two types of seller are indistinguishable.

9.1.4 Schedule 3(3)(4) states '..staff must have been suitably trained..'. To what standard or qualification? Guidance is required.

9.1.5 Schedule 3(4)1 states re 'Suitable Accommodation' that 'Animals must be kept in housing which minimises stress from other animals and the public'. We note that the selling environment (eg of a dealer or pet shop') is likely to be intrinsically stressful and to compromise welfare for puppies (at least).

9.1.6 Schedule 3(5)(1) appears to contain a wording error. We suggest it should read, "The sale of an unweaned animal **or** ..' (rather than 'of'). The wording as a whole may be better as, 'The sale of an unweaned mammal or of a mammal weaned prematurely is prohibited'.

9.1.7 Schedule 3(5)(3) (re pet sales) states, 'The sale of cats or dogs less than 8 weeks is prohibited', while Schedule 6(1)(2) (re dog breeding) states, 'No puppy under eight weeks may be sold ...'. These are positive provisions but are not sufficient to prevent the acquisition of cats or dogs below 8 weeks by licensed sellers, or others. The inclusion of a minimum age limit also still fails to mitigate the physical and behavioural harm caused by the activity of third party selling. Unlicensed breeders, or those located outside England may still sell cats and dogs below 8 weeks. Licensed sellers should be required to neither obtain or sell dogs or cats below 8 weeks. .

9.1.8 Schedule 3(6)1 states all animals for sale 'should be in good health'. How is this to be assessed? Guidance is required. Does it include the likelihood of carrying of inherited disease with potential expression later in life? Potential genetic conditions or adverse effects of conformation should be disclosed by the seller.

9.1.9 Schedule 3(6)(3) states, re receipt of animals, 'The licence holder must make reasonable efforts to ensure that they will be transported in a suitable manner'. Further guidance on what this implies should be provided. Unfortunately, the current Transport of Animals Regulations are insufficiently detailed with respect to pets to provide this.

9.2 Breeding of dogs

9.2.1 Schedule 6(1) states 'The licence holder must not advertise or offer for sale any dogs a) that were not bred by the licence holder. '.

Does this imply that it would be an offence for an operator to operate as a 'hybrid breeder' ie one which both breeds and buys in puppies for sale? If so, this would be a very positive thing as consumers are often misled by such operations, and their standards are often poor, including higher risk of disease where litters of puppies from different sources are held on the same premises.

9.2.2 We note that the clause 6(1)a may be unduly restrictive particularly in preventing breeders reselling animals bought in for breeding or showing which they do not wish to retain. Parts of the original wording of the Pet Animals Act, 1951 may be helpful here:

(Where) '...the local authority are satisfied that the animals so sold .. are animals which were acquired ...with a view to being used, if suitable, for breeding or show purposes but have subsequently been found ...not to be suitable or required for such use..' then this restriction does not apply.

9.2.3 Schedule 6(1)3 states 'A puppy may only be shown to a prospective purchaser if it is together with its biological mother'. This is of course appropriate and supported by all welfare organisations. However, it highlights the inconsistency between making

this a statutory requirement for dog breeders yet allowing the continued licensing of third-party sales, where prospective purchasers will be unable to see a puppy with its biological mother. Why might it be necessary in one context to see the puppy with its mother, but for this to be disregarded in the other?

9.2.4 Schedule 6(4)(1) states, 'The licence holder must implement and be able to demonstrate use of a documented socialisation and habituation programme for the development of the puppies'. Clear guidance needs to be provided to local authorities to enable them to assess the adequacy of such programmes which are critical for healthy development.

9.2.5 Schedule 6(4)2 states that 'each adult dog must be provided with toys or feeding enrichment (or both) unless advice from a veterinary surgeon suggests otherwise'. It is important that such enrichment occurs alongside other components of enrichment including frequent interaction with people, play and interaction with other dogs, exercise, and variety and stimulation. Toys are no substitute for these.

9.2.6 Schedule 6(4)3 refers to the requirement to exercise dogs at least 'twice daily'. This is positive. However, frequent practice in many dog breeders (particularly those of higher volume) is simply to turn dogs out occasionally into a small, barren, concrete yard. This hardly constitutes 'exercise' and certainly not enrichment if the same space is used day after day, year after year. Further guidance on variety and range of exercise (including walking) should be provided.

9.2.7 Schedule 6(5)(3) states that 'Procedures must be in place for dealing with dogs that show abnormal behaviour'. It is not clear what is intended by this and both rephrasing as well as guidance may be needed. It is right that the causes of such behaviour should be identified and relevant action taken to protect the welfare of the dog (for example, removal of stressors, seeking of veterinary or behavioural advice). A suggested alternative is, 'Appropriate action should be taken to protect the welfare of any dog exhibiting abnormal behaviour'.

9.2.8 Schedule 6(6)(1)c states that a bitch must not 'give birth to more than six litters of puppies in total'. DBRG recommends that a bitch should give birth to no more than four litters in total. This is consistent with current Kennel Club requirements.

9.2.9 Schedule 6(6)(4) includes a provision for checking the health, safety and welfare of each dog '...at least every four hours ..'. Bitches with young puppies need checking more frequently than this, so the appropriate timeframe for these animals will be shorter. Relevant guidance should be provided.