

**PUBLIC PROTECTION COMMITTEE: 7 December 2010**

**Report of the Chief Strategic Planning and Environment Officer**

**CHANGES TO DOG BREEDING ESTABLISHMENT LICENCE  
LEGISLATION**

**1. Background**

- 1.1 On 21 October 2010 the Welsh Assembly Government (WAG) issued a consultation document entitled “The Breeding of Dogs – The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011”.
- 1.2 The breeding of dogs for sale is currently regulated by the Breeding of Dogs Act 1973 which requires a dog breeding establishment to be licensed. Section 14 of the Animal Welfare Act 2006 provides power for the National Assembly for Wales to issue regulations to repeal and replace the Breeding of Dogs Act 1973 in relation to Wales. The consultation document is to consider the creation of regulations to achieve this and to reflect the five needs of animals as identified in the Animal Welfare Act. These are:
- a suitable environment;
  - a suitable diet;
  - ability to be able to exhibit normal behaviour patterns;
  - housing with, or apart from, other animals; and
  - protection from pain, suffering, injury and disease.
- 1.3 The report is to provide information on the consultation and to make recommendations on a response for approval by the Committee.

**2. Current Position in respect of the Licensing of Dog Breeding Establishments.**

- 2.1 The breeding of dogs for sale is regulated by the Breeding of Dogs Act 1973 which requires a dog breeding establishment to be licensed.
- 2.2 A person keeps a breeding establishment for dogs at any premises where they carry on a business of breeding dogs for sale (whether by the individual or any other person). The legislation provides that a person whose bitches give birth to 5 or more litters in any period of 12 months shall be presumed to be carrying on a dog breeding business.
- 2.3 The purpose of the legislation is to ensure the health, safety and welfare of the dogs used for breeding purposes at the licensed premises and to determine this, the local authority shall in particular have regard to the following:-

- a) that dogs are kept in suitable accommodation.
- b) that dogs are provided with suitable food, drink and bedding material
- c) that reasonable precautions have been taken to prevent the spread of infectious or contagious diseases,
- d) that appropriate steps will be taken in an emergency
- e) that during transportation to and from the breeding establishment, dogs are provided with suitable food, drink and bedding material and adequately exercised.
- f) that bitches are not mated if they are less than one year old
- g) that bitches do not give birth to puppies before the end of the period of twelve months beginning with the day on which they last gave birth to puppies, and
- h) that accurate records in a form prescribed by regulations are kept at the premises.

2.4 Currently there are no dog breeding establishments licensed by Cardiff Council.

2.5 WAG consider that whilst the breeding of dogs for commercial gain is a legitimate business the welfare requirements of the breeding dogs and their offspring are of paramount importance. Welfare concerns have been raised about “puppy farms” since Wales took on powers to deal with pet welfare in March 2007, with the coming into force of the Animal Welfare Act 2006. Numerous reports, both written and video recorded, have suggested that some dog breeders were keeping their animals in cramped conditions with little or no provision for their behavioural or environmental needs. A special project carried out by Pembrokeshire and submitted as part of the Companion Animal Welfare Enhancement Scheme (CAWES) identified gaps between the welfare standards required by the Breeding of Dogs Act 1973 and the Animal Welfare Act 2006. WAG have therefore proposed to update the dog breeding and licensing regimes in Wales to significantly enhance animal welfare.

### **3. Details of the Welsh Assembly Governments Proposals.**

3.1 On 21 October 2010 the Welsh Assembly Government issued a consultation document entitled “The Breeding of Dogs – The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011”. Wales’ Rural Affairs Minister, Elin Jones has unveiled proposed legislation to tackle bad practice among some dog breeding establishments, commonly known as puppy farms, in Wales.

The proposed Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011, which will replace the Breeding of Dogs Act 1973, will introduce major changes to the dog breeding and licensing regimes in Wales by putting animal welfare at the heart of this practice.

The proposals include:

- a) Tightening the thresholds where a dog breeding licence is required so that a person will be presumed to be carrying on a business of dog breeding by owning or keeping three breeding bitches, having at least two litters or advertising more than 10 puppies for sale in any twelve month period
  - b) a staff to dog ratio of one person to care for a maximum of 20 adult animals;
  - c) compulsory microchipping of dogs on licensed breeding premises;
  - d) the need for behaviour and socialisation of animals to be taken account of in the licensing requirements to meet the obligations in the Animal Welfare Act 2006.
- 3.2 A key component of the consultation package will be the provision of guidance to local authorities and to owners of licensed premises on the implementation of the new requirements. Schedule 1 of the Animal Welfare Act 2006 provides that Welsh Ministers as the Appropriate National Authority can provide further guidance which local authorities must have regard to.
- 3.2 The proposals are subject to a full 12 week public consultation. The consultation document poses a series of questions for a response. The proposed responses to the questions are detailed in the appendix to the report. The consultation opened on 21 October 2010 and will close on 13 January 2011.

#### **4. Achievability**

This report contains no equality personnel or property implications.

#### **5. Legal Implications**

- 5.1 It is a criminal offence to keep a Dog Breeding Establishment without a licence.
- 5.2 All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

#### **6. Financial Implications.**

- 6.1 There are no financial implications which arise directly from this report. The licensing service is required to be self financing with all expenditure being met from fees and charges which are reviewed annually. Should the amended

legislation require dog breeding establishments to obtain licences in Cardiff the cost of issuing the licence will be recovered from the licence fee.

**7. Recommendation**

- 7.1 That the Committee approve the responses to the government consultation “The Breeding of Dogs – The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011” detailed in the appendix to the report.

**SEAN HANNABY**

**2 November 2010**

**CHIEF STRATEGIC PLANNING AND ENVIRONMENT OFFICER**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None

## APPENDIX A

### Consultation Response Form

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**Question 1: Do you consider that the definition and requirements of a licence holder in the proposed licence conditions is clear? If not, please give your reasons in detail.**

Yes.

**Question 2: Do you think the scope of the definition of a licence holder is adequate? If not, please give your reasons in detail.**

It is unclear from Section 4 of the regulations if it is unlawful only if all of the conditions are met or if just one of the conditions are met. This should be clarified. A person carrying out a business of dog breeding may not advertise their business in which case it would not necessarily be unlawful under 4.(2) not to have obtained a licence despite the fact that the other conditions are met.

It will be difficult to enforce the definition if other dogs which are declared to be not breeding are present at the premises.

In respect of 4.(2)(c) the business may supply more than 10 puppies but not to the same person. Perhaps the definition should be clarified to "supply 10 or more puppies to a person or persons in any 12 month period."

**Question 3: Do you consider that the proposed Guidance is sufficiently detailed enough to enable both enforcement officers and dog breeders to understand the standards to be met at a licensed dog breeding establishment? If not, please give your reasons in detail.**

Clarification should be given on the need to maintain records of dogs which are not breeding but being kept at the premises.

**Question 4: Do you consider that the standards set in the proposed Guidance for a dog's environment, diet, behaviour, companion and health needs are suitable? If not, please give your reasons in detail.**

Yes. However they could be improved by considering health checking issues to ensure unwanted hereditary disease/conditions are not passed to offspring.

**Question 5: Do you agree that the minimum staff: dog ratio of 1 full-time attendant per 20 dogs and 1 attendant to 10 dogs for a part-time attendant is appropriate? If not, please give your reasons in detail.**

Agreed.

**Question 6: At present, the draft Regulations only require a record for all unneutered females and puppies born after the Regulations come into force. Do you agree? If not, please give your reasons in detail.**

No – stud dogs (sires) should also be recorded, especially if kept at the breeding establishment. Also records of when a bitch is retired should be kept to enable appropriate enforcement of the legislative requirements.

**Question 7: At present, the Regulations only require unneutered females and puppies born after the Regulations to be microchipped. Should there be a requirement to extend this to all dogs kept at a breeding establishment? If not, please give your reasons in detail.**

The regulations should require all dogs kept at the establishment to be microchipped.

**Question 8: Do you agree that all puppies should be microchipped before it is 56 days old or before it leaves the premises, whichever is the later? If not, please give your reasons in detail.**

Agreed.

**Question 9: Do you agree that the first registration of a puppy should be to the licensed breeder? If not, please give your reasons in detail.**

Agreed.

**Question 10: Are there any premises such as sanctuaries, hunt kennels and licensed boarding kennels that should be exempt from the requirement outlines? If so, why? Please give your reasons in detail?**

There should be no exemptions. The conditions specify the minimum requirements in the interests of animal welfare and should be a requirement for all.

**Question 11: Do you agree that as currently drafted, the Regulations require that puppies cannot leave the breed premises until they are at least 56 days old? (Previous legislation allowed puppies to be moved off the breed premises earlier as long as it was direct to a pet shop owner). If not, give your reasons in detail please.**

Condition 8 requires the licensee must retain ownership and possession of the puppy but does not stipulate that the puppy must remain on the breed premises. If this is to be required it should be specifically stipulated.

**Question 12: Do you agree that as currently drafted, dog breeding licences should be issued for a period of up to 3 years, subject to a local**

**authority considering the frequency of inspections and risk, and be renewed as appropriate? If not, please give your reasons in detail.**

Agreed.

**Question 13: These proposals might incur costs to bring dog breeders up to the required animal welfare standards. Please provide appropriate evidence based information.**

No information.

**Question 14: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:**

The regulations make no provision for the transfer of a licence from one individual to another. It would therefore be necessary for a new application to be made by any new operator who purchases the business.

While the conditions and guidance are comprehensive there may be some exceptional circumstances when it may be appropriate to vary the licence conditions. The regulations as drafted do not enable such variations to be made.

In respect of microchipping it may be appropriate to set a time limit on when a licence holder must submit details of a new owner to the database operator, one month after sale for example.

In connection with the keeping of breeding bitches – some breeders foster these out and only keep the stud dogs. Under the proposed Regulations there would be no control over the condition in which puppies were then bred.