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24 October 2018

To: All Councillors

As a Member of the **Licensing & Appeals Committee**, please treat this as your summons to attend the meeting on **Thursday 01 November 2018 at 6.00 pm in the Council Chamber, Town Hall, Matlock.**

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandra Lamb', written over a faint circular stamp or watermark.

Sandra Lamb
Head of Corporate Services

AGENDA

1. APOLOGIES

Please advise Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE DAY PRECEDING THE MEETING.**

3. MINUTES OF LAST MEETING

22 March 2018

4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

5. LICENSING ACT 2003 AND GAMBLING ACT 2005 – ANNUAL PROGRESS REPORT **03 - 09**

To consider a summary report of the work relating to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Team during the last financial year and the previous two financial-year periods to allow comparisons to be made. Details of compliance and enforcement work carried out in partnership with other statutory authorities, which contributes to the Licensing Service Plan Actions, are provided along with how the Licensing Team can give support to local campaigns, including the National Gambling Awareness Week, to promote licensing issues through the Community Safety Partnership's VAL Group and national issues through the Institute of Licensing and the Derbyshire Licensing Group.

6. IMPLEMENTATION OF THE ANIMAL WELFARE REGULATIONS (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018 **10 - 18**

To consider approval of a scheme of delegation to support the effective operation of the new Animal Welfare Regulations 2018 and recommendation for approval of a proposed fee structure and process to the Governance & Resources Committee.

Members of the Committee: Councillors Sue Bull, Tom Donnelly, Ann Elliott, Graham Elliott, Richard FitzHerbert, Steve Flitter, Helen Froggatt, Alyson Hill, Angus Jenkins (Vice Chair), Jean Monks (Chairman), Joyce Pawley, John Tibenham.

1 NOVEMBER 2018

Report of the Head of Regulatory Services

LICENSING ACT 2003 AND GAMBLING ACT 2005 - ANNUAL PROGRESS REPORT

PURPOSE OF REPORT

This report provides a summary of the work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Team during the last financial year, and the previous two financial-year periods, to allow comparisons to be made.

The Committee is provided with details of compliance and enforcement work carried out in partnership with other statutory authorities, which contributes to the Licensing Service Plan Actions.

The report provides details of how the Licensing Team can give support to local campaigns to promote licensing issues through the Community Safety Partnership's VAL Group, and national issues through the Institute of Licensing and the Derbyshire Licensing Group.

RECOMMENDATION:

- 1) That the Licensing Team continues to work with other Responsible Authorities, where possible, when carrying out the following number of planned compliance/enforcement visits in the District by 31 March 2019:
 - 20 licensing awareness visits to premises licensed for alcohol sales, gambling or scrap metal;
 - 2 taxi enforcement operations
- 2) That the Licensing Team continues to contribute to the work of the Community Safety Partnership's VAL (Violence Alcohol and Licensing) Group, to raise licensees' awareness on not selling alcohol to people who are already drunk, by supporting the County-Wide 'Intoxicated-No Sale' Campaign.
- 3) That support be provided to National Gambling Awareness Week, 1st -7th November 2018.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 THE LICENSING ACT 2003

1.1 The Licensing Act 2003 (“the Act”)

The Licensing Act 2003 established a single integrated scheme for licensing premises which are used for the sale or supply of alcohol, and/or to provide regulated entertainment and/or to provide late night refreshment.

1.2 Each year the District Council, (in its role as the Licensing Authority), maintains in the region of 550 premises licences and club premises certificates; 1250 personal licences; and on average (each calendar year) acknowledges some 450 to 550 temporary event notices (TENs). All of these authorisations permit one or more of the licensable activities under the provisions of the Licensing Act 2003.

1.3 Each year a number of new premises licences are granted and a small number are surrendered, as businesses close down or move premises. New licences are granted and existing licences varied for a number of reasons, which include the start-up of new businesses, a rise in the number of one-off events. eg: small music festivals, micro-breweries, themed/luxury bed and breakfast establishments, community shops in separate areas of existing licensed premises etc.

1.4 Annual Progress Reports

The first annual progress report was presented to this Committee in 2007, providing information about the numbers of alcohol, entertainment and late night refreshment licence applications determined with effect from November 2005.

1.5 Some of these activities are no longer licensable; the Live Music Act 2012 exempted the Licensing Act 2003 requirement for a licence for the provision of facilities for music, dancing, entertainment or anything similar, and amended the need for a licence for live and recorded music, dancing, the performance of plays and the exhibition of films; but only during specific times, namely between the hours of 8am and 11pm; and at particular types of premises; usually in community premises or at those that are already licensed for the sale of alcohol. A licence is no longer required for a sporting event provided that it takes place between the hours of 8am and 11pm and there are no more than 1000 spectators present.

1.6 Since 2007 an annual progress report has been submitted for the Committee’s information and consideration. The report is usually submitted to the first meeting in the civic year but the Committee did not sit in July. For completeness, and where available, the figures for the first 6 months of 2018-19 are also provided.

1.7 Licence applications made under the Licensing Act 2003

Application Type	Number of Applications Processed			
	2015/16	2016/17	2017/18	2018/19 (to date)
New Premises Licences/Club Premises Certificates (CPCs)	21	15	17	12
Transfers of Premises Licences/Club Premises Certificates	24	25	27	17
Variations (full)	2	4	3	2

Application Type	Number of Applications Processed			
	2015/16	2016/17	2017/18	2018/19 (to date)
Minor Variations	4	5	3	2
Variation of (DPS)	71	82	74	38
Removal of DPS Condition	0	0	0	0
New Personal Licences	48	60	53	18
Temporary Event Notices (TENs)	363	369	409	316
LATE Temporary Event Notices	98	118	129	92
Surrendered Premises Licences	13	6	8	6

1.8 Licensing and Appeals Sub-Committee Hearings

During 2017-2018, applications for 17 new premises licences and 1 new club premises certificate were received. 3 of these premises licence applications attracted representations (relevant objections), and had to be referred to the Licensing and Appeals Sub-Committee, to be determined. All 3 licences were granted, but with additional conditions and restrictions.

1.9 During the period 1st April to the end of September 2018, it has not been necessary to refer any applications received for these licence types to a Sub-Committee.

1.10 Applications for Minor Variations

In October 2009, the Minor Variations application process was introduced. This allowed proprietors/operators to make small changes to their premises licences, as long as the proposed changes would not undermine the licensing objectives specified in “the Act”.

Examples of permitted changes include:

- Minor changes to the structure or layout of premises;
- Small adjustments to licensing hours;
- Conditions: removal of out- of- date irrelevant or unenforceable conditions or volunteering of conditions;
- Licensable activities: adding certain licensable activities.

1.11 At the time of introduction, the Government recommended that the decision making on Minor Variation applications should be delegated to officer level. So, there is no provision for hearings to be held to determine these applications. If objections are received the applications are refused, and a full variation application can then be made, which would be subject to a Hearing if any relevant objections were received.

1.12 The Head of Regulatory Services and the Licensing Manager are both delegated to determine applications for Minor Variations.

1.13 A total of 3 Minor Variation applications were determined by Officers under delegated powers between 1st April 2017 and 31st March 2018, and a further 2 applications have been determined to date, since 1st April 2018.

1.14 Details of Minor Variations granted since 1st April 2017 are produced in the following table:

Premises	Variation	Issue Date
The Co-operative, Station Road, Darley Dale, Derbyshire, DE4 2EQ.	Changes to store layout./amendment to plan attached to Premises Licence.	21.09.2017
Ye Olde Vaults, 21 Market Place, Ashbourne, Derbyshire, DE6 1EU.	Changes to internal layout/amendment to plan.	31.10.2017
Roberts in Ashford Ltd, Church Street, Ashford In The Water, Derbyshire, DE45 1QB.	To add conditions to the premises licence in respect of staff training and policies and procedures in respect of age-restricted products, to include maintenance of refusals logs.	16.2.2018
Iceland, 1 Firs Parade, Matlock, Derbyshire, DE4 3AS.	Changes to internal layout/amendment to plan.	3.4.2018
Spar And Post Office, Unit 1, Granby Croft, Granby Road, Bakewell, Derbyshire, DE45 1ES.	Changes to internal layout/amendment to plan.	14.4.2018

1.15 Working with Partners

The Licensing Team works closely with the other agencies with responsibility for dealing with applications for licensing eg through the Safer Derbyshire (Community Safety) Partnership VAL Group (Violence, Alcohol and Licensing).

- 1.16 Visits to licensed premises are carried out jointly, where appropriate, with officers from the Police, Environmental Health, Fire Service and Trading Standards Authorities. Where problems exist or there is the potential for problems, measures to deal with these are agreed by all officers and negotiated with the licence holder.
- 1.17 In 2017-18 the 20 visit target detailed in the Licensing Service Plan actions, was exceeded for the second year running, with 21 visits to licensed premises being carried out. A target of 20 visits to licensed premises during 2018-19 has been agreed and published in the Licensing Service Plan. The targets for 2019-20 are currently under consideration.
- 1.18 The Safe and Responsible Manual which was produced and promoted by the High Peak and Derbyshire Dales VAL some years ago, to assist licence-holders to comply with their legal and social responsibilities, in running a well-managed premises, was re-branded as part of the *Intoxicated – No Sale* Campaign, which is being rolled-out across Derbyshire, by the Police and Licensing Authorities working together. Officers will be supporting pre-Christmas and similar campaigns organised by the Police, to promote awareness of not selling alcohol to persons who are already drunk.
- 1.19 During the last 18 months, officers from the Council's Licensing and Community Safety Teams have participated in several joint test-purchase operations at alcohol-licensed premises, with officers from Derbyshire Police and Derbyshire County Council's Trading Standards. Licensed premises across the Derbyshire Dales were visited and any premises that failed the test purchase were re-visited without warning within the following 3 month period and a second test purchase was carried out. The aim of the exercise is to monitor how well licensed premises implement a Verification of Age Policy and Refusals Log.

1.20 All newly licensed premises for the sale of alcohol are expected to operate the Challenge 25 scheme. Premises that have been licensed for some time are being encouraged to move from the earlier Challenge 21 and Challenge 18 schemes, to operate Challenge 25 as this offers a more robust approach to ensuring that alcohol sales are not made to anyone under the age of 18.

2 THE GAMBLING ACT 2005

2.1 The Gambling Act 2005 (“the Act”)

Local licensing authorities have regulatory obligations under the Gambling Act 2005 for licensing gambling premises and issuing permits and permissions.

2.2 The Gambling Commission works closely with licensing authorities and other regulatory partners on joint initiatives and provides support through training, advice and publications.

2.3 The Commission has developed toolkits, application forms, returns forms, codes of practice, guidance, and a monthly Bulletin, to help Licensing Authorities carry out their regulatory responsibilities around gambling.

2.4 The following numbers of premises in Derbyshire Dales are currently licensed under the 2005 Act:

- 1 Adult Gaming Centre (Matlock Bath)
- 4 Bookmakers (Betting Shops)
- 5 Family Entertainment Centres (Matlock Bath)
- 1 Occasional Use Notice (Pikehall Harness Racing)
- 8 Club Machine Permits (Registered Clubs)
- 170 Small Society Lotteries.

2.5 There have not been any changes to the legislation, affecting the licensing of these premises since the last annual report was considered by this Committee.

2.6 Licensing Authority Statistics Published by Gambling Commission

Licensing authorities (LAs) have a statutory duty to provide the Gambling Commission with specific information about gambling regulation in their area. The Commission collates and analyses the information to help Licensing Authorities, and the Government, understand the local and national landscape of gambling regulation.

2.7 Every September, the Commission publishes the licensing authority statistics. The statistics for the year ending 31 March 2018 have just been received. This latest edition provides a comparison on data covering the period 2013 to 2018.

2.8 The report contains information about the number of permits, temporary use notices, and occasional use notices issued by the 380 licensing authorities across England and Wales. The number of gambling premises inspections conducted are also included in the report.

2.9 The Gambling Commission summarises licensing authorities' activity between 1 April 2017 and 31 March 2018 as:

- 4,518 gambling-related permits were issued or notifications received (+33% from March 2017).

- 4,917 inspections /visits to gambling premises by LAs (-8% from March 2016). This includes proactive and reactive visits, follow up inspections and test-purchasing exercises.
- 121 LAs didn't conduct any visits during the year (down from 131 LAs in March 2017).

2.10 The Gambling Commission has published the statistics (PDF document) on its website. An Excel version of the statistics has also been uploaded to provide more transparency and an element of interactivity with the figures. This enables a Licensing Authority to compare its own activity with that of other Licensing Authorities.

2.11 The information can accessed via the Gambling Commission website via the following link:

<https://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Statistics/Licensing-authority-statistics.aspx>

2.12 National Gambling Awareness Week: 1st – 7th November 2018

Responsible Gambling Week is a cross-industry initiative to promote responsible gambling. The Week is designed to get people talking about what it means to gamble responsibly, focusing on the tools that are available.

2.13 The Council's Licensing Team will be supporting our 10 licensed premises to promote Responsible Gambling Week. Support will also be available from organisations such as the National Gambling Helpline, GamCare and GambleAware. A range of resource materials are available for those wishing to support the week, to keep gambling fun, and to ensure that players across all types of gambling can gamble safely.

2.14 3-Yearly Review of Statement of Principles – Gambling Policy

The draft Statement of Principles for Gambling was approved at the March 2018 meeting of this Committee. It is currently out for consultation, and a final draft will need to be considered for approval by the full Council before the end of December.

3 RISK ASSESSMENT

3.1 Legal

The report provides the Committee with information on how the Council is continuing to implement the Licensing Act 2003 and the Gambling Act 2005 in practical terms. The record demonstrates that the laws are being effectively implemented, with the risk being correspondingly low.

3.2 Financial

The direct costs and income of administering the Licensing Act 2003 and the Gambling Act 2005 are shown in the following table:

Licensed Premises Cost Centre 181	2015/16 Actual	2016/17 Actual	2017/18 Actual	2018/19 Budget
Direct Costs	61,453	67,035	86,538	89,507
Support Services	32,629	29,158	29,423	30,432
Total Income	104,175	116,340	127,932	106,734
Net Income	10,093	20,147	11,971	-13,205

NB: support services were allocated centrally as part of the accounting process for 2015/16 and 2016/17. However, from 2017/18 these accountancy conventions were changed and support services have been estimated as a proportion of direct costs using a multiplier of 34%.

Figures for 2018/19 are based on estimates made at the beginning of the year and will be adjusted during the budget revision process and at year end. It is anticipated that the forecast loss of £13,205 will be largely recovered.

It is considered that this budget is adequate for the provision of the service at the moment, and therefore the financial risk is low.

4 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

Eileen Tierney, Licensing Manager, Tel: 01629 761374
email: eileen.tierney@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

Description	Date	File
Records of applications stored in Licensing Software Systems – LalPac (archived) & M3 (NB: some licence types are currently paper format only)	2005 - on going	RS/LN/M3/LalPac
Gambling Commission website – Advice for Local Authorities.	https://www.gamblingcommission.gov.uk/for-licensing-authorities/for-licensing-authorities.aspx	
Gambling Commission website – Licensing Authority Bulletin: October 2018.	https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/Licensing-authority-bulletin-October-2018.pdf	

7 ATTACHMENTS

None.

LICENSING AND APPEALS COMMITTEE
1ST NOVEMBER 2018

Report of the Head of Regulatory Services

IMPLEMENTATION OF THE ANIMAL WELFARE REGULATIONS (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

PURPOSE OF THE REPORT

This report informs the Committee of the introduction of the Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018; recommends a scheme of delegation involving both Licensing and Environmental Health; and proposes a new fee structure and the system for its adoption by the Governance and Resources Committee.

RECOMMENDATION:

1. That the scheme of delegation proposed in the report, is agreed.
2. That the proposed fee structure and process is submitted to the Governance and Resources Committee.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime contributes towards the District Council's priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1 THE ANIMAL WELFARE REGULATIONS (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

- 1.1 At the March 2018 meeting, the Committee considered a report which provided an update on the Government's review of Animal Welfare Licensing. The existing licensing procedures and proposed changes had been reported to meetings in March 2016 and October 2017.
- 1.2 In 2016 the Department for Environment Food and Rural Affairs (DEFRA) launched a consultation exercise on the introduction of secondary legislation to introduce a single "Animal Establishment Licence".
- 1.3 The stated aim was to "relieve the administrative burden on local authorities, simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards by modernising the current animal licensing system in England".

- 1.4 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (“the Regulations”) were made on 16th April 2018 and came into force on 1st October 2018.
- 1.5 The Guidance to assist Licensing Authorities in implementing the Regulations was received from DEFRA on 8th August 2018 – the guidance has been re-issued on 1st October 2018.
- 1.6 The Regulations are secondary legislation made under the Animal Welfare Act 2006, and licence the following activities:
 - Animal boarding (catteries and kennels)
 - Home boarding of dogs
 - Dog day care
 - Dog breeding
 - Riding establishments
 - Sales of animals (formerly pet shops)
 - Performing animals (a registration previously administered by Derbyshire County Council’s Trading Standards Service).
- 1.7 The current licensing procedures for zoos and the keeping of dangerous wild animals are not affected by the Regulations and will continue to be carried out under the existing legislative provisions.
- 1.8 The Regulations have repealed earlier pieces of legislation in respect of these activities and have amended the Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981, although the new regulations have not replaced the licensing regimes under those Acts.

2 THE KEY CHANGES

2.1 A Single Licence

The Regulations have introduced a single establishment licence which can cover one or more of the following licensable activities: dog/cat boarding (this includes home boarding for dogs), dog day care, dog breeding, selling pets, hiring out horses for riding, keeping or training animals for exhibition. The term “activities” is used rather than “establishments”; this emphasises that activities such as the online sale of pets are now included as licensable.

2.2 Dog Breeding

The activity of breeding of dogs has received particular attention. The Regulations have introduced changes which include:

- the sale of puppies below eight weeks of age is prohibited;
- anyone breeding dogs and advertising a business of selling dogs, and/or breeding three or more litters of puppies in any 12 month period, is now covered by the Regulations; and
- the introduction of specific requirements about advertisements for the sale of dogs; ie adverts will need to include the licence number, details of the licensing authority, a recognisable photo of the dog being advertised etc.

2.3 National Standard Licence Conditions

The conditions that must be attached to a licence are set out in the Regulations for each activity. These will replace the CIEH Model Conditions and locally set Standard Conditions, previously adopted and attached to all current licences in the Derbyshire Dales.

The Regulations and supporting guidance conditions for each activity can be viewed via the animal welfare licensing page of the Council's website.

2.4 Licensing of Performing Animals / Exhibition of Animals

Prior to 1st October 2018, Derbyshire County Council was responsible for regulating performing animals, across the whole of Derbyshire. This activity will now be licensed by district/borough councils and by the city council. This power has been extended to include animals that are exhibited; for example, mobile animal exhibits that visit schools, weddings, private parties, fairs and other events where an audience is present.

2.5 Records provided by the County Council indicate that there are currently 8 premises registered within Derbyshire Dales. It is not yet known whether this number will increase significantly with the extended provisions to include animals that are exhibited.

2.6 The Business Test

The Regulations and the Guidance made in support of the Regulations make it clear that in all cases except dog breeding the new requirements only apply where the activity is undertaken as part of a business. In this way, anyone operating an activity as a hobby, or on a not for reward basis would be exempt from having to obtain a licence. The difference with dog breeding is that a limit on the number of litters that may be bred is also in place, unless it can be proved that none of the puppies from these litters have been sold. More detail relevant to the dog breeding requirement is set out in paragraph 2.2 above.

2.7 In relation to all licensable activities information on what constitutes a business is set out in the guidance. Whilst this will be a matter of fact in each individual case local authorities are referred to HMRC guidance (and the 2016 budget) where a new allowance of £1,000 for trading income was introduced from April 2017. Anyone falling below this threshold would not need to be considered in the context of determining whether they are a business. It is proposed that this threshold is used as the basic starting point in all cases.

2.8 Duration of Licences

The Regulations provide for licences to be granted or renewed for a period of one, two or three years in respect of each activity.

- 2.9 The local authority must have regard to Secretary of State Guidelines and is required to use a national risk-based assessment system to determine the duration of the licence and number of inspections required; (ie: introduction of a star rating system – see Paragraph 3.1 below).
- 2.10 Licences issued under the existing legislative provisions (which limit the duration of licences to a calendar-year framework) and which are in force on 1st October 2018 will continue to have effect until the expiry date. An application to renew will be required under the new Regulations.
- 2.11 The numbers of animal establishment licences currently in force for those premises in the Derbyshire Dales that are licensed by the District Council are as follows:

Licence Type	Number
Animal Boarding (includes 15 licences for Home Boarding of Dogs)	27
Dog Breeding Establishments	4
Pet Shops	4
Riding Establishments	4

2.12 Fee-Setting- 2-Part

Fees and charges will be set locally, and on a full-cost recovery basis. The fee structure will be a 2-part one – with one fee payable on application, and a second fee payable on grant of a licence, to take account of inspection costs. The fees proposed in the table in Paragraph 4 below, have been calculated by Officers using DEFRA’s guidelines for fee setting.

- 2.13 The proposed fee structure will need to be referred to a meeting of the Governance and Resources Committee for consideration before it can be adopted.

2.14 Officer Training

Until October 2021, any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses will be considered suitably qualified within the definition in the Regulations. However, by 2021, all inspecting officers must have undertaken the prescribed training defined in the Regulations.

2.15 Submission of Annual Data to DEFRA

Local authorities are required to submit an annual data return to DEFRA on the number of licences and registrations held for animal activities.

3 STAR-RATING SYSTEM FOR INSPECTIONS

- 3.1 Within the Regulations is a star rating system to allow customers to see how businesses perform against the regulation standards. The star rating will be issued by the inspecting licensing officer/animal specialist.
- 3.2 Following an inspection of an establishment the licence will be ranked low or high risk. The risk assessment and the level of compliance with the minimum and higher standards will then be used to determine the star rating of the licence.

- 3.3 The star rating will determine whether a one, two or three year licence is granted. The star rating must be added to the licence and the licence should be displayed by the business. Local authorities are encouraged to maintain a list of licensed businesses and their associated ratings on their websites.
- 3.4 If a business wishes to appeal the star rating given by the 'inspecting officer' (i.e. the officer undertaking the inspection) on behalf of the local authority, the appeal should be made in writing (including by email) to the local authority. Businesses have 21 days (including weekends and bank holidays) following the issue of their licence in which to appeal the star rating.
- 3.5 It is recommended that any appeal against the star rating for premises in Derbyshire Dales will be considered and determined by the Head of Regulatory Services. A decision will be made and the applicant notified within 21 days of receipt of the appeal.
- 3.6 Where a business has made improvements following a star rating they can apply to be re-inspected. A fee will be charged for this re-inspection process. The Inspecting Officer will re-inspect within 3 months (as outlined in the DEFRA guidance).
- 3.7 The request for re-inspection should be made in writing (includes email) and should outline the case for a re-inspection, i.e. it should indicate the actions that have been taken by the business to improve the level of compliance or welfare since the inspection and, where appropriate, should include supporting evidence.
- 3.8 The supporting case should refer to those actions that the local authority had informed the proprietor of the business would need to be made in order to achieve a higher rating. The star rating can only be altered following a practical re-inspection and cannot be changed based upon documentary evidence alone.

4 FEES AND CHARGES

- 4.1 The fees and charges are to be locally set based upon full cost recovery. The Regulations state: A local authority may charge such fees as it considers necessary for:
 - (1) *the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation;*
 - (2) *the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in subparagraph (a) including any inspection relating to that consideration;*
 - (3) *the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and*
 - (4) *the reasonable anticipated costs of compliance with regulation 29* (ie each local authority must provide the following information to the Secretary of State in writing for the purpose of assisting the Secretary of State to carry out the review in accordance with regulation 28.*

- (a) the number of licences in force for each licensable activity in its area on each reference date, and
- (b) the average level of fees it has charged for licences it has granted or renewed for each licensable activity in each reference period.

4.2 Fees have been calculated as follows:

Activity	Fee
Application fee for new licence	£310
Fee for grant of licence, including compliance and enforcement	£75
Application fee for renewal of licence	£310
Fee for grant of renewal, including compliance and enforcement	£75
Variation of licence – administration	£25
Variation of licence – administration and inspection	£125
Re-rating inspection	£100
Appeal inspection	£100

4.3 In addition it is considered appropriate to introduce fees for advisory work undertaken before a formal licence application is submitted. These activities can involve a great deal of officer time, both in the Licensing team in terms of office based advice and the Environmental Health team in terms of site visits. These activities are analogous to the pre-application advice undertaken by the Development Management team, which is now established as a fee charging activity. However, in order to assist with the creation of new businesses it is also suggested that a reasonable amount of time is offered free of charge to new enquiries and that a comprehensive web-based resource is established to guide those seeking advice.

Activity	Fee
Advice from Licensing team - first 30 minutes	Free
Advice from Licensing team – more than 30 minutes	£18 per hour or part thereof
Advisory site visit	£100

4.4 If Members are in agreement with the proposed schedule of fees set out above, it is recommended that they are submitted for consideration by the next meeting of the Governance and Resources Committee, for implementation from 1 January 2019.

4.5 It is recognised that these charges are officers' best estimates of the costs of implementing the new licensing system. As such it is recommended that the actual costs involved in administering the system are closely monitored over the next 12 months, with the intention of a full review being included in the annual fees and charges report considered by the Governance and Resources Committee.

5 DELEGATION AND AUTHORISATION

- 5.1 In order for the new licensing system to operate in an efficient and effective manner it is necessary to consider the various powers that might be delegated to officers. The table below sets out the recommended scheme of delegation and includes officers from the Licensing and Environmental Health teams, as well as the Heads of Regulatory Services and Corporate Services, and the Chief Executive.
- 5.2 Where relevant the proposed scheme of delegation follows the principle that the management of the licensing process is undertaken by the Licensing Team and the inspection of establishments is undertaken by Environmental Health staff.
- 5.3 It is recognised that the delegations for inspection work will need to be refined over the next 2 to 3 years as the requirement for specialist training becomes operative. In the meantime the proposed scheme takes account of the inspection expertise and experience already developed within Environmental Health.

Section	Provision	Delegation
Sections 23, 25, 26, 27, 53 and Schedule 2 Animal Welfare Act 2006	Powers of entry	Head of Regulatory Services, Principal Environmental Health Officer, Environmental Health Officers, Environmental Health Technicians, Licensing Manager
Regulation 4(2)(a) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Authorised officers to inspect establishments	Principal Environmental Health Officer, Environmental Health Officers, Environmental Health Technicians
Regulation 4(2)(b) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Grant licences	Head of Regulatory Services, Licensing Manager
Regulation 4(4), 4(5) and 8 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Authority to authorise veterinary surgeons to inspect establishments	Head of Regulatory Services, Licensing Manager
Regulation 5 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Authority to determine licence period	Head of Regulatory Services, Licensing Manager, Principal Officer Environmental Health

Regulation 6 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Take samples	Head of Regulatory Services, Licensing Manager, Principal Environmental Health Officer, Environmental Health Officers, Environmental Health Technicians
Regulation 9 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Vary licences	Head of Regulatory Services, Licensing Manager
Regulation 12 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Extend licence period	Head of Regulatory Services, Licensing Manager
Regulation 15 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Suspend, vary and revoke licences	Head of Regulatory Services, Licensing Manager
Regulation 16 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Consider and determine representations in respect of suspensions and variations	Chief Executive, Head of Regulatory Services
Regulation 16(11) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Reinstate, vary and reinstate, revoke licences	Chief Executive, Head of Regulatory Services
Regulation 17 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Reinstate licences	Chief Executive, Head of Regulatory Services

Regulation 20 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Institute proceedings	Head of Regulatory Services in consultation with Head of Corporate Services
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6 RISK ASSESSMENT

6.1 Legal

Implementation of the new Regulations is a statutory requirement and the report sets out a scheme of delegation to ensure officers can carry out effective enforcement actions where required. The legal risk is low.

6.2 Financial

The Regulations allow fees and charges to be set locally, and on a full-cost recovery basis. Assuming that the Governance and Resources Committee sets fees on a full-cost recovery basis, the financial risk is assessed as low.

7 OTHER CONSIDERATIONS

In preparing this report the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property considerations.

8 CONTACT INFORMATION

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9 BACKGROUND INFORMATION

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 <https://www.legislation.gov.uk/ukxi/2018/486/contents/made>

Guidance to Licensing Authorities in respect of the Animal Welfare Regulations (licensing of activities involving animals) (England) Regulations 2018

[re-issued 1st October 2018 and can be accessed via the Licensing area of the Council's Website] <http://www.derbyshiredales.gov.uk/services-business/licensing>

10 APPENDICES

None.

BACK TO AGENDA