

FOR: REGULATORY AND LICENSING COMMITTEE

Date: 18th February 2014

Agenda Item: 9

Contact Officers : Gareth Davies
Telephone Extension: 308741

SUBMISSION BY GARETH DAVIES- PRINCIPAL ENVIRONMENTAL HEALTH OFFICER

Animal Welfare Act 2006

1. Purpose of Report

- 1.1 The purpose of this report is to advise Members on the Animal Welfare Act 2006 (the 'Act'), adopt the Act and seek delegated authority for officers to be appointed under section 51 of the Act and to use the full range of powers.

2. Background

- 2.1 The Act came into force on 6th April 2007, consolidating much of the existing animal welfare legislation and providing new powers to deal with animal welfare matters. The underlying principles of the Act are known as the 'five freedoms' and cover the welfare of all domestic or captive animals ensuring that the animals are accorded:
- Freedom from hunger and thirst; (by ready access to fresh water and a diet to maintain full health and vigour.
 - Freedom from discomfort; (by providing an appropriate environment including shelter and comfortable resting area)
 - Freedom from pain, injury or disease; (by prevention or rapid diagnosis and treatment)
 - Freedom to express normal behaviour; and (by providing sufficient space, proper facilities and the company of an animal of its own kind)
 - Freedom from fear and distress (by ensuring conditions and treatment which avoid mental suffering).
- 2.2 The Act brings together and updates existing legislation designed to promote the welfare of vertebrate animals, other than those in the wild. It introduces a duty to ensure the welfare of kept animals and offences related to cruelty and fighting.
- 2.3 The Act introduces a duty on those responsible for animals to take reasonable steps to meet the welfare needs of their animals. It also makes available a range of powers to local authorities and their inspectors. These include:
- Emergency Powers in relation to animals in distress.
 - Powers of entry and inspection including the power to seize documents.
 - Prosecution powers.
 - Improvement Notices.

- 2.4 The Act is ‘common informant act’ which means that anyone is allowed to bring a prosecution for an offence. This means that, for instance, the RSPCA can continue to bring prosecutions in relation to cruelty to domestic animals but RSPCA inspectors will not have formal enforcement powers to residential premises when an owner’s consent to enter is withheld and will therefore have to be accompanied by a local authority officer or the police in such circumstances.

3. The Animal Welfare Act 2006

3.1 The Act:

- enables enforcement action to be taken where an animal is likely to undergo suffering in the future.
- introduces a “duty of care” on people to ensure the needs of any animal for which they are responsible are met;
- Creates a new offence of failing to provide for the needs of animal;
- allows action to protect animals to be taken much earlier – rather than have to wait for an animal to show signs of suffering e.g. enforcers will be able to intervene before suffering begins;
- places more emphasis on owners and keepers who will need to understand their responsibilities and take all reasonable steps to provide for the needs of their animals;
- increases the minimum age at which a person can buy an animal to 16 and prohibits giving animals as prizes to unaccompanied children under this age;
- provides powers for authorised inspectors to remove animals who are suffering from inadequate welfare arrangements;
- makes docking of dogs’ tails an offence except in respect of working dogs of certain breeds; and
- The Act also provides for new secondary legislation, some of which replaces existing laws e.g. licensing of riding schools, animal boarding and breeding establishments and pet shops, and some of which may regulate new types of business e.g. pet fairs, animal sanctuaries and livery yards. New responsibilities are also expected.

4. Offences and fines

- 4.1 Adopting the Act will give us more enforcement options and provides us with greater incentive to comply with legislation due to increased fines and threat of imprisonment.

A table of offences is set out below (including current legislation fine levels):

Legislation	Offence	Fine	Max Prison term
Animal Welfare Act 2006	Unnecessary suffering Mutilation Docking of dogs tails Administration of poisons Fighting	Not exceeding £20,000	51 weeks
Animal Welfare Act 2006	Duty of person responsible for animal to ensure welfare Licensing or registration (under this act) if activities involving animals	Not exceeding £5,000	51 Weeks
Animal Welfare Act 2006	Any other offence under the Act	Not exceeding £2,500	51 Weeks
Pet Animals Act 1951	Failure to have licence or breach of conditions	Not exceeding £500	3 months
Animal Boarding Establishments Act 1963	Failure to have licence or breach of conditions	Not exceeding £500	3 months
Breeding of Dogs Act 1973	Unlicensed premises	Not exceeding £2,500	3 months
Breeding of Dogs Act 1973	Breach of conditions	Not exceeding £1000	none

5. Implications of adopting the Act

- 5.1 For Local Authorities the key powers are to enforce the duty of care placed on owners and keepers of animals and the ability to deal with behavior likely to cause unnecessary suffering, rather than having to wait until they could show animals had already suffered. This will assist staff in their work in animal establishments and the other areas of officer work where animals are involved e.g. dog barking complaints/stray dogs etc. The government expects that many of the powers will help local authority officers carry out their existing duties more effectively, with an extra focus on prevention of suffering before it occurs. This view is supported anecdotally in discussions with local authority officers who already use the powers.
- 5.2 There is no duty for the local authorities to use the powers introduced by the Act once adopted. The Act is clear that inspectors can rather than shall enforce for cruelty and welfare offences.

6. Conclusions

- 6.1 These extra powers will help local authority officer's deal with animal related complaints received by Environmental Health. The increased range of powers will help us be more effective when responding to these complaints.
- 6.2 Adoption of this legislation will also give us powers where we are currently limited e.g. unlicensed breeding establishments / stray dogs.
- 6.3 Upon prosecution for offences there are greater fines and terms of imprisonment.

Providing greater incentive for people to act and keep animals in a more appropriate way.

7. Recommendations

- 7.1 The Council adopt the Animal Welfare Act 2006.
- 7.2 That the Director of Community, Housing and Health and Environmental Health Manager are granted delegated authority to appoint officers under section 51 of the Animal Welfare Act 2006 namely: the Environmental Health Manager, Principal Environmental Health Officer, Senior Environmental Protection Officer, Environmental Protection Officer, Technical Officers and Trainee Technical Assistants, Dog Wardens to be appointed for the purpose of execution and enforcing of such of the District Council's powers and duties in the provisions of the Act as appropriate including:-

Animals in distress

Section 18.Powers in relation to animals in distress

Section 19.Power of entry for section 18 purposes

Section 20.Orders in relation to animals taken under section 18(5)

Section 21.Orders under section 20: appeals

Enforcement powers

Section 23.Entry and search under warrant in connection with offences

Section 25.Inspection of records required to be kept by holder of licence

Section 26.Inspection in connection with licences

Section 27.Inspection in connection with registration

Section 29.Inspection relating to Community obligations

Prosecutions

Section 30.Power of local authority to prosecute offences

General

Section 10 Improvement Notices

Section 53 Powers of entry, inspection and search: and supplementary powers in Schedule 2

Section 54.Power to stop and detain vehicles

Section 55.Power to detain vessels, aircraft and hovercraft

Background Documents:

Animal Welfare Act 2006

Report checked and approved:

Strategic/Corporate Director