

DBRG Notes of Meeting 9 June 2016 Appendix

Licensing scenarios for dog breeding

There has recently been quite a lot of discussion about potential changes to the licensing regime for dog breeding, particularly related to the current DEFRA 'Licensing Review'. One issue is that of UKAS-accredited schemes and the role they might play. A few scenarios are detailed below which may be helpful in considering what options there are – there are potentially different roles for UKAS accredited schemes. This is a personal view of options that may be available but I am grateful for helpful comments by Mark Berry of Stockton Borough Council on a draft.

David Grimsell 24 June 2016

Scenario 1 – What we've got now

Licensing conducted by local authorities. Limited regulations which require some minimum conditions but which are not specified in detail. Available 'Guidance' in the form of *Model Licence Conditions* (2014) but which are not statutory. Evidence that only a minority of authorities have (nominally) adopted these *Model Conditions*. Evidence often of poor standards of welfare in licensed premises including breaches of the AWA. Since enforcement of the AWA is not a statutory local authority responsibility, many do not apply it in relation to premises they licence. There is a strong argument that even where an authority chooses not to take on enforcement responsibility for AWA breaches, they should nonetheless ensure, at the point of licensing, that premises meet AWA requirements. *The CIEH Model Licence Conditions* do incorporate AWA criteria, and have been endorsed by DEFRA, supporting this view. There are significant issues of lack of /variability in competence/training of local authority assessors. There has been very little effective guidance or leadership from central government.

Scenario 2 – Model licence conditions as standard

The Licensing Review consultation suggested that *Model Licence Conditions* might become 'statutory'. In general, this is taken to mean that it would be written into the Regulations that an authority should 'have regard to' the guidance provided. That is, they would need a good argument not to, and could be subject to judicial review if they failed to apply the guidance consistently. Local authorities would continue to be responsible for licensing (eg inspection etc), but, on the face of it, there would be greater consistency and higher standards (in general) were *Model Licence Conditions* to be followed widely. Standards would be higher still if new enhanced *Model Licensing Conditions* were adopted following new regulations. The issue of local authority officer competence/training would remain and potential lack of Government support and guidance.

Scenario 3 – Risk-based inspection with UKAS-accredited operators

Schemes run by non-local authority operators might operate to a certain minimum, perhaps that of the *CIEH Model Licence Conditions*, and be UKAS-accredited for this. Greater benefits would be achieved if these conditions themselves were enhanced compared to the current Model conditions. Risk-based assessment would be made more straightforward and beneficial for authorities if accredited schemes went beyond legislated minimum standards (even as expressed in model licence conditions). The local authority retaining responsibility for both inspection and award of licences might choose to undertake inspections less frequently where premises had met requirements of the UKAS-accredited scheme. The local authority would continue to authorise licensing and be accountable for the standards applied. Complaints could be submitted to the local authority, and FOI requests about licensing reports, practice etc, could be submitted to the local authority. There remain the issues of local authority officer competence/training and potential lack of Government support and guidance

Scenario 4 – UKAS-accredited inspection with local authority retained licensing.

A UKAS-accredited scheme might undertake inspection and provide all the evidence for award of a licence. The local authority would however be responsible for the awarding of a licence, and be accountable for the standards applied, including those of the UKAS-accredited operator. The local authority would be the first 'port of call' for a complainant. There is potential value in training and competence requirements moving to some extent to the UKAS-accredited operator as well as reduced demand on local authority resources. This is a theoretical possibility only if local authorities accept a process in which they retain responsibility but have no input into inspections.

Scenario 5 – UKAS-accredited inspection with exemption from local authority licensing.

Here operators which apply standards which are UKAS-accredited (for example, to the level of the *CIEH Model Licence Conditions* or higher) could undertake inspections and award licences independent of local authorities. They might do this on a risk basis. This would operate side-by-side with inspection by the local authority of non-accredited premises. There is potentially value, to some extent, in training and competence requirements moving to the UKAS-accredited operator (though not all premises might be inspected by them) and reduced demand on local authority resources. Local authorities would not be held accountable for standards. Issues that might arise include a proliferation of operators each of which is unaccountable; the difficulty in bringing complaints; the inability to obtain information on practice through FOI; and potential conflicts of interest. There may also be

consequences for the ability to resource a smaller number of inspections by local authorities.

Other scenarios include withdrawal of approval/inspection from local authorities to an independent national inspectorate (which could still take account of UKAS-accredited operators in risk-based assessment), such as the Animal Health and Plant Agency (APHA). A related approach might involve an agency (such as the APHA) taking responsibility for oversight of inspection at the national level (along the lines of the Food Standards Agency) with guidance and competence requirements for local inspectors (eg from local authorities) and agreements in place for the delivery of this at local government level with Government support.

There may be others.