

General Licensing
Committee

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22 June 2023

To All Members of the General Licensing
Committee,
Internal and External Circulation and
Press (Exempt Report, Exempt
Appendices A-C not for external
viewing)

Dear Councillor,

Re: General Licensing Committee Agenda - Monday, 26th June, 2023

Further to the compilation of the above General Licensing Committee Agenda,
please find enclosed the following exempt report which was detailed to follow on
your Agenda:

Agenda Item 7. Review of Animal Welfare Licence (Dog Boarding): (Pages 1
- 36)

Exempt Report, Exempt Appendices A-C not for external
viewing

Please accept my apologies for any inconvenience caused.

Yours sincerely,

Lynda Eastwood

Democratic Services Officer

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 7

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APPENDIX D**Extract from The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018****Grounds for suspension, variation without consent or revocation of a licence**

15. A local authority may, without any requirement for the licence holder's consent, decide to suspend, vary or revoke a licence at any time on being satisfied that:

- (a)** the licence conditions are not being complied with,
- (b)** there has been a breach of these Regulations,
- (c)** information supplied by the licence holder is false or misleading, or
- (d)** it is necessary to protect the welfare of an animal.

Procedure for suspension or variation without consent

16.—(1) Except as otherwise provided in this regulation, the suspension or variation of a licence following a decision under regulation 15 has effect at the end of a period of seven working days beginning with the date on which notice of the decision is issued to the licence holder or, if that date is not a working day, the next working day.

(2) If it is necessary to protect the welfare of an animal, the local authority may specify in the notice of its decision that the suspension or variation has immediate effect.

(3) A decision to suspend or vary a licence must:

- (a)** be notified to the licence holder in writing,
- (b)** state the local authority's grounds for suspension or variation,
- (c)** state when it comes into effect,
- (d)** specify measures that the local authority considers are necessary in order to remedy the grounds, and
- (e)** explain the right of the licence holder to make written representations in accordance with paragraph (4) and give details of the person to whom such representations may be made and the date by the end of which they must be received.

(4) The licence holder may make written representations which must be received by the local authority within seven working days beginning with the date of issue of notice of the decision under regulation 15 to suspend or vary the licence or, if that date is not a working day, the next working day.

(5) Except in relation to notices under paragraph (2), where a licence holder makes written representations which are received by the local authority within the period specified in paragraph (4), the suspension or variation is not to have effect unless the local authority, after considering the representations, suspends or varies the licence in accordance with paragraph (6)(a).

(6) Within seven working days beginning with the date of receipt of any representations made in accordance with paragraph (5), the local authority must, after considering the representations—

- (a)** suspend or vary the licence,

(b) cancel its decision under regulation 15 to suspend or vary the licence,

(c) confirm the suspension or variation of the licence under paragraph (2), or

(d) reinstate the licence if it has been suspended, or cancel its variation if it has been varied, under **paragraph (2)**.

(7) The local authority must issue to the licence holder written notice of its decision under paragraph (6) and the reasons for it within seven working days beginning with the date of receipt of any representations made in accordance with paragraph (4) or, if that date is not a working day, beginning with the next working day.

(8) The local authority's decision under paragraph (6) is to have effect on service of its notice under paragraph (7).

(9) Paragraph (10) applies if the local authority fails to comply with paragraph (6) or (7).

(10) Where this paragraph applies, after seven working days beginning with the date of receipt of any representations made in accordance with paragraph (4) or, if that date is not a working day, beginning with the next working day:

(a) a licence suspended under paragraph (2) is to be deemed to be reinstated;

(b) a licence varied under paragraph (2) is to be deemed to have effect as if it had not been so varied;

(c) a licence suspended under paragraph (6)(a) is to be deemed to be reinstated;

(d) a licence varied under paragraph (6)(a) is to be deemed to have effect as if it had not been so varied;

(e) any licence held by the licence holder other than a licence suspended or varied under paragraph (2) or (6)(a) which the local authority decided to suspend or vary under regulation 15 is to be deemed to remain in force and not to be so varied.

(11) Once a licence has been suspended for 28 days, the local authority must on the next working day—

(a) reinstate it without varying it,

(b) vary and reinstate it as varied, or

(c) revoke it.

(12) If the local authority fails to comply with paragraph (11), the licence is to be deemed to have been reinstated without variation with immediate effect.

Reinstatement of a suspended licence by a local authority

17. - (1) A local authority must reinstate a suspended licence by way of written notice once it is satisfied that the grounds specified in the notice of suspension have been or will be remedied.

(2) Where a local authority reinstates a licence under paragraph (1), it may reduce the period for which it is reinstated.

Notice of revocation

18.— (1) A revocation decision must:

(a) be notified in writing to the licence holder,

(b) state the local authority's grounds for revocation, and

(c) give notice of the licence holder's right of appeal to the First-tier Tribunal and the period under regulation 24 within which such an appeal may be brought.

(2) The decision has effect on service of the notice.

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Suspension, variation or revocation of a licence

25. A local authority may at any time vary a licence:

- (a) On the application in writing of the licence holder, or
- (b) On your own initiative, with the consent in writing of the licence holder.
- (c) In addition to the above a local authority may suspend, vary or revoke a licence without the consent of the licence holder if:
 - i. The licence conditions are not being complied with,
 - ii. There has been a breach of the Regulations,
 - iii. Information supplied by the licence holder is false or misleading, or
 - iv. It is necessary to protect the welfare of an animal.

26. Such a suspension, variation or revocation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal in which case you may stipulate that the decision has immediate effect.

27. The decision to vary or suspend the licence must be notified to the licence holder in writing, explain the reasoning for the decision, and provide information regarding when the suspension, variation or revocation comes into effect and the rights of the licence holder, as well as any specific changes that you deem necessary in order to remedy the situation.

28. The decision to vary or suspend a licence should be dependent on the severity of the situation, if an operator fails to meet administrative conditions or provide information when requested then this could potentially lead to the suspension of a licence if it happens repeatedly. Revocation of a licence should occur in an instance where poor welfare conditions are discovered or it would otherwise benefit the welfare of the animals involved to be removed from the activity. Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.

29. Under paragraph 16(2) of the Regulations if it is necessary to protect the welfare of an animal the local authority may specify in the notice of suspension, variation or revocation that it takes immediate effect.

30. A local authority notice must be delivered in one of three ways, in person; by leaving it at or sending it by post to the person's current or last known postal address; or by emailing it to the person's current or last known email address.

31. Following the issuing of the notice the licence holder will then have 7 working days to make written representation. Upon receipt of this you must decide whether to continue with the suspension, variation or revocation of the licence or cancel the decision to make changes to the licence. If the licence has been altered to protect the welfare of an animal then you must indicate that this is the reason and whether the change is still in effect.

32. The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by either the local authority

upon being satisfied that licence conditions are being met or by the First-tier Tribunal who may decide the local authority's decision was incorrect.

33. If a licence is suspended for a significant period of time then the local authority should ensure that the animals are checked on regularly to ensure that the welfare of the animals is maintained.
34. As with applications the licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the local authority. This must be done within 28 days of the decision.
35. Note that if representation is not responded to within 7 working days of receipt then the initial decision the local authority made is deemed to be overturned, this is also the case if a licence which is initially suspended has no further action taken on it within 28 days.

Figure 2: Suspension or variation of a licence

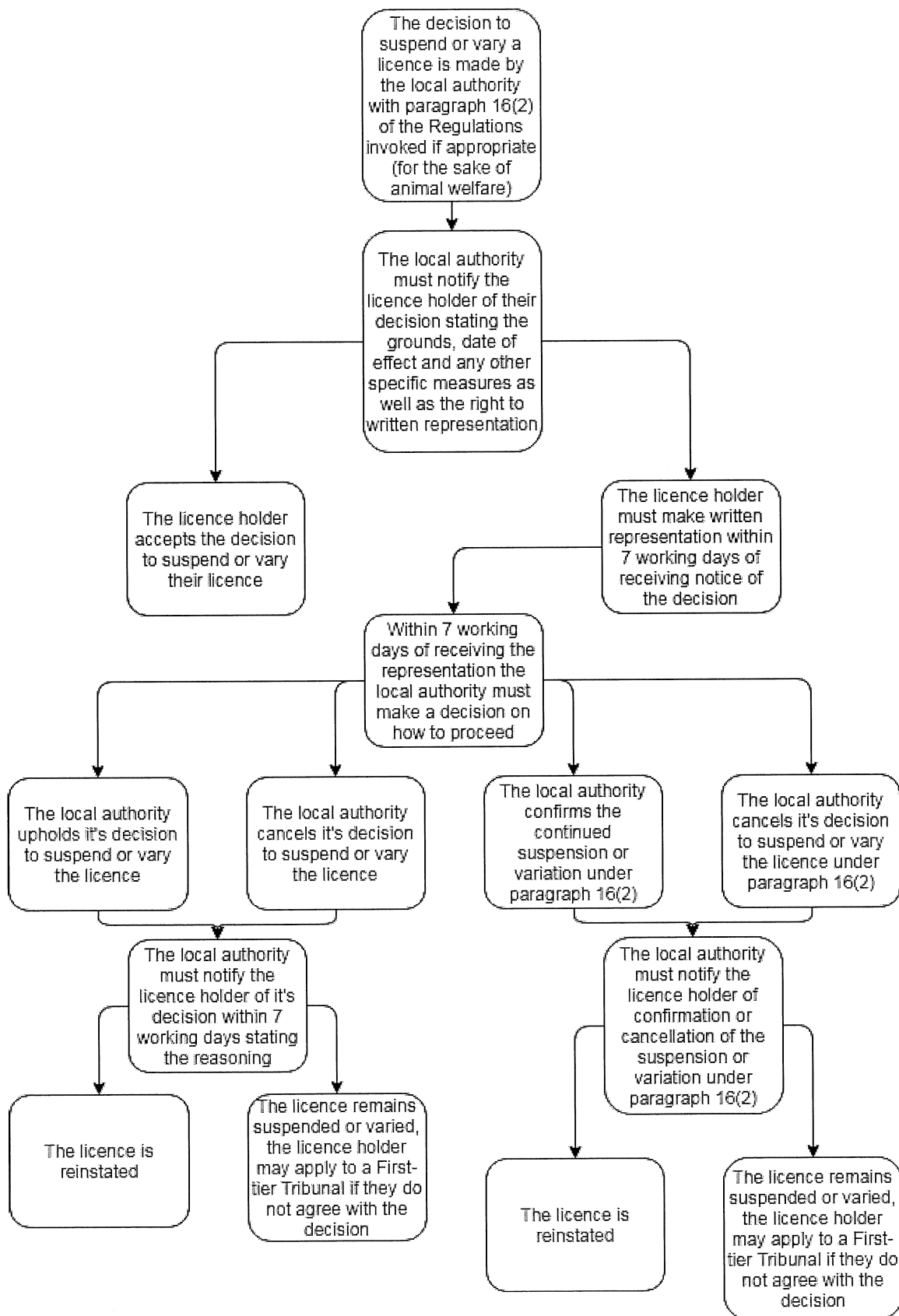
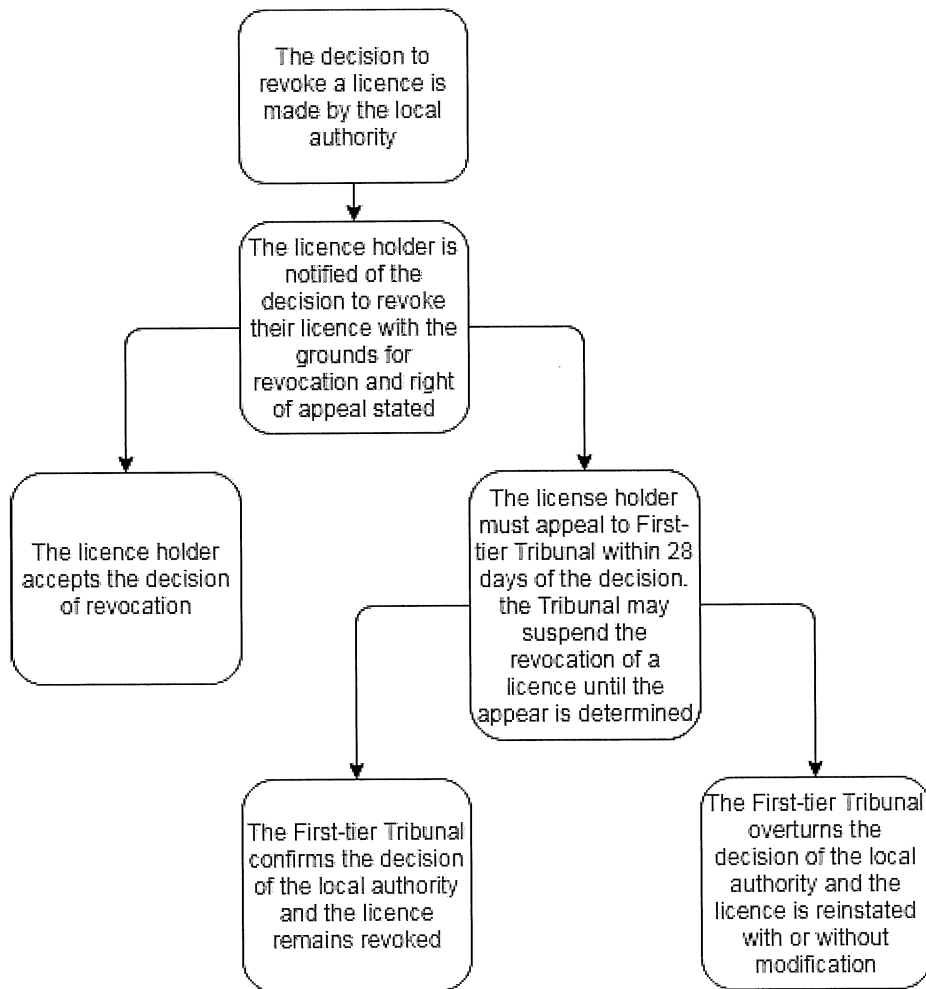


Figure 1 - Revocation of a licence



APPENDIX F**Extracts from Animal Welfare Licensing Policy****2.0 Policy Objectives**

2.1 The policy is designed to ensure that:

- any person who carries on, attempts to carry on or knowingly allows a licensable activity to be carried on, holds a licence in accordance with the Regulations.
- a licence holder is not disqualified from holding a licence in accordance with the requirements of the relevant Regulations.
- that the five overarching principles of animal welfare, (known as the “five needs”) introduced by the Animal Welfare Act 2006 are upheld in any decision.
- the safeguarding of any children or vulnerable persons in contact with a licensable activity is ensured, in accordance with the relevant legislation.
- each licence application is considered on its own merits.
- decisions made by the Council are transparent and consistent.

2.2 In addition, the Council will base its licensing regime on the following principles which arise from the responsibilities arising under the Animal Welfare Act 2006:

- Responsibility to protect the welfare of all fellow creatures.
- Ensuring the welfare of domestic or captive animals by implementing appropriate standards that promote the “five needs”.
- Ensuring that persons responsible for the management of animal welfare observe recognised standards of good practice.
- Ensuring that, so far as it falls within its powers, the requirements of all animal-related legislation will be pro-actively enforced.

3.0 Animal Welfare Act 2006

3.1 The Animal Welfare Act 2006 established that reasonable welfare standards must be maintained whilst unifying all animal legislation, including responsibilities falling to various enforcement agencies.

3.2 The Act introduced five overarching principles of animal welfare, known as the “five needs” which are:

1. The need for a suitable environment - *by providing an appropriate environment, including shelter and a comfortable resting area.*
2. The need for a suitable diet - *by ready access, where appropriate, to fresh water and a diet to maintain full health.*
3. The need to be able to exhibit normal behaviour patterns - *by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate.*

4. Any need to be housed with, or apart from, other animals - *by providing the company of an animal of its own kind, where appropriate.*
5. The need to be protected from pain, suffering, injury and disease - *by prevention or rapid diagnosis and treatment, and ensuring conditions and treatment which avoid mental suffering.*

15.0 Variations, Suspensions and Revocations of Licences

15.1 The Regulations allow a Local Authority to vary a licence:

- On the application in writing of the licence holder, or
- On the initiative of the Local Authority, with the consent in writing of the licence holder.

This Authority may charge an administrative fee for the variation of a licence where the licence holder wishes to increase the maximum number of animals stipulated on the licence, add a class of animal to be authorised for sale under a pet vending licence, etc.

15.2 In addition to the above, a Local Authority may suspend, vary or revoke a licence without the consent of the licence holder if:

- The licence conditions are not being complied with.
- There has been a breach of the Regulations.
- Information supplied by the licence holder is false or misleading.
- It is necessary to protect the welfare of an animal.

15.3 A suspension or variation of a licence will normally take effect 7 working days after the decision has been issued to the licence holder unless the reason is to protect the welfare of an animal, in which case the Local Authority may stipulate that the decision has immediate effect.

15.4 A decision to vary or suspend the licence must be notified to the licence holder in writing and the reasons for the decision must be explained. It must also provide information regarding when the suspension or variation comes into effect and the rights of the licence holder to make written representation, as well as any specific changes deemed necessary in order to remedy the situation.

15.5 The decision to vary, suspend or revoke a licence will be dependent on the severity of the situation. If an operator fails to meet administrative conditions or provide information when requested then this could potentially lead to the suspension of a licence. If such a scenario happens repeatedly, the Council may consider revocation appropriate. Revocation of a licence will also occur in an instance where poor welfare conditions are discovered or it would otherwise benefit the welfare of the animals involved to be removed from the activity. Variations can occur if adjustments need to be made, whether that is to the licence itself or to the premises/animals referred to in the licence.

15.6 Following the issuing of the notice of suspension or variation, the licence holder will have 7 working days to make written representation. Upon receipt of this the Council will decide whether to continue with the suspension or variation of the licence or cancel the decision.

15.7 If the licence has been altered with immediate effect to protect the welfare of an animal then the Council must indicate that this is the reason.

15.8 The business will not be able to trade once the suspension of a licence has come into effect and cannot do so until the decision is overturned by the Local Authority, upon, for example, being satisfied that the licence conditions are being met.

15.9 There is no right of appeal against the suspension of a licence. After 28 days of suspension the licence must be revoked or reinstated.

15.10 A licence holder may appeal to a First-tier Tribunal if they do not agree with the decision made by the Local Authority to vary or revoke a licence. This appeal must be made within 28 days of the decision and details on the appeal process will be provided to the licence holder at the relevant time.

17.0 Inspections during the Course of a Licence

17.1 There will be cases where inspections must be carried out during the term of a licence.

17.4 Unannounced inspections will be carried out and may be used in the case of complaints or other information that suggests the licence conditions are not being complied with or that the welfare of the animals involved in a licensed activity is at risk.

20.11 Complaints and Allegations of Unlicensed Premises – The Council will log and investigate, as it considers necessary, all complaints relating to animal establishments which are currently licensed or may require a licence. This Authority will require complainants to provide their name and contact details so as to ensure that a complaint is not malicious in nature, and so that witness evidence may be obtained if required for further action. When investigating complaints, Officers will take care to not reveal the identity of the complainant, unless the complainant has agreed otherwise, or unless it is necessary for the progression of legal proceedings.

20.12 This Council aims to achieve and maintain a consistent approach when we investigate complaints and make our decisions. In reaching any decision we will consider the following criteria:

- seriousness of any offences or breach of conditions.
- operator's past history.
- consequence(s) of non-compliance.
- likely effectiveness of the various enforcement options.
- danger to the welfare of animals and/or public.

22.10 Individual or Joint Licence Applicants – Where the business, subject of the licence application, is a partnership then this Authority will be prepared to accept a licence application and grant a licence in more than one person's name. However, it should be noted that each person, subject of the licence application, will be subject of the fit and proper test.

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