Breeding Dogs: The Local Authorities' Licence to Bill?

From 1 October 2018, new regulations made under the Animal Welfare Act 2006 mean that certain activities, including breeding dogs, selling pets, providing boarding for cats or dogs, and hiring out horses, may require a new form of licence from the local authority. Initial indications, however, are that councils are not applying these new rules uniformly, whether in terms of the need to have a licence at all or in respect of the size of the licence fee, which could well lead to unfairness and something of a postcode lottery.

If you are a dog breeder, you will need to know what is new. Where the snappily named Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 try to make a difference is by protecting buyers of dogs by providing for certain baseline standards.

For dog breeders, the impact is in requiring them to obtain a licence from their local authority if they:

- Breed three or more litters of puppies in any twelve month period (unless none of the puppies are sold); and/or
- Breed dogs and advertise a business of selling dogs.

The first of these criteria was presumably intended to allow people who breed dogs on a small scale for a hobby to continue to do so, without being caught by the licensing regime. But does it work?

Well, it might do, but only if the second part of the test were not so opaque. Defra has published guidance notes which are expected to assist breeders (and local authority inspectors) to decide whether they come within the scope of the regulations or not.

They are something of a chocolate teapot. The guidance suggests that those with trading income of less than £1,000 would be outside the scope of the licensing regime, whereas the Regulations themselves refer to any profit being made as an indicator of the existence of a business. And, after all, don't all dog breeders advertise litters through websites or in the paper, even if dogs are their hobby and not their main line of work?

We know that local authorities found it difficult to work out, under the previous law, whether a breeder was

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operating a business or not. It would be safest for breeders who are not sure to seek professional advice, and to start keeping records of how much things are costing them.

For the puppy buyers, though, a licensed breeder is expected to provide the dogs with a suitable environment, diet and exercise, and ensure that they are kept healthy. They must also be given opportunities to be stimulated, to learn and to become used to the sorts of sights and sounds that they will experience in everyday life (socialisation).

When it comes to the actual buying of a pet, that must be transacted face to face at the seller's premises. The buyer is entitled to receive information about care of the dog, including feeding, housing, handling, veterinary care and the like. Where the dog is a puppy under eight weeks of age, it should not be permanently separated from its biological mother and, even if it is up to six months old, the buyer must be able to see the puppy with its mother.

Although the principles of the new regulations are of course all very commendable, concerns are already being voiced that different councils are not applying the principles uniformly, with stark differences in fees and the need for a licence at all being voiced. At the other end of the scale, will the rules be effective to achieve great change in tackling puppy farms? Probably not.

Not only does the situation seem to be at odds with the principles of Better Regulation, but, far more seriously, there is a risk of criminal prosecution if a person carries on a licensable activity without a licence. On conviction, that can result in a fine and/or a six month prison sentence.

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