

## UPDATE ON ANIMAL WELFARE

Cleaner & Greener Advisory Committee - 05 January 2021

**Report of:** Chief Officer - Planning & Regulatory Services

**Status:** for consideration

**Also considered by:** N/A

**Key Decision:** No

**Executive Summary:** Animal Welfare is a function of the Environmental Health Team and encompasses a variety of statutory and non-statutory functions including the stray dog service, animal licensing, anti-social behaviour involving dogs, microchipping, and noise complaints about dog barking/ whining. The service is high performing and has a significant public profile and impact.

This report outlines some of the key areas of work within the team, the current challenges which may impact upon service delivery and the team priorities for the next 12 months.

**Portfolio Holder:** Cllr. McArthur

**Contact Officer:** Nick Chapman, Ext. 7167

**Recommendation to Cleaner & Greener Advisory Committee:**

That the contents of the report be noted.

**Reason for recommendation:** To update Members on the activities undertaken to maintain Animal Welfare within Sevenoaks District.

### Introduction and Background

1. The animal welfare function for Sevenoaks District Council is part of the duties undertaken by Environmental Health.
2. This an extremely busy service which covers a number of statutory and non-statutory functions including:
  - a. The stray dog kennelling service.
  - b. Enforcement of microchipping

- c. The licensing of specified animal activities including zoos and dangerous wild animals.
  - d. Investigation of statutory nuisance complaints
  - e. Investigation of complaints about animal welfare
  - f. Investigation of complaints about 'anti-social' behaviour involving animals.
  - g. Animal welfare promotion
3. The District Council employs one Animal Welfare Officer to undertake these duties. Other officers within the Environmental Protection Team provide additional support as and when required.

### **Stray Dog Kennelling Service**

4. The District Council has a legal duty to provide a 24 hour reception point for stray dogs found within its area. Once a stray is received, we are then required to kennel that dog for a period of 7 days to allow the owner of that dog to come forward and reclaim their animal. After the 7-day period expires, the dog effectively transfers into the ownership of the District Council.
5. Sevenoaks District Council maintains a contract with a private kennels (located near Junction 1 of the M25) who provide the 24hr reception point on our behalf. They also kennel dogs for the statutory period.
6. We encourage the finders of dogs to take them to our designated reception point. However where this is impracticable we will collect them ourselves and transport them to the reception point. A dedicated vehicle is maintained for this purpose.
7. Currently the District Council has an excellent working relationship with a number of local animal charities who take on the stray dog re-homing process on our behalf. These animal charities ensure that all strays collected in Sevenoaks are neutered and microchipped before they are rehomed. They also ensure strays are not rehomed within our area (to prevent potential issues with previous owners) and that new owners are properly assessed to ensure they are suitable.
8. Where a dog is found to have an issue with its temperament, our charity partners are able to transfer dogs to specialists with behavioural expertise.
9. Because of these arrangements, within the past 5 years no dogs have needed to be euthanised. Normally a dog would only be euthanised as a result of an untreatable health defect or injury where it was in the interests of animal welfare.

10. During the Covid-19 Pandemic, the number of strays being collected by the service fell dramatically. However, we are now seeing the number of stray dogs rise and it is anticipated that the number may eventually outstrip that seen in 2018.

11. Table showing the numbers of strays collected by the District Council.

|              | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 |
|--------------|---------|---------|---------|---------|---------|
| Found        | 184     | 124     | 130     | 72      | 45      |
| Claimed      | 90      | 63      | 41      | 30      | 27      |
| Put to sleep | 0       | 0       | 0       | 0       | 0       |

### **Enforcement of Microchipping for Dogs**

12. It is a legal requirement for all dogs to be microchipped and for appropriate details to be recorded on one of the specified chip databases. Unfortunately, we continue to collect dogs that have not been microchipped and or where the recorded details are incorrect.

13. The District Council is responsible for investigating and then enforcing breaches of this legislation and can take a prosecution against the owners of dogs who fail to ensure their animals are microchipped.

14. In practice, once the District Council becomes aware of an unchipped dog, our Animal Welfare Officer works with the owners to get them microchipped without the need for enforcement. Our Animal Welfare Officer is sufficiently qualified and suitably experienced to undertake microchipping. The District Council is also often able to offer heavily discounted or even free microchips to dog owners and so many of these issues can be resolved informally

### **Licensing of Animal Activities**

15. The Sevenoaks District Council is responsible for the licensing and regulation of various animal related activities under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

16. These regulations require that the operators of specified animal activities obtain a licence (prior to carrying out that activity) and then adhere to conditions for the purposes of protecting animal welfare.

17. Currently the animal activities covered by the regulations are:

- a. Selling Animals as Pets

- b. Providing or arranging for the provision of boarding for cats or dogs including:
    - i. Providing boarding for cats
    - ii. Providing boarding in kennels for dogs
    - iii. Providing home boarding for dogs
    - iv. Providing day care for dogs
  - c. Hiring out horses (for riding or instruction in riding)
  - d. Breeding dogs
    - i. breeding three or more litters of puppies in any 12-month period
    - ii. breeding dogs and advertising a business of selling dogs.
  - e. Keeping or training animals for exhibition (in the course of a business for educational or entertainment purposes)
    - i. to any audience attending in person, or
    - ii. by the recording of visual images of them by any form of technology that enables the display of such images.
18. The activities above are only deemed licensable where the operator makes any sale, or, otherwise carries on the activity with a view to making a profit, or earns any commission or fee from the activity (known as ‘the business test’).
19. The Environmental Health Team administer this process on behalf of Sevenoaks District Council and employ a suitably qualified and experienced Animal Welfare Officer for the purposes of assessing such applications.
20. For each activity licensed by the District Council, the Animal Welfare Officer will:
- a. Assess all documentation submitted by the applicant
  - b. Inspect the premises and the facilities (with a veterinarian where necessary)
  - c. Produce an inspection report detailing the findings at inspection
  - d. Risk rate the business and issue a ‘star rating’
  - e. Authorise the licenses to be issued or renewed,
  - f. Undertake investigations into breaches of conditions
  - g. If necessary, initiate enforcement or revocation of a licence.
21. Once a validated application for an animal licence has been received, it should be processed and the licence issued within a period of 10 weeks.

22. Animal licences (except; keeping or training animals for exhibition) are granted for a period of between 1-3 years and are awarded a ‘star rating’ depending on the level of risk associated with the activity and the confidence in the business operator. Businesses that provide a higher standard of animal welfare and meet at least 50% of possible enhanced conditions are scored more highly. Details of how star ratings are awarded is provided below:
- a. New businesses (without a history of compliance) are high risk and generally restricted to a 1 or 2 star licence.
    - i. A 1 star licence is awarded where there are minor failings which are not significant enough for refusal, but which need to be addressed before the next licensing period (1-year licence).
    - ii. A 2 star licence is awarded where all standard conditions are met by the licence (1-year licence).
    - iii. However if an new business meets at least 50% the ‘higher standards’ they may achieve a 4 star rating (2-year licence).
  - b. Businesses that meet all of the minimal standards **and** have a history of compliance are considered low risk and are awarded ‘3 stars’ (2-year licence).
  - c. Businesses which meet at least 50% of the higher standards and have a history of compliance are awarded ‘5 stars’ (3-year licence)
  - d. A licence for the keeping or training animals for exhibition does not receive a star rating (2-year licence).
23. In addition to licences issued under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Environmental Health are responsible for issuing licences under the Dangerous Wild Animals Act 1976 (licences for an individual to keep a dangerous wild animal as identified by schedule within the act) and the Zoo Licensing Act 1981.
24. The District Council charges a fee for the processing of all Animal Licences (including DWA and Zoos). This fee was set in 2018 on the basis of cost recovery and varies depending on the regulatory effort associated with each activity.
25. Sevenoaks District Council currently licence the following premises:

| Activity     | Number licensed | 1 star | 2 star | 3 star | 4 star | 5 star |
|--------------|-----------------|--------|--------|--------|--------|--------|
| Kennels      | 8               | 0      | 1      | 3      | 0      | 4      |
| Catteries    | 5               | 0      | 1      | 2      | 0      | 2      |
| Home Borders | 10              | 0      | 2      | 0      | 3      | 5      |

| Activity                                   | Number licensed | 1 star | 2 star | 3 star | 4 star | 5 star |
|--|-----------------|--------|--------|--------|--------|--------|
| Doggy Day Care                             | 2               | 0      | 0      | 0      | 2      | 0      |
| Selling Animals as pets                    | 8               | 0      | 1      | 2      | 1      | 4      |
| Hiring out horses                          | 6               | 0      | 0      | 6      | 0      | 0      |
| Breeding of Dogs                           | 5               | 1      | 3      |        |        | 1      |
| Keeping or training animals for exhibition | 3               | N/A    | N/A    | N/A    | N/A    | N/A    |
| Dangerous Wild Animals                     | 0               | N/A    | N/A    | N/A    | N/A    | N/A    |
| Zoos                                       | 2               | N/A    | N/A    | N/A    | N/A    | N/A    |

26. The District Council publishes a register of licensed animal activities on its website.
27. It is an offence to undertake an animal activity listed above without the benefit of a licence. The Environmental Health Team are responsible for enforcing against any breaches of this legislation.
28. Our officers, regularly review; social media, animal selling websites and intelligence from residents to try and identify unlicensed animal activities. Where these are identified, we seek to get them regulated. Initially the AWO will make an informal approach to provide advice and encourage the activity operator to submit an application. If this is unsuccessful, we will seek to obtain evidence of the offence and then where necessary, institute legal proceedings.
29. Unfortunately and despite our efforts, officers strongly suspect that within Sevenoaks District there remain a number of unlicensed animal activities. Many of these businesses are likely to be actively avoiding regulation by the District Council.

#### **Investigation of statutory nuisance complaints**

30. The District Council has a statutory duty to investigate noise complaints including those associated with dog barking/ whining etc, in order to determine if they are a statutory nuisance.
31. Our officers, will initially contact both the complainant and alleged offender to provide advice and information on the investigation process. We will then seek to obtain evidence of the disturbance using both the

NoiseApp, our specialist monitoring equipment and via officer visits as appropriate.

32. As part of our investigations, officers will consider if there may be any welfare issues that are causing the noise disturbances and if so we will seek to address them as appropriate.
33. The vast majority of complaints are dealt with informally but where we determine that a statutory nuisance exists, we are legally required to issue an abatement notice under the Environmental Protection Act 1990.
34. The recipient of an abatement notice is able to submit an appeal to the magistrate's court within 21 days. At an appeal, the validity of the notice and the justifications for service are tested. The notice is then either upheld, quashed or amended.
35. It is offence not to comply with the requirements of an abatement notice. Should a noise nuisance continue, officers will seek to obtain evidence of the ongoing noise and should it be established (beyond reasonable doubt) that the statutory nuisance is continuing we can initiate a prosecution. Upon summary conviction in a magistrate's court a person who has failed to comply with an abatement notice may, at the discretion of the court, be issued an unlimited fine.
36. Table showing the number of noise nuisance complaints relating to dogs received by the Environmental Health Team.

|                                    | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 |
|------------------------------------|---------|---------|---------|---------|---------|
| Noise complaints about dogs        | 99      | 87      | 104     | 73      | 65      |
| Number of abatement notices issued | 2       | 0       | 0       | 0       | 0       |

#### **Investigation of complaints about animal welfare**

37. The District Council is authorised to investigate and enforce complaints about Animal Welfare under the Animal Welfare Act 2006.
38. Whilst we have traditionally referred animal welfare complaints to the RSPCA as the experts in this field, in recent years, they appear to have had less capacity and consequently more complaints are referred back to the Local Authority.

39. Our Animal Welfare Officer has the authority, in consultation with a veterinarian, to seize an animal which is in alarm or distress as a result of its welfare.
40. In practice, the majority of complaints about animal welfare are dealt with informally through the provision of advice and assistance.
41. Table showing the number of animal welfare complaints received by the Environmental Health Team.

|                    | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 |
|--------------------|---------|---------|---------|---------|---------|
| Welfare complaints | 41      | 46      | 51      | 35      | 34      |

#### **Investigation of complaints about anti-social behaviour involving animals.**

42. The Environmental Health Team work in partnership with Kent Police to investigate incidents involving aggressive and/ or uncontrolled dogs.
43. Kent Police are responsible for the enforcement of the Dangerous Dogs Act 1991 (DDA 1991). This power is used where a dog is out of control in a public place and is considered dangerous (by virtue of it injuring or potentially injuring a member of the public). Further, this legislation specifies a number of banned breeds, which are subject to enhanced controls. The offences within the DDA 1991 are criminal and consequently the burden of proof is 'beyond reasonable doubt'.
44. Environmental Health are responsible for the investigation of lower level; incidents such as those where it is unlikely that a criminal offence can be proved or where property or animals are damaged/ harmed as a result of an aggressive/ uncontrolled dog. The legislation available to the District Council is 'civil' and consequently a lower evidential test applies.
45. Where our investigation shows on the balance of probability that the owner of a dog did not have sufficient control at the time of an incident we may issue a Community Protection Warning (CPW) in accordance with the provisions of the Anti-Social Crime and Policing Act 2014. If/ when further incidents then occur we can issue a legal notice (Community Protection Notice).
46. Similar powers are available where dogs are allowed by their owners to persistently stray.



47. Following the adoption of these powers in 2015, the Environmental Health Team have successfully utilised CPWs and CPNs to tackle the increasing number of incidents reported to us.
48. Table showing the number of complaints about anti-social behaviour involving animals received by the Environmental Health Team.

|                           | 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 |
|---------------------------|---------|---------|---------|---------|---------|
| ASB complaints about dogs | 127     | 121     | 126     | 71      | 128     |
| CPW issued                | 1       | 2       | 10      | 9       | 11      |
| CPNs Issued               | 0       | 1       | 1       | 1       | 0       |

### Animal Welfare Promotion

49. The Animal Welfare Officer works with partners to run community events which promote responsible dog ownership. Events in the past have included:
- a. The Love your Dog Roadshow (partnership with WKHA)
  - b. Free Poo Bags (partnership with CSU)
  - c. Anti-fouling campaigns in problem 'hot spots'
  - d. Yellow ribbon (to raise awareness of nervous dogs)
  - e. Dogs Trust Partnership Award
  - f. Free Microchipping
  - g. Door to door advice in problem areas.
50. Unfortunately, during the Covid-19 pandemic it has not been possible to run/ attend events to promote responsible dog ownership. We do however anticipate that following a significant increase in dog ownership throughout the pandemic that these events will again be necessary/ useful in the coming year.

### Challenges

51. It is known that during lockdown there was a significant increase in the number of households taking on new pets (particularly dogs). This led to a shortage of available animals for prospective owners and saw record high prices being charged for puppies (particularly those from sought after breeds).

52. In response to increased demand, it is believed that many more dog owners may have become breeders. However, this has not been reflected in the number of licences issued by the District Council and additional work is required to ensure that we do not have dog breeders operating illegally.
53. Many of these new dog owners are likely to be inexperienced and may encounter behavioural difficulties as their new animals mature. Animal rescues are already reporting a sharp rise in the number of dogs being given up for rehoming by owners who are no longer able to cope with these animals. It is anticipated that as the capacity of animal charities to rehome dogs is used up, we will see an increase in the number of strays being found.
54. Owing to the number of new inexperienced dog owners, we may see a rise in the number of dog on dog, straying and fouling incidents. These incidents are highly emotive and generate a large amount of concern amongst the public.
55. Changes in legislation are anticipated which will require the mandatory microchipping of cats (with similar enforcement powers as exist for un-microchipped dogs) and a requirement for those keeping 'primates' (not currently covered by the Dangerous Wild Animals Act 1976) to be licensed by the District Council.

#### **Priorities/ Ambitions for the next 12 months**

56. To ensure that all premises within our area that require a licence are appropriately regulated. We also aim to ensure that minimum welfare standards are adhered to within all of our licensed businesses and where possible we help those who are licenced achieve a higher star rating at their next inspection.
57. We will seek to reduce the number of complaints about anti-social behaviour by increasing promotional activities that support responsible dog ownership. We will also ensure that where a complaint is received, we investigate quickly and efficiently and that we determine appropriate action in a timely manner.
58. We will aim to reduce the number of stray dogs that we need to rehome by pursuing measures / initiatives that increase compliance with the requirement to microchip a dog. Where appropriate we will consider pursuing persistent offenders through the legal procedures available to us.

## Conclusion

59. The Animal Welfare Service covers a wide range of functions utilising several areas of legislation. It is an exceptionally busy service with a significant public profile and impact.
60. The number and complexity of service requests received continue to increase and the function performs excellently to deliver all of the elements for which we are responsible.

## Key Implications

### Financial

None

### Legal Implications and Risk Assessment Statement.

Many of the functions undertaken by the Animal Welfare Service are statutory and therefore the District Council has a legal duty to ensure that they are undertaken appropriately,

### Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users

### Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment

**Appendices - none**

**Background Papers - none**

**Richard Morris**

**Deputy Chief Executive and Chief Officer - Planning and Regulatory Services**