



Response to Defra Consultation on animal establishment licences from Cats Protection

March 12 2016

Question 1: To what extent do you agree or disagree with the proposal to introduce a single Animal Establishment Licence? Please provide any comments or evidence to support your answer.

Agree: subject to the significant concerns outlined below

We agree broadly with the proposal but have some fundamental concerns. For example, there needs to be a clear understanding of what constitutes commercial activity for the purposes of licensing.

Much of the commercial trade in cats and kittens is now conducted from private dwellings and over the internet and it is not clear from the consultation document whether any proposed new regulations will cover sales from private dwellings and over the internet. The title of the proposed single “Animal Establishment Licence” suggests that the regulation will be aimed at animal establishments such as high street pet shops rather than the commercial activity of selling animals in general and we await further details of the proposed regulations.

The Pet Animals Act defines the commercial sale of pets as “carrying on a business of selling pets” at any premises including private dwellings. However, this definition creates uncertainty as to whether or not a business is being carried on and that uncertainty is exacerbated by the exemptions in the Act in favour of those selling pedigrees, the offspring of pet animals and those animals not suitable for showing or breeding with the net result that the commercial sale of animals from private dwellings and over the internet is, effectively, unregulated.

Many who claim exemption, or who are unaware of the need for a licence, are breeding and selling animals on a commercial basis. The problem is acute in the case of cats and kittens because there is no regulation of the breeding of kittens for sale (as there is with puppies) and such commercial activity can be conducted in a discreet way from private dwellings and over the internet.

Monitoring of the online kitten market shows significant evidence of commercial activity with repeat advertisements from the same sellers and repeat breeding for sale from the family pet. Our supporters have long been concerned about the welfare of kittens sold in poor condition, perhaps sold under eight weeks of age and/or suffering from disease or illness. Our branches and adoption centres receive cats into our care that were purchased online, often in poor health, under eight weeks old, diseased and sick.

In a recent survey of the Cats Protection UK network 66 per cent of Cats Protection branches which responded told us that they knew of cats being bred for sale within the local community. 34 per cent of branches suspected incidences of cat breeding for sale from residential premises. Another key survey finding is that 39 per cent of branches which responded knew of breeding for sale on the basis of seeing the same seller’s details appearing frequently on advertising websites.

We attach with this consultation response an **Annex** showing examples of online advertisements and case studies illustrating our concerns about the commercial trade in cats and kittens.

Whilst it says in the Overview of the Consultation that the proposed licence will reflect “the diversification of the sector (including operation on the internet)”, there are no specific proposals in the body of the consultation document to regulate internet sales of animals. This is a significant omission given the size of the online market in cats and kittens.

In our view, the exemptions need to be removed from the Pet Animals Act as these are allowing commercial activity to happen.

A clear definition of commercial activity is needed and we suggest that commercial activity should be defined by the volume of breeding and selling undertaken at all premises including private dwellings in a 12 month period. We suggest for cats that the definition might include a threshold of two or more litters of kittens bred or acquired for the purpose of sale in a 12 month period and/or also include other factors which indicate that commercial activity is being carried out¹. It is well documented that with cats the first litter can often be un-planned but this is usually a reminder or incentive for owners to neuter their cats; this is why we suggest that the threshold for commercial activity should be two or more litters.

We also believe that there needs to be regulation (licensing or registration) in respect of the commercial breeding of kittens for sale as there is in respect of puppy breeding and a statutory code of practice, under the AWA 2006 is needed which sets out agreed welfare standards and guidance in respect of commercial cat breeding. Regulation of commercial cat breeding exists in other EU member states² and we suggest that these regulatory systems be reviewed to inform the case for introducing similar cat breeding regulation in England.

Question 2: To what extent do you agree or disagree with the proposal to promote or require use of the Model Conditions by local authorities, for activities where they have been agreed? Please provide any comments or evidence to support your answer.

Agree: mandatory adoption of model licence conditions

We would agree with the proposal to require local authorities to use agreed Model Licence Conditions provided that:

- these are produced by the CIEH;
- Are reviewed every three years; and
- Animal welfare organisations continue to be represented on CIEH working groups for the purposes of reviewing and updating Model licence conditions.

Adoption of the CIEH Model licence conditions on Pet Vending by local authorities needs to be made mandatory and local authority animal welfare officers need to be adequately trained to carry out inspections. There needs to be a minimum, species specific, age below which animals cannot be sold. For example, kittens under eight weeks of age should not be sold (see Q.3).

¹ [Guidance for local authorities on how to decide whether someone is operating a commercial activity: http://www.hmrc.gov.uk/guidance/selling/badges.htm](http://www.hmrc.gov.uk/guidance/selling/badges.htm)

² See www.dogandcatwelfare.eu report on “The welfare of dogs and cats involved in commercial practices: a review of the legislation across EU countries”

Question 3: To what extent do you agree or disagree with the proposal to prohibit the sale of puppies below the age of eight weeks? Please provide any comments or evidence to support your answer.

Whilst this question is asked in respect of dogs we would expect Animal Welfare Establishment licences and their conditions to prohibit the sale of kittens under the age of eight weeks. This would be consistent with the CIEH model licence conditions and the requirements of Council Regulation (EC) 1/2005 and Welfare of Animals (Transport) (England) order 2006 which provide that cats of less than eight weeks of age should not be transported, unless they are accompanied by their mother.

Question 4: To what extent do you agree or disagree with the proposal to make clear that the statutory licensing threshold for dog breeders is set at three or more litters per year? Please provide any comments or evidence to support your answer.

n/a

Question 5: To what extent do you agree or disagree with the proposal to legally require pet sales to provide written information when selling animals? Please provide any comments or evidence to support your answer.

Agree

Cats Protection strongly supports making it a legal requirement to require those selling pets to supply written information to purchasers, not only at the point of sale but to inform them ideally prior to sale of the implications and care requirements of a purchase. Information should be available in hard copy form but also importantly online to inform the many people now purchasing through online advertisements and perhaps making more impulsive decisions to purchase. Cats Protection is a member of the Pet Advertising Advisory Group (Paag). Many of the classified sites involved with Paag (including Gumtree, Preloved and Friday Ad) already post advice to purchasers alongside their advertisements. e.g. advice re the importance of neutering or advice on getting their cat chipped. We suggest that all online and written information should refer to the helpful Paag pre-purchase guidance already in existence for anyone considering purchasing a cat or kitten. Importantly we'd encourage purchasers foremost to consider adopting a cat or kitten from a welfare charity as an option instead of purchasing.

<http://paag.org.uk/buying-a-pet/cats>

We recommend there are clear guidelines on the quality and quantity of information that must be provided. This would ensure consistency and would also help licensing officers assess whether the pet vendor is meeting the conditions of the licence. There is a wealth of information out there from various sources and it will be essential to collate the current information in existence on cats and kittens into a standard form. We suggest that the Cat Group³ and the Canine and Feline Sector Group (Cats Protection is a member of both) could assist in preparing standardised information for those considering purchasing a cat or kitten. We know that the Cat Group is already progressing work started through CFSG to produce a "kitten/cat checklist" for the kitten/cat purchasing public and advising on things to check and ask of a vendor. An emphasis is to ensure the purchaser gets a healthy animal.

³ <http://thecatgroup.org.uk/>

Question 6: What other proportionate measures could address concerns around the care of exotic animals?

Regarding pet cats, there is a limited but significant trend of producing hybrid cats by crossing domestic cats with wild cats such as the Asian Leopard Cat or Serval. These hybrids not only show some of the wild cat appearance but also behaviour which makes them challenging and sometimes dangerous or inappropriate pets. It is essential that people considering this type of pet are given realistic pre-purchase information so they understand what they are taking on.

Question 7: To what extent do you agree or disagree with the proposal to allow licences to be issued for a fixed term, set at any point in the year? Please provide any comments or evidence to support your answer.

Agree

Cats Protection agrees (subject to the inspection safeguards discussed below) that rolling licences seem sensible from an administrative point of view if it involves a rolling year round activity of issuing licenses rather than an annual rush/work which can create bottlenecks and resourcing problems for local authorities.

Cats Protection would want to know how these would work in practice and to what extent they would be underpinned by inspection and attendance by a suitably trained person.

Question 8: To what extent do you agree or disagree with the proposal to increase the maximum length of a licence that local authorities may issue to up to three years? Please provide any comments or evidence to support your answer.

We agree that a three year maximum term would, in theory, allow local authorities to make the best use of limited resources by taking a risk based approach which targets enforcement at those businesses and activities which present the greatest risk.

However, we are concerned by the absence of any proposals in the consultation document in respect of powers of inspection. Each piece of the existing legislation listed in the consultation document contains statutory powers under which local authorities may authorise officers and vets to inspect any licensed premises at all reasonable times and it is an offence to wilfully obstruct or delay inspection.

We believe that powers of inspection need to be retained and strengthened in any new regulations. In particular, we believe that inspection prior to the granting of all licences needs to be both rigorous and mandatory. We also believe that local authorities should retain powers of inspection throughout the duration of the licence term.

In the absence of powers of inspection, a maximum licence term of three years will, in practice, place the welfare of cats and kittens at risk. Those risks are only mitigated if the oversight (i.e. inspections) is sufficient.

Question 9: To what extent do you agree or disagree with the proposal to allow licence holders to transfer licences to new owners of the same premises, subject to notification of and approval by the local authority? Please provide any comments or evidence to support your answer.

Disagree

Cats Protection disagrees with this proposal to allow licences to be transferred. Whilst this may seem administratively attractive we consider it to pose too great a risk of compromising animal welfare. The people who manage premises are of equal or greater importance than the premises themselves.

Local authorities should satisfy themselves that all licence holders are fit and proper persons to carry out the licensed activity and should ensure that those, who, for example, have been convicted of offences under the Animal Welfare Act 2006 or have been denied a licence or had licences revoked are prohibited from carrying out further licensed activity.

Question 10: To what extent do you agree or disagree with the proposal to require licence holders to notify local authorities of major changes, such as a change of premises or scale of activities? Please provide any comments or evidence to support your answer.

Agree

Cats Protection considers this to be vitally important. However, we would not want this to be an undue burden. Major change needs further definition and the definition should include change of premises and/or significant scaling up or down of licensed activity that is likely to impact on welfare.

To take the example of a boarding cattery or pet shop selling cats and kittens any scaling up or down which affected pen size, proximity of cats, environment, disease prevention and segregation should be notified and this notification should trigger an inspection. Inspection we suggest should be within a recommended minimum period from notification to ensure licence conditions remain unbreached/appropriate and welfare is safeguarded.

Question 11: To what extent do you agree or disagree with the proposal to maintain the registration requirement for performing animals? Please provide any comments or evidence to support your answer.

n/a

Question 12: To what extent do you agree or disagree with the proposed changes to the registration system for performing animals? Please provide any comments or evidence to support your answer.

n/a

Question 13: To what extent do you agree or disagree with these proposals on powers of entry? Please provide any comments or evidence to support your answer.

These proposals need to be coupled with powers of inspection and we are concerned at the absence of the latter.

We agree with the proposals and believe that the contingency that application for a warrant should be made “unless such notice would defeat the object of the entry” is vitally important in the case of animal welfare as those who commit offences are highly likely to hide or dispose of evidence or put premises in a temporarily acceptable condition.

Question 14: To what extent do you agree or disagree with the proposal to allow an exemption from licensing requirements for businesses affiliated to a body accredited by UKAS? Please provide any comments or evidence to support your answer.

Disagree

Cats Protection does not agree with any exemptions from licensing requirements. We have concerns that affiliation to an accredited body by businesses involved in the commercial Pet Industry would inevitably lead to a lowering of animal welfare standards as those standards would be industry standards rather than standards that are in the best interests of the welfare of animals.

Question 15: Do you think sector-led UKAS-accredited certification schemes could improve animal welfare in unlicensed areas? If so, what would work best and how could this process be encouraged?

“Commercial breeders of animals other than dogs” includes, of course, those who breed and sell cats on a commercial basis. The commercial trade in cats and kittens is, effectively, unregulated and although local authorities have powers to take action under the Animal Welfare Act 2006, the evidence suggests that these are rarely exercised by local authorities in cases of commercial breeding and selling of cats and kittens and, for the reasons explained above, the Pet Animals Act 1951 is ineffective at regulating the commercial trade in cats and kittens. We would like the commercial breeding of kittens for the purposes of sale to be regulated (either registration or licensing), a statutory code of practice and more effective licensing of commercial sales of cats and kittens than at present exists under the Pet Animals Act 1951 or failing that, registration.

We don't believe that the commercial trade in cats and kittens is an organised sector; it is disparate activity by individuals conducted from private dwellings and over the internet. As such, a “sector led” scheme is not practical and unlikely to be effective.

Animal Sanctuaries

Cats Protection is a member of the Association of Dogs and Cats Homes (ADCH). The association is a membership body that promotes best practice in animal welfare and rehoming for dogs and cats. ADCH has developed a Code of Practice which sets out the standards of animal care that as an Association we believe represents “best practice” for the rehoming sector. ADCH comprises over 120 rescue and rehoming centres, all of which are all committed to attaining the standards set out in this Code of Practice. Some members already achieve the standards, However, some still have some way to go. ADCH is proactively working at enlarging its membership, is ensuring that all members meet the ADCH standards and is considering UKAS accreditation.

We can see that membership of and adherence to the ADCH code or an accredited sanctuaries scheme would help to raise standards in the animal welfare sector.

For any further information please contact:

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