



Department
for Environment
Food & Rural Affairs

Animal Welfare Team
Area 5D
17 Smith Square, London

helpline@defra.gsi.gov.uk
www.gov.uk/defra

To: Chief Executives of local authorities in England;
All Environmental Health Officers;
All local authority officers with responsibility for enforcing the
dog breeding licensing and pet vending regimes; and
those officers responsible for enforcing responsible dog
ownership

Date: 13 November 2014

Dear Sir/Madam,

- 1. DEFINITION OF LICENSED DOG BREEDING ESTABLISHMENT**
- 2. ADDITIONAL CONDITIONS FOR PET SHOPS**
- 3. DEALING WITH IRRESPONSIBLE DOG OWNERSHIP:
PRACTITIONER'S MANUAL**

I am writing to all local authorities in England about licensing dog breeding establishments, pet shops and irresponsible dog ownership.

There is a growing public interest in the effectiveness of regulation in these areas. During a debate in the House of Commons on 4 September, Defra undertook to write to local authorities in England with further information and to clarify the law in a number of respects.

1. Definition of licensed dog breeding establishment

Dog breeding is regulated under three pieces of legislation: Breeding of Dogs Act 1973, Breeding of Dogs Act 1991 and the Breeding and Sale of Dogs (Welfare) Act 1999. The 1999 Act replaced the threshold at which a breeding establishment needed to be licensed from a place where more than two litters of puppies were born in a 12 month period to a place that was in the business of breeding and selling dogs. The 1999 Act additionally required anyone producing five or more litters from their dogs in a 12 month period to obtain a licence regardless of whether they were in the business of breeding and selling dogs.

The Home Office Circular 53/1999, which accompanied the 1999 Act, explained that Parliament *at the time* considered that the "five litter test" would in practice catch most in the business of breeding and selling dogs, whilst avoiding catching hobby breeders. Unfortunately some people have incorrectly interpreted this as a five-litter test and since the 1999 Act came into force, there have been concerns that many dog breeders who



produce less than five litters in a twelve month period but who are operating as businesses, are not being licensed.

During the Parliamentary debate on dog breeding on 4 September 2014, George Eustice MP, the Parliamentary Under Secretary of State for Farming, Food & Marine Environment made it clear that a licensed dog breeder is **someone who is in the business of breeding and selling dogs, regardless of the number of litters produced in a 12 month period.**

In summary anyone “in the business” of breeding and selling dogs (trading) needs to be licensed. Anyone producing five litters or more in a 12 month period also should be licensed **regardless** of whether they are in the business of breeding and selling dogs.

Two examples of consideration of whether someone is trading are:

- (i) profit-seeking motive - an intention to make a profit supports trading; and
- (ii) the number of transactions involved - systematic and repeated transactions support trade.

More guidance for local authorities on how to decide whether someone is operating a commercial activity is available from the HM Revenue & Customs website:

<http://www.hmrc.gov.uk/guidance/selling/badges.htm>

I am also reminding local authorities that they can, under section 1(4) of the Breeding of Dogs Act 1973 (as amended, 1999) apply conditions to individual licences in order to secure the welfare requirements in section 1(4) of the 1973 Act, as amended by the 1999 Act.

These additional conditions could include restricting the number of breeding bitches to be kept on the premises in order to meet the requirement of “suitable accommodation and size of quarters”. Dog breeders are also required to meet the welfare requirements set out in section 9 of the Animal Welfare Act 2006. More detailed information about how licensed dog breeders can meet the welfare needs set out in section 1(4) and in the Animal Welfare Act 2006 is in the *Model Conditions for Licensed Dog Breeding Establishments* produced by the Chartered Institute for Environmental Health, which is available on-line:

<http://www.cieh.org/WorkArea/showcontent.aspx?id=50814>

2. Pet shops licences – additional conditions

Local authorities are reminded that they can, under the Pet Animals Act 1951, apply conditions to individual pet shop licences (for example, restricting the species that can be sold). The power to apply conditions to an individual licence is in section 1(3) of the 1951 Act and is intended to help secure the welfare requirements set out in that section.

Pet shops are also required to meet the welfare requirements in section 9 of the Animal Welfare Act 2006. More detailed information about how pet shops can do this can be found in the *Model Conditions for Pet Vending* produced by the Chartered Institute for Environmental Health, also on-line:

<http://www.cieh.org/WorkArea/showcontent.aspx?id=47606>

If you have any enquiries about the content of this letter please contact Phil Alder, Animal Welfare Team, Defra, e-mail: philip.alder@defra.gsi.gov.uk.

3. Dealing with irresponsible dog ownership: Practitioner's manual

Finally, I am pleased to inform you that the practitioner's manual on dealing with irresponsible dog ownership has been published. The manual and annexes are available on-line: <https://www.gov.uk/government/publications/dealing-with-irresponsible-dog-ownership-practitioners-manual>. The manual aims to assist practitioners in local authorities (including approved social landlords) and the police in England and Wales dealing with dog-related incidents using the preventative powers in the Anti-social Behaviour, Crime and Policing Act 2014.

Yours faithfully,

A handwritten signature in black ink that reads "S. G. Ellis." The signature is written in a cursive, slightly informal style.

SUE ELLIS

Head of Animal Welfare Team

This page is intentionally left blank