

Review of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Selling animals as pets

Prepared by



Ornamental Aquatic Trade Association (OATA)

and



Reptile & Exotic Pet Trade Association (REPTA)

July 2019

Summary of findings

For many years OATA and REPTA have been calling for pet shop licencing to be reviewed so that there are consistent, coherent and mandatory standards enforced by well-trained and competent inspectors.

Throughout the development of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and accompanying “Guidance notes for conditions for selling animals as pets”, OATA and REPTA highlighted a number of reservations about its likely effectiveness, its potential burden on businesses selling animals as pets, and whether it would achieve any notable improvements in animal welfare. As will be seen these reservations have turned out to be well founded.

Since the introduction of the regulations and guidance in October 2018 and drawing on information gathered in a Freedom of Information Request issued to 331 English local authorities, surveys of affected businesses and our own observations and conversations with businesses and local authority inspectors, we have been monitoring their effectiveness in the context of Defra’s stated objectives in its Next Steps document (February 2017):

*“The Government is committed to **improving the effectiveness of existing regulation whilst lifting the regulatory burdens on businesses** to support growth, productivity and innovation. These proposals should **relieve the administrative burden on local authorities, simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards** by modernising the current animal licensing system in England.”*

Based on a detailed analysis of the impacts of the new regulations and guidance we have benchmarked our findings against Defra’s Impact Assessment and have sought to assess how successful the implementation of the new regulations and guidance has been in relation to each of the five objectives in the above statement. We have focussed on businesses selling animals as pets.

1. Has the effectiveness of existing legislation been improved?

In its Impact Assessment Defra recognised that the previous licensing regime was convoluted and unnecessarily burdensome for both businesses and local authorities, so correcting this should result in a more transparent and efficient process. It also stated that the updated legislation and guidance should result in a clearer, simpler and more consistent licensing system.

Since the introduction of this new regime, as trade bodies, we have received many hundreds of enquiries seeking advice about how the new licensing system is supposed to work, the powers of local authorities, and the interpretation of a wide range of conditions specified in the guidance documents. It is apparent from these discussions that there is huge variation in the way the guidelines are implemented and interpreted across local authorities in England. There remains to this date enormous uncertainty about the many complex and confusing and, in some cases, inappropriate requirements that are imposed by the guidance.

Aside from the problematic nature of many aspects of the guidance (discussed in the accompanying analysis), we suspect that many of the implementation problems that have arisen are due to the fact that as of 4 February, no local authority inspectors had received the required formal training on the new licensing regime. Many factors appear to account for this: it wasn’t introduced until February this year (2019); many weren’t aware of it; and, inspectors were given 3 years to become competent (unlike businesses which had to be ready at the point of introduction).

OATA's 2016 Freedom of Information (FOI) report into pet shop licensing showed there were an estimated 1776 pet shops in England subject to licensing. Our 2019 FOI analysis shows that English local authorities inspected 1474 commercial businesses selling animals as pets as at 4 February 2019 with 65 yet to complete licensing in their area. At the time of writing (July 2019) there are still businesses that remain uninspected under the new legislation. Whilst we do not yet have a clear picture of the outcomes of this licensing round, our data indicates that local authorities have in the main focussed on those businesses they have traditionally licenced, potentially not capturing the wider range of businesses now in scope. Our analysis indicates that the significant majority of businesses licenced were traditional pet shops despite the regulations now also covering importers, wholesalers, breeders and fish consolidators.

2. Has the regulatory burden on businesses been lifted?

Defra's Impact Assessment assumed for each business, a one-off familiarisation cost of 1 hour, saying this may be an over-estimate. Our analysis considered only businesses selling animals as pets of which 77% of those surveyed felt their workloads had increased, estimating an average increase of 7.7 hours/week. It is likely that one reason this figure is so high is due to the work that was needed to prepare for their first inspection under the new regime which for many required the preparation of standard operating procedures and records (the selling of animals for pets required over 31 such documents). We would anticipate the ongoing workload burden to be smaller. 66% of local authorities thought business workloads had increased significantly.

Nonetheless, this suggests Defra's figure of 1 hour is a significant under-estimate. We estimate that there are about 1700 pet shops in England. Excluding other types of business selling animals as pets and based on the above findings using Defra's hourly rate of £15/hour, we estimate the familiarisation costs for pet shops alone would be nearly £200K. Defra's estimated familiarisation costs for all 15,850 in scope businesses in England was £230.2K.

Defra's Impact Assessment did not recognise the impact of the extensive new record keeping requirements. We do not have good data on the amount of time these are taking but discussions with businesses suggest the additional burden is significant. Assuming an average of 2 hours a week for the basic requirements (which we believe to be a significant under-estimate) the additional workload burden would equate to over £2.5M p.a. for pet shops alone. It should be noted that it is not possible for local authorities to validate most of these written records and there is evidence that local authorities now spend more time checking them than assessing animal welfare.

Inspection times have more than doubled since the introduction of the new requirements, rising from around 60 minutes per inspection in 2017/18 to 150 minutes in 2018/19, an increase of 150%. This has unsurprisingly led to a rise in licence fees, increasing from an average of £125 in 2016 to £282 under the new regime. This suggests an increased cost burden to businesses in excess of £250K p.a.

However, this is not the full picture with wide variations across England, and fees ranging from £49 for a 1 year licence to £1263 for a 3 year licence. Of most concern is that according to our recent FOI, at least 68 local authorities are charging different fees for a 1, 2 or 3 year licence (some of which are over £1K for a 3 year licence) despite this being contrary to good cost recovery principles. Some businesses are also facing increased costs by having to carry the additional burden of high veterinary charges in cases where the local authority does not feel able to undertake inspections due to a lack of training. In one case this was reported as high as £165/hr plus travel and report-writing expenses.

Another factor that has not been accounted for is the impact of the enclosure size and stocking density requirements. Guidance on enclosure sizes, stocking densities and water depths is unclear, inconsistent and for many species incongruous with the delivery of good welfare standards. Meeting these conditions has been very expensive for many businesses (especially for those wishing to achieve a higher star rating) and is quoted as being a leading factor in many ceasing to trade in live animals or not seeking to strive for a higher star rating. The higher standards were developed with minimal reference to current industry standards and some of the requirements for enclosure sizes are not even commercially available. The requirement for inspectors to measure animals introduces an unnecessary health and safety risk.

A survey of pet shops stocking reptiles by REPTA in May 2019 identified that the average cost of meeting the new hardware requirements was between £3-5K depending on the size of the shop. Some businesses reported spending considerably more with one estimating expenditure of £21K. The cost to the reptile sector alone is estimated in excess of £3M.

Defra's Impact Assessment suggests that businesses would be faced with one-off familiarisation costs of £230K but that this would be ameliorated by the possibility of being issued a 2- or 3-year licence, resulting in an overall saving for businesses. However, it is clear from the above that the savings made in receiving a longer licence are often non-existent and where savings are present they are far outweighed by the costs of meeting the new requirements.

Additionally, the higher standards (and associated star rating system) are poorly understood and often misinterpreted by inspectors. We estimate that across all pet shops in England the cost of meeting the higher standards exceeds £350K. Notably many businesses have identified that the cost burden of attaining the higher standards outweighs the savings that can be achieved and that they deliver little in the way of animal welfare benefits.

Overall, there has been a significant and adverse impact on businesses selling animals as pets as a result of the new system, both in terms of cost burden and in terms of delivering high welfare standards.

Since the last licensing round, local authorities have reported 69 businesses having ceased trading altogether, stopped selling live animals or reduced the range of species in which they trade. The reasons given range from the amount of paperwork now involved, the increased costs of meeting the new requirements, to the time involved in meeting the new requirements. It is anticipated that this figure will increase.

This is not only concerning from a commercial perspective but also because it increases the risk that the structure of the market will change with an increase in online or sales from private dwellings which are subject to significantly less scrutiny than traditional high street pet shops. They are also difficult for local authorities to identify as a licensable business, without further resource input for investigation and identification.

3. Has the administrative burden on local authorities been relieved?

In its Impact Assessment Defra only identified the cost burden of familiarisation with the new guidance. They assumed a one-off familiarisation cost of 2 hours, including one hour for the staff member to understand the new guidance, and a further hour to disseminate this information to staff members. They estimated this would result in an overall one-off cost of around £11.4K.

However, the guidance produced totals 337 pages across all documents that local authority inspectors need to familiarise themselves with, not accounting for the need to re-familiarise themselves with revised guidance. Whilst we do not have data on familiarisation times, we are aware of numerous cases of misinterpretation or misunderstanding of the guidance suggesting that many local authorities have yet to become familiar with the new guidance. Defra's 2-hour figure is clearly a massive under-estimate given the complexity of the new guidance and the sheer volume of material inspectors need to understand.

Generally, our findings identified that there has been a notable increase in cost burdens on local authorities. In response to our FOI, 90% of local authorities said the new regime had significantly impacted their workloads with the remainder saying it had a marginal impact. Of these over 60% believed that a significant impact would continue.

We also identified that inspection times have more than doubled since the introduction of the new requirements, rising from around 60 minutes per inspection in 2017/18 to 150 minutes in 2018/19, an increase of 150%. Based on a national average EHO salary of £32,611 p.a. this additional inspection time equates to an extra £25 per business inspected – for the 1474 businesses inspected at the time of our FOI this equates to an additional cost burden on English local authorities of £37K for the inspection alone and not accounting for the associated administrative work or travel time. This figure can be expected to rise notably when all in scope businesses are inspected.

Defra's figures also do not take account of the requirement for local authority inspectors to be trained. There is currently only one inspector training course available to local authorities at a cost of £990 per person. Based on Defra's estimate of 356 local authorities affected by this reform, were just one inspector from each English local authority to take the qualification the total cost burden would exceed £350K on top of the time input required. It is our understanding that inspectors will need further professional development to meet all their needs.

4. Has the licence application and inspection process been simplified?

Defra's Impact Assessment assumed that businesses would continue to spend an estimated 2 hours per year completing a licence application and undergoing an inspection. However, as shown above, because of the complexity of the new guidance and the focus on written records, the time taken to carry out the inspection on a business has increased from 1 hour to 2.5 hours on average, not accounting for the additional increases in the accompanying administrative processes. One local authority has said that their inspection reports had increased from 10 to 60 pages and we are aware of businesses spending 4-5 hours completing the licence application. It also appears that some local authorities are requiring separate applications for different activities (e.g. for selling animals as pets and animal encounters) increasing the time for some businesses to complete the necessary forms and potentially increasing the number of inspections they face.

Defra's assumption was that with the ability to issue 2- or 3-year licences this burden would be reduced overall and result in an annual saving of around £165.7K. As can be seen from above and our fuller analysis, the potential for any savings must be questioned.

It should be noted that whilst a standard form was prepared it has not been consistently adopted across England with some local authorities not using it at all. This may in part be due to poor awareness or could be because it is not consistent with the guidance notes, for example allowing people to apply for licences that don't exist (shows) and not having boxes for some animals (amphibians).

5. Have animal welfare standards been maintained and improved?

A fundamental objective of changing the licensing regime and extending it to all animal activities must be to improve animal welfare.

The responses to our FOI request showed that 32% of local authorities thought there would be a significant increase in animal welfare whereas 67% thought there would be only a marginal or no impact on animal welfare as a result.

Amongst businesses involved in selling animals as pets there is deep concern about the amount of time they now have to spend maintaining written records with little demonstrable benefit for animal welfare and which reduces their time available for catering for the welfare of the animals in their care. A substantial number amongst the business community believe that the new regime will do little to improve animal welfare.

Responses from our business survey indicated that during inspections inspectors spent the majority of their time checking whether businesses were meeting their paperwork requirements, rather than checking the welfare of the animals present or the conditions they were kept in. For example, in only 15% of cases were animal sizes measured and in only 27% of cases were display units measured, compared to 81% checking written procedures and 49% checking the accuracy of records (not that there is any sure-fire way to ensure the validity of written records).

A key component of driving higher welfare standard was the star rating system. However, as described above, many do not consider it to be cost-effective to strive for bureaucratic higher standards that deliver little in the way of animal welfare benefits. This is not helped by the inconsistent approach to applying standards when there are local authorities who are either unable to properly understand them or who make policy judgements that they will not issue higher rating.

There is considerable concern amongst those in business responsible for the welfare of the animals they deal in that the new bureaucratic burdens placed on them will not do anything to improve animal welfare and that, on the contrary, they could reduce standards by diverting efforts away from animal care to form filling. In some cases, the conditions imposed are likely to cause suffering or even death with some animals (see pages 21 to 22 for more information).

Conclusions

Following the introduction of such a complex new regime it should be expected that a bedding-in period would be needed and that over time it might be reasonable to assume businesses and inspectors will become accustomed to it.

However, as demonstrated here and in our more detailed analysis, it is clear that there are substantial flaws to this new system, not least the focus on bureaucracy and administration at the expense of animal care. The substantial focus on paperwork requirements has created significant additional burdens for businesses and local authorities, both administratively and financially, with very little demonstrable benefit to animal welfare.

The regulations and guidance have been subject to widely inconsistent interpretation, partially down to a failure to ensure local authority inspectors were properly trained when they were introduced and because of their inconsistency and complexity in the face of rushed implementation. However, it is most notable that the guidance suffers from a fundamental misunderstanding of the pet trade and the animals in it. This is particularly notable with the conditions for enclosure sizes and stocking

densities which for some species put animal welfare at risk (see section on enclosure sizes pages 21 to 22).

This early review of the new regulations and guidance finds little evidence to suggest that any of the original outcomes sought have been delivered. On the contrary, our findings indicate that burdens on business and local authorities have increased substantially without the corresponding benefits for animal welfare. We have identified very serious concerns that this new regime could, in the longer-term, and if adhered to rigidly, result in serious negative impacts on animal welfare amongst certain species groups.

We offer a number of recommendations in our supporting analysis aimed at improving the guidance notes, key amongst which are:

- From 1 October 2019, all inspections should be undertaken only by persons that have received the required training in the new licensing regime and the use of external veterinary contractors should be fully justified and the additional costs borne entirely by the local authority (Recommendations 4 and 5).
- With business representatives and experienced local authority inspectors, review and wherever possible reduce the requirements for keeping written records, including sales registers (Recommendations 8 and 9).
- With business representatives: review all enclosure size requirements to ensure they are practical, proportionate and fit for purpose; remove all water depth requirements; and, remove any conditions that would require local authority inspectors to handle animals (Recommendations 15, 16 and 17).
- Introduce meaningful and practical assessments that enable local authority inspectors to assess animal welfare (Recommendation 21).
- Review and simplify the star rating system and associated higher standards with a view to removing mandatory and optional higher standards where they are not fit for purpose or provide no additional welfare benefits (Recommendations 22 and 23).
- Ensure a consistent approach to fee setting across all local authorities (Recommendations 11 and 12).

We believe it is essential that Defra undertake a thorough and detailed review of the guidance on selling animals as pets at the earliest opportunity in concert with relevant business representatives and experienced local authority inspectors.

Analysis of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 - Selling animals as pets

Introduction

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and accompanying Guidance notes for conditions for selling animals as pets (November 2018) came into effect on 1 October 2018 to update and replace the licensing regime previously provided for by Section 1 of the Pet Animals Act 1951.

This report examines the implementation of the regulation and guidance in relation to the selling of animals as pets during the initial months of implementation and is based on data gathered from:

- Freedom of Information survey by OATA and REPTA sent on 4 February 2019 to all English local authorities with responsibility for pet vending licensing. 296 responses were received from a total of 331 local authorities contacted (89% of English local authorities)¹ but 12 were discounted from our analysis as the data provided was incomplete and/or inconsistent.
- Survey of aquatic businesses undertaken between January to May 2019 resulting in 45 response from retailers and wholesaler businesses².
- Information received by OATA and REPTA between January and May 2019, including information reported directly to OATA and REPTA from member businesses and in conversation with businesses and local authority inspectors.

The report examines how successful implementation has been in meeting Defra's objectives outlined in its Next Steps document (February 2017)³ which stated:

*"The Government is committed to **improving the effectiveness of existing regulation whilst lifting the regulatory burdens on businesses** to support growth, productivity and innovation. These proposals should **relieve the administrative burden on local authorities, simplify the application and inspection process for businesses**, as well as **maintain and improve existing animal welfare standards** by modernising the current animal licensing system in England."*

Based on a detailed analysis of the impacts of the new regulations and guidance we have benchmarked our findings against Defra's Impact Assessment⁴ and have sought to assess how successful the implementation of the new regulations and guidance has been in relation to each of the five objectives in that statement. We have focussed on businesses selling animals as pets.

¹ It should be recognised that at the time of the FOI survey not all local authorities had completed the licensing of all businesses in their area.

² <https://ornamentalfish.org/wp-content/uploads/Retailers-AAL-questionnaire-responses-2.05.19.docx.pdf>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/588817/animal-licensing-review-next-steps.pdf

⁴ https://www.legislation.gov.uk/ukia/2018/31/pdfs/ukia_20180031_en.pdf

Market structure

OATA's 2016 Freedom of Information (FOI) report into pet shop licensing showed there were an estimated 1776 pet shops in England subject to licensing.⁵ Our 2019 FOI analysis shows that English local authorities inspected 1474 commercial businesses selling animals as pets as at 4 February 2019.

We asked local authorities to indicate the number of licences issued relating to the sale of animals as pets in each of the business categories in the table below which shows the collated responses.

	Retailer (e.g. pet shop, home sales, internet sales)	Importer/Wholesalers	Breeders (excluding dogs & cats)	Consolidators (see p.81 of Guidance notes)	TOTAL
Dogs	71	4		4	79
Cats	64	0		0	64
Rabbits	608	0	6	14	628
Guinea pigs	550	0	8	6	564
Ferrets	63	0	0	0	63
Domestic small rodents	644	2	6	8	660
Other non-domestic species (Mammals)	209	0	3	0	212
Birds	406	0	4	0	410
Reptiles and amphibians	483	5	9	7	504
Fish	1009	21	7	9	1046
TOTAL	4107	32	43	48	

Analysis of responses suggests that local authorities interpreted this question differently making an accurate analysis of the data impractical. It should also be noted that the numbers do not indicate the number of licences issued as one licence may cover a number of taxa groups. However, the figures provided do provide some useful indicative information.

For example, it is clear that businesses selling fish are the most predominant business type to require a licence – OATA's 2016 FOI request on pet shop licensing indicated that of over 3000 UK pet shops, nearly 80% were licensed to sell fish. Small mammals, reptiles and amphibians, and birds also account for a significant proportion of businesses requiring a licence whilst, notably, the number of businesses selling dogs and cats is minimal in comparison.

⁵ <https://ornamentalfish.org/wp-content/uploads/Pet-Shop-Licensing-Report-2016.pdf>

1. Has the effectiveness of existing legislation been improved?

Capturing relevant businesses

The Pet Animals Act 1951 required local authorities to licence only pet shops. The new regulations extended the application of the licensing process to capture all commercial operations selling animals as pets, thus capturing new business types such as breeders, wholesalers and consolidators. Defra's Next Steps document also specifically outlined the intention to capture online traders: "*We intend to use the term 'animal activities' rather than 'animal establishment' to make it clear that activities such as the online selling of pets (which may not occur from a particular establishment) are included as licensable activities*". This extension of the licensing regime would suggest that there would be a significant increase in the number of businesses being licensed under the new regime.

However, as identified above, the number of businesses inspected as at 4 February 2019 (4 months after the introduction of the new regime) was 1474 compared with 1776 in 2016 (17% fewer businesses inspected). This may in part be explained by:

- 65 local authorities had not completed the licensing of all businesses in their area when they received our FOI request. At the time of writing many businesses (including previously inspected retailers) still remain uninspected and some local authorities have extended existing licences issued under the previous pet shop licensing regime.
- Aquaculture Production Businesses (APB) which are inspected by the Fish Health Inspectorate (FHI) and which historically may have applied for a pet shop licence, are exempted from the requirements of the new regulations. However, this exemption only accounts for a relatively small number of businesses trading in cold-water fish species and does not exempt those trading in tropical-only species.
- Local authorities may have only inspected and/or licenced those businesses they have historically licenced. Our FOI has shown that of businesses inspected at 4 February, the vast majority were pet shops with only a minor proportion being importers/wholesalers, breeders (of species other than cats and dogs) and consolidators.
- Local authorities may have been busy developing their understanding of the new regime delaying the opportunity to seek out new businesses that should now be covered.
- Local authorities have failed to capture the increasing number of businesses trading online and/or operating from private dwellings. OATA's in-house analysis of this market indicates it is significant and growing.
- Businesses stopping selling live animals due to the complications and burdens introduced by the new regulations.

RECOMMENDATIONS

- Defra should clarify to local authorities the scope of the regulations and the businesses to which it applies.
- Local authorities should improve their engagement with business types not traditionally captured by the licensing regime, including wholesalers, breeders, consolidators, online businesses and businesses operating from private dwellings.

Inspector training

OATA's previous FOI requests indicate that there is a wide variance in the type of inspector and qualifications they hold. For example, the OATA Pet Shop Licensing survey report of 2016 states *"This suggests there has been a gradual move away from EHOs and now a wider range of officers with very different qualifications and varying levels of knowledge carry out pet shop licensing inspections"*. This led to wide variations in the application of pet shop licensing requirements on businesses around the country.

The new system was intended to overcome this by requiring inspectors to be suitably qualified. The Procedural Guidance notes for local authorities outlines that by October 2021 all inspectors should hold a Level 3 certificate or equivalent qualification granted by a body recognised and regulated by the Office of Qualifications and Examinations Regulation (OFQUAL) or, holding a formal veterinary qualification recognised by the Royal College of Veterinary Surgeons (RCVS)⁶.

Despite all businesses being required to comply with the new regime as of 1 October 2018 with no transition period given, local authorities were given three years in which to train their inspectors in the application of the new system and there is no requirement for veterinary surgeons to have undertaken equivalent training.

The rushed introduction of the regulations and a lack of wider consultation about the training needs being introduced has created challenges in training provision as there is only one training course currently available to local authorities providing OFQUAL Level 3 training and this has only been available since February 2019 and at a cost of £990.

The introduction of this requirement at a time when only limited training opportunities exist creates a potential bottleneck in the training provision which precluded, and continues to preclude,

One local authority said:

The changes implemented by Defra have been ill-thought out and have done nothing to improve the situation for businesses or local authorities. It was supposed to deliver so much, but it has created more work and uncertainty, and Defra have been woeful in the way they have communicated or provided answers to officer questions regarding their own regulations and guidance across the board, not just those relating to pet animals.

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762430/animal-welfare-licensing-procedural-guidance.pdf (page 6)

inspectors receiving the timely training they need to implement the guidance effectively and consistently.

Our FOI asked what competence and training inspectors had and how many inspectors had enrolled on the OFQUAL Level 3 training course. The chart below shows that as of 4 February there were only 51 enrolments on the course. No inspectors had completed the training as of this date.

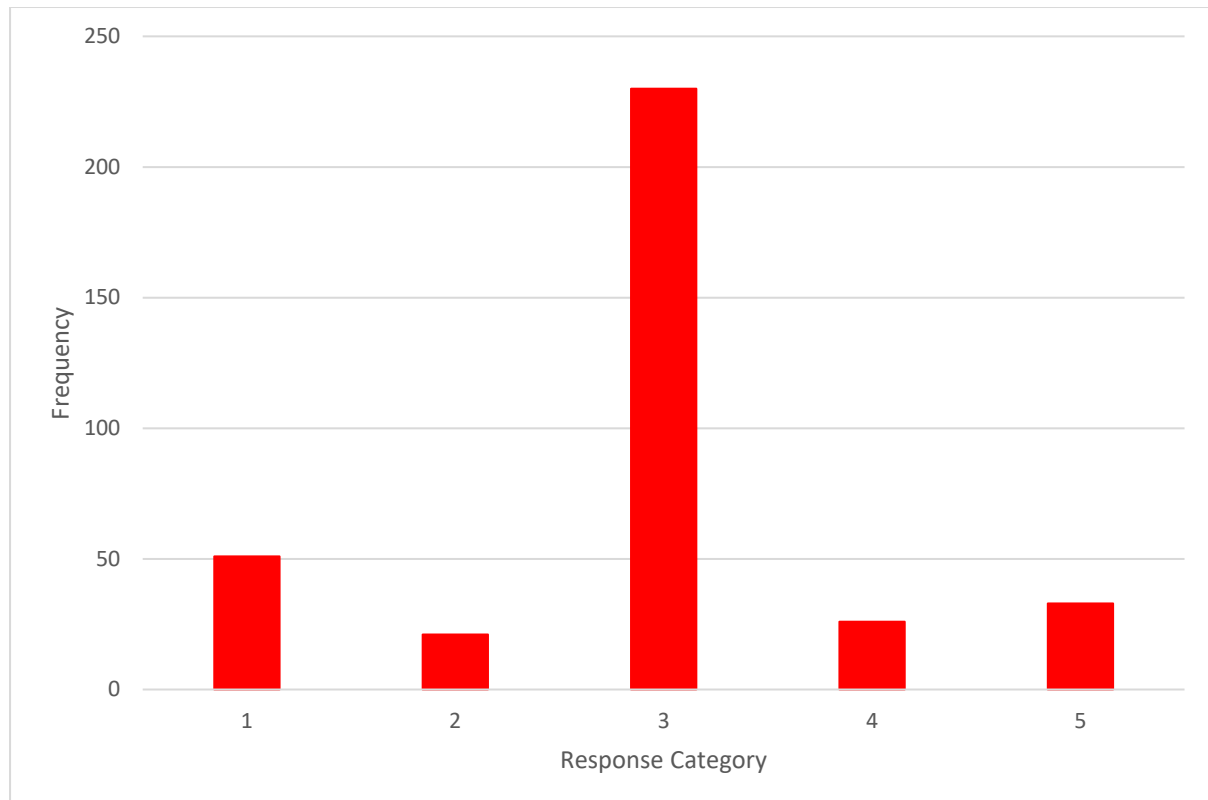


Figure 1: Inspector qualifications

Key:

- 1 = Enrolled for Level 3 OFQUAL certificate in inspecting and licensing animal activities businesses
- 2 = Formal veterinary qualification
- 3 = One year's experience of licensing and inspecting animal activities businesses
- 4 = Used a suitably qualified external consultant/business
- 5 = Other

For those local authorities which responded 'Other' the most frequent explanation provided was length of experience i.e. over one year. Experience ranged from 18 months to over 25 years with some also making reference to the various qualifications they held (which included Continuing Professional Development, in-house training, Level 3 in pet shop management, BTEC National Diploma in Animal Care and degrees in a relevant subject, e.g. animal behaviour and welfare or professional qualifications such as Environmental Health Officer). Some local authorities indicated that the OFQUAL Level 3 course in inspecting and licensing would be considered once it was available.

This means significant numbers of businesses are being inspected by untrained local authority officials who are not fully familiar with the new requirements. While our FOI showed that 230 local

authorities had inspectors with at least one year or more experience this does not mean they fully understand the extensive new requirements they are required to implement and are therefore potentially making poor, inaccurate or ill-informed judgements and in many cases inventing their own conditions on businesses which are not required (and not permitted for) by the new guidance - for example, demanding that records be kept each time a snake sheds its skin or that records be kept in relation to invertebrates. In response to our member survey just over 16% said they had had conditions attached to their licence. We are also aware of instances where veterinary surgeons undertaking inspections on behalf of local authorities have made recommendations for additional conditions over and above those set out in the guidance. This is borne out by the fact that trade associations such as OATA are having to seek clarificatory advice through their Primary Authority Schemes and to intervene directly with local authorities over their misinterpretation of the guidance.

One local authority told us:

In 2018 all licences had to be renewed under the new regulations by 31 December 2018 and inspected, and local authorities were only given three months to do it in, you then had to allow two to three weeks for applications to be received so really only two months. No additional staff could be sought and workloads were already at capacity. No application forms were released in advance and so there was no way to spread the load by sending applications out early. There were issues with the guidance, particularly with some assumptions within. It was clearly not written by somebody with practical experience. It was very prescriptive in places and there was ambiguity in other areas. Inflexible in application.

Our FOI revealed 23 cases where inspectors were either accompanied by or used a vet to do the inspection. The engagement of veterinary surgeons should not be necessary if inspectors are properly trained. It should not be the case that local authority guidance is set to a standard beyond their comprehension or their ability to implement, particularly when the involvement of vets creates significant additional cost burdens for businesses (see Section 2 on business burdens), many of which are small and micro businesses.

We have much sympathy with local authority inspectors who have had to get to grips with a large and detailed 90-page guidance document, just for selling animals as pets, not to forget the 7 other guidance documents for other animal activities and the guidance document for inspectors - a total of 337 pages which they were expected to understand within 2 hours, according to Defra's Impact Assessment⁷, and not accounting for the need to read re-issued revised guidance and change log documents.

We applaud the pragmatism of those local authorities which extended existing licences issued under the Pet Animals Act 1951 to enable businesses to continue to operate while all involved ensured they had a better understanding of the new inspection regime.

Proper and timely training of inspectors is essential to ensure they are competent to consistently and accurately implement the new licensing requirements across the country.

⁷ https://www.legislation.gov.uk/ukia/2018/31/pdfs/ukia_20180031_en.pdf "One off time costs for local authorities to familiarise themselves with the new regulations and disseminate this to staff is assumed 2 hours." (Page 2)

RECOMMENDATIONS

- Review the three-year lead-in time for training inspectors. This should be completed as soon as practicable to ensure that inspectors are trained to a sufficient standard before the next licensing round commences.
- From 1 October 2019, require local authorities to use only officers that have received the required training to inspect businesses. External contractors such as veterinary surgeons should only be used with a clear and publicised justification and should be required to have undergone the same OFQUAL training required of local authority inspectors⁸.
- Where veterinary surgeons are used a maximum hourly charge should be applied and the costs of using them should be borne by the local authority.
- Establish a national inspectorate of properly trained inspectors to provide animal activity licensing across England, akin to the Wildlife Inspectorate or the Zoos Inspectorate, enabling local authorities to draw from a pool of competent, specialist inspectors and reducing overall costs.
- If it is not possible to ensure that only trained inspectors are in place in time for the next licensing round, extend all licences issued under the current round until such a time as they are.

⁸ A Level 3 certificate, granted by a body, recognised and regulated by the Office of Qualifications & Examinations Regulation which oversees the training and assessment of persons in inspecting & licensing animal activities businesses, confirming the passing of an independent examination. (Page 6)

2. Has the regulatory burden on businesses been lifted?

Fewer licenced businesses

Our FOI revealed that, according to local authorities, since the 2017 licensing round 69 businesses have ceased trading altogether, stopped selling live animals or reduced the range of species in which they trade. Given the timing of the FOI this number could increase. The reasons given range from the amount of paperwork now involved, the increased costs of meeting the new requirements, to the time involved in meeting the new requirements.

This is not only concerning from a commercial perspective but also because it increases the risk that the structure of the market will change with an increase in online or sales from private dwellings which are subject to significantly less scrutiny than traditional high street pet shops. Such businesses are also difficult for local authorities to identify as a licensable business without further resource input for investigation and identification.

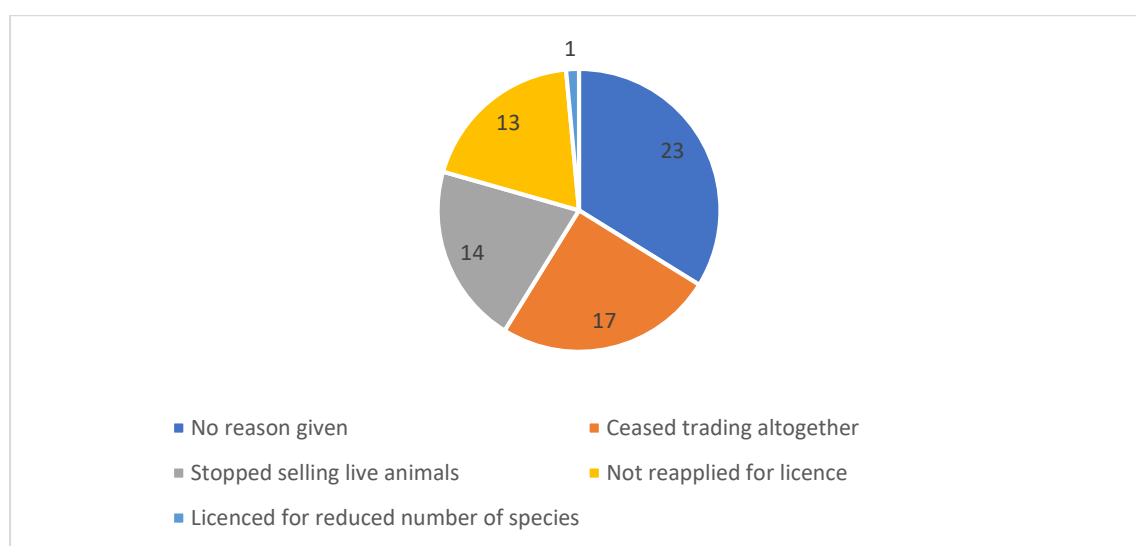


Figure 2: Businesses ceasing trading

Written records

Defra's Impact Assessment assumed for each business, a one-off familiarisation cost of 1 hour, saying this may be an over-estimate. Our analysis considered only businesses selling animals as pets of which 77% of those surveyed felt their workloads had increased, estimating an average increase of 7.7 hours/week. It is likely that this figure is so high is due to the work that was needed to prepare for their first inspection under the new regime, which for many required the preparation of standard operating procedures and records (the selling of animals for pets required over 31 such documents). We would anticipate the ongoing workload burden to be smaller. 66% of local authorities thought business workloads had increased significantly.

Nonetheless, this suggests Defra's figure of 1 hour is a significant under-estimate. We estimate that there are about 1700 pet shops in England. Excluding other types of business selling animals as pets and based on the above findings and using Defra's hourly rate of £15/hour, we estimate the familiarisation costs for pet shops would be nearly £200K. Defra's estimated familiarisation costs for all 15,850 in scope businesses in England was £230.2K.

Defra's Impact Assessment did not recognise the impact of the extensive new record keeping requirements. We do not have good data on the amount of time these are taking but discussions

with businesses suggest the additional burden is significant. Assuming an average of 2 hours a week for the basic requirements (which we believe to be a significant under-estimate) the additional workload burden would equate to over £2.5M p.a. for pet shops alone. It should be noted that it is not possible for local authorities to validate most of these written records and there is evidence that local authorities now spend more time checking them than assessing animal welfare.

While the needs for certain records can be justified, the excessive focus in the guidelines on record keeping and procedures places an unrealistic burden on businesses, especially considering that many pet businesses are small or micro businesses run by an owner/manager.

For example, whilst it is reasonable that temperatures should be checked regularly to ensure they remain within the parameters appropriate to the species, the requirement to document them weekly or three times a week is a significant burden that does little to demonstrate the welfare needs of the animals are being met. Many businesses will change the animals in each enclosure according to the stock they have at any particular time and they will not necessarily need to be kept within the same temperature parameters. Thus, the temperature records will show no more than that they have been recorded, not whether an animal's welfare has been maintained. It would be far more appropriate (and simple) to require a minimum-maximum thermometer with an alarm function that sounds in the event of temperatures going out of parameter and requiring the problem to be corrected if it did.

The requirement for a sales register is an example of a bureaucratic requirement that does nothing to advance animal welfare. It requires businesses to retain substantial amounts of information about each individual animal which in many cases is impractical or at best unclear as to the value of recording such information. For example, businesses dealing with reptiles, amphibians or fish may purchase or breed large numbers of animals which are difficult or impossible to distinguish individually noting that, for example, as they move through the supply chain they are likely to be mixed with existing stock. The enormous volume of records that will be created by requiring the maintenance of a sales register are far beyond the resources of any inspector to validate and tells them nothing about whether animal welfare needs have been met. If the objective of the register is to provide some degree of traceability this could readily be met by requiring business to retain their invoices (which will include details of suppliers).

A wholesaler told us:

The amount of record keeping is vastly out of step with the benefits it brings and just leads the way to a box ticking mentality from both inspectors, who need something to audit, and businesses who just need a completed record. Records cannot be verified and so are pointless. The inclusion of records that have so obviously been mirrored from zoo licensing just demonstrate the lack of experience of the authors in the wide range of businesses in the pet sector, and the lack of input into the development of the guidance document from that sector.

It appears that the guidance for selling animals as pets has been based on the record keeping standards for zoos and fails to recognise the fundamental differences in the activities of pet businesses. Animals held in zoological collections are long-term residents and therefore documenting environmental parameters and keeping such records is vital in terms of being able to review the care given. Pet shops are transitory, short-term environments for animals where

residents will change regularly and where the recording of environmental parameters in an enclosure used by different animals demonstrates nothing of value as the requirements will vary significantly from species to species.

RECOMMENDATIONS

- Defra, in association with business representatives and experienced local authority inspectors, should review the requirements for keeping written records of environmental parameters imposed by the statutory guidance with a view to reducing them wherever possible and replacing them with practical measures that reflect businesses practices.
- The requirement for a sales register should be removed, replacing it with a simpler requirement for businesses to keep records of their suppliers and associated invoices that enable traceability of stock.

Licence fees

Following the introduction of the new licensing regime local authorities have reviewed the fees they charge to businesses. A variety of approaches have been adopted by local authorities, for example charging:

- different fees for 1, 2- or 3-year licences.
- different fees single species or multiple species licences;
- 'maintenance fees';
- higher fees for larger premises;

Given the variety of approaches taken by local authorities, a like-for-like comparison of the changes in fees is difficult but taking the median average fee charged shows that fees have as much as doubled from £125 in 2016⁹ to £282 in 2019. It is likely that this is a result of the increased time it takes to undertake inspections under the new system. Over the same period the median percentage increase in inspection time was 150%, rising from around 60 minutes per inspection in 2017/18 to 150 minutes in 2018/19. This suggests an increased cost burden to businesses in excess of £250K p.a.

A Local Authority guide to setting fees for licenses issued under the new Regulations was created to help ensure some consistency in fee setting across the country. However, the results of our FOI clearly show wide disparity and inconsistency in fee setting and identified a substantial differentiation in the fees charged, with total licensing costs ranging from £49 for a 1-year licence (Eden District Council) to £1263 for a 3-year licence (Manchester City Council). This could in part be due to the fact that the guidance was never formally published by Defra and is difficult to find and could explain the wide variations in fees - the only place we have been able to find it is on the Canine and Feline Sector Group's (CFSG) website¹⁰.

However, the most concerning issue we have uncovered in our most recent FOI is the number of councils which charge a different fee depending on the length of the licence issued. A total of 68 councils said they charged different fees for one, two or three year licences. On further investigation

⁹ <https://ornamentalfish.org/wp-content/uploads/Pet-Shop-Licensing-Report-2016.pdf>

¹⁰ <http://www.cfsg.org.uk/The%20Animal%20Welfare%20Licensing%20of%20Activities%20Involvi/I.%20Fee%20Setting%20Non%20Statutory%20Guidance%20for%20Local%20Authority%20Inspectors.pdf>

into these councils' fee structure we found most councils charge an application fee then an inspection/grant fee which incrementally went up depending on the length of the licence that was issued.

This is contrary to the stated objective in the Selling Animals as Pets Guidance which states: “A business that meets the higher standards will be able to gain a 4 or 5 star rating in the Animals Activity Star Rating System and will qualify for a longer licence (e.g. two or three years as opposed to a one-year licence **and thereby pay a lower fee.**”

Defra’s Impact Assessment predicted lower costs for businesses which had longer licence periods: “Licences of 2 or 3 years will be for those individual businesses that local authorities consider to be of medium and low risk. Licences of 2 or 3 years should produce savings for those businesses as there will be fewer inspections. However, those businesses with 1-year licences (high risk businesses) will still have to pay for annual inspections and so will not have any savings. **The idea is to encourage businesses to gain earned recognition, become low risk and thereby save money.** In the process good compliance and higher standards are encouraged.”

Annex B lists those local authorities charging different fees for 1, 2 or 3 year licences contrary to Defra’s stated intentions. Figure 3 below shows the four highest fees charged by local authorities for a 3-year licence, each exceeding £1,000 - a huge sum for any business to have to pay in a single year, let alone a small or micro business.

Local authority	Fee structure	Total fee
Manchester CC	Application fee: £327 1 year: £321 2 year: £629 3 year: £936	1 year £648 2 year £956 3 year £1,263
Redditch BC	Application fee: £322.00 Inspection fee: £160.00 1 Year: £180 2 Year: £357 3 Year: £535	1 year £662 2 year £849 3 year £1,017
Wychavon DC	Application fee: £322.00 Inspection fee: £160.00 1 Year £180 2 Year £357 3 Year £535	1 year £662 2 year £849 3 year £1,017
Leicester CC	Application fee: £55 plus £317 licence fee per year	1 year £372 2 year £689 3 year £1,006

Figure 3: Top four councils for charging for additional year licences

Defra’s Procedural guidance notes for local authorities states that “When setting fees, local authorities should have regard to Open for business: LGA guidance on locally set licence fees, which sets out the steps that must be taken to set fair and reasonable fees”. The Local Authority guide to setting fees states local councils should “recover reasonable costs of administering and enforcing each licence” and “use evidence-based data wherever possible as the basis of their fee charges and retain this information for the purposes of transparency”. It also states that local councils should not “seek to make a profit”. HM Treasury’s publication Managing Public Money also

makes clear that “*fees for services should generally be charged at cost. So to set fees for public services it is essential to calculate the cost of providing them accurately*”.¹¹

We do not believe that many of the fees set meet the ‘fair and reasonable’ criteria and certainly do not believe that any local authority can justify charging a higher fee for issuing a 2- or 3-year licence as there are no further administration or inspection costs. We can only presume these councils are seeking to make a profit from businesses within their jurisdiction. This is unjustifiable and contrary to cost recovery guidelines.

Adding in the possibility of additional charges for inspectors being accompanied by a veterinary surgeon creates a potentially untenable cost for some businesses. Despite the fact that the British Veterinary Association (BVA) recommended rate is £72/hr, we have heard of instances where some vets have been charging hourly rates of £165 per hour plus travel and report-writing expenses, indicating they may be taking advantage of the new rules and local authorities’ inexperience. It should also be noted that they have had no formal training on the implementation of this new regime.

These substantial increases in cost burdens on business increase the potential for businesses to stop selling animals or to cease trading entirely, with the consequent risk that animal sales are driven underground or online where they are not properly regulated and where animal welfare is more likely to be compromised.

Defra’s Impact Assessment suggests that businesses would be faced with one-off familiarisation costs of £230k but that this would be ameliorated by the possibility of being issued a 2 or 3-year licence, resulting in an overall saving for businesses. However, it is clear from the above that the savings made in receiving a longer licence are often non-existent and where savings are present they are far outweighed by the costs of meeting the new requirements.

Additionally, the higher standards (and associated star rating system) are poorly understood and often misinterpreted by inspectors. We estimate that across all pet shops in England the cost of meeting the higher standards exceeds £350K resulting from the need to purchase new enclosures and additional equipment and to adopt new policies. Notably, many businesses have identified that the cost burden of attaining the higher standards outweighs the savings that can be achieved and that they deliver little in the way of animal welfare benefits.

¹¹ HM Treasury: Managing Public Money (Page 175 A6 1.3)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742189/Managing_Public_Money_MPM_with_annexes_2018.pdf

RECOMMENDATIONS

- Defra should publish the Local Authority guide to setting fees on GOV.UK and notify all local authorities of its existence and the need to set their fees according to it, including notifying all local authorities that they should not set different fees for two or three year licences.
- Defra should require local authorities to publicise how fees are calculated.
- A single, consistent fee should be applied for all licences issued by each local authority based on the average cost of processing applications, undertaking visits and issuing licences in their area.
- Fees charged for the use of external consultants such as veterinarians, should not be chargeable to businesses.
- An upper limit should be applied to the fee which local authorities can charge, noting regional variations in staff costs etc.

Enclosure sizes, stocking densities and water depths

The new guidelines have introduced requirements on enclosure sizes and stocking densities for all animals (except fish) which have made it very difficult and expensive for many businesses to ensure compliance, especially those trading in birds, reptiles and amphibians.

The use of a single parameter (i.e. size) to determine cage size and stocking density for reptiles, amphibians and other species fails to take into account the huge variation in biology between the different species, especially when considering there are many 1000s of species in trade across all taxa groups meaning the variation in requirements at a species level (let alone amongst individual animals at various stages of growth) is enormous. While size may be appropriate to determine stocking density for a rat or a rabbit, these are single species. Trying to apply the same “one size fits all” principle to the thousands of very different species of, for example, reptiles encountered in trade is not practical as each species has different requirements and habits.

For birds the situation is even more confusing with very little clarity on how to determine cage sizes where more than one bird is kept and potentially exponential increases in sizes for more birds creating a near impossible scenario for businesses selling birds.

For other animals, the guidance is unclear whether the size multiples of densities above four animals per enclosure relate to linear sizing or area.

A local authority inspector said:

We all know the new guidelines aren't perfect and we do expect some changes to occur over the next few years, most notably those pertaining to birds as these are proving to be an issue when calculating stocking densities. We are also hoping that some of the higher standards can be reviewed.

The guidance is inconsistent in its use of measurement with some using Snout to Vent Length (SVL) and some Snout to Length (STL). For tortoises Straight Carapace Length (SCL) is used, whereas Plastron Length (PL) is the normally used term, by both business and regulators. This inconsistency creates challenges for inspectors who are unfamiliar with these terms and with safe ways of handling animals.

Most significantly, it sets inspectors a very difficult and potentially dangerous task to be able to work out appropriate enclosure sizes. Snakes for example rarely uncoil to be able to measure length, requiring them to be removed from their enclosure and stretched out. This is neither reasonable from an animal welfare perspective nor from a health and safety perspective for inspectors requiring them to handle potentially injurious animals.

A member told us:

The whole section on cage sizing is ill thought out, shows lack of understanding and is unclear. It makes it mandatory to provide dangerous or unsuitable environments for some species, with no allowance for the different species we stock. It also imposes enclosures far larger than is possible or necessary for the needs of the animals in our business. Looking at 5cm Green Anoles that would normally be kept in groups of 50 animals, it appears that the cage required is 2.6m by 1.6m, some 12 times larger than would currently be used. Multiply this up by every species stocked and we would need whole new buildings just to hold the same stock. Even more ridiculous is that 4 animals need 63cm² each, while in a group of 50 they need 813cm² each; what is the rationale behind that?

The development of the guidance without proper consideration for the businesses affected meant that the recommended enclosure sizes were inconsistent with commercially available equipment. For example, under the new guidance a 30cm Bearded Dragon requires an enclosure of 120cm x 75cm – although this sizing requirement has not been supported by evidence. However, the standard size of 120cm enclosures is only 60cm deep, meaning that all the 120cm enclosures in stores were no longer compliant with the guidance meaning that businesses had to either replace them or to stop selling lizards of this size. A similar example is that any large snake more than 190cm requires an enclosure of at least 160cm under the new guidance whereas 120cm is the largest commercially available size suitable to the species. No evidence to support the new enclosure sizes has been presented.

Furthermore, the behaviour of animals that favour small enclosures is not adequately addressed in the guidance, making businesses use enclosures that are detrimental to welfare. Many small snakes, eg Royal Pythons, need to feel enclosed to feed properly while keeping very small frogs, eg young Bumblebee toads, in large

enclosures makes it much more difficult for them to find food. The reliance on linear measurements takes no account of the habits of the animal, for example in the way an enclosure is set out. The important point is the useable area of the cage in relation to the animal's behaviour. Seeking to employ such standardised approaches does not benefit the welfare of the animals concerned and, in many cases, it risks the creation of a negative environment for them.

The inclusion of specific stocking densities for reptiles and amphibians is not based on rationale, evidence, or on the knowledge of experienced keepers. Like enclosure sizes, stocking densities need to be appropriate to the species - a standardised 'one size fits all' approach can be highly detrimental to animal welfare. For example, under the higher standards, it can be interpreted that only a single crocodile can be kept regardless of size. However, crocodiles are often kept in pairs

which may have bonded but because of the new restrictions may require pet shops to euthanise the additional animals.

The inclusion of guidance for recommended water depth for reptiles and amphibians in both the minimum and higher standards is counterproductive for animal welfare. As described, the requirements for different species vary tremendously, and the current approach is likely to cause suffering or even death of some animals. For example, Poison Arrow Frogs (*Dendrobatidae*) are very commonly sold in specialist shops. Giving these frogs water that is twice their body length in depth will almost inevitable lead to them drowning. Other species such as Suriname Toad (*Pipa pipa*) are totally aquatic and require very deep water. The inclusion of water depth in the guidance causes confusion and risks animal welfare.

All this has a significant impact in terms of cost to businesses trying to meet the standards. A survey of pet shops stocking reptiles by REPTA in May 2019 identified that the average cost of meeting the new hardware requirements was between £3-5K depending on the size of the shop. Some businesses reported spending considerably more, with one estimating expenditure of £21K. The cost to the reptile sector alone is estimated in excess of £3M.

However, most concerning is the potential for rigid and inflexible implementation of these standards risks adversely impacting animal welfare.

RECOMMENDATIONS

- With business representatives, review all enclosure size requirements considering their necessity, and amend as appropriate to ensure they are practical, proportionate and reasonable for a transitory selling environment. In doing so consider the commercial availability of any recommended enclosure sizes. Minimum enclosure sizes should be for guidance only, not mandatory given the variety of species covered.
- Remove any conditions which may require an inspector to handle any animal in order to measure it. While it is reasonable to include an acknowledgement about stocking density, replace stocking densities in Tables K-01 and K-02 with the CIEH's simple stocking density requirements¹². Competent inspectors who are properly trained should be able to make a visual judgement based on simple guidelines in consultation with the businesses they are inspecting.
- Remove the water depth requirements in both the minimum and higher standards for reptiles and amphibians (Tables K-01 and K-02).

¹² CIEH Model conditions for Pet Vending Licensing 2013 <https://ornamentalfish.org/wp-content/uploads/2015/05/Model-Conditions-for-Pet-Vending-Licensing-Sept-2013-1.pdf>

Different business types need different guidance

Despite the fact that the new guidance is intended to bring within the scope of licensing a far wider range of business types than previously it has clearly been drafted with only the pet shop environment in mind.

It takes no account of the different practices and environments associated with, for example, wholesalers or breeding facilities which deal with larger numbers of animals. For example:

- Importing/wholesaler businesses look after animals on a very short-term basis.
- Retail shops have animals for a short to medium term.
- Breeders keep breeding stock for the lifetime of the animal (which they don't sell) while their offspring will be sold within on a short term (depending on species).

A wholesaler told us:

Lots of it is not really relevant to us as a wholesaler rather than a retailer. There should be different conditions for wholesalers – we do not work in any way the same as a pet shop.

A wholesaler told us:

I can apparently only have a maximum of 3 stars because we sell tiny (1cm) aquatic frogs and the higher standards conditions are that no more than 3 may be kept per 3ft tank! We import a few 100 AT A TIME. Turtle stocking quantities are also an issue for us, a maximum of 3 2cm baby black musk turtles per 3ft tank is ridiculous for us as a wholesaler. It's a shame because I would do the other items to get a 4 or 5 star rating (like extra testing, qualification etc) but unless they change the stocking levels for frogs & turtles there is no point me doing it.

In attempting to find a 'one size fits all' approach to the variety of business types captured the conditions included in the guidance have in many cases become irrelevant and yet inspectors are required to assess businesses against all conditions. While the guidance does acknowledge that 'businesses selling animals exclusively to other businesses¹³' (eg wholesalers) do not have agreed standards on cage sizes and stocking density, inspectors have clearly not taken this into account when licensing and some are applying the guidance requirements in full to them. In some cases, these requirements will result in some businesses becoming commercially unviable regardless of their welfare standards, for example, as a consequence of the exponential increases required in enclosure sizes.

¹³ Guidance notes for selling animals as pets. Page 13 'For businesses selling animals exclusively to other businesses, there are no current agreed standards for cage sizes and stocking densities, and so businesses must provide evidence to demonstrate that welfare is being met with reference to the guidance in the rest of this document. Set standards will be developed. This does not apply to businesses selling dogs & cats which must follow the accommodation sizes stipulated in the guidance.'

RECOMMENDATION

- Review and amend the guidance to reflect the different business environments and practices found in different businesses. To avoid creating significant additional guidance this could potentially be achieved by adding exemptions from irrelevant or inappropriate conditions for certain business types, as has been done for consolidators of fish.

3. Has the administrative burden on local authorities been relieved?

Our FOI identified that for the vast majority of local authorities there was a significant increase in workloads and that they believe this will continue (Figures 4 and 5 below). They also acknowledge that businesses’ workloads had gone up significantly.

In its Impact Assessment Defra only identified the cost burden of familiarisation with the new guidance. They assumed a one-off familiarisation cost of 2 hours, including one hour for the staff member to understand the new guidance, and a further hour to disseminate this information to staff members. They estimated this would result in an overall one-off cost of around £11.4K.

A local authority inspector said:
Ideally it would be much more concise and much less complex. It has increased the amount of time it takes to carry out an inspection and increased the amount of preparation an operator has to do before the inspection. Our inspections reports for pets shops have gone from 10 pages to more than 60.

However, the guidance produced totals 337 pages across all documents that local authority inspectors need to familiarise themselves with, not accounting for the need to re-familiarise themselves with revised guidance. Whilst we do not have data on familiarisation times, we are aware of numerous cases of mis-interpretation or misunderstanding of the guidance suggesting that many local authorities have yet to become familiar with the new guidance. Defra’s 2 hour figure is clearly a massive under-estimate given the complexity of the new guidance and the sheer volume of material inspectors need to understand.

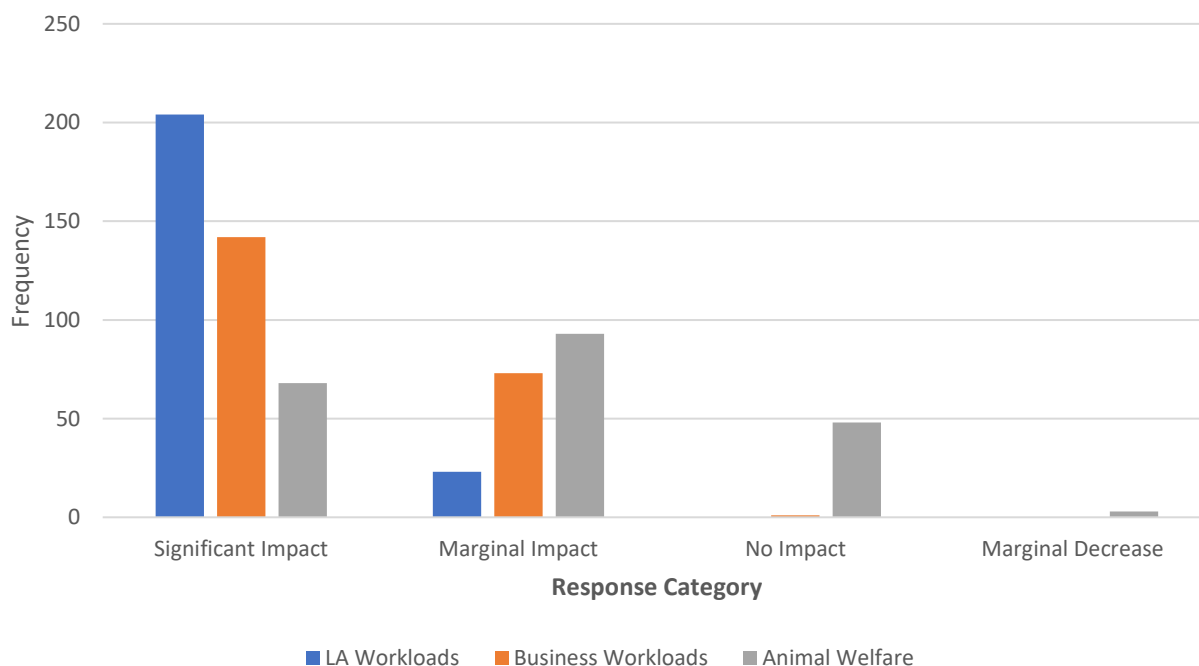


Figure 4: Local Authority responses of AAL impact on workloads

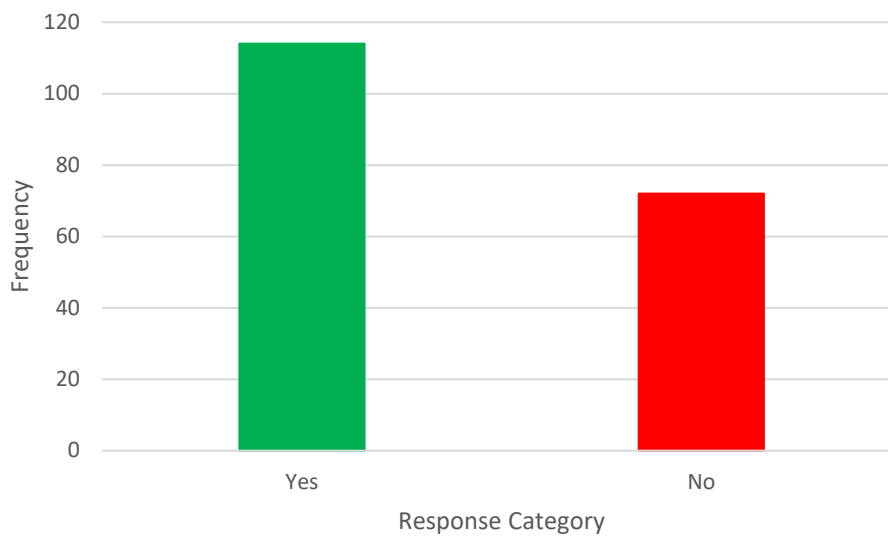


Figure 5: Local Authority responses on whether significant impact on workloads would continue

Generally, our findings identified that there has been a notable increase in cost burdens on local authorities. In response to our FOI, 90% of local authorities said the new regime had significantly impacted their workloads with the remainder saying it had a marginal impact. Of these over 60% believed that a significant impact would continue.

As identified above, inspection times have on average doubled since the introduction of the new requirements, rising from around 60 minutes per inspection in 2017/18 to 150 minutes in 2018/19, an increase of 150%.

Based on a national average EHO salary of £32,611 p.a.¹⁴ this additional inspection time equates to an extra £25 per business inspected – for the 1474 businesses inspected at the time of our FOI this equates to an additional cost burden on English local authorities of £37K. This figure can be expected to rise notably in light of the points made above.

There is currently only one inspector training course available to local authorities at a cost of £990 per person. Based on Defra’s estimate of 356 local authorities affected by this reform, were just one inspector from each English local authority to take the qualification the total cost burden on English local authorities would exceed £350K, plus the costs of further professional development to meet all their needs.

These findings indicate that local authorities are now having to handle a significantly greater burden than previously.

RECOMMENDATION

- As recommended in Section 2 above, review the benefits of the requirement to keeping written records, including a sales register, and for local authorities to check them with a view to reducing the overall administrative burden on local authorities.

¹⁴ [https://www.payscale.com/research/UK/Job=Environmental Health Officer/Salary](https://www.payscale.com/research/UK/Job=Environmental_Health_Officer/Salary)

4. Has the licence application and process been simplified?

Defra's Impact Assessment assumed that businesses would continue to spend an estimated 2 hours per year completing a licence application and undergoing an inspection. However, as shown in Section 3, because of the complexity of the new guidance and the focus on written records, the time taken to carry out the inspection on a business has increased from 1 hour to 2.5 hours on average, not accounting for the additional increases in the accompanying administrative processes. One local authority has said that their inspection reports had increased from 10 to 60 pages and we are aware of some businesses spending 4-5 hours completing the licence application. It also appears that some local authorities are requiring separate applications for different activities (e.g. for selling animals as pets and animal encounters) increasing the time for some businesses to complete the necessary forms and potentially increasing the number of inspections they face.

Defra's assumption was that with the ability to issue 2 or 3 year licences this burden would be reduced overall and result in an annual saving of around £165.7K. As can be seen from Section 2, the potential for any savings must be questioned.

A standard application form was prepared for local authorities which would have enabled information to be gathered consistently and would have simplified the application process for, for example, national retail chains. However, an examination of application forms on local authority websites shows a wide range of application forms being used which request a wide range of different information indicating that they are not aware of the standard application form.

It may however have been a case of local authorities identifying that the standard form is not fit for purpose, for example in not mirroring the species groups published Defra's guidance e.g. not including reference to amphibians, or allowing people to apply for licences that do not exist (shows), or it may in part be due to poor awareness that the standard form actually exists.

RECOMMENDATION

- Defra should review and amend the standard application form to ensure it reflects Defra's published guidance documents, should ensure that all local authorities are aware of the standard application form and require them to use it.

5. Has animal welfare been maintained and improved?

Our FOI asked councils for their opinions on whether the guidance would lead to improved animal welfare. As the responses demonstrate (Figure 6 below) 32% thought there would be a significant increase in animal welfare whereas 67% thought there would be only a marginal or no impact on animal welfare as a result.

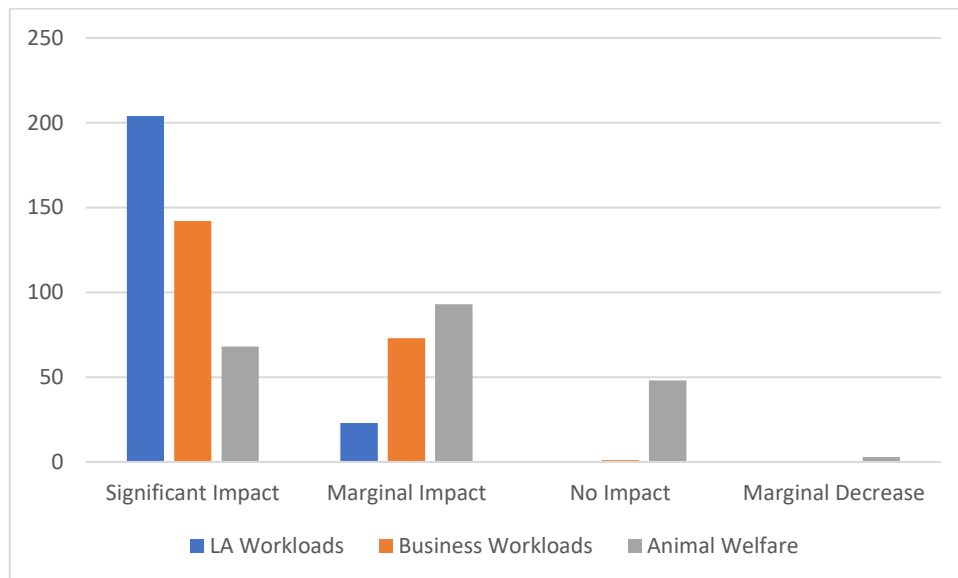


Figure 6: Local Authority responses of AAL impact on animal welfare

Our survey of businesses sought information on what activities were undertaken by inspectors during their visits as seen in Figure 7 below. This indicated that during inspections inspectors spent the majority of their time checking whether businesses were meeting their paperwork requirements, rather than checking the welfare of the animals present or the conditions they were kept in. For example, in only 15% of cases were animal sizes measured and in only 27% of cases were display units measured, compared to 81% checking written procedures and 49% checking the accuracy of records (not that there is any sure-fire way to ensure the validity of written records).

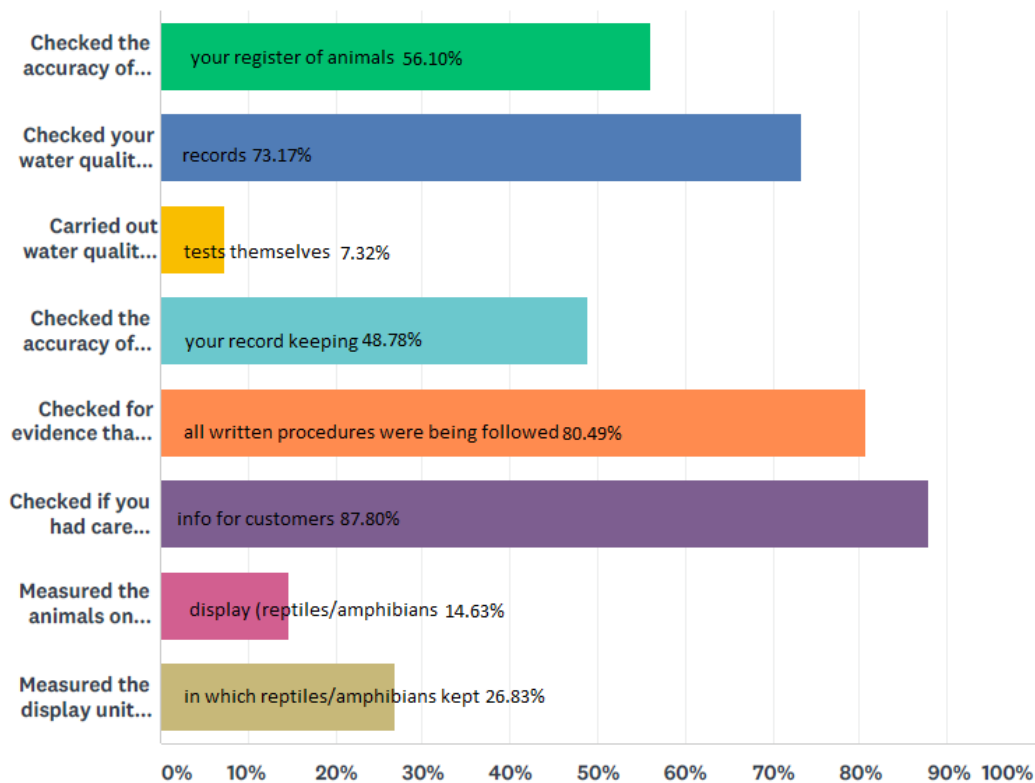


Figure 7: Main activities undertaken by inspectors during inspection

As this demonstrates, local authority inspectors are spending a greater proportion of their time assessing whether businesses are meeting the paperwork requirements and little time assessing the welfare of animals kept.

This is supported by anecdotal information received by REPTA and OATA which suggests that inspectors are focussing primarily on the paperwork requirements of the new regime. Only a relatively small proportion of inspectors assessed the enclosure sizes despite the requirements set out in the guidelines.

Amongst businesses involved in selling animals as pets there is deep concern about the amount of time they now have to spend maintaining written records with little demonstrable benefit for animal welfare and which reduces their time available for catering for the welfare of the animals in their care. A substantial number amongst the business community believe that the new regime will do little to improve animal welfare.

There is also considerable concern amongst those in business responsible for the welfare of the animals they deal in that the new bureaucratic burdens placed on them will not do anything to improve animal welfare and that, on the contrary, they could reduce standards by diverting efforts away from animal care to form filling. In some cases the conditions imposed are likely to cause suffering or even death to some animals and need urgent review (see Enclosure sizes on page 21/22).

Impacts of fewer businesses selling live animals

As mentioned above a number of businesses have ceased trading or stopped or reduced their live animal sales. However, this does not suggest that there has been an equivalent reduction in demand

raising the question of where people are now buying their pets from. We believe this makes it far more likely people will turn to the internet or social media to buy their pets and where it is much less likely those sellers have been inspected by their local authorities. Such online sellers do not experience the customer footfall which pet shops do (estimated as at least 8.5M p.a.¹⁵) and which ensures that pet shops and the standards to which they operate remain constantly subject to public scrutiny.

The higher standards and star rating system

The star rating system's use of mandatory and optional higher standards is intended to encourage businesses to deliver higher welfare standards by rewarding them with a longer-term licence and thus reducing their licence costs if they meet certain higher welfare standards. However, the system is complex resulting in variable implementation by local authorities resulting in trade associations needing to seek additional clarificatory advice or intervene directly with local authorities.

Our FOI asked a question to test local authorities' understanding of the difference between the optional/mandatory higher standards. 95 local authorities (nearly a third (29%) of respondents) believed incorrectly that it is a requirement for businesses to meet 100% of both optional and mandatory higher standards to achieve a five star rating. (The other responses are valid.)

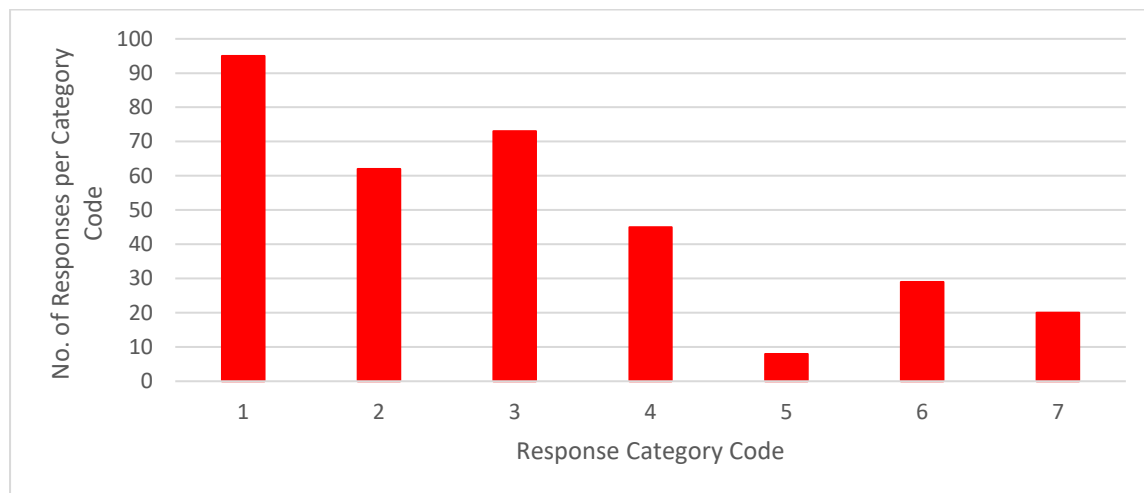


Figure 8: Most consistent reason for businesses failing to achieve a 4 or 5 star rating¹⁶

Reponse category code key:

1 = Failure to meet all optional and voluntary higher standards	28.6%
2 = Failure to meet at least 50% of voluntary higher standards	18.7%
3 = Failings in written procedures	22%
4 = Failings in record keeping	13.6%
5 = Stocking densities	2.4%
6 = Inadequate staff training	8.7%
7 = Other	6.0%

It is also apparent that a number of local authorities are effectively boycotting the star-rating system by introducing their own approach (see below). While this might be understandable given the short timeframe to get to grips with the guidance, it is not justifiable and demonstrates a lack of understanding due to the lack of time and training to prepare.

¹⁵ OATA estimate based on discussions with member businesses.

¹⁶ Some local authorities responded with more than one category

What Local Authorities told us:

- Sedgemoor District Council told us they had *'made a policy decision to issue one star, one year licences initially'*.
- Newark and Sherwood District Council told us it was *'council policy not to issue any 5 star licences'*.
- Stevenage Borough Council said *'newly licensed establishments will not qualify for more than 1 year licence even if they are achieving higher standards'*.
- Thanet District Council told us they would be issuing no star ratings *'until officers are qualified inspectors'*.
- Ashfield Council said *'we determined for 2018/2019 only to issue 1 year licence in order to evaluate fees moving forward and to assist businesses to adapt to the new regulations'*.
- Manchester City Council said they had granted two 3 star licences but only for one year *'on the basis that there is no previous data on which to base a decision to grant a licence for a longer'*.

Our FOI also examined the breakdown of star ratings issued with the following results:

- 6% issued a 1 star (low risk) rating
- 4.8% issued a 1 star (higher risk) rating
- 4% issued a 2 star rating
- 24.4% issued a 3 star rating
- 6.8% issued a 4 star rating
- 53.9% issued a 5 star rating

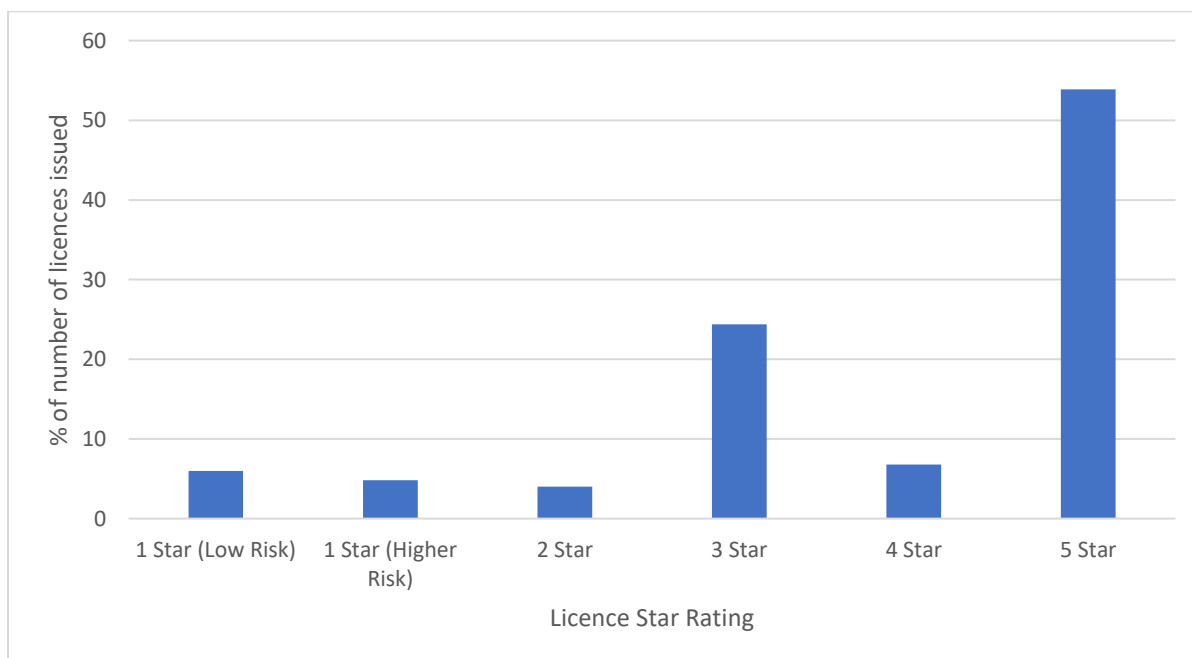


Figure 9: Proportion of licences issued according to scoring matrix star rating

It is feasible that this high percentage of businesses justify a 5-star rating but given the issues outlined there is a concern that the poor understanding of the system has led to a disproportionate number of 5 star licences being issued in order for local authorities to gain time for inspectors to

receive training and become familiar with the new guidance. We are aware of national retail chains that have implemented consistent changes across all stores to meet the licensing conditions, including those necessary to get achieve a 5 star rating. However, the awarding of 5 star ratings has not been consistent demonstrating inconsistent implementation by local inspectors.

Amongst the higher standards is an optional requirement to have an OFQUAL Level 3 qualification 'appropriate to the species kept'. For certain parts of the pet

A retailer told us:

We don't have formal qualifications although we've been in the fish trade for 40 years. Our staff don't have formal qualifications either but they are all keen fish hobbyists and have worked for us for over seven years.

Two retailers told us:

There was a discussion regarding the requirements to achieve a higher rating. Primarily this was down to water testing requirements. All our tanks are individually filtered and I made the judgement that the testing regime required for a higher rating would be far too time consuming to carry out.

We can save significant time and cost reverting to the minimum standards for the duration of the granted licence. We do not believe this is the intention of the Regulations but there is no benefit in completing paperwork for paperwork's sake.

industry no such species-specific qualification exists making the achievement of an overall higher rating much more difficult to attain for specialist businesses.

Generic Level 3 training does exist but it is not comprehensive and offers little added value to specialist businesses. Encouraging businesses to pursue inadequate training when higher quality, comprehensive, species-specific training exists. This risks diminishing animal welfare standards rather than raising them. For example, OATA offers City & Guilds (an OFQUAL regulated body) accredited aquatic training programmes developed by the

industry which are far more pertinent to aquatics businesses than the generic OFQUAL Level 3 training covering species a shop does not sell.

RECOMMENDATIONS

- Introduce practical tests that competent and well-trained inspectors can do themselves that enable them to examine animal welfare. For aquatics this might be doing sample water testing themselves, for reptiles it might be a visual inspection (rather than spending time with a tape measure measuring animals and enclosure sizes).
- Review and simplify the star rating system focussing on levels of risk and achievement of minimum licensing conditions, providing clearer guidance to local authorities on its implementation.
- Review the appropriateness of the mandatory and optional higher standards, such as the higher standard requiring OFQUAL Level 3 qualification, with a view to removing them where

they are not fit for purpose or whether they do not add any value in delivering higher standards on animal welfare.

RECOMMENDATIONS

Clarifying scope

1. Defra should clarify to local authorities the scope of the regulations and the businesses to which it applies.
2. Local authorities should improve their engagement with business types not traditionally captured by the licensing regime, including wholesalers, breeders, consolidators, online businesses and businesses operating from private dwellings.

Inspector training and qualifications

3. Review the three-year lead-in time for training inspectors. This should be completed as soon as practicable to ensure that inspectors are trained to a sufficient standard before the next licensing round commences.
4. From 1 October 2019, require local authorities to use only officers that have received the required training to inspect businesses. External contractors such as veterinary surgeons should only be used with a clear and publicised justification and should be required to have undergone the same OFQUAL training required of local authority inspectors.
5. Where veterinary surgeons are used a maximum hourly charge should be applied and the costs of using them should be borne by the local authority.
6. Establish a national inspectorate of properly trained inspectors to provide animal activity licensing across England, akin to the Wildlife Inspectorate or the Zoos Inspectorate, enabling local authorities to draw from a pool of competent, specialist inspectors and reducing overall costs.
7. If it is not possible to ensure that only trained inspectors are in place in time for the next licensing round, extend all licences issued under the current round until such a time as they are.

Written records

8. Defra, in association with business representatives and experienced local authority inspectors, should review the requirements for keeping written records of environmental parameters imposed by the statutory guidance with a view to reducing them wherever possible and replacing them with practical measures that reflect businesses practices.
9. The requirement for a sales register should be removed, replacing it with a simpler requirement for businesses to keep records of their suppliers and associated invoices that enable traceability of stock.

Licence fees

10. Defra should publish the Local Authority guide to setting fees on GOV.UK and notify all local authorities of its existence and the need to set their fees according to it, including notifying all local authorities that they should not set different fees for two or three year licences.
11. Defra should require local authorities to publicise how fees are calculated.

12. A single, consistent fee should be applied for all licences issued by each local authority based on the average cost of processing applications, undertaking visits and issuing licences in their area.
13. Fees charged for the use of external consultants such as veterinarians, should not be chargeable to businesses in order to deter local authorities devolving their responsibilities to expensive, external consultants.
14. An upper limit should be applied to the fee which local authorities can charge, noting regional variations in staff costs etc.

Enclosure sizes, stocking densities and water depths

15. With business representatives, review all enclosure size requirements considering their necessity, and amend as appropriate to ensure they are practical, proportionate and reasonable for a transitory selling environment. In doing so consider the commercial availability of any recommended enclosure sizes. Minimum enclosure sizes should be for guidance only, not mandatory given the variety of species covered.
16. Remove any conditions which may require an inspector to handle any animal in order to measure it. While it is reasonable to include an acknowledgement about stocking density, replace stocking densities in Tables K-01 and K-02 with the CIEH's simple stocking density requirements. Competent inspectors who are properly trained should be able to make a visual judgement based on simple guidelines in consultation with the businesses they are inspecting.
17. Remove the water depth requirements in both the minimum and higher standards for reptiles and amphibians (Tables K-01 and K-02).

Recognising different business types

18. Review and amend the guidance to reflect the different business types affected. To avoid creating significant additional guidance this could potentially be achieved by exempting certain business types from irrelevant or inappropriate conditions, as has been done for consolidators of fish.

Reducing local authority burdens

19. Review the benefits of the requirement to keeping written records, including a sales register, and for local authorities to check them with a view to reducing the overall administrative burden on local authorities.

Standardising the application process

20. Defra should review and amend the standard application form to ensure it reflects Defra's published guidance documents, should ensure that all local authorities are aware of the standard application form and require them to use it.

Improving welfare standards

21. Introduce practical tests that competent and well-trained inspectors can do themselves that enable them to examine animal welfare. For aquatics this might be doing sample water testing themselves, for reptiles it might be a visual inspection (rather than spending time with a tape measure measuring animals and enclosure sizes).

22. Review and simplify the star rating system focussing on levels of risk and achievement of minimum licensing conditions, providing clearer guidance to local authorities on its implementation.
23. Review the appropriateness of the mandatory and optional higher standards, such as the higher standard requiring OFQUAL Level 3 qualification, with a view to removing them where they are not fit for purpose or whether they do not add any value in delivering higher standards on animal welfare.

LOCAL AUTHORITIES APPEARING TO CHARGE ADDITIONAL FEES FOR 2 AND 3 YEAR LICENCES

Manchester CC	South Holland DC
Redditch BC	Hambleton DC
Wychavon DC	Broadland DC
Leicester CC	Tameside MBC
Newham	Mendip District Council
Luton Council	South Somerset DC
Wyre Forest DC	Kirklees Council
Worcester CC	Hart DC
Birmingham CC	North Somerset Council
East Cambridgeshire DC	South Ribble BC
Herefordshire Council	City of Wolverhampton Council
Southwark Council	Redcar and Cleveland Council
Cambridge CC	Stevenage BC
Hertsmere Borough Council	Sunderland CC
Swale BC	Salford CC
Peterborough CC	Southend BC
Three Rivers DC	Stockport MBC
Wiltshire Council	Burnley Council
Bassetlaw DC	West Lancashire BC
Bury	Kingston upon Hull CC
Trafford Council	North West Leicestershire DC
Central Bedfordshire Council	Hartlepool BC
Cornwall Council	Oadsby and Wigston BC
BC of King's Lynn and West Norfolk	Carlisle CC
Welwyn Hatfield Council	