

<b>TITLE</b>	<b>HOME BOARDING OF DOGS – ADDITIONAL CONSIDERATIONS</b>
<b>FOR CONSIDERATION BY</b>	Licensing and Appeals Committee on 5 November 2012
<b>WARD</b>	None Specific
<b>STRATEGIC DIRECTOR</b>	Paul Anstey, Joint Service Delivery Manager for Environmental Health & Licensing

**OUTCOME / BENEFITS TO THE COMMUNITY**

Members of the Licensing and Appeals Committee are asked to consider and review the representations made in the report to the Licensing and Appeals Committee on 3 September in the light of the legal advice asked for.

**RECOMMENDATION**

Members are asked to agree

1. Fee structure as previously agreed in July 2011 to remain, however with addition of 1 and 2 dog fee added to the 3-6 capacity if point 2 below agreed.
2. All home boarders should be licensed regardless of numbers of dogs.
3. Implementation date 1<sup>st</sup> April 2013 (fee to be pro-rata).

**SUMMARY OF REPORT**

This report is to introduce the legal service advice on matters that the Licensing and Appeals Committee members wished clarification on before further considering the report in front of them at that time (Appendix One).

The purpose of the original report was to ask the Licensing and Appeals Committee to review its resolution regarding the Home Boarding of dogs made in July 2011 to include situations where any dogs are boarded and agree to keep the fee structure as agreed at that meeting with the addition as detailed in recommendation 1 above.

**Background**

**Minutes of the Licensing and Appeals Committee 3 September 2012 reflected the following::**

**'HOME BOARDING OF DOGS – ADDITIONAL CONSIDERATIONS**

At the Licensing and Appeals Committee meeting held on 4 July 2011, Members considered a report regarding adopting a set of Licensing Conditions for the Home Boarding of Dogs, together with an operative date for these to be applied and a fee schedule for the activities. Members made the following resolution:

- 1) agree the various recommendations as set out in Appendix 1 to the report subject to the amendments agreed by members;
- 2) agree to apply the licence conditions with effect from 1 April 2012;
- 3) adopt the fee schedule as set out in Appendix 2 to the report; and
- 4) agree that licensing only be required when more than two dogs are boarded at the same time.

Application forms were sent out to known Home Boarders at the beginning of 2012 and officers then received representations on two points regarding the original Members' resolution:

1. the proposed fee structure; and
2. the non requirement of boarders having less than 2 dogs to be licensed.

The Committee received a new report, which asked them to consider and review the representations made in light of its original resolution regarding home boarding licensing.

Some members were concerned that the recommendation to add 1 and 2 dog fees to the 3-6 capacity was too bureaucratic. The Chairman pointed out that the fees would only be applicable to people running a business. If people looked after a friend's dog, then they would not incur the fee.

Councillor Miall reminded Members that at the original meeting to consider this matter, the Committee was advised that the Council was required by law to implement the policy, however, how it chose to do that was the Council's own choice.

Members were concerned about the legality of charging for 1 or 2 dogs. Members were also unsure about what they were being asked to implement. The Chairman therefore suggested that in order that the issue could be clarified, the report be deferred until the next meeting of the Committee and that legal advice be sought.

**RESOLVED:** That:-

- 1) the report be deferred until the next meeting of the Committee on 5 November 2012; and
- 2) legal advice be sought to clarify what the Council's responsibilities are in respect of this matter.'

Legal clarification was sought on item 2) above and an email was received from the Legal Service (Attached as Appendix 2a) to confirm that :

'I can confirm that a home does come within the definition of an Animal Boarding Establishment

s5(1) of the Animal Boarding Establishments Act 1963 reads:

*"References in this Act to the keeping by any person of a boarding establishment for animals shall, subject to the following provisions of this section, be construed as references to the carrying on by him at premises of any nature **(including a private dwelling)** of a business of providing accommodation for other people's animals:"*

The phrase 'private dwelling' means home, so therefore a home does come within the definition of an Animal Boarding Establishment.

To confirm also - there can be no exemption for 2 dogs'

The Chairman of the Committee also asked for clarification on whether it was mandatory to implement the legislation – the legal service response confirms as follows (Appendix 2b):

'The answer to Barrie's question is that it is mandatory for the Council to implement this legislation.

s1(8) of the 1963 Act which reads

*"Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence; and if any condition subject to which a licence is granted in accordance with the provisions of this Act is contravened or not complied with, the person to whom the licence was granted shall be guilty of an offence"*

As we have a Licensing System, we must comply with the requirements of the 1963 Act'

### Analysis of Issues

Review of Home Boarding conditions following representations and legal clarification.

### FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	There would be an increase in income received-quantity unknown as number of home boarders unknown	Yes	Revenue
Next Financial Year (Year 2)	There would be an increase in income received-quantity unknown as number of home boarders unknown	Yes	Revenue
Following Financial Year (Year 3)	There would be an increase in income received-quantity unknown as number of home boarders unknown	Yes	Revenue

#### Other financial information relevant to the Recommendation/Decision

There would be an increase in revenue by including all boarders as in the recommendation in this report.

#### Cross-Council Implications (how does this decision impact on other Council services and priorities?)

There are no implications arising from the recommendation in this report.

#### Reasons for considering the report in Part 2

None

#### List of Background Papers

Animal Boarding Establishments Act 1963  
Licensing and Appeals Committee Report 4 July 2011  
Emails raising representations to Members Resolution of July 2011  
Report and minutes of Licensing and Appeals Committee 3 September 2012

<b>Contact</b>	Julia O'Brien	<b>Service</b>	Licensing Service
<b>Telephone No</b>	0118 974 6358	<b>Email</b>	Julia.o'brien@wokingham.gov.uk
<b>Date</b>	22 October 2012	<b>Version No.</b>	1

<b>TITLE</b>	<b>HOME BOARDING OF DOGS – ADDITIONAL CONSIDERATIONS</b>
<b>FOR CONSIDERATION BY</b>	Licensing and Appeals Committee on 3 September 2012
<b>WARD</b>	None Specific
<b>STRATEGIC DIRECTOR</b>	Mark Moon – Neighbourhood Services
<b>LEAD MEMBER</b>	Pauline Jorgenson – Executive Member for Internal Services

#### **OUTCOME / BENEFITS TO THE COMMUNITY**

Members of the Licensing and Appeals Committee are asked to consider and review the representations made in the light of their original resolution regarding home boarding licensing.

#### **RECOMMENDATION**

Members are asked to agree

1. Fee structure as previously agreed in July 2011 to remain, however with addition of 1 and 2 dog fee added to the 3-6 capacity if point 2 below agreed.
2. All home boarders should be licensed regardless of numbers of dogs.
3. Implementation date 1<sup>st</sup> April 2013 (fee to be pro-rata).

#### **SUMMARY OF REPORT**

The purpose of the report is to ask the Licensing and Appeals Committee to review its resolution regarding the Home Boarding of dogs made in July 2011 to include situations where any dogs are boarded and agree to keep the fee structure as agreed at that meeting with the addition as detailed in recommendation 1 above.

### **Background**

At the Licensing and Appeals Committee meeting of 4 July 2011 members considered a report regarding adopting a set of Licensing Conditions for the Home Boarding of Dogs, together with an operative date for these to be applied and a fee schedule for the activities. Members made the following resolution:

- ‘1) agree the various recommendations as set out in Appendix 1 to the report subject to the amendments agreed by members; (**attached to this report as Appendix One**)
- 2) agree to apply the licence conditions with effect from 1 April 2012;
- 3) adopt the fee schedule as set out in Appendix 2 to the report (**attached to this report as Appendix Two**); and
- 4) agree that licensing only be required when more than two dogs are boarded at the

same time.'

Application forms were sent out to known Home Boarders at the beginning of 2012 and we then received representations on two points regarding the original Members resolution:

1. The proposed fee structure
2. The non requirement of boarders having less than 2 dogs to be licensed

Representations:

1. Representation was made that fees for Home Boarders were disproportionate in relation to the existing fees for Animal Boarding establishments – due to the lower capacity groupings for home boarders – in some instances equating roughly in 'worst case scenarios' to £5 per animal for Animal Boarding as against £50 per dog home boarding. At the original Committee meeting it was agreed that the fee structure proposed would be used after discussion that we had no experience of licensing home boarders at present and that this was a first attempt at producing a fee schedule. The Committee further agreed that the fee schedule should be reviewed at a later date after some experience of undertaking the inspections therefore this review will be started after the implementation date of this scheme.
2. With regard to the non requirement to licence boarders only having 2 dogs – it was brought to our attention that there are a lot of Franchise Businesses who act as a point of contact who effectively take a booking for the dogs and then match them up to boarders who they have on their list as sub contract boarders but who do not take more than 2 dogs – this effectively means that there is potentially a huge unregulated boarding service with no checks carried out of animal welfare. Consequently it is felt that all boarders of dogs should be licensed. All establishments under the Franchisee would require a licence in their own right.

### Analysis of Issues

Review of Home Boarding conditions following representations.

### FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	There would be an increase in income received-quantity unknown as number of home boarders unknown	Yes	Revenue
Next Financial Year (Year 2)	There would be an increase in income received-quantity unknown as number of home boarders unknown	Yes	Revenue
Following Financial Year (Year 3)	There would be an increase in income received-quantity unknown as number of home boarders unknown	Yes	Revenue

<b>Other financial information relevant to the Recommendation/Decision</b>
--

There would be an increase in revenue by including all boarders as in the recommendation in this report.
--

<b>Cross-Council Implications</b> (how does this decision impact on other Council services and priorities?)
---

There are no implications arising from the recommendation in this report.
---

<b>Reasons for considering the report in Part 2</b>
---

Not Applicable
----------------

<b>List of Background Papers</b>
----------------------------------

Animal Boarding Establishments Act 1963
---

Licensing and Appeals Committee Report 4 July 2011
--

Emails raising representations to Members Resolution of July 2011
---

<b>Contact</b> Julia O'Brien
------------------------------

<b>Service</b> West Berkshire & Wokingham Environmental Health and Licensing Service
--

<b>Telephone No</b> 0118 9746359
----------------------------------

<b>Email</b> julia'o'brien@wokingham.gov.uk
---

<b>Date</b> 20 August 2012
----------------------------

<b>Version No.</b> 1
----------------------

<b>Animal Boarding</b>	<b>Capacity</b>	<b>2011/2012</b>
Grant	3-6	124.00
Renewal		104.00
Grant	7-10	200.00
Renewal		150.00
Grant	11-50	320.00
Renewal		185.00



**From:** Aman Guru  
**Sent:** 15 October 2012 09:51  
**To:** Julia O'Brien  
**Subject:** Animal Boarding Establishments Act 1963  
Hi Julia,

Further to our meeting earlier on Thursday afternoon, I can confirm that a home does come within the definition of an Animal Boarding Establishment

s5(1) of the Animal Boarding Establishments Act 1963 reads:

*"References in this Act to the keeping by any person of a boarding establishment for animals shall, subject to the following provisions of this section, be construed as references to the carrying on by him at premises of any nature **(including a private dwelling)** of a business of providing accommodation for other people's animals:"*

The phrase 'private dwelling' means home, so therefore a home does come within the definition of an Animal Boarding Establishment.

To confirm, as advised at Thursday's meeting - there can be no exemption for 2 dogs.

If you have any questions on the above, please do not hesitate to contact me

Kind regards

Aman Guru  
**Trainee Solicitor**  
Shared Legal Solutions  
Civic Offices  
Shute End  
Wokingham  
Berkshire  
RG40 1BN

Telephone: 07827 309412  
Fax:  
DX: 33506 Wokingham

Document: NEA-004073/340665

**From:** Aman Guru  
**Sent:** 23 October 2012 14:28  
**To:** Julia O'Brien  
**Subject:** RE: Animal Boarding Establishments Act 1963 - Home Boarding

Hi Julia

The answer to Barries question is that it is mandatory for the Council to implement this legislation.

s1(8) of the 1963 Act which reads

*"Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence; and if any condition subject to which a licence is granted in accordance with the provisions of this Act is contravened or not complied with, the person to whom the licence was granted shall be guilty of an offence"*

As we have a Licensing System, we must comply with the requirements of the 1963 Act

Apologies for the delay in reverting to you in full. I wanted a second opinion on this before reverting to you as the legislation is somewhat misleading.

If you have any questions on the above, please do not hesitate to contact me.

Kind regards

Aman Guru (Mr)  
**Trainee Solicitor**  
Shared Legal Solutions  
Wokingham Borough Council  
Shute End  
Wokingham RG40 1BN

Mobile: 07827309412  
DDI: 0118 908 8199  
Office: 0118 908 8177  
Fax: 01189 746542  
DX: Wokingham 33506

**A Shared Legal Service between Wokingham Borough Council and The Royal Borough of Windsor & Maidenhead**