



26. 6. 2003

**SUPPLEMENTARY REPORT NO 2 BY THE
CHAIR OF THE REGULATORY AND CONSENTS COMMITTEE**

PART A - MATTERS REQUIRING A COUNCIL DECISION

2. CHARGES FOR APPLICANTS ON APPEALS TO DANGEROUS DOG CLASSIFICATIONS

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The purpose of this report is to recommend that the views of the Strategy and Finance Committee be sought in regard to making a Parliamentary submission about the charging for appeals to the Council against dangerous dog classifications.

BACKGROUND

The Government has recently released a Supplementary Order Paper (released this year) to the Local Government Law Reform Bill (No. 2) containing proposed amendments to the Dog Control Act. The Bill had originally been introduced in 1999 and has been in Parliament since then. The Regulatory and Consents Committee has approved submissions to be made to the Select Committee on those proposed amendments.

Section 31 of the Dog Control Act 1996 requires the Council to classify a dog as dangerous in certain circumstances. The section also gives the owner of the dog the right to appeal to the Council against that classification.

When considering the submissions it was recalled that in 1999 the Council, in its submissions on the Bill, had made a submission that the Dog Control Act be amended so as to authorise local authorities to impose a fee of \$200 for any appeal against a classification of a dog as a dangerous dog. It was suggested that it be provided that the sum to be refunded if the appeal was successful.

Although such a fee is not addressed in the proposed amendments contained in the Supplementary Order Paper, the Regulatory and Consents Committee considered that this is an opportune time to raise the issue with the Select Committee. However the Regulatory and Consents Committee considered that because of the wider ramifications of introducing a new fee for the lodging of appeals to Councillors against an officer decision that the issue should be canvassed before a wider group of Councillors than the Committee itself.

The reason for this was because of the importance of several underlying issues as follows:

1. The ability of a person to pay such a sum may preclude some applicants from obtaining a hearing.
2. Whether or not in the interests of natural justice a charge should not be made for what could be considered a judicial function by the territorial authority.
3. Whether or not a charge could be made, at a lower level than the suggested \$200, in line with other charges made in the judicial system.
4. Whether or not any such charge should be made on an actual and reasonable basis to ensure the process was the most efficient possible.

It is considered that if a fee be payable then a similar fee be payable in respect of applications under Section 26 (appealing a notice of disqualification from being the owner of a dog) and applications under section 56 (notices issued by the Council in relation to barking dogs).

It is considered appropriate that the Strategy and Finance Committee be asked to give consideration to this matter and to advise the Regulatory and Consents Committee.

DISCUSSION

The Council does not currently charge for appeals against officer decisions to issue statutory notices.

It is noted that in all cases of appeals going to the Courts against Council decisions there are filing fees required and members of the public generally accept these. For example there is a fee of \$120 for appeals to the District Court on matters under the Local Government Act.

The submissions going to the Select Committee will be suggesting that the Government, through the Act, make provision for a fee to be charged for such appeals against classification of dangerous dogs. The level of such a fee has not been decided and the Committee considered a wider group of Councillors should consider this matter. An indication of the possible level of fee that may be set could then be indicated, if necessary, in the presentation of the submissions to the Select Committee.

Staff

Recommendation: That officers report to the July 2003 Strategy and Finance Committee regarding the issue of the Council instituting fees for the lodging of appeals against officers' statutory decisions.

Chair's

Recommendation: That the above recommendation be adopted.

CONSIDERED THIS 26TH DAY OF JUNE 2003

MAYOR