



REPORT TO: COMMUNITY SERVICES COMMITTEE

DATE: 24 SEPTEMBER 2009

HEAD OF SERVICE: HEAD OF ENVIRONMENT
PHIL LONG

REPORTING OFFICER: HEALTH AND ENVIRONMENT MANAGER
STEVEN RICHMOND

SUBJECT: POLICY IN RELATION TO WILD ANIMALS ON COUNCIL
OWNED LAND

WARDS AFFECTED: ALL

1.0 PURPOSE OF REPORT

- 1.1 For Members to determine a position in relation to the exhibiting/performance of wild animals through circuses etc on council owned land.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Members continue to consider each application to stage a circus with non-domesticated animals on Council land on its own merits and refer any such application to the Community Services Committee for decision.

3.0 REASONS SUPPORTING DECISION

- 3.1 To ensure an up-to-date legal opinion can be sought and ensure Members have the opportunity to debate such a decision.

4.0 BACKGROUND

- 4.1 At a meeting of Community Services Committee on 26 March 2009 during a discussion on the proposed policy on the use of car parks, Members expressed support for the proposal but were of the opinion that it should include reference to any proposed introduction of wild animals through circuses, etc.
- 4.2 It was resolved in Minute 433 "that a report be submitted to a future meeting of the Committee in connection with a policy relating to wild animals on Council owned land".

5.0 INTRODUCTION

- 5.1 During Parliamentary debates on the Animal Welfare Bill, concerns were expressed

about the use of non-domesticated animals in circuses. Ben Bradshaw, the Minister for Animal Welfare, announced in March 2006 that he was minded to introduce Regulations under the Animal Welfare Act 2006 to ban the use, in travelling circuses, of certain non-domesticated species if their welfare needs could not be met in that environment. To assist the Minister in forming a decision a Circus Working Group was formed of representatives of the circus industry, animal welfare organisations, academics and veterinarians. The groups' remit was to look at wild animals (i.e. animals not normally domesticated in the British Isles) used for performance in travelling circuses. The conclusions were that there was not enough evidence to show that the welfare of wild animals in circuses is any better or worse than those other captive environments and that available scientific evidence was insufficient to justify regulations being introduced to ban wild animals being used in circus performances. If the use of any non-domesticated animals is to remain lawful, the issue of blanket bans by local authorities on the use of their land requires further consideration.

- 5.2 Since the publication of the report the Government is considering its position as to the issue of primary legislation relating to the banning or further regulation of non-domesticated animals in circuses.
- 5.3 There are at present four circuses that use non-domesticated animals which approximates to approximately 38 non-domesticated animals.

6.0 REPORT

- 6.1 The Council has an Animal Welfare Charter that was adopted in March 2002. No mention is made in the Charter of a policy in relation to circuses. The Council has very few areas of land suitable for the holding of a circus and has never been approached to host a circus.
- 6.2 The enforcing authority with regard to performing animals is North Yorkshire County Council Trading Standards. Ryedale District Council has no enforcement responsibility in relation to performing animals other than normal health and safety enforcement and public safety issues.
- 6.3 In considering any such ban the relevant legislation is S120 (1) (b) of the Local Government Act 1972 and Section 2 of the Local Government Act 2000. This enables Councils to do anything "which they consider likely to achieve, promote or improve the social/environmental well being of the area". In addressing the issue Members would have to ensure that the prohibition of circuses with wild animals is necessary on objective grounds for the "benefit, improvement or development of their area" under section 120, or is it likely to "achieve, promote or improve the social /environmental well being of the area", under Section 2 of the Local Government Act 2000.
- 6.4 The decision may not be based purely on moral grounds although it is correct that there should be regard for ethical arguments. The argument must be made that it is for the benefit of the area that circuses with wild animals should be banned. It should be clear that any ban is in the public interest. Members should be clear that their position is not the same as private landowners and that they must have regard to the statutory tests contained within section 120 (1)(b). With regard to the well being clause of section 2 of the Local Government Act, it could be argued that the well being for some will depend on their satisfaction as to animal welfare. Any decision to ban would be open to legal challenge by way of Judicial Review

7.0 OPTIONS

- 7.1 There are a number of options available to the Council:
- a) to ban all circuses with performing animals from its land;
 - b) to limit circuses on their land to ones that have no *wild* animals e.g. limited to horses, dogs, birds etc; or
 - c) to decide each case on its merits.

8.0 OPTIONS APPRAISAL

- 8.1 The option to ban all circuses with performing animals when controls already exist for performing animals by North Yorkshire County Council is liable to legal challenge. The ban could be reasonable if Council had evidence of mistreatment of animals.
- 8.2 If the Council wished to widen out the debate to include that there should be no animals in circuses at all, any such decision could also lead to legal challenges on a much wider front e.g. comparison with other animal users such as horse racing, sheepdog trials, police dog displays etc. In addition it is quite possible there may be fewer if any objections to performances with just domesticated animals.
- 8.3 If the Council dealt with any such application for such a circus on its land on an individual basis, it could refuse permission on its own land where there is evidence of mistreatment, which could be historically based on information provided from other sources such as other local authorities.

9.0 LEGAL IMPLICATIONS

- 9.1 There is no law restricting the use of domesticated or non-domesticated performing animals in circuses therefore the Council would have to consider what grounds it had to impose a total ban.

10.0 CONCLUSION

- 10.1 The Council has very little appropriate land in which to hold a circus and has never had an approach made to it. The legal position of issuing a blanket ban is not as simple as first appears but is open to legal challenge. Given the hypothetical question of a request for the staging of a circus with wild (non-domesticated) animals on its land it is recommended that the Council should not adopt a blanket ban on circuses with wild (non-domesticated) or performing animals but should consider each application on its own merits and refer any such application to the Community Services Committee for decision.

Background Papers:

Wild animals in traveling circuses – The report of the Chairman of the circus working group
October 2007

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