

Subject:	Review of the Animal Welfare Charter		
Date of Meeting:	1st July 2014		
Report of:	Director of Public Health		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The council's Animal Welfare Charter includes a policy relating to performing animals and circuses. The policy is that where it is lawful to do so, the council will not allow land it owns to be used by circuses and other like enterprises of entertainment where caged and/or performing animals are used.
- 1.2 However, the Charter exempts certain activities from the policy stated in 1.1. One such exemption allows performances of equestrian acts using only horses and ponies.
- 1.3 A request came from the Culture and Economic Development Committee to review this exemption.
- 1.4 This report asks the Committee to begin consultation on whether this exemption should be retained or removed.

2. RECOMMENDATIONS:

That the Committee—

Authorises the Director of Public Health to begin a consultation process in order to gauge support for removing or retaining the exemption set out in the Council's Animal Welfare Charter (Appendix 1) relating to performances involving equestrian acts using only horses and ponies on council owned land.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Council's Animal Welfare Charter was adopted to reflect the concerns of local people in respect of animal welfare and any cruel treatment, abuse or neglect of animals. (See Appendix 1).
- 3.2 Attitudes to animal welfare and the ethics of using animals for performances have also evolved and this report considers the exemption that allows performances involving equestrian acts, using only horses and ponies in circuses.

- 3.3 The Charter sets out the Council's principles, values and policy on animal welfare standards.
- 3.4 It recognises that animals are capable of feeling, capable of enjoying a state of well being and equally capable of suffering and therefore considers animals have the right to enjoy five basic freedoms.
- 3.5 The five freedoms are:
- freedom from fear and distress
 - freedom from hunger and thirst
 - freedom from pain, disease and injury
 - freedom from unnecessary constraint
 - freedom from physical discomfort
- 3.6 The Council looks to these five freedoms for guidance when exercising its statutory powers in relation to animal health and welfare matters.
- 3.7 Animal welfare legislation has changed since the introduction of the Charter. New legislation has included The Animal Welfare Act 2006, the Hunting Act 2004 and The Welfare of Farmed Animals (England) Regulations 2007.
- 3.8 In view of these changes, it is proposed to update the Animal Welfare Charter to take into account of the legislation.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Removal of the exemption that allows performances involving equestrian acts using only horses and ponies in circuses would affect one regular travelling circus. This is Zippos circus.
- 4.2 Zippos Circus visits Brighton & Hove once a year utilising Hove lawns. The circus is planned to revisit Brighton & Hove on 14th August – 25th September 2014.
- 4.3 Every year that Zippos performs in Brighton & Hove, the council's Animal Welfare team visits the circus to check on the conditions in which their animals are kept, trained and performed. To date, every inspection has found high standards of animal welfare.
- 4.4 Performing Animal Licences for Zippos Circus have been issued by Lancashire County Council and Northamptonshire County Council. Performing Animals licences are one off registrations usually issued by the Local Authority where the animals are kept. In this case the animals used in the performance are kept in these local authorities during the winter months when the circus is not touring.
- 4.6 Removal of the exemption would mean that circuses and similar entertainments taking place on council owned land would be prohibited from using horses and ponies in public performances.
- 4.7 Any decision on whether to maintain or remove the exemption relating to the use of horses and ponies must conform with the duty imposed on the council by section 120(b)(1) of the Local Government Act 1972. This requires that land

owned by a local authority be **used for the benefit, improvement or development of that authority's area.**

- 4.8 In order to ascertain public opinion and, in particular assist the Committee in coming to a view as to whether maintaining or removing the exemption would be for the benefit, improvement or development of the area, it is proposed to carry out a consultation exercise.
- 4.9 The consultation will utilise the Councils consultation portal and be publicised via the communication team using local media and the councils website. The consultative process will take 3 months. There are no costs associated this approach.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Zippos Circus has been consulted. (See Appendix 2 for Zippos Q & A sheet and Zippos vet report dated 22nd March 2013) Their response is summarised below.

Summary of comments from Martin Burton, Founder and Director, Zippos Circus

Zippos Circus like live theatrical performance is extensively produced and rehearsed. You would not expect a theatre company to miss chunks of a play, and just like any theatrical production, it is simply not possible to remove the horses without destroying the whole. Zippos are very proud of the quality of our productions and our audience would not accept a substandard circus show with "bits missing".

The 2014 edition of Zippos Circus is set and we would not visit Brighton without them.

Zippos has been visiting Brighton annually for 15 years, a quarter of a million people have visited our family circus – an audience principally drawn from the local Hove and Brighton community.

Horse welfare is paramount to us and has been quoted as setting the standard which other circuses should follow. Zippos Circus employs the highest standard of animal welfare management systems covering all aspects of transport, stabling, exercise and performance.

We are subject to a wealth of animal welfare legislation which we are at pains to comply with. We have never failed an animal inspection in the past 20 years.

We value our longstanding relationship with the people and Local Authority of Brighton and Hove and hope it will continue for many years to come.

6. CONCLUSION

- 6.1 It is proposed to seek public views on the current exemption to the Animal Welfare Charter regarding performances involving equestrian acts using only

horses and ponies. This consultation will be used to inform a review of the Animal Welfare Charter.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs associated to the recommendations in this report will be funded from the Animal Welfare revenue budget within the Environmental Health and Licensing service. The 2014/15 net budget for the Animal Welfare service is approximately £279,000, which includes the costs of support services and management and administration support.

The potential loss of revenue from Zippos Circus will be approximately £6,000 per annum, which will impact on the level of income receivable within the Sport and Leisure service.

Finance Officer Consulted: Steven Bedford Date: 15/04/14

Legal Implications:

- 7.2 The committee must ensure that the placing of restrictions on the use of council land adheres to the legal principles established in *R v Somerset County Council [1995]*, namely that:

- (i) land acquired by a local authority under powers given by section 120(1)(b) Local Government Act 1972 must continue to be managed “**for the benefit, improvement or development of their area**”; this is an overriding statutory constraint on the use that local authorities can make of land it owns; and
- (ii) when considering proposals for use of local authority land, councillors “must understand that, however strongly held their personal views, they must consider the proposals in terms of benefit and detriment of the area.”

Somerset County Council had imposed a ban on deer hunting by hounds on land it owned, on the basis that the majority of councillors involved in the decision believed that such hunting involved unacceptable and unnecessary cruelty to the deer. According to the court, this was not the proper basis for the decision; the correct approach was to decide the matter based on whether or not deer hunting promoted the benefit of their area.

The *Somerset* case emphasises the need for local authorities to base their decisions regarding land use on an objective judgement. The consultation proposed in this report will be directed at ascertaining views regarding the potential benefits/disbenefits for the use of Council land in relation to the exemption. This will then be used to ensure that any Committee decision on whether to maintain or remove the exemption is based on an appropriate objective assessment.

Lawyer Consulted: Oliver Dixon/Elizabeth Culbert

Date: 28/05/14

Equalities Implications:

7.3 *None*

Sustainability Implications:

7.4 *None*

Any Other Significant Implications:

7.5 *None.*

Crime & Disorder Implications:

7.6 *None*

Risk and Opportunity Management Implications:

7.7 The Council's interest in issues of social concern must be balanced against the purpose it manages land for the benefit of residents.

Public Health Implications:

7.8 *None*

Corporate / Citywide Implications:

7.9 The main impact of amending the Charter would be on the Council's Outdoor Events Policy.

SUPPORTING DOCUMENTATION

Appendices:

1. The extant Animal Welfare Charter.
2. Zippos Q & A Sheet and the vet report dated 22nd March 2013

Appendix 1

Animal Welfare Charter

This charter has been adopted by Brighton & Hove Council to reflect the concerns of local people who care about animal welfare and any cruel treatment, abuse or neglect of animals.

In adopting the charter the Council hopes that it will provide an example to other agencies and individuals to prevent the unnecessary suffering of animals.

The Council supports the view that all animals have a right to life free from cruel treatment and unnecessary suffering.

It recognises that animals are capable of feeling, capable of enjoying a state of well being and equally capable of suffering and therefore considers animals have the right to enjoy five basic freedoms:

- freedom from fear and distress
- freedom from hunger and thirst
- freedom from pain, disease and injury
- freedom from unnecessary constraint
- freedom from physical discomfort

The Council will look to these five freedoms for guidance when exercising its statutory powers in relation to animal health and welfare matters. Although the charter is not intended to cover every aspect of animal welfare, it does detail those areas that the Council considers most important and where it hopes it can have some influence as a public body.

The Council will endeavour to display and disseminate this charter widely and welcomes comments to enable a review at a later date to ensure that it is in line with changes in national and European legislation, local circumstances and the growing public concern about animal welfare.

The Council calls upon all members of the public to support this charter and to draw to the attention of the Council any contraventions of the provisions contained within it.

Through lawful means the Council will also use its best endeavours to promote improvements in animal welfare by taking account of animal welfare issues in the Council's 'day to day' operations, in its 'decision making' processes and through influence in association with other authorities, voluntary welfare groups and government agencies.

In particular:

The Council will enforce the statutory powers it has in respect of animal health and welfare.

- will continue to fund and operate a dog control scheme incorporating an animal welfare service and believes that the animal welfare staff have an important role in advising and educating the public.
- will promote responsible dog ownership both by enforcement and education by:
 - § taking action against infringements of the local bylaws and relevant legislation
 - § the production of advisory leaflets on responsible dog ownership
 - § educational campaigns to promote responsible dog ownership and knowledge of all relevant bylaws and legislation and ensure that owners are aware of their responsibilities regarding clearing up after their dogs
- will continue to provide dog faeces bins throughout the city and to publicise their use
- will continue to give a high priority to preventing and clearing up dog faeces through education and cleansing campaigns
- will continue to provide a micro chipping service for animals
- will undertake animal welfare licensing to secure the health and welfare of animals in reasonable standards of hygienic accommodation with proper control against infectious disease spread
- will take enforcement action to counter unlicensed premises and contravention of licence conditions
- will fulfil its statutory responsibilities under the Animal Health Act if appropriate by
 - § seeking to encourage good practice by maximising publicity where prosecutions are brought
 - § prepare and distribute to all involved material explaining the regulations so as to promote a better understanding of the law and greater compliance with the various welfare codes
 - § liaise closely with other enforcing agencies to ensure a co-ordinated approach

The Council will take full account, where appropriate, of animal welfare issues in its day-to-day operations and in its decision making process.

- will consider its procurement policy in relation to its role as a purchaser of food taking into account the guiding principles when determining the suitability of food sources

- will respect the concerns of those who have adopted a lifestyle that questions the morality of killing animals for food and actively promote vegetarian and vegan alternatives at council establishments
- will encourage education establishments to adopt a policy of animal welfare in all schools with awareness and promotion to pupils of the issues
- will ensure that all pest control treatments are carried out humanely and by trained and experienced personnel
- will ensure the previous policies opposing blood sports and circuses where performing animals or caged animals are used are sustained ensuring that all legal processes are followed
- will support the principles in respect of wildlife by:
 - § opposing all forms of farming which cause distress or unnecessary suffering
 - § use its best endeavours to encourage farming practices that have the minimum impact on animal welfare
- will support the use of the fire brigade resources for animal rescue in accordance with welfare codes.

The Council will use its best endeavours to promote improvements in animal welfare through its influencing role and in association with other organisations.

- will publicise this charter throughout the city in libraries and other service outlets
- will liaise with voluntary welfare groups which operate peacefully within the law, whilst deploring the activities of those who operate outside the law
- will lobby government departments, professional organisations, local authority associations etc. to bring the views of the local community to their attention
- will oppose the shipment of live animals for slaughter and lobby the national government and the European Union to ban the export and import of live animals for this trade
- will support schemes for teaching pet care and ownership with others
- will seek the support of businesses for this charter

Specific Policies:

Blood Sports: The Council, where it is lawful to do so, will prevent any blood sports being carried out on its own land and will encourage its tenants not to allow blood sports.

Performing animals and circuses: Where it is lawful to do so, the Council will not allow land it owns to be used by circuses and other like enterprises of entertainment where caged and or performing animals are used. Save as exemptions as follows:

- of performances involving equestrian acts using only horses and ponies
- or greyhound racing behind an artificial lure
- or horse racing
- or cat or dog breed shows
- or dog agility events
- or the showing of birds, rabbits or other domestic animals

All performances covered by the exemption will be subject to both the Strategic Director of Environment & Housing and Culture & Regeneration being satisfied that in each case that there is no form of cruelty and that all animals are well treated both during performances and whilst being trained.

Note: Where an animal is used, the following is considered: companion animals, farm animals, animals used for experimentation and wild animals.