



Report of the Report of Director of Environment and Neighbourhoods

Executive Board 11th June 2008

Subject: The Giving of Goldfish on land and premises owned by Leeds City Council

Electoral Wards Affected:

ALL

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

The meeting of The Council on 9th April 2008 received a deputation from West Yorkshire Animals in Need, a local registered animal welfare charity. A representative of the charity addressed the Council and requested that members ban the giving of goldfish as prizes on Council owned land and premises. This report details the Council's current position with regard to this issue and makes recommendations regarding actions which can be taken to strengthen that position.

1.0 Purpose of this Report

1.1 The purpose of the report is to respond to some of the issues in the deputation, to set out the current legislation framework around the giving of gold fish as prizes and the Council's current position. Also, to provide details of actions taken by some other local authorities and make recommendations regarding the implementation of a ban on the giving of goldfish as prizes.

2.0 Background Information

2.1 Advice has been received that a number of years ago, a paper was received by a council committee for the prohibiting of animal circuses' and the giving of animals as prizes on council land. Although this paper is known to have existed, it has not been able to source either it or the exact terms or wording. The control of matters on council land is enforced by license, normally given to the operator of an event, formally through the Learning and Leisure Department, currently Parks and Countryside part of City Development.

2.2 It is known that there have been several occasions in the past when goldfish have been given as prizes on council land.

3.0 Legislation

3.1 The Animal Welfare Act 2006 (AWA) replaced, or enabled the replacement of a range of animal welfare legislation dating back to 1911. It conferred a number of powers on local authorities and enabled the creation of subordinate legislation. Early drafts of the Animal Welfare Bill included proposals to prohibit the giving of goldfish as prizes at fairs but this was dropped and not included in AWA as enacted. However, there are provisions in the AWA relating to the welfare of all vertebrates, inc fish, and the prohibition of the sale (or giving as prizes) of animals to a person under the age of 16 years.

4.0 Legal implications

4.1 Numerous local authorities prohibit the giving of goldfish as prizes at fairs held on land owned or controlled by them through contractual means. Land owned by Leeds City Council and suitable for the holding of fairs, is leased out to independent operators by means of a land license. A standard clause is put in each license given to a fair operator requiring them to obey site rules (quoted below).

“To observe such reasonable rules and regulations governing the use of the site and the provision of facilities thereon (such to be at the cost of the Licensee if reasonably required by the Council) as may be made by the Council from time to time”

4.2 The operators are informed verbally that there is a prohibition on the giving of live animals (including goldfish) as prizes on the land under the provisions of this standard clause.

4.3 Advice has been taken from Legal services regarding whether the prohibition of the giving of goldfish as prizes would be a reasonable rule or regulation. The following matters having been taken into consideration.

- The deputation to the council gives the view that the giving of goldfish as prizes is considered cruel to the goldfish.
- The Royal Society for the Prevention of Cruelty to Animals is opposed to goldfish being offered as prizes.
- There are commonly accepted standards of good practice for the keeping of goldfish at such places as pet shops; they are widely used by local authorities in setting the standards that are attached to licenses issued to pet shops.
- The Ornamental Aquatic Trade Association (OATA) is a prominent trade organization, and have a position that they neither oppose nor support fairs but believe that all the standards that are applied to local pet shops should apply equally to those offering fish as prizes at fairs.

4.4 It is the opinion of experienced animal welfare officers in situations where goldfish are given as prizes, such as fairs, that the model pet shop conditions cannot be met and that prohibition therefore would be reasonable, although this position has not been tested by law.

4.5 Licensing Section have confirmed there are no direct licensing issues of which they need to take account.

5.0 Other Local Authorities

- 5.1 Wakefield City Council uses a specific statement in their terms and conditions of letting their own land which reads as follows “To ensure that no stall offering prizes shall offer live animals (e.g. goldfish as prizes)”. Bradford City Council has a similar statement in their terms and conditions of letting which states “The sale of and/or giving away of goldfish as prizes at funfairs and any other event shall not be permitted”.

6.0 Resource implications

- 6.1 There are no resource implications.

7.0 Conclusions

- There are currently no statutory powers to prohibit giving of goldfish as prizes.
- Restricting the giving of goldfish as prizes in Leeds is currently through the general clause in the land license issued to independent operators and the verbal confirmation of prohibition.
- Other local authorities prohibit the giving of goldfish as prizes by specific clauses in the land license.
- A rule specifying the prohibition of the giving of gold fish as prizes is not considered to be unreasonable, but has not been tested by law.
- Operators at fairs and events would be unlikely to meet the provisions in the model pet shop conditions.
- It would seem sensible to clarify the situation, and to provide a specific clause in the land license issued to operators of events and fairs prohibiting the giving of gold fish as prizes.

8.0 Recommendations

- 8.1 The Executive Board are asked to approve the insertion of a suitable clause in the land licenses provided to operators of events and fairs, to specifically prohibit the giving of goldfish as prizes.