

## BABERGH DISTRICT COUNCIL

<b>TO:</b> Cabinet	<b>REPORT NUMBER:</b> <b>BCa/23/14</b>
<b>FROM:</b> Councillor John Ward, Cabinet Member for Finance, Assets & Investments, Councillor Daniel Potter, Cabinet Member for Environment	<b>DATE OF MEETING:</b> 5 September 2023
<b>OFFICER:</b> Emily Atack – Director, Assets & Investments	<b>KEY DECISION REF NO.</b> CAB444

### **WORKING TOGETHER FOR ANIMAL WELFARE – BANNING PETS AS PRIZES ON COUNCIL LAND**

#### **1. PURPOSE OF REPORT**

- 1.1 The report provides the context on the ban of the giving live animals (e.g., goldfish, etc) as prizes as set out in the Royal Society for Prevention of Cruelty to Animal (RSPCA) continuing campaign and explains the current legislation framework and its shortcomings. The report also provides details of actions taken by other local authorities and makes recommendations of actions that Babergh & Mid Suffolk Councils can take in support of the RSPCA campaign on an outright ban of giving live animals in Council owned land.

#### **2. OPTIONS CONSIDERED**

- 2.1 Adopt RSPCA recommendations.
- 2.2 Doing nothing could lead to animal welfare issues and result in customer complaints.

<b>3. RECOMMENDATIONS</b>
3.1 <b>The councils are recommended to agree to support the RSPCA campaign and thereby resolve:</b>
3.2 <b>That an outright ban on the giving of live animals as prizes, in any form, on Babergh &amp; Mid Suffolk Council owned land is implemented</b>
3.3 <b>That the Councils write to UK Government requesting an outright ban on live animals as prizes on both public and private land</b>
3.4 <b>That the Councils carry out a review of the current policies and the terms and conditions of the contract agreements relating to the hire of council owned land and premises to ensure that they reflect the councils' positions as regards giving of live animals as prizes.</b>
<b>REASON FOR DECISION</b>

**With the RSPCA gaining traction since 2021 with some 50 local authorities adopting the RSPCA's recommendations it would be prudent to adopt the recommendations and lobby UK Government for an outright ban**

#### **4. KEY INFORMATION**

- 4.1 In its briefing RSPCA has provided reasons as to why the giving of such prizes is an outdated practice expressing their great concerns, including animal welfare, release of unwanted animal prizes into the environment and the lack of preparation and understanding of the care that animals require to provide them with suitable environment. It can be argued that even if the donors of the prize were to impose conditions before prizes are offered there remains a real risk that the prize recipients may not adhere to those conditions once in ownership of those animals.
- 4.2 The Council is cognisant of the fact many cases of pets given as prizes go unreported each year since some of these transactions happen on fairgrounds, social media and other channels where is hard to keep track or due to lack of public understanding of the legality of such activities.
- 4.3 Therefore, by issuing an outright ban of such activities on all Council owned or operated land and properties, the Council will send a clear message of its commitment to ensure the welfare of animals and help reinforce the message that these practices are no long desirable in our communities.

#### **5. LINKS TO CORPORATE PLAN**

- 5.1 N/A

#### **6. FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications associated with this report.

#### **7. LEGAL IMPLICATIONS**

- 7.1 A standard clause needs to be inserted into licences to hire which clearly sets that the giving of live animals as prizes on Council owned or managed land and premises is prohibited because the model pet shop conditions cannot be met, and that the prohibition is reasonable.
- 7.2 It should be noted that although many councils have adopted this ban on their land and premises, this position has not been tested in law.

#### **8. RISK MANAGEMENT**

- 8.1 Although many local authorities have adopted the ban of giving live animals as prizes on the land and premises, it should be noted that the ban has not been tested in law. So there remains a risk that some aggrieved customers may seek to challenge the

legality of the decision. However, the likelihood of such a challenge being lodged is highly unlikely due to the publics' attitude towards these practices changing.

8.2 Any reputational risk related to legal challenge would be supported by the Councils current strategic risk SRR005:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference*
The Councils may be perceived to be untrustworthy and have a poor reputation.	3	2	Optimisation of the governance systems and processes	SRR005

## 9. CONSULTATIONS

9.1 N/A

## 10. EQUALITY ANALYSIS

10.1 There are no specific equalities implications that directly affect the Councils arising from this report.

Equality Impact Assessment (EIA) not required.

## 11. ENVIRONMENTAL IMPLICATIONS

11.1 There are no environmental implications associated with this report.

## 12. APPENDICES

12.1 N/A

## 13. BACKGROUND DOCUMENTS

13.1 In May 2021 RSPCA launched a nationwide campaign urging local authorities to ban the giving of live animals as prizes on their land. The campaign, which was covered in national media outlets, also is urging the local authorities to write to the UK Government to instigate a similar ban on both public and private land.

13.2 Statistics received from RSPCA show that since there were 147 cases reported to them of live animals being given as prizes in England, however it is feared many more cases go unreported due to lack of awareness around animal welfare and existing legislations. The number of cases reported has been dwindling in recent years which may indicate a change of attitude towards giving live animals as prizes or people have stopped reporting cases of live animals given as prizes for lack of motivation. It will be presumptuous of this report to try and assume the cause of the current decline in the number of incidences. However, if the practice is still not outlawed chances are the incidents may increase in the future.

- 13.3 Since the start of the RSPCA campaign, several county, district, and town councils have supported it through issuing statements of intents and passed resolutions to ban the practice of giving animals as prizes in their land and properties. Some Councils have either had to review their events licencing and hiring terms and condition or adopt Animals Welfare Charters to reflect their stance on this practice.
- 13.4 Among the Councils that have passed resolutions to support the RSPCA campaign include Caerphilly County Council, The Vale of Glamorgan, Torridge District Council, Sunderland Council, Stevenage Borough Council, London Assembly, Bridgend Council, Cheshire West and Chester Councils and Shropshire Council.
- 13.5 The current legislations, The Animal Welfare Act (England and Wales) 2006, does not for forbid giving live animals as prizes unless they are given to unaccompanied children. The Act makes it an offence, in England and Wales, to give away live animals as prizes if the person can reasonably be believed to be under 16 years of age and is not accompanied by an adult. However, there are some exceptions in section 11 (3)-(6) of the Act. It is a different matter in Scotland, where it is an offence, under the Animal Health and Welfare (Scotland) Act 2006, to offer or give an animal to another person as a prize (whatever their age), except where it is offered in a family context
- 13.6 RSPCA believes that this legislation does not go far enough and does not cover the animal welfare issues associate with this practice and therefore, they would like to see similar legislation to the Animal Health and Welfare (Scotland) Act 2006 is introduced in England which makes it an offence to give an animal as prize, regardless of age, except within the family context.
- 13.7 The Council has an opportunity to ban this practice in its land and premises and thereby, serves to raise public awareness of animal welfare surrounding the giving of live animals as prizes.
- 13.8 In view of the current legislation, the Council can introduce a ban either though changing its terms and conditions of the licencing and hiring agreements or by adopting Animal Welfare Charter or do both.
- 13.9 In order to affect the ban some local authorities have amended their licences conditions to operators of events and fairs to include prohibition of giving pets, including goldfish, as prizes. However, the inclusion of these terms and conditions have not been tested by law. But so far, no Councils have been challenged on inclusion of prohibition of giving pets as prizes in their terms and conditions of use of its facilities. There are no model conditions under licensing that supports this, and it is not something officers would currently pursue as they follow best practice as set out by DEFRA. Information is available on the councils' website for advice and to signpost event organisers via the Safety Advisory Group. Currently, there is no legal process of imposing a fine on people who are in breach of this ban. The only recourse is to revoke their licences or hire agreement and evict them for breach of such a ban.
- 13.10 Animal Welfare Charter is a statement of intent which reflects the views and concerns of the organisation as regards the welfare of animals. On its own Animal Welfare Charter does not carry legal powers but through the existing legal framework the Council can use it to best promote improvement of animal welfare.

- 13.11 Animal Welfare Charter should also set out how the Council will work together with other external agencies and organisations to ensure a coordinated approach to animal welfare issues. It may not be able to address every aspect of animal welfare but may give serve to highlight those areas that the Council considers important and where it feels it can provide influence as a responsible and representative public body
- 13.12 Currently the Councils does not have an Animal Welfare Charter in place in which it can set out clearly its position on animal welfare and use it an opportunity to promote animal welfare and send a clear message to the community that is strongly oppose any form of animal cruelty.
- 13.13 The Councils have general conditions which applies to all licensable activities involving animals in accordance with the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. However, these conditions do not provide for prohibition of giving live animals as prizes. It should be borne in mind that this Regulation only applies to licensable activities as set out therein.

**14. REPORT AUTHORS** – *Sara Cameron Corporate Manager Strategic Property*