

Welfare of Wild Animals in Travelling Circuses

A Consultation

March 2012

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This document/publication is also available on our website at:
www.defra.gov.uk/consult/2012/03/01/circus-animals-1203/

Any enquiries regarding this document/publication should be sent to us at:
circusanimalwelfare@defra.gsi.gov.uk

Overview

Intended audience:	Anyone may reply to this consultation. Specific interest groups include circuses and their representative bodies and animal welfare organisations
National coverage:	England
Purpose:	A consultation seeking views on the detail of proposals to regulate circuses that include wild animals
Legal status:	This is a consultation document.
Contacts:	circusanimalwelfare@defra.gsi.gov.uk
Revision:	Document revised 2 March 2012 (a factual correction was made at the bottom of page 9)

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Part I – About this consultation

Topic of this consultation

This consultation is seeking views on a proposed licensing scheme to promote and safeguard the welfare of wild animals in travelling circuses operating in England.

Scope of this consultation

Defra is seeking views on a proposed licensing scheme that would promote and safeguard the welfare of wild animals in travelling circuses in England. Under the proposals, operators of a travelling circus that failed to safeguard the welfare of their animals would face enforcement action.

The licensing scheme would be introduced by regulations made under the Animal Welfare Act 2006¹.

The regulations will require standards of animal welfare to be met. The welfare standards would be set as licence conditions. A licence condition is something that must be met by the holder of the licence. Enforcement action could arise from a person's failure to hold a valid licence where one is required, or failure to comply with a licence condition where a licence is held. Possible enforcement action includes criminal prosecution and the suspension of licences.

Future policy direction

The Government confirmed on 1st March its intention to pursue a ban on the use of wild animals in travelling circuses on ethical grounds.

The precise detail of a ban must be carefully thought through to ensure it has the intended effect. This will take time. In the meantime, this consultation is about a proposed licensing regime that would include strict welfare standards and that could be introduced within months.

Knowledge gained from operating the proposed licensing scheme may be used to supplement the evidence base on the welfare standards of travelling circuses in England for any future policy considerations.

More information on a possible ban can be found at www.defra.gov.uk/wildlife-pets/zoos/circuses/

¹ Available to download from <http://www.legislation.gov.uk/>

Detailed guidance, which sets out all of the welfare standards as well as guidance for specific species of animals can be found with the documents at www.defra.gov.uk/consult/2012/03/01/circus-animals-1203/.

Please note that this consultation is not seeking views on a ban on the inclusion of wild animals in travelling circuses.

Spotlight on wild animals in travelling circuses

Wild animals can have complex welfare needs. These may be less well understood than is generally the case for domestic animals such as dogs and horses.

Certain aspects of a wild animal's life in a travelling circus are different to those of other captive animals, such as frequency and type of performance and transport.

There is no evidence that indicates that circuses are systematically failing to meet the welfare needs of their animals.

However, Defra accepts that there could be a greater potential risk to welfare for animals in travelling circuses than for other captive animals because of the frequency of activities like performance, training and transport that are not typically undertaken by wild animals.

There is also a practical issue about consistency and continuation of standard setting and inspection for activities that regularly change premises and cross local authority borders which lends itself to a centrally-administered licensing and inspections regime.

Defra acknowledges the calls to take action in respect of travelling circuses. Defra proposes to respond – as set out in this consultation document - by formally regulating the activities of travelling circuses with wild animals, to ensure that welfare needs are understood and action is taken where failings are found. Defra accepts the Radford report's conclusion that "reliance on the duty to ensure welfare alone would not provide ... the need for certainty and specificity as to what is, and what is not, required of circuses"².

Circuses are covered by the Animal Welfare Act 2006 and the Performing Animals (Regulation) Act 1925 which respectively include a duty to meet animal welfare and a registration requirement. It is relevant to note that circuses that use animals in "tricks and manoeuvres" fall outside the scope of the Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981. The new regulations would ensure that any wild animal that is kept by a travelling circus is covered by legislation.

Specific focus in the accompanying guidance is placed on species of wild animal known to be used in travelling circuses in England, including elephants, large cats, reptiles, ungulates, equids and camelids.

Geographical extent

The regulations will apply to England only.

² Wild Animals in Travelling Circuses (October 2007), The Report of the Chairman of the Circus Working Group, Page 18

Under the proposals, a licence must be held in respect of any travelling circus operating in England irrespective of country of origin or final destination.

Impact assessment

An impact assessment is available by following the link to the consultation papers at www.defra.gov.uk/consult/2012/03/01/circus-animals-1203/.

Audience

Anyone may reply to this consultation. Defra would like to hear from anyone with an interest, including people working in or with the circus industry, animal welfare organisations and the general public.

Body responsible for the consultation

Defra's Animal Welfare Division is responsible for the policy and this consultation.

Duration

This consultation started on 1st March 2012.

The consultation closes on 25th April 2012.

How to respond, or make an enquiry

Enquiries and responses may be directed to one of the following:

Circus Animal Consultation

Animal Welfare Division

8B LMB

c/o 17 Smith Square

London

SW1P 3JR

circusanimalwelfare@defra.gsi.gov.uk

You can complete the survey electronically either by:

Downloading the Excel pro-forma from www.defra.gov.uk/consult/2012/03/01/circus-animals-1203/ and emailing your response to circusanimalwelfare@defra.gsi.gov.uk

Or

You can complete the survey on-line at www.surveymonkey.com/s/circusanimals

Responses should be received by 25 April 2012.

Responses received after the closing date will not be counted.

Additional ways to become involved

Defra wants to ensure the proposed licensing scheme would be effective, and would help ensure welfare standards are as high as possible. To that end, as part of the consultation process, and subject to participation from operators, Defra has put arrangements in place to pilot the proposed standards. This involves the running of a prototype inspection process based on the proposals set out in this consultation document (see Part III from page 12 and Part IV from page 23) and the accompanying guidance. Defra has sought agreement from circuses to allow a (Defra appointed) veterinary inspector to 'inspect' their premises.

Anyone with an interest, including any member of the general public, is invited to respond to this consultation.

After the consultation

When this consultation ends, we intend to put a copy of the responses in the Defra library at Ergon House, London. This is so that the public can see them. Also, members of the public may ask for a copy of responses under freedom of information legislation.

If you do not want your response - including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that won't count as a confidentiality request.

Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, **we cannot promise that we will always be able to keep those details confidential.**

We will summarise all responses and place this summary on our website at www.defra.gov.uk/consult. This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

Compliance with the Code of Practice on Consultation

This consultation is in line with the "Code of Practice on Consultations". Please note that a consultation period of eight weeks applies, reflecting that a previous consultation (in 2010) has

been carried out and the commitment to aim for regulations to be made in summer 2012. More information on the Code can be found at www.bis.gov.uk

See also

Defra is in the process of revising the Secretary of State's Standards of Modern Zoo Practice. (The Zoo Standards and the proposals for travelling circuses are published separately as they fall under different Acts of Parliament. The two sets of standards are consistent except where additional material and consideration has been given to the activities in travelling circuses (such as training, performance and travel) that are not typically undertaken in other contexts. Please note that the two sets of standards have different audiences (zoos vs travelling circuses) and the accompanying guidance document to this consultation has therefore been prepared so that it explains what is required in the context of the travelling circus environment.

Part II - Background information

Objectives for intervention

The purpose of the regulations is to introduce a set of animal welfare standards for all travelling circuses in England that include 'wild animal' acts. These standards will be enforced centrally by Defra via a licensing scheme.

An effective licensing scheme would promote animal welfare and help ensure high standards of welfare for all wild animals used in travelling circuses.

Background

At present, there are three travelling circuses with wild animals operating in England, making use of an estimated 39 wild animals. It is estimated that 121,000 people attended a travelling circus using wild animals in 2010, and 153,000 in 2011.

Defra consulted in 2010 on the welfare of wild animals in travelling circuses in England.

On 13 May 2011, Environment Secretary Caroline Spelman announced Defra's intent to introduce a licensing scheme to safeguard the welfare of wild animals in travelling circuses in England (www.defra.gov.uk/news/).

The announcement explained that, as part of the scheme, minimum standards of welfare would be laid down, and the standards enforced through inspections carried out by Government-appointed vets.

The regulations will be introduced using powers conferred on the Secretary of State by section 13 of the Animal Welfare Act 2006 ('the 2006 Act') to make regulations to provide for licensing or registration systems for certain activities involving animals.

The regulations will include conditions that would apply to every licence. The conditions would clearly define the welfare standards to be met by each travelling circus. These reflect the welfare needs of animals set out under the 2006 Act, which have been expanded and explained within the context of the travelling circus environment.

It is proposed that licence conditions will address all aspects of animal welfare, including areas that were raised as concerns in the previous consultation such as:

- the accommodation that must be provided to animals
- the rules for transporting wild animals
- the treatment of animals including in training and performance

- what must be done to meet an animal's needs, for example in respect of diet and veterinary care

Previous consultation

Defra ran a consultation on the use of wild animals in circuses from 21 December 2009 to 15 March 2010.

The consultation presented five options on the use of wild animals in travelling circuses: do nothing; a partial ban; an outright ban; voluntary self-regulation; regulation.

10,576 individual responses to the consultation were received and analysed, supplemented by 2,331 campaign postcards.

Continuation of the status quo was dismissed as an option, with the agreement of animal welfare organisations and the circus industry.

94.5% of respondents suggested that a ban would be the best option to achieve consistently better welfare standards.

Focusing on the welfare-based arguments, respondents who favoured intervention provided several arguments about such issues as:

- conditions in which animals are kept and transported
- the environment in which the animals are kept
- training methods
- cases of unacceptable treatment.

Animal welfare groups and a number of veterinary organisations provided varied arguments, mainly centring on the difficulty of a circus environment providing for the complex welfare needs of wild animals.

Again, focusing on the welfare-based arguments, supporters of wild animals in travelling circuses argued that:

- animals are looked after by their keepers
- trainers treat animals with care
- performance reflects natural behaviour in the wild
- positive reinforcement techniques are used in training and performance
- certain animals are saved from predators, and
- circuses are traditional, educational and entertaining.

Travelling circuses which still include wild animals, and their representative bodies, dispute the view that circuses cannot support the welfare needs of wild animals. They argue that animals

are regularly inspected and point to the small number of successful prosecutions brought against circuses. The industry has expressed a desire to be subject to regulation, to allow them to demonstrate that they can meet acceptable welfare standards.

Although a ban was felt to be the most effective option, when asked, 29.5% of respondents thought that visits from an appropriately trained inspector would safeguard the welfare of wild animals in travelling circuses, with strong support for regular inspections including of veterinary records.

An initial summary of the responses to all questions is available on-line at <http://archive.defra.gov.uk/foodfarm/farmanimal/welfare/documents/responses.pdf>

Having considered the responses to the consultation, the Government proposed to introduce legislation under the 2006 Act to lay down minimum standards to protect the welfare of wild animals in travelling circuses.

The proposals pay close attention to those areas of concern that could have a direct effect on the welfare of the animals involved.

Summary of options

Several options were considered by the previous (2009-10) consultation:

- do nothing
- a partial ban
- self regulation
- a total ban
- statutory regulation

Doing nothing has little or no support, including from both the animal welfare organisations and the travelling circuses that include wild animals.

Self regulation carries a particular challenge of balancing the need to demonstrate an exemplary welfare system against affordability and agreeability to the participating circuses. Accreditation could be an option, but is likely to be disproportionately expensive for such a small sector. Representatives of travelling circuses have indicated a preference for regulation that sets out mandatory standards of animal welfare backed by independent inspections that stand up to public and parliamentary scrutiny.

The Government confirmed on 1st March its intention to pursue a ban on the use of wild animals in travelling circuses on ethical grounds; a ban on welfare grounds is not feasible because there is a lack of evidence of irremediable welfare problems. The precise detail of a ban must be carefully thought through and in the meantime, this consultation is about a proposed licensing regime that would include strict welfare standards and that could be introduced within months.

Having new regulation is the lead option in the intervening period because it is considered the most likely way to safeguard and promote welfare for wild animals used in travelling circuses by clearly identifying what must be done to meet animals' welfare needs, by placing inspections on a formal footing, and by including a clear enforcement route. Regulations made under the 2006 Act can be laid before Parliament in Summer 2012.

A summary of the potential costs and benefits of each option is included in the accompanying impact assessment. The lead option is summarised below.

Recent history

During debates on the Animal Welfare Bill in 2006 the then Government agreed to look at the issue, acknowledged that there may not be "sufficient clarity to circus proprietors and enforcers on what is permitted and what is not" and - subject to sufficient scientific evidence - agreed to bring forward a ban for "certain non-domesticated species whose welfare needs cannot be satisfactorily met in that environment" using delegated powers provided in the Animal Welfare Bill (now Act) [Hansard: 8th March 2006, Column 60WS³].

This led to the establishment of a Circus Working Group and in October 2007 Mike Radford, an academic lawyer, concluded in his report "Wild animals in travelling circuses: the report of the chairman of the Circus Working Group" that, after reviewing the available scientific evidence submitted, "there appears to be little evidence to demonstrate that the welfare of animals kept in travelling circuses is any better or worse than that of animals kept in other captive environments".

In the absence of clear scientific evidence any attempt to ban the use of wild animals in travelling circuses using the delegated powers provided by the 2006 Act would fail the test of proportionality, and according to Radford "to introduce a ban ... by way of a regulation made under the authority of section 12 of the Animal Welfare Act would be vulnerable to legal challenge".

A feasibility study was undertaken during 2008 to assess whether it would instead be practicable to regulate the use of wild animals in travelling circuses. The study concluded that a regulatory regime could be devised and implemented following much the same process as used for the Zoo Licensing Act 1981.

The previous Government issued a public consultation in December 2009 on how best to protect the welfare of wild animals in travelling circuses.

In view of the sustained public concern about the maintenance of acceptable standards of care and husbandry in travelling circuses, the current Government has signalled that it will proceed with the introduction of a licensing regime that would stop circuses from using wild animals if they do not provide for the welfare needs of those animals.

³ www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060308/wmstext/60308m01.htm

The most recent Parliamentary debate was a Backbench Business debate on 23 June 2011 where the House of Commons agreed on a motion 'directing the Government to use its powers under section 12 of the Animal Welfare Act 2006 to introduce a regulation banning the use of all wild animals in circuses to take effect by 1 July 2012' (Hansard: 23 June 2011, Column 548⁴). That motion was not binding on the Government.

In May 2011, the Government announced⁵ that, after careful consideration of the issues, and the results of the previous public consultation, it prepare a new licensing regime for wild animals in travelling circuses under section 13 of the 2006 Act to be introduced to Parliament in Summer 2012.

Summary of existing legislation

The 2006 Act makes it a criminal offence for any person responsible for an animal to fail to provide for their animal's welfare needs.

Under section 9 of the 2006 Act, a person responsible for an animal has a duty to provide for that animal's needs which include: its need for a suitable environment; its need for a suitable diet; its need to be able to exhibit normal behaviour patterns; its need to be housed with, or apart from, other animals; and its need to be protected from any pain, suffering, injury and disease. The 2006 Act also makes it a criminal offence to cause an animal any unnecessary pain or suffering (under section 4). More on what this means in the context of the proposals in this consultation document is set out in Part III, and specifically on page 15.

The Performing Animals (Regulation) Act 1925 requires anyone who trains or exhibits animals to register with a local authority, stating details of the animals involved. However, the Act does not set down any particular welfare requirements for animals used in performance.

Travelling circuses are not covered by other legislation concerning wild animals such as the Dangerous Wild Animals Act 1976 or the Zoo Licensing Act 1981.

Why regulate?

New licensing regulations offer the opportunity to ensure that the welfare of wild animals in travelling circuses is covered by targeted legislation, which fully covers the largely unique circumstances of a travelling circus including housing and environs, training, performance, transportation, diet, acquisition and disposal of animals, and record keeping.

Circuses are covered by the Animal Welfare Act 2006 and the Performing Animals (Regulation) Act 1925 but are exempted from other important regimes such as the Dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981. Regulations are needed to cater for the unique aspects of life in a travelling circus and put targeted welfare standards on a legal footing.

⁴ www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110623/debtext/110623-0003.htm#11062335000004

⁵ www.defra.gov.uk/news/2011/05/13/circus-animals/

Part III - Detail about proposed licensing scheme

Definitions

It is important to understand who and what would be covered by the regulations. The box below sets out draft definitions similar to those that might be used in regulations.

Draft definitions

1. Operating a travelling circus that includes wild animals is an activity for the purposes of section 13(1) of the Animal Welfare Act 2006.
2. "Circus" includes any place where wild animals are kept or introduced wholly or mainly for the purpose of performing tricks or manoeuvres.
3. A "travelling circus" means a circus which gives performances in more than one place and includes winter quarters where a wild animal associated with the circus is based while not touring.
4. "Wild animal" means an animal that is a member of a species not normally domesticated in Great Britain.

Please note that these are draft definitions – subject to change - intended to inform the consultation, and on which views are sought.

The regulations, which would be made under section 13(1) of the 2006 Act, must set out to licence a defined **activity**. The draft definition of the activity (number 1 in the box) is "operating a travelling circus that includes wild animals". To assist interpretation, it is important to sufficiently define "travelling circus" and "wild animals" (numbers 2, 3 and 4 in the box).

This would mean that only travelling circuses with wild animals are covered by the regulations. The word "circus" is well understood but for clarity is defined to include all places where wild animals are kept mainly for the purpose of performing tricks or manoeuvres (with those animals). This definition of a "circus" applies only to the regulations and does not change its meaning elsewhere. The definition of "wild animal" is relatively broad so that it covers species whose welfare needs may not be generally well understood in this country.

Consultation Question 1. Do you think the draft definitions accurately define who and what should be covered by the regulations?

Overview of the licensing scheme

In line with the announcement made in May 2011, the Government intends to introduce a new licensing scheme for wild animals in travelling circuses that will require adherence to licence conditions and welfare standards.

Statutory licensing

The scheme will be introduced under section 13 of the 2006 Act.

Section 13 allows regulations to be made for the purpose of promoting animal welfare and may require certain animal welfare-related activities to be licensed by Defra. Section 13 can be used to regulate an activity for the purpose of promoting welfare of animals or the progeny of those animals. Section 13 makes it an offence to operate without a licence where one is required under the regulations made under the section.

This consultation proposes that regulations will be made that set out the details of a licensing scheme for travelling circuses that wish to include wild animals, including the licence conditions and animal welfare standards that must be met.

The proposed regulations will apply to England only.

Defra proposes that regulations are laid before Parliament during Summer 2012 to come into force at the next common commencement date (which would be October 2012).

This consultation exercise satisfies the requirement at section 13(9) that interested parties are consulted before regulations are made.

The proposed licensing scheme has been designed to be efficient to administer and easy to understand, with animal welfare at its core.

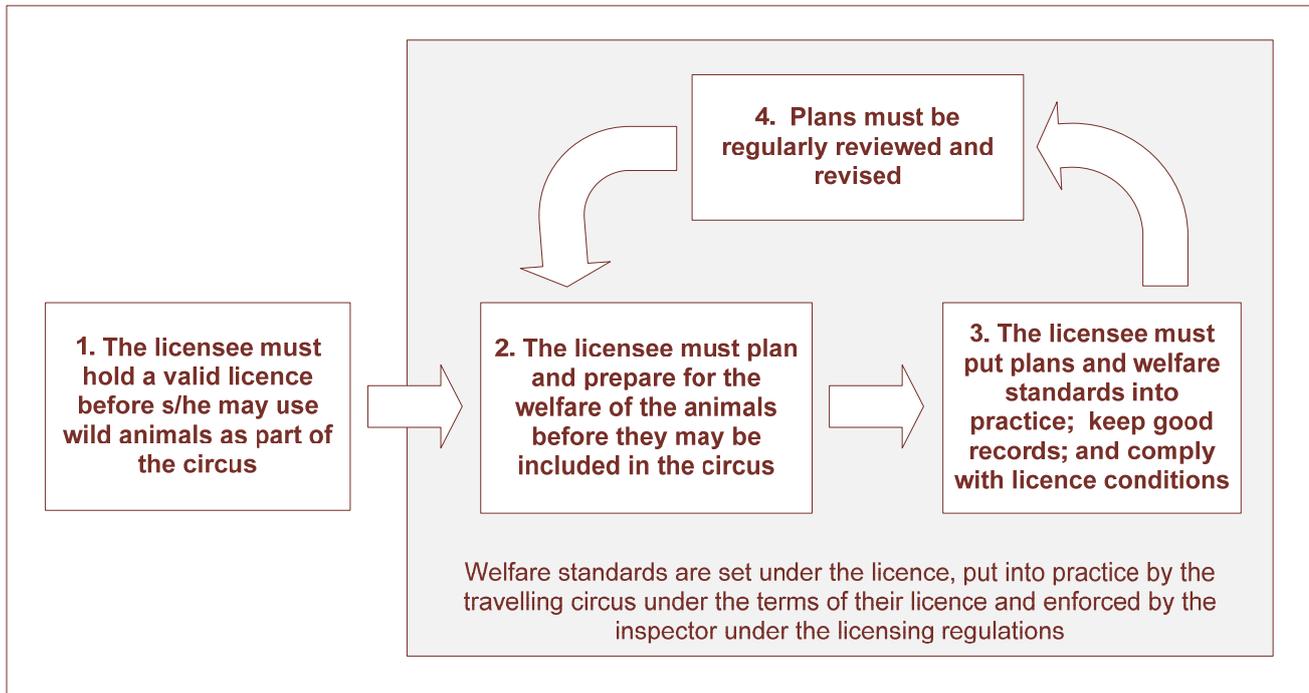
Before a travelling circus can include wild animals it would need to obtain a valid licence. It would be an offence for a travelling circus to operate with wild animals if it does not hold a valid licence.

A licence will set out a series of conditions and include detailed welfare standards that must be put into practice by the travelling circus.

The holding of valid licences and the adherence to conditions and welfare standards will be enforced by a Government-appointed inspector in accordance with the regulations.

The basic licensing scheme is illustrated in **figure 1** (below).

Figure 1: Overview of licensing scheme



The scheme will involve one or more inspectors who:

- will issue a licence to a travelling circus if the circus can demonstrate that it can meet welfare conditions (from the outset, and into the future),
- will determine the length of the licence (up to a maximum of three years, which is the limit set in the 2006 Act),
- will inspect the circuses to ensure the licensee has met the welfare conditions (at base / in winter quarters as well as on tour),
- will take enforcement action if conditions are breached, including instigating prosecution for serious offences (such as operating without a licence, causing unnecessary pain or suffering, failure to meet welfare needs) that would be handled in the same way as now, and
- will consider any application to vary licences, including setting the duration of a licence variation.

Each licence will include conditions that must be met in order to retain a licence and avoid enforcement action.

The licence conditions reflect the welfare needs for animals that are set out under the 2006 Act.

Welfare needs

The 2006 Act sets out the welfare needs for animals. It makes owners and keepers responsible for ensuring that the welfare needs of their animals are met.

The welfare needs include the need:

- for a suitable environment
- for a suitable diet
- to exhibit normal behaviour patterns
- to be housed with or apart from other animals (if applicable)
- to be protected from pain, injury, suffering and disease.

The proposals build on the basic welfare needs and explain what must be done by a travelling circus in order to satisfy Defra that it has complied with those needs and is compliant with the 2006 Act.

The proposals do this by setting out licence conditions, which include detailed minimum standards of animal welfare, and have been prepared to reflect the activities of a travelling circus. The conditions and standards set out what must be done in general as well as during activities such as training, performance and transport that are not typically undertaken by captive wild animals in other contexts.

The licence conditions and welfare standards include key requirements relating to the welfare needs and the unique characteristics of the travelling circus environment covering issues such as:

- individually identifying which animals are part of the travelling circus
- identifying the planned itinerary
- identifying staff and restricting access to wild animals to those with legitimate reason and suitable competence, training and supervision.
- welfare standards to be followed at all times, including accommodation, diet, training, performance, transport and transfers of animals in and out of the collection
- planning ahead of all welfare needs of the animals, including the production of, and adherence to, 'care plans'
- adequate provision of specialist veterinary care
- record keeping

The licence conditions and welfare standards will apply to any and all wild animals kept by or in a travelling circus and must be adhered to at all times.

The licence conditions all share the same outcome, that of optimal animal welfare. In particular, the conditions require the licence holder to adhere to welfare standards prescribed in the regulations. Welfare standards are designed with practical application in mind and must be achievable, yet they are uncompromising about the need to make adequate provision to secure the welfare needs of wild animals.

Taken together, the conditions and standards cover every aspect of life for a wild animal in a travelling circus environment that could have an effect on a wild animal's welfare (requiring mitigation of detrimental factors, and reinforcement of positive practices).

They will require each operator to understand and plan for the welfare needs of each wild animal, to document how welfare standards will be met and to put the planning into practice. The plans and records will need to be kept under review by the circus, to ensure that the animal's needs continue to be met.

The welfare standards apply to all species of wild animals. Defra has prepared additional guidance that sets out the additional welfare needs that must be satisfied for some species (which is especially important where a species of animal has significantly different welfare needs to the more familiar needs of domestic animals). The guidance is designed to set out detail about environment and accommodation, suitable provision of food and water, veterinary care, training, transport and record keeping.

Defra is proposing a split between core requirements that are prescribed in regulations, and more general detail in supporting guidance. The regulations and general guidance will be supplemented by additional species-specific guidance. Defra is proposing this approach for two reasons:

- First, it will help reduce the risk that core requirements for any particular species of wild animal are neglected (and will help to ensure enforcement action can be taken in cases of neglect), whilst introducing the flexibility to treat each individual species appropriately. For example, animals have "to be housed with, or apart from other animals" (as set out in section 9(2)(d) of the 2006 Act); so that requirement would be prescribed in standards. However, whether an animal should be with, or apart from, other animals may vary from one species to another, and from one individual animal to another, and so guidance is the appropriate place to frame that discussion.
- Second, whilst the core requirements are relatively unlikely to change significantly over time, and can be locked down in regulation, the species-specific requirements may change fairly quickly based on emerging research and evidence, experience and expert opinion. These can be kept up to date relatively easily if they are set out in guidance. Regulations can take longer to amend and should not be designed so that they need regular updates that could take up significant parliamentary time and incur significant cost.

The Guidance has been prepared so that it can be followed in the context of the activities undertaken by travelling circuses.

The costs of the licensing scheme will be recovered through fees collected from travelling circuses. A summary of the potential costs is included in the accompanying impact assessment

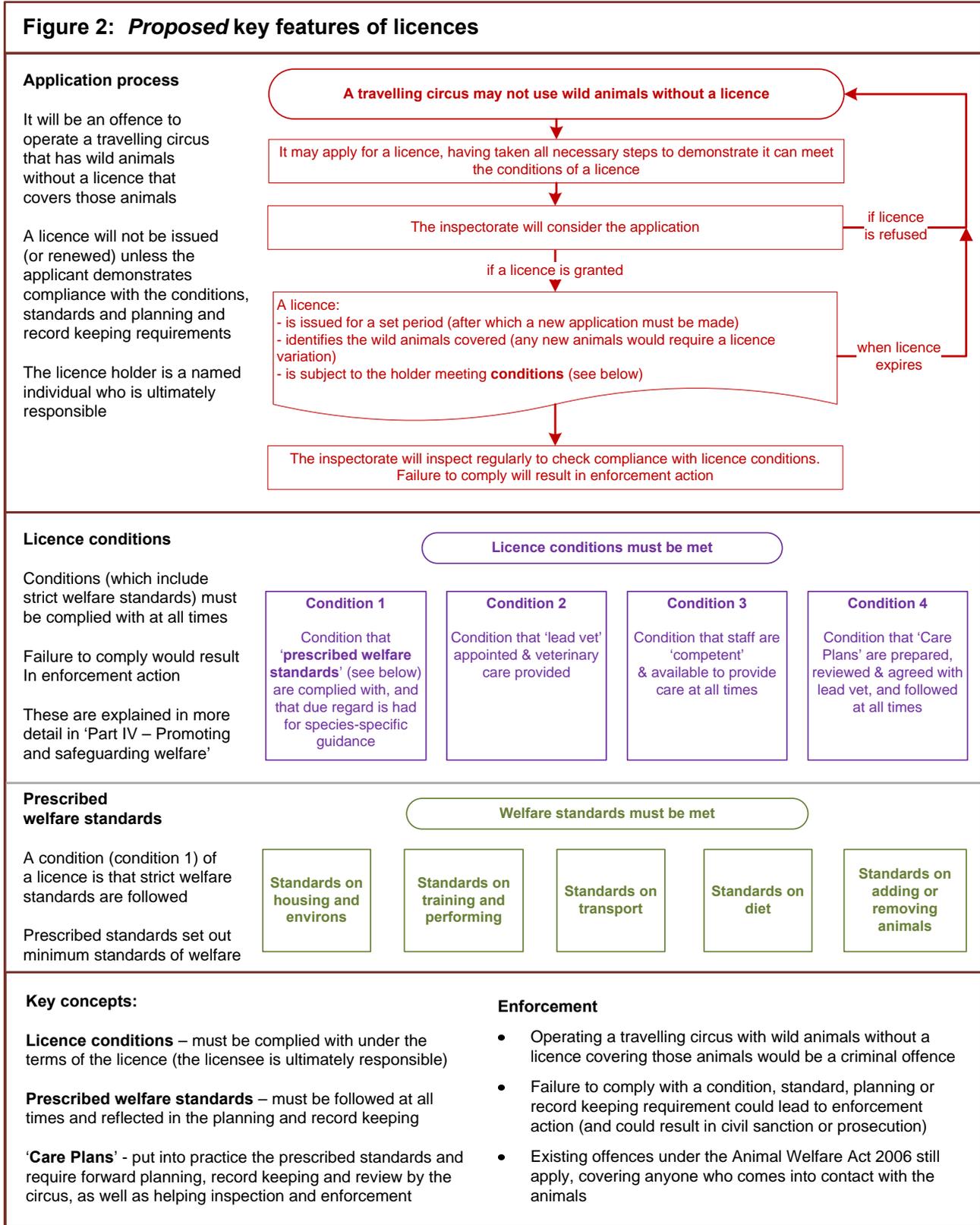
(and a summary is included in the section on the impact assessment below, starting on page 31).

Consultation Question 2. Do you agree that core welfare standards should be put in the regulations (which a licence holder would be required to meet under the licence conditions), supplemented with species-specific guidance and general guidance?

Consultation Question 3. Do you agree that the full cost of the licence and inspections should be recovered from the applicant for a licence?

Details of the licensing scheme

Figure 2 (below) illustrates the key features of the proposed scheme. Key aspects are explained in this sub-section of the consultation document.



Licences

Defra will administer the scheme and issue circus licences. Defra will be looking to appoint a small number of appropriately qualified inspectors, possibly from the Secretary of State's existing list of approved Zoo (veterinary) inspectors, to carry out the inspections on Defra's behalf.

Each licence will identify the person with ultimate responsibility for the use of wild animals in the travelling circus. That person must be fit and proper (for example, they must not hold any unspent convictions or disqualifications related to animal welfare).

Under the 2006 Act, the duration of a licence may be up to three years. Defra anticipates the first licence that a travelling circus is issued with would last not more than one year. This would allow inspectors to build up a history of the level of welfare compliance for the specific circus and its animals and to allow a meaningful assessment to be made of risks that there may be to the implementation by the licensee of the high welfare standards expected. Subsequent licences could be for up to three years, depending on the inspector being satisfied that risks to welfare have been minimised and there has been overall compliance with the licence.

A licensed travelling circus would need to obtain a variation to their licence before introducing new wild animals. Provision would be made for births deaths and sales under the regulations.

It will be an offence to operate a travelling circus in England without a licence. This includes a travelling circus that is travelling through England to another country even if no performances are planned during the time it is in England. If a new wild animal act intends to operate in England, or an act from outside England intends to operate (even if only on a temporary basis), then either:

- the existing licensed circus which it is joining must have applied for and obtained a licence variation prior to adding the wild animals; **or**
- the operator must have applied in advance for a licence as the operator of a travelling circus and had a licence issued to it by the inspector.

Failure to do so would fall under the offence of not holding a valid licence and the person responsible would face prosecution.

If an act tours from another country, the touring facilities would need to comply with all the licence conditions and welfare standards whilst in England. If the winter quarters and/or non-touring animals are not situated in England, they will be subject to the national rules that apply in the country in which they are present.

If an act from another country joins an existing circus under a licence variation, the licence holder will be responsible for the visiting act's compliance whilst the act is in the country and listed on his/her licence (notwithstanding the broader enforcement powers under the 2006 Act which apply to any person).

Consultation Question 4. Do you agree that the inspector should have discretion to set the length of a licence (up to the legal limit of three years)?

Consultation Question 5. Do you agree that a variation to a licence should be obtained by the licence holder before s/he may bring in an animal not already covered by the licence?

Consultation Question 6. Do you agree that the person responsible for an act joining a travelling circus, or a travelling circus not currently licensed, must either obtain a licence for the act or ensure they are covered by means of a variation to an existing licence?

Inspections

The inspector will be a Government-appointed vet.

When a travelling circus has been licensed, it will be subject to formal inspections.

It is proposed that each year of the licence there will be:

- at least one announced inspection of the winter quarters,
- at least one announced inspection of the circus whilst on tour and
- at least one unannounced visit during the licence period.

The cost to the inspector of the visits will be paid for by the licensee under the cost of the licence. Circus inspectors will also be able to inspect circuses more frequently if they think it necessary to check that licence conditions are being complied with, as well as inspect the circuses in response to complaints made.

Under the 2006 Act (in particular sections 25 and 26) the inspector will be able to check compliance with licence conditions, including the power to enter circus premises. The inspector will be able to inspect records that must be kept under a licence condition.

The inspector would produce a report, which would determine whether further enforcement action should be taken.

Consultation Question 7. Do you agree with the number and type of inspections proposed?

Offences

The proposals will make use of section 13(6) of the 2006 Act, which sets out the offence of carrying on an activity specified in regulations without a licence. The activity, and therefore the offence, will be that of using wild animals in a travelling circus without a licence.

The maximum penalty for using wild animals in a circus without a licence will be 6 months' imprisonment, or a fine not exceeding £5,000, or both.

Each licence will set out the conditions that the travelling circus must meet. Breach of a licence condition could result in enforcement action being taken against the licensee.

Nothing in these proposals changes the fact that any person could face prosecution for other welfare-related offences under the 2006 Act such as failure to prevent unnecessary suffering or pain (under section 4) or failure to provide for welfare needs (under section 9).

This means that action can be taken against the licensee, who would have overall responsibility for the wild animals in a circus, and anyone else who has failed to provide for an animal's welfare needs.

Enforcement action

The inspector, upon producing their inspection report, will specify the matters that need to be addressed; particularly those matters that relate to licence conditions and welfare standards. The inspector will be able to suggest improvements which, if not resolved, could lead to the suspension of the licence.

If the breach is significant, or there are a number of improvements that together present a significant problem, then an immediate suspension or variation of the licence could be considered.

If a licence has been suspended, then the licensee would not be able to operate a travelling circus with wild animals without facing prosecution.

If suffering or neglect is found, proceedings under section 4 and/or section 9 of the 2006 Act could be taken.

A travelling circus's record of compliance will affect the consideration of both the granting and duration of subsequent licences.

Appeals

Defra would only make use of appropriately qualified inspectors, and decisions on an application for the issue or variation of a licence would be internally reviewed before being issued.

Defra intends to provide a route of appeal for applicants who are unhappy with a decision made about an application or the findings of an inspection. In the first instance, the applicant should make representation to the inspectorate. If that does not resolve their complaint, it may then be made to a magistrates' court.

If a person is aggrieved about enforcement action that has been taken against them, then they may lodge an appeal with a magistrates' court.

Fees

Full details about the possible costs to travelling circuses can be found in the accompanying impact assessment, a summary of which may be found [below].

Full cost recovery will apply to the licensing process, with fees set to cover the cost of administering the licence (e.g. considering a licence application, issuing a licence, varying a licence) and inspections (e.g. a set number of formal inspections to check compliance with licence conditions).

Part IV - Promoting and safeguarding welfare

The proposed framework that would be enshrined in regulations to promote and safeguard the welfare of wild animals in travelling circuses will involve four key concepts:

- licences and 'licence conditions'
- 'prescribed welfare standards',
- 'Care Plans' and
- inspections.

As illustrated at figure 3, the three will combine to help optimise welfare. **A Licence** must be held before wild animals may be used in a travelling circus. This will ensure that someone has lead responsibility for each animal's welfare and will be bound to take steps to safeguard welfare. A licence will include licence conditions.

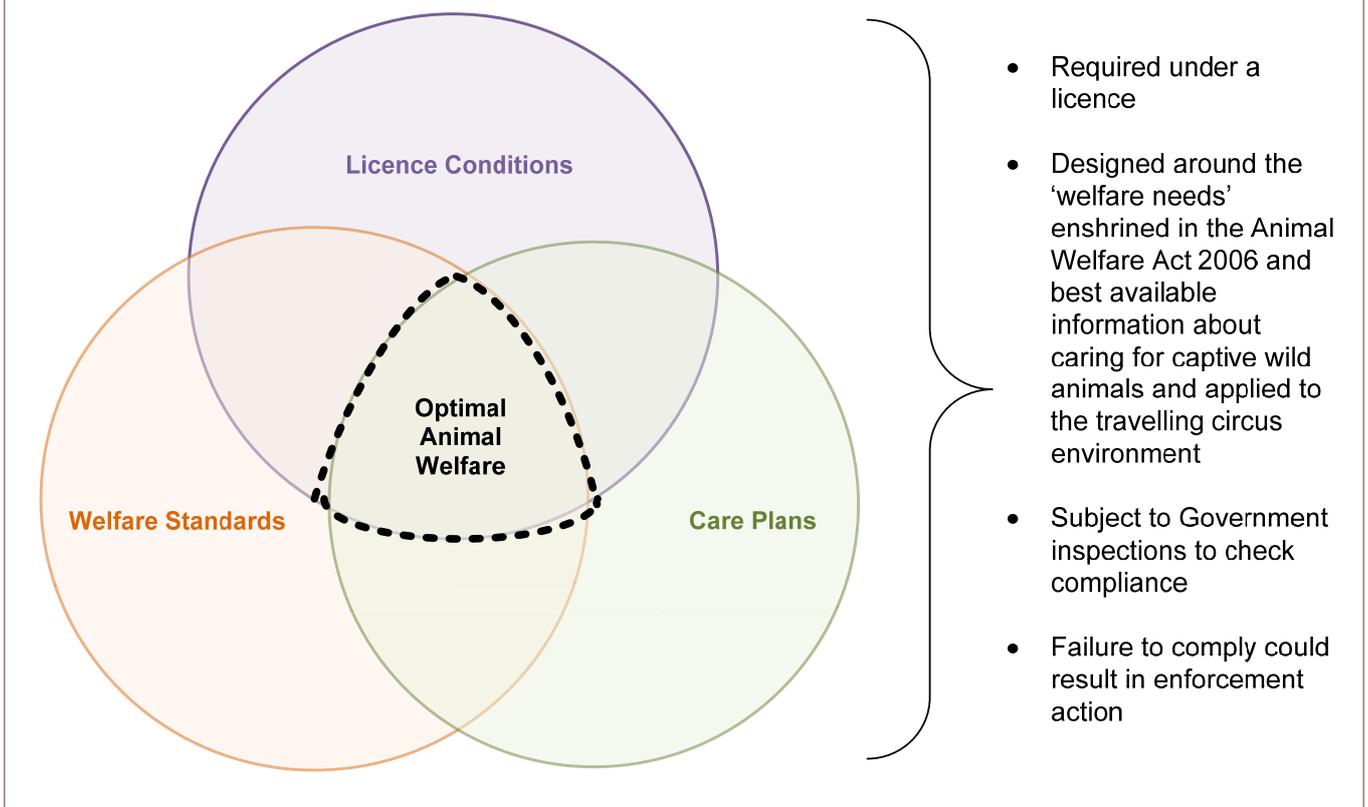
Licence conditions will be set out in the regulations and included in all licences that are issued. The licensee will be responsible for complying with the licence conditions at all times. The licence conditions will encompass all the things that must be done by the licensee to ensure that welfare is safeguarded and all welfare needs are satisfied (the welfare needs are listed on page 15. At the heart of the conditions is the condition that prescribed welfare standards must be followed.

Prescribed welfare standards must be followed at all times by the licensee. The standards must be reflected in all aspects of circus management, planning and record keeping that has any bearing on the animals and their welfare. Where individual species known to be used by travelling circuses in recent years have special requirements that must be understood in order to help ensure welfare is optimised, these requirements will be set out in guidance which should be followed by the circus.

Care Plans must be put in place for the animals covered by a licence. Each travelling circus must prepare and provide written evidence that welfare standards and conditions have been considered and applied, and establish for each circus how the welfare of all the wild animals kept will be optimised (both promoted and safeguarded). Environment, diet, behaviour and protection are key aspects of the care plans and require the licensee not only to follow prescribed welfare standards, but to plan for their animal's needs and demonstrate that they have been met.

Inspections will be led by one or more Government-appointed vets and check compliance with the licence conditions, standards and the record keeping, condition of animals and provision made for the animals, central to which will be the Care Plans. Failure to comply could lead to enforcement action including the suspension of a licence and possible criminal proceedings.

Figure 3: Licences and animal welfare



Licence conditions

The conditions set out the welfare standards that must be achieved by a travelling circus that wishes to continue to use wild animals.

If a licence has been issued, the licensee must ensure that s/he adheres to the conditions at all times or face enforcement action.

Depending on the circumstances, enforcement could include suspension or loss of the licence as well as prosecution for more serious offences.

Under the licence, it will be the duty of the licence holder to ensure that each condition is met. If a breach is severe enough to constitute an existing offence under the 2006 Act (such as failure to prevent unnecessary pain or suffering) then any person could face prosecution under the 2006 Act.

Each condition brings together extensive requirements that must be met to ensure the welfare of wild animals. Many of the requirements represent good practice in welfare and husbandry.

'Care Plans' are at the heart of the welfare conditions. The term 'care plan' is used to include all the planning, record keeping and routine management that must go into providing for the welfare needs of wild animals in a travelling circus environment. The documentation prepared

by the circus should be adapted to suit their circumstances and the needs of their animals, provided it is in a form that can be scrutinised by the inspector, by attending veterinary surgeons and readily accessible to all staff that are caring for the animals and who will be expected to follow the plans.

Each condition is explained below.

Condition that ‘prescribed welfare standards’ are complied with and that due regard is had to species-specific guidelines

- The prescribed standards cover all aspects of life for a wild animal in a travelling circus environment, and include:
 - Housing and environs
 - Training and performance
 - Transport
 - Diet
 - Acquiring and disposing of animals
- Prescribed welfare standards must be met at all times, including during training, performance and transport.
- Prescribed welfare standards will help to ensure that the animals are treated appropriately and welfare conditions are optimised (both promoted and safeguarded).
- Prescribed welfare standards draw on international best practice.
- It is intended that welfare standards that are specific to individual species will be included in the guidance. Defra expects travelling circuses to have due regard to this and any other available guidance in interpreting their legal duties.

Condition that a ‘lead vet’ is appointed and that veterinary care is provided to all wild animals

- It is important that the circus has sufficient veterinary cover to ensure that health and welfare needs of the wild animals are being appropriately managed.
- The circus should appoint a specialist veterinarian surgeon who has specialised knowledge of the specific species in the travelling circus to lead on veterinary care for its wild animals (a “lead vet”).
- The lead vet must be consulted in planning for the animals and checking that welfare requirements are satisfied. The lead vet must be available for consultation by the circus as and when appropriate.
- Animals should receive ongoing veterinary care. Ideally the lead vet should attend at least once every three months to tend to the animals. At this point the welfare provision for the animals should be reviewed, including whether the prescribed standards, relevant guidance and best practice are being implemented. For practical reasons the lead vet may delegate to another vet (but noting the bull point immediately below this one) as long as the attending vet holds sufficient knowledge and skill to perform the tasks expected of

them and is in direct communication with the lead vet. This includes requiring that any care, treatment and change to Care Plans is discussed with the lead vet. Exception can be made for emergencies.

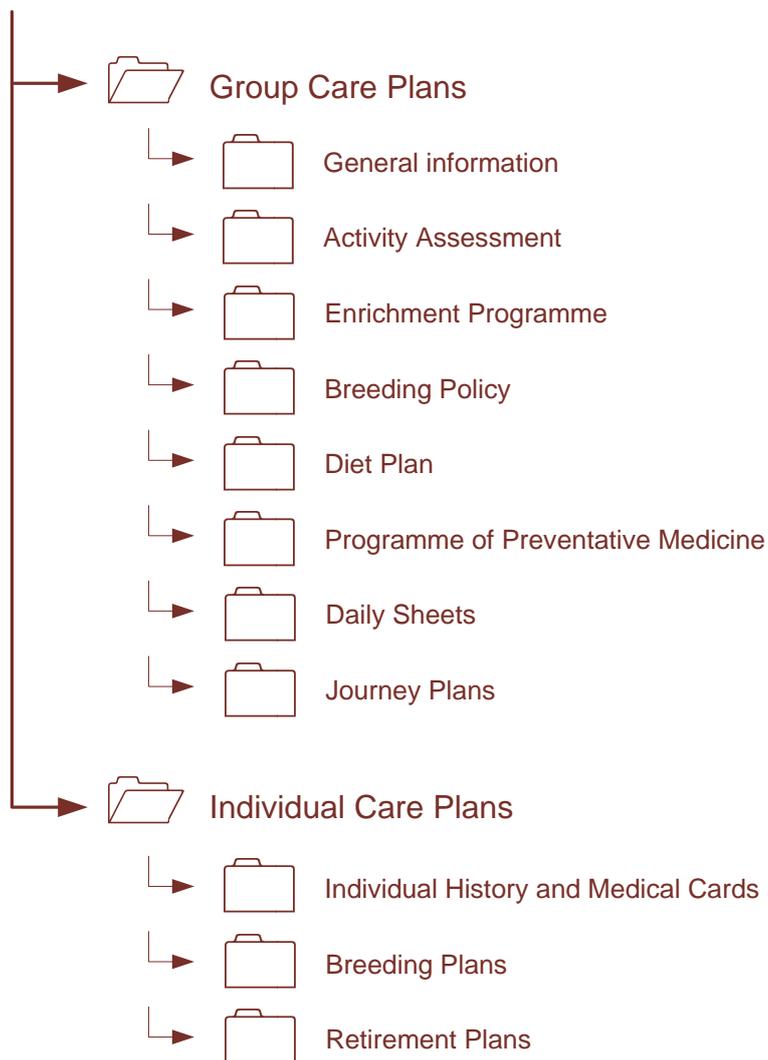
- The lead vet must be in attendance (i.e. not delegated to another vet) at least once a year at the winter quarters for the circus animals, and at least once a year at a tour site to advise on the conditions on the road.
- Whatever local arrangements are entered in to, the lead vet should lead on all veterinary matters and have an overview of health and welfare throughout the year and whenever a review or revision is made to a “Care Plan”.

Condition that ‘Care Plans’ are prepared; reviewed and agreed by the ‘lead vet’; followed at all times

- Travelling circuses should plan ahead and establish precisely what each wild animal’s welfare needs are and formalise how they will be met by preparing care plans. Care plans should be holistic. Two types of Care Plan must be prepared (“Group Care Plans” and “Individual Care Plans”).
- A “Group Care Plan” must be used, to highlight and plan for all the welfare needs of each group of animals (i.e. animals kept together in a socially compatible group or kept under the same husbandry conditions). The Plan will ensure that the animals’ needs are provided for in the everyday management of the circus. The Plan should include:
 - consideration of welfare needs in providing accommodation and other spaces in which the animals will be kept and used
 - consideration of welfare needs in relation to the intended uses of animals
 - welfare plans and programmes (including behavioural and environmental enrichment, breeding, diet and preventative medicine)
 - routine management records including daily record sheets and journey plans
- An “Individual Care Plan” must be used to highlight and plan for all the welfare needs of individual animals and then ensure each animal’s needs are provided for in the everyday management of the circus. The Individual Plans should record where the needs of one animal differ from those of the group in which it is kept (where applicable), and must also include:
 - Individual history and medical cards
 - breeding plans
 - retirement plans



Records must be kept by the licensee



An overview of the key plans and programmes contained in Care Plans

Activity assessment

An activity assessment should be used to identify any risks to animal welfare from the uses the travelling circus has for the animals. It should identify the steps that will be taken to minimise risks to welfare, and the initial steps that would be taken if a problem arises during an activity / use of an animal.

Behavioural and environmental enrichment plans:

Under the Group Care Plans, a behavioural and environmental enrichment plan must be developed for every species to help ensure that normal behaviours can be expressed and to

take as much account as possible of the natural habitat, physiological and psychological needs of each animal. Enrichment is a continual process and should form a part of daily routine.

Breeding:

Under the Group Care Plans, “**breeding policies**” must be prepared for each group of animals. A breeding policy should set out the additional steps to the standard Care Plans that will be taken to ensure that welfare is maintained in pregnancy, the perinatal period and separation/reintroduction from/to the social group. Particular attention is to be paid to differing needs of animals during breeding and rearing young.

If an individual animal is to be intentionally bred from, or was not meant to be mated but has become pregnant, a “**breeding plan**” must be prepared which must plan for and set out the additional steps beyond the standard Care Plans that will be taken to secure the animal's welfare. The welfare needs of young animals must be catered for in accordance with the prescribed welfare standards.

Diet plans:

Diet plans are intended to provide for all the dietary requirements of each animal, and should incorporate specialist advice (primarily from the lead vet or other specialist) to ensure that the dietary needs are met. These must be reviewed frequently in light of the animal's general health, physiological state and body condition.

Preventative medicine programmes:

A programme of preventative medicine must identify for every group of animals (and for any individual not in a group or where its needs differ from that of the group):

- details of all vaccines, worming and other preventative medicine
- details of all health monitoring, including any sampling

Daily sheets:

Daily sheets are intended to be part of the routine management of the welfare of the animals, requiring a light touch but as a powerful tool to monitor the environmental conditions and well being of the animals and to help inform adjustments and reviews. Key findings from daily sheets should be used to update and review the Care Plans, and should also trigger action as soon as a problem arises which could compromise an animal's welfare. The daily sheets should cover all activities involving the animals covered by a licence, in particular including training and performance.

Journey plans:

Journey plans should help ensure that sufficient planning is made before embarking on a journey, and record the actual journey undertaken as well as ensure that any welfare issues are noted and remedial action triggered.

Individual history and medical cards:

Individual history and medical cards must be kept for all animals. Individual history and medical cards should compile important information about each animal and note all relevant clinical, health and behavioural issues and treatments. Individual history and medical cards should be kept up to date, travel with the individual animal at all times and should be retained for long term use. Good practice suggests that individual history and medical cards should be kept on card index or computer, be available for quick reference and be backed up securely.

Retirement plans:

A retirement plan ensures that the long term welfare needs of each animal are considered in advance, and helps to ensure that appropriate provision is made for an animal if it is no longer to be used in the travelling circus for any reason. A retirement plan should make provision for each individual animal's retirement as well as - if applicable - assess the impact of the individual's removal on other animals in the group.

- Care Plans should be prepared in consultation with the “lead vet”.
- Once prepared, Care Plans should be agreed by the “lead vet”.
- Care Plans must then be followed at all times by all people that have reason to access and care for the animals.
- Daily records management should be used as a tool to help manage welfare as well as record conditions and actions taken to maintain or improve welfare.
- Care Plans should be reviewed during visits from the “lead vet” to ensure that they are up to date and fit for purpose.

Condition that staff are ‘competent’ and available to provide care at all times

- In order for optimum standards of animal welfare to be maintained, it is important that all people that have access to and responsibility for wild animals are competent.
- By competent, it is intended that people should be sufficiently trained and/or experienced to properly keep the animals entrusted to their care. Different levels of access will be allowed to staff depending on their competence.
- Enough competent people should be on hand at all times to meet the animal's needs.
- Records must be maintained that set out who the competent people are (e.g. using a staff list), who is on site and who is on duty to take overall responsibility at any given time (e.g. duty roster); notwithstanding the licence holder's overall responsibility under the licence.
- Staff competency should be continually maintained and improved.

Each individual requirement that together make up each condition can be viewed in detail in the accompanying guidance.

Species-specific guidance

Species-specific guidance has been produced for all the species known to have been used in recent years by circuses in England, including:

- Elephants
- Large cats
- Reptiles
- Ungulates, Equids and Camelids (South American, Arabian and Bactrian)

Consultation Question 8. Based on the explanation of the welfare-based conditions and the welfare standards, are there any areas of welfare that have been missed, or that do not appear to be adequately set out?

Consultation Question 9. Do the conditions and standards address all aspects of life of a wild animal in a travelling circus?

Consultation Question 10. Are there other species of animal that you would expect to be covered by the guidance?

Detailed Guidance

The accompanying guidance has been prepared as a practical guide to the proposals. Primarily targeted at circus operators it is meant to be accessible to anyone with an interest.

Consultation Question 11. Is the guidance sufficiently clear? For example, is there anything that should be added, explained in more detail, or removed?

Part V - Summary of impact assessment

About impact assessment

An impact assessment accompanies this consultation document. The impact assessment presents our evaluation of the costs and benefits of the options that have been considered (licensing and a complete ban), and identifies the preferred option (that of a licensing scheme) and rationale behind it.

Impact assessments are required for all Government interventions that affect the private sector, the third sector and public services. The preparation and publication of impact assessments ensures that people with an interest can understand and challenge:

- why the Government is proposing to intervene
- how and to what extent new policies may impact on them, and
- the estimated costs and benefits of proposed and actual measures.

Impact assessments give interested parties an opportunity to identify potential unintended consequences of Government intervention.

The information in the impact assessment about the preferred option (licensing) is summarised below.

Summary of costs of preferred option (licensing)

The impact assessment presents a 'best estimate' total cost of £332,000 over ten years.

That figure includes a total transition cost of £58,000 over three years (or an average of £19,000 each year for the first three years), and an average annual cost of £31,000 thereafter.

The costs are set out in the table below.

Cost type	Requirement	Cost (in £)	Assumptions	Source in the impact assessment
One-off costs	Training costs	42,000	24 staff each trained at a cost of £1,750	7.2 – 7.2.1
	Improvement to facilities	15,500	£7,500 to £8,000 typical cost of improvements after a circus has been inspected, significantly less where the operator already is	7.3

			known to have made improvements in recent years	
	Administrative costs (borne by circuses)	3,465	40 hours staff time at an estimated equivalent rate of £13.88 (which is equivalent to leisure and sports managers under the UK Standard Cost Model, which includes 30% overheads) and one day's specialist veterinary time at an estimated day rate of £600; totalling £1,155 per circus.	7.6.1
	Initial licence inspection costs (i.e. cost of inspector)	13,335	Three inspections each at a cost of £1,740 (which includes an estimated daily rate for an inspector of £580 or £72.53 an hour excl VAT) plus £100 travel expenses per inspection; £5 per meal per inspection; and an estimated £75 per overnight stay which may be required for two of the inspections. Each inspection to be followed by an estimated 0.5 days report writing and 0.5 days follow up inspection (plus associated travel costs). Equates to £4,445 per circus, to be recovered via licence fee. (full breakdown in table 3 in the impact assessment)	7.7 - 7.7.1 and Table 3
	Initial licence inspection staff costs (the cost of circus staff time during the inspections)	1,332	32 hours at an hourly rate of £13.88 (based on UK Standard Cost Model, which includes 30% overheads); equates to £444 per circus	7.7.2
	Total One-off costs	75,632	Sum of individual costs one-off cost estimates	
Annual costs	Maintenance of facilities	3,000	Based on an assumption that £1,000 per circus would be spent	7.3.1

			maintaining equipment to comply with legislative requirements	
	Routine veterinary visits	4,050	Based on an <i>additional</i> three days of veterinary time at an average day rate of £450 per circus	7.5
	Administrative costs	2,165	52 hours staff time (at a rate of £13.88, equivalent to leisure and sports managers) per year per circus	7.6.1
	Annual licence renewal costs	9,225	As initial inspection costs, minus one follow up visit per circus. (full breakdown in table 3 in the impact assessment)	7.7.1 and Table 3
	Annual licence renewal inspection staff costs (the cost of circus staff time during the inspections)	999	24 hours staff time at an hourly rate of £13.88 (based on UK Standard Cost Model, which includes 30% overheads); equates to £333 per circus	7.7.2
	Total annual costs	19,439	Sum of individual annual cost estimates	

The licensing scheme will be administered by Defra, using appropriately qualified veterinary inspectors to carry out inspections. The administrative costs would be subject to full cost recovery under the licence fee.

The impact assessment assumes that allegations could be made against travelling circuses that would need to be investigated. These costs cannot be recovered from the licence holders if it is found that the allegation is unfounded, and would fall to Defra's budgets. It is assumed that a visit would cost £680 (£580 daily cost of an inspector plus £100 travel expenses). Two per month would amount to £28,560 a year (assuming tours last 7 months). Over time the number of allegations would be expected to reduce. In the long term, the impact assessment assumes these costs could be as low as about £2,000 a year.

Summary of benefits

The main benefit is securing and improving animal welfare of wild animals in travelling circuses. It is difficult to put a price on the value to society or to the animals of the improved welfare.

It is possible that public perception of the inclusion of wild animals in travelling circuses may improve with the increased transparency provided by an inspection regime (and if travelling circuses are able to demonstrate that welfare is sustained at a high level). It is difficult to quantify in an estimate or to attach a monetised benefit.

Licensing might lead to some tangible benefit such as increased revenue for circus operators as the operators could demonstrate they are not causing their animals to suffer.

The impact assessment discusses the benefits from paragraph 7.10.

Consultation Question 12. Do you agree with each of the cost estimates in table 1, and the impact assessment? (if you think any of the cost estimates are not correct, please identify which, and include your estimate of cost and summarise any evidence you may have)

Consultation Question 13. Do you think that any costs have been missed out of the impact assessment? (if you answer yes, what has been missed?)

Consultation Question 14. Do you think the benefits set out in the impact assessment represent a fair assessment of the benefits of the proposed licensing scheme? (if you answered no, what needs to be done differently to make the assessment a fair one?)

Consultation Question 15. Do you think that any benefits have been missed out of the impact assessment? (if you answer yes, what has been missed?)

Consultation Question 16. Do you have any other comments about the impact assessment?

Part VI - Responding to this consultation

How to respond

Responses can be made on-line by completing the on line survey, by e-mail, or in hard copy by post.

Responses should be received by 25 April 2012.

Responses received after the closing date will not be counted.

On-line

You can complete the survey electronically either by:

Downloading the Excel pro-forma from www.defra.gov.uk/consult/2012/03/01/circus-animals-1203/ and emailing your response to circusanimalwelfare@defra.gsi.gov.uk

Or

You can complete the survey on-line at www.surveymonkey.com/s/circusanimals

E-mail

circusanimalwelfare@defra.gsi.gov.uk

By post

Circus Animal Consultation

Animal Welfare Division

8B LMB

c/o 17 Smith Square

London

SW1P 3JR

Part VII - Summary of consultation questions

Consultation Question 1. Do you think the draft definitions accurately define who and what should be covered by the regulations?

Consultation Question 2. Do you agree that core welfare standards should be put in the regulations (which a licence holder would be required to meet under the licence conditions), supplemented with species-specific guidance and general guidance?

Consultation Question 3. Do you agree that the full cost of the licence and inspections should be recovered from the applicant for a licence?

Consultation Question 4. Do you agree that the inspector should have discretion to set the length of a licence (up to the legal limit of three years set by the Animal Welfare Act 2006)?

Consultation Question 5. Do you agree that a variation to a licence should be obtained by the licence holder before s/he may bring in an animal not already covered by the licence?

Consultation Question 6. Do you agree that the person responsible for an act joining a travelling circus, or a travelling circus not currently licensed, must either obtain a licence for the act or ensure they are covered by means of a variation to an existing licence?

Consultation Question 7. Do you agree with the number and type of inspections proposed?

Consultation Question 8. Based on the explanation of the welfare-based conditions and the welfare standards, are there any areas of welfare that have been missed, or that do not appear to be adequately set out?

Consultation Question 9. Do the conditions and standards address all aspects of life of a wild animal in a travelling circus?

Consultation Question 10. Are there other species of animal that you would expect to be covered by the guidance?

Consultation Question 11. Is the guidance sufficiently clear? (For example, is there anything that should be added, explained in more detail, or removed?)

Consultation Question 12. Do you agree with each of the cost estimates in table 1, and the impact assessment? (If you think any of the cost estimates are not correct, please identify which, and include your estimate of cost and summarise any evidence you may have)

Consultation Question 13. Do you think that any costs have been missed out of the impact assessment? (If your answer is 'yes', what has been missed?)

Consultation Question 14. Do you think the benefits set out in the impact assessment represent a fair assessment of the benefits of the proposed licensing scheme? (If your answer is 'no', what needs to be done differently to make the assessment a fair one?)

Consultation Question 15. Do you think that any benefits have been missed out of the impact assessment? (If your answer is 'yes', what has been missed?)

Consultation Question 16. Do you have any other comments about the impact assessment?

Consultation Question 17. Do you have any other comments or suggestions?