

**PE1561/J**

**Agriculture, Food and Rural Communities Directorate**

Animal Health and Welfare Division

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Ned Sharratt  
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11 December 2015

Dear Mr Sharratt

Thank you for your letter of 28<sup>th</sup> October 2015 on behalf of the Public Petitions Committee of the Scottish Parliament to Iain Jaynes, Committee Liaison Officer for the Scottish Government regarding Petition PE1561 lodged by Ms Karen Gray on behalf of Rabbits Require Rights. You ask if we could provide more information on the Scottish Government's review of animal welfare legislation, by which I assume you mean the pet welfare review referred to in my previous correspondence on this petition dated 27<sup>th</sup> August 2015.

As noted previously, the Scottish Government is committed to policies that will improve the welfare of pet animals and is already conducting a long-term review of the pet welfare legislation in Scotland to identify potential gaps in protection. This began in March 2013 with a stakeholder meeting to discuss animal welfare issues surrounding pet vending and internet sales and has continued to consider the issues surrounding animal boarding and animal sanctuaries and, more recently, exotic pets. Annex 1 outlines the areas being looked at and highlights some of the challenges that we are already aware of. As noted previously, the welfare of rabbits will be considered as part of this review. We will continue to discuss all pet welfare issues with those stakeholders most knowledgeable on particular topic, including Rabbits Require Rights on the welfare of rabbits.

At present there is no firm timescale going forwards as we are still very much in the information gathering phase; however, we are planning further stakeholder meetings on the breeding and sale of pets and on animal boarding and sanctuaries over the next 12 months. Ultimately, we intend to undertake an options analysis on how the existing protections for pet welfare might be improved and will then decide how best to formally consult on proposals.

I hope that this information is useful, and if you require anything further, please let me know.

Yours Sincerely

**Dr Beverley Williams**  
Animal Welfare Team Leader

## **Annex 1: The need for a review of policy on pet welfare**

- The welfare of all protected animals, including pets, is covered by the Animal Health and Welfare (Scotland) Act 2006. This makes certain behaviours likely to compromise animal welfare an offence and places a duty of care on those responsible for animals to ensure that their welfare needs are met.
- Whilst this over-arching legislation is relatively modern and has been well received, some legislation governing specific situations relating to pet welfare is quite dated and may benefit from review. In addition, there are a number of modern issues that are not explicitly covered by existing welfare legislation.
- Officials are therefore currently conducting a review of pet welfare, which is a substantial and on-going piece of work being undertaken in discussion with a variety of stakeholders. We will then consider how best to proceed; any new or revised legislation would need to be preceded by full public consultation.

### **Animal Boarding**

Animal boarding and the related issue of animal sanctuaries, is an area where the landscape has changed significantly since the current legislation was put in place.

#### Existing legislation

1. The Animal Boarding Establishments Act 1963 ('1963 Act') regulates dog and cat boarding establishments, and makes it an offence for a person to run such an establishment without a licence granted by the local authority.

#### Challenges

2. Although the 1963 Act refers to animal boarding establishments, it defines 'animal' as 'any dog or cat'. Boarding establishments for other kinds of animals do not therefore require a licence.
3. It is likely that the 1963 Act was originally intended to cover overnight stays at traditional boarding kennels only. In more recent years, however, pet owners have started using day-care facilities for their pets (usually dogs), often referred to colloquially as 'dog crèches' or 'doggy day-care'. Although the 1963 Act is worded in such a way that it should cover dog crèches, it is not clear that it is always being applied by local authorities in this way.
4. Moreover, the 1963 Act does not cover other new commercial 'animal sitting' operations, such as dog walking, looking after pets in their own home, or 'home boarding' with carers rather than at a dedicated facility. It also does not cover situations where care of an animal is temporarily transferred to a business, for example at dog-grooming parlours.
5. It might be useful to consider whether/how the legislation should be clarified and amended to make it more appropriate to modern demands. It will be important to ensure, however, that any regulation is proportionate.

## **Sale of Pets over the internet**

- The sale of pets over the internet was highlighted as an issue by stakeholders in Scotland during the consultation on the development of the Animal Health and Welfare (Scotland) Act 2006. Given the increased use of the internet for buying and selling generally, the Scottish Government recognise that the sale of animals via the internet is a continually growing issue.
- The Scottish Government met with pet vending stakeholders to discuss a number of topics relating to the sale of pets, including internet sales, on 22 March 2013. We obtained useful feedback, which will be fed into the wider review, on how the issues could be tackled. Education of the public was considered key.

### Existing welfare legislation

- The sale of pets is currently governed by the Pet Animals Act 1951, which requires anyone keeping a pet shop that sells pets to be licensed by the Local Authority. This legislation defines pet shops as premises of *any* nature, including private dwellings, where the business of selling animals as pets is conducted, or where animals are kept with a view to sale. Welfare conditions relating to internet sales originating within the UK are therefore covered by existing legislation.

### Challenges

- While internet sales originating within the UK are covered by existing legislation, albeit implicitly, it is not clear how well enforced this is within Scotland, or the rest of the UK. Furthermore, the regulations were not written with the wholesale or internet sale of animals in mind and the conditions set may merit review.
- Regulation of welfare conditions related to internet sales originating outside the UK is not achievable with domestic legislation and would require interest and action at a Europe-wide level in the first instance. Current UK policy is to encourage attention at this level to remain focussed on farm animal welfare for the present.
- Policy relating to the internet itself is reserved to the UK Government. The Scottish Government, along with other UK administrations, has been working with the Pet Advertising Advisory Group to look at voluntary mechanisms for tackling illegal or inappropriate advertisement of animals on the internet.

## **Breeding and sale of pets**

### Existing welfare legislation

- In Scotland, as in the rest of the UK, the commercial breeding of dogs is already regulated by the Breeding of Dogs Act 1973, as amended by the Breeding of Dogs Act 1991 and the Breeding and Sale of Dogs (Welfare) Act 1999.
- Under these Acts, no person is permitted to keep a breeding establishment for dogs except under a licence granted by the local authority. A breeding establishment is defined as a place where more than five litters are born during any twelve months. For licenced breeders there are restrictions on the ages of dogs used for breeding and on the number of

litters produced, along with requirements for suitable accommodation, care and record keeping.

- Scotland also has the Licensing of Animal Dealers (Young Cats and Young Dogs (Scotland) Regulations 2009, (the Animal Dealer Regulations), which regulates the trade in young cats and dogs. It sets a minimum age of 8 weeks at which these animals can be sold; requires the animals to be examined by a vet when the dealer buys them; requires them to remain with the dealer for a minimum of 10 days before being sold to enable any latent disease to show; and requires the animals to be kept in suitable accommodation, supplied with suitable food, drink and bedding material, adequately exercised and visited at suitable intervals.
- Anyone who holds a licence under the Breeding of Dogs Act 1973 or the Pet Animals Act 1951 is exempted from the requirement for a licence under the licensing of animal dealers Regulations. This legislation also does not apply to any person who sells no more than 2 young cats or 2 young dogs or one of each type of animal in any 12 month period.
- There have been few applications for dealer licences within Scotland. However, in 2013 the Scottish Government Animal Welfare Team worked with Fife Council to draw up a set of robust licence conditions to ensure the welfare of any puppies that may pass through a dealer.
- An important result of the legislation, which also applies to those transporting animals into Scotland for sale, was the effective ban on trade in puppies being brought to Scotland from Ireland; this was a significant blow against puppy farming at the time. More recently we have seen increasing numbers of animals being imported from Eastern Europe; this legislation also applies in these cases.

### Challenges

- While large-scale puppy farms have been illegal since the 1970's within the UK, there is still a public perception that such facilities are rife.
- Currently only the breeding of dogs and the dealing of dogs and cats under 84 days old is regulated; this leaves a large portion of the pet supply trade unregulated. Some have suggested that there has been an increase in small scale home breeding of animals for profit, though this is thought to be mainly of dogs and cats.
- We have no evidence of generic welfare issues with licenced dog breeders; however, there has been some suggestion that licence requirements are too soft and that, in combination with the threshold of 5 litters of puppies before a licence is required, this has contributed to the rise of 'backstreet breeding' in urban areas of Scotland, and subsequently over-breeding and abandonment of dogs.

### **Exotics and non-domesticated species**

- While it has long been illegal in the UK for private individuals to keep almost any of the indigenous vertebrate wildlife species as pets, private individuals can legally keep any of the large majority of vertebrate wildlife species indigenous to any other country as pets.
- Appetite for exotic pets is increasing across Europe, including in Scotland. Whilst exotic mammals may be more likely to make headlines, there is a large import trade to

Scotland in wild-caught fish, with marine fish coming from countries such as Sri Lanka, Vietnam, Australia, America, Holland, and Germany.

- Mr Lochhead met with representatives of OneKind and Stichting AAP on 25<sup>th</sup> November 2014 to discuss the matter.

### Existing legislation

- The Dangerous Wild Animals Act 1976 requires individuals to obtain a licence to keep animals listed in the Schedule and provides Local Authorities with powers to inspect premises, and to seize and dispose of animals held without licence or contrary to licence conditions. Licence considerations include: public nuisance and safety; accommodation, food and bedding; biosecurity, and contingency planning. Local authorities have discretion to add any conditions they deem suitable; the Scottish Government provides species specific guidance online to aid them in the addition of relevant animal welfare-related conditions.
- The Welfare of Animals (Transport)(Scotland) Regulations 2006 implements EU Regulation 1/2005 on the protection of animals during transport and related operations. It sets out strict requirements on the commercial transport of live vertebrate animals. Although more commonly recognised as a farm animal issue, this also includes companion animals being moved for trade.
- CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. This is a reserved issue dealt with by Defra.
- Regulation (EU) No 1143/2014 on the prevention and management of the introduction and spread of invasive alien species sets out rules to prevent, minimise and mitigate the adverse impact on biodiversity of the introduction and spread within the Union of invasive alien species. It comes into force on 1 January 2015; however, a list of species is not expected for at least another 12 months hence it will be some time before this has any effect in practice.
- The Wildlife and Countryside Act 1981 (amended by the Wildlife and Natural Environment (Scotland) Act 2011) prohibits the release of all non-native species (subject to a small number of exceptions). It also contains powers to ban the sale or keeping of specified invasive species and to require reports of specified invasive species to be made. The current list of species banned from keeping includes a small number of mammals, fish and crayfish. There is a requirement to report sightings for a small number of mammals. There is no prohibition for sale currently in place under this legislation. Other species can be specified for these purposes by secondary legislation.

### Challenges

- The increasing trade in exotic pets poses a number of potential threats, including for: animal welfare (e.g. through inappropriate transport, inadequate welfare and veterinary knowledge and poor husbandry); disease spread (both to humans and farm livestock); species conservation (where animals are wild caught); invasive species (where exotic pets are abandoned in Scotland and may breed).

- There are also a number of overlaps with other pet-related issues including: internet sales and the lack of transparency about how animals sold by this route are sourced (there has been some suggestion that the biggest illegal pet trade is in fish); and a lack of husbandry guidance at point of sale
- The current multiple 'negative list' approach to exotic pets can require sometimes complex cross-checking in each individual case, and could potentially allow currently unknown dangers to be imported legally where present legislative instruments are silent. There has therefore been some suggestion that a shift from a series of negative lists to one single positive list of exotic animals that may be kept as pets should be considered. One example of this is the Dutch positive list of mammals that can be kept as pets, which came into force on 1<sup>st</sup> February 2015.