

Welfare of Dogs (Scotland) Bill – Summary of Call for Views survey

Contents

Overview of respondents.....	2
Views on the need for additional regulation.....	3
Views on the Code of Practice	5
Views on registering unlicensed litters	15

Call for views survey

The call for views survey was issued on 29 June 2023 and closed on 11 August 2023. The call for views survey asked respondents to answer the following questions:

1. Do you agree there is a need for additional regulation to support a responsible and informed approach to acquiring and owning a dog?
2. Do you agree with the section 1 proposals to require Scottish Ministers to make a code of practice?
3. How would the proposed code of practice work alongside the existing code of practice for the welfare of dogs, made under the Animal Health and Welfare (Scotland) Act 2006 and which came into force in 2010?
4. Do you agree with the section 2 proposals about the content of the code relating to the sale or transfer of a dog of any age?
5. Do you agree with the section 3 proposals about the content of the code relating to the sale or transfer of a young dog by the first owner?
6. Do you agree with the section 4 proposals about the content of the code requiring a certificate?
7. Do you agree with the section 5 proposals relating to the revision of the code of practice?
8. Do you agree with the section 6 proposals relating to the effect of the code?

9. Do you agree with the section 7 proposal relating to a public awareness raising campaign for the code of practice and the projected costs for this set out in the financial memorandum?
10. Do you agree with the section 8 power for Scottish Ministers to make regulations to establish a register of litters?
11. Do you agree with the proposal that local authorities enforce a register of litters and the projected costs for this set out in the financial memorandum?
12. Do you agree with the section 10 power for Scottish Ministers to make regulations to secure compliance with a register of litters?
13. Do you agree with the section 11 proposal relating to a public awareness raising campaign for a register of litters and the projected costs for this set out in the financial memorandum?

Overview of respondents

22 responses were received, of which:

- 5 responses were from individuals.
- 17 responses were from organisations.
- The Committee received a response from the Scottish Animal Welfare Commission.
- The Committee received a response from Police Scotland.
- **13 responses were from animal welfare or rehoming charities, or other third sector organisations:** NatureWatch Foundation, Scottish SPCA, Animal Concern, Blue Cross, Conservative Animal Welfare Foundation, OneKind, Battersea Dogs & Cats Home, Dogs Trust, the UK Centre for Animal Law, The Kennel Club, National Working Terrier Federation, The Self Help Group for Farmers, Pet owners and Others experiencing difficulties with the RSPCA (The SHG), and the Scottish Countryside Alliance together with the Scottish Association for Country Sports.
- **1 response was received from a professional body:** the Law Society of Scotland.
- **2 responses were received from local authorities:** Glasgow City Council and Aberdeenshire Council.
- **5 responses were from individuals,** including two academics.

Calls for views are not representative surveys but offer an opportunity for interested parties to share their thoughts. The summary below is only intended to identify areas for further thought or questioning.

Views on the need for additional regulation

The call for views sought opinions on whether there is a need for additional regulation or oversight of acquiring and owning dogs.

While many respondents agreed that there is a need for additional regulation, some respondents disagreed.

All of the animal welfare organisations agreed that there is a need for additional regulation, alongside the Scottish Animal Welfare Commission, two local authorities, two academics and two individual respondents.

Many of these expressed **general concerns about the lack of knowledge and awareness of what to consider when acquiring a dog** among many prospective buyers.

Several also noted the **exacerbation of a variety of welfare issues, including irresponsible breeding, since the Covid-19 pandemic**. A number of respondents highlighted a “crisis in rescue” (Prof Marie Fox & Dr Sarah Singh) following the pandemic where large numbers of dogs are being given up to rescue centres. Battersea Dogs & Cats Home outlined some of the figures:

“The COVID-19 pandemic created a surge in demand for puppies, leading to the animal welfare sector, including Battersea, seeing increased animal abandonment either through relinquishments or strays coming to our centres. In May 2020, at the peak of lockdown, Pets4Homes reported a 104% rise in puppies for sale compared with the year prior, with 420 prospective buyers for each advert for a puppy (Pandemic Pets: How Covid-19 affected pet sales and pricing in 2020 | Pets4Homes). The scarcity of puppies led to a surge in prices and unethical breeding practices. Now demand has decreased, Battersea and many others in our sector have seen a notable influx of puppies, and adolescent dogs being brought to our centres, as well as a rise in on-site births. Battersea’s stray intake has also increased, in 2022 it doubled to 849 compared to 422 in 2021. The increased abandonment trend at Battersea is in line with the most recent survey of the Association of Dog and Cat Homes (ADCH) members, with 92% of respondents reporting that dog abandonment is now rising at a greater rate than in March 2022. Many individuals who purchased pets during the pandemic are now facing challenges in caring for them, particularly regarding behavioural issues and veterinary expenses.”

Blue Cross stated that:

“Blue Cross does recognise that there are huge problems with the breeding and sale of dogs...The only solution that will have any meaningful effect is to tackle all aspects of the trade at source, and provide a comprehensive licensing and registration system that ensures visibility of anyone who is breeding or selling a dog.

“We are, therefore, broadly supportive of the Bill. We think its aims are laudable and, if implemented effectively, could help to improve the health and

welfare of dogs in Scotland. We do have some concerns, though, about the current wording of the Bill and the assumptions which underpin its proposed effectiveness...A lot depends on the robustness and universality of the enforcement process and on whether the Scottish Government's publicity campaign is effectively targeted on hard to reach groups. If this is not achieved, then the Bill could simply be adding another layer of bureaucracy for responsible breeders and purchasers."

The Naturewatch Foundation stated that:

"Acquiring and owning a dog is a big responsibility, and despite the introduction of revised breeding and selling regulations via the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021, much of the trade in puppies still falls outside of regulatory oversight..."

OneKind, Dogs Trust and Scottish SPCA cited the [PDSA's PAW report](#), which highlighted a lack of awareness of some aspects of responsible buying and ownership. OneKind highlighted:

"The PDSA Paw Report 2023 found that only 43% of UK dog owners knew that puppies for sale should be seen with their mother, and only 42% had checked the breeder was licensed with the local authority. Further, amongst the top five welfare issues that veterinary professionals believe need to be addressed for dogs are a lack of knowledge of welfare needs by owners, lack of pre-purchase research by new owners, and an awareness of the cost of keeping a dog."

Dogs Trust further highlighted:

"According to the most recent PDSA Paw Report, 26% of dog owners in the UK had not heard of any of the breeding and selling guidelines or regulations that were listed. Furthermore, just 43% knew that by law, a pup should be seen with its mum and only 26% knew that pups should be sold from the place they are bred."

The Kennel Club and the Law Society of Scotland were 'neutral' on the question of whether there is a need for additional regulation. The Kennel Club noted that:

"The Kennel Club does agree that there should be a more responsible and informed approach to acquiring and owning a dog. From our Puppy Awareness Week data we know that many dog owners spend very little time researching before getting a puppy and that as a result, they may inadvertently purchase one from an irresponsible breeder or end up with a dog that is not suited to their lifestyle. This can subsequently lead to abandonment. Whilst there is rightly much emphasis on the need for breeders to ensure they breed dogs with health and welfare at the forefront, it is important that the public also demand this of them. Whilst breeding regulations are currently in place, they are poorly enforced. The best way of achieving change and raising the standards of dog breeding, is to better educate the puppy buying public in order that they demand high standards of

breeders.

“Therefore we are not convinced that Regulations are necessarily the ideal way in which to achieve behaviour change as there are so many people who currently evade laws relating to dog welfare and enforcement is generally weak. However we do agree that potential buyers need to know what they should be expecting of dog breeders and that this requires a degree of information and research. It is difficult to recommend an approach that would work as imposing requirements on dog owners is a new area, though we would suggest some form of ‘self-certification’ for potential dog owners, and the use of mandatory contracts by breeders.”

Two individuals, and four organisations (in three responses) disagreed. One individual felt that:

“The guidance suggested in the bill is already all common sense questions which charities, pet organisations and reputable breeders all ask. Putting it into a bill and asking someone to sign a piece of paper saying they've considered it is meaningless...”

The respondent felt that the provisions would penalise casual breeders, for example in rural areas and with working dogs, but did express support for alternative options, such as dog licensing.

The National Working Terrier Federation, the Scottish Countryside Alliance and the Scottish Association for Country Sports did not agree that additional regulation is required. The National Working Terrier Federation said:

“Such a move would in our view be unnecessarily intrusive, and appears overly bureaucratic for what it seeks to achieve. We are also concerned that it may disadvantage groups such as the elderly and others who rely on their pet dogs for company, and the various physical and mental health benefits they can so readily provide. We would suggest that "education" is far more effective tool than "regulation" and has greater longer term benefits.”

The Scottish Countryside Alliance and Scottish Association for Country Sports felt that the proposals have **not adequately considered working dogs**. They said:

“...in the working dog sector standards are generally already high due to the importance of breeder and owner reputations. Breeders and owners of working dogs are, by definition, already well aware of the relevant considerations highlighted in this proposed bill...The proposed additional regulation appears to be aimed at the pet/companion dog sector, and the implications for the working dog sector have not been properly considered by the Member.”

Views on the Code of Practice

Respondents were asked whether they agree with the proposals on a new Code of Practice, and how a new Code would work alongside [the existing 2010 code of practice for the welfare of dogs](#).

Most of the respondents who agreed that further regulation is required also agreed with the proposal to require a Code of Practice. Of those who agreed with the overall question of further regulation, UK Centre for Animal Law were 'neutral' on the proposals for a Code of Practice, and OneKind answered 'don't know'. The Kennel Club, who were neutral on the overall question of regulation, agreed with the proposal to require a Code of Practice. The Law Society of Scotland were neutral on both questions.

Those who disagreed with the need for additional regulation also disagreed with the approach to the Code of Practice.

Battersea expressed support for the proposals and outlined the challenges that rescue centres have faced in recent years. They noted, however, that the effectiveness of a Code will be determined by awareness-raising and enforcement around the Code.

Two legal academics – Professor Marie Fox and Dr Sarah Singh from the University of Liverpool – agreed with the proposals on the basis that they are “a workable step in the right direction”. They said:

“While effective enforcement is vital, a Code of Practice is also of symbolic value in trying to achieve the change in attitudes around acquisition of dogs which is the main aim of this Bill. The Welsh Senedd have launched several codes of practice on animal welfare including the Animal Welfare Establishment Code of Best Practice (2020). Although our research suggests this has had limited impact in Wales (not least due to lack of enforceability), our preliminary interview data suggest that Codes of Practice do generally command support within the sector. Moreover, if such codes are not effective in practice, they can at least provide an evidence base to support more stringent regulatory measures in future.”

Several supportive respondents pointed out that **Scottish Ministers do have the power to create animal welfare codes under Section 37 of the Animal Health and Welfare (Scotland) Act 2006** ('the 2006 Act') and there is an existing code of practice for the welfare of dogs, but that this does not cover practical considerations when thinking about getting a dog.

The Scottish Animal Welfare Commission was one of the respondents who suggested that **there is currently a gap in the legislation and guidance in relation to responsibly acquiring a dog, which a Code of Practice under the Bill could helpfully fill.** They said:

“In the view of the Commission, the relevant considerations need to be more clearly spelt out and greater steps taken to ensure that they are properly taken into account by any person contemplating the acquisition of a dog. The proposed code has the potential to achieve this by expressly highlighting the relevant factors and focussing the mind of the would-be owner on addressing them *prior to acquiring the dog.*”

SAWC acknowledged that Scottish Ministers already have the power to create animal welfare codes, but that it is appropriate to require Scottish Ministers to create

a Code of Practice on buying, selling and transferring dogs, given that they have not voluntarily done so.

However, they also noted that it is undesirable to have more than one welfare code for dogs, and therefore, “The solution is for Scottish Ministers to introduce a revised code under the combined authority of the 2006 Act and the present Bill once enacted.”

Other organisations agreed that there is a gap in the existing code, and like SAWC, while they agreed with the proposals on the new Code of Practice, **some respondents suggested that the existing code could be usefully combined with the new content required under the Bill.** Aberdeenshire Council suggested the existing code should be updated as it refers to legislation which has been repealed since the time of writing. The Naturewatch Foundation said: “Expanding the existing code of practice or combining both codes may be a more practical and user-friendly option.” Likewise, the Scottish SPCA said: “The Scottish SPCA would recommend that this new information should be incorporated into the existing code as a revision, as opposed to creation of another separate resource.”

OneKind, who answered, ‘don’t know’ to the question of whether they agreed with the proposal on the Code of Practice, also took a similar view. They emphasised that they “strongly agree with the intention to create a mechanism to cause prospective dog owners to fully consider whether they are willing and able to fully meet the dog’s needs throughout his/her life.” However, they highlighted:

“We note that Ministers already have the power to create such a code of practice under the Animal Health and Welfare (Scotland) Act 2006, though are not required to. This Bill would require them to.

“An alternative approach would be to create a requirement for Ministers to update the existing code of practice for the welfare of dogs and incorporate a new section for those considering acquiring a dog. The existing code is now thirteen years old so a revision would be advisable, and this Bill could thus bring an additional benefit.”

Similar reasons were cited by those who answered ‘neutral’ to this question. The UK Centre for Animal Law (Scottish Committee) answered that:

“We note the Member’s view (Policy Memorandum, paragraph 94) that the existing Code focuses more on caring for a dog, rather than looking at how to responsibly acquire and own a dog, and we agree with that assessment, but that is not to say that it could not be amended as required.

“[...] The measures in the Bill could prove valuable in inspiring a new revision of the existing Code with increased focus on the responsible acquisition of puppies and dogs. Possibly the obligation in s.1 on the Scottish Ministers to make a code of practice could be re-framed as a measure to promote good practice, with s.2 containing specific recommendations for revising and updating the existing Code in order to achieve this. Otherwise, there could be confusion in the public’s minds as to which has precedence and there could also be divergence in best practice if the existing Code is revised and updated

at some time, while the new code remains unchanged because its content is fixed due to being prescribed on the face of the Bill, as it is at present.”

Others, such as Blue Cross, felt that the two codes could complement each other.

The Law Society of Scotland, neutral on both questions, felt that **they would like greater clarity on what Scottish Ministers may include in a Code of Practice** (as opposed to what they must include) and on who they must consult.

The Scottish Countryside Alliance and Scottish Association for Country Sports **did not feel that there is a need for a second code**, and that “It is not clear what work has been done by the Scottish Government to promote and effectively use the existing regulations.” They also felt that **two codes may be confusing to the public, and it is already in the Government’s power to address any shortcomings of the existing code.**

The National Working Terrier Federation clarified in its response that they don’t believe further regulation is necessary, though they **support a Code of Practice as part of an education programme.**

Finally, the SHG, who disagreed with both further regulation and the specific proposals on the Code, felt that a code would be too inflexible and “criminalise people who are simply doing their best in difficult circumstances”. They felt that if the aim is to improve health and welfare, then “the real issue to deal with is the cost of veterinary treatment that is beyond the reach of many pet owners who are then faced with the heart breaking choice of handing their much loved animal”.

Views on the content of the Code

Respondents were asked whether they agreed with the proposed content of the Code set out in Sections 2 and 3 of the Bill.

4 respondents explicitly disagreed with the proposed content of the Code set out in Sections 2 and 3 of the Bill. These respondents also disagreed with the need for further regulation and with the proposals around the Code.

The National Working Terrier Federation, though disagreeing with the need for further regulations, agreed that the proposed content of the Code included important aspects to consider.

Likewise, though the other three respondents who disagree with further regulation disagreed with the content, they agreed with elements of best practice, such as keeping puppies with their mothers until they are 8 weeks old. They disagreed with the proposals for a variety of reasons, such as difficulty to enforce, and adding unnecessary costs. One individual suggested that dog licensing would be preferable.

Most of the remaining respondents agreed with proposals on the content of the Code. Those who selected ‘neutral’ or ‘don’t know’ in response to these questions provided broadly similar answers to many of those who agreed. Respondents in both groups felt that the content could go further or expressed concerns with certain provisions.

Many respondents made suggestions for other things to include (note that more than one respondent may have made the same suggestion, the list below is for illustrative purposes):

- The Kennel Club suggested that the questions could go further and make sure acquirers are aware of “health issues in their chosen breed/crossbreed/type of dog and how they can mitigate health issues”, and if acquiring an older dog, any behavioural history.
- The Scottish SPCA also suggested the questions could go further to take into account not only meeting the animal’s needs, but proactively providing positive experiences, e.g. through the [‘Five Domains Model’](#). Furthermore, the Code could encourage owners to learn how to recognise fear and stress in dogs to safeguard their welfare and the safety of people and other animals.
- Aberdeenshire Council suggested that “There should be an emphasis on preventing any dog from causing issues such as barking aggressive behaviour” and “specific guidance relating to need for training socialising, issues caused by separation anxiety etc”
- Battersea highlighted that the list of questions should include awareness of vaccinations that are necessary.
- Two respondents saw the list of questions as an opportunity to flag the RSPCA/Animal Welfare Foundation’s [‘puppy contract’](#).
- Blue Cross suggested the inclusion of a question on whether the prospective owner is aware of their legal duties to providing an animal’s five welfare needs as set out in the Animal Health and Welfare (Scotland) Act 2006. The question could also ask whether a prospective owner is aware of the existing code of practice for the welfare of dogs.
- A number of respondents highlighted that the Code should set out issues with breeds that are bred for exaggerated traits, e.g. flat-faced breeds like pugs and French bulldogs. They felt that the Code should highlight the potential vulnerability to health issues and the risk of increased costs to the owner.

Blue Cross, though agreeing that questions around ongoing affordability of a pet are crucial, expressed some **concern around the question in Section 2(2)(e), noting that pet owners may also experience unforeseen changes to their financial circumstances, and this should not be seen as a breach of the code.** They said:

“A dog owner who finds it difficult to afford veterinary treatment due to loss of employment or spiralling living costs should not automatically be regarded as having failed to adhere to the code of practice...We do not want a situation to develop whereby the code of practice discourages people on low incomes from obtaining a dog in case their financial situation is later used as a potential indication of liability, or where dog ownership is perceived as only appropriate for those who are financially secure. We are also concerned that more people will give up their dogs for rehoming, or, in the worst case

scenario, abandon them because they are concerned that their financial difficulties could make them liable in any welfare cases.”

They recommend that the Scottish Government should signpost to support for pet owners in their publicity campaign, such as charities, pet food banks and low-cost veterinary care. They note, “as the code of practice may be used as evidence in future welfare cases, we need clarity on how whether the costs were affordable on an ongoing basis will be determined.”

The Code is proposed to require the prospective acquirer to familiarise themselves with the rules around licensing and registration and take reasonable steps to ensure that any relevant licences are in place.

The Scottish SPCA raised a **concern that they are not aware of intentions to make the register of unlicensed litters publicly available**, making this difficult to check and easy to forge. They suggested that a “national publicly searchable database is essential”. SAWC further suggested that “it is desirable that provisions are in place which enables a person readily to establish whether a licence or registration is in place and the means by which they are expected to meet the requirement of taking “all reasonable steps” to do so are clearly specified in the code. For example, the proposed register should be publicly available with each person registered/litter having a unique registration number.”

The UK Centre for Animal Law highlighted that **it may be difficult for everyone hoping to acquire a young dog to familiarise themselves with licensing and registration requirements**. They suggested that “not everyone has the same level of understanding or literacy and the measure as currently drafted could be unduly onerous for some people who would nonetheless be competent and caring owners and would benefit from the companionship of a young dog.”

Battersea also suggested that the Bill should ensure awareness of the legal requirement for puppies over 8 weeks to be microchipped and up-to-date-details placed in a database, as per the Microchipping of Dogs (Scotland) Regulations 2016. A number of respondents highlighted that **links could be made between the Bill and microchipping requirements**.

A few respondents noted that the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 (‘the 2021 regulations’), which provides for licensing requirements for certain breeders, defines a ‘puppy’ as a dog that is less than 6 months. The Bill makes specific provisions for “young dogs” – defined as a dog under 12 months old – when they are sold or transferred for the first time.

Other respondents highlighted **areas where consistency with requirements of the 2021 Regulations would be desirable**. The 2021 Regulations set out licensing conditions for breeding dogs, which include that a puppy (i.e. young dog under 6 months) may not be shown to a prospective buyer without its mother. The Conservative Animal Welfare Foundation pointed to the provisions of the Bill which require the puppy to be seen with its mother “unless this is not practicable”. They felt that if the Bill should *require* that a puppy under 6 months must be seen with its mother to align with the 2021 regulations.

Animal Concern also raised this as a **potential “loophole” in that the Bill states that a puppy should be seen with its mother “unless this is not practicable”**. This view was shared by other respondents; for example, Professor Fox and Dr Singh felt that the circumstances where it would be acceptable for the puppy to be viewed without its mother could be more clearly specified in the legislation.

More generally, the UK Centre for Animal Law raised that there may be “pitfalls inherent in placing these questions on the face of the Bill, not least of which is the difficulty of adding to or amending these criteria in future. There is currently no provision for amending the list of questions”. The Law Society of Scotland also suggested that **it may not be appropriate to include this list of questions on the face of the Bill**.

The Law Society of Scotland also suggested that **the Bill could be clearer around certain terms**:

“If it is intended that the term “transfer” is used to capture both the sale and gift of the animal, we consider that a definition clarifying this could be included at section 12(1). We also note that the definition of “selling” at section 12(1) includes “exchanging and bartering”, which may lead to unforeseen and undesirable consequences through engaging in such practices in respect of the sale of dogs.”

Views on revising the Code

Few specific comments were made on the provisions in Section 5 giving Scottish Ministers power to revise the Code so long as it continues to give effect to the required content of the Code.

The Scottish SPCA noted that **the Code should be reviewed on a regular basis** “to correspond with legislative review and any developments in scientific research and best practice”. Blue Cross and the Conservative Animal Welfare Foundation highlighted that any revisions should be **publicised as widely as possible**. Battersea felt that a **regular review period (e.g. 5-10 years)** should be prescribed, and reviews “ought to be based on the best available evidence from experts in the field”.

However, OneKind, SAWC and the UK Centre for Animal Law noted that **Section 5(2) prevents any revision of sections 2-4 of the Bill (which prescribe the content of the Code of Practice)**. OneKind stated that this “would make it difficult to update these provisions when necessary”. On the other hand, others supported the provisions which require that the requirements of Sections 2-4 should be maintained.

Prof Fox & Dr Singh suggested that it would be helpful to **specify who should be consulted**, and in particular that rescue organisations should be consulted.

The Bill states that if the Code is to be revised, Scottish Ministers must consult such persons as they consider appropriate. One individual who did not agree with the overall provisions **questioned whether this means that a publicly available consultation is not required and suggested that any consultation should be made public**.

The Law Society of Scotland stressed that “the up-to-date code must be published and made available to the public – regardless of whether the changes from the previous code “materially alter the effect of the code of practice”.” They recommended that Section 5(6) be removed from the Bill.

Views on the need for a certificate

Respondents were asked whether they agree with the provisions in Section 4, which provides for certificates to be signed by both parties in any transfer of a dog.

The respondents opposed to the need for further regulations were also opposed to the provisions in Section 4. One individual remarked, “what seller is going to check if they're not already the type of person who would check these things anyway?”

The Scottish Countryside Alliance and Scottish Association for Country Sports specifically disagreed with the ability of the Scottish Ministers to prescribe that the certificate must “include any other matter the Scottish Ministers consider appropriate”. They felt that:

“We do not support this open-ended approach in primary legislation from Scottish Government, as we do not have clarity on what other matters could be legislated in the future to the detriment of our community.”

The Naturewatch Foundation, though they agree with the overall need for further regulations, disagreed with these provisions. They took the view that – **though they agree with the intent behind the provisions – the approach may not be practical.** They said:

“...a certificate format is likely to suffer from low uptake without a significant and ongoing public awareness campaign. We would also question the practicality and purpose of expecting an owner to keep a certificate for the duration of their ownership of a dog, and produce it at the request of an officer or inspector. A certificate could be easily lost, destroyed, forged etc.

“It may be more practical to encourage buyers and sellers to use a contract that addresses the proposed considerations, with appropriate signposting to examples of good templates.”

Those who agreed with the provisions felt that it could be a useful way to prompt a more considerate approach to acquiring a dog. Some respondents, such as Aberdeenshire Council also suggested it may improve traceability of dogs.

Supporters did, however, raise some questions about how it would work.

The Scottish SPCA felt that “it is very important that both prospective acquirers and suppliers complete and sign a certificate relating to the code of practice.” They make the point that this can provide proof of awareness of the guidance “which may be essential to a successful prosecution under the Animal Health and Welfare (Scotland) Act 2006.”

Some respondents questioned how buyers and sellers will be made aware of the certificate. Animal Concern stated “Consideration needs to be given to the enforcement of this beyond presentation upon request. Both acquirer and supplier must take it upon themselves to complete the certificate – but in the event of ignorance, who will prompt them?”

Alongside other respondents such as Dogs Trust, Battersea raised **issues with the non-statutory nature of the Code of Practice:**

“as the CoP is non-statutory, we are concerned that there is no real incentive for people to, initially obtain, keep or carry a certificate. Furthermore, it is not clear how much this would cost, or who would issue the certificate. For a scheme such as this to be used effectively it would need to be a legal requirement with a clear enforcement mechanism for non-compliance, such as a Fixed Penalty Notice, which there currently is not.

“Despite our concerns, Battersea welcomes that the certificate should include the name and address of the prospective acquirer and the prospective supplier. However, this could go further as it should also be compulsory to include microchip number, registration/licence number and vaccination information.”

Prof Fox and Dr Singh also highlighted **potential problems with enforcement and suggested that “the Code should require the dog’s microchip number to be recorded** on the certificate and some consideration to be given to a system for recording these certificates”.

They also commented on the **accessibility of the drafting** of the Bill in this section, suggested that the “extensive cross-referencing” makes this section difficult to follow, and suggest it could be redrafted to be more accessible. The UK Centre for Animal Law, who were neutral on the proposals, also agreed that the wording could be simplified.

The Law Society of Scotland, who were also neutral, suggested that several **points in Section 4 would be more appropriately verified by the prospective supplier rather than the prospective buyer/acquirer.** They suggest that both parties should be *required* to sign the certificate (the Bill states that that the parties “are to” sign it, rather than that they “must” sign it). They also felt that there could be **further information on the circumstances in which it would be appropriate for a police officer or inspector to request to see the certificate.**

Views on the effect of the Code

Most respondents agreed with the proposed effect of the Code, and a small number were neutral.

The Scottish SPCA and Blue Cross suggested that it may be worth **considering where some aspects of the Code should be required and directly enforced.** They gave the example that a certificate must be shown to a police officer or inspector but with no consequence for failing to do so. Blue Cross suggested that fixed penalty notices for non-compliance could be explored for some aspects.

The Conservative Animal Welfare Foundation also felt that they would like to see “mandatory measures to encourage and enforce responsible dog ownership”, and “would like to understand what would happen if the owner simply said that they were not aware of the code”.

Other organisations, such as OneKind, SAWC and the UK Centre for Animal Law **recognised that the effect of the Code mirrors that of existing codes of practice on animal welfare.**

Those who disagreed with the Bill overall also disagreed with these provisions. The SHG expressed concern that the Code “will become de facto law”, citing the perception that this has happened to other codes of practice.

Views on raising public awareness of the Code

As noted above, **several respondents highlighted that the effectiveness of the Code depends on the public’s awareness of it.** Several animal welfare organisations cited survey results which suggested low awareness of good practice around acquiring a dog.

SAWC agreed that awareness raising is crucial but felt that **the public awareness provisions in the Bill have some shortcomings.** They said:

“Advice which fails to reach those to whom it is addressed is not only ineffective, in the present context it risks being materially detrimental to welfare. The Commission is seriously concerned by the lack of visibility not only of the Scottish Government’s existing [Code of Practice for the Welfare of Dogs \(www.gov.scot\)](http://www.gov.scot), but also its [Code of Practice for the Welfare of Cats \(www.gov.scot\)](http://www.gov.scot) and [Pet Rabbit Welfare Guidance \(www.gov.scot\)](http://www.gov.scot), notwithstanding that Scottish Ministers “must [sic], in such manner and to such extent as they consider appropriate, publicise any animal welfare code” (Animal Health and Welfare (Scotland) Act 2006, s 37(5)). To date, meeting this requirement would seem to amount to little more than making the codes available on the Scottish Government’s website. This being the case, the Commission considers the nature of the duty on Ministers should be better defined. We are sceptical that the provision in section 7 of the Bill is sufficient, because it leaves the decision as to what constitutes “reasonable steps” in the hands of Ministers, therefore containing the same weakness as the equivalent provision in the 2006 Act. Rather, the Commission would like to see a duty placed on Scottish Ministers to develop and publish a strategy regarding the reach and impact of animal welfare codes of practice to include the objective, the means, and a system of monitoring.”

The Naturewatch Foundation highlighted that **a campaign will need to be tailored to reach both buyers and sellers**, and Dogs Trust suggested that “incorporating a human behaviour change approach” could increase the impact.

The Scottish SPCA suggested that “it may be worth placing a duty on a registered person selling a dog to ensure the buyer is aware and has access to the code”.

Two individuals, who did not generally agree with the Bill, did support a public awareness campaign nevertheless. One felt that:

“Why not have the public campaign anyway and focus on responsible ownership of a pregnant dog/puppies and on the impact of purchasing a dog. There's already a code of practice, there's already welfare guidelines. If a public awareness campaign is beneficial, it can be done without a repetition or the introduction of meaning less bits of paper.”

Though they disagreed with the proposals on raising awareness, the National Working Terrier Federation also suggested that “there may be benefits in considering the implementation of an enhanced education program, with proper online facilities”

There were few substantive comments on the cost with many feeling unable to comment on the projected figures in the Financial Memorandum. The Conservative Animal Welfare Foundation, who supported the proposals, highlighted that there may be a need for “regular reminder campaigns”. The Scottish Countryside Alliance and Scottish Association for Country Sports, who disagreed with the proposals stated that “in our experience the figures in the financial memorandum are not realistic (too low). We would like to understand how the Scottish Government proposes to measure the outcomes, to ensure value for the taxpayer.”

Views on registering unlicensed litters

Among the respondents who support further regulation, there was strong support for requiring unlicensed litters (i.e. litters from breeders who produce less than three litters per 12-month period and therefore don't need to be licensed) to be registered. OneKind noted that “[the PDSA Paw Report 2023](#) found that 76% of veterinary professionals agree that anybody breeding puppies should be registered” (link added).

SAWC highlighted that the “dichotomy” between the breeders that require a licence and those that do not “is fatal to achieving the need for transparency, traceability and accountability... So far as safeguarding the welfare of the dam and her offspring are concerned, the number of litters the breeder is producing is irrelevant.” They further suggested that the regulation of some breeders and not others is confusing to the public and “and hampers effective enforcement of the existing licensing provisions”.

They noted that **a future scheme must enable the public to ascertain whether a licence or registration is required/in place**, and made a number of suggestions for how this could be done:

- Extend the requirements of [the Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021](#) (‘the 2021 Regulations’) to also include those who are registered. Under the 2021 Regulations the licensing authority must publish a register of licences, and advertisements for sale of dogs must include the licence number and the licensing authority. OneKind agreed that the Bill could be clarified to state that “a breeder should have a registration number and any litters they report will be linked to their registration number “

- Where a person resident in Scotland acquires a dog less than 12 months from outside Scotland, they should be required to place its details on the register within 14 days (including, e.g. microchip number). The Conservative Animal Welfare Foundation also felt that “if the homing/transaction occurs in Scotland, it should not be exempted from the regulations.”
- Links could be made with the microchipping database to ensure further traceability. Other respondents also highlighted this point. The Scottish SPCA raised concerns with the current microchipping system whereby different manufacturers produce different microchips and databases. They suggested that “We would support one National Microchipping Database that all enforcement agencies could access and suggest that this could be combined with the proposed register of litters.”

Some respondents also felt that **there should be basic conditions of registration, such as extending elements of the 2021 Regulations to all litters**, e.g. those that require protection from injury, suffering or disease. Others pointed out that, **to be effective, a register needs to be properly resourced, implemented and enforced.**

Some respondents raised **questions around enforcement** (this view was shared by one individual who did not support the Bill, and several organisations who did support the Bill). OneKind stated:

“We also agree that current legislation has not been sufficient to tackle the low welfare puppy trade. A public awareness campaign and registration of unlicensed breeders could help but only if they, and licensing of breeders under the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021, are properly resourced and enforced...”

Battersea Dogs & Cats Home stated that they have long advocated for registration, and, like other respondents, had views about pre-requisites for obtaining registration:

“To obtain registration, they should be able to provide proof that the puppy was born in the location from which they are being sold, that they have lived with their mother until 8 weeks of age and have been appropriately socialised and microchipped. Prospective sellers should also have a microchip number and vaccination information for each puppy. To provide complete traceability a register should be created as proposed, that provides the sufficient details of sellers, which should include a unique reference number, to enable prospective owners to check they are a genuine seller. The unique registration number should then be required to be included in any adverts and documents exchanged during sale.”

Dogs Trust felt that they would ideally like to see the licensing system amended to require “that anyone breeding more than one litter, regardless of any financial transaction or gain, should be required to be licensed.” They noted further that they felt that the registration requirement should apply to the breeder, not just the litter, and that “whilst the current Bill refers to litters of puppies, we believe the requirement for registration to sell should also apply to single puppies.”

The UK Centre for Animal Law also suggested a “change in emphasis” of the proposals:

“We suggest that the emphasis in the Bill could be slightly altered to show that the registration scheme would cover breeders, who in turn would be required to notify litters.”

The UK Centre for Animal Law, Dogs Trust and OneKind all noted that **Scottish Ministers already have the power to require registration of activities involving animals under Section 27 of the Animal Health and Welfare (Scotland) Act 2006**. The respondents support registration and recognise the intention that the Bill offers a further opportunity to introduce this. **The UK Centre for Animal Law questioned whether these further provisions in the Bill are necessary, though appreciated the Member’s intentions**. They said:

“given that the Scottish Ministers already have the power to make regulations for this purpose under s.27(2) of the 2006 Act (as is recognised in the Bill and accompanying documents), we are not sure that it is necessary to provide for this again in the new legislation. We do however note the Member’s desire to “create the power and impetus to set up a register” and appreciate this motivation.”

Dogs Trust recognised that powers exist, but that they have not been used. **They felt that the Bill should include an *obligation* on the Scottish Government to introduce regulations requiring registration within one or two years of the Act coming into force.**

Some respondents also highlighted potential areas of confusion. The requirement to register a litter does not apply to “a first owner of a litter of puppies who is not at the time resident in Scotland”. The Bill states that “first owner...in relation to a litter of puppies, means the person who owns the litter at the time of its birth”. However, e.g. Battersea Dogs and Cats Home suggested that this could mean that unscrupulous breeders may use different addresses to bypass requirements. They suggested that “the clause should be amended so that the Regulations will cover any puppy being bred or sold in Scotland, whether the first owner is resident in Scotland or not”.

Similarly, Dogs Trust said:

“We are also concerned that the wording within Section 8 of the Bill could be confusing, open to different interpretations and a potential loophole as it excludes first owners of puppies who are not at the time resident in Scotland. The wording should be clarified to be more explicit in stating if this is the litter, the owner or both. We strongly believe that the registration requirement should apply to anybody breeding, selling, or transferring the ownership of puppies in Scotland.”

Prof Fox and Dr Singh noted that their preference “is for a centralised database which is publicly accessible is preferable to individual local authorities keeping separate registers”.

The Kennel Club, who were neutral on these proposals, also pointed out that Scottish Ministers have the power to establish a register of litters by regulation. Furthermore, they felt that

“It is important that as well as discouraging poor breeding practices, Scottish Government should also introduce measures to encourage good breeders to meet the high demand for puppies, in order that demand is not met by those who will continue to flout the law, regardless.”

The Law Society of Scotland, who were also neutral on the proposals, noted the powers in Section 10 to ensure compliance, and while understanding that a registration regime would need to have sufficient provisions to ensure compliance, expressed **concern “that both the detail of the registration regime and the compliance provisions are unclear from the Bill and will be contained in secondary legislation.”** Furthermore, they felt a degree of flexibility would be required in a registration regime “to account for unintended circumstances, for example unintended pregnancies of dogs in non-breeder circumstances. As the key factor underpinning the proposals is improving animal welfare, we would highlight that consideration should be given to avoiding unintended consequences of the registration proposals in this context, e.g. the concern that such requirements may lead to litters being destroyed or bitches harmed in attempts to end unintended pregnancies.”

Of those who disagreed with the proposal to give Scottish Ministers the power to create a register of unlicensed litters, the Scottish Countryside Alliance and Scottish Association for Country Sports felt that **it would be an “unnecessary burden”** for their sector. The National Working Terrier Federation stated that they **did not think additional regulation was necessary**. The SHG felt that a register would create “a hit list for thieves”.

One individual respondent expressed concern that there may be future restrictions on casual breeding and transfer of dogs such as working dog puppies being obtained from neighbouring farms, or an inability to obtain a “mongrel”, leading to only puppies only being available from expensive breeders or “charities with strict rules”.

Enforcement and compliance

In relation to whether local authorities should enforce a register, **most respondents who supported the proposal agreed that local authorities would be the most appropriate body to take on enforcement**. However, some stressed that **adequate resources would need to be provided (funding, training and guidance were mentioned)**, and that local authorities will need to have access to the register to effectively enforce it. Some respondents raised existing shortcomings with enforcement of the 2021 Regulations. Battersea commented that they are concerned that “the theme of enforcement has not been properly considered throughout the Bill” and expressed a perception that this is the case in other animal welfare legislation.

Police Scotland did not answer this question directly but highlighted that there are questions around the impact of the Bill on local policing, including who will ensure

the Code of Practice is complied with, what agency will have the power to enforce the regulations, and whether there will be enforcement through penalties and fines, and if so, who would have the power to impose those fines. They suggested that enforcement is appropriate for the local authority. They pointed to limited police resources and suggested that “If Police Scotland were to receive call in relation to this legislation...this type of incident would in all likelihood not be graded for Police attendance.”

A few respondents were ‘neutral’ on this question, including Scottish SPCA, Dogs Trust and the Law Society of Scotland. Scottish SPCA raised similar concerns about funding and existing enforcement duties proving challenging. They “recommend that a centralised body, which covers the whole of Scotland and is not dependent on the local authority’s budget or commitment (e.g. Trading Standards Scotland), should be utilised to enforce this register effectively.”

Dogs Trust expressed similar reservations:

“Dogs Trust has long advocated for the development of an independent, centrally accessible team of appropriately trained inspectors which can be utilised by all local authorities to carry out inspections of animal establishments. We have serious concerns that currently, many local authorities do not have the resources to be able to carry out inspections of animal welfare establishments. Furthermore, inspections of animal establishments are often conducted by local authority officials with limited knowledge or experience of animal welfare. We strongly believe that anyone inspecting animal establishments should be appropriately knowledgeable and qualified in assessing relevant animal welfare. Any legislation is only as good as its enforcement; therefore it is important there are adequate resources to be able to implement it.”

Those who disagreed with this provision also disagreed with the overall provisions of the Bill (with the exception of Aberdeenshire Council in relation to the Financial Memorandum, see below). The Scottish Countryside Alliance and the Scottish Association for Country Sports **disagreed on the basis that local authorities do not have spare capacity** and did not feel that the Financial Memorandum provides “sufficient assurance”.

Most respondents felt unable or otherwise did not comment on the costings in the Financial Memorandum, though a number made reference to the existing financial difficulties in local authorities. A notable exception was **Aberdeenshire Council, who disagreed with the costings in the memorandum, stating that they are too low.** They said:

“In the financial memorandum it states that the average cost to employ a full-time animal welfare officer would be £30,000 including pension and on costs. The cost in Aberdeenshire to employ a full-time animal health and welfare officer is approx. £48000. There is an assumption of an increase in workload of 5 % per FTE. Where it is difficult to predict the exact demands on officers, this figure seems extremely low. For a large rural area such as Aberdeenshire where there are a lot of dogs the demands may be significantly greater than smaller less rural authorities. There is likely to be significant requests for

information and advice when the subsequent regulations are introduced. It is almost suggested in the financial memorandum that the additional duties can simply be incorporated into existing workloads. This is simply not possible as existing resources are extremely stretched at the moment. Local Authorities are under extreme financial pressures at the moment and given the significant rise in dog ownership over the past few years animal health and welfare officers are already at capacity dealing with aggressive dogs, dog barking, dog fouling etc. A fair and reasonable estimate to properly implement the requirements of this bill for Aberdeenshire would be an additional 0.5 FTE – costing approximately £24000.”

Most respondents who agreed with other elements of the Bill also broadly supported to the Section 10 powers to make regulations to secure compliance with a registration scheme. Only a few specific views were offered. Battersea suggested that “the Scottish Government could consider the use and availability of Fixed Penalty Notice (FPNs) as an alternative enforcement mechanism to prosecution, for technical breaches of legislation where welfare is not compromised, such as failure to obtain a registration to sell puppies.” The UK Centre for Animal Law suggested that Scottish Ministers may wish to consider a requirement for anyone found in breach of the regulations on registration to be required to obtain a licence for the sale or transfer of future puppies, regardless of whether they are below the threshold for licensing.

Dr Singh and Prof Fox were ‘neutral’ on this point and expressed **concern that offences are not defined in the primary legislation.** They said:

“we have concerns about the legitimacy of empowering Ministers to create an offence under s.10(3) and 4, especially given the possible loss of liberty for up to 12 months. From a legitimacy perspective it would in our view be preferable to define any criminal offences clearly in primary legislation but give Ministers discretion as to whether to bring those offences into force.”

Of those who disagreed with this point, the SHG felt that **the maximum penalties were too high.** This view was shared by the Scottish Countryside Alliance and the Scottish Association for Country Sports, who suggested that using the powers under this section would be “a significant escalation from the status quo” and they “are alarmed at the likelihood of spurious allegations made by individuals with anti-shooting interests”.

Public awareness

Again, **support for raising awareness of any future registration scheme largely overlaps with support for further regulation.** Respondents point out the need for such a public awareness campaign to reach both buyers and sellers (Naturewatch Foundation, Scottish SPCA). Prof Fox and Dr Singh highlighted that “the public need to be made aware of the nuances between licences and those on the register (around inspection etc). Licensing regulations focus on the environment in which breeding takes place. However, it is also important that the public understand that a breeder can be licenced but nevertheless engage in the breeding of dogs with physical deformities incompatible with a quality of life due to ‘fashions’ in certain

breeds/characteristics, particularly around brachycephalic breeds (Packer et al. 2019).”

Likewise, **those who disagreed also largely overlapped with overall disagreement with additional regulation.** These respondents felt that this is not needed because they do not support the overall proposals.

Few felt able to comment on the projected costs. Some pointed out that **awareness-raising may need to be more than a one-off, providing regular reminders**, especially if registration is not being adhered to. The Conservative Animal Welfare Foundation felt that, though the costings appeared to be “a good starting point”, reminder campaigns may need to be held more frequently than the minimum of every five years set out in the Financial Memorandum.

Battersea noted that, **without knowing how effective previous awareness campaigns have been, it is difficult to comment on the projected costs** in the Financial Memorandum. Whilst welcoming the projected costs, they said “the impact and reach of previous awareness raising campaigns by Government ought to be fully assessed, as Battersea is unaware of how effective these were, and it could be premature to base costs on these activities alone.”

Anna Brand, Senior Researcher, SPICe Research

24 August 2023

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.
The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot