



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Rural Affairs and Islands Committee

Wednesday 20 September 2023

Session 6



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**Wednesday 20 September 2023**

**CONTENTS**

	<b>Col.</b>
<b>INTERESTS</b> .....	1
<b>WELFARE OF DOGS (SCOTLAND) BILL: STAGE 1</b> .....	2

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**RURAL AFFAIRS AND ISLANDS COMMITTEE**

**23<sup>rd</sup> Meeting 2023, Session 6**

**CONVENER**

\*Finlay Carson (Galloway and West Dumfries) (Con)

**DEPUTY CONVENER**

\*Beatrice Wishart (Shetland Islands) (LD)

**COMMITTEE MEMBERS**

\*Karen Adam (Banffshire and Buchan Coast) (SNP)

\*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

\*Ariane Burgess (Highlands and Islands) (Green)

Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

\*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

\*Rhoda Grant (Highlands and Islands) (Lab)

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Libby Anderson (UK Centre for Animal Law)

Claire Calder (Dogs Trust)

Holly Conway (The Kennel Club)

Robbie Forbes (The Law Society of Scotland)

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP) (Committee Substitute)

Jamie Halcro Johnston (Highlands and Islands) (Con) (Committee Substitute)

Gilly Mendes Ferreira (Scottish Society for the Prevention of Cruelty to Animals)

Ben Parker (Battersea)

**CLERK TO THE COMMITTEE**

Emma Johnston

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



**Scottish Parliament**  
**Rural Affairs and Islands**  
**Committee**

*Wednesday 20 September 2023*

*[The Convener opened the meeting at 09:00]*

**Interests**

**The Convener (Finlay Carson):** Good morning, and welcome to the 23rd meeting in 2023 of the Rural Affairs and Islands Committee. Apologies have been received from Jim Fairlie and Rachael Hamilton. I welcome Jamie Halcro Johnston, who attends as a substitute. Before we begin, I ask Jamie Halcro Johnston to declare any relevant interests.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I am a partner in the organic farming business of J Halcro-Johnston & Sons, I am the owner of a croft and I am a member of NFU Scotland and Scottish Land & Estates.

**Welfare of Dogs (Scotland) Bill:**  
**Stage 1**

09:00

**The Convener:** Our next item is a round-table evidence session on the Welfare of Dogs (Scotland) Bill. We have up to two hours for questions and discussion. I invite everybody to briefly introduce themselves, and we will then take questions from members. Let us start on my left, with Robbie Forbes.

**Robbie Forbes (The Law Society of Scotland):** Good morning. We welcome the opportunity to provide evidence on the bill. The Law Society of Scotland regularly engages with bills and with Government and wider stakeholder consultations, and we aim to develop good law. As is detailed in our written submission, we are supportive of the broad principles of and intentions behind the bill, which is about improving animal welfare standards in Scotland. We have identified areas of the bill on which we would welcome some reconsideration to achieve greater clarity or to better achieve its intended aims. I look forward to discussing them this morning.

**Gilly Mendes Ferreira (Scottish Society for the Prevention of Cruelty to Animals):** I am the director of innovation and strategic relations at the Scottish SPCA. I thank the committee for inviting me.

**Libby Anderson (UK Centre for Animal Law):** Good morning. I am the chair of the Scottish committee for the UK Centre for Animal Law. As I think members will know, I am also a member of the Scottish Animal Welfare Commission, and I would be able to speak to the submission from the SAWC, if you would like.

**Ben Parker (Battersea):** Good morning. I am the public affairs manager for Battersea Dogs and Cats Home. Thank you for inviting me to give evidence.

**Claire Calder (Dogs Trust):** Good morning. I am head of public affairs at the Dogs Trust. I am very happy to be giving evidence.

**The Convener:** Holly Conway joins us virtually—or remotely.

**Holly Conway (The Kennel Club):** Hi. I am head of public affairs at the Kennel Club. I apologise for the fact that I could not make it in person. I am very pleased that you allowed me to join virtually.

**The Convener:** Thank you all for joining us. I will kick off with a very general question. What are the main issues with irresponsible breeding and people's awareness when acquiring a dog? Do

you have first-hand experience of those problems? Let us kick off with Gilly Mendes Ferreira.

**Gilly Mendes Ferreira:** The Scottish SPCA has been dealing with that for a number of years. We have a special investigations unit whose core purpose is to investigate crimes that are related to serious organised crime, in particular. We have dealt with unscrupulous breeders for a number of years. In 2021, we investigated 544 reports on the puppy trade; in 2022, that number dropped to 124 reports. From January to April this year, we have had 25 cases. In November and December last year, we uplifted more than 30 breeding bitches from a breeding establishment and a further 24 dogs, including 18 puppies, were received on Christmas day.

We are seeing very sick dogs coming to us; members of the public are telling us that they have bought pups and, within 48 hours, the pups have died. These animals are coming in from different places; some have come from Ireland. We have given the public advice and guidance about buying dogs, such as seeing pups in a home environment or with their mum. However, unscrupulous breeders now rent Airbnb properties to set up fake home environments, and it is very hard to tell. They often use females that are not related to the pups that they are selling. They put multiple litters across different properties to showcase the advice that we have given.

Unscrupulous breeders are now diversifying activities into canine fertility clinics. Since the end of the pandemic, demand has definitely dropped, so they are finding ways to make money from high-value breeds, including breeds of dogs that cannot give birth naturally and require a caesarean section. There are lots of health implications from that.

We have had cases such as one in which a young child caught campylobacter from a puppy that they had purchased. We have had giardia cases.

No matter what information we give the public, sometimes the hearts rule the minds. Some members of the public know that what they are doing is not the advice that they have been given and they still meet someone in a car park to purchase a puppy out of the boot of a car. During the pandemic, there were many excuses from breeders such as, "You can't visit my property because I've got someone who's shielding, so I'll bring the puppy to you." It is quite a difficult trade to disrupt, because, whatever advice we put out, unscrupulous breeders are entrepreneurial and will try to appease people about it and to find ways to get around it. It continues to be an issue for us and we are keen to disrupt the trade. We are now very focused on the canine fertility clinics, because

that is how those breeders have diversified into that field.

**The Convener:** Before I bring anybody else in, I want to look at the purpose of the legislation. The policy memorandum suggests that legislation is necessary due to an increase in the dog population, which, as you have said, Covid fuelled. However, there is legislation already: you have said that you have seized puppies and intervened using legislation that is currently in place. What does this bill do that current legislation does not allow you to do?

**Gilly Mendes Ferreira:** It puts more responsibility on owners of dogs. When it comes to purchasing a pup, the bill allows the opportunity to have a record around that transaction and to be able to prove that somebody had the appropriate knowledge—a person should know what they are doing to look after the animal and what that animal needs, and they should be able to provide for those needs.

We will sometimes refer to the existing code as part of a prosecution to test whether a person would reasonably have known what to do to take care of the animal. The bill would help to strengthen that process and would give another tool to be able to certify ownership, which is a big challenge for us—we get dogs in, their microchip details are out of date, and we cannot prove who owns that animal.

**The Convener:** Would anybody else like to come in on that?

**Ben Parker:** To echo Gilly Mendes Ferreira's points, we agree that there is a need for additional regulation to support the responsible purchase and ownership of dogs. You spoke about the Covid-19 pandemic, convener, which saw a well-publicised surge in demand for puppies. Although we have now seen a decrease in that demand, we and—I am sure—others in the sector have seen an influx of puppies and adolescent dogs being brought to our centres and a rise in on-site births as well. Some of those dogs display behavioural issues, which might be a result of challenges around lack of socialisation or being bred from unsuitable dogs. A lot of new owners have taken on dogs for the first time, too. I am sure that we will talk later about the code of practice and the registering system. We support additional regulation at this point.

**Claire Calder:** I echo what Ben Parker and Gilly Mendes Ferreira have said. In 2022, Dogs Trust rehomed more than 700 dogs to Scottish postcodes. Last year, we had our highest number of handover calls from members of the public in the charity's history—more than 50,000 inquiries were made to the charity. As Ben Parker has mentioned, we are seeing the repercussions of

decisions to get a dog during the Covid pandemic and lockdowns, and of the pressures of the cost of living situation. We are also seeing an unprecedented number of requests for dogs to come into our care.

Around our other experience and what we can talk about today, Dogs Trust also chairs the Pet Advertising Advisory Group, through which we and other charities work with certain engaged websites where pets can be advertised for sale; we get a lot of insight around what those websites are seeing with the adverts. We also run the puppy pilot scheme through which Dogs Trust cares for dogs that are seized at the borders after being illegally imported. Through that scheme, we see a huge number of evolving tactics from unscrupulous traders: for example, we have seen situations in which fake mums are presented—there is a lot of messaging to always see a puppy with its mum but it is very easy to get a fake mum and pass her off as the puppy's.

We have seen other tactics such as renting homes so that it looks as though the puppy has come from that home environment. We have also seen microchips being put on the dog's ear or in their fur so that they can easily be removed and replaced with a United Kingdom microchip. It is often the case that these puppies have been transported in awful conditions for many hours across Europe.

One of our big concerns is that we do not have a system that enables full traceability of all dog breeding and sales. The bill presents an opportunity to really look at the registration of anyone who is breeding or selling a dog and to close the loophole in which anyone breeding fewer than three litters can completely evade the system. That is one of the biggest issues that we are interested in tackling through the bill.

**The Convener:** You have mentioned the code, and referred to people wanting to see the puppy's mother and the use of Airbnbs. However, the code would not make a person liable for anything. At the end of the day, it is just a document that you could pay regard to but that you do not have to pay regard to. What teeth does the bill have to put in place some of the safeguards that you have suggested?

**Claire Calder:** At the moment, the code of practice side of things is very much a tool for educating the public so that they know what questions to ask when they are buying a dog. That is really important, because we have seen situations in which it is just so easy for anyone looking to get a dog to be duped. Public awareness and placing the onus on the public to ask the right questions is important.

However, importantly, we have suggestions about how the other part of the bill that looks at a registration system could be tightened up and really be an opportunity for Scotland to introduce full traceability across the breeding and selling of dogs.

**Libby Anderson:** I will pick up on what Claire Calder has said. You asked about the legislation, convener. The legislation that allows the Scottish SPCA to intervene is the Animal Health and Welfare (Scotland) Act 2006. However, that does not prevent the suffering occurring. The cases that I read the other day on the Scottish SPCA website were truly pitiful and the suffering was truly appalling. That is what the legislation aims to prevent.

In terms of prevention, we have licensing. However, as Claire Calder said, a licence is required only if you breed three litters or more a year. The anomaly is that the standards that apply to licensed breeders are completely absent when it comes to hobby breeders or low-level breeders. As Claire said, that loophole could be closed. That would be through registration rather than the code.

There are a couple of other things that the bill could potentially address. The code, in particular, focuses on the person acquiring the dog and aims to educate them, so there is the opportunity through it to address matters such as the fashion for acquiring dogs that are, by their very nature and breeding, not going to lead good lives. The most egregious example of that is the brachycephalic dogs, which literally have difficulty in breathing, sleeping and reproducing.

The bill provides the opportunity to educate people and, through the code, to ask themselves those questions. It could also require people to explore whether their lifestyle and routines are suitable for keeping a dog. That issue has arisen with the acquisition of dogs through the pandemic and their subsequent relinquishment, which is going up all the time. That is because people were getting dogs without really being aware whether it was a good plan to do that.

**Holly Conway:** I come back to your original question about the main issues with irresponsible dog breeding. From our perspective, the main issue is that irresponsible dog breeders can get away with it. The demand for puppies has levelled off, but it is still huge. Regulations are in place, but they are not enforced adequately. Therefore, whether you are a bad breeder, a rogue breeder or importing illegally bred dogs, you can pretty much get away with it.

We send freedom of information requests to local authorities regularly. Since the regulations were introduced to lower the litter threshold from five litters to three, there should have been a

threefold increase in the number of licences that are being issued to dog breeders, but there has only been a 10 per cent uplift.

Although we welcome the principles of the bill, one of our concerns is that the regulations that are currently in place to tackle volume breeders are not being enforced properly. Even though we would welcome a registration system, and it is certainly a good thing to have standards for all breeders, we know that home breeders are more likely to breed dogs responsibly.

09:15

The committee's papers allude to research by the Scottish Society for the Prevention of Cruelty to Animals and the University of Edinburgh that shows that puppy farms are the main problem, and that it is currently not being dealt with properly. A big part of the problem is that people do not know what questions to ask; we think that the proposed code is really important because, currently, there is a lot of onus on breeders—that is not being enforced—but there is no requirement for people to do their research properly before they get a dog. That is key, because it is about what is driving the demand. If people knew and took the time to properly research what they were getting, they might think twice, and there might be fewer calls to rescue centres as a result, because people would have worked harder and put in the effort to know what questions to ask.

Back in August, our puppywise survey found that a fifth of people still spend less than two hours researching whether to get a puppy—this is a 15-year commitment, and people are spending less than two hours researching—and nearly a third admit that they would not know how to spot a rogue breeder. For us, the educational piece is really important because, ultimately, we need members of the public to demand better standards of breeders.

**The Convener:** To clarify, you referred to regulations, but can I just check what regulations you are talking about and whether they actually apply in Scotland?

**Holly Conway:** It is the most recent breeding regulations: the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021.

**The Convener:** Thank you. That is helpful.

We will explore the code of practice in more detail, but, before we move on, I want to ask about one thing that I am uncertain about. Will the bill deliver more than what we have at the moment? It appears that the only obligation on the Government as the bill stands is to create a code. The Government can create a code of practice at

the moment but has chosen not to do that. The bill would force the Government to do that but, as with everything else in the bill, it says that the Government “may” legislate or do something. Does the bill go far enough to ensure that all the concerns that we have just heard are addressed legally?

**Robbie Forbes:** There are a few points there. As you say, there is the existing power under the 2006 act to introduce a code of practice, and the current code of practice has been in place since 2010. As you say, section 1 of the bill would place an obligation on the Scottish ministers to introduce a code, so, in that sense, that would move along the progression and ensure that a code would be produced under the bill, reflecting the provisions on pre-purchase and the relations there.

I understand from other responses and from our consideration that there is the potential for overlap between the existing powers to create a code and the code in the bill. We do not have any particular comments on the merit of having two separate codes; our main comment is on ensuring that there is no contradiction or overlap between the codes. Ultimately, as other members of the panel have said, a lot of this will come down to public awareness of the code. To that extent, we welcome the provisions in sections 11 and 7, which would place an obligation on the Scottish ministers to take reasonable steps to ensure public awareness.

Ultimately, on enforcement powers, as you have mentioned, convener, the enforcement mechanisms of the code at part 1 do not have teeth. Similarly, at part 2, there are concerns around enforcement mechanisms. We have mainly looked at the fact that it is all to be done by secondary legislation—the bill says that the Scottish ministers may do X or Y. From our perspective, that is problematic, because that does not have the same level of parliamentary scrutiny. When we talk about enforcement, it is helpful to look at part 1 enforcement and part 2 enforcement, as opposed to enforcement in general.

**The Convener:** We will probably discuss those issues in more detail as we go on.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** A number of you have identified problems with how the trade operates. Will you say a bit more about whether the code is the answer to that and whether it will have a potentially deterrent effect on people who are responsible for bad practice?

On a technical point—this is perhaps for the Law Society but perhaps for others—the bill sets out, to an extent, what the code should and should not contain. Is that normal practice in legislation?



Does anyone have comments on the approach that the bill takes to that?

**Libby Anderson:** I will first look at the question of the two codes and the potential for duplication, and I will then come back to the content of the bill.

There is a slight difference in status, in that the 2006 act code had

“to be laid before, and approved by resolution of, the Parliament”,

whereas that requirement is absent from the bill. However, as has been said, there would be duplication. We think that, for the public to understand what is expected of them, which is the aim of the code in the bill—to educate the public—it would be better to make it as simple and accessible as possible.

With regard to the content of the code being in the bill, we were a bit surprised to see that, and I dare say that Robbie Forbes will comment on that, too. The drawback to that is that it is inflexible. The primary legislation would have to be amended every time that you wanted to change the code. Given that science and the understanding of animal and human behaviour all change, it seems rather rigid to have the code in the bill.

I have one or two questions about the content that is recommended, as I am sure others will, but I will finish off on this point. The code could possibly be in a schedule that would be more easily amended—I am sure that I have seen that sort of recommendation. However, in some ways, it would be better to put the obligation on the Scottish ministers to promote good practice via a code and then to leave the detailed content to more intensive work to be carried out in the fullness of time—so long as that happens, because it is good that the obligation is there.

**Robbie Forbes:** We would echo much of what Libby Anderson has just said. We have submitted similar comments on the appropriateness of including in the primary legislation such detailed guidance and wording in relation to the code, and we have made similar points relating to flexibility.

We have pulled out a few examples of analogous codes that it might be helpful for the committee to look at. One of them comes from the Animal Health and Welfare (Scotland) Act 2006. Section 37, which contains the power to introduce the existing 2010 code, uses language to the effect that the code “may” make provisions about certain things. That is the type of model that we would expect to see in order to have consistency across the statute book in this area.

Another analogous code that we have looked at is the one in the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill, which is before the Parliament. Similarly, section 2 of that bill refers to

things that the code “may” have regard to, but those are not to the same level of detail as proposed in the bill that this committee is considering.

**Claire Calder:** Another challenge with the code—I am sure that this will come up later in the session—is public awareness of it. We have existing codes of practice for dogs and cats in Scotland, and we know that public awareness of those is very low. As a result of suggestions from the member who proposed the bill, provisions on a public awareness campaign have been included. We strongly suggest that that is needed for the public to understand the content of the code and what is being suggested for them.

**Ariane Burgess (Highlands and Islands) (Green):** I will address my question initially to Robbie Forbes—it is still on the code of practice. I understand that there is an existing code, and I am interested to hear whether that code could simply be updated.

**Robbie Forbes:** I understand that there are powers under the 2006 act that allow for the code to be revised. We have not looked at that point in detail, and I think that it would ultimately be a case of whether the Government wants to update that code.

We said earlier that the bill would provide the impetus to ensure that the Scottish ministers produce a separate code and that there might be merit in taking a combined approach. However, that is not something that we have considered in detail in our written submissions.

**Ariane Burgess:** So, the bill would provide the impetus for them to produce a code.

**Robbie Forbes:** The point is that the bill would introduce an obligation to create a separate code and then, as the bill progresses, and given the existing powers, it might provide the impetus to think about a streamlined approach. However, we have not looked at that in detail.

**Ariane Burgess:** Thank you for that. Does anybody else have any comments to make about that?

**Gilly Mendes Ferreira:** In practical terms, and thinking of the end user, members of the public need to have that knowledge and understanding when our inspector is in their house. Having multiple documents is not an easy way of proving that somebody has managed to grasp all that knowledge if they are required to look at various sources of information. Our plea is to keep it simple and update or revise the existing code, because it would be better from a practical point of view to prove whether a person should have had that knowledge as part of an investigation.

**Ben Parker:** The term “code of practice” perhaps sounds a little bureaucratic and not as engaging or accessible as it might need to be to fulfil its role. We really feel that there is a role for further education of the public about the responsibilities of dog ownership, and I am sure that we will come on to talk about the details about what should be in the code of practice. It could act as a useful tool to outline advice, even on pet care costs. For example, we estimate that it costs £2,000 a year to keep a dog. At this time, when lots of people are struggling with the cost of living, they might not be aware that that is the amount that they could expect to spend on dog ownership. There are things that the code of practice could do, including giving advice and redirecting or signposting people to existing advice and support elsewhere.

I would be happy to detail some of the things that we think are missing from the code when we get to that point in the session.

**Alasdair Allan:** I want to ask a wee bit more about the question of duplication in the code. Do sections 2 to 4 of the bill place any new legal obligations on buyers and sellers? I think that Gilly Mendes Ferreira touched on that. Are we dealing with something that is purely advisory or will people have new obligations as a result of it?

**Gilly Mendes Ferreira:** The code is advisory. It could be used as a tool under the existing legislation—the Animal Health and Welfare (Scotland) Act 2006—but it is advisory. I know that we will come on to talk about registration and certificates and so on, which will have a bit more weight.

The biggest challenge is lack of traceability, which Claire Calder covered. The bill could be used as a vehicle for getting us to the optimum solution of having that traceability.

**Beatrice Wishart (Shetland Islands) (LD):** We have come on to the required content of the code. Do you agree with the required content, and should it be specified in the bill? Is anything missing from the prescribed content? Respondents made a number of suggestions for additional things that could be prescribed in the bill, including a microchipping requirement, vaccination needs, providing proper care for a dog and, as Libby Anderson alluded to, the risks of flat-faced breeds. Who wants to kick off with that?

**Ben Parker:** As I said, the code of practice could serve as a useful tool to outline advice on pet care costs. It also ought to include advice on whether purchasing a puppy is right for an individual and on how to source a puppy, including what questions to ask the breeder.

As you would expect me to say, as I am here representing Battersea, such a code could have a

role in talking up the rescue sector to help to ease some of the pressures on the system. The recent annual returns for the umbrella group for the sector, the Association of Dogs and Cats Homes, reported that rescues are already at 90 per cent capacity. When we are talking to people who are looking to get a dog, the code would be a welcome opportunity to talk up the role of rescue and the fact that someone might be taking a dog that has already had a lot of medical and behavioural issues.

09:30

There is currently no provision in section 3 that highlights the legal requirement for a puppy of eight weeks or more to be microchipped and registered on a compliant database. We are all aware of the huge benefits of the microchipping system. This year, for the first time in seven years, a survey that Battersea has conducted with local authorities across the UK has indicated a rise in the stray dog population. Therefore, we would want to continue to push the importance of microchipping.

Again under section 3, we can consider whether to include a provision that outlines that puppies should be fully vaccinated before sale.

In addition, section 3(3) states:

“Before acquiring the dog, the prospective acquirer is (unless this is not practicable) to see the dog with the bitch which gave birth to it.”

Could that instead say, “unless this is not practicable for welfare reasons”? We would be a bit worried about that potential loophole in which somebody could purchase a puppy without seeing it with its mother. By making that slight change, you would also respect the possible welfare reasons why the mother might not be present.

Finally, I repeat my earlier point about the presentational challenge of a code of practice. How do you make it feel engaging, relevant and attractive to users and not something that is there to punish them?

**Claire Calder:** I agree with Ben Parker’s suggestions. One of the challenges with the detail in the bill is that it is relatively limited compared with what would need to be considered before acquiring a dog. We agree that there could be an issue with the wording around seeing a puppy with its mum, but under the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021, on dog breeding, there are two specific provisions covering when that could be acceptable—for example, if the mum is deceased. I suggest that it would make sense to replicate that wording.

It has been suggested that there should be two separate codes of practice. We would be really keen on there being streamlining, so that there is one code of practice, if possible—as Gilly Mendes Ferreira said, that makes perfect sense. However, if there are to be two different codes, they would each need to clearly reference the other and be named in a way that made it very clear that the second code was referring to the sale and acquisition of dogs, whereas the other code was referring to the dog's lifetime.

**Karen Adam (Banffshire and Buchan Coast) (SNP):** Just listening to some of the discussion, my focus has been on pure-bred dogs. That is where the conversation seems to be tied in. I am not quite seeing how the code of practice would fit in with mixed breeds—I am thinking of people whose dog has been caught out or somebody in a local community whose dog has had puppies. For example, would the puppy have to be vaccinated before someone could take it? If so, there is perhaps an affordability issue with the code of practice, whereas the person who was going to take the puppy might be willing to do that. I can see where it fits in with pure-bred dogs, but where does it fit in with the scenario that I have just mentioned?

**The Convener:** Who would like to come in? Holly Conway, perhaps, from the Kennel Club.

**Holly Conway:** I presume that you mean pedigree dogs. Are you referring to a situation in which someone has an accidental litter, for example—a one-off accidental litter?

**Karen Adam:** Yes.

**Holly Conway:** The code is applicable to all dogs, pedigree and cross-breeds. The code is there. I agree with Ben Parker and Claire Calder that it would be great to make it more positive rather than calling it a code of practice. It should be something through which to engage with dog owners, because so many of them do not know how to spot an irresponsible breeder. It could be really positive.

If someone has an accidental litter, I suppose that your point was about how they can ensure that they have done completely the right thing. To my mind, this is more about education. If there were, say, a case of abuse or cruelty, the matter would be considered in a court of law or as part of a wider investigation. That is my understanding of it. It is not the case that someone, if they did not follow every single aspect of the code, would be committing an offence.

My understanding of the approach is that people should follow the code as closely as they can. It sets out the gold standard of good practice and generally puts more emphasis on buyers knowing what to look for. If they are looking for a range of

things and, for example, the vaccinations, which you mentioned, are not in place because it was an accidental litter, but everything else that they have questions about has been done then, on balance, they might think, “Okay, that was a one-off accidental litter. I will go ahead.” However, if everything else does not marry up and they are getting lots of red flags, that paints more of a picture.

That is my understanding. I also believe that the code would apply to all dogs.

**Gilly Mendes Ferreira:** I agree with Holly Conway that the code would have to apply to all dogs. I do not think that we could go down that other route. People are breeding mixed breeds all the time now, and it would be hard to track that. If the code is to make an impact, it will have to apply to all dogs.

The Scottish SPCA has been working with other SPCAs in Australia, New Zealand, British Columbia, and England and Wales on the use of the five domains model of animal welfare established by Professor David Mellor. That goes beyond the five freedoms and tries to encourage the idea that we need to provide animals with positive experiences. They will have negative ones, but it is about getting a balance between the two.

Time and time again, our inspectors face situations where people are meeting the bare standards, according to existing legislation under the five freedoms. However, we need owners to go beyond that and for animals to have the positive experiences that influence their behaviour and so on. We have an opportunity to utilise the code to enhance advice and guidance that will have a greater impact on the dog population. We have spoken a lot about dogs that have behavioural issues because they have not had the right socialisation or have come from bad areas. The code has to cover all breeds of dogs, including cross-breeds, and it needs to go beyond the five freedoms and cover areas such as the five domains.

**The Convener:** Before we move to the next question from members, I would like to ask one. It would appear that the important point is that buyers and sellers understand what is good for animal welfare. Sitting round the table are representatives from five animal welfare charities. One of the main aspects of their jobs is raising public awareness, which includes telling people how they should buy and look after puppies. Should we not just put a bit of pressure on the Government to update its code and then provide funding for you guys to do the public awareness bit? Ultimately, that is what you are good at. Is there not more chance of the puppy purchaser out in the street listening to Dogs Trust, Battersea or

the Scottish SPCA than there is of their listening to the Government? Should we not just be looking for the Government to do the right thing by updating the code, without being forced to go through creating legislation, and then providing funding to ensure that public awareness campaigns are effective?

**Libby Anderson:** The value of the exercise is that it puts pressure on the Scottish Government and allows for discussion about what people who are acquiring dogs should do. That is not quite an obligation on them, because the code would not have legal status or create offences, although it would have evidentiary status, so that, if there were proceedings for an offence, compliance or non-compliance with the code would be taken into account.

However, the code gives us the opportunity to consider what really should be obligations on people who are acquiring dogs. In response to Karen Adam's question, that is where the certificate is a crucial part of the picture. It is not contained in the current model of the code.

The code gives us the opportunity to put in so much more detail. Charities such as Dogs Trust, the SSPCA and Battersea Dogs and Cats Home have been banding together for years to run very effective "Buy a puppy safely" and "Say no to puppy dealers" campaigns. However, the problem is intractable because, as we heard at the beginning of the meeting, the people who are engaging in the criminal activity are so determined to do it, so cynical and, one might say, so heartless that they will go on to find a way round the legislation. The bill is all about an attempt to change the emphasis. However, I completely take your point regarding whether there should be one amalgamated code, and, ultimately, I would agree with that.

**The Convener:** That takes us quite nicely to the subject of certificates, with questions from Kate Forbes.

**Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** Good morning. I do have a few questions about certificates.

In the evidence thus far, there has been a lot of emphasis on breeders and the fault lying there, whereas a certificate is presumably designed to trigger a commitment from the buyer to care for the puppy. I have quite a few questions about that. Do you think that the balance is right with regard to the proposal in the bill? On whom should the balance of responsibility lie: the buyer or on the breeder?

Secondly, there are already informal certificates that buyers can commit to, but they are not enshrined in legislation. Are there any learnings to be had from previous informal certificates that

have worked? What are the right questions to trigger that commitment among buyers? I do not know who wants to go first.

**Robbie Forbes:** I think that the Law Society is better placed to speak to the first part of your question, and there are others in the room who would be better at speaking about their work with, and lived experience of, previous certificates.

We have made a few comments on the balance that you have described between the supplier and purchaser of the dog. The certificate is to be signed by both parties, with both parties' details to be included on it. As for the content of the certificate, however, the provisions seem to be slightly lopsided. For example, the purchaser has, under section 4(4)(b)(i), to

"confirm that they have checked with the ... supplier and believe the dog is at least 8 weeks of age".

A few aspects of section 4 link back to section 3. For example, section 3(4)(a) states that the purchaser has to

"become familiar with circumstances"

and, under section 3(4)(b),

"take all reasonable steps to establish"

the situation in relation to licensing and registration.

We see a role there for the supplier to come in. For example, the bill places an obligation on the purchaser to

"confirm that they ... believe the dog is at least 8 weeks of age"

It seems that it would be appropriate for the supplier to further confirm that the dog is eight weeks of age or, at least, for both parties to be able to continue the process.

We appreciate that there is obviously a wider educational aspect to the bill, and that it is about collaboration between the supplier and the purchaser, but there are areas where we think that the balance could be added to instead of necessarily having to be redrawn.

**The Convener:** Holly Conway has indicated that she would like to come in—I see her hand. I beg your pardon, Holly.

**Holly Conway:** I see the point that Kate Forbes makes. When one looks at the bill in isolation, it seems that the balance is off, because it places much more emphasis on the buyer than on the breeder. The context for that, however, is that in the current regulatory environment, the emphasis is all on the breeder, and that approach is not working as well as it should. That is because, as I have said, the demand is still there.

I see the bill as a way of ensuring that members of the public become more engaged and—we would hope—better educated and, as a result, demand better of breeders. It complements the legislation that is already out there.

Even though it might seem that the balance is off, there is currently nothing that buyers have to do. As a result, they do not know how to source a puppy responsibly, and breeders are exploiting that. In the context of all the regulations on this issue that are out there, the bill strikes a good balance because, for the first time, it also places some responsibility on people when they are looking to buy a dog. Ultimately, even though regulations for breeders exist, they are not being enforced properly, and the problem will not be tackled unless buyers start demanding more and better.

09:45

**Kate Forbes:** It might be worth asking one of my follow-up questions now, just in case anyone else wants to come in.

To what extent might placing more requirements on the buyer—including adding more costs to the process—push buyers into trying to circumvent the formal process, thereby making the situation even worse? For example, if buyers have to complete the certificate and, as a result, might have to pay more for the whole process, that might make some more inclined to buy a dog from the back of a car in a car park. Is that unfair or incorrect?

**Gilly Mendes Ferreira:** There will be that risk every time you place the onus on the public to do another task or process, and there will always be people who want to get a better deal. That, again, comes back to people following their hearts, not their heads, and we have plenty of evidence of people doing that. They know that standing in a car park with a puppy in the boot of a car is the wrong thing to do, but they think, “I want to go and rescue that pup, because who else is going to do it?”

We have talked a lot about education. The certificate, which is an agreement between a buyer and a seller, gives the buyer some comeback to challenge the seller. It is obviously optional. There are contract agreements out there, which some buyers and sellers do use. One of the risks of having more documents is that, as we have seen with horse passports, people might create their own versions and their own numbers. That takes us back to the idea of registering that kind of activity and the issue of where the certificates are logged.

There will always be risks when you ask someone to go above and beyond. At the moment, there is a lot of responsibility on breeders. We

need to challenge buyers now and change the pathway so that they take more responsibility.

**Ben Parker:** I want to make a general point about the certificate. Because the code of practice is non-statutory, there is no real incentive for people to obtain, keep or carry the certificate. Furthermore, it is not really clear at the moment who would issue the certificate or how much it would cost. Some of that detail has still to be worked out. You could argue that, in order for certificates to be effective, they should be a legal requirement with a clear enforcement mechanism—the use of fixed-penalty notices, say—for non-compliance. We should consider all those things as we look at the legislation as it stands.

**Gilly Mendes Ferreira:** I have just one thing to add. At the moment, the bill says that the certificate

“is to be ... shown to a police officer or inspector in response to any reasonable request to see it”

but there is no real consequence for failing to do so, which takes us back to Ben Parker’s point. That should be considered as the bill progresses.

**The Convener:** The people who are likely to have a certificate are those who are already aware and who want to do the right thing, so it does not address the issue. If you want to sell puppies out of the back of a car, the certificate makes no difference—it is a valueless piece of paper. It is just an extra hoop for people to jump through and I do not know how it will incentivise those who are not minded to follow the code.

You touched on chipping, which is a legal obligation. Do we have any idea how many people chip their dogs and how many do not? Is that policed in any way? Does the SSPCA carry out random chip checks? That is already in legislation. It is also a physical thing—you can tell whether a dog has a chip—but the stuff that we are looking at now is not like that. For example, how can you check that someone has seen the bitch? How can you ensure that someone is conscious of the cost of keeping a dog? It is all very intangible, whereas chipping is a tangible thing. Do we have any idea whether people are abiding by that, given that there is no national database?

**Gilly Mendes Ferreira:** I have a point to make about the national database. We scan every dog that comes into our care. It is quite difficult at the moment, because different manufacturers have different databases, so we have to check multiple databases when a dog comes in to figure out whether the dog’s details are up to date. We then find that the details are not up to date, so again we cannot prove ownership.

I think that we have all been calling for a long time for one centralised system, because the current situation makes things very challenging. There will be dogs out there that are not microchipped. We get dogs in that have not been microchipped, and obviously we then microchip them. As I have said, the biggest challenge is that, because there are now so many manufacturers, we do not have a national database, which makes tracing very hard.

Again, unscrupulous dealers will purchase mass bundles of microchips, and, when it comes to proving where an animal has come from, they will falsify that, too. We have seen that in many of our cases.

**Karen Adam:** Section 1 specifies that the Scottish ministers must make a code of practice in relation to the buying, selling or transferring of dogs as pets. Where is the space in that for working dogs? Should there be a space for them?

**Claire Calder:** We would like any code of practice to apply to all dogs. The existing code of practice for the welfare of dogs applies to any domesticated dog that is under the control of a person, and that is what we would anticipate for any new code of practice. We would not want any differentiation between kinds of dogs, in terms of the way that they are kept, to be a factor.

**Holly Conway:** Sections of the Kennel Club community work their dogs, and one of the written submissions proposes an exemption from the bill for such dogs. Obviously, from our perspective, if you are in the community of people who work their dogs, there is a high chance that you will know what questions to ask and be more aware of what you are looking for compared with general members of the public who are purchasing a puppy for the first time. As a result, the code might be less relevant in such situations, because it is not needed as much by that community.

At the same time, however, it would not really impact that community, given that people in that community are already doing those things and asking those questions. Essentially, people would be signing an additional piece of paper. Therefore, we did not flag that as an issue.

**Ben Parker:** The existing animal welfare legislation is designed to protect all animals, so I am not sure why, if this bill were to be passed, working dogs, for example, would earn less protection at the point of breeding, even if they were being bred for a defined purpose. If there are welfare requirements for specific working dogs that relate to their purpose and which do not apply to the general dog population, the police, for example, will be free to pursue those standards in addition to the baseline. However, as I have said, if the bill is passed, working dogs should not earn

less protection at the point of breeding than any other dog.

**Claire Calder:** It all ties back to Gilly Mendes Ferreira's point about the user experience and the benefits of streamlining everything into one code. Given that the existing code of practice applies to all dogs, there is a huge argument for including all dogs in any additional code, or in one code, if there was a way forward on that.

**Karen Adam:** The bill specifies that it is about dogs as pets. For clarity, then, are you saying that that should be changed to include all dogs?

**Claire Calder:** Yes.

**The Convener:** We move on to part 2, on the registration of unlicensed litters.

**Alasdair Allan:** Regarding unlicensed litters—I am building on the point that Karen Adam made earlier about one-off litters—is there a need for a sort of de minimis provision that recognises the difference for low-volume breeders or, on the contrary, is there a need for more regulation of low-volume breeders?

**Claire Calder:** That goes back to what I mentioned at the start of the meeting about the lack of traceability of all dogs that are being bred and sold. Requiring registration for anybody who breeds or sells dogs in a way that is below the current licensing threshold would be a way to capture in the system anybody who had just one litter, for example. That would provide traceability across the system without being overly onerous for the people involved. One of the challenges at the moment is that it is very easy to evade the licensing requirements, and that just fuels the lack of transparency and traceability across the system.

I have two points on the proposal on registration. First, we would like it to apply to breeders. At the moment, the wording focuses on litters, but we want breeders to be captured. The other thing, which is really important, is that the current proposal does not require a register to be introduced; it would be up to the Scottish Government to do so. We would like a requirement for a register to be included in the bill.

**Alasdair Allan:** I think that I know what a register of unlicensed litters is, but, to many people out there, there will be an inherent contradiction in the idea of registering someone who has not licensed themselves. How do you do that? I think that I know what it means, but can you understand why, to many people, it seems a strange idea?

**Claire Calder:** Are you asking how people would be captured if they fall below the litter limit?

**Alasdair Allan:** Yes.

**Claire Calder:** There is a suggestion that a lower level of information would be captured. Obviously, you would need their name, postcode and other details. The difference is that licensing involves active inspections of animal welfare standards, whereas registration would be a level below that. The two councils that submitted responses to the committee's consultation on the bill were keen on the suggestion of registration, because it would bring every breeder into their sight. The councils would be able to do so much more on enforcement if there were traceability across the system.

**Holly Conway:** Our policy is that we support the principle of compulsory registration and everybody having a number before they sell a puppy, because that gives a degree of certainty to the buyer and helps with the education piece. If somebody has a number in their advert, they will have gone through a process of checks. However, we think that it is potentially too soon to introduce that measure. Earlier, I alluded to the issues with enforcement for higher-volume breeders. At the moment, for example, there are only 175 licensed breeders in Scotland. Obviously, there are a lot more breeders, but they are slipping under the radar.

Although a lot more can be done, and they will be good things to do, timing is everything, because the demand for puppies is there, and we do not want to cut off a good supply. At the moment, until we have the enforcement right at the higher-volume level, we should not introduce more measures for home breeders and lower-volume breeders, when we know that that could potentially turn some people away from breeding.

It is about timing and striking a balance. We want the lower-volume breeders—the home breeders—to continue to breed. We would like more of them to breed, because we know that people who breed fewer dogs in a loving environment are much more likely to get a healthy and happy pet at the end of it. For us, it is always about striking a balance and incentivising lower-volume breeders, if they are confident and following advice, because they would probably do a good job.

Just to give some context, of the breeders that we register, a huge proportion will only ever register one or two litters in their lifetime, never mind per year. We are looking at a cottage industry—it is quite a niche area.

Our concerns are about the enforcement, the timing and getting the balance right.

10:00

**Gilly Mendes Ferreira:** There is obviously a requirement for the acquirer to check that the

person from whom they are getting the dog is either a licensed breeder or has registered the litter. As far as we are aware, however, there are no intentions for the register of unlicensed breeders to be made public, so anyone could conceivably make up a series of letters and numbers and pass off that, indeed, they are registered. Some sort of publicly searchable database is needed to allow the use of that resource. As Holly Conway mentioned, that is a big stumbling block.

As I have said before in this room, you can bring all these things in and have the best piece of legislation and code of practice or whatever it is, but if you do not have the resource to do those checks and to enforce it then it does not work. That is something that we have seen time and again. A lot is being allocated to local authorities and this will be yet another thing that they will be required to do. Money is not ring fenced to do it. Who will manage the databases and so on? To make the scheme work and be effective, that needs to be considered and the resource needs to be put in place.

**Claire Calder:** To add to what Gilly has just mentioned, it is really important that the database of everybody who has registered is publicly available, but an additional requirement that will be really important to the effectiveness of the policy and that provision of traceability will be a requirement for any advert for a dog being sold to include either the registration number or the licence number.

**Ben Parker:** To echo that again, there should be some form of the register accessible to the public with just basic information about the breeder, including their name and registration number and perhaps their area of operation. We have long advocated for a registration system for breeders below the licensing threshold in order to deter unethical breeders, improve canine welfare, increase traceability and aid enforcement. We have been pushing for that for a long time in England and Wales, and it has been slow progress, to be honest, so there is an opportunity for Scotland to lead the way on that. Ultimately, it is a welcome step towards ensuring that there is at least some form of traceability and documentation for each puppy. That is ever more important in the context of recent concerns about public safety around dogs.

**Rhoda Grant (Highlands and Islands) (Lab):** Do you agree with the proposed scheme and that the powers in the bill are required, given that there are powers in the Animal Health and Welfare (Scotland) Act 2006 to require a registration scheme?

**Claire Calder:** Yes. Although the Scottish Government currently can introduce registration

under the 2006 act, the challenge is that it has not done so. If the bill could be amended to require that register to be introduced, that would be a very important step forward.

**Ben Parker:** I simply echo that.

**The Convener:** Without traceability, none of the things that we are talking about will be effective. Could the argument be made that what we need is simply a mandatory registration scheme for puppies to be microchipped? That would provide full traceability with all the required information, including the name of the breeder, where the dogs were bred and where they have been housed. Would that not just circumnavigate the bill, which does not place any requirements on the Government at all? We would go back to the good old days, if you like, when we had dog licences, but that dog licence scheme could be on a nationwide database to allow better checks and better scrutiny of breeders—whether they were puppy farmers, if you like, breeding multiple times or had small-scale unregistered litters, as at the moment. Would that not be a solution, rather than all these little bits in another bill? Are there any comments?

**Claire Calder:** One of the differences is that dog licensing would apply to the owners of dogs, whereas what we would like to see through this proposal for a register is the registration of breeders of dogs. That is what is really important for that traceability across the system of dog breeding and selling.

We also mentioned, as part of our submission to the committee, that another approach that could be considered would be to amend the microchipping legislation to require anybody who is registering a puppy for the first time to complete a mandatory field to input who the breeder was. That would also be an important step forward in traceability. What we need to capture is some way in which to trace breeders—that is the really important part.

**Ben Parker:** We would not take that strong a view on the vehicle by which registration happens; it is just important that it does happen. We have pushed for the registration of breeders for so long.

I go back to your previous point on microchipping, which is so important for us. Since compulsory dog microchipping was introduced in 2016, our latest statistics show that 20 per cent of dogs that arrive at Battersea are unchipped in comparison with 60 per cent of cats—the Westminster Government has promised to bring in compulsory cat microchipping from next year. The stats speak to the importance of microchipping and its being signposted wherever possible, as Claire Calder has said.

**Libby Anderson:** Your point about traceability relating to microchipping is absolutely correct. However, that really affects the individual dog. The point of registration—as Claire said, we would support a register of breeders rather than litters—is that it ensures not only the traceability but also the transparency and accountability of the breeder. If anybody is attempting to register separate litters and is actually breeding above the threshold, which means that they should come under the licensing regime, that will be obvious fairly quickly. We would support making mandatory the creation of the register as well as the showing of numbers on advertisements.

**Holly Conway:** I echo the comments of others. The dog licensing scheme is quite different, because history has proved that it does not work terribly well, that there is a lot of non-compliance and that it is incredibly expensive. The bill would probably be preferable.

In theory, the microchipping regulations should allow for traceability, because the breeder should be registered as the first keeper of the dog. Unfortunately, in many instances, the breeder will register the new owner either because of a lack of awareness that the breeder should be the one who is registered as the first owner or perhaps because they want to circumvent the regulation. The point is that, when people want to get around something, they will find a way of getting around it, particularly when no more resources are given to local authorities. When enforcement is almost impossible, you are relying on people doing the right thing, which is why, in our view, the certificate is the natural first step and should be embedded in the legislation. The hope is that, with better education and with prospective purchasers taking greater responsibility, those things will naturally go down and we will still have a good supply of home breeders and very low-volume breeders breeding dogs.

**Karen Adam:** I am always quite interested to see how a bill or proposed new legislation can help to support a change in culture, which is something that we have not mentioned. We are talking about people who breed pups for the purpose of making money and who use those dogs as commodities. How can we embed into the bill a change of culture around how people view breeding and buying their dogs? Holly Conway has touched on that point a bit. The bill can change the attitude around how we are buying and selling animals. For example, I have a family member who has Romanian rescue dogs, and that organisation is very strict: they do home visits and if the dog is not suitable for that family—even if it is up to two or three years later—or if the family no longer wants that animal, that organisation steps in to help rehome it, taking on the responsibility for it. It has a whole culture around those stray dogs.



Sorry—that was a bit long-winded, but where does that fit into the bill? Could the bill change the culture around how we view purchasing and owning a dog?

**Claire Calder:** Throughout the proposals, there are suggestions for the running of a public awareness campaign. From a Dogs Trust perspective, it is important that we think about behaviour change as part of the bill. That could involve any campaign that is not purely about raising awareness but seeks to change people's behaviour in acquiring a dog. Factors to include in that would involve understanding the drivers and motivations in order to run a more focused campaign that could be much more effective in changing behaviour.

With regard to breeders, a registration scheme would—as we have said—be a hugely useful first step to bring them into the system, but enforcement will be crucial in that regard too. We know that, unfortunately, local authorities in Scotland are incredibly stretched when it comes to enforcing any of the existing legislation, especially the activities that are currently licensed under the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021.

Collectively, as charities, we made some freedom of information requests earlier this year, and we found out that 16 per cent of Scottish councils had not been inspecting animal welfare establishments, which is a requirement. That included the largest council in Scotland. Councils are hugely underresourced, and we think that a clear solution to that would be to have a centralised unit of appropriately trained inspectors that could be used across local authorities in Scotland.

We know that Wales has done a project to look at that approach, and it has proven to be fairly successful so far. We think that that model would be a huge step forward in holding to account breeders who are unscrupulous and are not breeding to the standards that we would expect, and in enforcing the legislation.

**The Convener:** I will bring in Holly Conway and then Jamie Halcro Johnston, who has a question that follows on from that point.

**Holly Conway:** The bill could be part of a cultural change. I do not think that it will be the silver bullet that solves the problem and changes everybody's ways, but it is the first time that the possibility of a change in human behaviour when people go to acquire a dog has been suggested.

A huge degree of behavioural change would be required. Our survey showed that nearly 60 per cent of people said that social media had the biggest influence on what puppy they got. The bill

could, while not completely solving the problem, potentially go some way towards helping with that.

On a side issue, we agree with Claire Calder that enforcement is currently so weak—through no fault of local authorities; it is due to their lack of resources—that having a centralised unit in place could be really helpful. Again, we would suggest that that is in place before we bring in further regulatory requirements such as a compulsory registration system.

**The Convener:** It may be appropriate for me to bring in Jamie Halcro Johnston for the next question, which might help to inform our discussions on that point.

**Jamie Halcro Johnston:** Good morning to everyone. My question is along those lines, on enforcement and compliance, so it fits in nicely with the discussion.

Every member of the committee represents a rural or Highlands and Islands community. It is very difficult to deliver services there even at the best of times, as there is huge pressure in that regard. This bill is likely to put additional responsibilities on those services, as well as on all councils. The suggestion that there could be a central body for enforcement is therefore interesting. Perhaps we could get some idea of costs and how that would be delivered, because that is potentially a whole new approach.

Given that current regulations do not seem to be enforced, and that the new legislation will be successful only if it has teeth and is enforced, what confidence do you have that, without either a new approach involving additional resources for councils or a more centralised approach, the new code of conduct will be any better than what we currently have?

**The Convener:** I will bring in Gilly Mendes Ferreira and then go to Claire Calder and Ben Parker.

**Gilly Mendes Ferreira:** What Jamie Halcro Johnston has described is one of our main concerns. You are asking an existing resource to do even more, and councils cannot do what they are currently committed to doing.

We work with Trading Standards Scotland and HM Revenue and Customs on disruption of the puppy trade. That works effectively, because there is one body supporting those actions. We therefore believe that having a centralised body would be of benefit to ensure that legislation could be enacted properly.

10:15

On the previous point, I was going to mention that, although we might put a greater onus on

breeders and so on, if the demand is there, those who want to get round the system will do so. We have spoken about human behaviour change. Buyers need to change their behaviours, which is another part of the education piece.

Having a centralised body is one aspect. As Claire Calder mentioned, Wales has been trialling a similar approach. We need to ensure that, within that body, there is a group of people who are experienced and trained and who know what to look for, particularly when dealing with individuals who are doing everything that they possibly can to get around the systems.

We have also spoken about canine fertility clinics. We need someone who knows what such clinics are and how to spot things that are not quite right there. Having a dedicated team who have the expertise and knowledge, and the right training to conduct that, would definitely be a preference for us.

**The Convener:** You touched on people getting round the rules. In part 2 of the bill, which is on regulation, there is an exemption for

“a first owner of a litter of puppies who is not at the time resident in Scotland”.

For me, that rings alarm bells immediately. I could nip over the border to Carlisle and say that I stayed there for a week and so am exempt because I was going to register the puppies at that time.

**Gilly Mendes Ferreira:** That definitely links back to the idea of having a national animal offenders register, for which we have been calling for a long time. Because people border hop, we spend a lot of time working with the RSPCA on individuals who do that. We have a lot of dealings with Ireland, and Northern Ireland in particular. For example, we do stops at Cairnryan port.

It will be very hard for the bill to be effective in the current circumstances. We have had court cases where someone has been prosecuted down in England and in discussion it has emerged that they had committed an offence in Scotland, which has brought that practice to light. We therefore already know that people will border hop.

**The Convener:** I want to bring in Claire Calder, Ben Parker and Libby Anderson. First, Robbie, what is your perspective on the exemptions from the legal side?

**Robbie Forbes:** Our general or overarching comment on part 2 was that the detail is not clear, because it is to be decided by secondary legislation.

We have not looked at the exemption in section 8(2)(a)(ii) in any detail. We would be happy to write to the committee if that were of particular

interest, but I would not be best placed to comment on it just now.

**Claire Calder:** I will touch on both of the points that we have discussed.

First, I will cover the exemption for people who are not resident in Scotland. The Scottish Animal Welfare Commission's response captured that quite well in proposing to amend the current proposal so that, when a person in Scotland acquires a dog aged less than 12 months from outside Scotland, they should be required to enter its details on the register within a certain timeframe. At the moment, it is a concern for us that that could create a loophole and a way for people to evade the system.

Going back to Jamie Halcro Johnston's question about enforcement, and the costs that could be involved, we could look at the Welsh model. The Welsh Government funded a pilot that focused on training inspectors there. As Gilly Mendes Ferreira said, it is incredibly important that anyone who inspects breeders' premises or other animal establishments is trained in animal welfare and knows what to look for.

Training a central unit of inspectors is likely to be much more cost effective and efficient. We know that such a model has worked in Wales. Providing a service across local authorities there has improved inspections and so increased compliance among breeders, and it has also increased prosecutions for non-compliance.

Going back, too, to Jamie Halcro Johnston's comment about the impact on rural councils, Aberdeenshire Council has submitted evidence to the committee that the current suggestion in the financial memorandum will not be sufficient. Through no fault of their own, local authorities are underresourced, so it will be a real challenge for them to enforce the bill's provisions unless a model such as a centralised unit of inspectors is considered as an alternative and enough resource is put into it.

**The Convener:** I ask Ben Parker to comment, after which I will bring Jamie Halcro Johnston back in with any supplementary questions.

**Ben Parker:** For us, enforcement is a bit of a concern throughout the bill. Last year, we undertook research into the enforcement of animals activities licensing across the UK and, perhaps totally unsurprisingly, it revealed an inconsistent picture and a bit of a postcode lottery of what is going on in different local authorities in relation to animal welfare. There are pronounced differences in structure, training, the number of licence inspectors and licence fees, and so on.

Although costs relating to the implementation of the provisions of the bill are in the financial

memorandum, that needs further research. If the bill was to be implemented, close monitoring would be needed to understand the picture.

On enforcement more broadly, the Scottish Government could consider the availability and use of fixed-penalty notices as a mechanism for technical breaches of legislation, where welfare is not compromised. I am talking about things such as a failure to obtain a registration to sell puppies. To reiterate, the enforcement point is key, and the costs of that might need further examination.

**Jamie Halcro Johnston:** Thank you. I am interested to know the level of enforcement that exists across the board.

The Welsh pilot is Government funded. Do we know how much that cost? Have any estimates been done of what it would cost if it was rolled out in the Scottish context, given that we have a larger and more dispersed population with larger rural areas? As Claire Calder said, Aberdeenshire Council said that it might cost it an extra £24,000 but that figure could be far higher in areas such as the Highlands and Islands. It would therefore be interesting to know what the Welsh pilot cost and what the estimates are for any Scottish pilot.

**Libby Anderson:** Enforcement across all animal welfare legislation is an issue that is increasingly coming to the fore and the Scottish Animal Welfare Commission is looking at the issue, although it would be premature to predict what it will say. There is a problem, and resources will be needed for implementing the provisions in the bill and other legislation.

On the specific point about section 8(2)(a)(ii), as Claire Calder helpfully said, the SAWC has suggested an amendment so that, by registering the puppy within 14 days of its arrival, you are effectively the first owner. The Scottish Parliament cannot legislate outwith Scotland but, as soon as the puppy and the first owner are resident in Scotland, section 8(2)(a)(ii) would apply.

**Kate Forbes:** My question goes back to a point that Gilly Mendes Ferreira made about enforcement. As always, and as with any legislation, its aims might be laudable but, if it cannot be enforced, we will not see the behavioural change that we are all keen to see. My first question also goes back to my earlier point about certification. To what extent will more formalised documentation and more of a record help with enforcement? Secondly, is it purely a question of financing boots on the ground to go and check or are there other ways of intercepting poor behaviour that does not meet the standards?

**Gilly Mendes Ferreira:** We can utilise documentation and put it together as part of a case using the Animal Health and Welfare (Scotland) Act 2006 to show the transaction and

exchange of knowledge and so on. It would just be good to have that additional tool. We are told a lot, "I didn't know this," or, "I don't know where it came from," and when we try to find the person who provided the puppy, we find that they do not exist. Having that documentation will give us another tool to use.

When it comes to resourcing, we need boots on the ground. There are lots of disruption avenues that we can go down. When we investigate something, we do not just take witness statements; we look at online activity, seize phones and look at communications between breeders and buyers—we have seen a lot of that with fertility clinics. We might get vets involved and so on. Quite a lot of different professions are involved.

As well as using the online search tools that we need, we rely on the gathering of physical information through inspections and having people going out on the ground to check compliance. That is what is missing at the moment. We do not have that resource to tap into, which is a money thing—local authorities do not have the resources to employ more people to do that.

**Ben Parker:** I have a fairly obvious point: the lack of funding and resources is a perennial problem for local authorities, and it may be that local authorities need more money to be able to enforce the existing animal welfare legislation and what is in the bill, if it is passed.

**Kate Forbes:** The root of my question was that you can deal only with situations that you are aware of. To go back to what I said earlier, I imagine that it is much harder to follow up the anonymous guy with a puppy in the boot of a car than it is to follow up someone who is already in contact with some sort of organisation or body, which means that the public will be critical in looking out for problems. Gilly Mendes Ferreira made a fascinating point about certificates improving the rights of the buyer, who will have documentation and proof, even if that flags up inaccurate details.

**Gilly Mendes Ferreira:** People who have been tricked into buying a puppy that has not survived are embarrassed to report that. We need a behavioural change to overcome that. A lot of our campaigns encourage people to walk away and report, but many people do not walk away; they still take the puppy, because their heart is ruling their head.

We are trying to tackle that from a lot of angles, including enforcement. To make that work, we also need education and a change in buyer behaviour. Doing part of that will not be successful; we need the whole package.

**Kate Forbes:** For the record, if someone is tempted to rescue a little puppy from the boot of a car, what should they do?

**Gilly Mendes Ferreira:** They should walk away and report.

**The Convener:** We have heard about all that the bill could do, but there is no legislation to back up most of it. There will always be people who want to do the right thing and do not need legislation to make them do that. My concern is that what we have in front of us might create artificial legitimacy. People who have no intention of sticking to the guidelines might have documents and a nice piece of paper to say that they are a verified breeder, a bit like someone who goes to a fake university to get a diploma, which we know has happened in the past. That would give buyers misplaced confidence that the person they are buying the puppy from is legitimate, without there being any safeguards.

The bill could create an even more worrying situation in which bad breeders have some sort of legitimacy, because there will be no enforcement, checking or proper regulation. It seems to me that that could make things worse and that we should be looking at a straightforward national registration scheme in which all puppies would have tags so that, when a tag is scanned, the enforcement agencies—whether that is a local authority or the SSPCA—can see who the breeder was and can follow up any issues. That is my view. The bill has the potential to make things worse, because there would be no policing of the requirements.

**Jamie Halcro Johnston:** I have a very quick question, in the light of what Kate Forbes said. Gilly Mendes Ferreira said that someone who is concerned that another person is selling a puppy illegally should walk away and report that. Who do they report that to? Is there a central number?

**Gilly Mendes Ferreira:** The Scottish SPCA animal helpline is open every day of the year.

**Jamie Halcro Johnston:** Is that the only number that they should go to? Should they not go to trading standards?

**Gilly Mendes Ferreira:** They can also report to the police, the local authority and Trading Standards Scotland, so there are multiple avenues.

**Jamie Halcro Johnston:** What is the chance of that report being acted on fairly quickly?

10:30

**Gilly Mendes Ferreira:** It would be acted on very quickly. For instance, if somebody reports a pup in a car park, that might be the missing piece to do with someone that we are already following.

For example, we do test purchases. If we get intelligence to say that somebody keeps going to a supermarket car park every Wednesday or what have you, we will go and do a test purchase in that car park. We have caught people by approaching them in that way. Sometimes, we just need that extra bit of information to add to the picture that we are already building, in order to take enforcement action. That is why we always say that the more information we get, the better.

A couple of key groups in Scotland are continuously doing that type of activity. We sometimes need a bit more information to be able to take action in different areas, for example, by working with Police Scotland at the port of Cairnryan. The people in those groups will go as far as taking one car one way and then renting a car when they get to this side of the water. It is a matter of that multi-agency approach. The more information that we get, the more that we can do, which is why we need people to report.

**Jamie Halcro Johnston:** Do you think that the awareness of what you can do and the fact that people can come to you, the police or trading standards is out there among the public?

**Gilly Mendes Ferreira:** We usually run the same campaign every year in the lead-up to Christmas. We have spoken a lot about operation Delphin, which is a multi-agency approach with trading standards, HMRC, Police Scotland and others. We will be taking more action on that, and we will continually publicise it. Lots of people say, "Yeah, I know about that," but they are not the people who are buying pups in car parks. It is about behaviour change. How do we get that across to the audience that is continuing to fuel the demand? Unless we stop the demand, the trade will continue.

**The Convener:** Since members have no further questions, would any of our witnesses like to make a comment?

**Ben Parker:** I will comment very quickly. The public awareness side of the bill is so important and it will need to be sustained by using multiple channels of communication. For example, the code of practice will need to be included on relevant websites where dogs are bought and sold, such as Pets4Homes and Gumtree. We have to ensure that the public awareness drive marries up with the legislation.

**Libby Anderson:** I will also comment very quickly. Although there is a concern about enforcement, the register will be an aid to enforcement, because it provides that resource and intelligence, and one would hope that it will make it easier for local authority officers or Scottish SPCA inspectors to check somebody's

credentials and activities. Therefore, there is a distinct positive to having the register.

**The Convener:** Thank you for your time this morning—it has been hugely useful.

That concludes the public part of our meeting.

10:33

*Meeting continued in private until 12:21.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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