

# Proposed Pet Shop (Licensing) (Scotland) Bill

## Page 1: Introduction

A proposal for a Bill to improve animal welfare by enhancing local authority pet shop licensing powers and updating the licensing system, including in relation to licence conditions, fees and inspections. The consultation runs from 26 March 2018 to 18 June 2018. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (\*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation Document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

## Page 2: About you

Are you responding as an individual or on behalf of an organisation?

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

*No Response*

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

**Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).**

Battersea response to the Proposed Pet Shop (Licensing) (Scotland) Bill About Battersea Established in 1860 to care for London's abandoned animals, Battersea aims to never turn away a dog or cat in need of help. We reunite lost dogs and cats with their owners; when we can't do this, we care for them until new owners can be found. We accept any breed of animal, at any age, including dogs or cats with serious medical and behavioural problems. Our expert team of dog trainers and veterinary staff give the animals in our care the best possible chance of a fresh start in a happy new home in the UK, or even further afield. There is no time limit on how long an animal stays with us until the perfect new owners are found. Battersea is grateful for the opportunity to respond to this consultation. Battersea's non-selective intake policy means we often see dogs and cats come

Please select the category which best describes your organisation

to us that have been through the worst kind of cruelty and mistreatment. We see animals that have been abandoned, brought in to this country illegally, denied essential medical treatment, physically abused, starved, over used for breeding and even those used in dog fighting come through our gates. As a result, we care for dogs displaying some of the most challenging behavioural problems. Our expert team of veterinarians and behaviourists work with these dogs and achieve long lasting results never using aversive training methods like electric shock collars. Battersea Key statistics • In 2017 Battersea helped over 7,000 animals - over 4,000 dogs and over 3,000 cats. • We have an average of 300 dogs and 200 cats at any one time on site and on foster. • On average 9 dogs and 8 cats arrive at our three centres every day. • Last year we reunited 1185 animals with their owners • Our average stay is 38 days for dogs and 22 days for cats. • 30% of the dogs we took in in 2017 had previously been turned away by other organisations. Our non-selective intake policy means that we are truly here for every dog and cat. As an organisation which only cares for dogs and cats, and not the full spectrum of species currently sold in pet shops in Scotland, our remarks will be restricted to the welfare of dogs and cats unless specified otherwise.

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. This will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is how your name/name of your organisation will be published.

Battersea Dogs & Cats Home

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

## Page 8: Aim and approach

Q1. Which of the following best describes your view of the proposal to strengthen the licensing regime for pet shops in Scotland?

Fully supportive

**Please explain the reasons for your response.**

Battersea has been heavily involved in similar work in England, where the licensing regime for pet sales has been amended recently under the new Animal Activities Licensing Regulations. The Pet Animals Act 1951 is entirely inappropriate for regulating the models of pet sales in the 21st century, which are entirely different to 67 years ago, and the Bill is to be commended for seeking to modernise this vital area of animal welfare. The current system is inappropriate for several reasons: • There are no standard structures for fee setting, risk-based analysis or approved Model Conditions to ensure a fair and consistent performance across Scotland. • Without this guidance, there is little evidence of expertise in animal issues among professionals required to inspect premises • Fee structures are not defined so vary wildly across Scotland, as indicated in the report • Licences cannot be revoked, denying the enforcement bodies an essential tool in protecting welfare • In common with many areas of society, the way pets are sold is now fragmented, with the traditional "high street pet shop" losing ground as a share of the market to online sales, which may take place from the seller's home.

Q1. Which of the following best describes your view of the proposal to strengthen the licensing regime for pet shops in Scotland?

This is of course still commercial activity affecting animals, and so their welfare must be protected. The law currently does not expressly provide for this beyond general animal welfare legislation. Whilst Battersea is supportive of strengthening the licensing regime for pet shops, we believe that third party sales of dogs and cats (including from pet shops) should be banned and encourages the Government to push ahead with assessing how a ban could work. Stronger regulation would be an important mechanism to aid in the enforcement of a ban stopping a route to market for puppy farms and low welfare puppies and kittens. However, the Government is not currently minded to ban third party sales, and even if it were, the case for reform would still be compelling for the myriad other species sold by the pet trade. The draft Bill is sensible and proportionate, and Battersea welcomes it.

Q2. Could the aims of the Bill be better delivered in another way (rather than by the means of a Bill in the Scottish Parliament)?

No

**Please explain the reasons for your response.**

This is a problem with legislation, and so it requires a legislative solution. Pet sales undoubtedly requires regulation, and better, more modern regulation than is currently the case. Voluntary codes or Codes of Practice would be insufficient in this case, although the law change may be achievable as in England through secondary legislation under the Animal Welfare (Scotland) Act. However, key to the success of the Bill will be other measures which stem from the legislation, most critically around enforcement: • New, statutory, guidance must be given to Local Authorities around welfare standards (which are drafted in partnership with the welfare sector) • Fee setting guidance must also be given if the current patchwork approach is to be avoided, and consistency achieved across Scotland • Training of Local Authority or equivalent personnel in the standards will be essential. In the Impact Assessment accompanying the Animal Activities Licensing Regulations (England), Local Authorities have only been given 2 hours of training provision to prepare for the Regulations coming into force. This is insufficient, and will hamper the effectiveness of the Regulations. This is an error we would encourage Scotland not to repeat. • Where Local Authorities have a partner that is able to deliver the inspection regime more efficiently, and more cost-effectively than Councils or partnerships of Councils are able to, they should be encouraged to pursue this option.

Q3. Under the proposal, pet shop licence fees would be based on a recovery of the costs incurred by local authorities in processing applications and inspecting premises to ensure animal welfare standards are maintained. In your view, which of the following should local authorities do?

(b) Charge all pet shops the same basic licence fee, but charge the costs of inspections separately to each pet shop.

**Please give reasons for your answer. If you have selected option (c) please indicate which criteria you think should be used.**

This is the fairest approach, and one which best reflects the complexity of any individual premises. A basic charge that could be calculated across Local Authorities would provide transparency for pet shop owners. However, there are likely to be unforeseen costs on a case by case basis (e.g. changes to licensing conditions) that the Local Authority must be able to recover costs for, as it will have to inspect premises with more complex requirements differently. The pricing model should also allow for operational costs of the function including training for licensing officers, enabling the function to be cost neutral to the Local Authority. It is right in principle that compliant and less 'costly' licensees should pay a lower fee than licensees judged to present a greater risk requiring more attention from the Local Authority. This would be in accord with EU regulations that licence fees should be set on a cost-recovery basis, and also in line with 'user pays' principles. However, as Battersea's research on dog breeding licensing highlighted, the whole issue of how licence fees are set locally needs attention. While some variability between Local Authorities is to be expected, the range in current licence fees (from £23 to £741) is simply too large to be justifiable on cost recovery grounds alone. A move towards risk-based licensing will mean greater likelihood that businesses will challenge their risk allocation and licence fee, so it will be very important that Local Authorities can demonstrate how their fees are costed and

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set. Battersea's research suggests they may be unable to do this satisfactorily at present, leaving them open to legal challenge. The development of a risk-based model of licensing, as DEFRA is introducing in England, should therefore include an assessment of Local Authorities competence in setting local fees and produce guidance accordingly.

Q4. Which of the following best expresses your view of developing statutory licence conditions, building on the current Model conditions for pet vending, that would apply to all pet shops in Scotland?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**

Statutory licensing conditions will ensure they are fully enforceable. The conditions should be developed to ensure that they provide a minimum welfare standard for the animals in the care of the pet shop owner. This will also require training for licensing officers to ensure that conditions are consistently assessed across Local Authorities. Any review of Model Licensing Conditions should be carried out with the relevant welfare groups that care for the different species that are subject to Regulation – if dogs and cats are to be subject to the Bill (as seems likely for cats in particular), Battersea would be happy to lend our expertise. Battersea supports this proposal entirely, as this would be a crucial tool in raising standards and safeguarding consistent application of welfare across the country. Indeed, without a requirement on enforcement bodies to use the standards we would question the point of model licence conditions – they are key minimum acceptable standards and simply not optional. The CIEH conditions for dog breeding establishments have served as an acceptable standard since their adoption in 2014, and as a going concern we would endorse their use as a baseline for new statutory guidelines. However, it is important that these are reviewed, and that the welfare sector, as well as the pet trade, is afforded a key role in ensuring up to date welfare information is included as part of that review.

Q5. Which of the following best describes your view of banning the sale of puppies and kittens in pet shops?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**

Banning the sale of puppies and kittens in pet shops will help to stop puppy farming and low welfare breeding, because many puppy farmers often move their puppies through a third party, essentially a "dealer" who may or may not have a pet shop licence, though legally is required to if selling animals commercially. Given the legal requirement for dealers in young animals to be regulated in Scotland, there is another tier of potential welfare safeguard that does not exist in the other countries of the UK. It is therefore worth considering that the Government may wish to commission a study into the effectiveness of regulation of dealers. However, there is clear evidence that the practice of low welfare breeding is endemic within Scotland, and banning the sale of puppies and kittens could make a big difference to restricting the continuing viability of this brutal trade. Stopping this route to market will enable the public to go directly to the breeder and ensure that they are getting a puppy or kitten who has been bred in good conditions. It is essential, therefore, that the Scottish Government also revisits the regulation of breeders alongside supporting this Bill, to ensure that the puppy-buying public is directed to a better, more responsible breeder.

Q6. Which of the following best describes your view of pet shop licence applications listing all animal categories they intend to sell, with owners under an obligation to inform the local authority before stocking any new categories?

Fully supportive

Q6. Which of the following best describes your view of pet shop licence applications listing all animal categories they intend to sell, with owners under an obligation to inform the local authority before stocking any new categories?

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**  
In order to fully assess the licence conditions and ensure the varying welfare needs for different species the Local Authority must be aware of all the animal categories individual pet shops have. Any inspector should be fully trained and experienced in the needs of the different species for sale at the premises.

Q7. Which of the following best describes your view of mandatory inspections for all pet shops before an initial licence is granted?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**  
To fully consider the conditions and animal welfare requirements of the pet shops mandatory inspections will always be required. Otherwise there is little way for the Local Authority to ascertain the welfare of the animals in the pet shop owners care. Minimum standards are required and need to be enforced, including mandatory inspections. This should also be taken further to allow for random inspections to ensure continuing standards of animal welfare, where there is a legitimate reason for the licensing authority to suppose that the original standards from when the licence was issued are no longer being met.

Q8. Which of the following best describes your view of all local authorities using a standardised approach to conducting and reporting on inspections of pet shops?

Partially supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal. Is there any reason why a standardised approach would not be appropriate?**  
A standardised approach would provide consistency across Local Authorities and allow streamlining of licensing officers work. However not all cases will be the same and there may be need for specialist advice that will affect both conducting and reporting on inspections. Any regime needs to be flexible. This also applies to the use of partnership arrangements between Local Authorities, which should be encouraged, to allow Local Authorities to work together and provide common resource. After all, it will be cheaper perhaps for neighbouring authorities to train one professional who would look after the inspections for all of the areas than to continue using their own resource and have to train someone different in each Local Authority. Furthermore, there may be a private inspection body that is able to perform this function (as the Kennel Club do around dog breeding) subject to a contractual arrangement, provided that it is clear the Local Authority remains the licensing body and will handle complaints.

Q9. Which of the following best describes your view of local authorities using a risk-based assessment and issuing longer-term licences to pet shops that demonstrate a low risk to animal welfare?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**  
We agree with this proposal. It is good regulatory practice to focus effort and costs on high risk premises and reward licensees with a strong track record of compliance with a 'lighter touch'. Done well, it would be fairer to businesses, reduce unnecessary red tape, and ensure Local Authority resources are effectively oriented to drive up welfare standards. It also offers an active incentive for businesses to improve their standards. Done badly, however, it could mire Local Authorities in controversy, appeals and legal challenge. It is essential that this facility is only used for the lowest-risk applicants, and is not used as an excuse for only carrying out inspections and licensing every three years. An effective risk-based system, one which we would support, must

Q9. Which of the following best describes your view of local authorities using a risk-based assessment and issuing longer-term licences to pet shops that demonstrate a low risk to animal welfare?

be underpinned by a risk assessment process that is • clear, systematic, defensible and transparent. Decisions must be capable of being justified openly and evidentially to both the business and to the wider public. • reactive to new information, flagging any new risks that would trigger immediate inspection or change of risk allocation. For example, a complaint from a member of the public or a change in ownership should draw the Local Authority's immediate attention to the licensee. • regularly reviewed to ensure it meets its objectives, and revised as necessary There will need to be investment in developing the process and guidance, including piloting it initially in some areas, which should be led at national level. The guidance should draw on the experience and good practice advice from other risk-based regulatory regimes, for example in the education, health and environmental sectors. DEFRA has spent considerable time and effort working with welfare, industry and above all Local Authority animal welfare practitioners to establish a risk-based framework for its new Regulations on Animal Activities Licensing. While this is yet to be formally published, and so there are still questions to be answered about how it will work in practice, the model has undergone considerable refinement and would present a useful starting point for Scottish Government to consider drawing together a similar framework to help enforce the provisions of the Bill.

Q10. Which of the following best describes your view of enabling local authorities to contract other qualified professionals (in addition to their own officers and vets) to carry out and report on pet shop inspections, including qualified officers from other local authorities?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**

This landscape of 'peaks' and 'troughs' of demand creates real strains for Local Authorities – high demand strains resources, low demand strains skills and experience. Such a landscape argues for inspection arrangements that transcend Local Authorities boundaries, to 'iron out' these pressures. There are a number of possible models: 1. Local Authorities work together on a geographical basis. This would produce a 'critical mass' of applicants to enable inspectors to build skills, experience and intelligence for enforcement. It would also enable Local Authorities to pool resources, so that the burden is shared. This is a model some already operate in relation to stray dogs, sharing dog warden services, and is commonplace in the provision of some other services that naturally cross Local Authority boundaries. 2. Local Authorities work with an external, independent body that manages inspections on a regional or national basis and reports back to the Local Authority. This would be similar to the model used for licensing vehicles, where inspections are carried out by commercial garages to a standard; and used as the basis for DVLA approving a vehicle licence. Recently, Scottish Government has proposed as part of its consultation on Regulations of Sanctuaries and Rehoming Centres that Scottish SPCA could perform this function on behalf of Local Authorities if they were minded to. There may be a similar body or organisation that any given Local Authority would trust sufficiently to carry out inspections to the agreed framework and standards. As the licensing authority, this decision should be for the Local Authority to make. Whatever the arrangement, it must be able to demonstrate that it would deliver enhanced welfare standards and preserve the possibility of criminal prosecution for those who breach the licensing regulations.

Q11. Which of the following best describes your view of enabling local authorities to take steps to address non-compliance with licence conditions, giving licensees the opportunity to make improvements before any further action is taken, with the power to revoke a licence as a last resort?

Partially supportive

**Please give reasons for your answer, and any detail you think relevant, including what appropriate intermediate steps could be.**

This would depend on the individual case – however as a general principle it is essential, proportionate and sensible that businesses are given the opportunity to comply and plans put in place to help on the pathway to full compliance, with revocation of the licence reserved as a last resort. In the event of revocation, then effectively the licensing authority has taken a decision that the premises are not longer, or never were, suitable for keeping hold of animals. Contingency must therefore be included in the guidance for Local Authorities of

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what to do with the animals in the care of the business once its licence has been revoked. This would ideally take the form of a plan, and would not rely solely on any individual local rescue centre, so it is not overburdened.

Q12. Which of the following best describes your view of increasing the maximum fine for failing to comply with the legislation, in line with more recent animal welfare legislation?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**

Given that the potential consequences of non-compliance are very grave for innocent animals in the care of the premises, and given that pet sales is such a potentially lucrative field of trade, any fine must be an appropriate deterrent. It is Battersea's view that the current maximum fine is not sufficient as a deterrent and does not afford the Courts sufficient flexibility to consider the particular details of an individual case in detail when imposing a penalty. It is therefore welcome that the Bill will seek to enhance this fine.

Q13. Which of the following best describes your view of placing an obligation on pet shop owners to provide advice to people buying pets?

Fully supportive

**Please give reasons for your answer, including any advantages or disadvantages of the proposal.**

As an organisation which rehomed 4,047 dogs and 3,318 cats in 2017, we take our responsibility to people taking an animal from us very seriously. This is why we provide them with all of the information we feel necessary to look after their pet. The measures proposed. However, whilst a duty to provide this information is welcome, such information must be credible, and the quality and quantity must be something on which the buyer can rely. Guidelines and best practice should be circulated to enforcement bodies to help them assess whether the vendor is meeting the requirements of the licence. Anyone rehoming or selling pets (whether they are dog breeders, rescue centres or others) should be legally required to provide information at the point of transfer of ownership and be in a position to give the information prior to purchase if requested. This will give the buyer both the opportunity to make an informed acquisition and the best chance of providing good care to a new, often unfamiliar animal. This information must be as accurate as the species or breed requires for effective maintenance of welfare - with dogs for example, the needs of Lurchers and Greyhounds are very different to those of the Chihuahua or the Husky. Information provided must be sufficiently specific to be genuinely useful to the buyer.

## Page 21: Financial implications

Q14. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Local authorities			X			

Q14. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

<b>(b) Pet shop owners</b>						X
<b>(c) Individuals (including pet owners)</b>						X
<b>(d) Animal welfare organisations</b>			X			

**Please explain the reasons for your responses.**

Everyone else – Do not take a view as we are not experts in the pet shop business model, and individuals is a very wide category.

Q15. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

No

**Please explain the reasons for your response**

Battersea believes that the proposals are both cost-neutral and advantageous to animal welfare. A clear framework with centralised, planned expectations on Local Authorities, businesses and owners would potentially significantly reduce the cost of promoting welfare through raising standards and would save significant amounts for the charity sector as well as those groups more directly affected.

## Page 23: Equalities

Q16. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?

Unsure

**Please explain the reasons for your response.**

Battersea does not take a view on this Question.

## Page 24: Sustainability

Q17. Do you consider that the proposed Bill can be delivered sustainably i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

## Page 25: General

Q18. Do you have any other comments or suggestions on the proposal?

Battersea believes that this Bill has the potential, particularly in the short to medium term, to draw to light significant welfare violations from places currently not properly investigated by inefficient licensing. As a consequence; it is essential that people who mistreat animals, sometimes on a significant scale, can be penalised accordingly. Battersea believes that the proposal made by Scottish Government to raise the maximum sentence for animal cruelty would make a significant difference to animal welfare, allowing the Courts to impose appropriate penalties and deter people from this kind of criminality.