

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). Cats Protection is the UK's leading feline welfare charity and has more than 40 volunteer-run branches and four adoption centres across Scotland. Cats Protection is a registered charity in Scotland (SC037711). Our volunteers and staff work to rehome stray and abandoned cats and the charity supports and promotes neutering of owned cats. We also offer advice about cat care to cat owners and the public. In 2017, our Scottish branches and adoption centres rehomed more than 4,500 cats and neutered more than 9,400 cats.

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.

Cats Protection

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?

Partially supportive

Please explain the reasons for your response.

Cats Protection would support updated regulations on pet vending and giving local authorities the ability to revoke licences and ensure standards are being met. We give partial support because the proposed Bill refers repeatedly to 'pet shops' and online sales do not appear to be explicitly covered under the terms of this proposal. Given that the majority of kitten sales take place through advertisements by private sellers on the internet through classified websites we support updated regulations on pet vending that occurs through online advertisements. New regulations should include provisions regarding the provision of consumer information (in shops, online and at the point of sale) to the purchaser and publication of licensing details alongside online advertisements where sellers are licensed. We refer to these issues again at Q.18

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)?

Yes

Please explain the reasons for your response.

The Scottish Government has the power to make regulations in respect of licensing of activities involving animals under s.27 of the Animal Health and Welfare (Scotland) Act 2006 (AHWA); regulations would repeal and replace the Pet Animals Act 1951. Regulations to update the law on pet vending are now overdue as they were anticipated in 2006 as the explanatory notes to the AHWA make clear. In Scotland there are also the Licensing of Animal Dealers (Young Cats and Young Dogs) Scotland Regulations 2009 which it would also make sense to repeal under new Regulations. The Scottish Government announced in its Government Programme for Scotland (2017-2018) that there will be "improvements to licensing for cat breeding, dealing and selling so that conditions in breeding units in Scotland can be properly controlled and breeders identified when advertising animals for sale". We would urge the Scottish Government to proceed with Regulations under the AHWA swiftly and take the information gained from this Bill consultation into account in developing its new

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licensing Regulations.

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.

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.

We are fully supportive of developing statutory licence conditions in place of voluntary conditions. A breach of statutory conditions should constitute an offence and carry the risk of a licence being lost.

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

Partially supportive

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

Please note – we are only responding about kittens as the issues are different and more complex regarding third party sales of puppies. Dog welfare charities have evidence of large scale dealing in puppies by third parties including importation and dealing in high value puppies by unscrupulous dealers. The market in kittens differs as most kittens in England are sold by the breeder in a home environment and not by a third party. There is limited evidence of large scale kitten smuggling into the UK. There is some anecdotal evidence at ports/airports of purebred kittens (high value relative to the majority of non-purebred kittens) not being declared under the Pet Travel Scheme (PETS) or Balai directive. Cats Protection has been approached by the owner of a quarantine kennel to cover the cost of illegally imported purebred kittens such as Scottish Fold cats that she is now asked to house with increasing frequency. Cats Protection would support a ban where kittens are still sold in high street pet shops (third parties not the breeder). Cats Protection believes that high street pet shops are not a suitable environment for kittens (defined by us as a cat under 6 months old) to be kept and sold in, and that potential buyers should see a kitten with its mother where it has been bred. Banning the sale of kittens in pet shops would help to tackle the various welfare issues that arise when kittens are sold in a shop environment. Kittens in pet shops are often under eight weeks of age and are likely to still be within their socialisation period when being offered for sale. New Department for the Environment, Food and Rural Affairs (DEFRA) Animal Activities Licensing Regulations will come into force in October 2018 banning the commercial sale of kittens under eight weeks of age (i.e. until they reach that age). However, having young kittens in pet shops prior to sale means they may not be getting adequate socialisation as they are not in a home environment and ultimately this may mean they are not likely to make good pets. Furthermore, effective and appropriate socialisation takes time and expertise. Cats Protection is not aware that appropriate socialisation occurs in a pet shop setting and/or that the sellers are trained or expert in kitten socialisation. A kitten is more likely to be effectively socialised within a home setting where it will be exposed to typical household sounds and experiences which will increase the prospects of the kitten making a well socialised pet. Cats Protection follows a socialisation programme designed by an expert in feline behaviour to ensure the charities kittens will make good, confident pets. Kittens should be viewed in the presence of their mother by a potential buyer to check that the facilities are clean and the litter appears alert and healthy. Cats Protection believes that the ability of local authorities to monitor and enforce a ban on the third party sales of kittens in physical pet shops would be relatively straightforward and would not pose an undue drain on the local authorities' resources.

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

Checking for kittens in high street pet shops could be part of normal licence inspections and also, with increased public awareness, local authorities may find the public report and assist in monitoring any ban. If the sale of kittens were to be banned in pet shops, the shops would not be prevented from selling other pets such as fish and reptiles. Therefore, the pet shops would still need a licence and would pay a licence fee to their local authority. Any fines that were levied on enterprises illegally conducting business involving kittens without a licence should go back to the local authority. Finally, Cats Protection would always encourage the public to adopt a kitten from a rescue centre rather than purchase from a pet shop or private individual.

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?

Partially supportive

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

The welfare requirement of all species will be very different – Burmese cats can hardly be compared to bearded dragons. It is therefore crucial that the local authority is aware of which types of animal are being sold in order to license and inspect properly. On this basis we would propose that owners should be under an obligation to ask the permission of the local authority to change category of animals kept (not simply inform them) and should be subject to re-inspection each time they seek permission. We would reiterate that for high street pet shop the sale of kittens should be banned so they should not be appearing on the category list of a high street pet shop.

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.

We support any measures to strengthen powers of inspection. In particular, we agree with inspection prior to the granting of all licences which needs to be both rigorous and mandatory. We also believe that local authorities should retain powers of inspection throughout the duration of the licence term.

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?

Fully 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?

The welfare needs of all pets, including cats and kittens, will not vary by geographic area so it is right that there should be a standardised approach across all of Scotland's pet shops and other premises selling pets in order to ensure consistency.

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?

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Fully supportive

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

A risk-based approach has been adopted by Defra in the development of its Animal Activities Licensing Regulations 2018 in discussion with representatives from licensing Authorities. Its advantages include ensuring that inspection resources are focused more on those pet shops and premises representing a high risk to animal welfare and on driving up welfare standards. We recommend consideration of this approach in Scotland. This should be subject to the discretion of local authorities who should retain a certain flexibility to re-assess risk in response to new information such as complaints. A reasonable period activities assessed to be low-risk would be a licence for a three year period for pet vending activities.

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.

It makes sense and will be more efficient for Authorities to combine and share resources for inspection where they have suitably qualified specifically trained officers. Where they don't have suitably qualified officers we support the use of independent qualified professionals, for example, vets.

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.

We support local authorities having a wide range of powers to address non-compliance and enforce licence conditions and to require improvements including the power to revoke a pet shop licence as a last resort. This is essential to safeguard the welfare of the animals being sold. It is crucial, however, to ensure that there is a reasonable timetable for any improvements and/or that temporary accommodation can be arranged for any animals to ensure their welfare is not compromised pending and awaiting improvements.

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.

The maximum fine should be set to Level 4 – at minimum. The current fine not exceeding level 2 of £500 is inadequate for an offence under the current Pet Animals Act 1951 and is not a significant disincentive for a licensed pet vending business.

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.

While Cats Protection supports a ban on kittens being sold in high street pet shops, kittens and cats being sold by home-based or other sellers (often advertising online) should come with advice for the purchaser. The charity supports making it a legal requirement that those selling pets supply written information to purchasers, not only at the point of sale but to inform them ideally prior to sale of the implications and care requirements of a purchase. Information should be available in hard copy form but also importantly online to inform the many people now purchasing through online advertisements and perhaps making more impulsive decisions to purchase. Cats Protection is a member of the Pet Advertising Advisory Group (PAAG). Many of the classified sites involved with PAAG (including Gumtree, Preloved and Friday Ad) already post advice to purchasers alongside their advertisements. We suggest that all online and written information should refer to the helpful PAAG pre-purchase guidance already in existence for anyone considering purchasing a cat or kitten. <http://paag.org.uk/buying-a-pet/cats>. Importantly we'd encourage purchasers foremost to consider adopting a cat or kitten from a welfare charity as an option instead of purchasing. We recommend there are clear guidelines on the quality and quantity of information that must be provided to ensure consistency. This would also help licensing officers assess whether the pet vendor is meeting the conditions of the licence. Cats Protection as a member of the Canine and Feline Steering Group has been involved with production of a "kitten checklist" for purchasers and we should be pleased to provide more information on this as the Bill progresses.

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

Please explain the reasons for your responses.

Compliance with statutory animal welfare guidance shouldn't incur significant costs on pet shops, although pet shops are likely to need to improve their premises in line with the statutory guidance and provide information / literature to customers. This may lead to a small increase in costs. Likewise with individuals, increased understanding of pets' welfare needs may result in some costs such as the purchasing of enrichment products and veterinary treatment. Licence fees and inspection fees should be on a cost recovery basis. Ending the sale of kittens in pet shops would we hope lead to a reduction in cats and kittens being relinquished to charities such as Cats Protection because the purchaser has been sold a kitten that is sick and/or underage.

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

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Unsure

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?

Neutral (neither positive nor negative)

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

Please explain the reasons for your response.

In 2016, the Ornamental Fish Trade Association found by a Freedom of Information request that of 156 pet shops licensed in Scotland, only seven (fewer than one in twenty) were licensed to sell cats. It is clear that an outright ban on the sale of kittens limited to actual high street in pet shops would not have a significant economic impact on the pet retail sector in Scotland. The sale of pet food, toys and other pet related products are a hugely significant source of income for pet shops, far outweighing income from pet sales. Live pets are often sold as a "lost leader" to attract customers. If there were a ban on the sale of kittens in high street pet shops the shops would of course still be able to sell other non- banned species such as fish.

Page 25: General

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

Activity of pet vending: Our main concern is that this proposed bill has an emphasis on pet shops and neglects adequately to mention sales by home based sellers breeding and selling kittens from home. These sellers often use the internet to advertise their kittens and any new regulations need to include safeguards for the online consumer and for the welfare of the kittens and cats sold. We recommend that the provisions in the new Animal Activities Regulations 2018 (specifically the provisions in the pet vending schedules and statutory guidance) are examined to inform development of this Bill. A specific comment is that we recommend that there is a requirement within any new regulations that licensed sellers are obliged to publish details of their licence alongside online advertisements. This will enable purchasers to know where licence conditions apply and/or seek information about the seller from the licensing authority. Business Test: Any new and updated legislation regulating pet vending must include guidance for Local Authorities on activity constituting a "business" of selling pets. We recommend, as we did to Defra, a business test based on the badges of trade but with flexibility and discretion for the Licensing Authority: "the circumstances which the Local Authority must take into account in determining whether an activity is being carried out in the course of a business shall be prescribed by the Secretary of State from time to time (in guidance to be issued to Local Authorities) and

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

shall include, amongst other things, whether the operator:-(a)Makes any sale by, or otherwise carries out, the activity with a view to making a profit; OR (b)earns any commission or fee from the activity; OR(c) the number of transactions of the same kind or character. The approach the Courts use is to form an impression by looking at all the badges of trade in the precise circumstances of each case; it is quite hard to condense the badges into legislation without setting out a list which is why we think guidance should accompany any new regulations in Scotland. The fact is that the circumstances of each case are likely to be looked at on a case by case basis by Local Authorities and, ultimately, they will take a view. Exemptions from a pet vending licence that currently exist within the Pet Animals Act 1951 s7(1) which include sales of the offspring of a family pet or sales of pedigree animals bred by the seller should be removed from new legislation. The new overarching test should be the business test. There must also be a prohibition on the commercial sale of kittens under 8 weeks of age within any new regulations governing the licensing of pet vending.