

# 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).** OneKind is an animal protection charity based in Edinburgh and aiming to end cruelty to Scotland's animals by harnessing research, education and campaigns. This submission reflects the organisation's policies. OneKind has carried out considerable investigative field work in pet shops in Scotland and published comprehensive reports on the animal welfare issues uncovered, in reports going back to 2003. These are available on request. Our 2013 report *Animal Welfare in Scotland* drew, among other sources, on a survey of local authorities which included questions on enforcement of pet shop licensing.

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.

OneKind

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.**

OneKind believes that the Pet Animals Act 1951 is overdue for reform and supports the proposals set out in the consultation document. Our research in pet shops in Scotland over the last 15 years has revealed persistent animal welfare problems. Our 2003 report Caged to Sell, based on extensive field work in Scottish pet shops, reported: widespread abnormal behaviour; inadequate enclosure volumes for mammals and lack of space for birds to stretch their wings fully; unsupervised interactions between customers and animals with potential detrimental consequences for both the animals and/or customers; lack of advice about buying a pet for a child, or about zoonoses such as salmonella; and a small number of shops that were operating without a licence. Since then, the nature of pet vending has significantly changed, with fewer, larger shops and an emphasis on selling foods and equipment rather than livestock, not to mention the upsurge in online advertising and sales. Even so, in research for our 2014 report Pet Origins we continued to observe abnormal/stereotypical behaviour in both mammals and reptiles, dead and dying fish, and the same issues about incorrect or inadequate advice to purchases. We welcomed the undertaking to review the Pet Animals Act 1951 made at the time of the Animal Health and Welfare (Scotland) Act 2006 and regret that this has not been progressed. The proposal to strengthen the licensing regime for pet shops appears proportionate for a Member's Bill and we hope that it will attract support in the Scottish Parliament.

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.**

The background information in the consultation document reflects our own impression of the licensing regime in Scotland including diverse approaches to standard-setting, inspection and enforcement by different local authorities. OneKind agrees that legislation is necessary to achieve the desired higher standards and

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)?

consistent implementation.

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.**

We suggest a basic licence fee to meet the cost of inspections and ensure that all local authorities carry these out to the same level. Nonetheless, there are obvious differences between the inspection of small local pet shops and large supermarket type establishments belonging to a national chain. The larger corporations are likely to have a more organised approach to aspects such as staff training and provision of advice to purchaser, but there may be disadvantages to being operated on a nationwide basis, such as transporting animals greater distances. When animals are traded on a larger scale, there is always a danger that the welfare of the individual is overlooked. Conversely, small local shops are often the subject of complaints about overcrowding or hygiene standards. The key aspect will be to focus on the optimum standards of welfare for each category of animal stocked and whether the establishment in question is meeting these. Relevant factors will be the number and type of animals, their husbandry needs and the relative ease or difficulty of keeping. Charging the costs of inspections separately to each shop would build in flexibility to address differences between establishments. Shop surface area may also be a relevant consideration (bearing in mind that varying areas will be focused on selling pet foods and equipment).

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?

Partially supportive

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

In principle, the advantage of model conditions is that if adopted and applied consistently across local authorities, they ensure that all animals receive equal and appropriate standards of welfare and husbandry, regardless of where they are being kept and sold. OneKind has promoted the concept of model conditions from before the time of the Animal Health and Welfare (Scotland) Act 2006. Please see our reports *Lives Across the Counter* and *Caged to Sell*. The difficulty with the current Model Conditions for Pet Vending Licensing under the auspices of the Chartered Institute for Environmental Health is that they are not seen as providing sufficient emphasis on welfare, as opposed to the requirements of the trade. For example, they recommend cage sizes that would prevent some birds from being able to extend their wings fully, and snake cages that would prevent them fully stretching their bodies. These Model Conditions have been described by others, such as the Centre for Animals and Social Justice (CASJ) as "unfit for purpose, particularly in respect of exotic pets, birds, reptiles and amphibians and fish, being likely to lead to animal suffering in breach of the Animal Welfare Act". We acknowledge the effort that was put into creating these Model Conditions, but we feel they could and should have been stronger. OneKind had some involvement with early drafts of the document but was unable to endorse the final version. Nonetheless we do agree with the proposal to develop enhanced, uniform statutory standards that would be applied consistently across all authorities. At present, it appears that different local authorities approach the licensing of pet shops with varying degrees of rigour and expertise. Without naming any individual authority, we would contrast the robust and detailed approach of one council, which requires applicants to provide full lists of all species to be sold and expands on the Model Conditions so that they are more detailed and rigorous, with another that appears to have a more limited approach, does not publish any conditions on its website and gives misleading information about the age at which a young person may legally buy a pet. Standardised guidance for local authorities should be based on good practice and the five welfare needs and developed with input from experts. The aim should be to guarantee good, rather than absolute minimum welfare standards. It may be possible to do this by building on the existing Model Conditions so long

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?

as they are revised to take full account of peer-reviewed animal welfare science, with input from animal welfare specialists.

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.**

OneKind supports a ban on all third-party sales of puppies and kittens, including in pet shops. Puppies and kittens should be seen with their mothers by prospective purchasers, then go direct from their mothers to their longer-term homes, at a suitable age. They should not be exposed unnecessarily to unfamiliar environments and the risk of disease. Pet shops are not suitable environments for young animals who require to rest and sleep for long periods. Noise, bright lights and excessive human interactions will prevent them from doing so. The effectiveness in welfare terms of a ban on pet shop sales would depend to a large extent on the definition of "pet shop" in the legislation, given the prevalence of puppy dealing in Scotland.

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

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

OneKind is aware that some Scottish local authorities already require applicants to list all the animal categories that they intend to sell, and we have been able to obtain information in the past about the species for which individual properties were licensed. We are not sure, however, whether any council requires owners to update this information before stocking any new categories and we would agree that this is a lacuna. It is arguable that there are already too many species being sold in pet shops, with novel animals being obtained to meet fashion and demand, even though some of these, particularly exotic species, are fundamentally unsuited to being sold and kept as pets at all. The most extreme example of this problem would probably be the sale of primates as pets, although that is uncommon in Scotland. However, if any pet shop did decide to stock primates, it would be essential for the licensing authority to be informed in advance, to allow for additional appropriate inspections and risk assessments.

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.**

Any commercial establishment keeping numbers of live animals should be inspected before a licence is granted. This should apply to wholesale as well as retail establishments. Some local authorities already apply this condition and include a veterinary inspection in the initial visit. It is clearly preferable to prevent an unsuitable establishment opening in the first place, rather than allowing the inevitable animal welfare and consumer difficulties to develop and have to be addressed retrospectively.

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?

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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 Pet Animals Act 1951 grants power to local authorities to inspect pet shops as part of the licensing process, but enforcement is not uniform and the degree of knowledge and experience of inspectors varies. As long as there remains little restriction of the types of animal that people are allowed to buy and sell as pets in Scotland, it is unlikely that any one council will be able to deploy in-house experts in all the animals that inspectors are likely to encounter. An alternative approach would be to consider establishing a central licensing authority to enhance enforcement capacity. A central authority would have a greater body of work, to maintain the appropriate level of expertise and experience, and would help to establish a more viable career path for inspectors, enhancing the licensing body's capacity to retain competent and experienced inspectors.

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?

Neutral (neither support nor oppose)

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

We do not object to the granting of longer-term licences as long as every establishment is inspected at least annually, and more frequently if any issues arise that require attention and further assessment. Local authorities should carry out at least one unannounced inspection per year by an inspector with specialist knowledge of the species being traded. This is particularly important if the consultation results in an extension of licensing periods. Refusal to allow an inspector access during an unannounced site visit should be a breach of licence conditions with the potential consequence of licence revocation

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.**

All initial inspections should include a veterinary inspection and we think it is likely that this would be a local independent vet rather than a council employee. Pet shops that sell exotic species should be inspected by someone with specialist knowledge of these animals. Local authority inspectors are not always familiar with all the needs of the wide variety of animals on offer. The OneKind survey of local authorities in 2012 for Animal Welfare in Scotland indicated that three authorities already shared services for licensing and inspection of pet shops. Given that most councils have a very small number of pet shops in their areas, sharing services would be a cost-effective way of developing expertise in this complex area, requiring knowledge of many different species and their husbandry.

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?

Fully supportive

**Please give reasons for your answer, and any detail you think relevant, including what appropriate**

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?

**intermediate steps could be.**

It is always better and quicker to give people time to improve conditions rather than closing an establishment, possibly requiring the seizure and re-homing of large numbers of animals. This would be a proportionate approach to concerns that do not amount to outright cruelty or neglect (which would still have to be addressed using the powers available to local authorities, police and the Scottish SPCA under the Animal Health and Welfare (Scotland) Act 2006). Section 25 of the 2006 Act provides a model of intervention similar to the approach suggested here, which is to say the issuing of care notices requiring improvements to specific aspects of animal keeping by a specific date. The difference would be that failure to comply with such a care notice is, in itself, an offence under the Act, whereas under the regime proposed here, the ultimate sanction would be revocation of the licence. We suggest that this approach would only be suitable in cases of relatively low-level or one-off non-compliance: if problems are severe or widespread consideration should be given to immediate revocation of the licence as well as possible prosecution.

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 consequences of operating a pet shop without a licence or failing to comply with licence conditions can be severe in terms of animal welfare and the current Level 2 penalty does not reflect the general public condemnation of cruelty to animals. OneKind agrees that there is a case for reviewing the fine level, in keeping with other more recent legislation regulating the licensing of establishments dealing with animal activities. Failure to comply with the proposed legislation could amount to a failure in the duty of care as set out in s.24 of the Animal Health and Welfare (Scotland) Act 2006, which attracts a maximum Level 5 fine. We accept that failing to comply with a licence condition may in many circumstances be a technical breach which does not have a direct impact on animal welfare. Given that other licensing legislation provides for fines up to Level 4 it would be appropriate to raise the maximum pet shop licence breaches fine to at least Level 4. A fine of £2,500 would be significant to an independent retailer, but less so for a large national chain.

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.**

The first piece of advice that a pet shop should offer is that no animal should be purchased without first making detailed enquiries into its health and welfare requirements and its suitability for keeping in a private household. The previously cited Model Conditions for Pet Vending Licensing make it a requirement to provide advice to purchasers and it is entirely reasonable to make this mandatory. Some local authorities already make provision of advice a licence condition, along with staff training and knowledge of the species sold. Some Scottish local authorities, such as West Lothian Council, have expanded and strengthened the requirements of the Model Conditions, and we think it worth quoting the relevant section here: 15.1 New applicants must have an appropriate qualification. Qualifications should be City & Guilds or Level 3 equivalent and appropriate to the species kept. 15.2 The licensee must ensure that the customers that are buying animals are informed of the correct care of the animal covering feeding, housing, handling, husbandry, accessories and veterinary care. 15.3 Pet Care Leaflets or other similar written instructions suitable for the species (or group of species) in question must be given to customers free of charge at the time of purchase. The leaflet must detail the basic requirements for looking after the species bought. 15.4 Appropriate reference materials on the care of each species must always be available for use by staff. 15.5 Staff members must be able to provide suitable advice to customers and answer questions as required by them. No animal should be stocked or sold unless the staff or at least one member of staff on call is familiar with the care and welfare of the animals stocked. 15.6 The licensee must be able to demonstrate appropriate staff training is carried out and that the staff are competent

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

in pet shop management and animal handling. A written record should be kept of the staff training that has been undertaken. OneKind believes that such comprehensive provisions should be more consistently applied.

## 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.**

a) Some local authorities already inspect to the levels envisaged by the consultation, including a veterinary inspection on first application, paid for by the applicant regardless of outcome. With regard to frequency of inspection, the OneKind survey of local authorities in 2012 indicated that, of those who responded to the pet shop licensing question (12 out of 15), all but one inspected premises at least once a year, and several reported making additional visits. There would not therefore appear to be a significant additional burden on local authorities while, conversely, the proposal for variable licence fees based on factors such as shop size, would give greater scope for recouping the costs of inspections and licensing. b) It is possible that pet shop owners will have to pay higher licensing charges. That appears inevitable in view of the wide variation of costs cited in the consultation document, with some being unrealistically low. That said, if a business is unable to absorb predictable costs of a few hundred pounds a year for something as basic as its licence, it is arguably operating on too tight a margin and there may be concerns about its standards. On the other hand, universally higher standards underpinned by a more robust licensing regime should enhance the reputation of pet shops in Scotland and help to attract custom. c) While pet shops may require to pass on increased licensing charges to customers, if shops are selling healthier, better adjusted animals as a result of the proposed reforms, owners are likely to make savings in areas such as veterinary fees. d) Animal welfare organisations such as the Scottish SPCA and specialist rescues often have to give sanctuary to animals given up by their owners because of behavioural problems or because the new owners simply did not realise what they were taking on. The classic example is the iguana that is sold at around 30 centimetres in length but grows to two metres and becomes aggressive at maturity. Stricter licensing to ensure high standards of health and welfare in pet shops, allied with a requirement to provide comprehensive information to prospective owners, should reduce the numbers of animals that end up in sanctuaries or being re-sold.

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

Yes

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

**Please explain the reasons for your response**

Reference has already been made to shared services agreements between councils which would spread costs and develop expertise, and to the possibility of creating a central licensing authority.

## 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)

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

We do not think there are any equalities implications in the proposals.

## 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.**

We do not think there are any significant sustainability implications in the proposals, although there is potential for some positive environmental impacts in some sectors, for example in reducing the trade in wild-caught fish or reptiles.

## Page 25: General

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

a) OneKind would like to see the consultation process clarify and extend the definition of a pet shop under the Pet Animals Act 1951 so that online sellers are definitively covered. It is explained at s.7(1) that "the keeping of a pet shop" means "the carrying on at premises of any nature (including a private dwelling) of a business of selling animals as pets", with certain exceptions for the sale of surplus "pedigree" stock. It follows from this that most persons selling animals online should possess a pet shop licence even if they are carrying out the activity from home. OneKind is under the impression that not all the individuals carrying on a business of selling animals in Scotland do hold pet shop licences, and this impression is reinforced by examination of lists of licences published by local authorities – holders are overwhelmingly traditional retail premises. People dealing in animals such as puppies, or breeding stock such as fish, reptiles and small rodents for sale are probably not accounted for in the licensing regime.

b) Retailers should be required to keep a purchase register for all animals acquired, detailing their sources i.e.

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

name and address / contact number of supplier. This should include records of all animals bred onsite or by the pet shop owner. Where animals are purchased externally, the purchase register should be cross referenced to an invoice file. The purpose of the register is to ascertain the source of the animals and this should be available for inspection by the local authority at all times. The disclosure of countries of origin, wholesalers or other breeders used, and transport methods has the potential to improve the protection of consumers as well as animal and human health and welfare.

c) A sales register should also be maintained for all animals sold. Some local authorities already require this for certain categories such as puppies, kittens, psittacines and species listed in the Schedule to the Dangerous Wild Animals Act 1976. OneKind believes that a sales register should be a requirement of the reformed licence and extended to all animals. Buying a live animal needs to be set apart from the purchase of inanimate objects: all animals are sentient individuals and purchasers need to be aware of their intrinsic value.