
TO: Infrastructure Land and Environment Policy Board

ON: 20 March 2019

REPORT BY: Director of Communities, Housing and Planning Services

HEADING: Amendments to the Animal Health and Welfare (Scotland) Act 2006 - Consultation

1. Summary

- 1.1 The Animal Health and Welfare (Scotland) Act 2006 was introduced to ensure that all animals enjoy the highest standards of welfare, however since being enacted in October 2006 concerns have been raised with regards to the penalties currently available to punish the perpetrators of the most severe animal cruelty offences.
- 1.2 As a result, the Scottish Government published a consultation document on 2 February 2019, seeking views on possible amendments to the Animal Health and Welfare (Scotland) Act 2006 that would strengthen its effectiveness. The full consultation document can be found at: <https://www.gov.scot/publications/consultation-amend-animal-health-welfare-scotland-act-2006/>
- 1.3 Renfrewshire Council has animal welfare responsibilities that are part of the remit of both Environmental Health and Trading Standards Officers within Communities and Public Protection, however, the most significant responsibility for this area of work lies with the Animal and Plant Health Agency (APHA) and the Scottish Society for the Prevention of Cruelty to Animals (SSPCA).
- 1.4 The closing date for the consultation is 26 April 2019 and the proposed response from the Council is attached as Appendix 1 to this report.
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2. Recommendations

- 2.1 It is recommended that the Policy Board:

- (a) notes the consultation on possible amendments to the Animal Health and Welfare (Scotland) Act 2006; and
 - (b) approves the Council's response as detailed in Appendix 1 of this report.
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3. Background

- 3.1 The Animal Health and Welfare (Scotland) Act 2006 was enacted in October 2006, modernising animal welfare legislation. The main purpose of the welfare provisions of the Act were to promote the welfare of animals and prevent harm through measures such as introducing a duty of care on those responsible for animals and allowing animals either suffering or in danger of suffering to be removed.
- 3.2 In the most recent Programme for Government documents, the Scottish Government has proposed a number of measures which will form part of a suite of improvements to animal welfare in Scotland - including:
 - *We will take steps to allow animals taken into the protection of the Scottish SPCA or local authorities to be rehomed much more quickly and efficiently than at present and introduce increased sentences for the worst types of animal cruelty, including attacks on police dogs, an initiative known as 'Finn's Law';*
 - *We will prepare to amend the Animal Health and Welfare (Scotland) Act 2006 to increase the maximum penalty for the most serious cruelty offences to five years' imprisonment as well as allowing fixed penalty notices for lesser offences.*
- 3.3 The Scottish Government Animal Welfare Team has been progressing these commitments and is now consulting on possible amendments to the Animal Health & Welfare (Scotland) Act 2006 to address perceived constraints in the current legislation. In particular:
 - Current maximum penalties in Scotland – which are currently set at twelve months or a fine up to £20k and are deemed to be insufficient;
 - Current Enforcement mechanisms – statutory care notices generally work well, however, it is noted that preparing and prosecuting animal welfare cases is time consuming and costly. For some offences, e.g. failure to microchip under secondary legislation, enforcement by prosecution may be considered proportionate or appropriate;
 - Current procedures for animals taken into possession – like above, the process in obtaining a disposal order from the Court under section 34 of the Act can be time consuming and this is not in the best interests of the animals e.g. puppies are being born following possession of the mother and unable to be re-homed until after a Court case, which can take several months.

- 3.3 To assist with the above issues, the Scottish Government is looking to make changes to the current legislation which would:
- increase the maximum available penalties for the worst type of animal welfare offences to a prison sentence of five years, an unlimited fine or both;
 - give Scottish Ministers a power to make regulations allowing fixed penalty notices to be used in relation to animal welfare offences;
 - allow approved inspectors or bodies to quickly make the best arrangements for animals which have been taken into possession under section 32 of the Act after a specified period of time without the need for a court order.
- 3.4 The proposed Council response to this consultation is attached as Appendix 1 to this report and is supportive of the proposals being made which it is felt will strengthen the capacity of relevant officers to act in the best interests of animal welfare.
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Implications of the Report

1. **Financial** – None

2. **HR & Organisational Development** – None

3. **Community Planning**

Renfrewshire is Safe - The work undertaken as part of this legislation ensures that animal welfare is maintained with appropriate checks in place.

4. **Legal** – None

5. **Property/Assets** – None

6. **Information Technology** – None

7. **Equality & Human Rights**

- (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website

8. **Health & Safety** – None

9. **Procurement** – None

- 10. **Risk** – None
 - 11. **Privacy Impact** – None
 - 12. **CoSLA Policy Position** – Not applicable
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List of Background Papers

None

OR
6 March 2019

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CONSULTATION QUESTIONS

Question 1: The Scottish Government proposes that the maximum penalties for the most serious animal welfare offences should be strengthened. Do you agree?

Yes

Please explain the reasons for your answer.

This should hopefully provide an adequate deterrent to offenders and will show that Scotland takes animal welfare seriously.

Question 2: Do you agree that the maximum prison sentence available for offences under section 19 (unnecessary suffering) and section 23 (animal fighting) should be increased from twelve months to five years imprisonment?

Yes

Please explain the reasons for your answer.

This should hopefully provide an adequate deterrent to offenders and would show that Scotland takes animal welfare seriously.

Question 3: Do you agree that there should be no upper limit on fines for offences under section 19 (unnecessary suffering) and section 23 (animal fighting)?

Yes

Please explain the reasons for your answer.

The level of fine levied against any conviction would be a matter for the courts and having the upper limit removed would only be of benefit if the courts are likely to impose fines above the current statutory maximum. This would allow better flexibility to provide a fine appropriate to the circumstances of the case.

Question 4: Other than increasing the maximum penalties for unnecessary suffering; should we amend legislation in any other ways, in regard to attacks on service animals?

No

Please explain the reasons for your answer and what you would propose.

If there is an evidence base to demonstrate that there are increasing numbers of attacks on Service animals, this would provide greater options for the courts to impose penalties for such crime.

Question 5: Do you agree that there should be no statutory time limit for prosecuting offences under section 19 (unnecessary suffering) and section 23 (animal fighting)?

Don't know

Please explain the reasons for your answer.

No evidence is provided in the consultation that evidence for these offences routinely comes to light a time after those offences have been committed. The proposal to have no time limit is irregular and is not in line with existing animal health & welfare legislation.

Question 6: Do you agree the introduction of proportionate fixed penalty notices would improve the enforcement of animal welfare offences?

Yes

Please explain the reasons for your answer.

This would allow compliance to be sought, without overburdening the already stretched Court system. However, non-compliance with an FPN should ideally escalate criminally, rather than being subject to civil recovery, to prevent this being seen as a money-making objective and allow referrals to the Court.

Question 7: Do you agree that there is a need to speed up the process of making permanent arrangements for animals taken into possession under section 32 of the Act?

Yes

Please explain the reasons for your answer.

No further comment.

Question 8: Do you agree that the ability to make suitable permanent arrangements for animals taken into possession (using a court disposal order) after service of a notice and after lapse of a specified period will benefit the welfare of animals?

Yes

Please explain the reasons for your answer.

No further comment.

Question 9: Do you agree that the ability to make suitable arrangements for these seized animals after a short period will free up resources of the relevant enforcement authorities and animal welfare charities; allowing them to help a greater number of animals?

Yes

Please explain the reasons for your answer.

No further comment.

Question 10: Should such a new power to make permanent arrangements for animals that have been taken into possession apply to all animals, or only to commercially kept animals; such as puppies in breeding facilities, puppies for sale and livestock?

No (only commercial animals)

Please explain the reasons for your answer.

No further comment.

Question 11: Do you agree that the owner or previous keeper should have an opportunity to appeal against permanent arrangements being made within a short time period?

Yes

Please provide views and supporting evidence on other considerations that might apply.

No further comment.

Question 12: Do you agree that three weeks is a reasonable period of notice before making suitable permanent arrangements for animals taken into possession?

Yes

Please explain the reasons for your answer.

No further comment.

Question 13: Do you agree that the previous keeper should be able to apply for compensation based on the commercial value of these animals, less reasonable costs?

Don't know

Please explain the reasons for your answer.

After seizure of the animals, and a minimum 3-week period of being looked after elsewhere, the animals may well be in a better state of health. Any commercial value of the animals may therefore increase due to intervention by enforcement officers. Having any compensation based on this therefore, seems unfair.

Question 14: Do you have any practical suggestions about how to value commercially kept animals other than farm livestock?

No further comment.

Question 15: Please provide any further comments or suggestions on the proposed new system for making permanent arrangements for animals.

No further comment.