

ITEM No ...5.....

REPORT TO: COMMUNITY SAFETY & PUBLIC PROTECTION COMMITTEE – 22 APRIL 2019

REPORT ON: CONSULTATION RESPONSE – SCOTTISH GOVERNMENT – AMENDMENTS TO THE ANIMAL HEALTH AND WELFARE ACT 2006

REPORT BY: EXECUTIVE DIRECTOR OF NEIGHBOURHOOD SERVICES

REPORT NO: 140-2019

1.0 PURPOSE OF REPORT

1.1 To seek Committee's approval of the Council's proposed response to the Scottish Government's Consultation on – Amendments to the Animal Health and Welfare (Scotland) Act 2006.

2.0 RECOMMENDATIONS

2.1 It is recommended that Committee approves the attached response and remits the Executive Director of Neighbourhood Services to submit this to the Scottish Government accordingly.

3.0 FINANCIAL IMPLICATIONS

3.1 None.

4.0 MAIN TEXT

4.1 BACKGROUND

4.2 The Animal Health and Welfare (Scotland) Act 2006 was an important landmark for animal welfare in Scotland. In order to promote good standards of animal welfare and prevent unnecessary suffering, our Council carries out routine inspections of pet shops, riding schools, dog breeders, boarding kennels and catteries, as well as all monitoring for compliance with licensing conditions.

4.3 Stakeholders involved in the enforcement of the Act however have raised concerns around the penalties available to punish the perpetrators of the most severe animal cruelty offences; and also about the ability to quickly make the best arrangements for animals that have been taken into possession to protect their welfare.

4.4 The most recent Programme for Government documents contain a number of measures which will form part of a suite of new improvements to animal welfare in Scotland. The Scottish Government Animal Welfare Team has been progressing these commitments, and is now seeking to explore possible amendments to the Animal Health & Welfare (Scotland) Act 2006.

4.5 The amendments proposed are:

- 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 (and make related procedural changes);
- Give Scottish Ministers a power to make regulations allowing fixed penalty notices to be used in relation to animal offences; and
- 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 of a court order.

4.6 **CONSULTATION RESPONSE**

4.7 The Scottish Government has invited responses to the consultation and Appendix 1 sets out the proposed responses to the consultation questions posed. A copy of the full consultation document is available on the Scottish government website at:
<https://www.gov.scot/publications/consultation-amend-animal-health-welfare-scotland-act-2006/>

5.0 **POLICY IMPLICATIONS**

5.1 This report has been subject to an assessment of any impacts on Equality and Diversity, Fairness and Poverty, Environment and Corporate Risk. There are no major issues.

6.0 **CONSULTATIONS**

6.1 The Council Management Team were consulted in the preparation of this report.

7.0 **BACKGROUND PAPERS**

7.1 None.

Elaine Zwirlein
Executive Director of Neighbourhood Services

Tom Stirling
Head of Community Safety & Protection

3rd April 2019

**Amendments to the Animal Health and Welfare (Scotland) Act 2006
Consultation**

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual
 Organisation

Full name or organisation's name

Dundee City Council

Phone number **01382 436201**

Address **5 City Square, Dundee, DD1 3BA**

Email kenny.kerr@dundeecity.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

CONSULTATION QUESTIONS

Sector and Origin

It would be helpful for our analysis if you could indicate which of the sectors you most align yourself/your organisation with for the purpose of this consultation

Local Authority

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)

Maximum penalties will help deter those who commit animal welfare offences, and send a message to society that animal welfare offences will be taken seriously by the authorities

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)

People who cause animals unnecessary suffering may not value the life of an animal and people involved in animal fighting are usually involved in organised crime or take pleasure in the suffering/death of animals pitted against each other. Organised animal fighting can include the deliberate starving and abuse mentally and physically before fights.

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)?

No

(Please explain the reasons for your answer)

Fines should be in line with the maximum fines for other serious criminal offences.

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?

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

Yes. For example attacking a police horse or dog is a serious matter and should carry the maximum fine/ prison terms i.e. 5 years as suggested.

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)?

No

(Please explain the reasons for your answer)

Time limits should be minimised wherever possible to allow all resources to be best utilised.

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)

Lesser offences can be dealt with quicker. An FPN is a deterrent and non-payment can be escalated or used as evidence in criminal cases. It may be a more efficient use of public funds in potentially freeing up court time.

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)

Dealing with animals required to be taken into possession costs officer time and resources. A quicker and easier process would be welcome.

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)

The ability to make suitable permanent arrangements will make it easier for officers to deal with the welfare side of a complaint as soon as possible.

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)

Any more efficient methods of dealing with such circumstances would be welcomed.

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?

Yes (all animals)

(Please explain the reasons for your answer)

It should apply to all animals as officers don't just take possession of commercial animals.

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)

An appeal procedure should be in place that is in-line with all other judicial review processes..

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)

The period should be determined depending on the severity of the case.

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?

No

(Please explain the reasons for your answer)

It depends on the circumstances and should be at the discretion of the local authority. A right of appeal to the Ombudsman could be included.

Question 14:

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

Online sales platforms such as Gumtree and other sales websites can be monitored to gauge the value of such animals, as well as any published sales prices of auctions.

Question 15:

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

No further comments.