



The Scottish Parliament
Pàrlamaid na h-Alba

Christine Grahame MSP

M4.02

The Scottish Parliament
EH99 1SP



Finlay Carson
Convener
Rural Affairs and Islands Committee

06 February 2024

Dear Mr Carson

I appreciate that the Committee is currently deliberating on its findings at Stage 1 in relation to my bill, the Welfare of Dogs (Scotland) Bill.

During my evidence session before the Committee myself and my officials offered to provide three pieces of reference material which may be of use to the Committee. Each provides additional depth of detail on a number of issues the Committee was considering.

Firstly, in relation to existing legislation that the bill has specifically been drafted to co-ordinate with and reflect. Questions during my evidence session on part 1 of the bill covered both the extent to which the code and the certificate could be considered to be mandatory and also the criminal liabilities associated with failure to comply with the terms of the code or the certificate. For clarity, while the code and the certificate do not in themselves create legally enforceable obligations, there would be circumstances in which failure to produce a certificate that demonstrates compliance with the code could contribute towards criminal liability. This is explained in the Policy Memorandum at paragraph 67.

67. The aim of the code is to set out a number of requirements on those acquiring and those selling or giving away dogs and puppies, to help achieve behavioural change in favour of more informed and responsible dog ownership. There is no penalty for failing to do any of the things mentioned in the code, including signing the certificate. However, if, further down the line, the person is investigated for a “relevant offence”, evidence that the way they have looked after the dog was incompatible with the code (e.g. by keeping a dog in an unsuitable environment for its size, or by being unable to afford veterinary treatment) could be taken into account. In other words, given the existence of the code and the requirement to work through the terms of the certificate and actively confirm key factors have been considered, it will be presumed that the dog owner should have been aware of these factors (e.g. the need to keep the dog in a suitable environment, the likely cost of veterinary treatment) – something that can be used in proceedings to help establish liability for the relevant offence. Similarly, if the person followed the requirements of

Parliamentary Office: M4.02, Scottish Parliament, Edinburgh, EH99 1SP **Tel:** 0131 348 5729

Constituency Office: 6 High Street, Galashiels, TD1 1SD **Tel:** 0797 659 6245

Email: christine.grahame.msp@parliament.scot

Facebook: ChristineGrahameMSP



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the code (including having a signed copy of the certificate) then this can be used to help negate liability.

For the purposes of the code of practice, the “relevant offences” are the offences created under Part 2 of the Animal Health and Welfare (Scotland) Act 2006 or in regulations made under section 26 or 27 of that Act, specifically the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021. It also includes any offence under Part 2 of the Bill.

Secondly, on the potential for the existing legislation on microchipping to improve traceability and improve breeding practices, reference was made during my evidence session to the relevant regulations.

[The Microchipping of Dogs \(Scotland\) Regulations 2016 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The [policy note](#) for these regulations states that the establishment of a microchipping database or databases “...could help to trace those breeding or dealing significant numbers of dogs illegally without a licence, or those breeding dogs irresponsibly, for example in the case of genetic defects that affect welfare.”

Finally, turning to the question about the task of estimating the costs that would fall upon local authorities under part 2 of the bill, I mentioned in evidence the complexity of estimating the financial burden on an authority by authority basis. Attached is a link to a summary of responses from local authorities which contributed to work undertaken by the Public Audit and Post-legislative Scrutiny Committee in the last parliamentary session. This work specifically related to dog control but the collated responses are relevant to the policy proposed in the Welfare of Dogs (Scotland) Bill. The responses reflect the wide variety of different delivery models adopted by different local authorities to reflect local need in relation to dogs.

[20210212 Dog Control Spend by Local Authorities EH redacted.pdf \(parliament.scot\)](#)

As the table demonstrates, the estimates provided by local authorities covered a range of work including dog barking complaints, fouling, strays, microchipping, welfare visits etc. Some councils had full time or part time animal welfare officers, others had full time or part time environmental protection officers undertaking work relating to dog welfare and dog control, others had dog wardens which also covered wider animal welfare responsibilities.

As highlighted in evidence, given the current variance in approach and in the associated costs for local authorities in relation to dog welfare, it is extremely challenging to estimate, if part 2 of the bill were to be implemented, the additional cost across all 32 local authorities.

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Please do let me know if there is anything further that I can usefully provide to inform your deliberations.

Yours sincerely

Christine Grahame MSP
Midlothian South, Tweeddale and Lauderdale

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