



Finlay Carson MSP
Convener
Rural Affairs and Islands
Committee
c/o Clerk to the Committee

Maurice Golden MSP

18 April 2025

Dear Convener

Dog Theft (Scotland) Bill

Thank you for your letter of 27 February 2025 presenting a list of questions about the Bill.

Responses to each of your questions are annexed to this letter.

I welcome the Committee's engagement with those matters and scrutiny of my Bill, and I very much look forward to discussing the Bill further when I give evidence to the committee on 21 May 2025.

Yours sincerely

Maurice Golden MSP

ANNEX

Section 1(1) offence

Given there is no reliable data on the extent of prosecutions under the common law for dog theft, please provide your reasons for believing—

- **there is a low level of prosecutions under the common law for dog theft and**
- **that a specific statutory crime would be used more in practice.**

The number of recorded instances by Police Scotland of theft of a dog is low, at 60 in 2020-21. I note that in evidence to your committee Police Scotland indicated that this figure was 63 in 2024, whilst indicating that there may be underreporting.¹ However, Paragraph 18 of the Policy Memorandum highlights that the Kennel Club estimated that there may have been as many as 193 incidences of dog theft in 2020. When taken together, that data and estimate points to potential underreporting of dog theft, a point highlighted by the Scottish SPCA to your committee on 26 March 2025.

In respect of prosecutions, Paragraph 24 of the Policy Memorandum states—

“According to Kennel Club research, 98 per cent of dog abductions resulted in no one being charged. In 54 per cent of the cases recorded during 2020, no suspect was identified. Figures published in 2021 by the Kennel Club highlighted charge rates of less than 5 per cent and that only one per cent of dog abduction cases in the UK in 2019-20 resulted in prosecution”.

The research referred to is available [here](#).

I consider that a statutory offence would be used more in practice to bring prosecutions. As the Committee will be aware, there are other examples of cases where a statutory offence has been created where a common law offence already exists. For example—

- the crime of assaulting a retail worker can be prosecuted either under the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021, or as common law assault,
- the crime of threatening and abusive behaviour can be prosecuted as common law breach of the peace or under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.

Paragraphs 30 to 33 of the Policy Memorandum provide a case study in respect of the co-existence between section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 and the common law offence of breach of the peace.² Paragraph 33 cites [evidence](#) from criminal defence solicitors that the common law offence of breach of

¹ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 2

² <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/dog-theft-scotland-bill/introduced/policy-memorandum-accessible.pdf>

the peace is now used less frequently in prosecutions than the section 38 offence³. I consider that it is likely that there will be a similar trend in respect of the theft of a dog should my Bill be enacted. I consider that the existence of a specific, tailored offence will in and of itself result in an increase in prosecutions and thereby act as a deterrent. It is on this basis that I believe that the statutory crime would be used more in practice.

Finally, I welcome the evidence from Police Scotland to your committee that indicated the current common law offence does not sufficiently reflect the impact on families of the loss of a dog.⁴ I also consider that a specific statutory offence would more clearly recognise dogs as sentient beings rather than items of property, and place greater recognition on their welfare.

Please could you provide further information about—

- **instances where it would be more appropriate to prosecute under the common law offence and**
- **any discussions you have had with the COPFS regarding whether it would produce prosecutorial guidance to inform these decisions.**

I do not want to be definitive on where it would be appropriate to prosecute under common law and where it would be appropriate to prosecute under my Bill – those are rightly matters for the Crown Office and Procurator Fiscal Service (COPFS). That said, as outlined in Paragraph 29 of the Policy Memorandum, there may be cases where a number of dogs of notable financial value have been stolen from a breeder, or where other offences such as robbery are involved. In such circumstances, prosecuting under the common law might be deemed to be more appropriate, given the higher penalties that the High Court could impose.

As outlined in the [Consultation Summary](#) following the consultation on my draft proposal, I engaged with representatives of COPFS during the consultation process. Should the Parliament agree the general principles of the Bill at Stage 1, I would seek to have discussions with the relevant Scottish Government Minister about issues such as prosecutorial guidance to inform these decisions. Ultimately, however, these decisions are for COPFS to take and not for me as an MSP.

Section 1(2) to (4) defences to the section 1(1) offence

³ [Breach of the Peace Lawyers Edinburgh, Scotland | McSporrans](#)

⁴ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 4

Please provide your reasons for specifying that instances of a dog theft following a relationship breakdown should be treated differently from all other instances of a dog theft.

As set out in Paragraph 49 of the Policy Memorandum, the defences set out in section 1(2) to (4) seek to mirror defences set out in section 1 of the Pet Abduction Act 2024, which applies to England and Northern Ireland. This includes relationship breakdown. It is in my view possible to envisage a situation where a relationship breaks down in an acrimonious manner, and ownership of their shared pet dog forms part of the dispute. I would be concerned if one partner sought to use the provisions of my Bill when enacted to inappropriately gain leverage in that dispute.

Furthermore, as the UK Parliament passed this particular provision in respect of the Pet Abduction Act 2024, I am entirely satisfied that this defence is reasonable and proportionate. I was interested to observe the discussion on this matter during your evidence session with stakeholders on 26 March 2025, and in particular around links between coercive control in domestic abuse cases and the theft of pets or harm to pets. I note the reservations that some witnesses had in respect of the section 1(2) to (4) defences in my Bill given concerns around the links between coercive control in relationships and treatment of pets⁵. I would, however, highlight to the committee the comments of Stuart Munro from the Law Society of Scotland, who cautioned against conflating domestic abuse and relationship breakdown, adding that:

“There are plenty of relationships that break down where there has been no domestic abuse. The idea of bringing in the police to regulate issues of property ownership where there is no domestic abuse represents a very substantial step”.⁶

I would also highlight the comments of Laura Buchan from COPFS that situations where pets are used in the context of coercive control “should be properly labelled within the domestic abuse legislation”⁷, which she described as “really strong”.⁸

Having listened to that discussion, I remain of the view that it is entirely appropriate that the Bill includes defences in respect of the breakdown of a relationship, and am reassured by the comments from representatives of COPFS and the Law Society of Scotland that cases where a dog is stolen as part of an approach involving coercive control in a domestic abuse situation would continue to be prosecuted under existing domestic abuse legislation.

That said, should the committee take a contrary view I would be happy to look at this matter again.

⁵ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 10

⁶ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 11

⁷ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 9

⁸ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 9

Section 1(3) provides for the defence whereby a person can show they had “lawful authority” or a “reasonable excuse” for taking or keeping the dog.

Please can you set out your reasons for providing for this defence given that, if a person had “lawful authority” to take or keep a dog, it could not have taken or kept a dog from the person with lawful control of it.

Please can you provide your thinking about a definition of “lawful authority” and “reasonable excuse” to inform the Committee’s consideration of this proposed defence.

The terms “lawful authority” and “reasonable excuse” are both terms used in the Pet Abduction Act 2024 as defences for taking or detaining a dog. They are terms used widely in law as defences.

For example, “lawful authority” is used in the Road Traffic Act 1988, the Official Secrets Act 1989, and the Animal Health and Welfare (Scotland) Act 2006 whilst “reasonable excuse” is used in the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, the Air Weapons and Licensing (Scotland) Act 2015 and the Burial and Cremation (Scotland) Act 2016 without definition. Unless there is good reason, “reasonable excuse” is often given its ordinary meaning (ie it is undefined) as this is a matter to be considered in the light of all circumstances of a particular case. Similarly, with “lawful authority”, I do not consider there is a specific reason to define it as it is, in my view, clear what the term means in the Bill.

“Reasonable excuse” is used in my Bill to provide a fall-back defence to avoid the Bill inadvertently criminalising well-intended actions. I do not want to criminalise those who can show that they made a genuine mistake but with good intentions. Paragraph 12 of the Explanatory Notes gives some examples of what might constitute “lawful authority” or “reasonable excuse”. Paragraph 12 states:

“An example of lawful authority would be where a police officer or a local authority officer takes the dog from the owner to protect the dog or another individual from harm. An example of a reasonable excuse would be the belief that the person had the consent of the owner or (for example) a dog sitter to keep or take the dog.”⁹ [emphasis added]

Please can you set out your reasons for specifying 96 hours [the amount of time a person can keep a dog where they believe that dog to be a stray before reporting it], rather than any other time period

I have specified 96 hours as this is the timeframe specified in the Pet Abduction Act 2024. I see no reason to depart from this timeframe, which appears to me to be reasonable and practicable. Again, should the Committee consider that an

⁹ [Explanatory Notes accessible](#)

alternative time period would be more appropriate, I would be happy to consider this matter again.

Please can you explain what is intended in section 1(4)(c) and how it relates to the 1990 Act.

Section 1(4)(c) must be read alongside section 1(4) as a whole. The particular reference to section 150(2)(a) of the [Environmental Protection Act 1990](#) is to make clear that the clock for the 96 hours stops in a situation where the provisions of section 150(2)(a) are engaged (namely where a person who has found a stray dog desires to keep the dog, and is going through the procedure under the 1990 Act which would allow them to keep the dog).

Section 1(6) sentencing

Please can you provide information about how section 1(6) would— provide a more “proportionate punishment” than those already available for the common law offence of theft and make a statutory offence a stronger deterrent than the current common law offence.

As you highlight, paragraph 8 of the Policy Memorandum states that I believe:

“there is a low level of prosecutions under the common law for dog theft, and that the introduction of a specific crime with an associated proportionate punishment would be used more in practice than the current common law offence of theft.”¹⁰

I consider that the level of punishments set out in section 1(6) is commensurate with the nature of the crime of stealing a dog¹¹. As I highlighted in the Policy Memorandum and the Consultation Document¹² accompanying my draft proposal, a dog is a sentient being, and is often considered to be a valued member of the family. The theft of a dog has a negative impact on the owner and family as well as the welfare of the dog. I note that this point has been reinforced in submissions received by the Committee.

I consider that the penalties established in section 1(6) are the appropriate penalties for such a crime. Ultimately, sentencing decisions are matters for judges and sheriffs.

When the penalties contained in the Bill begin to be imposed, it is likely that there will be publicity in the media, in particular if and when prison sentences are handed down. Such publicity will contribute to ensuring the new offence would act as a deterrent. I note that, in oral evidence, Police Scotland and the Dog’s Trust indicated

¹⁰ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/dog-theft-scotland-bill/introduced/policy-memorandum-accessible.pdf>

¹¹ Page 6 of the [SPICe briefing on the Bill](#) sets out the existing common law penalties for theft. These are commensurate with the court in which the case is heard.

¹² [finaldogabduction-pd.pdf](#)

that having a standalone offence reflects the seriousness of the crime and the impact on the victim.¹³

Section 2 theft of assistance dogs

Please can you provide information about the discussions you had with assistance dogs charities and organisations to inform this proposal.

As highlighted in the [Consultation Summary](#),¹⁴ there were 237 responses to the consultation on my draft proposal. These included responses from organisations which work with assistance dogs. Furthermore, during the consultation period, I held meetings with a range of stakeholders including Guide Dogs Forfar, the Scottish SPCA and the Dogs Trust, all of whom work with assistance dogs.

As I indicated in Paragraph 10 and Paragraphs 41 to 45 of the Policy Memorandum, my policy in respect of the aggravation for the theft of an assistance dog was developed with a focus on the notable impact of dog theft on people with disabilities or other medical conditions who are likely to be more vulnerable.¹⁵

I consider that the application of existing aggravating factors (set out by the Scottish Sentencing Council¹⁶) to the new offence of dog theft is required, as, I consider that there should be increased punishment for anyone who deliberately targets a vulnerable person by stealing their dog, or who undertakes dog theft on a large scale, causing trauma to multiple dogs and people.

Having applied this principle and considered all existing aggravating factors, I identified a gap in these existing aggravating factors, in respect of the theft of an assistance dog. The type of support that an assistance dog provides is guiding a blind person, assisting a deaf person with routine tasks or assisting people with a variety of medical conditions.¹⁷ Given that an individual relies on an assistance dog to carry out day to day functions and to provide them with independence as well as providing mental health benefits, I believe that deliberately taking or detaining a dog that is known to be an assistance dog compounds the severity of the offence committed under the Bill. It is my view that this aggravating factor should apply regardless of whether the dog is actively providing someone with assistance or whether it is under the lawful control of any person who is entitled to have lawful control of it, such as a dog walker, a dog sitter or a vet.

I welcome the fact that the Guide Dogs for the Blind Association has given evidence to the Committee in support of the Bill, and in particular has endorsed the provision in section 2.

¹³ [Official Report](#), Rural Affairs and Islands Committee, Wednesday 26 March 2025, Col 7

¹⁴ [final-version-dog-abduction-summary.pdf](#)

¹⁵ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/dog-theft-scotland-bill/introduced/policy-memorandum-accessible.pdf>

¹⁶ [the-sentencing-process-guideline-d.pdf](#)

¹⁷ [Assistance Dogs, Emotional Support Dogs and Therapy Dogs - ADUK](#)

Section 3 victim statement

Please can you provide evidence to support your view that the emotional impact on victims is not already sufficiently considered during sentencing.

The provision in section 3 to enable victims of dog theft to make a victim statement to the court ensures that the emotional impact of the crime on individuals and families can be taken account of by the court.

Whilst I note that some evidence the committee has received argues that the courts do currently take account of animal welfare and victim impact, the committee has also received evidence, for example from the Scottish SPCA, arguing that the emotional and psychological impact of dog theft is “largely overlooked” in the current system, and that enabling a victim to make a victim statement would address this. Whilst courts may currently take account of the victim impact of the theft of a dog, this may vary from court to court. By giving the victim the explicit legal right to make a victim statement to the court, the emotional and psychological impact of the theft of the dog would be integrated into proceedings in a way that it currently is not.

There are already a number of offences where victim statements can be given as standard so there is already an acknowledgement in the criminal justice system that there are circumstances where victim’s perspectives are not sufficiently taken into account and more emphasis on them is required, hence the need for a victim statement. I consider that, in respect of the theft of a dog, more emphasis should be placed on the victim’s perspective. As such I have included the provision in my Bill.

In terms of prescribed courts, only the High Court and solemn procedure in Sheriff Courts are prescribed courts so the Bill would be a departure in allowing cases heard in summary Sheriff and Justice of the Peace courts to allow victim statements. This would result in situations, for example, where the victim in a case of assault that wasn’t heard by a jury but only by a Sheriff in a summary court would not be able to provide a victim statement but someone whose dog was stolen and the case was heard in the lower courts could. Please can you provide further information to support your proposal.

I consider that all victims of dog theft should have the right to make a victim statement, regardless of the court in which it is prosecuted. Whilst a case of dog theft may end up in a lower court, the trauma for the victim and their family may be as significant as a case tried in a higher court. I recognise that, as the question highlights, my Bill does create a precedent in this respect, and leads to an element of incongruity in respect of what cases in the lower courts have victim statements. However, I consider that my Bill creating a legal precedent is not in itself an argument against the provision. It may well be that setting such a precedent highlights that there is a case for more forms of criminal convictions to allow for victims statements as standard including at upper or lower court level. I believe passionately that all victims of dog theft should have the opportunity to tell the

relevant court, whatever the level of that court, of the psychological and emotional impact on them of their loss. That is my policy but I make no wider comment beyond that on other criminal offences and the need for consistency with those.

Section 4 requirement on the Scottish Ministers to publish an annual report

Please can you provide your reasons for setting out the list of information the annual reports should contain – and which would require regulations under the affirmative procedure to change – on the face of the Bill?

Paragraphs 58 and 59 of the Policy Memorandum set out my reasons for collecting data and publishing annual reports.

The list of information the annual report should contain is provided to ensure that sound and robust data on dog thefts is collated and reported on. As previously highlighted, I consider that data collection on the number of cases, prosecutions and convictions for dog theft must be improved. The provisions in section 4 of my Bill will enable this to happen. As Paragraph 59 of the Policy Memorandum makes clear, this will in my view help inform the Scottish Ministers, the Parliament, and key decision makers within the criminal justice system, to establish the extent of dog theft and project future trends. As Paragraph 59 indicates, this will help those bodies in allocating and deploying resources effectively to investigate and prosecute dog theft, and in finding ways to proactively and preventatively address the issue.

I consider that it is appropriate to have this list on the face of the Bill, and therefore subject to a higher level of parliamentary scrutiny, rather than leaving it to the Scottish Ministers to determine by regulations. Moreover, specifying this list on the face of the Bill means that the data referred to in the list will require to be collected, rather than if it were to be left to the discretion of the Scottish Ministers.

I welcome the fact that, in its submission to the Committee, the Crown Office and Procurator Fiscal Service has indicated that this requirement is unlikely to be an onerous one on the Service.

The Bill does not include a requirement for the Scottish Ministers to “have regard” to the data collected in annual reports, however, and there is no information in the policy memorandum to indicate how this information would be used for these purposes in practice. Please provide further information about any discussions you have had with the Scottish Government around how this data would be used for these purposes?

Section 4 requires the Scottish Ministers to publish and lay the annual report before the Parliament. At that point the data in the annual report could be subject to scrutiny. Furthermore, section 5 requires the Scottish Ministers to review the operation of the Act (see next question). In doing so they must take into account these annual reports.

In respect of discussions with the Scottish Government, I have had very constructive discussions on the Bill more generally with Siobhian Brown MSP, Minister for Victims and Community Safety. I know that the Minister will be appearing before your committee during the Stage 1 process, and I will respond to any comments the Minister makes on this point when I give evidence at the end of the process.

Section 5 requirement on the Scottish Ministers to review the operation of the Act

Please provide your reasons for setting out the information which must be considered in the review and included in the report – and which would require regulations under the affirmative procedure to change – on the face of the Bill?

Paragraphs 60 to 62 of the Policy Memorandum set out my reasoning for adding a provision for a review of the operation of the Act. As indicated in Paragraph 62, this review will enable the Scottish Ministers, the Parliament and other key decision makers to reflect on how the Act has worked in practice, and whether or not it has acted as a deterrence amongst other impacts. By setting out on the face of the Bill what information should be included in the review, I am guaranteeing that the information specified will feature in the review, thereby ensuring effective post-legislative scrutiny when enacted. As highlighted in answer to the previous question, a review of the operation of the Act must take into account annual reports published under section 4. Those provisions, taken together, ought to ensure that robust data is kept and is scrutinised effectively.

Please set out your expectations, including any illustrative examples, regarding the requirement for the Scottish Ministers to include any concerns raised with them regarding the operation of the Act and their response.

The review provision allows for post-legislative scrutiny of the Act. Reviews are only effective if they take into account the experiences of key stakeholders, and this should include those who are not directly responsible for the delivery of the Act, for example a range of independent perspectives could be sought on the extent to which the levels of dog theft has changed since the implementation of the Act, including the extent to which the data collated as a result of the Act is being used to target resources to reduce the incidence of the crime. The organisations that responded to my consultation, including animal welfare organisations will have valuable insight for example.

Section 5(6) includes the provision that the report must set out whether the Scottish Ministers consider whether there should be a statutory offence for the theft of any other animal kept as a pet. Please set out your reasons for including this provision in the Bill.

Please set out your reasons for not providing the same criteria [recognising the emotional distress] on the face of the Bill for the Scottish Ministers to have

regard to when considering the requirement to consider whether the statutory offence should be extended to other pets.

Section 5(2)(e) provides that a review of the operation of the Act must set out whether the Scottish Ministers consider that there should be a statutory offence or offences of the theft of any other type of animal and whether the Scottish Ministers consider that those offences should specify the type of animal protected or apply generally to other types of animals normally kept as pets.

Paragraph 63 of the Policy Memorandum sets out the consideration I gave to this issue in more detail during policy development, in particular in relation to cat theft. In summary, I think that there may be a case for making cat theft a specific offence in Scots Law, and that the argument can be made for other pets. I hope that making it an offence to steal a dog will provide a helpful model for future such proposals. In bringing forward this Bill, I have followed the traditional Member's Bill process of seeking to change the law in relation to one targeted policy. However, as highlighted in Paragraph 63 of the Policy Memorandum. I sincerely hope that my Bill will be a catalyst for change and will lead to wider legislative change including a tailored offence relating to cats and other pets.

Including this particular provision as part of the review of the operation of the Act, will allow the Scottish Ministers to consider, in the light of five years' experience of the operation of my Bill in relation to dogs, and (several years' experience of the operation of the Pet Abduction Act 2024), whether a tailored offence of cat theft, or indeed theft of other types of animal, would also be beneficial. I do not consider that this Bill should set out particular criteria for this aspect of the review and would prefer to leave the Scottish Ministers with flexibility in conducting the review.

General

Please can you set out how the Bill addresses the dog welfare aspects of the final bill proposal.

The impact on the dog was a point highlighted by the UK Government's Pet Theft Taskforce in its [2021 Policy Paper](#), which I referred to in my [consultation document](#) on my draft proposal. Creating a more effective tailored offence which is used more regularly to prosecute will lead to a decrease in dog theft over time. This would have clear associated benefits to dog welfare, as fewer dogs would experience the trauma of being stolen.

Furthermore, victims of dog theft being able to make victim statements to the court will enable them to highlight to the court how the dog was an important and valued member of the family who would, themselves be suffering trauma as a result of being taken from their family.

Please provide information about what research you have done, or you have had access to, which evaluates the success of the UK 2024 Act.

The Pet Abduction Act 2024 has been in force for less than a year, so I consider that it is too early to carry out any substantive or meaningful research on its effectiveness. I know that research was carried out during the passage of the Pet Abduction Bill in the UK Parliament by the [University of the West of England: Bristol](#), on the emotional impact of dog theft, and I am aware that organisations such as the Dogs Trust, which has given evidence to the committee, and the Kennel Club, continue to monitor how effective the law is in preventing incidences of dog theft from occurring and ensuring that they are prosecuted where they do occur. The Bill was developed following an in-depth consultation on my draft proposal for a Bill (referred to above). This in turn followed work done by the Pet Theft Taskforce in 2021, and by stakeholders such as the Dogs Trust. In short, there is a strong body of evidence in favour of a tailored offence.

Given the lack of data relating to the use of the common law offence in Scotland, and the limited amount of evidence from the operation of the UK 2024 Act, what consideration did you give to building up an evidence base before progressing with a member's bill?

I built up as strong an evidence base as possible before I progressed with my Member's Bill.

For example, as the [consultation summary](#) document that accompanied my final proposal sets out, I engaged with a number of stakeholders during policy development, including dogs' charities, Procurators Fiscal, the Faculty of Advocates, the Law Society of Scotland and Police Scotland. I received 237 responses to that consultation. Before introducing the Bill, I met with the Minister for Veterans and Community Safety to discuss the Bill's provisions. In addition, I lodged a series of parliamentary questions to garner as much data as possible on the incidence of dog theft and number of prosecutions and convictions. More recently, I lodged a [parliamentary question](#) on 18 March 2025 to seek to ascertain the most up to date data held by Police Scotland in respect of dog theft.

As Paragraph 69 of the Policy Memorandum makes clear, a key theme that emerged in evidence to my consultation is that there is currently a lack of data available on dog thefts. I consider that the creation of a standalone offence would in itself result in improved data and therefore an improved evidence base.

Finally, as the Pet Abduction Act 2024 was passed by the UK Parliament last year, it is clear that there is strong evidence, and a desire, across the United Kingdom, for a standalone statutory offence of dog theft.