

# Proposed Dog Abduction (Scotland) Bill



A proposal for a bill to create a new statutory offence to tackle the problem of dog abduction, and other situations where a dog is taken or kept without lawful authority, that would take account of considerations such as the emotional and welfare impact on dogs and improve data recording to better inform detection and prevention efforts.

Consultation by

Maurice Golden MSP, Member for North East Scotland

October 2022

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## Foreword



If you are, or have ever been, the owner of a dog you'll know exactly how strong the emotional attachment is.

Even if you are close to someone who has a canine companion in their life, you'll see the bond between people and their dogs is about as close as it gets.

They are an integral and valued part of the family.

For some people, their dogs are – by quite some distance – the most important part of their lives.

Yet, as it stands in Scotland, the law does not view them that way.

Instead, when a dog is stolen, it is regarded in the same way as the theft of a household commodity.

This matters, because the recording of the crime by the police and the eventual conviction and sentencing often reflects that status.

Very rarely is the punishment handed down for dog abduction anything remotely proportionate to the gravity and impact of the crime.

The animal welfare and rehoming charity BlueCross gives the following assessment of the situation across the UK:

*“The theft of a pet is an extremely upsetting and traumatic experience for the owner and can obviously have terrible consequences for the pets themselves. But the law currently doesn't reflect this. It is ineffective and doesn't pose any deterrent to determined thieves.”<sup>1</sup>*

Dog charities who work extensively in Scotland and the UK have been concerned about this for some time.

No-one knows the world of dogs better – they see the impact of dog abduction, of puppy farms, and animal cruelty every day.

If they think the law needs to change, they should be listened to.

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<sup>1</sup> BlueCross, Take the Lead on Dog Theft, *BlueCross*, [LINK](#)

Moves are already afoot in other parts of the UK to do exactly this.

As an MSP who has pursued animal welfare causes since my election to the Scottish Parliament in 2016, I feel duty-bound to do something.

The Covid pandemic and associated lockdown restrictions led many families to buy pet dogs.

This is understandable as the company and joy these animals bring is unrivalled, and so particularly valuable after such a challenging couple of years.

This surge in demand for pet dogs has seen a commensurate increase in prices, which is likely a contributing factor to an increase in abductions.

Hard statistics are few and far between, another area my new legislation proposal would address, but one charity estimates that dog abduction increased by 170 per cent during lockdown.<sup>2</sup>

I believe that increased cases brought about by the pandemic is just the latest strand within a far larger and wider problem. So, the time to do something is now, and that is why I am launching this proposal for a Member's Bill in the Scottish Parliament.

The UK Government is undertaking a similar effort in England and Wales, and without action Scotland risks becoming a more attractive destination for criminals from the rest of the UK.

I have received support from a number of MSPs and they span all of the political parties represented at the Scottish Parliament while both the Kennel Club<sup>3</sup> and BlueCross<sup>4</sup> described the introduction of this bill as "*fantastic*" and dog owners across the country have also voiced their approval. This consultation phase is a crucial part of the process and I want to hear from you.

By getting involved in the consultation process, you can strengthen the end result.

**Maurice Golden MSP**  
**October 2022**

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<sup>2</sup> RSPCA, 'No Animal Left Behind – proposals for an Animal Welfare Strategy', *scottishrspca.org*, May 2021, [LINK](#) p. 9

<sup>3</sup> The Kennel Club, Twitter, [@KC\\_political](#), [LINK](#)

<sup>4</sup> BlueCross, Twitter, [@BlueCrossPA](#), [LINK](#)

# How the Consultation Process works

This consultation relates to a draft proposal I have lodged as the first stage in the process of introducing a Member's Bill in the Scottish Parliament. The process is governed by Chapter 9, Rule 9.14, of the Parliament's Standing Orders which can be found on the Parliament's website at: [Scottish Parliament Standing Orders](#).

At the end of the consultation period, all the responses will be analysed. I then expect to lodge a final proposal in the Parliament along with a summary of those responses. If that final proposal secures the support of at least 18 other MSPs from at least half of the political parties or groups represented in the Parliamentary Bureau, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Member's Bill. A number of months may be required to finalise the Bill and related documentation. Once introduced, a Member's Bill follows a 3-stage scrutiny process, during which it may be amended or rejected outright. If it is passed at the end of the process, it becomes an Act.

At this stage, therefore, there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to provide a range of views on the subject matter of the proposed Bill, highlighting potential problems, suggesting improvements, and generally refining and developing the policy. Consultation, when done well, can play an important part in ensuring that legislation is fit for purpose.

The consultation process is being supported by the Scottish Parliament's Non-Government Bills Unit (NGBU) and will therefore comply with the Unit's good practice criteria. NGBU will also analyse and provide an impartial summary of the responses received.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this paper can be requested by contacting me at M2.21, The Scottish Parliament, Edinburgh EH99 1SP or [maurice.golden.msp@parliament.scot](mailto:maurice.golden.msp@parliament.scot).

Enquiries about obtaining the consultation document in any language other than English or in alternative formats should also be sent to me.

An on-line copy is available on the Scottish Parliament's website <https://www.parliament.scot/> under Bills and Laws/Proposals for Bills.



# Aim of the Proposed Bill

## Background

### A Growing Problem

Incidents of dog abduction are generally thought to have increased during the recent pandemic. Estimates vary from anywhere between 88 cases across Scotland in the period 2020-21 (a 42% year-on-year increase)<sup>5</sup> to as many as 193 in 2020 alone.<sup>6</sup> The charity, DogLost, which monitors reports of dog abductions, estimates a 170 per cent increase UK-wide during the COVID-19 pandemic.<sup>7</sup>

It is important to note the large variation in these estimates stems from the lack of consistent data recording for dog abductions; one of the key challenges in understanding and tackling the problem. This is discussed in more detail below.

Regardless of the exact numbers, the data from both Police Scotland and DogLost outlined above both show that the number of dog abduction cases has risen. A number of animal welfare charities and experts have theorised that an increase in the price of dogs during the recent periods of lockdown could have triggered the increase.<sup>8</sup>

For example, according to the UK Government Pet Theft Taskforce, Google searches for “buy a puppy” increased 160 per cent from March to August 2020.<sup>9</sup> It also found that some breeds saw their price increase by almost 90 per cent during the first period of lockdown.<sup>10</sup> The average cost of a puppy rose from £810 in 2019 to £1,875 in 2020 while English Bulldogs rose in price from £1,637 in March 2020 as the pandemic began in the UK to £2,140 just three months later.<sup>11</sup>

There is some evidence, from across the UK, that as the value of dogs has increased it has attracted the attention of organised crime.<sup>12</sup> However, it is important to note the UK Government’s Pet Theft Taskforce cautions against assuming a causal relationship between increased prices and increased abductions and highlights the need for further research to understand the relationship.<sup>13</sup>

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<sup>5</sup> APU Dalmarnock, ‘Recorded Theft of Dogs in Scotland April 2019 – March 2021’, *Police Scotland*, June 2022, [LINK](#)

<sup>6</sup> Jonathan Reilly, ‘Nearly 200 suspected dog thefts in Scotland in 2020, say police’, *The Scotsman*, 26/07/21, [LINK](#)

<sup>7</sup> RSPCA, ‘No Animal Left Behind – proposals for an Animal Welfare Strategy’, *scottishrspca.org*, May 2021, [LINK](#) p. 9

<sup>8</sup> Pet Theft Taskforce, ‘Pet Theft Taskforce: Policy Paper’, *HM Government*, September 2021, [LINK](#) p. 6

<sup>9</sup> *Ibid*, p. 6

<sup>10</sup> *Ibid*, p. 6

<sup>11</sup> *Ibid*, p. 25

<sup>12</sup> *Ibid*, p. 8

<sup>13</sup> *Ibid*, p. 25

Nevertheless, it remains a fact that dogs are, by far, the most popular animal to steal. Of the animal thefts recorded by the Metropolitan Police, some 70 per cent involved dogs.<sup>14</sup> The media has shown an interest in reporting incidents of dog abduction,<sup>15</sup> especially where violence is involved.<sup>16</sup>

The rising number of incidents combined with the media coverage including reports of intimidation and violence may then go some way towards explaining a fear of dog abduction among dog owners. A survey carried out in 2021 by the police in Sussex found that 97 per cent of respondents believed dog theft was a ‘serious’ problem and almost 66 per cent said they had become more fearful of walking their dog during daytime compared with the previous year. In fact, a greater proportion said they had become more fearful of daytime dog walking than at night.<sup>17</sup> Reinforcing this pattern is the report from Dogs Trust that traffic to the ‘Dog Theft’ section of its webpage had increased 780 per cent in the first few months of 2021.<sup>18</sup>

The limited data available means it is difficult to accurately assess how many dogs are reunited with their owners. The only official figures available suggest it might be only around half, but this estimate should be treated with caution due to inconsistencies in how the data was recorded (see ‘Official Figures’ below for more detail).<sup>19</sup> The chances of reuniting dogs and owners could be increased by improving the recording and updating of owner and transfer information on microchips to aid traceability. This is not part of my proposed bill, but is a very valuable step that would complement the policies covered in my bill.

It is against this backdrop that this consultation seeks views on making the abduction of a dog a specific crime in Scotland. The proposal has attracted support from members of all of the political parties represented in the Scottish Parliament – who have either spoken in favour during parliamentary debates, signed a parliamentary motion in support or otherwise indicated their support.<sup>20</sup>

In addition to political support, a number of prominent animal welfare organisations have also publicly backed the action proposed in this Bill. The Chief Executive of Dogs Trust said: “*We strongly welcome Maurice’s bill to introduce a new dog theft offence in*

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<sup>14</sup> Ibid, p. 6

<sup>15</sup> John Hebditch, ‘Cops warn Scots dog owners after string of attempted animal thefts in Dundee’, *The Daily Record*, 10/03/21, [LINK](#)

<sup>16</sup> Ross Thomson, ‘Dog walker battered by thieves trying to steal her pet dachshund in park’, *GlasgowLive*, 21/01/22, [LINK](#)

<sup>17</sup> Sussex Police & Crime Commissioner, ‘Results of the APCC Dog Theft Survey’, *apccs.police.uk*, [LINK](#)

<sup>18</sup> Dogs Trust, ‘Roadmap for rovers: Helping dogs cope and stay safe in larger social settings’, *dogstrust.org.uk*, [LINK](#)

<sup>19</sup> See the section titled Official Statistics below for more detail on the caveats accompanying this data along with APU Dalmarnock, ‘Recorded Theft of Dogs in Scotland April 2019 – March 2021’, *Police Scotland*, June 202, [LINK](#)

<sup>20</sup> MSPs from the Scottish Conservatives, Scottish Labour, Scottish Liberal Democrats and the Scottish National Party either spoke in favour of the proposed offence during a Member’s Debate on 16<sup>th</sup> March 2022 or signed their support for the motion being debated. ‘Meeting of the Parliament (Hybrid) 16<sup>th</sup> March 2022 (Draft)’, *The Official Report*, 16/03/22, [LINK](#) Motion ref: S6M-02745 Tackling Dog Theft, 11<sup>th</sup> January 2022, [www.parliament.scot](http://www.parliament.scot),

Scotland”<sup>21</sup> while the Scottish SPCA thanked me for “...progressing the Dog Theft Bill in Scotland”.<sup>22</sup> Edinburgh Dog and Cat Home has also given its support saying that it would “fully support” the proposed bill.<sup>23</sup>

## The Personal Impact of Dog Abduction

The UK Government’s Pet Theft taskforce found that:

*“...the emotional impact of having a pet stolen is undeniable, and often pets play a central role in their owners’ lives, especially assistance dogs. The evidence presented to the taskforce has shown the serious impact of this crime on the victims. As well as causing trauma to the pet’s owners, many cases of pet theft affect the animal’s welfare.”*<sup>24</sup>

Studies looking at the links between humans and their pets found that the vast majority of respondents considered their pets to be family members – 87 per cent in one study and 99 per cent in another.<sup>25</sup> Research has even shown that the bond between a person and dog shares some similarities with the human parent-child bond.<sup>26</sup> Such analysis demonstrates that humans clearly see dogs as more than just objects – holding deep seated affection for their pets and the majority considering them part of their family.

Dog abduction can have a serious emotional impact on humans. A study carried out on people who had experienced this found significant numbers experienced serious distress as a result.<sup>27</sup> The findings show that approximately:

- 30 per cent reported feelings of “loss, grief or mourning”.
- 37 per cent suffered from “severe psychological or physiological effects” after their dog was stolen.
- 41 per cent reported negative effects on their family or work life.
- 48 per cent described themselves as “devastated”.
- 78 per cent reported negative impacts on their social life.

Despite the potential for such serious emotional impacts, Dogs Trust point to a risk of people facing challenges when showing emotion over animals.<sup>28</sup> They point to the concept of ‘disenfranchised grief’– a term used to describe grief not fully acknowledged

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<sup>21</sup> Neil Henderson, “It’s time for action’: MSP proposes new law for dog thefts in Scotland’, *The Courier*, [LINK](#)

<sup>22</sup> Scottish SPCA, Twitter, @ScottishSPCA, [LINK](#)

<sup>23</sup> Edinburgh Dog and Cat Home, Twitter, @EdinDogCatHome, [LINK](#)

<sup>24</sup> Pet Theft Taskforce, ‘Pet Theft Taskforce: Policy Paper’, *HM Government*, September 2021, [LINK](#) p. 8

<sup>25</sup> Both cited in: Planchon, L.A, D.I; Stokes, S.; Keller, J., ‘Death of a Companion Cat or Dog and Human Bereavement: Psychosocial Variables.’ *Soc. Anim.* 2002

<sup>26</sup> Stoeckel, L.E; Palley, L.S; Gollub, R.S.; Niemi, S.M.; Evins, A.E., *Patterns of Brain Activation When Mothers View Their Own Child and Dog: An fMRI Study.*, *PLoS ONE*, 2014

<sup>27</sup> Cited in: Harris, LK., ‘Dog Theft: A Case for Tougher Sentencing Legislation’, *MDPI*, 22/05/18, [LINK](#)

<sup>28</sup> Dogs Trust, ‘Dogs Trust Briefing on Dog Theft’, See Annex 1



by society. The result being to cause those impacted to not be able to process their emotions properly because of fear of not being taken seriously or even ridiculed.

It is important to note that any resultant emotional distress caused by dog abduction is likely to be borne harder by the most vulnerable including those who have little support from family or friends.

## **Dog Abduction vs Pet Abduction**

The proposed Bill seeks specifically to address dog abduction as opposed to pet abduction more generally. This is due to simple practicality and in no way seeks to minimise the very serious concerns and impacts abduction of other pets have on both animals and by extension their owners.

As a Member's Bill, there is a limited set of resources available to support an individual MSP in carrying out the research and analysis necessary to develop robust legislation. In this case the resources extend only as far as the individual MSP's office staff. In stark contrast, the UK Government's efforts to introduce similar legislation for England & Wales can draw upon the resources and expertise of both the UK Civil Service and a multi-agency taskforce created specifically to inform policy development on this issue.<sup>29</sup> Given these resource constraints, it is necessary to ensure the Bill retains a tight focus to maximise the chance of successfully becoming law. As such, the initial proposal is to focus on the type of pet that is most commonly stolen across the UK, i.e. a dog. The UK Government Pet Theft Taskforce highlights this when they explain that there are a "...higher number of dogs reported stolen compared to other pets." A point reinforced by data from the Metropolitan Police that shows that approximately 7 in 10 crimes where an animal is stolen involve dogs.<sup>30</sup>

However, it is important to stress the proposed Bill does not preclude future legislation in relation to other animals kept as pets. Should the Bill become law it would set a precedent and could serve as a blueprint for legislation on other pets.

## **The Current Law**

In Scotland, the abduction of a pet dog comes under the common law offence of theft<sup>31</sup>, which can be defined in broad terms as:

*"In common law the definition of theft is that someone has taken and kept property without the consent of the rightful owner. In addition, it must be clear that the person who took the property did so with the intention of depriving the person who is the rightful owner."*<sup>32</sup>

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<sup>29</sup> UK Government, 'Taskforce launched to investigate reported rise in pet thefts', HM Government, [gov.uk](https://www.gov.uk), [LINK](#)

<sup>30</sup> Pet Theft Taskforce, 'Pet Theft Taskforce: Policy Paper', HM Government, September 2021, [LINK](#) p. 6

<sup>31</sup> The Minister for Rural Affairs and the Natural Environment Mairi Gougeon MSP, Response to Scottish Parliamentary Written Question S5W-21655, *The Scottish Parliament*, 27/02/19, [LINK](#)

<sup>32</sup> Citizens Advice Scotland, 'Stolen Goods', [CitizensAdvice.org.uk](https://www.citizensadvice.org.uk), Citizens Advice, [LINK](#)

From this definition it can be seen that dogs are classed as a form of property. The advocate, Andrew Crosbie KC, makes this point when he notes that (emphasis added):

*“Property’ is generally considered to be corporeal, moveable property. In most cases this is straightforward, because you’re talking about a ‘thing’ that you can see and physically take possession of. **It can include living things...**”<sup>33</sup>*

As property, dogs have an associated monetary value that can be used to inform sentencing when someone is convicted of having stolen a dog. Courts do have discretion to take into account other factors beyond property value, such as the impact on the victim of a theft, but the available data does not easily allow a determination of how often this occurs or to what extent.

## Penalties

Someone convicted of common law theft can, in theory, receive a maximum sentence of life imprisonment with the only limit being the powers of the court hearing the case.<sup>34</sup> This underpins the argument that setting a new maximum penalty (necessarily lower than life imprisonment) would dilute the available punishment. Dean of the Faculty of Advocates, Roddy Dunlop KC has stated that:

*“Admittedly, it’s hard to imagine anyone being sent to prison for life for stealing a dog but that is notionally possible. If you introduce the statutory offence with a maximum sentence of five years, then you’ve actually diluted the protection you’ve not increased it.”<sup>35</sup>*

There is little evidence of maximum sentences being used across the UK.<sup>36</sup> In my view, this potentially has consequences for the deterrence value of a notionally severe penalty if courts are unwilling to use it. Therefore, it could be argued that, rather than diluting the available punishment, setting a more realistic maximum penalty would have an improved deterrence value given the increased likelihood of it being used in practice. That deterrence value could be further enhanced through the likely media coverage a new offence would receive which, in turn, could help address fear of dog abduction by demonstrating specific action was being taken to address it.

In theory, strengthening sentencing guidelines could produce a similar effect without the need for a new offence.<sup>37</sup> However, strengthening the guidelines cannot alter the fundamental point that the law treats dog theft as the loss of an object rather than approaching it from primarily a welfare perspective involving a living being. Nor would

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<sup>33</sup> Andrew Crosbie, ‘Theft’, Crime.scot, *Crime.Scot*, [LINK](#)

<sup>34</sup> The Minister for Community Safety Ash Regan MSP, ‘Meeting of the Parliament (Hybrid) 16 March 2022 (Draft)’, *The Official Report*, 16/03/22, [LINK](#)

<sup>35</sup> Andrew Learmonth, ‘Dog theft law is unnecessary says Dean of the Faculty of Advocates’, *The Herald*, [LINK](#)

<sup>36</sup> The Kennel Club, ‘Paw and Order: Dog Theft Reform’, *thekennelclub.org.uk*, [LINK](#)

<sup>37</sup> Andrew Learmonth, ‘Dog theft law is unnecessary says Dean of the Faculty of Advocates’, *The Herald*, [LINK](#)

strengthened guidelines likely receive the same media coverage as a specific new offence and thus not provide the same deterrence and public assurance benefits as outlined above.

This is not simply an emotional argument, it has practical implications for sentencing, too. For example, the potential for lighter sentences in the case of older dogs with the Kennel Club assessing that many will be valued far below £500.<sup>38</sup> If the monetary value of a dog is used to inform sentencing a low value would suggest an increased likelihood of a less severe penalty. In which case, a dog owner might be reliant on the court using its discretion to take other factors, such as victim impact, into account.

Thus, a new offence is required to alter the fundamental reason for punishing the abduction of a dog: that it is the harm caused to the animal and by extension the owner that is the primary concern in addition to any financial impact and not simply the financial loss of an object (the dog). This point is further explored in the section below on UK Government action.

It is recognised that the existing offence will be retained in law and that there could be an argument made for a presumption on using it in specific circumstances. For example, where many dogs with a significant collective monetary value are stolen it could be argued that an offence chiefly concerned with the monetary value of the dogs would likely result in stiffer punishment.

Similarly, it could be argued that stealing dogs with different functions e.g. family pets, assistance dogs, etc. could be dealt with under separate offences to better recognise the impact of depriving an individual/organisation of a service the dog is providing.

It is important to note that the continued use of the existing offence alongside a new specific offence may create a situation where dogs are sometimes treated as property and sometimes as living beings. In turn, the abduction of a dog could be recorded across two offences – a new welfare-focused abduction offence and the existing property-focused offence. Some might argue that this would complicate rather than simplify recording efforts. The same point applies to using separate offences to differentiate between a dog's function – introducing ambiguity over recognition as a living being and complicating the data recording process.

Therefore, this proposal suggests that there be a presumption to treat all incidents of dog abduction, regardless of the number involved or the function of the dog, under this new offence with its associated penalties. How such a presumption could work in practice is considered further below.

Views on the applicability of both the new and existing offences are welcomed as part of this consultation.

## **Detection and Prosecution**

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<sup>38</sup> The Kennel Club, 'Paw and Order: Dog Theft Reform', [thekennelclub.org.uk](http://thekennelclub.org.uk), [LINK](#)

Unfortunately, the lack of robust data on dog abductions means that it is difficult to assess prosecutions in Scotland. However, we can look at data from across the rest of the UK to get a sense of how these are prosecuted.

In that regard, both BlueCross and the Kennel Club have highlighted a worrying lack of success in apprehending suspects. 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.<sup>39</sup> Similar figures have been highlighted indicating charge rates of less than 5 per cent<sup>40</sup> and that, in total, only 1 per cent of dog abduction cases resulted in prosecution.<sup>41</sup>

Taken together with the previous points on the rising number of incidents (some violent) and concern over sentencing – a perceived lack of success in apprehending and punishing dog thieves may again contribute to fear of dog abduction among owners.

The new offence under this bill aims to reduce the number of dogs being stolen, including through improved deterrence. Maximum penalties under the new offence are, I believe, more likely to be used than those under the existing offence. Awareness of these penalties being used will deter those contemplating stealing dogs. Improved awareness of the new offence and its use, including coverage in the media, will, in turn, give the public assurance action is being taken.

## Data

Throughout the development of this proposal, an underlying theme has been the poor quality of data available on dog abduction. This lack of data permeates every aspect of the crime – from absolute case numbers and the type of dogs being stolen, to geographic spread and trends over time.

Because dog abduction is not a specific crime in Scotland there is no requirement for instances to be recorded as such, and thus the Scottish Crime Reporting Standard<sup>42</sup> does not make provision to do so.<sup>43</sup> According to Assistant Chief Constable Tim Mairs from Police Scotland, determining which cases involved a family pet would mean:

*“...a review of each and every crime record would need to take place to determine if it was a pet that was stolen and whether there was enough detail in the crime record to establish, for example, the breed.”<sup>44</sup>*

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<sup>39</sup> The Kennel Club, ‘New figures show scale of dog theft and ‘jaw dropping’ failure to tackle the crime’, [thekennelclub.org.uk](http://thekennelclub.org.uk), 26/07/21, [LINK](#)

<sup>40</sup> Selby-Fell, H. and Allen, D. (2021) Dog Theft: What can we infer from the evidence so far?, 24<sup>th</sup> February 2021, [peththeftreform.com](http://peththeftreform.com), 14/10/22, [LINK](#)

<sup>41</sup> BlueCross, ‘Take the lead on dog theft’, [bluecross.org.uk](http://bluecross.org.uk), 14/10/22 [LINK](#)

<sup>42</sup> The Scottish Crime Reporting Standard outlines how crime is recorded in Scotland. First introduced in 2004, it aims to provide a “...victim orientated approach that serves the needs of our communities, and ensure uniformity in crime recording practices throughout Scotland.” Scottish Crime Recording Standard: Crime Recording and Counting Rules, *Police Scotland*, [LINK](#) p. 7

<sup>43</sup> Assistant Chief Constable Tim Mairs, Letter to Maurice Golden MSP, 19/07/21, See Annex 2

<sup>44</sup> Ibid

This then presents a significant challenge, and disproportionate cost, in assembling an accurate national picture of dog abductions across Scotland. A point reinforced in a response by Police Scotland's Edinburgh Division to a Freedom of Information request, which explains:

*"The local systems used in Edinburgh allows us to be able to retrieve this information and given the low numbers each report could be analysed within the time scales provided. It is that [sic] case that nationally each area works with their legacy police systems and unfortunately, there are no relevant markers which allow the automatic retrieval of this level of information, and so it is not possible to search for crime reports based upon the type of property stolen."*<sup>45</sup>

This response highlights a further significant deficiency in the current methodology used to record dog abductions in Scotland: the lack of consistency. Despite there being a single police force in Scotland, it is clear from the Edinburgh Division response that not all local divisions are taking the same approach to recording. That is an arguably similar situation to the inconsistent recording the UK Pet Theft Taskforce found across the multiple English police forces, and which they have recommended to be reformed.<sup>46</sup>

Police Scotland is trialling a new national crime recording system, which, as Assistant Chief Constable Tim Mairs explained:<sup>47</sup>

*"...will allow for a more thorough recording and scrutiny of our digital records to aid our analysis of, and response to, emerging crime types. However, the utilisation of these aspects of the system will be informed by the threat and risk posed by any such crime type."*

So, while the new crime recording system allows for improved data capture on dog abductions, it is not a guaranteed outcome. In contrast to a situation where dog theft or abduction was a specific offence and required to be recorded as such.

## Official Figures

We can observe the difficulties in assembling an accurate Scotland-wide picture of dog abductions by examining the only official national statistics to be produced. The figures were compiled by Police Scotland, cover the period April 2019 – March 2021 and were released in June 2021.<sup>48</sup>

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<sup>45</sup> Police Scotland, Response to Freedom of Information request, 16/06/20, [scotland.police.uk](http://scotland.police.uk), [LINK](#)

<sup>46</sup> "A higher number of recorded cases of pet theft does not necessarily mean the force has a higher number of pet theft incidents. More recorded cases may be reflective of forces' recording practices, more victims reporting incidents, or due to a genuinely higher number of incidents." Pet Theft Taskforce, 'Pet Theft Taskforce: Policy Paper', HM Government, September 2021, [LINK](#) p. 28

<sup>47</sup> Assistant Chief Constable Tim Mairs, Letter to Maurice Golden MSP, 19/07/21, See Annex 2

<sup>48</sup> APU Dalmarnock, 'Recorded Theft of Dogs in Scotland April 2019 – March 2021', *Police Scotland*, June 2022, [LINK](#)



The extraordinary nature of the statistics is readily apparent in the report's opening statement, which explains they have been compiled following "...a number of enquiries relating to the theft of dogs following perceived increases in crimes reported in news and social media".<sup>49</sup> This again serves to highlight the fact that producing official data on dog abduction is not standard practice.

Turning to the methodology, there are important caveats to note:

- *"Divisional analysts interrogated local crime management systems for acquisitive crimes where a dog/puppy was recorded as stolen."*
- *"Variations in local recording systems and human error in data input/retrieval may result in omissions from the dataset."*

These caveats reflect weaknesses in the resulting dataset and the need to examine local crime management systems as opposed to there being a single point of access to readily produce national data. Furthermore, the possibility of variation in these local systems is highlighted as having the potential to degrade the data.

Perhaps more importantly though, the database search is looking for crimes where a dog was "recorded as stolen". The obvious implication being that some dog abductions will be missed where either they have not been reported and/or because there is no requirement to record whether a dog was the subject of the theft.

Given the issues above, a degree of caution is advised when assessing the official estimation of dog abductions in Scotland. This is a point accepted by the Scottish Government along with the need to improve the data available.<sup>50</sup>

Addressing the data challenges outlined here will be a key part of this proposed bill in order to build a more accurate picture of the scale of this crime across Scotland. As discussed previously in the 'Penalties' section, continued use of the existing offence would complicate matters by creating situations where dog abduction was not always recorded as such. Hence the proposal here is for a presumption for the new offence to be used in all cases of dog abduction while inviting views on the circumstances where the existing offence should still be used.

## **Advertising and Traceability**

While not within the scope of the aims and provisions of this proposed bill, it is worth briefly exploring the issues of dog sale adverts and animal traceability to provide further context to the wider issue of dog abduction.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 make it a legal requirement, as of September 2021, for licensed sellers to display

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<sup>49</sup> Ibid

<sup>50</sup> *"I agree that there are always ways in which we could improve the data to which we have access. I take that point."* The Minister for Community Safety Ash Regan MSP, 'Meeting of the Parliament (Hybrid) 16 March 2022 (Draft)', The Official Report, 16/03/22, *The Scottish Parliament*, [LINK](#)

their licence number on adverts, along with some details about the pet being sold e.g. a photograph and its age. However, it has been proposed that all forms of advertising, including online, should also be verifiable with linked addresses to allow purchasers assurance of who they were buying from.<sup>51</sup>

In terms of microchip regulation, as mentioned above, requiring owner and transfer information to be updated more reliably has the potential to aid reuniting dogs and owners. The UK Government has committed to this improved traceability in England and Wales (further detail below), and this will further be supported by a single point of access for the multiple commercial microchip databases in use. As such, it would seem prudent for Scotland to explore a similar path for dogs and owners.

I believe that these steps, which can be taken forward as policies by the Scottish Government and do not require to feature in legislation, would be valuable measures complementing the provisions I plan for my proposed bill. I will continue to pursue these issues with the Government in tandem with this consultation.

## **What is Happening in the Rest of the UK?**

The UK Government has already drawn up plans to legislate for a new specific offence to address pet theft, including dogs. In May 2021 it established the Pet Theft Taskforce comprising government departments, the police, the Border Force and local government. The Taskforce was given a remit to look at all aspects of the issue: underlying causes, prevention, reporting, enforcement and prosecution. In doing so it considered evidence from academics, animal welfare organisations, campaign groups, enforcement agencies and industry.<sup>52</sup>

The Taskforce published its report in September 2021 with the findings highlighting challenges similar to those found in Scotland, such as limited availability of reliable data on pet theft and the fear of crime.<sup>53</sup> The report made several recommendations, including:

- Creation of a new offence of ‘Pet Abduction’
- Identifying and tracking cases
- Improving the recording of ownership and transfer data
- Tackling the fear of crime

## **A New Specific Offence**

Specifically, on the proposed new offence of Pet Abduction, it is worth examining the Taskforce’s reasoning in full:

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<sup>51</sup> Dogs Trust, ‘Advertising’, *dogstrust.org.uk*, [LINK](#)

<sup>52</sup> UK Government, ‘Taskforce launched to investigate reported rise in pet thefts’, *gov.uk*, /08/05/21, [LINK](#)

<sup>53</sup> Pet Theft Taskforce, ‘Pet Theft Taskforce: Policy Paper’, *HM Government*, September 2021, [LINK](#) p. 8 & p. 10-12

*“Those speaking before the taskforce gave impassioned evidence of the emotional value a pet provides them and their families. It is clear pets are valued as something more than just property. This is where many see the deficiencies with the current Theft Act 1968 (“Theft Act”) – which treats pets as a type of property.”<sup>54</sup>*

*“Reflecting this legal recognition of sentience, the Taskforce has considered ways to better reflect the view that stolen pets are not mere property but sentient beings, and considered a number of criminal law and sentencing interventions. The taskforce does not believe that the creation of a new pet theft offence or a statutory aggravating factor – in line with recent campaigns – would have the desired impact. This is because theft deals with the deprivation of property, and so the welfare of the stolen animal would not be a primary consideration when sentencing. However, a new ‘pet abduction’ offence could switch the focus from the loss to the owner to the welfare of the animal.”<sup>55</sup>*

From this extract it is clear the Taskforce’s decision to recommend a new offence is based upon the belief that animals should be recognised in law as more than simply objects. It then concludes this cannot be achieved through a new pet theft offence because theft would still pertain to the deprivation of property. Thus, the proposal for a pet abduction offence to focus to the welfare impact of the crime. This Bill makes the same argument in relation to Scotland (see the above section on penalties).

With the desire to shift the focus to welfare impacts, it is also worth considering the role animal sentience plays in this argument. The taskforce’s report noted the introduction of the UK Animal Welfare (Sentience) Bill which “...*explicitly recognises in UK law that animals as sentient beings*”<sup>56</sup> - the bill has since received Royal Assent and become the Animal Welfare (Sentience) Act 2022.<sup>57</sup> In turn, the legal position of animal sentience is, as seen in the report extracts above, used to inform the Taskforce’s recommendations.

In Scotland, the Scottish Animal Welfare Commission (SAWC) advises the Scottish Government on animal welfare issues. Specifically, their remit includes “...*consideration of how Scottish Government policies take account of animal sentience*...”.<sup>58</sup> So, there is already a precedent in Scotland for taking an approach that focusses on animal sentience as a starting point.

Given the similarities in both argument and approach set out above, this bill is proposing to create a similar offence in Scotland.

## **Taking Forward the Recommendations**

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<sup>54</sup> Ibid, p. 9

<sup>55</sup> Ibid, p. 9

<sup>56</sup> Ibid

<sup>57</sup> UK Government, Animal health and welfare bills receive Royal Assent, *gov.uk*, [LINK](#)

<sup>58</sup> Scottish Animal Welfare Commission, ‘Scottish Animal Welfare Commission: statement on animal sentience’, *gov.scot*, [LINK](#)

The UK Government accepted the recommendation of the Taskforce and stressed the new offence would prioritise the welfare of pets and furthermore: <sup>59</sup>

- Ensure consistent recording of pet abduction across police forces.
- Introduce a single point of access for pet microchip databases and strengthen rules on recording the transfer of dogs to new owners.
- See the police work with partners to raise awareness among owners about how to protect their pets from being targeted.

The new offence will cover both England and Wales. In the absence of similar legislation, this would leave Scotland and Northern Ireland<sup>60</sup> as the only parts of the UK not to have specific offences to tackle dog abduction that primarily treat the crime as an animal welfare issue rather than deprivation of property.

## What is Happening outside the UK?

Other jurisdictions have already implemented laws to tackle dog abduction or are at the stage of discussing such measures.

For example, dog abduction is already a specific offence in New South Wales in Australia. There, stealing a dog (or knowingly taking possession of a stolen dog) is an offence under Section 132 of the Crimes Act 1900 Number 40. The relevant section, while not focused on the animal welfare impact of the crime, is notable for specifically citing dogs rather than categorising them alongside other animals or even inanimate objects:<sup>61</sup>

*“Whosoever, having been summarily convicted under this or any former Act, of any such offence as is hereinafter in this section mentioned, afterwards,*

*steals any dog, or*

*has unlawfully in his or her possession any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen,*

*shall be liable to imprisonment for one year.”*

Similarly, in New Zealand Section 220A of the Crimes Amendment Act 2019 makes it a specific offence to steal animals owned by someone else.<sup>62</sup> Whilst this offence classifies animals as property, it is important to note that it covers both livestock and pets, and

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<sup>59</sup> UK Government, ‘Pet abduction to be made new criminal offence in crackdown on pet theft’, *gov.uk*, [LINK](#)

<sup>60</sup> The Kennel Club, ‘Paw and Order: Dog Theft Reform’, *thekennelclub.org.uk*, [LINK](#)

<sup>61</sup> NSW Legislation, ‘Crimes Act 1900 No 40, Part 4, Division 5, Section 132 Stealing Dogs’, *NSW Government*, [LINK](#)

<sup>62</sup> New Zealand Legislation, ‘Crimes Amendment Act 2019, Part 1, New Section 220A inserted (Theft of livestock and other animals)’, *Parliamentary Counsel Office*, [LINK](#)

thus is not solely focused on pet animals that could be considered part of a human's family e.g. dogs. Nevertheless, the offence does clearly separate the theft of an animal from that of other property.

Also of some note is a recent amendment debated in the Dáil Éireann in the Republic of Ireland that aimed to introduce a specific pet theft offence.<sup>63</sup> The amendment was debated during the scrutiny process of the Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020, but ultimately did not pass into law. Even so, the fact that the issue was raised in parliament suggests it has become a visible enough problem to warrant interest from elected representatives.

## **Scottish Government Commitment to Consider a Specific Offence**

Following my successful amendment to the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill, the Scottish Government is committed to reviewing whether there should be a specific offence of pet theft by 2025.<sup>64</sup> However, a review does not guarantee change will happen, and even if the review does see a new offence recommended it means delaying action for at least another three years.

As of January 2022, the Cabinet Secretary for Rural Affairs and Islands has publicly acknowledged a need to strengthen the deterrents and protections available for dog breeders who are targeted by thieves. The relevant extract of the debate is below.<sup>65</sup>

### **Maurice Golden MSP:**

*“Unfortunately, thieves often target particular breeds, with breeders and sellers having to take extra precautions. Does the cabinet secretary recognise the need to strengthen both deterrents and protections for breeders to help to stamp out that practice?”*

### **Cabinet Secretary for Rural Affairs and Islands, Mairi Gougeon MSP:**

*“Absolutely. Again, we continue to engage with all our relevant stakeholders to consider what more we can do to tackle some of the problems that we see. Some of the powers that we will receive through the Animal Welfare (Kept Animals) Bill, through the legislative consent motion that was agreed to this week, as well as the regulations that we introduced last year will go a long way towards tackling some of those issues. We continue to monitor the situation to see what else we can do to tackle some of those issues.”*

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<sup>63</sup> Houses of the Oireachtas, 'Dáil Éireann debate - Thursday, 4 Feb 2021 Vol. 1003 No. 8, Criminal Justice (Theft and Fraud Offences) (Amendment) Bill 2020 [Seanad]: Second Stage (Resumed), oireachtas.ie, [LINK](#)

<sup>64</sup> 'Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, Section 16, Sub-section 2', [legislation.gov.uk](#), [LINK](#)

<sup>65</sup> The Cabinet Secretary for Rural Affairs and Islands Mairi Gougeon MSP, Meeting of the Parliament (Hybrid) 13 January 2022 (Draft), *The Official Report*, 13/01/22, [LINK](#)



At a subsequent questions session in Parliament on 3<sup>rd</sup> March 2022 the Cabinet Secretary announced that she would meet me to discuss the proposal to create a specific offence.<sup>66</sup>

Following a parliamentary Member's Debate on 16th March 2022, the Minister for Community Safety announced that the Scottish Government was happy "...to look at what can be done to improve how pet theft is addressed in our criminal justice system." Furthermore, the Minister reiterated the commitment to consider "...specific new evidence-based proposals...".<sup>67</sup>

## Detail of the Proposed Bill

### What the Bill Will Do

My proposal is for a new offence that reflects the impact on the welfare of the dog being stolen. The concern for the welfare of the animal by the owner(s) is inextricably linked to the feelings of the dog and concern for its wellbeing. On that basis an offence with associated penalties that primarily reflect the impact on the wellbeing of the animal will, in effect, also cover the impact on the wellbeing of the owner. As set out above, I consider the sentient nature of the animal to be the most important factor when a dog is stolen, far outweighing the value of the animal in financial terms.

I appreciate that under the existing offence, which relates to the value of the 'property' that is stolen, then there is an option for the impact on the victim to be taken into account in sentencing. But I am far from convinced, including due to a distinct lack of accurate data, that the impact on the victim is being taken into account. And I am sure the impact on the dog is not being taken into account under the existing law in Scotland.

I am not wedded to one particular term being used to describe the offence at this stage, and I appreciate that 'theft' and 'abduction' have distinct meanings in the law. Terms such as 'theft', 'abduction' and 'stealing' are used throughout this consultation, at points almost interchangeably, as this document is exploring the broad policy objectives of this proposed bill. For example, where the Taskforce in England and Wales' work spoke of the creation of an offence of 'abduction' the resulting offence is termed in Section 43 of the Animal Welfare (Kept Animals) Bill as 'taking of dog without lawful authority'.<sup>68</sup>

Beyond the detail of the terms used, I am clear on some underlying principles that I consider should underpin the new offence. For example, I am very clear that the offence will aim to cover all such incidents whether or not violence or the threat of violence is used.

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<sup>66</sup> The Cabinet Secretary for Rural Affairs and Islands Mairi Gougeon MSP, Meeting of the Parliament (Hybrid) 03 March 2022 (Draft), *The Official Report*, 03/03/22, [LINK](#)

<sup>67</sup> The Minister for Community Safety Ash Regan MSP, 'Meeting of the Parliament (Hybrid) 16 March 2022 (Draft)', *The Official Report*, 16/03/22, [LINK](#)

<sup>68</sup> UK Parliament, Animal Welfare (Kept Animals) Bill, [www.parliament.uk](http://www.parliament.uk), [LINK](#),

At this stage I am not clear yet exactly in what terms the bill will be drafted, but my priority at this stage is to ensure that all the circumstances in which a dog is deliberately taken from its owner, or kept, without permission can be covered by the offence. For example, what if a dog is taken and then it is returned after a long period of time? In my view the act of theft would still have taken place even if the dog is returned by the person who stole it for some reason.

There will be distinct sets of circumstances that those responding to this consultation will doubtless raise that they consider should be covered by the offence, and I welcome these practical examples or theoretical scenarios. Considering how this new law could operate in practice is very valuable in the policy development process. The more situations that this law could be applied to the better.

Currently, stealing a dog can be prosecuted under common law offences, such as theft or robbery (the latter covering incidents involving violence).<sup>69</sup> The proposed bill will make no change to these existing offences, nor will it alter the definition of what constitutes dogs as pets and dogs as working animals. Instead, the proposal is that there is a presumption towards all incidents of dog abduction being treated under this new offence, which is better tailored to the specifics of this crime than the existing common law offences. One option would be for this aspect of the proposal to be set out in prosecutorial guidance.

There will be no negative impact on the use of existing common law to prosecute property theft. There will be a positive impact on encouraging more consistent use of penalties for dog abduction, improving the deterrence value of those penalties and allowing those penalties to be primarily based on the welfare impact to animals, and by extension owners, rather than the value of dogs as property. Thus, stronger penalties can be expected in cases where welfare impacts on dogs are worse.

Additionally, the proposal will also allow for improved data recording. With a new specific offence, the police will be obliged to record dog abductions as a standalone crime separate from generic property theft. This would provide more accurate data to inform future efforts by police and policy makers to tackle dog abduction. In addition, publication of accurate data would allow the public to more easily assess the effectiveness of those efforts.

## **How might a presumption to use this new offence over the existing common law offence work in practice?**

In exploring how a 'presumption' could work in practice, I want to make clear at the outset that I appreciate the importance of in no way inhibiting the independence of the prosecution service, including in selecting what offences to charge someone with. This proposal for a bill in no way seeks to impact on the prosecutorial independence of the Crown Office and Procurator Fiscal Service (COPFS). As such, I am looking at all other options for giving effect to this policy strand, including usage of prosecutorial guidance.

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<sup>69</sup> Thorley Stephenson, Theft or Robbery, *thorleystephenson.com*, [LINK](#)

As noted above, I appreciate there could potentially, in the eyes of the prosecutor, be circumstances where the existing common law offence of theft would be the more appropriate charge, and it is important that the Crown has a full range of prosecution options available in making decisions around charging.

I welcome views in response to this consultation as to what these circumstances could be. I assume these circumstances could be where there is a notable monetary value attached to numerous dogs being stolen or one very valuable animal being stolen. However, I believe that the abiding, and more important, consideration is animal welfare and reducing animal cruelty, and by extension the welfare of the owner. This emotional value cannot be estimated in pounds and pence.

I am therefore hopeful that the availability to the prosecutor of an offence that reflects the gravity of the crime, i.e., an offence linked to welfare, would in practice mean this offence is used as standard over the common law offence.

I am also hopeful that I can construct an offence that is so well tailored to the specifics of the crime of dog abduction that, as a result, this specific tailored offence would be used as standard as opposed to the more generic common law offence.

Finally, I would envisage that prosecutorial guidance would be produced to aid understanding of the circumstances in which my new offence can and should be used. I will consider whether the production of such guidance needs to be included in the terms of my proposed bill.

## **Improving Detection and Prevention**

As with other specific crimes, enshrining dog theft or abduction as a specific crime means there will be a requirement to record instances where it occurs. This will allow for more consistent police data recording across Scotland.

It will mean that, for the first time, Police Scotland will be able to provide reliable data from all divisions to show the scale of dog abductions across Scotland. This will allow the police to identify particular areas of concern to better inform the public and direct resources. In turn, this will increase the likelihood of spotting trends in dog abduction, which will assist in apprehending perpetrators and enhance crime prevention efforts.

Improved data recording under a specific crime will also bring Scotland into line with England and Wales; where a similar approach is being undertaken. This will help limit the potential for a situation whereby criminals identify Scotland as somewhere that dog abduction will be easier to pursue and/or where the punishment could be lighter.

## **Sentencing**

At present, depending on which court a case is heard in, common law theft has a theoretical maximum sentence of life imprisonment. In practice, such a lengthy sentence is extremely unlikely to ever be used in a case of dog abduction. The

proposed bill will therefore set a more realistic maximum sentence, the length of which is a subject of this consultation.

As the basis for consideration in responses to this consultation, it seems prudent to align the maximum sentence with existing sentencing provisions for animal welfare and wildlife crimes. As such, an initial proposal is to mirror the recently enacted Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020,<sup>70</sup> which increased the maximum penalties for the most serious cases of animal cruelty.

Specifically, the Act, which came into force in November 2021, grants courts the power to impose<sup>71</sup> sentences and unlimited fines for the most serious animal welfare crimes, including cases of “...*causing unnecessary suffering to animals...*”. With this proposal approaching dog abduction primarily from a welfare aspect, this same maximum sentence of five years imprisonment is proposed as a starting point for a new offence of dog abduction or theft.

As the Chief Executive of Dogs Trust, Owen Sharp, points out, the hope is that the new offence “...*will lead to consistent, and proportionate punishments that serve as a real deterrent to thieves.*”<sup>72</sup> A maximum sentence that is more likely to be employed should have a greater deterrence value. That is an important tool in helping to make dog abduction a less attractive crime, including for those involved in organised crime where currently the risk/reward ratio may be attractive to them if custodial sentences are seen as less likely.

## Recognition of Welfare Impacts

Dogs are regarded as property when stolen. However, the vast majority of people with dogs do not regard them as property – but rather as members of their family. The Bill aims to reflect that by primarily viewing dog abduction as a welfare issue with sentencing reflective of the severity of the welfare impact involved for the animal, and by extension, the owner.

This is particularly important in cases where a dog may have a relatively low monetary value e.g. an older dog. By focusing on the welfare impacts of the crime rather than dogs as property, victims can receive a more level playing field in obtaining justice. Victims of dog abduction might also be helped to obtain a measure of support or closure in having their emotional distress recognised.

## Financial implications

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<sup>70</sup> Scottish Government, ‘Tougher penalties for animal and wildlife crime’, *gov.scot*, 06/12/20, [LINK](#)

<sup>71</sup> Ibid

<sup>72</sup> Owen Sharp, ‘It’s time for action’: MSP proposes new law for dog thefts in Scotland”, *The Courier*, 06/10/21, [LINK](#)

The proposed bill is introducing an additional offence for a specific crime which is currently pursued under the existing law. Thus, it is seeking to improve the current law on stealing dogs, to improve the recording of those offences and to ensure the offence is treated as primarily a matter of welfare rather than monetary value.

It is anticipated that the costs associated with this bill will primarily relate to implementing it in law, as is the case with any other offence. For example, there will be a cost to the police for investigating, arresting and charging suspects under this new offence. Just as there will be a cost to the courts for hearing cases and a cost to prisons for housing the worst offenders. However, the prospect of a more effective deterrence value holds out hope that such costs will be kept relatively low over the long-term as the incidences of dog abduction will reduce as a result of a reduction in frequency of the new offence and the availability of improved data to assist in prevention of the crime.

In relation to the specific measures, I am proposing the financial implications of each is as follows: -

**1. Specific Offence**

As outlined above, there will be costs associated with investigating and hearing cases and, ultimately, in imposing custodial sentences should they be warranted. Imposition of fines would have the effect of offsetting some of these costs though. Additionally, it is important to note that the creation of a new offence may not generate a significant number of new cases for the police and courts to deal with, but rather recategorise existing cases.

**2. Data Collection and Crime Recording**

Given data on a range of specific offences is already being collected by Police Scotland, it is not anticipated there will be any net increase in cost involved in the requirement on the Scottish Ministers to collect and report on data. Where there are additional administrative costs these are anticipated to be minimal.

**3. Welfare**

With animal welfare considerations already well established in law there is no expectation of additional costs associated with the legal system treating dog abduction as primarily an issue of animal welfare as opposed to one of property loss.

**4. Sanctions**

The deterrent effect of a new maximum sentence for dog abduction that is more likely to be used in practice might reduce the incidence of the crime. In turn reducing the resources needed by police and other authorities to investigate and prosecute. Additionally, the possibility of more consistent use of higher fines might generate additional revenue for the public purse. Any custodial sentences would of course have cost implications on COPFS, Scottish Courts Service, Police Scotland and the Scottish Prison Service.



# Sustainability

In making an initial assessment of the sustainable development elements of the draft proposal, a number of relevant principles have been considered, including:

- living within environmental limits
- ensuring a strong, healthy and just society
- achieving a sustainable economy
- promoting effective, participative systems of governance
- ensuring policy is developed on the basis of strong scientific evidence

The proposal for a new offence of dog abduction could have a positive impact on people and contribute towards a strong, healthy and just society by reducing the prevalence of the crime, ensuring that those guilty of it are punished appropriately and consistently and helping to address fear of the crime among the public. It could also promote health in terms of mental health as it would remove the trauma of the loss of a beloved pet for those who are victims of this crime. In addition, it could improve levels of animal welfare given the anxiety being stolen will generate for a dog.

By promoting dog abduction as a specific offence that could result in up to five years in prison, this might act as a deterrent to would-be perpetrators. With the perceived threat of falling victim to such an offence declining, this in turn could encourage more people to walk their family pet more often; helping to improve their health and wellbeing. This could be beneficial in particular to older people and children with family dogs. It would also be beneficial for those who rely on the support of assistance and working dogs as fear of theft at present could be limiting the activities of these individuals.

In relation to a sustainable economy, fewer incidences of theft from responsible breeders could encourage them to continue in their work and reduce the likelihood of them being put off because of the trauma and cost associated with any previous thefts. The availability of responsibly-bred puppies could help keep prices manageable for puppies; making responsibly-bred puppies more affordable and limiting the instances where people turn to buying puppies from puppy farms. Finally, deterring or catching more individuals who consider dog abduction as a means of income could help contribute to an overall reduction in organised crime.

# Equalities

Older people, disabled people and those with other protected characteristics may be more susceptible to crimes of theft, and therefore the deterrent effect and the increased likelihood of prosecution of dog abduction under this proposal would benefit these

groups. The benefits on physical and mental health, including for disabled people, are also set out above in the section on sustainability.

Any subsequent reduction in levels of dog abduction would likely have a beneficial impact on people who rely on the use of assistance dogs, which carry out a variety of practical tasks for their owners, support their independence and confidence and help reduce the risk of loneliness.

These owners include blind people and people with conditions such as hearing difficulties, epilepsy, diabetes and physical mobility problems. Assistance dogs are highly trained working dogs and are not considered primarily as “pets”; they help their owners live independently both inside and outside of the home, attend work, visit shops and restaurants and go out socially.

A reduction in abductions could also be of benefit to older people who rely on their pet dog for companionship to help maintain their mental wellbeing.

# Annex 1: Dogs Trust Briefing on Dog Theft



## Dogs Trust Briefing on Dog Theft

### Summary

- Our dogs play such a huge and important part in our lives but sadly many are stolen each year, which is absolutely heart breaking for dog owners.
- It is difficult to know the true scale of the problem due to the way that data is collected. However, we know that there is increasing concern about this issue amongst dog owners, particularly given the high demand for dogs during the pandemic and the increase in prices.
- There is currently no specific offence for stealing a dog, meaning that if someone steals a dog, they will be sentenced in the courts in the same way as someone who steals a non-living object, like a mobile phone.

### Why change is needed

#### **The human-canine bond**

- A survey found that 99% of respondents considered their pets to be family members<sup>i</sup>
- The dog-human bond has been linked to that found between a parent and child<sup>ii</sup>

#### **The benefits of owning a dog**

- Dog ownership can improve physical health by encouraging exercise
- Dog ownership can improve psychological wellbeing e.g., reducing the risk of depression
- Dog ownership can reduce loneliness, which has been described as an ‘epidemic’ in modern day society

#### **The impact of dog theft on an owner**

- In the field of psychology ‘ambiguous loss’ is the term for the grief felt in response to a missing person. It is characterised by a lack of closure or understanding and can be long lasting. It is therefore likely that the emotional impact of a dog going missing has a similar effect on the owner
- ‘Disenfranchised grief’ is the term used to describe grief which is not acknowledged by society, causing those grieving to feel that they cannot mourn openly for fear they will not be taken seriously. People mourning the loss of a dog can often be faced with unsympathetic comments such as ‘it’s only a dog’. Other’s refusal or inability to acknowledge someone’s grief may extend the time taken for the griever to recover or come to terms with their loss
- The loss of a dog can be particularly hard on those who have little support in the form of family or friends
- A study involving in depth interviews with dog owners who had experienced dog theft found that 30% reported feelings of ‘loss, grief or mourning’; 48% described themselves as ‘devastated’ and; 37% suffered from ‘severe psychological or physiological effects’ after their dog was stolen
- The study also found that a high percentage of victims (78%) reported that their social life had been negatively affected and around 41% described negative effects on their family or work life<sup>iii</sup>

### The solution

Any action to urgently tackle the stealing of pets is a step in the right direction. We would welcome the introduction of a new criminal offence for pet abduction which we hope would lead to consistent, fair and proportionate punishments that serve as a real deterrent to thieves and reflect the emotional impact and trauma that stealing a dog has on the families involved. We would also like to see accurate and consistent recording to ascertain the true scale of the problem.

<sup>i</sup> Planchon, L.A, D.I; Stokes, S.; Keller, J. Death of a Companion Cat or Dog and Human Bereavement: Psychosocial Variables. *Soc. Anim.* 2002

<sup>ii</sup> Stoeckel, L.E; Palley, L.S; Gollub, R.S.; Niemi, S.M.; Evins, A.E. Patterns of Brain Activation When Mothers View Their Own Child and Dog: An fMRI Study. *PLoS ONE* 2014

<sup>iii</sup> Murray, K.R. An Investigation into the Experiences and Perceptions of Those Affected by Dog Theft, 2013

## **Annex 2: Letter from Assistant Chief Constable Tim Mairs**

19<sup>th</sup> July 2021

Maurice Golden MSP  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Mr Golden,

Thank you for your letter of 18 June 2021 in relation to the recording of incidents involving the theft of pets in Scotland, and apologies for the delay in responding.

As you will be aware, all crime in Scotland is recorded and counted as per the Scottish Crime Recording Standard. Theft of a pet in terms of the standard is classified as the crime of theft. You have correctly observed that, at present, there is no specific crime relating to the theft of animals or pets. To that end, the Crime Standard does not make specific provision for the recording of such incidents. In order to determine whether the theft related to a family pet, a review of each and every crime record would need to take place to determine if it was a pet that was stolen and whether there was enough detail in the crime record to establish, for example, the breed.

Since the inception of Police Scotland in April 2013 crime has been recorded across its 13 Divisions using a number of different legacy crime recording systems, each with their own manner and method of recording information. As you have indicated in your letter, this can make ready retrieval of such information, at best, challenging. A National Crime system will replace all legacy crime systems allowing Police Scotland to capture, record and retrieve Crime Data in a consistent manner and method. It is anticipated that National Crime will launch in Tayside Division in early August 2021 as a pilot before it rolls out nationally.

The new system will allow for a more thorough recording and scrutiny of our digital records to aid our analysis of, and response to, emerging crime types. However, the utilisation of these aspects of the system will be informed by the threat and risk posed by any such crime type.

Should you, or any of your colleagues, have specific concerns about trends in the theft of animals, I would welcome the opportunity to discuss those and ensure that we are effectively responding to them.

Kind regards,

Tim Mairs  
Assistant Chief Constable  
Local Policing East

# Questions

## About you

(Note: Information entered in this “About You” section may be published with your response (unless it is “not for publication”), except where indicated in **bold**.)

1. Are you responding as:
  - an individual – in which case go to Q2A
  - on behalf of an organisation? – in which case go to Q2B
  
- 2A. 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”.)
  - Politician (MSP/MP/peer/Councillor)
  - Professional with experience in a relevant subject
  - Academic with expertise in a relevant subject
  - Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

- 2B. Please select the category which best describes your organisation:
  - Public sector body (Scottish/UK Government or agency, local authority, NDPB)
  - Commercial organisation (company, business)
  - Representative organisation (trade union, professional association)
  - Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
  - Other (e.g. clubs, local groups, groups of individuals, etc.)

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).

3. Please choose one of the following:
  - I am content for this response to be published and attributed to me or my organisation
  - I would like this response to be published anonymously
  - I would like this response to be considered, but not published (“not for publication”)

If you have requested anonymity or asked for your response not to be published, please give a reason. (**Note: your reason will not be published.**)

4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or “not for publication”.)**

Name:

Please provide 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. **(Note: We will not publish these contact details.)**

Contact details:

5. **Data protection declaration**

- I confirm that I have read and understood the [Privacy Notice](#) to this consultation which explains how my personal data will be used.

If you are under 12 and making a submission, we will need to contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

- Please ONLY tick this box if you are UNDER 12 years of age.

## Your views on the proposal

Note: All answers to the questions in this section may be published (unless your response is “not for publication”).

### Aim and approach

1. Which of the following best expresses your view of the proposed Bill? **Please note that this question is compulsory.**

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Do not wish to express a view

Please explain the reasons for your response.



2. Do you think legislation is required, or are there are other ways in which the Bill's aims could be achieved more effectively? Please explain the reasons for your response.

3. What is your view on the proposal that introducing a specific offence of dog abduction, as set out in the consultation document, will ensure that the crime is treated as primarily a matter of welfare rather than monetary value?

- Fully agree
- Partially agree
- Neutral (neither support nor oppose)
- Partially disagree
- Fully disagree
- Unsure

4. This proposal suggests imposing a maximum sentence of five years imprisonment for dog abduction; what is your view on this?

- Fully agree
- Partially agree
- Neutral (neither support nor oppose)
- Partially disagree
- Fully disagree
- Unsure

Please explain the reasons for your response including any other comments on the potential sentences for the proposed offence.

5. What is your view on the suggestion that having a specific offence of dog abduction set out in law will act as a deterrent?

- Fully agree
- Partially agree
- Neutral (neither support nor oppose)
- Partially disagree
- Fully disagree
- Unsure

Please explain the reasons for your response.

6. What is your view on whether these proposals will help to tackle the fear of the crime of dog abduction?

- Fully agree
- Partially agree
- Neutral (neither support nor oppose)
- Partially disagree
- Fully disagree
- Unsure

Please explain the reasons for your response.

7. What is your view on the proposal to treat incidents of dog abduction, regardless of the number of dogs involved, the function of the dog or their value, under this new offence with its associated penalties?

- Fully agree
- Partially agree
- Neutral (neither support nor oppose)
- Partially disagree
- Fully disagree
- Unsure

Please explain the reasons for your response. If there are circumstances where you believe that the offence should be considered as the theft of property under the existing common law offence, please set these out.

8. What is your position on the suggestion that the proposals set out in this consultation will help improve the quality of the data collected and recorded regarding incidences of dog abduction?

- Fully agree
- Partially agree
- Neutral (neither support nor oppose)
- Partially disagree
- Fully disagree
- Unsure

Please explain the reasons for your response.

## Financial implications

9. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

- a significant increase in costs
- some increase in costs
- no overall change in costs
- some reduction in costs
- a significant reduction in costs
- skip to next question

Please explain the reasons for your answer, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

## Equalities

10. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

## Sustainability

11. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas?  
If you do not have a view then skip to next question.

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

## General

12. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

# How to respond to this consultation

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

## Format of responses

You are encouraged to submit your response via an online survey (Smart Survey) if possible, as this is quicker and more efficient both for you and the Parliament. However, if you do not have online access, or prefer not to use Smart Survey, you may also respond by e-mail or in hard copy.

### *Online survey*

To respond via online survey, please follow this link:

<https://www.smartsurvey.co.uk/s/DogAbduction/>

The platform for the online survey is Smart Survey, a third party online survey system enabling the SPCB to collect responses to MSP consultations. Smart Survey is based in the UK and is subject to the requirements of the General Data Protection Regulation (GDPR) and any other applicable data protection legislation. Any information you send in response to this consultation (including personal data) will be seen by the MSP progressing the Bill and by staff in NGBU.

Further information on the handling of your data can be found in the Privacy Notice, which is available either via the Smart Survey link above or here [Privacy Notice](#)

Smart Survey's privacy policy is available here:

<https://www.smartsurvey.co.uk/privacy-policy>

### *Electronic or hard copy submissions*

Responses not made via Smart Survey should, if possible, be prepared electronically (preferably in MS Word). Please keep formatting of this document to a minimum. Please send the document by e-mail (as an attachment, rather than in the body of the e-mail) to:

maurice.golden.msp@parliament.scot

Responses prepared in hard copy should either be scanned and sent as an attachment to the above e-mail address or sent by post to:

Maurice Golden MSP  
Room M2.21  
Scottish Parliament  
Edinburgh EH99 1SP

Responses submitted by e-mail or hard copy may be entered into Smart Survey by my office or by NGBU.

If submitting a response by e-mail or hard copy, please include written confirmation that you have read and understood the [Privacy Notice](#).

You may also contact my office by telephone on (0131) 348 6146.

## Deadline for responses

All responses should be received no later than 16 January 2023. Please let me know in advance of this deadline if you anticipate difficulties meeting it. Responses received after the consultation has closed will not be included in any summary of responses that is prepared.

## How responses are handled

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received (other than “not for publication” responses) on my website [www.mauricegolden.com](http://www.mauricegolden.com).

Published responses (other than anonymous responses) will include the name of the respondent, but other personal data sent with the response (including signatures, addresses and contact details) will not be published.

Where responses include content considered to be offensive, defamatory or irrelevant, my office may contact you to agree changes to the content, or may edit the content itself and publish a redacted version.

Copies of all responses will be provided to the Scottish Parliament’s Non-Government Bills Unit (NGBU), so it can prepare a summary that I may then lodge with a final proposal (the next stage in the process of securing the right to introduce a Member’s Bill). The [Privacy Notice](#) explains more about how the Parliament will handle your response.

If I lodge a final proposal, I will be obliged to provide copies of responses (other than “not for publication” responses) to the Scottish Parliament’s Information Centre (SPICe). SPICe may make responses available to MSPs or staff on request.

## Requests for anonymity or for responses not to be published

If you wish your response to be treated as anonymous or “not for publication”, please indicate this clearly. The [Privacy Notice](#) explains how such responses will be handled.



## Other exceptions to publication

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory content. If I think your response contains such content, it may be returned to you with an invitation to provide a justification for the content or to edit or remove it. Alternatively, I may publish it with the content edited or removed, or I may disregard the response and destroy it.

## Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request anonymity or ask for it not to be published. I will not publish your signature or personal contact information. The [Privacy Notice](#) sets out in more detail what this means.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person's consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response. Further information about data protection can be found at: [www.ico.gov.uk](http://www.ico.gov.uk).

## Freedom of Information (Scotland) Act 2002

As indicated above, NGBU may have access to information included in, or provided with, your response that I would not normally publish (such as confidential content, or your contact details). Any such information held by the Parliament is subject to the requirements of the FOISA. So, if the information is requested by third parties the Scottish Parliament must consider the request and may have to provide the information unless the information falls within one of the exemptions set out in the Act. I cannot therefore guarantee that any such information you send me will not be made public should it be requested under FOISA.

Further information about Freedom of Information can be found at:

[www.itspublicknowledge.info](http://www.itspublicknowledge.info).