

CROSS PARTY GROUP IN THE SCOTTISH PARLIAMENT ON ANIMAL WELFARE
52nd meeting
Tuesday 2 October 2012
Committee Room 2, Scottish Parliament

MSPs: Christine Grahame MSP (Convener)
Claudia Beamish MSP
Alison Johnstone MSP

Associate Members and Visitors:

Claire Oldfather, OneKind
Edna Elliot-McColl
Madeline Warren, Scotland for Animals
Jacky Thow, Scotland for Animals
John Patrick, Scotland for Animals
Mauvis Gore, Marine Conservation International
Patricia Neeson
John Robins, Animal Concern Advice Line
Fiona Andrew, British Veterinary Nursing Association
Esther Threlfall, Cats Protection
Denis Hearsum, Perth & Kinross Council
David Woolfries, COSLA Animal Health and Welfare
Jamie Stewart, Scottish Countryside Alliance
Phil Thomas, Scottish Salmon Producers' Organisation
Mike Flynn, Scottish SPCA
Andrew Voas, Scottish Government
Adam Reed, University of St Andrews
Helene Mauchlen, British Horse Society Scotland
Wendy Seaton, Ethical Voice for Animals
Fiona Hall, Ethical Voice for Animals
John Burns, World Horse Welfare
Charlie Everitt, NWCU
Laura Vallance, Dogs Trust
Margaret Donnellan, Dogs Trust
Chris Draper, Born Free Foundation
Andy McGowan, Quality Meat Scotland

Apologies: Elaine Murray MSP
John Scott MSP
Bill Reilly, BVA
Brian Robinson, Association of British Riding Schools
Fraser Henderson, Glo-Wild
Victoria Brown, Kennel Club
Nicolle Hamilton, British Association for Shooting and Conservation
Colin Shedden, British Association for Shooting and Conservation
Natalie Waran, Jeanne Marchig Centre for Animal Welfare Education
Ross Allan, British Veterinary Association
Ross Montague
Nigel Miller, National Farmers' Union Scotland
Sarah Anderson, National Farmers' Union Scotland

Keith Meldrum, World Horse Welfare
Jean Fairlie, Scottish Weimaraner Rescue
Brian Hosie, Scottish Agricultural College, BVA
Patricia Saluja
Ailsa Anderson, Scottish Land and Estates
David Craig, World Horse Welfare
Morton Houston, COSLA Animal Health and Welfare
Jack Johnstone, Dogs Trust

1. Welcome and introductions

The Convener welcomed all present and gave notice of a number of new associate members. Members were reminded that subscriptions had fallen due in January and most were outstanding: the Secretary would be pleased to receive cash or cheques either in person or by post.

2. Minutes of previous meeting

These were agreed.

3. Matters arising

The Convener had written to the Cabinet Secretary in July to raise the issues surrounding implementation and enforcement of the Animal Health and Welfare (Scotland) Act 2006 and out of hours veterinary cover, discussed at the last meeting. The letter was acknowledged on 4 September but a substantive response was still awaited. The Convener would write again shortly.

John Scott MSP had forwarded correspondence about the problem of guide dogs being attacked by other dogs. Guide Dogs Scotland says that the number of reported attacks has risen from three to eight per month. The group agreed to look again at dog control issues at a future meeting.

CCTV sub-group

The CCTV sub-group had met in the afternoon to consider the survey asking slaughterhouses whether they had CCTV installed and how it was used. As only 13 responses had been received, it would be reissued.

4. AGM

The Group's Annual Report was approved and would be submitted to the Standards, Procedures and Public Appointments Committee.

The following office-bearers were elected:

Convener:	Christine Grahame MSP
Joint Vice-Conveners:	Claudia Beamish MSP Alison Johnstone MSP
Secretary:	Libby Anderson, OneKind

The Convener recorded the Group's thanks to Elaine Murray who was stepping down as Vice Convener after five years.

5. Wild animals in travelling circuses in Scotland

Presentation by Chris Draper, Born Free Foundation

Chris Draper (CD) said he had been working on the issue of wild animals in travelling circuses for over eight years and he believed it was important for Scotland to learn from the experience down south. The focus was on wild animals because there was currently little political will to cover horses

and dogs. The upsetting story of Anne the elephant, beaten in winter quarters at Bobby Roberts' Super Circus, had led to a prosecution for cruelty, but prosecution was not the solution. Born Free believed in an outright ban on the use of wild animals in circuses, not only because of examples of cruelty, but also because the duty of care to animals could not be met in travelling circuses. Frequent, continual transport, with vehicles used as accommodation, could not meet the needs of wild animals. Anne had been in very poor condition when she was re-homed to Longleat, but was now showing signs of physical and mental improvement.

A ban was necessary in Scotland, even though there were no resident circuses with wild animals, and indeed the numbers of wild animals being used in the UK were lower than ever. There were two options: either to wait for circuses with animals to die out or to deal with them once and for all. The former approach was risky as it would not prevent a new circus starting up or an existing circus acquiring new animal acts.

The use of wild animals in circuses had become a figurehead issue and a ban was supported by 80% of the public. MPs in a Westminster debate had voted unanimously for a ban in England. A previous consultation by DEFRA had evoked 94.5% support for a ban in England. As this was not yet proceeding, Scotland had a chance to get ahead of England.

A ban had been called for in England when the Animal Welfare Bill was launched in 2005. A Circus Working Group of NGOs and industry representatives had been established under the chairmanship of Mike Radford. Each side had nominated three members to a scientific panel. The whole enterprise had been doomed to failure due to the structure and terms of reference. The scientific panel, having disregarded scientific evidence of suffering in analogous areas, considered that there was no scientific evidence of poor welfare in circuses. The chairman therefore concluded that a ban on welfare grounds would be open to a legal challenge.

An early claim by the UK Government that the European Circus Association had lodged a challenge under the EU Services Directive had turned out to be self-fulfilling, but the challenge had not been upheld. In terms of human rights, the UK Government had stated in an Impact Assessment that there were no human rights issues. The UK approach was predicated on fear of a challenge under EU legislation, although a ban in Austria had withstood legal challenge, and Greece had recently introduced a ban.

The UK Government had confirmed its intention of bringing in a ban on ethical grounds rather than under the Animal Welfare Act. While preparing for the ban it was bringing in regulations that would commence at the start of the 2013 touring season. Draft regulations would shortly go before the UK parliament and were likely to be agreed¹. There was concern about the definition of "travelling circus" which could include any place where a wild animal associated with a circus was kept, such as a veterinary surgery, a friend's accommodation or a film set. The provision for removing licences raised the issue of where animals would be taken thereafter.

It was not the case that there was no evidence of what wild animals needed when kept in captivity. However the UK Government would only admit empirical peer-reviewed research specifically on wild animals in circuses. Repeated delays had allowed wild animals to go on being used in circuses.

Turning to the options for Scotland, these included: do nothing; make a mess of things as England had done; introduce a ban on animal grounds, or an ethical ban, which was not as clean but could work. Animal health might also be the basis for a ban.

¹ The licensing regulations for England were passed at Westminster on 30 October 2012

6. Discussion

John Robins (JR) recalled that the case of *Cottle*² had established that local authorities could not refuse an entertainment licence to a circus with wild animals, on ethical grounds. LA added that she believed this might no longer apply since the court had stated that the council could base policy on legislation, and circuses might well contravene the Animal Health and Welfare (Scotland) Act. However, no council had wished to take this on so far.

Denis Hearsom said that as landlords, Perth and Kinross Council did not allow circuses with wild animals on council land.

CG asked how many animals were involved. CD replied that there were very few – 37 at the last count and none in Scotland.

Mauvis Gore (MG) asked about the scientific evidence. CD replied that there had been a handful of studies where animal welfare standards were applied. The Working Group problem had arisen because of the directions from the officials who designed the process, and the mix of scientists on the scientific panel.

CG commented on the cultural changes that had taken place, with people no longer viewing elephants as suitable to be used in entertainment. She was surprised at the delay in legislation when it seemed to be favoured by so many.

John Patrick (JP) said Scotland for Animals (SfA) had been demonstrating at circuses for years. People were often surprised to find that animals were still used, and felt badly about going to the circus as a result.

LA said that a consultation was expected for Scotland in the autumn and she would enquire as to whether the proposals would include a ban on ethical grounds.

CD said the delay in England was particularly disappointing as the public and politicians were united on the issue.

CG asked for more information about Anne. CD said that he had been involved in her move to retirement at Longleat. The options for re-homing her had been limited due to her poor condition – there were two very good sanctuaries in the United States but she was old and arthritic and not fit to travel so far. She had improved with pain relief, which he understood she should have been receiving previously. Born Free did not support zoos but accepted that Longleat provided a place of safety for Anne. Her improved condition could be seen in the state of her skin, although her gait was never likely to improve.

The problems of circuses were not confined to the ring: he had seen people burst into tears when they viewed where the animals were kept.

JR recalled seeing a travelling show with husky-type dogs in Perth, kept in boxes in a van, which was appalling. CD agreed that something should be done for dogs as well but at present he was focusing on those animals where there was a hope of achieving a ban. CG agreed with the incremental approach and cautioned against unintended consequences, such as inadvertently banning dog shows.

² *Gerry Cottle's Circus Ltd. v City of Edinburgh District Council* 1990 S.L.T. 235

Andrew Voas (AV) said that government had to base legislation on evidence, so that it could stand up to legal challenge. CD agreed but said any legislation could theoretically be open to challenge.

John Burns (JB) asked whether the recent ban in Greece had been based on animal welfare grounds or ethical grounds. CD was unsure but thought that different domestic legislation and structures might allow different basis for a ban. CG said that challenges under EU law should not be a problem, but should just be taken on.

6. Council regulation No 1099/2009 on the protection of animals at the time of killing

CG introduced this item, saying around 58 million animals were killed each year in slaughterhouses, at knackers' yards or on farms in Scotland. Following the passage of EU Regulation 1099/2009, the current Welfare of Animals at Slaughter and Killing (WASK) Order would be replaced with new regulations on the Welfare of Animals at Time of Killing (WATOK).

CG asked Andrew Voas (AV) to give a brief update on the progress of the implementing measures.

AV said that the consultation would end on 26 October. The Regulation was due to come into force in all member states on 1 January 2013. The Scottish Government needed to introduce stopgap legislation to meet the implementation deadline and retain existing national rules, as set down in WASK. Subsequently the Scottish Government would review the consultation responses more fully and consider the need for any new or stricter rules. Some of the existing domestic rules went beyond those proposed by the Regulation and it was intended to retain these where possible. Rules could be made tighter or relaxed.

JP said he was very concerned about the amount of legislation that was going to be lost. In the area of religious slaughter, the consultation talked of legalising inversion, a very traumatic process for the animal. It had only now been admitted that stunning to immobilise had been used in Scotland for years. There were consultation questions about watering down the Regulation. The current derogation for slaughter without stunning was only for food for the consumption of Muslims and Jews – an issue that SfA had been campaigning for years. The Scottish Government now said it would not do anything about this but would turn a blind eye to the market being flooded with meat from non-stun slaughter. JP alleged that AV was saying that he would bring in stricter regulations while his department was systematically eroding protection for animals. JP also alleged that AV had also said non-stun could not be banned because of human rights legislation – JP wanted to know what the human rights issues were. Civil servants were arguing against a ban on non-stun slaughter. AV responded that the meeting was not an appropriate time to answer this.

JR said that at stakeholder meetings held by the Scottish Government, all those on the animal welfare side had been in favour of a ban on sentient slaughter, and had had to fight to get the issue into the consultation at all. There could be a ban as part of the implementation of the Regulation and to leave this out was pre-empting democracy.

CG said no-one wanted bad legislation and these were points to be made in consultation responses. The implementing legislation would go before the Rural Affairs, Climate Change and Environment (RACCE) Committee. SfA could write also to the Convener and members of the Committee. She would write to the Cabinet Secretary to ascertain the timetable for legislation and whether it was under the affirmative or negative procedure³.

Wendy Seaton (WS) said that children in Scottish schools were eating meat from non-stun slaughter, imported from south of the border. JP noted that several schools in Glasgow served only halal meat.

³ See Annex 1

7. Any other business

It was agreed that the next meeting would discuss internet vending of pets. The subject of status dogs was also proposed – MF said the Scottish SPCA had had three prosecutions in 2012.

CG suggested the Group should issue a message about responsible ownership of pets and advising that they should not be acquired for Christmas.

8. Next meeting

4 December 2012

ANNEX 1

Additional information received from Animal Health and Welfare Division on implementation of EU Regulation 1099/2009

Following discussion of the above Regulation at the Cross Party Group on Animal Welfare on 2 October 2012, it was agreed to seek further information about the process and specific aspects of the Scottish Government's approach to implementation. These responses have been supplied by the Animal Health and Welfare Division in response to a number of questions identified during the discussion.

Legislative procedure:

The legislation to be laid before the Parliament in November 2012 will be considered under the negative process.

Timetable:

The Scottish Government intends to have stop-gap legislation in effect by 1 January 2013 enforcing 1099/2009 and maintaining all existing national rules under WASK considered to go beyond 1099/2009. Once it has had sufficient time properly to analyse the consultation responses (currently still being collated), and to gather any additional evidence required, it will consider the merits of dropping any existing national rules and/or adding any new national rules as highlighted in the consultation responses. It is intended to lay an amendment making any required alteration to national rules in 2013.

Inversion of bovines:

As stated in the consultation, the starting assumption is that the Scottish Government will maintain existing national rules, including the existing ban on inversion. However, a suggestion was put forward by religious communities that inversion to 90 degrees should be considered. Accordingly, this was put into the consultation to allow others to express their views and to help gather evidence on the likely impact such a change would have on bovine welfare. The Scottish Government will not be forming a view on this until the consultation responses have been properly analysed and any required additional evidence gathered.

Targeting of supply of meat from animals slaughtered without pre-stunning to that by the Jewish method for the food of Jews and by the Muslim method for the food of Muslims:

The requirement will be kept as of 1 January 2013. What happens in the long-term will be dependent on the outcome of the consultation, in which the Scottish Government specifically asks for suggestions on practical methods of enforcing the requirements.

Potential legal challenges under human rights legislation to a ban on slaughter without pre-stunning in Scotland:

There is no official Scottish Government view on this as yet.

Potential reduction of legal stunning parameters:

The Scottish Government has no view on this at present, and as a potential new national rule it will be considered for amendment in 2013, post consultation analysis/evidence gathering. The question on stunning parameters with respect to religious slaughter was put in due to concerns raised that

some of the new electrical stunning requirements brought in by 1099/2009 might result in animals being killed outright rather than simply rendered unconscious. This would potentially make it impossible for those stunning in accordance with Halal methods to continue stunning, potentially resulting in a reduction in welfare standards in Scotland as currently all animals slaughtered by the Halal method are stunned first. If this is indeed the case, the Scottish Government has the option to put in place alternative requirements for religious slaughter that ensure recoverable stunning without killing the animals outright. They would, however, need to be satisfied that any alternative requirements effectively protected the welfare of the animals concerned.