26 October 2015

Dear Rob

Thank you for your letter of 24 June seeking an update on the Scottish Government’s position on the potential for introducing an exemption to the ban on tail docking for working dogs in Scotland. Given the nature of the issue, I thought it would be helpful to set out the background to the issue and summarise the current position.

Background

As you may know, the process of tail docking involves the removal of part of a puppy’s tail without anaesthetic. Only registered vets are permitted to undertake this procedure, and carry it out when the puppy is between two and five days old. After much public debate, tail docking of all dogs was banned in Scotland in 2007 by the previous administration. At the time, the then Scottish Government stated that if in the future the ban compromised the overall welfare of working dogs then it would review the position.

Since then, field sports interests in Scotland have continued to campaign for exemptions from the ban for dogs used for shooting or pest control - they argue that the process of tail docking is less traumatic than having the tail injured and potentially amputated in later life. It is estimated that there are around 60,000 working dogs in Scotland and around 1% of these are taken to veterinary surgeons for treatment of tail injuries each year.

Position elsewhere in the UK

Tail docking is also banned elsewhere in the UK although there are exemptions for “working” dogs of certain breeds, including spaniels, Hunt Point Retrievers and terriers – these exemptions applied when the general ban came into effect in 2007 in England and Wales, and in 2013 in Northern Ireland. Many thousands of dogs have been legally docked since this legislation was introduced and there now appears to be a general acceptance of the position across a range of stakeholders.
To reduce the potential risk of dogs being docked for cosmetic reasons, the other administrations prohibit the showing of docked dogs (even if a dog was docked for medical purposes) at dog shows where the public pay an admission fee. This was the most controversial of the docking measures as many owners considered that it was discriminatory, but the other administrations considered it an important safeguard.

The requirement that a vet be shown evidence that a puppy is intended for working purposes and sign a certificate to that effect has also provoked debate amongst the veterinary profession as it is claimed that a veterinary practitioner is unlikely to be able to say with any certainty what the actual use of a three day old puppy will be. However, again, the administrations considered this another important safeguard.

**Research**

In light of the ongoing representations, the Scottish Government co-funded research by the University of Bristol and the Royal Veterinary College in 2009 on tail injuries in working dogs, but this did not provide sufficient information to justify a change in policy. In 2011, the Government commissioned further research by the University of Glasgow into Scottish working dogs, specifically spaniels, Hunt Point Retrievers and terriers, and the papers were published last year.

One study looked at records of working breed tail injuries from veterinary practices in Scotland and showed that around 1% of dogs of all working breeds (including terriers and not necessarily actual working dogs) taken to a veterinary surgery were treated for a tail injury.

To prevent one tail injury that resulted in veterinary treatment to any pointer/setter, spaniel or Hunt Point Retriever, between 81 and 135 puppies would hypothetically need to be docked. To prevent one such injury to any working dog of any breed (including terriers), 230 puppies would hypothetically need to be docked.

The other study was an internet survey of over 1000 owners of working dogs and found that:

- In one shooting season 57% of undocked spaniels and 39% of Hunt Point Retrievers experienced a tail injury of some sort.

- Docking the tails of spaniel and Hunt Point Retriever puppies by one third could significantly decrease the risk of injury for working dogs of these breeds.

- There was no apparent protective effect in removing more than one third of the tail or in docking the tails of terriers.

- In order to prevent one tail injury of any sort to a working dog of these breeds between 2 and 18 puppies need to be docked (depending on the numbers of puppies from a litter that went on to be used as working dogs.)

**Stakeholder views**

Naturally, this is an issue which divides opinion and a summary of the views of the key stakeholder groups are as follows:
Field sports stakeholders including the British Association for Shooting and Conservation (BASC), Scottish Gamekeepers’ Association (SGA), Scottish Association for Country Sports (SACS) and Scottish Countryside Alliance (SCA) remain of the opinion that tail docking of puppies is less traumatic than having the tail injured and potentially amputated in later life. They would like the legislation changed to allow for puppies of the spaniel and Hunt Point Retriever breeds, that are intended to be used for working, to be exempt from the ban.

Breeders organisations (The Kennel Club and the Scottish Kennel Club) would support a change in legislation to allow the docking of working Spaniels and Hunt Point Retriever dog breeds. The Kennel Club believes that the recent research papers prove beyond reasonable doubt that undocked dogs involved in working are at significantly greater risk of tail injury.

Animal welfare groups such as the League Against Cruel Sports, One-Kind, Dogs Trust and BVA Animal Welfare Foundation believe there should not be exemption to the tail docking ban for working dogs. Although some concerns were raised about the validity of the research, their fundamental position remains that it is not ethically acceptable to inflict pain on puppies and alter their natural conformation by docking, regardless of the possibility of future injury.

The British Veterinary Association (BVA) and the British Small Animal Veterinary Association (BSAVA) believe the Glasgow research does not present any reason to change current legislation. They suggest the response rate in the internet survey of owners was low and the second study suffered from a small number of participating veterinary practices. They are also of the opinion that exemptions to the ban in England, Wales and Northern Ireland are hard to enforce and, as a result, some dogs are being docked for purely cosmetic reasons. These views are not shared by all BVA members and there remain a number of practising vets who support docking for working dogs of certain breeds.

The Scottish Society for the Prevention of Cruelty to Animals (SSPCA) are not completely opposed to an exemption on docking some working breeds but would like more research to be carried out. The SSPCA feels the Glasgow research was inconclusive and that the evidence is not solid enough to justify a complete rethink of the current legislation. However, they remain open minded to the idea.

Overall there was little change in the established positions of the interested organisations. Those organisations and individuals previously in favour of allowing tail docking of working dogs feel the research provides the evidence needed for a change in the legislation. Those previously in favour of a complete ban remain opposed to an exemption and do not consider the research results conclusive enough to justify a ban.

Effectiveness of limitation to working dogs

Following the publication of the Glasgow University research, I asked the Chief Veterinary Officer for Scotland to seek further views from stakeholders on how the exemptions have worked in practice in other parts of the UK, and if any exemption could be genuinely restricted to working dogs in Scotland.

The legislation currently in place in England, Wales and Northern Ireland requires vets to see evidence that puppies are intended for use as working dogs, including a certificate from the owner and other supporting evidence such as a firearms certificate. Puppies must also be identified by microchip when they are old enough for a microchip to be implanted (usually after they are 8 weeks old). Stakeholders generally considered these processes adequate and offered no stronger alternatives.
All stakeholders acknowledged that it is simply not possible to accurately predict which puppies from a litter intended for use as working dogs will actually go on to become working dogs. Some will inevitably be found to be unsuitable during training or be kept simply as pets by their new owners. Hence, there always remains a risk that the arrangements in place elsewhere in the UK permit the docking of a proportion of non-working dogs.

There were different views on whether there is still an incentive for breeders of puppies that are unlikely to be used for working to have them docked. The stakeholders in favour of docking noted that relatively few veterinary surgeons are now willing to dock and that there are restrictions on entering docked dogs for shows. They suggested that it is therefore unlikely that breeders would seek to have puppies docked purely for cosmetic reasons. However, those opposed to docking provided copies of advertisements which appeared to show that the rules in other administrations are being abused and that docking of working breeds for cosmetic purposes alone rather than for protection during work still persists.

Moving forward

Clearly the evidence and arguments continue to be finely balanced. However, the case has been made to us that it could be possible to introduce a very tightly defined exemption regime to allow vets in Scotland to exercise their professional judgement and dock Spaniel and Hunt Point Retriever pups only, if they believe on the evidence presented to them that they are likely to be used for working in future and that the pain of docking is outweighed by the possible avoidance of more serious injuries later in life.

Therefore on the basis of the arguments presented, and provided effective safeguards could be designed, the Scottish Government would be willing to formally consult to ascertain whether this proposed course of action – a tightly defined exemption regime - would be supported or whether the current position of an outright ban should be maintained.

I would, however, be interested in the Committee’s views on this issue to help inform our consideration on whether to formally consult in order to ascertain views on the case that’s been made to us on introducing a tightly defined exemption regime.

Yours sincerely

RICHARD LOCHHEAD