

RURAL ECONOMY AND CONNECTIVITY COMMITTEE

CALL FOR EVIDENCE ON THE DOGS (PROTECTION OF LIVESTOCK) (AMENDMENT) (SCOTLAND) BILL

SUBMISSION FROM BATTERSEA DOGS & CATS HOME

About Battersea Dogs & Cats Home

Established in 1860 to care for abandoned animals, Battersea Dogs & Cats Home aims to never turn away a dog or cat in need of help. We reunite lost dogs and cats with their owners; when we can't do this, we tend to their medical needs and care for them until new owners can be found. We accept any breed of dog or cat, at any age, including those with serious medical and behavioural problems. Our expert team of dog and cat care professionals and veterinary staff give the animals in our care the best possible chance of a fresh start in a happy new home in the UK, or even further afield. There is no time limit on how long an animal can stay with us until the perfect new owners are found.

Battersea's non-selective intake policy means that we often see dogs and cats come to us that have been through the worst kind of cruelty and mistreatment. We see animals that have been abandoned, brought into this country illegally, denied essential medical treatment, physically abused, starved, overused for breeding and even used in dog fighting.

Key statistics

- In 2019, we helped over 5,000 dogs and cats at our centres including 3,213 dogs and 2,476 cats.
- Battersea received 566 animals from other rescues last year, equivalent to 10% of total intake.
- We have an average of 247 dogs and 120 cats at any one time on site or foster.
- On average 8 dogs and 6 cats arrive at our three centres every day.
- In 2019 we reunited 528 animals with their owners.
- Our average stay is 34 days for dogs and 25 days for cats.
- Through the Battersea Academy we provide training and grants to Scottish rescues. Recipients include Edinburgh Dogs & Cat Home and Help a Hound in Stirling

Executive summary

- Battersea welcomes the provisions of the Bill which, once passed, will aid by acting as a deterrent to owners allowing their dogs to worry livestock. This will hopefully provide much-needed reassurance to farmers that their livelihood is to be protected.
- The Bill should be expanded to allow enforcers to use Fixed Penalty Notices as an enforcement tool in cases of lesser severity.

- Careful consideration should be given to how the Courts prosecute livestock worrying, and penalties are proportionate to the specific incident.
- The provision to seize a dog must only be used in the most severe instances and these cases should be brought before a Court at the earliest opportunity.

1. What is your experience of livestock worrying? What is the scale of the issue?

As a dog and cat welfare organisation, Battersea does not directly experience of the effects of livestock worrying as we do not provide care for agricultural animals. However, livestock worrying is an important issue both in terms of animal welfare and economically; which must be tackled. Battersea has worked extensively to provide the public with information to keep dogs entertained, therefore stopping their dog from their straying from their garden and worrying livestock; as well as helping owners to ensure their dog does not worry livestock when walking in rural areas. We have a significant reach for these messages, with 210,500 followers on Twitter and 704,135 on Facebook, and regularly use these channels to promote good quality dog ownership.

Dog owners who either live rurally, or are simply visiting the countryside for a walk, have a responsibility to keep their pets under control at all times, including being properly secured in domestic environments with appropriate enrichment to restrict boredom and thereby restricting the temptation for dogs to stray; while walkers should always respect the warnings and signs landowners and farmers place on their land. All dogs should be kept on a close lead when walking anywhere near livestock.

Livestock worrying is clearly an issue of concern to rural communities in Scotland, however, the full scale of the issue is not clear. From the policy memorandum for the Bill it is qualitatively estimated that the cost to the Scottish rural community is £4.4 million a year^{1,2}. This differs significantly to data from NFU Mutual, which shows in 2018 livestock worrying cost the UK farming industry as a whole was £1.2 million³. They have subsequently stated that there was a slight rise in 2019 but have not provided figures. NFU Mutual have also shown that the total rural crime cost for Scotland in 2019 £2.3 million. Clearly there is potential for more research to improve the understanding of the true scale of the issue in Scotland; however its impact as an issue at the level of the individual farmer is significant, as their livestock is their livelihood. They are entitled to expect the protection of the law, both the criminal law and the capacity to receive compensation through the civil courts.

2. Does legislation need strengthening in this area? If so – does the Bill do this? Is the Bill the best way to do this?

¹ <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/dogs-protection-of-livestock-amendment-scotland-bill/introduced/policy-memorandum-dogs-protection-of-livestock-amendment-scotland-bill.pdf>

² <https://www.gov.scot/publications/sheep-attacks-harassment-research/>

³ <https://www.nfumutual.co.uk/farming/ruralcrime/>

There is a need to strengthen legislation to prevent livestock worrying, to punish offenders and to prevent repetition. The Bill to an extent enables this, mainly through delivering larger deterrents to dog owners. These measures, if communicated to owners will aid in incentivising the stopping their pet from worrying livestock and enabling enforcers enhanced powers to pursue offenders. However, care must be taken to ensure that enforcement is proportionate.

Police forces have traditionally found it difficult to prove guilt in livestock worrying cases – evidence gathering is difficult, and offences tend to take place when there are no people around. Of course, the nature of an offence against animals means that survivors are not able to give evidence. This means that the criminal burden of proof is difficult to clear and even in civil cases unless there is an injury sustained to the attacking animal there is little opportunity for the livestock owner or Police to track which animal committed the worrying.

Prosecution should not be the only mechanism enforcers have to deal with instances of livestock worrying, for example the Bill should be expanded to allow for the use of Fixed Penalty Notices (FPNs) as an enforcement tool in cases of lesser severity.

In the current draft of the Bill under Section 3 that amends the Dogs Act 1906⁴, it provides for a presumption for a dog to be sold after 7 days if not claimed (rather than destroyed) provided the dog is not dangerous or it is otherwise impractical. Whilst Battersea welcomes this proposal, this should be amended to a presumption that such a dog shall be 'sold or given away', to enable dogs the greatest chance of an appropriate new home; as rescues are typically the most qualified organisation to both carry out necessary behavioural work and find dogs the right new home in these situations.

3. What are your views on the increased penalties the Bill creates for livestock worrying?

Battersea agrees in principle that the increased penalties of a greater maximum fine available and having provision for a prison sentence, proposed by the Bill may aid in reducing instances of livestock worrying where the owners or a person who is in charge of the dog is present. Although, as previously stated, the penalties utilised need to be carefully considered on a case by case basis to ensure that the penalty is proportional to the instance of livestock worrying that took place. For example, prison sentences should be reserved for the worst offences or repeat offenders, and fines should be proportionate to the damage caused by the act of Livestock worrying, within the enhanced power for fines up to level 5 on the standard scale.

It is unclear how the Bill would reduce instances of livestock worrying when the owner or a person who is in charge is not present. Westminster's All Party Parliamentary Group for Animal Welfare produced a report in 2017 on livestock worrying, which found that 66% of incidents occurred where the dog had escaped from the house or garden of a neighbouring property and unattended by an owner⁵. This evidence, which was drawn from police investigations, clearly shows that whilst

⁴ <https://www.legislation.gov.uk/ukpga/Edw7/6/32>

⁵ <https://csjk9blog.files.wordpress.com/2017/11/apgaw-livestock-worrying-report-2017-1.pdf>

the majority of livestock worrying spotlight is focused on people from outside the rural area walking their dogs, the majority of cases in fact occur when the dog strays.

Therefore, clarification would be welcome on how increasing sentencing provisions and enabling police to seize dogs for evidence gathering will directly lead to more convictions, and a reduction in incidences, without a proactive education campaign to dog owners in rural communities.

There is a clear barrier to prosecuting livestock worrying, due to insufficient evidence. This is clear from the consultation document when the Bill was a Proposed Members Bill, which states that in 2016/17 there were 175 reported offences⁶. During the same period, there were only 21 prosecutions (which led to 19 convictions) for livestock worrying⁷. Battersea welcomes the measures in the Bill to assist enforcers to obtain sufficient evidence to issue proceedings.

4. Would the proposals to disqualify convicted persons from owning or keeping a dog or taking a dog onto certain types of land, assist in the aim of reducing the number of livestock worrying instances?

Battersea is supportive of allowing the Courts the power to ban offenders convicted of livestock worrying from owning a dog. However, this provision should only be used in the most extreme circumstances, in repeated incidents and not on the first offence.

There would be some concern over how this were presented to the public, and it would need to be very carefully managed to avoid concern among rural dog owners in particular; and fear that they could be banned from owning a dog simply for their dog escaping from their garden. It is an extreme sanction, and one that it should be made very clear would only be considered in extreme circumstances.

Battersea agrees in principle that a ban on taking a dog on certain types of land would aid to prevent future repetition. However, this should be a rarely used provision, clear guidance should be given, and the owners' circumstances must be taken into account. For example, if the owner's only option is to exercise the dog in this location then the courts should be mindful of the Animal Health and Welfare (Scotland) Act 2006⁸. In these cases, Battersea suggest courts are able to require owners to obtain training for the dog, instead of banning them from the location.

Perhaps this concept of conditions could be expanded further by allowing a Court on conviction to impose such measures as they reasonably think fit to prevent repetition (such as muzzling or leashing requirements, a direction to ensure that the dog cannot escape by securing boundaries or a requirement to undertake training classes).

⁶ https://www.parliament.scot/S5MembersBills/20190219_FINAL_Draft_Consultation_Document.pdf

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<https://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-16107&ResultsPerPage=10>

⁸ <https://www.legislation.gov.uk/asp/2006/11/contents>

These latter points would also help to restrict animals from livestock worrying after getting out of their own accord from their own homes and gardens – as any measure only targeted at dogs out on walks in rural areas will not truly tackle the problem of worrying, given that most incidences are carried out by animals straying from their own homes.

5. What is your opinion on extending the types of livestock and type of agricultural land covered by livestock worrying, as described by the Bill?

Battersea does not take a view on this question, as a dog and cat welfare organisation.

6. What are your views on the powers allowing Scottish Ministers to appoint inspectors, other than police, to investigate and enforce livestock worrying offences?

Battersea does not take a view on this question.

7. Do you have any comments on the expanded powers for police and inspectors to seize dogs, to enter premises and to take a dog to the vet?

This provision means that there is power to seize and detain a dog. This should only be done in the most severe instances and that such cases should be brought before a Court at the earliest opportunity. The Bill is correctly drafted to prevent this power being extended to domestic premises. Any seizure of a dog should be done so by enforcers who are trained to ensure the animal's welfare is not compromised, it is not caused undue stress and can be transported in an appropriate vehicle.

However, it is difficult to assess this proposal fully as little evidence is given of when it might be most frequently used.

8. Does the Bill adequately balance the rights of dog owners and the rights of livestock farmers?

Dog owners should be allowed to leave their dogs safely in gardens, and exercise their dogs in rural areas but they need to do so responsibly. Similarly, farmers are entitled to expect that their livelihood is protected in law. Where there are incidents of livestock worrying enforcers need to have the powers available to effectively investigate. As previously stated, any subsequent guidance needs to ensure that action taken by enforcers and penalties imposed by the courts are proportionate to the specific incident.

The Bill largely provides a balance between the rights of dog owners and livestock farmers. However, Battersea suggest clarification on instances of detention of dogs and bans on owners. Whilst useful tools for enforcement, Battersea is concerned that these could provide unnecessary worry for law-abiding dog owners as they are significant sanctions and little guidance is given on in what circumstances they may be expected to be used. These should be rare and only apply when there is very real concern about the likelihood of repetition. Animals are not conventional evidence in

the commission of a crime – dogs are living, sentient creatures with genuine emotional responses. As such their welfare must be protected through the process of seizure.

9. Is there anything else that should be included or excluded from the Bill?

In addition to changes in legislation, Battersea would suggest a clear and coherent package of messaging to dog owners. This messaging could be shared by the police, Scottish SPCA, the Government, the animal welfare sector and the Scottish Partnership Against Rural Crime. This should complement the Scottish Outdoor Access Code and cover both how to act when walking around livestock but also how to ensure their dog does not stray from their home.

The way in which livestock incidents are reported and represented statistically should also be standardised across Scotland and the rest of the United Kingdom. This will enable resources to be targeted on problem areas, helping prevent instances of livestock worrying before they take place. The Scottish Government could also utilise and adapt projects in other devolved administrations. For example, in Wales the Welsh Government are working with the Animal Welfare Network Wales to produce standardised fence post signs that all farmers can use to warn the public of livestock. This is particularly pertinent as out of date, inaccurate signage is likely to be ignored, which could have potentially devastating consequences.