



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 16 September 2020**

**Session 5**



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**RURAL ECONOMY AND CONNECTIVITY COMMITTEE**  
**22<sup>nd</sup> Meeting 2020, Session 5**

**CONVENER**

\*Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

**COMMITTEE MEMBERS**

\*Peter Chapman (North East Scotland) (Con)

\*John Finnie (Highlands and Islands) (Green)

\*Emma Harper (South Scotland) (SNP)

\*Richard Lyle (Uddingston and Bellshill) (SNP)

\*Angus MacDonald (Falkirk East) (SNP)

\*Oliver Mundell (Dumfriesshire) (Con)

\*Mike Rumbles (North East Scotland) (LD)

\*Colin Smyth (South Scotland) (Lab)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Paula Boyden (Dogs Trust)

Inspector Alan Dron (Police Scotland)

Mike Flynn (Scottish SPCA)

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP) (Committee Substitute)

Graham Hatton (Argyll and Bute Council)

Steve Jenkinson (Kennel Club)

Bridget Jones (NatureScot)

Fiona Lovatt (Flock Health Ltd)

Kirsteen Mackenzie (Perth and Kinross Council)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Rural Economy and Connectivity Committee

Wednesday 16 September 2020

*[The Convener opened the meeting at 09:00]*

### Dogs (Protection of Livestock) (Amendment) (Scotland) Bill: Stage 1

**The Convener (Edward Mountain):** Good morning and welcome to the 22nd meeting in 2020 of the Rural Economy and Connectivity Committee. The meeting will be conducted in hybrid format, with two committee members—Richard Lyle and John Finnie—and our witnesses participating remotely.

Emma Harper, who is the member in charge of the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill, cannot participate as a committee member during scrutiny of her bill. However, she is joining us remotely today.

Agenda item 1 is stage 1 of the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill, on which we will take evidence from two panels of witnesses. We have a lot of questions to get through and a considerable number of witnesses, so I ask everyone to keep their questions and answers as short and focused as possible.

Before we go any further, I invite committee members to declare any relevant interests, because this is the first evidence session on the bill.

**Peter Chapman (North East Scotland) (Con):** I am a member of a farming partnership in Aberdeenshire.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I am part-owner of a registered agricultural holding on which sheep are regularly kept, and therefore have an interest in the matter of the bill.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** My interest is completely different, as I am an honorary associate member of the British Veterinary Association.

**The Convener:** I, too, am an honorary member of the British Veterinary Association, and I have an interest in an agricultural partnership in Speyside. For clarity, I say that we, the partners in the farm, have suffered from sheep worrying in the past.

I welcome the first panel, which consists of individuals from organisations that are involved in investigating and enforcing the offence of livestock worrying. Fiona Lovatt is a director of Flock Health Ltd; Inspector Alan Dron is the chair of the Scottish partnership against rural crime and national rural crime co-ordinator at Police Scotland; and Kirsteen Mackenzie is an animal welfare officer with Perth and Kinross Council.

There was to be a fourth member of the panel. Graham Hatton, who is assistant team leader of operations for mid-Argyll, Kintyre and Islay at Argyll and Bute Council might be having problems with technology. I will let you know if he manages to join us.

Witnesses should keep an eye on me, when I have called you. If I feel that you are going off on a wee tangent, I might waggle my pen at you, which means that I am looking at you to stop on that particular track and allow another witness in. You are in a great position, in joining us remotely, because I cannot actually launch the pen at you, but you will know when I get to that stage.

The first questions are from John Finnie. Good morning, John.

**John Finnie (Highlands and Islands) (Green):** Good morning, convener. Richard Lyle and I are experiencing a slight issue with the sound, in that it is very quiet. I hope that I am coming through okay.

Good morning, panel. Thank you for your written submissions, which always help the committee greatly. I would like to ask each of you what, in your professional experience, your assessment of the scale and nature of the problem is.

**The Convener:** I invite Alan Dron to kick off on that.

**Inspector Alan Dron (Police Scotland):** Good morning. Thank you for the opportunity to take part.

Through my current role in the Scottish partnership against rural crime, we in Police Scotland and all our partners see all aspects of livestock worrying. We have tried to encourage and educate, because that is key. Every year, in all parts of Scotland, including the isles, there are instances of livestock worrying. That ranges from a dog being in a field to the extreme of there being fatalities.

I can provide our figures, which are broken down into yearly figures and campaign figures. From 1 April 2018 to 31 March 2019, 321 attacks on livestock were reported to Police Scotland, of which 123 were investigated as crimes. That provides a crime to incident ratio of about 1:3. At that time, no records were kept of the breed type,

or of whether the owner was with the dog or the dog was by itself at the time of the incident.

As time has gone on, we have tried to scrutinise such incidents more closely. In the year 1 April 2019 to 31 March 2020, 265 attacks on livestock were reported to Police Scotland, of which 118 were investigated as crimes. Therefore, there was a slight improvement; that equates to a crime to incident ratio of about 1:2. Of the attacks, 116 occurred when the owner or person in charge was nearby or present, 115 occurred when there was no person present and 34 were recorded as unknowns—in other words, it was not confirmed whether there was someone in the vicinity. In about 50 per cent of incidents in that year, an owner was present, and in about 50 per cent the dog was loose by itself. The most prevalent breeds involved were huskies and Alsatis—German shepherds.

This year, from 1 April up to 31 August, 99 attacks on livestock have been reported to Police Scotland, 40 of which have been investigated as crimes, so again we are talking about a crime to incident ratio of about 1:2. Of those 99 attacks, 56 occurred when the owner or person in charge was present, 31 occurred when there was no one present and, in 12 cases, we are unsure whether someone was present. SPARC's "Your dog—your responsibility" campaign, which focuses on dogs that are allowed to roam free without their owners, has resulted in a heartening increase in the proportion of attacks being those when someone is with the dog. In other words, we are lowering the number of attacks that are committed by dogs that are loose by themselves. This year again, huskies and Alsatis again seem to have been the most prevalent breeds involved in attacks.

As for the specific campaigns—

**John Finnie:** I will stop you there, because we have a wide range of questions to get through. I was just looking for you to provide initial scoping. Following on from that comprehensive answer, there are several questions that I could ask, but I should probably not do so at this stage.

Could we hear from Ms Lovatt or Ms Mackenzie, please?

**Fiona Lovatt (Flock Health Ltd):** I am a sheep vet. Last year, I worked as a consultant with Ipsos MORI, which was commissioned by the Scottish Government to undertake a survey, to which 1,900 sheep farmers responded. The survey was done in a proper stratified manner.

Over half the farmers—51 per cent—reported that they had had a dog attack on their livestock at some stage, and 14 per cent reported that they had had a dog attack in the previous 12 months of the survey. Although it was a statistically well-stratified survey, it had large margins of error, so

confidence levels were a factor. Multiplying the figures gives a total of 7,000 dog attacks a year in Scotland, with confidence in a figure of between 4,000 and 10,000 attacks. However, we know that, for various reasons, only one third of farmers report dog attacks to the police.

**Kirsteen Mackenzie (Perth and Kinross Council):** Our local authority tends not to deal directly with sheep-worrying incidents, as that is done by the police. However, we have assisted the police, on occasion.

I work with farmers in my job as an animal welfare officer, and I agree with Fiona Lovatt that a lot of them do not report incidents of sheep worrying, particularly if there has not been a physical attack. When no one is present or the dog runs off, there is no evidence. I have general conversations with farmers in which I have heard unofficial reports of sheep worrying that happened months earlier but was not reported.

I work with dog owners. We try to educate dog owners, but it is quite alarming how many are under the impression that their dog would not chase sheep in a field.

**The Convener:** Before I go back to John Finnie for another question, I will bring in Stewart Stevenson.

**Stewart Stevenson:** I have a short question for Inspector Dron. Do you have information that tells us what proportion of the dog population the husky and Alsatian breeds represent? That question might for the next panel rather than you, but I am slightly surprised to hear about huskies, because that is not a breed that I see often, although my neighbours have one.

**Inspector Dron:** We do not have numbers for those breeds, but we have found that huskies have become more popular, particularly among certain elements of society, as a status dog. Bizarrely, that has been influenced by "Game of Thrones".

**The Convener:** Ah. Okay. We will go back to John Finnie.

**John Finnie:** I have to offer a spirited defence of the German shepherd dog, often known as the Alsatian, because it is a fine breed.

We have heard a bit about this from the panel. Much of the literature on livestock attacks and many of the responses that we have received state that there is a lack of evidence about the scale of the problem—Ms McKenzie talked about underreporting—and in some instances there is a lack of data collection. Do you believe that you have enough evidence to make an accurate assessment of how the problem should be addressed, including whether there is a need for new legislation? If there are evidence gaps, what

would help to fill them? Can Inspector Dron, in particular, comment on how we get a figure for the number of attacks and on what constitutes their being considered a crime? I know that those are wide-ranging questions, but we are trying to understand whether there is an evidence base that would support the bill.

**Inspector Dron:** Mr Finnie raised several points. We have evidence, but as Fiona Lovatt highlighted and as we know, approximately one third of incidents are reported and the majority two thirds are not. However, we have many contacts throughout Scotland and people are becoming more aware of the situation. The problem will always exist; we need first and foremost to try to prevent incidents, which the figures show occur almost daily across Scotland. Do we have sufficient evidence? Over the past couple of years, there has certainly been increased scrutiny, and it is a priority of the Scottish partnership against rural crime to look at livestock attacks and worrying.

In terms of the bill, we have tried and will continue to try education at all levels, first and foremost. Our primary drive is to prevent incidents.

09:15

There have been changes in farming in Scotland. Other breeds, such as camelids, are farmed here, and they deserve the same protection as sheep. The Dogs (Protection of Livestock) Act 1953 currently does not afford them that protection, so having that change is certainly positive.

The bill could also have a positive impact on people's perception. Including the word "attack" as part of the legislation is key, because that drives home the gravity of the situation better than the word "worrying" does.

There is definitely better communication and involvement with our partners now. As I think everyone would agree, the education aspect is tremendous: it is the way forward, and we could never do enough of it. However, for the very small incidence of serious attacks that cause detriment to livestock and landowners, there is no deterrent. We find when we talk to folk whose dogs might have been involved in incidents that a lot of them know that there is no deterrent. It is to be hoped that that significant aspect, and the more serious incidents can be addressed through the legislation. Changing people's perception might alter many owners' views on what their dogs might or might not do.

**John Finnie:** I would like clarification, convener. If I have noted correctly what Inspector Dron said, he quoted the numbers of attacks in successive

years, and went on to say that some were crimes. What determines that an attack is not a crime?

**Inspector Dron:** In contrast to the approach of the police in England and Wales, Police Scotland records every incident of livestock worrying that is reported to it. Once it has been recorded, police officers will attend. As Kirsteen Mackenzie and Fiona Lovatt have indicated, if the police arrive and find that, for example, a dog has been seen in a field, but there is not sufficient evidence to prove that an offence has occurred, that is still recorded as an incident. However, where evidence exists, a crime report will be recorded and the police will take as much evidence as possible, with a view to charging someone. They will consider whether to seek a dog control notice or, ultimately, to send the case to the procurator fiscal.

**The Convener:** Before we go any further I will bring in Fiona Lovatt.

**Fiona Lovatt:** The point about asking for evidence is really pertinent. In the responses to the committee's consultation, I was a bit alarmed to read a number of people quoting the background to the huge study that we undertook last year with the Scottish Government, in which we stated that the existing evidence did not provide an adequate basis for assessing the true scale of the problem. That was the whole reason for undertaking the study.

More than 9,000 sheep farmers were contacted for the study. I can truly say that it was carried out because, previously, we did not have evidence that there had been an increase in the number of attacks; that was simply the perception. It could have been generated by social media, or farmers might have been making the problem sound worse than it was.

The whole study was carried out by an independent body, with the purpose of collating evidence. Statistically, it was extremely robust. To avoid the potential for what is known as recall bias—where people remember the most dramatic incident rather than the most recent—the interviewers were careful to pin people down and ask them only about the most recent incident in detail. We gave respondents the opportunity to give more information, but the statistics that went into the published study covered only the most recent incidents. We can therefore be fairly sure that we have robust evidence that 14 per cent of farmers have experienced such incidents in the past year, and that 50 per cent have experienced them at some time.

The question of what the penalties should be is not within my area of expertise, but I can say that we have evidence that incidents are a problem.

**The Convener:** Thank you, Fiona. John—I am afraid that we will have to move on to the next question.

I remind witnesses that those were just the first couple of questions for one panel member, and we have 11 panel members to get through. I am sure that we all want to ask lots of questions, but if they all take 20 minutes each we could be here until Christmas.

Our next question will come from Richard Lyle.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Thank you, convener. I will try not to take 20 minutes.

Are the powers under existing dog control legislation sufficient? If not, why not?

**Inspector Dron:** I will be quick and to the point. The 1953 act is many years old—we are now in 2020—and it is a bit behind the times. Farming has changed, so extending the definition of livestock to include various animals such as camelids and ostriches is welcome, as are the words “attack” and “attacks” in the bill, because that increases the perception of severity, which is what the bill tries to achieve. Currently, deterrents—whether in the form of a fine, seizure of the dog or other measures—are not sufficient and the bill introduces deterrents that are a bit more sufficient to cover the small gap.

**Richard Lyle:** I put the same question to Kirsteen Mackenzie.

**The Convener:** I am afraid of us putting the same question to everyone, because of the ability to get through them all.

**Richard Lyle:** With the greatest respect, I know that you have a timeframe, but I would like to hear Kirsteen Mackenzie’s opinion.

**The Convener:** Before Kirsteen Mackenzie answers that, Richard, I note that my difficulty is that I cannot see which witnesses want to come in, because this is not like being in a committee meeting in which I can see everyone. However, I am delighted to bring people in when I can.

**Kirsteen Mackenzie:** I agree with Alan Dron. There is not a severe enough penalty at the moment.

**Richard Lyle:** I will move on to the next question.

As drafted, will the bill help to reduce the incidence of livestock worrying? Could the bill be improved to make it more effective?

**Fiona Lovatt:** As a sheep veterinary surgeon, my expertise is not in penalties, but I can tell you what the farmers thought. The top thing that they wanted was better public awareness and

campaigns; the second was greater penalties; and the third was a requirement to have dogs on leads on agricultural land. Those were, by far, the most popular requests of the farmers who were interviewed.

**Inspector Dron:** I back up what Fiona Lovatt says. The new penalties aspect will hopefully reduce the number of attacks; it will go hand in hand with prevention work, which will always continue. Better education is important, but the introduction of better penalties is a good deterrent in itself.

**Richard Lyle:** Alan, you said that the previous time that the law was changed was 1953. That was in the 20th century and it is now the 21st century; it is nearly 70 years since the law was changed.

**Inspector Dron:** Absolutely. There have been additions to the legislation, such as the Control of Dogs (Scotland) Act 2010, but the 1953 act is the main one for livestock worrying.

**Colin Smyth (South Scotland) (Lab):** I am sure that Richard Lyle well remembers the 1953 legislation.

In the interest of time, I will try to combine my questions, to which there are three parts.

A number of the written submissions that we have received highlight the need for a better use of our existing powers. Do the order-making powers in the bill complement or overlap the ability to use dog control notices? Would the increased use of dog control notices in cases of livestock worrying be beneficial? Are there any non-legislative methods that could be deployed to tackle the problem?

**Kirsteen Mackenzie:** We can and I have issued a couple of dog control notices to dog owners who have been involved in sheep worrying. The problem with dog control notices, especially in very rural areas, is that it is difficult to monitor compliance with them. We can put on the dog control notice that a dog must be kept on a lead, even in specific areas, but it is difficult to monitor compliance. They can and have been used in sheep-worrying incidents.

**The Convener:** Alan, do you want to—

**Kirsteen Mackenzie:** But I think—

**The Convener:** Sorry, Kirsteen. I cut you off; I thought you had finished.

**Kirsteen Mackenzie:** That is fine.

**Inspector Dron:** I support what Kirsteen said. In more instances, particularly those that are reported to the police, there should be more hand-in-hand working with local authority officers in relation to dog control notices. That is yet another



stage where things could be joined up. Overall, what is being proposed adds another layer but it would be a benefit rather than making things more bureaucratic or causing any other issues.

**Colin Smyth:** Are there any other non-legislative methods that we should deploy alongside the legislation to help tackle the problem?

**Inspector Dron:** We run livestock campaigns every year through the Scottish partnership against rural crime. Last year, we had one large launch, then took it all around Scotland for local launches, trying to make it more personal. It is vital to make it more personal in every part of Scotland so that we can raise awareness, and that is something that should never stop. Prevention and education first and foremost will in time, hopefully, reduce incidents. We should also educate people through vet practices about every stage of owning a dog, from when it is a puppy to the end of its life.

**The Convener:** Fiona, was there anything that farmers brought up in relation to non-legislative actions that could be taken to prevent this?

**Fiona Lovatt:** The most popular measure, which 93 per cent of them wanted, was an increase in public awareness, partly because it is often a dog owner who is unaware or it is a one-off incident. For those cases, public awareness is important, because any dog could be an issue—it is education again.

**Peter Chapman:** I will look into the proposed penalties. The bill proposes that in the most serious cases the courts should be able to impose a custodial sentence. I wonder whether, instead of a custodial sentence, the courts could choose to impose a community payback order, for example ordering the offender to pay compensation, attend a course or carry out unpaid work. Would the use of community payback orders along those lines be appropriate for this type of crime?

**Inspector Dron:** Having the option would be an excellent step forward. What has to be borne in mind is that in a couple of the most serious incidents in Scotland, the person who was convicted was unfortunately, due to their circumstances, able neither to pay compensation nor to do community payback. That element of the bill would affect only a small minority of cases, so that is where the deterrent element, apart from anything else, is possibly more significant. Whether that is a community payback order or something else, that has to be another positive step to reduce such incidents.

**Peter Chapman:** I have a follow-up to that. I am sure that many farmers would like to receive compensation in severe cases as livestock worrying can cost them many thousands of pounds. The feeling is that the compensation

element is lacking in the bill. What are your thoughts on that? You have already said that, in some cases, folk cannot pay, but I am sure that there are many cases in which people could pay.

09:30

**Inspector Dron:** Absolutely. In a recent case that went to court, the person was convicted, the sheriff put in a compensation order, and the farmer who was at loss received full compensation, which was excellent. The system does work. Again, the thing to remember is that if the legislation is applied, there is no problem at all. The bill adds weight and strength to the deterrent elements and, hopefully, in the more serious incidents. It will not be *carte blanche*; the bill will definitely add weight in the more serious incidents, which hopefully will continue to be the least common incidents that we come across.

**Fiona Lovatt:** The average cost of an incident to a farmer is £700 per dog attack, and only 9 per cent of farmers receive compensation. Most farmers do not insure because they are worried about their premiums going up, so most of them are not currently compensated for the loss.

**The Convener:** Kirsteen, do you think that people realise the value of some of the sheep that are injured? Tups can be worth tens of thousands of pounds, from £20,000 to £200,000 or more. We have got a bid at the back—I have just sold my tup to Stewart Stevenson for £300,000. *[Laughter.]* The value of livestock is incredible.

**Kirsteen Mackenzie:** I do not think that the general public are aware of the financial implications for farmers if there is an attack on a sheep or even a sheep-worrying incident. Education and awareness are very important to help to reduce the number of incidents. As I have highlighted, we need to make people aware that any dog has the ability to cause a problem. The larger breeds are perhaps more likely to cause injury, but any dog can be responsible for causing an incident.

**Peter Chapman:** I think that there is general agreement among most commentators that the current penalties are too low. Some folk cite higher penalties for other animal welfare offences. The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 introduced the power to impose an unlimited fine and up to five years in prison. Would something along those lines be suitable in the most severe cases of attack?

**Kirsteen Mackenzie:** A severe penalty for the worst cases, even going as far as a ban on keeping dogs, would be very welcome.

**Inspector Dron:** I would echo what Kirsteen said. There are likely to be a small number of such

circumstances, and each case would be taken on its merits. It would also depend on proportionality. As you say, tups can go for £250,000, whereas a blackface yow is maybe £70. Ultimately, though, anything that assists and is there as a deterrent cannot be a bad thing.

**The Convener:** Yows must be cheap where you are.

**Peter Chapman:** I will move on to my last question. The 2020 act enables the use of fixed-penalty notices for less serious worrying offences. I wonder whether that is also something that we should be thinking about for the bill.

**Inspector Dron:** It is another option. Police officers already have the option to give out fixed-penalty notices for a variety of offences. Again, it would depend on scale and proportionality.

**Kirsteen Mackenzie:** I agree with Inspector Dron. We already have fixed-penalty notices and they could be a deterrent for smaller offences.

**The Convener:** Thank you. Stewart Stevenson, you have the next question.

**Stewart Stevenson:** I will ask the second of my questions first, if I may. In light of her previous responses, I want to explore first with Kirsteen Mackenzie whether powers to exclude offending owners from walking their dogs on agricultural land would work. I ask that because of the previous comments about difficulties of enforcement in rural areas, which I understand. It might be useful to the committee to talk through the practicalities of such an approach and whether it would add anything to what else is there. Perhaps Kirsteen Mackenzie can start, and then I suspect Inspector Dron will want to come in.

**Kirsteen Mackenzie:** It is difficult to ban someone from walking in a particular area, especially a remote area, and to police or monitor that ban. Corroborating evidence that that person has been walking in that area can be difficult to find, which makes it difficult to prove that that person was there and doing what they should not have been doing. The types of area that we are dealing with makes that quite difficult.

**Stewart Stevenson:** Before I move on, perhaps I could just take it a tiny step forward. Corroboration is of course needed if it is a criminal offence, but the alternative could be to provide a civil prohibition that would not require corroboration. Has that been discussed as an alternative approach?

**Kirsteen Mackenzie:** I am not sure about that. I just know that for any non-compliance offence, you tend to need corroboration.

**Stewart Stevenson:** That is fine.

**The Convener:** Kirsteen, how many animal welfare officers are there in Perth and Kinross Council?

**Kirsteen Mackenzie:** There are two full-time animal welfare officers and one dog control officer, who deals primarily with the dog-related incidents. I do dog control when the dog control officer is off. They cover the whole of Perth and Kinross Council area.

**The Convener:** So there are three people spread fairly thinly to make sure that the notices are complied with.

**Kirsteen Mackenzie:** Yes.

**The Convener:** Inspector Dron, Stewart Stevenson wanted to hear from you.

**Inspector Dron:** I totally support what Kirsteen has said. The practicalities of that are very difficult to enforce. If somebody is disqualified from owning or keeping a dog and you go to their home and there is a dog there, it is much easier to prove that they are not complying. However, if they are walking the dog in public, how do you catch them at that point? How do you follow them? The practicalities of that can be very difficult, particularly as Scotland is, as you know, a rural country.

**Stewart Stevenson:** I will move on to my next question, which is essentially a technical point about legal drafting, and the witnesses might well not want to comment. In the bill as drafted, are the order-making powers appropriate and proportionate? I suspect that no one will wish to comment on that, but this is the opportunity to do so if you wish.

**The Convener:** If you were all present in the room, you could all look away at the same time and I would know that none of you wanted to answer. However, Inspector Dron is on the screen. Alan, do you want to answer?

**Inspector Dron:** I would just say that it is not really for me to comment.

**The Convener:** I am trying to see whether any of the other witnesses wants to say anything but no one is indicating, so we will move on to the next set of questions from Angus MacDonald.

**Angus MacDonald (Falkirk East) (SNP):** We know that there are issues with enforcement of the current livestock-worrying legislation. The bill aims to tackle some of those issues by introducing increased powers for investigation. What would you say are the biggest challenges that you currently face in enforcing the existing legislation on livestock worrying, and do you think that the bill will help to address those challenges?

**The Convener:** I call Kirsteen, to be followed by Angus, just for a slightly different order. Kirsteen, do you want to head off on that?

**Kirsteen Mackenzie:** It would probably be better if Alan Dron answered that question, as his is currently the enforcement body.

**The Convener:** Alan, sorry—I just called you Angus. I am getting myself confused already, and it is only 20 minutes to 10.

**Inspector Dron:** The bill will certainly help with enforcement. It might instil a bit more of a perception of the seriousness of incidents. We will have the bill to refer to, so we can use the terminology for better, more targeted campaigning. Everything plays its part. We have got to educate from schools upwards—for example, at vets'—and go around Scotland trying to do as much as we can to raise awareness, but we will have the bill at the back of us if all of that has failed. At least there is something that has weight, and people will sit up and take notice of it. They will not think that they will get away with it or get a small fine.

Internally, our police officers are constantly trying to raise awareness and promote better education about the offence, and slowly but surely that is starting to work. That might be why the ratio of incidents that are investigated and result in a crime report to the number that are reported to the police is quite small.

**The Convener:** I welcome Christine Grahame, who is attending the meeting as Emma Harper's committee substitute.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I apologise for being late. I had put the meeting in my diary for 10 o'clock, not 9 o'clock.

**The Convener:** Apology very much accepted. You have missed some interesting evidence, but I am sure that you will catch up.

**Oliver Mundell (Dumfriesshire) (Con):** My three questions are directed to Fiona Lovatt, as they relate to veterinary matters. In the interests of time, I am going to ask all three of them together, if that is okay.

What additional resources would vets require in order to play a statutory role—for example, in relation to training and remuneration—and does any legal or operational clarity need to be provided to support vets in playing such a role? Can Ms Lovatt briefly describe the procedures that would be involved in collecting evidence when a dog is brought to a practice? Can she foresee any circumstances in which those procedures could jeopardise the health or welfare of the dog?

**The Convener:** There are a lot of questions there, Fiona. Head off, as it were.

**Fiona Lovatt:** If a dog is presented to a vet, one of the key things is that the vet generally needs to have permission from the owner to treat the dog. For example, we sometimes have cases in which a police officer has called us to a road traffic accident and we need permission from that police officer to put an animal to sleep. We need permission from somebody. I foresee a similar sort of issue if a dog was brought into a practice by anyone other than its owner. That would put the vet in a particularly awkward position, and they would be unable to make a decision for fear of getting in trouble themselves. I think that it would have to be the police who were able to give that permission.

Forensic evidence is not actually my area of expertise; I am a sheep specialist, not a dog specialist. There would be a need for training. However, it would not necessarily be appropriate for every small, rural practitioner who is dealing with a mixed bag of issues to do that training, because it could be quite a rare, sporadic event. Vets in the labs at rural colleges like Scotland's Rural College would be more appropriate. As veterinary surgeons, we often send animals to that lab for a post mortem. There could be a specialist in the regional laboratory who would be able to advise and take responsibility.

09:45

**Oliver Mundell:** That is helpful. You said that you feel that the police would have to enforce the offence—I know that other members are going to ask questions in that area—but, as it is currently drafted, the bill gives powers for agents to be appointed to exercise certain provisions. Do you think that it would present a problem for vets if someone other than the police brought in a dog?

**Fiona Lovatt:** The vet would always get permission. After a road traffic accident, for example, the vet would want a police officer to say that they gave permission and that someone would pay for the service. A vet is a private enterprise; therefore, they are watching their own back and their own pocket. They need somebody both to give permission legally and to stand the cost. A person from the SRUC laboratories would already have some sort of Government permission, I suppose.

**The Convener:** I will put a question to Alan Dron. If a dog is seized and taken to a vet for examination, to identify whether an offence has happened, and some evidence is collected—such as wool between its teeth—will a police officer be in a position, under the bill, to sign for a vet doing that? Will they take responsibility, or do we need to clarify that in the bill?

**Inspector Dron:** Again, it might come down to the circumstances, the extent of the injury and the case.

Going back to Fiona Lovatt's point, in wildlife crime cases, the SRUC currently conducts a lot of inquiries at the request of the police and the funding for those inquiries is provided by the Scottish Government. Therefore, a precedent is set for wildlife crime that could be extended to livestock incidents.

Police take dogs to the vet in very few instances. The only time that I am aware of that happening is when the farmer or landowner has shot the dog. The police will take possession of it and take it to a vet to ensure that, if it is still alive, it is not suffering and to have it treated or to ensure that, if it has died, it was shot properly and there was no undue suffering. Those are the only circumstances that I am aware of in which the police would seize the dog and take it to a vet.

**The Convener:** I suspect that, in most instances of wildlife crime, the police are dealing with evidence, such as in poisoning or shooting incidents in which the animal or bird has died. However, there might be an instance when a dog has been caught, there is no owner present and the police want to take it to the vet to gather evidence of an attack on sheep—which, as has been discussed, involves the collection of forensic evidence. Do you feel comfortable that the police have the ability to take the dog to the vet, sign for that work to be carried out and take responsibility not only for that decision but also for the cost? Wool between a dog's teeth will disappear fairly quickly, so I would like to know that there is sufficient provision in the bill to cover that.

**Inspector Dron:** In the few instances in which that happened, the police would contact the relevant fiscal, because the issue would largely come down to cost—the cost of seizure and of homing. We might need to keep the dog for, say, 24 hours so that samples could be taken, and that would involve contacting a vet to come out. In such a case, we would have a duty of care towards the dog—we would have to feed and water it and so on.

We highlighted in our submission that there is a need for clarity, particularly when it comes to any financial implications regarding policing, homing and dealing with the veterinary aspects that Fiona Lovatt highlighted.

**The Convener:** Oliver, are you happy with that?

**Oliver Mundell:** I am.

**The Convener:** The next questions come from Mike Rumbles.

**Mike Rumbles (North East Scotland) (LD):** Good morning. I am concerned about section 4 of

the bill, which is headed, "Powers to authorise entry, search, seizure etc." In my view, it gives authority in law for a police officer—or, indeed, an appointed inspector—to enter premises without a search warrant. Does that not represent a major and rather disproportionate move away from the current position in Scots law, whereby a police officer must show just cause to a sheriff or a justice of the peace in order to get a warrant to search premises?

I am not talking about the power that a police constable has to enter premises if he believes that a crime is under way or about to take place; I am talking about the power in the bill to search for evidence. Is that not a major departure from Scots law?

**The Convener:** I guess that Alan Dron is in the spotlight again.

**Inspector Dron:** We would liaise very closely with the fiscal on that. You are right that what is proposed represents an unusual step. We would need to make sure that there were reasonable grounds for suspecting that evidence that was connected to the alleged commission of the offence of livestock worrying was to be found in the specified premises and that there were no other means of obtaining that evidence.

At the moment, we will try to explore every opportunity to gain as much evidence as possible before moving to that stage. If the bill is passed, that provision might end up being used on a case-by-case basis, in conjunction with contacting the local fiscal for the area. I would suggest that that would be done only after as much normal, commonsense policing and investigation as possible had been carried out, which had led us to the point at which, in other circumstances, we would need to apply for a warrant to get the evidence in question.

**Mike Rumbles:** Yes—under the law as it stands, the police would need to apply for a warrant. I absolutely understand everything that you have said. However, the bill would give the police—and, indeed, inspectors that other organisations had appointed—the legal authority not to apply for a warrant if they did not need to. Section 4 says that. I am very surprised that such a provision has appeared in the bill in relation to livestock crime, awful as that is. It marks a major departure from what everybody accepts is one of the safeguards in Scots law to prevent undue searches. Do you agree that the bill changes that position?

**Inspector Dron:** I think that it would be an interesting step. I could foresee the police going to a house, having tried to gain as much evidence as possible. If we were refused entry by the householder after explaining why we were there,

we would need to give due regard to the right of any potential suspect not to self-incriminate. Any suspect would need to be cautioned prior to any questioning.

I think it would be extremely unusual if we got to that stage. A lot of clarification would need to be provided. I could also see it being contested in court if the police gained access to premises without obtaining a warrant—unless, of course, they were welcomed in by the house owner, who said, for example, “It was my dog. I was actually going to contact you.” I could see the power being exercised on a case-by-case basis.

**Mike Rumbles:** Yes, I understand that the police would operate the provision sensibly, but such cases will arise if the bill is passed, because it will change the law.

The bill actually says, in proposed new section 2A(2) of the 1953 act, that, in relation to the need for a warrant,

“This subsection is complied with in relation to premises if ... either ... admission to the premises has been refused, or ... such a refusal may reasonably be expected”.

So, even if you expect a refusal, according to the change in the law outlined here, you could enter any premises to search for evidence. That is what the bill says, is it not?

**Inspector Dron:** It would appear so but, in practical terms, when we got into the premises, as police officers, we would need to tread carefully because we might be there for one reason but observe something else, at which point we would need to stop and possibly get a warrant.

**Mike Rumbles:** I understand what you are saying, and it sounds very reasonable, but our job as MSPs is to look at the legislation that is presented to us, and it certainly seems quite clear, as we go further into this, that the bill would change the law to give the police, if they were so inclined, the power to enter premises to search without a warrant. It is interesting that you agree with my interpretation that it would change the law.

**The Convener:** Stewart Stevenson wants to come in, but I have a quick question to ask first. Do you feel that you need that bit to be included to make the bill worth while, or is there enough in the bill to make it worth while without that bit?

**Inspector Dron:** Personally, after 28 years of policing, I would suggest, from a policing perspective, that it might not be required, for a variety of reasons. It might overcomplicate things. We might end up having to get a warrant anyway. We would always be on stronger grounds if we had a warrant. I also think that there would be very few cases in which the police would be acting in relation to that situation anyway.

**Stewart Stevenson:** Is Inspector Dron familiar with the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, which, under section 11(4), granted powers of search to water bailiffs appointed by a salmon fisheries board without the necessity of a warrant? Lest you wonder why I ask that question, I point out that, having been a water bailiff in 1968, I am aware that I had that power, even as a student doing a summer job, when I was fulfilling that role. I wonder whether you are familiar with that power, as it may not be quite as novel as my colleague was suggesting.

**The Convener:** I am sure that you did not exercise that power in 1951, Stewart.

**Stewart Stevenson:** Actually, I did.

**The Convener:** Oh, well, there you go—that ages you. I ask Alan Dron to answer that question.

**Inspector Dron:** My colleague, who is a wildlife crime co-ordinator, will be familiar with that aspect. As to how often that power would be used and in what circumstances, I would not know and could not comment on that.

**Stewart Stevenson:** Just to be clear, it was not in 1951 that I exercised that power.

**The Convener:** Oh—sorry. Also, just for the avoidance of doubt, I should point out that, in the past, I have declared an interest in wild salmon fisheries. As I made a comment, I ought to make that clear—not that it is really that relevant.

Maureen Watt has the next question.

**Maureen Watt:** This question is probably for Inspector Dron. You will be aware that the bill suggests that additional capacity should be provided by an “inspecting body”, whatever that might be. Would you find that beneficial?

**Inspector Dron:** Anything that can help policing, police resourcing and education certainly cannot be detrimental. I am trying to think of practical examples. There would need to be clarity about who would have primacy. Under the current law, it is the police who can investigate but, in lots of rural locations, someone else will attend—whether it is someone from the local authority, the dog warden or whoever—to assist a police officer with corroboration.

The circumstances are similar for fly-tipping. Who has primacy? Is it SEPA? Is it local authorities? Is it the police? Sometimes, the lines are blurred and victims or those who phone in do not know who they should contact or expect to do something about the incident or offence.

10:00

**Maureen Watt:** The Scottish SPCA said in its written evidence that it would not want to be that body. I am picking up from what we have discussed today that you would rather a statutory body, such as the local authority, be responsible.

**Inspector Dron:** There needs to be clarity. In practical terms, as Kirsteen Mackenzie has already highlighted, Perth and Kinross Council has only three officers to cover what is a large geographical area.

To ensure a better quality of service—one that is provided as and when required, and policing is 24/7—if there were to be any additional bodies, who they were would need to be clear, as would what they could offer and when they would go out. In addition, the people they were attending would have to know who had primacy—indeed, they would need to know who to contact in the first instance.

**Maureen Watt:** The police would have to progress any prosecutions, so Police Scotland would have to be involved.

**Inspector Dron:** Yes. By and large, cases are submitted to the Procurator Fiscal Service through the police. As Kirsteen Mackenzie highlighted, local authority dog wardens can issue dog control notices. There are other responses—other avenues can be taken to try to resolve an incident, such as action to educate people.

**Maureen Watt:** How often is video footage of livestock worrying or a dog attack on animals used as evidence?

**Inspector Dron:** Its use is increasing. The police now have individual personal data assistants, which are being rolled out to officers so that they can capture normal, static photographs. There have been occasions when a farmer, a landowner or someone out walking has captured an incident. Anything that can be submitted as best evidence in a case to the Procurator Fiscal Service would obviously be submitted.

**The Convener:** Does Kirsteen Mackenzie want to come in on that question about additional powers, given that such powers might involve the council?

**Kirsteen Mackenzie:** Obviously, we already have powers to issue dog control notices, which we use. We would welcome Police Scotland still being the primary agency. We would quite happily work jointly and have protocols with Police Scotland. We are always happy to be an assisting agency and to work with Police Scotland.

**The Convener:** I know that Fiona Lovatt is still present. She will probably be the one to answer

the questions that Christine Grahame is, I think, about to ask.

**Christine Grahame:** My question is about money, so I do not think so, although I could be wrong.

Financial, human and technical resources will be required as a result of the legislation. Nearly every piece of legislation comes with a cost attached to it. *[Interruption.]* I am so sorry—the phone is going off. What a morning!

Of course, the cost is to some extent predicated on who or what the inspecting body is. My question is for all the witnesses. What funding would they require to ensure that the legislation works?

**The Convener:** We will go to Alan Dron first, not Fiona Lovatt. I will give all the witnesses a chance to answer that question.

**Inspector Dron:** To be honest, I have no idea. Again, a lot of this would be done and therefore subsumed under normal policing, as it is at the moment. Any financial considerations usually come in if a dog is seized, in which case, as was mentioned earlier, it is about deciding whether contacting the Procurator Fiscal Service is proportionate and who is to pay the bill for the keep of the animal—its homing and welfare.

**The Convener:** Okay. Does Kirsteen Mackenzie want to come in on that?

**Kirsteen Mackenzie:** The local authority is stretched financially at the moment. Our resources are limited at any time. We deal with lots of other things and, if we were going to be involved in a large education programme, we would need more finances. At the moment, the council does not have the resources to provide that out of current budgets.

**Fiona Lovatt:** I am not sure about the on-going costs, but the survey that we undertook showed that the current cost of dog attacks to sheep farms in Scotland is £5.5 million a year. Farmers are bearing those costs; only 9 per cent of them receive money for those attacks.

**Christine Grahame:** It is extremely difficult. You can correct me, but I think that the Scottish SPCA can charge for keeping an animal, pending the owner's trial for the dog being out of control or savaging sheep or other beasts. Am I correct about that? It used to have huge bills for that. I know that Mike Flynn is giving evidence later, but perhaps Inspector Dron could remind me of who pays for that.

**Inspector Dron:** I think that the Scottish SPCA currently pays. There is also a difficulty if a dog that has been worrying livestock is taken but no owner is found. Who pays for that dog's keep?

That needs to be clarified from the outset. In some circumstances, an owner just signs their dog over. Does that mean that the Scottish SPCA has to rehome it? Someone from the Dogs Trust will be giving evidence later on, and they might be able to take that question further.

**Christine Grahame:** Thank you—that is fine.

**The Convener:** Finally, Emma Harper, whose bill we are discussing, would like to ask some questions. Good morning, Emma.

**Emma Harper (South Scotland) (SNP):** Good morning. It has been interesting to hear everybody's contributions. I thank the witnesses for their diligence in answering the questions and members for their questioning.

I have a couple of questions. Are there more incidents in one part of the country versus other areas—for example, the Highlands versus the south of Scotland? Are we able to take apart the data to look at where more incidents occur?

**Inspector Dron:** Fortunately, one of our colleagues trawls for information by policing division on a daily basis, so we know exactly where in the 13 policing divisions there are instances of livestock attacks and worrying. Unfortunately, incidents happen throughout Scotland. We have recorded incidents in Shetland, Orkney and the Western Isles; this year, some of the worst were in Oban. One of the worst incidents that we are aware of happened at Inveraray. A lot of the higher numbers are near the central belt, as you can imagine, just because of volume. However, incidents also occur in areas where there are core paths, such as the west Highland way. Conic hill is a particular focus for incidents in Loch Lomond and the Trossachs national park. Incidents happen in places where you expect people to be out walking dogs, but they are spread throughout the country. There are no specific areas where the incidence is higher than it is in others.

**Emma Harper:** Has coronavirus affected the ability to monitor, capture or look at the data? Did you see a reduction when people were in lockdown and an increase when folk started escaping from their homes and going out with their dogs for their daily exercise?

**Inspector Dron:** Because we were very aware of the issue, we were starting to gather stats on it. There was going to be a campaign this year, so we wanted to compare figures from 1 January to 31 May this year and last year. We found a significant decrease in the number of incidents. From 1 January to 31 May this year, 120 incidents of livestock attack were reported, of which 52 were recorded as crimes. Sixty-eight dogs were accompanied; 46 were not. The numbers became

significantly lower as the Covid restrictions went on.

From speaking to a lot of landowners, walkers and so on, I think that those figures inform and complement what we had thought: during lockdown, more folks were at home, and went out with their dog to walk. That is why there was a spike that resulted in that figure of 68 cases in which somebody—the owner or a person responsible for the dog—was present, as opposed to only 46, this time round, in which they were not.

As the lockdown restrictions have eased, there has been a slight increase, particularly in the central belt area, as folk try, for good reason, to get back out and about. However, it has not been a dramatic increase, which is encouraging.

**Fiona Lovatt:** I do not have any data relating to lockdown. You also asked about incidents in the different regions of Scotland. According to the stratified survey that we undertook, there is a higher risk of dog attacks in Lothian and east central Scotland, with a 28 per cent prevalence in each of those areas, and fewer attacks in the north-east of Scotland, for which the prevalence is 8 per cent.

**Emma Harper:** I have a final question, convener—and thank you for allowing me to ask my questions.

When we explored drafting the provisions on seizing a dog and taking it to a vet, we included the possibility that a vet might already be on site, examining sheep or attending to injuries. Therefore, arranging for a dog to be

“examined by a veterinary surgeon”

does not necessarily mean taking it to a veterinary practice. It might mean that a vet who is already in attendance at the site of an offence could collect evidence. At that time, we were thinking that an emetic could be used to make the dog sick in order to collect wool, or of using swabs for analysis, to compare blood from the dog's mouth with the sheep's blood.

Does that language need to be clarified? Taking a dog to a vet, or having a vet assess a dog, does not necessarily mean that it has to be taken to a veterinary practice.

**Fiona Lovatt:** Vets would need training and clear guidelines on what was expected of them and who was asking them to undertake that work. If a vet is already on site, the farmer has presumably called them there to attend to the sheep, so the cost is to the farmer.

Perhaps a fine is an appropriate detriment for the dog owner.

**The Convener:** Inspector Dron, do you want to answer?

**Inspector Dron:** Yes. In many instances, the first port of call—particularly if a farmer or livestock owner sees their animal suffering—is to contact a vet to come out. A lot of evidence gathering can be done at the scene. However, again, that ultimately comes down to finance. Would the vet bill the farmer? The farmer, landowner or livestock owner would have the initial outlay, to cover the vet's costs, and might be looking to get some sort of compensation further down the line.

**The Convener:** Emma, does that answer your questions?

**Emma Harper:** Yes, that is great. Thank you, convener. The session has already given me a lot to think about.

**The Convener:** Thank you very much. Before we end the session, I have a question for Fiona Lovatt.

I know farmers who avoid using pastures in areas where they know people walk dogs and where there are likely to be dog attacks. I also know farmers who bring sheep in in the evening because they are worried about the sheep being left at night. Do you have any evidence on that issue? It may suggest that farmers are undertaking extra work to try to mitigate the risk of attacks.

**Fiona Lovatt:** Yes, absolutely. We asked people what measures they employed to cope with dog attacks, and which measures they thought were effective and which they thought were ineffective. Fifty-two per cent said that they talked to the dog owners; 60 per cent thought that that was effective, and 30 per cent thought that it was not effective. They also mentioned putting up signs.

However, people said that moving sheep to a different area was the most effective measure. Having identified a pasture as dangerous because of dog attacks, they used another area. Twenty-two per cent of farmers said that they move sheep to a different area; of those, 72 per cent thought that that was effective and 19 per cent did not. That was the most effective thing that farmers thought they could do.

We asked a lot of questions about the emotional impact. Farmers really dislike the idea of conflict—of speaking to a dog owner and getting an aggressive response. Often, the dog owner is very upset or angry, and the farmer is worried about how they will react, when they themselves, or their family, are emotionally very distressed. It is a fraught time.

**The Convener:** Thank you very much.

There are no other questions. I thank the witnesses for their evidence and for the time that they have given the committee.

10:16

*Meeting suspended.*

10:25

*On resuming—*

**The Convener:** Welcome back. I remind members to ensure that their mobile phones are on silent.

I welcome our second panel of witnesses, who are from organisations that represent dog owners and countryside access interests: Mike Flynn, chief superintendent of the Scottish SPCA; Steve Jenkinson, access and countryside adviser to the Kennel Club; Paula Boyden, director of Dogs Trust; and Bridget Jones, strategic paths and projects manager at NatureScot.

I advise our witnesses that, if they want to come in on a question, they should indicate that in the chat function. I will then ensure that I bring them in, but I will not have the chance to do so for all four of them on every question. As I said to our earlier witnesses, they should also keep an eye on me. If anyone goes off on too much of a tangent, I might wiggle my pen at them to bring them back on track.

Our first question is from John Finnie, who is attending the meeting remotely.

**John Finnie:** Good morning, panel. Convener, I am conscious that the nature of the questions that I posed to our earlier panel brought lengthy answers so, if I may, for this panel I will combine the two questions that I asked earlier. I am sure that our current witnesses will have been listening in to the earlier panel, so they will know that my questions have a number of parts.

In your professional experience, what is your assessment of the scale and nature of the problem of protecting livestock? Do we have enough evidence to make an accurate assessment of that and of how it should be addressed? Is there a need for new legislation? If there is such evidence, how might we overcome such problems?

**Mike Flynn (Scottish SPCA):** Good morning, Mr Finnie. Good morning, convener. I thank the committee for inviting the Scottish SPCA to the meeting.

The survey that Fiona Lovatt mentioned in her earlier evidence was very good. It clearly showed that, as the Scottish SPCA has always known, such incidents are widely underreported. Many farmers just do not see the point in reporting them, because they think that the dog owners will never be traced. A lot of them also will not claim on their insurance, for fear of their premiums going up.



**The Convener:** Steve Jenkinson wants to come in on that.

**Steve Jenkinson (Kennel Club):** Good morning. The Kennel Club does not keep data on such incidents but, as we pointed out in our submission, we are mindful of the huge disparity between elements in the available data. At the end of the day, though, one incident is one too many.

I will make full disclosure by saying that, on my livestock holding here in Orkney, I have been a victim of livestock worrying, and some of my animals have been killed. Whether it happens more or less frequently is not the issue, though; instead, we need to focus on the victims, especially the farmers.

At the time of such an incident, it is easy for the victim to feel vengeful and to want penalties to be imposed. However, when the police came and asked me what I wanted to happen, I just wanted the worrying to stop and not to happen again. In advising the Kennel Club, and in general, my focus has therefore been to say that figures on how often livestock worrying happens might be interesting, but knowing why it happens will provide us with the best interventions that might change things.

We have already heard about two threads of the problem. The first is free-ranging dogs, such as those that escape from home, which account for about half of incidents; and the other is dogs who are out with walkers. The key point is that interventions to deal with those two aspects are very different. There is a lot of talk to the effect that having greater penalties would be a better deterrent and would make it clear to owners that their dogs killing sheep or other livestock is not acceptable. I am not aware of any dog owner who has ever thought that that was acceptable. They might be misguided and not understand that their dog running round in a field of ewes can cause them to abort.

10:30

Legislation to deal with repeat, reckless, wilful offenders is useful but, for us, the issue is more about asking why sheep worrying is happening and getting the right interventions than it is about arguing over the huge disparity between the figures. We still need to do something, but we need to be sure that we are doing the right thing. We are not sure that lower numbers will help us get the right interventions to help the farmers who suffer.

**John Finnie:** In the light of what you have said, do you feel that there is a need for new legislation? I would like the other witness to answer that as well.

**Steve Jenkinson:** It follows on from that. Because of my holding, I am an NFU Scotland member as well. The NFUS reports that, when dog control notices have been used, they have been useful. The great thing about them is that they can deal with why a problem has happened. If it has happened because a dog has escaped, a dog control notice can require someone to keep their boundaries correctly secure. If children were not walking their dog responsibly, it can deal with that. Specific measures can be targeted to deal with the problem.

It is hard to say what effect the legislation will have on the people who wilfully cause sheep worrying, whoever they may be—they are a very small minority. If I am honest, there is no reason to oppose greater penalties per se, but the bill seems to be a missed opportunity to deal with the causes. For example, if a pedestrian was killed by a driver who came off a bend in the road, we would clearly think that that would not have happened if that person had not been driving that car, but we do not just penalise that driver, because the reason for the accident could have been bad road design or a fault in the car, or the person could have been drink driving. There could have been all sorts of reasons, and we deal with the reasons why things happen.

My interest is in seeing the problem not happen so much, if at all, to me and many other farmers. On whether we should focus on penalties and whether they are a big deterrent, what could be a bigger deterrent than your much-loved family animal being shot? If we are going to have legislation, it would be nice if it focused on making a difference. It is great that the member has introduced the bill, but it seems a missed opportunity to make a difference by dealing with the underlying causes. That is the disappointment.

**Bridget Jones (NatureScot):** Good morning, everyone. On the first part of the question, on the evidence of the scale of the issue, we do not hold data specifically on these kinds of incidents. However, we get feedback through the local access forum meetings with our national access forum and it would be fair to say that behavioural issues to do with dog ownership and responsible access get raised fairly regularly. Any evidence that is out there is very useful for us, particularly because a large part of our work is to encourage responsible behaviour and encourage compliance with the Scottish outdoor access code. That aspect is important.

As other folk have said, the legislation could do with being updated. It would be useful to update the definitions of terms such as livestock and to bring the legislation into this century. We see the role of enforcement as being one element of how to help manage people's enjoyment of the

outdoors, but management and education are as important, if not more so, in ensuring prevention.

**Paula Boyden (Dogs Trust):** We accept that livestock crime is underreported. If we are to be able to move forward, first and foremost, we need good, robust recording and reporting. What I mean by that is standardised recording of incidents. We were very encouraged to hear that the Scottish partnership against rural crime is recording all incidents, and it is great that Scotland has a single police force, which makes life a lot easier. What we are seeing from reports from the National Police Chiefs Council, for example, is that there is a huge variation. We need to make sure that recording is standardised, not only so that we know what we are dealing with but so that, should the bill be passed, we can assess whether it is being beneficial. Reporting at the moment focuses on the numbers, but we might need to look at the impact or the level of suffering that has been encountered by the farm.

Do we need new legislation? I would say that we do. The current legislation is outdated in terms of the penalties and the species covered. Again, I agree with the other witnesses that this is only one part of it. The challenge for this legislation is that its primary impact comes after the event has happened. We need to look at prevention, whether it be education or management, but we need to look a little bit more broadly to see whether we can stop these incidents from happening in the first place.

**The Convener:** John, I think that Stewart Stevenson wants to come in. I would be very happy to come back to you after that, if you have further questions to ask.

**John Finnie:** I think that my questions have been covered, convener.

**Stewart Stevenson:** I suspect that my question is for Paula Boyden. What proportion of the dog population in Scotland or in the UK is represented by huskies and Alsatis—German shepherds?

**Paula Boyden:** Sadly, we do not have that data. How many dogs are in Scotland is a matter of question. The most current figures that we have are from the Pet Food Manufacturing Association, which does an annual survey. Its estimate is that there are more than 700,000 dogs in Scotland.

I should sound a note of caution. The most prevalent breeds for attacking livestock appear to be huskies and German shepherds, but I would ask whether huskies and German shepherds are more prone to that activity, or whether that is a reflection of the sorts of owners that those dogs have. We have to be cautious about focusing on those particular breeds.

**The Convener:** Mike Flynn, you wanted to come back in on a point that was raised in that answer.

**Mike Flynn:** I just wanted to go back to what the gentleman said. We are here to represent not just dogs but all animals in Scotland. Having witnessed some sheep attacks, I know that they can be horrendous. People must remember that we have been doing education on this for at least 30 years, and I know that Alan Dron's group has been doing it, certainly for the past couple of years, along with the National Sheep Association.

We must remember that practically 90 per cent of all these attacks are preventable. There is a basic premise in law that you are not allowed to let your dog stray and, if you have a dog, it must be kept under control. If everybody had their dog under control, this would not happen.

Sometimes when an attack happens, it is inadvertent, but there are repeat offenders. I am therefore fully supportive of Emma Harper's bill. We must have some kind of sustainable penalty. The only time I see the number of attacks going down in a region is when a farmer takes the law into his own hands and kills the dog, which he is perfectly entitled to do if it is attacking his livestock. That seems to bring the prevalence in that area down for a while. However, if somebody gets a £50 fine and their dog back, that means nothing to anyone.

**The Convener:** John Finnie, does that raise further points for you, or are you happy with the issues that you have raised?

**John Finnie:** This is a bit off script, but I have a question for Mr Flynn. Accepting that legislation is about how we control how humans behave, is there ever a situation in which perhaps an aberration, such as a brain tumour, could mean that a dog's behaviour is no longer predictable? I appreciate that you would say that the dog should be under control in any case, but I wonder whether you wish to comment on that.

**Mike Flynn:** Yes, there could be a veterinary reason, and that is one example where a veterinary surgeon's examination would be good. However, if the dog is under control, it would not matter if it had a mini stroke—it would not make any difference.

I can think of a couple of occasions in my 34 years with the society when an owner has lost a dog that strayed and has done literally everything to try to get it back—they have informed the police, the society and dog wardens. I can remember a case in West Lothian when it took us three weeks to put out a live trap to catch the dog. It had been worrying sheep, but everybody was trying everything. With other people, if their dog

goes out, they just do not care. It is down to responsible ownership.

**Richard Lyle:** Will the bill as drafted help to reduce the number of incidents of livestock worrying, and can it be improved to make it more effective?

**Paula Boyden:** I certainly anticipate that the bill will reduce incidents through increased penalties as well as the realisation that it is not a victimless crime and that the impacts on the farming community are huge. One would hope that, with some high-profile cases that show the impact and the losses that are incurred—I do not mean just financial losses—the bill will ultimately send a salutary message to irresponsible dog owners who allow their dogs to stray.

**Steve Jenkinson:** I will first go back to the question about dog breeds. The Kennel Club's view is that, as Paula Boyden said, any dog can be a problem, so looking at specific breeds can be a red herring. However, just out of interest, according to the register of pedigree dogs, German shepherds were the eighth most frequently registered dog in the past year. Huskies were not in the top 20, but 397 husky puppies were registered last year.

On the question of how the bill can help, thinking of the two reasons why such incidents can happen, we know from studies that have been done on sites that are heavily used by dog walkers and which have eliminated sheep worrying that good information to help dog owners avoid conflict is key. People who go out walking their dogs want to have a happy, healthy and hassle-free walk. Nobody goes out thinking, "I hate sheep," or whatever. On sites—particularly local authority sites—where people turn up and see credible signage that says that, if you go one way, there are sheep, and if you go a different way, there are no sheep, people will choose the least-hassle option. The information needs to be credible and timely, but we have seen with sites where graziers were going to take their animals away because of the frequency of livestock worrying that, when people turned up in the car park and good information was provided, that dealt with the problem.

We know that there is sometimes a problem with signage. I am mindful that the insurer NFU Mutual says that only 27 per cent of farmers use signage anyway but, if a sign saying that there are sheep or lambs in a field is left up all year and people have gone past it three or four times and there have been no livestock there, people will ignore it, just as much as people ignore signs if they are going down the M9 and are told that there are roadworks ahead but they do not see any.

For 85 per cent of dog walkers, exercising their dog off the lead is the single most important thing for them. That in no way justifies livestock worrying, but we need to remember that walking your dog is one of the top two lifestyle factors for keeping people active and healthy in Scotland. We therefore need to help people to make good choices. If their dog is happy when they walk, they will walk more. We should not suppress that, but we should help people to make good choices.

One could take a principled approach and say that dogs should always be under control in the countryside because they are a danger to themselves, never mind other people. However, we should consider the approach to other types of rural crime such as theft. I have been to events run by SPARC and by Alan Dron and others that involve telling people about what they can do to prevent rural theft on their land. We feel that, equally, there needs to be a partnership approach on the issue of dogs that involves bodies helping farmers and providing the right information. As I said, no dog walker goes out intending to have such problems.

On the point that 50 per cent of dogs that are involved in incidents are free roaming, there is a need to raise awareness of that. I often speak to dog owners who say that their dog is a country dog, a rural dog or a crofter's dog or whatever. They say, "He goes away, he comes back and he doesn't cause any harm," but, actually, they do not know that. It is good to report free-ranging dogs to the local authority and get a dog control notice.

10:45

**Richard Lyle:** Before I ask my next question, I would like to ask Steve Jenkinson about something else. I used to be a dog owner—I had two Yorkshire terriers. The Kennel Club is a respected organisation. Does it have anything on its website about sheep worrying? I cannot find anything. What is the position of the Kennel Club? Does it try to inform people who have dogs about the situation?

**Steve Jenkinson:** I act on behalf of the Kennel Club, and the Scottish Kennel Club comes on board with that. The key thing for us is that this is an issue for all dogs, not just pedigree dogs. In Scotland, we focus our attention on working with the national access forum. One of the key things that we have done is ensure that the information is clear. When we talk about worrying or whatever, our message has always been that it is not acceptable for dogs to approach livestock or wildlife. The Scottish Parliament information centre briefing highlights the work that NatureScot has done to produce clear, bullet-point messages to help people understand the problem. We feel that there must be a joint approach. To be honest, the

issue does not just involve the people who visit our website. We need to take the message to people who are going out for a walk or something, not just those people who have a pedigree dog.

I hope that helps. The SPICe briefing contains the wording that was agreed by us, NFU Scotland and SPARC. There is a recognition that the wording was previously too woolly and unclear, so we need to push out that new wording.

**Richard Lyle:** Perhaps you can ask the Kennel Club to update its website.

What is the understanding of our witnesses of the most common circumstances around livestock worrying?

**Steve Jenkinson:** Would you like me to answer that, convener? I am aware that I have been speaking quite a lot.

**The Convener:** I would like someone else to come in, if possible. Bridget Jones could answer next, followed by Paula Boyden, and then we will come back to you, Steve.

I remind witnesses that they should keep an eye on me, because I tend to waggle my pen when I want to bring somebody else in. I want to give everyone a fair crack of the whip, and the other option is to cut the microphones, which I object to doing.

**Bridget Jones:** On the information that is provided to the public about responsible behaviour and dog ownership, the Scottish countryside access code website and associated websites have all that information on them. As Stephen Jenkinson alluded, most—if not all—of that advice is produced in collaboration by NFU Scotland, Scottish Land & Estates, SPARC, the Kennel Club and so on, which ensures that we get good messages out there that work. The information that is produced to encourage responsible dog ownership and behaviour in the outdoors takes all sorts of forms—signage, posters, training videos and so on. You should look at that resource. We run various campaigns as part of that, some of which have been incorporated in the Covid-19 campaign work that we have been doing to encourage responsible behaviour in people's daily exercise—dog messages are in there, too.

Over the years, we have run various campaigns, particularly focusing on lambing. That brings me to the question that was asked about the most common issues. Lambing time is probably the biggest situation that we are asked to help to raise awareness about, and it involves the months in the early part of the year—from January through to even as far as June or July—as well as the period prior to lambing taking place, when pregnant ewes are in the fields and on the hillsides.

That is probably enough from me.

**Paula Boyden:** As we heard from SPARC, one of the key things to bear in mind is that, in 50 per cent of the incidents that are recorded, no owner is present; the dog is on its own. The National Police Chiefs Council's four-year survey suggests that that figure is as high as two thirds, and it is even higher in some police forces. We need to look at why those dogs are unaccompanied. As one of the previous witnesses said, we can have good signage, but how do we manage the situation if the owner is not there? What is happening to allow the dogs to roam free? Are they escaping from gardens, or are owners letting them out through the front door? That is a huge area in which we can aim to prevent some of the incidents from happening.

**The Convener:** I am happy to bring in Steve Jenkinson, briefly.

**Steve Jenkinson:** I think that everyone else has covered what I was going to say. The key thing is being aware of why such incidents happen and then having the right interventions. Issuing fines is a small but significant part of the story. We want to prevent the incidents happening rather than deal with people after the event.

**Colin Smyth:** Good morning. Some of the evidence that the committee has received has highlighted the need to better enforce existing measures. In relation to livestock worrying, would increased use of dog control notices be beneficial? Allied to that, are there other methods that need to be better employed to ensure that any legislation that is passed by the Parliament will be effective?

**Paula Boyden:** I absolutely agree with the question. Dog control notices could be used in such instances, but a couple of things need to happen to enable them to be used. We need to ensure that there is good communication between local authorities and the police, but we also need a means of tracing dogs. If a dog control notice is issued in one local authority area, what happens if the owner or the dog strays out of that area? How do we know that a dog control notice has been imposed on that dog? With some administrative support, dog control notices could be used to much better effect.

**Bridget Jones:** I will pick up on non-legislative approaches. I want to talk about education and awareness raising, but there are also management measures. We should encourage the use of good, current, relevant and attractive signage to ensure that the public are aware of whatever is ahead of them, whether it is lambs or new livestock in a field or whatever.

It has been mentioned already, but I cannot overemphasise the importance of providing good information. Dog walkers tend to be quite habitual; they use regular routes. The dog-walking circuit

can be a daily or twice-daily feature of their activity, so they are quite a good audience to pinpoint and target in order to get messages across.

Dog walkers like to stay away from livestock. They are looking for easy and enjoyable walks, so management measures include ensuring that paths are there or, if lambing is happening in the field, that alternative routes are available. Good information should be provided about that. There should also be good fencing and gate arrangements. Work should be done with the access officers of local authorities and national park authorities, and potentially with the local community. There might be a community path group in the area that might be able to help with funding for new path arrangements and so on.

There are other aspects that can help land managers to manage the issue through support and, potentially, even funding.

**Mike Flynn:** I go back to what Kirsteen Mackenzie from Perth and Kinross Council said in the previous session. Dog control notices can be very effective but, with no disrespect to anybody who is involved in dealing with them, the services are grossly understaffed and underfunded. Certain local authorities do not have an appointed person but will just put somebody who works in a different department on to issuing dog control notices.

In either Aberdeen or Aberdeenshire, if the police charge somebody with a livestock worrying offence, they will issue a control notice, but that is not a joined-up thing. There is not enough co-ordination, and there are so many crossovers in legislation. If a dog is unattended, it is technically a stray dog, and a stray dog is out of the system in seven days. That is legally binding. There is lots of legislation that could be used, but it is not currently adopted.

**Steve Jenkinson:** I reaffirm the value of dog control notices. They are really good, particularly given the balance between criminal and civil law. It can be sufficient to take preventative action instead of going down the criminal route, particularly when the incident happened unintentionally.

If we are saying that people do not have the resources to issue dog control notices, which can be done much more quickly and easily because of how they are constructed, we have to ask how criminal sanctions are going to be applied, too. Somebody will need to use resources to investigate and take action, and that time will be spent after incidents have happened, rather than preventatively.

**Peter Chapman:** Good morning, folks. We have strayed a wee bit into this area already, but we all know that, as far as this crime is concerned,

prevention is better than cure. Some of the panel have spoken a wee bit about the need for better signage and information, but what about improved training for dogs and dog owners? What do you think that should look like?

How might a higher level of training be ensured, given that we heard—I think that it was from Steve Jenkinson, but it may not have been; it does not matter—that we have been trying to train owners and dogs better for the past 30 years yet the problem still exists. What can we do better, as far as training dogs and their owners is concerned, to ensure that there are fewer such crimes?

**Mike Flynn:** It is down to education. As I said, we have been trying that for over 30 years. Before Covid came in, our education officers spoke to over 240,000 children throughout Scotland, and in our livestock section we talk about the dangers of dogs not being under control. Education is always the key thing here.

Some people just do not believe that their dog would do it. Paula Boyden and Steve Jenkinson are right; we should not just focus on German shepherd dogs and huskies, because any dog of a decent size is capable of the behaviour. I remember a lady, many years ago, who had walked her dog around the same fields for eight years and one day it just took off. She actually went to the farmer to report it herself—she was very responsible. She was devastated, but she had had no indication that her dog would do it. One day it just decided to take off. As we heard earlier, the reason might have been that there was something physically wrong with the dog.

Education is key, and we would like to think that, if the bill is passed, it will be implemented along with a nationwide campaign to highlight the potential dangers and the fact that the penalties are now severe and people could lose their dogs. As I said, under the right circumstances, a farmer can currently destroy a dog if the owner cannot control it and it is harrying his sheep.

**Steve Jenkinson:** People have usefully made the point that the crime is invariably unintentional and education is key. One of the cantons in Switzerland requires people to take a dog ownership test, which is like a driving test, before they can get a dog. When I was studying the psychology of people and their pets at the University of Southampton, one of my colleagues looked at that approach but they found that there was no net benefit. Some people were going to be good dog owners anyway and others were not. The fact that someone had passed the test did not necessarily mean that they would be a good dog owner.

Education is certainly key. I do not want to undermine the value of sheep, but education is

particularly important because these things are often symptoms of poor dog welfare and poor dog keeping—they are symptomatic of a wider issue. Through our good citizen training scheme, which operates all across the UK and extensively throughout Scotland, we are developing new outdoor modules. Dog training often happens inside, where there are no sheep and deer, and training outside can be really valuable.

The key thing is that, once we see the signs—for instance, a dog having strayed or there having been an incident—we must deal with it straight away. Dog control notices can do that quite swiftly.

11:00

**Peter Chapman:** Does Steve Jenkinson feel that the increased penalties that come with the bill are part of the solution as well? He made the point very strongly that nobody wants these incidents to happen. However, will the fact that penalties have increased get back to general dog owners and make them realise that it is a real crime? It is about education, but also about the penalty that goes with allowing attacks to happen. Do you accept that the penalty needs to be increased as well?

**Steve Jenkinson:** Penalties certainly need to be there, because people who let these attacks happen often do not look after their dogs in a lot of other ways. However, relying on a penalty is a tad naive. It needs to be part of a suite of measures.

Sentencing guidelines for people who let attacks happen wilfully or recklessly will be really important. We do need penalties, and it would be good to extend the bill's coverage to all the other animals that have been mentioned, because no animal should suffer a dog attack. However, it would be better if the penalties were more integrated with preventative measures and used as a last resort in the case of people who wilfully repeat the offence.

**Paula Boyden:** Obviously, education is key. We need to encourage folks to recognise that training their dog is the norm. We come across a lot of dog owners who, because they have had a dog before, feel that they do not need to go to any sort of training classes.

I am here on behalf of Dogs Trust, but I am also a veterinary surgeon and I know that, if I could give people a tablet to make their dog behave, they would willingly give it. However, training takes time and effort, and some people do not have the time or inclination to put the effort in as soon as they can when they get a dog. Therefore, we need to focus on that. We have set up a dog training school to encourage folks to recognise that training is not only for puppy owners but for anybody who has recently got a dog.

You will not be surprised to hear that a number of the dogs that come into our care have underlying behavioural issues. That is because it takes time and effort for people to train the dogs, to address and resolve those issues. I cannot overemphasise the importance of training. However, sitting alongside that—and I appreciate that it is left of field for this forum—we need to look at regulation of the whole world of dog training and behaviour management, to ensure that dogs are appropriately treated and that we are not negatively impacting on their welfare with what we are trying to do in the training process.

**Bridget Jones:** Others have covered the topic quite well but, yes, training is a component part of improving people's understanding of what they need to do.

Perhaps more integrated content is the trick to ensuring an understanding of what access rights and responsibilities are, as is a better understanding of land use in Scotland. There is possibly an opportunity for the public to learn a bit more about what goes on in the countryside in relation to land management and use. A wider understanding would be to everybody's benefit, but, in this case, it would particularly benefit people who have dogs.

**Oliver Mundell:** Penalties have probably been quite comprehensively covered. What are the panel's views on requiring compensation for livestock owners?

**Paula Boyden:** I agree that there should be an element of compensation, as a person's livelihood is affected. The cost is clearly financial, but it also goes much wider because of the emotional impact on the farmer. It is not just about the financial loss of the sheep; a farmer might have spent years building a pedigree, closed flock and they will not be able to resolve damage to that overnight. There are also all the subsequent losses. There is the immediate loss of the animals that have been killed, and animals that have been seriously injured might need either treatment or euthanasia. There are also subsequent losses, such as abortion in ewes and suchlike, which we need to look at.

I agree that there should be compensation, and it would make sense to look at that when the case comes to court. It goes back to my previous comment about the need to understand the level of suffering that is incurred by those animals, so that we can have a full view of the impact of an incident. The compensation should be proportionate to the situation.

**Steve Jenkinson:** At the end of the day, this is a people problem, not a dog problem. It is quite reasonable for farmers to be compensated for the problem. However, along with compensation there

should be good action to ensure that the incident does not happen again. That is it.

**The Convener:** Bridget, do you have any views on that?

**Bridget Jones:** I agree that compensation seems sensible.

**Mike Flynn:** Compensation is very important, because of all the financial costs, but you can only get compensation from someone who can afford to pay it. We have personal experience of that issue through the Animal Health and Welfare (Scotland) Act 2006. I would like to see all reasonable costs of the enforcement agency being recouped from the accused person if they are found guilty.

You have heard from the police and the local authorities that they do not have the financial resource. If a person is wilfully allowing it and the dog is left with them, it is likely to happen again. If you seize the dog, the kennelling costs will be about £15 per dog per day, and it can take up to a year for the case to get to court. Local authorities and the police simply cannot afford that.

**The Convener:** Should there be limits to compensation? Stewart Stevenson suggested that tups could be—and I can say that they are—worth in excess of £300,000. A breeding ewe could be worth £7,000 or £8,000. It is unlikely that farmers will have them individually insured, because insurance runs probably at 20 per cent of the value of the animal, which makes it prohibitive. Should there be a limit on how much compensation farmers should get, or should it be mandatory for dog owners to have insurance to cover the costs of potential damage by their animals? I am interested in your views on that, Mike.

**Mike Flynn:** It goes back to my previous answer. You can set any limit you want, but if the person does not have the means to pay it, it is not going to be paid. To be fair, neither the owner nor the dog knows whether it is attacking a £30,000 tup or something that Alan Dron could buy for £70. As far as I am concerned, if a person's neglect has caused the incident and they can afford to pay the farmer the full value, that should happen.

**The Convener:** Thank you. I have a further question. If an inspecting body is to be appointed to assist in the investigation of livestock worrying cases, which body would be the most appropriate and what additional training would they need? We will start off with Bridget Jones.

**Bridget Jones:** I am going to duck that question. I will leave it to others.

**The Convener:** Okay—that is a shoulder shrug. Mike, I will go back to you first and then widen it out, if necessary.

**Mike Flynn:** As I hope the panel will know, all our inspectors are authorised to enforce the welfare provisions of the 2006 act. We have the exact same authority as the police, except that we cannot make an arrest or stop a vehicle. We made it plain in our submission that we do not want to be the primary enforcer of the offence, but I can assure the committee that we have never refused a request from the police to assist them. They are the primary reporters of these matters to the Crown Office, and we will continue to assist the police in any way we can, as well as the local authorities, should they become involved.

**The Convener:** I do not see anyone else wanting to come in. I have got myself confused, for which I apologise to Mr Stevenson. I should have taken him before I asked my question. I come to him now.

**Stewart Stevenson:** Thank you, convener. Your apology is fully accepted—but not necessary, I hasten to add.

We have been talking about dog control notices, but I now want to talk about human control notices. Steve Jenkinson said that this is a people problem, not a dog problem, and that is easy to agree with. Are the order-making powers to disqualify owners from owning dogs appropriate and proportionate? If not, how could they be improved? That is the first of my questions.

I draw the witnesses' attention to the observation, made by the previous panel of witnesses, that enforcement in rural areas is extremely difficult. I did not find myself fundamentally disagreeing with that. There are only three local authority officers in the whole of Perthshire, for example. That is an awful lot of ground to cover and not many people.

**Paula Boyden:** There is scope for banning an owner from keeping a dog, but the action must be proportionate. It would be disproportionate to apply a ban to, for example, a first-time offender whose dog had literally escaped because of an error. However, if there are repeat offenders who clearly do not see the gravity of what has happened, that option should be available.

We face those challenges already. Mike Flynn will know more about this than I do, but members of the public are banned from keeping animals under the 2006 act, which has a similar process. It will always be a challenge to enforce a ban.

I understand from some of my RSPCA colleagues with whom I work that people quite often report individuals. Therefore, to a degree, we have to rely on that good will. I do not underestimate the challenges, but the important aspect is that the action must be proportionate.

I appreciate that this example again refers to south of the border. The National Police Chiefs Council survey, which covers a period of four years, shows that 11 per cent of the dogs involved were repeat offenders. Therefore, we are talking about a minority. However, we should at least have the ability to use that power against someone who is completely indiscriminate in allowing their dog to roam.

**Steve Jenkinson:** To follow on from Paula Boyden's comments, we need the measures to be proportionate. However, we also must ensure that we are dealing with the issue. In the earlier session, it was said, "If you go to the house and the dog is in the house, you know who the owner is." You do not—you do not know who the keeper is.

We see this in other dangerous dogs legislation—the issue of who owns a dog and who you take the action against is quite a difficult one. If you ban one person, the dog could be transferred to someone else in the same household, and the issues that relate to why the dog escaped in the first place would be left unresolved. Alternatively, they may just dispose of the dog to an even less suitable home.

If there is an issue in which sheep worrying is symptomatic of poor welfare of a dog, it is in the dog's interests for it to be removed. However, if we are talking about a gate being left open, a child having done something, or whatever it may be, and the owner has behaved reasonably in all respects—life catches up with us in some cases—that would be inappropriate.

A key issue is making sure that the sentencing guidelines ensure that the powers are used proportionately. To return to the point that I made at the start of the session, when I was asked by the police what I wanted to happen after the incident, I said that we need to focus on what the best thing is to do to prevent it from happening again. That will not necessarily be dealt with if a dog goes to live somewhere else—that could make it worse.

**The Convener:** Mike Flynn has spoken strongly on the issue. Do you want to add anything, Mike?

**Mike Flynn:** Yes. Luckily, under the current system, it does not matter what the legislation says; it is ultimately up to the sheriff who is dealing with the case to decide on its individual merits.

If we are talking about a first-time offender who is totally innocent—if it was a pure accident—that is one thing; but if we are talking about a repeat offender or someone who is reckless and pays no regard to what has happened, a ban should come in. That ban should not just be a ban on ownership; it should also be a ban on keeping or being in control of a dog. If a person says that the

dog belongs to their wife but they are caught in control of it in the open air, they are breaking that ban. The ban must encompass everything.

**The Convener:** Do you want to come back on that, Stewart?

**Stewart Stevenson:** I want to move on to the next of my questions, but I see that someone else wants to come in.

**The Convener:** Peter Chapman has a related question, so I will bring him in and come back to you.

11:15

**Peter Chapman:** What does the panel think about the question of when—if ever—a dog should be destroyed? We know that a dog that has attacked livestock is likely to do it again, if it gets the opportunity, as it has got the taste for blood.

We have heard that, in the case of repeat offenders, the dog could or should be seized. However, what happens to that dog at that stage? If that dog has been seized because it has repeatedly attacked livestock, what should happen to that dog at that point? Should it be destroyed?

**The Convener:** Mike, I will ask you to reply first, and then come to the others.

**Mike Flynn:** Again, it would be decided on an individual basis. We get dogs—dangerous dogs or whatever—in various circumstances. Each dog is assessed by our staff of veterinary surgeons and animal behaviourists. As I said earlier, most of the attacks are entirely preventable, so if it is decided that simply keeping the dog under proper control would prevent the attacks, that could happen. Destroying the dog would not be automatic.

**Steve Jenkinson:** I totally agree. It comes back to the point that Paula Boyden made about the fact that any dog can be involved in sheep worrying. The fact that a dog has not done it before does not mean that it will not do it. A dog just playing in a field of in-lamb ewes and not causing any damage to them can cause those animals to abort. The owner might say that it was only playing, and that might be true, but the consequences can be severe.

Giving a death sentence to a dog that has attacked livestock once is inappropriate and excessive. As Mike Flynn said, we are talking about a preventable crime and we need to look at the wider issues. Certainly, if the sheep worrying is caused because the dog is in an untreatable home and its welfare is compromised in other ways, I would prefer that dog to be taken away from that home. As was said earlier, this is a people problem, not a dog problem. A dog that has attacked livestock could have a full and happy life



in another home, where it could help people to take part in the healthy exercise of dog walking in a different context.

**Paula Boyden:** I agree with Steve Jenkinson. A dog that has attacked livestock could easily thrive in a different environment. However, if a dog is moved to another home, it should also receive appropriate rehabilitation and training. I am not saying that it should live in a rural environment where it might do it again; I am talking about an element of rehabilitation and training so that the new owner can at least spot the signs of the dog being alerted to other animals.

I think that euthanising a dog on the basis of an incident, without going through a process first, would be incredibly heavy handed.

**Stewart Stevenson:** I suspect that the answer to my question has been developed in some of the previous answers, but I am specifically interested in the powers to exclude offending owners from walking dogs on agricultural land. What are your thoughts on that? In particular, how do people know what is agricultural land? For example, our three acres of rough hill grazing is occupied by animals for only a third of the year. For two thirds of the year, it just looks like an empty grass field. Indeed, only a few hundred metres away, there is land that is a site of special scientific interest and is not agricultural land, but that difference may not be obvious to the casual observer.

How useful do you think the power is? Are there circumstances in which it could be helpful or where it might be challenging? I accept that I might have attempted to answer that latter question myself.

**The Convener:** I suspect that you might have done, Stewart, but let us see if Bridget Jones has an answer.

**Bridget Jones:** I think that you have answered the question—indeed, I think that the previous panel answered it, too.

The issue of enforceability is an important aspect, as is the issue of the public's understanding of agricultural land. My previous point about land use in Scotland fits with that. It is a tricky issue for the public to understand.

**Mike Flynn:** As Steve Jenkinson said, a lot of responsible farmers put up signs saying "Livestock". However, if you have walked past that sign for eight months and never seen any livestock, it kind of loses its impact.

Signage should be targeted at times when there is livestock present. Everyone has to access somewhere at some time, so, if there was a reasonable place to put that sign, you could reasonably expect people to know that there were livestock present.

**Steve Jenkinson:** This is a key point. The 1953 act that the bill refers to defines agricultural land as, amongst other things,

"any land used for grazing".

That makes me think of the Highlands and Islands, where North Ronaldsay sheep graze on the beach. Basically, that definition means that agricultural land could be anywhere because, even in arable areas, crop rotation in fields means that there is some grazing on them. I just do not think that that approach would be helpful. I agree with the view that it would be far better for there to be targeted signs so that we can help people do the right thing. If a dog is not properly exercised, there will be other problems with it. That section of the bill should be scrutinised and, in my view, removed.

**The Convener:** I think that we have got a flavour of people's feelings on the issue.

**Maureen Watt:** I would like to explore the issue of definitions a bit more closely. It is probably important to say that the bill involves consolidation and updating of existing legislation rather than being new legislation. Among respondents, there was near universal support for the expansion of the definition of livestock and types of land. However, there is confusion about some of the definitions. For example, in its submission, the Law Society of Scotland said that there is no definition of field—I am surprised at that. It says:

"Under section 1(2) (c) of the 1953 Act, the offence refers to worrying livestock as meaning: 'being at large (that is to say not on a lead or otherwise under close control) in a field or enclosure in which there are sheep.' We wonder if it would be better to define what a field is as common grazing may be a significant area which may or may not be enclosed. The Scottish Outdoor Access Code ... Refers to being 'under close control'. Would this be better than reference to a lead? The Code should be consistent with the legislation for purposes of clarity and transparency."

I should note, as an aside, that I understand that "common grazing" has another meaning under crofting legislation. What are your views of the extension of the definitions in the 1953 act, and are there areas where you feel that they should be clarified?

**The Convener:** I guess that, if all the witnesses were in the room, they would all look away so that somebody else would answer first. However, they do not have the ability to do that. As the question concerns outdoor access, Bridget Jones is in the firing line first.

**Bridget Jones:** That is okay. On the Scottish outdoor access code, I will go back to basics, briefly. The Land Reform (Scotland) Act 2003 contains a right of responsible access to most land in Scotland. It explicitly says that anybody with a dog that is not under control falls outwith access rights. If your dog is not under control, access

rights do not apply. The Scottish outdoor access code gives further advice and guidance on what responsible control would be. The issue is a little bit complicated but, to try to simplify it, if there is a field with young animals in it—lambs, calves, bulls—you do not take your dog into that field; that is responsible behaviour.

If there is a field with animals in it, but not young, you can take your dog into it, but it must be on a lead or under close control. To clarify, under close control generally means close at heel. That is a little bit easier for the public to understand. The dog should be at your heel. That is why we have the split between when your dog is on a lead and when your dog can be off the lead but under close control. When you get to the wider countryside, your dog needs to be under close control and you need to stay away from animals if you can.

I hope that that clarifies the position in the context of the Scottish outdoor access code.

**Steve Jenkinson:** As has been said, this is a nightmare. The key issue is the impact on the farmer or the suffering of the animal. It does not matter whether it is an enclosed field or inbye land or common grazings. I encourage the committee to look at deed rather than location, because it is a nightmare.

The bill should say that dogs should not attack animals or livestock anywhere. That gives far greater focus. There are situations such as cattle in Pollok park, and the Kennel Club has its own 7,500 acres of land where we have Galloway cattle and sheep. Are you saying that, in a big area like that, just because there might be sheep miles and miles away, you would not know? The onus should be on the owner to inform themselves with good information and not just allow their dogs to attack or worry livestock. Introducing definitions of location, apart from when livestock have strayed into somebody's garden, which is already dealt with under the legislation, and getting tied up in land is difficult for the reasons that the various bodies have said. It is just not acceptable for dogs to injure or attack livestock anywhere. This is a side issue and we should be careful not to fall into a trap here.

**The Convener:** Paula Boyden, do you want to come in here?

**Paula Boyden:** I have no comment to make on that; it is not my area of expertise. I agree with Kirsteen Mackenzie.

**The Convener:** In fairness, as everyone else has had a chance, Mike Flynn, do you want to say anything on that?

**Mike Flynn:** My only comment on that is that your idea of "close control" of your dog and my

idea would be totally different. If it is on a lead, it is under control.

**The Convener:** I think that many owners might feel that they have their dog under control without using a lead.

Maureen Watt, is that all right for you?

**Maureen Watt:** That is fine, although I think that we will have our work cut out on this bit.

**Christine Grahame:** I was listening carefully to what Bridget Jones said about the access code. If the bill becomes law, will it be sufficient to put information into the access code to the effect that people are still allowed access but it is subject to them making sure that their animal does not worry sheep or other livestock? Is that sufficient, or does the access code need to be changed?

**Bridget Jones:** That would be sufficient. The code and the Land Reform (Scotland) Act 2003 are clear. As somebody said earlier, the important thing is that, if the legislation goes through, we have a public awareness-raising campaign and get the message out nice and clear for the public to understand.

**Christine Grahame:** That brings me neatly to my supplementary. I am the member who introduced the bill that became the Control of Dogs (Scotland) Act 2010 and, at that time, there was no duty on the Scottish Government to publicise members' bills. That might be changing. Do you take the view that I take, which is that there is no point in the bill proceeding unless the public is aware of it, and unless it is tied up with the access code? A member does not have the money to publicise their bill, but the Government has, and to me, all legislation is equal.

I would like to hear the witnesses' comments on publicity and the need not for one hit of publicity when the bill becomes law but for continuing public awareness raising.

**Bridget Jones:** Generally a rolling programme of education and awareness raising goes on, and it fluctuates each year depending on what the priority topics are at the time. There can be seasonal stuff at lambing time, for example.

In short, the answer is yes. We are fully aware that there are various issues that come along with access to the outdoors and dog walking. Recent research shows that not far shy of 50 per cent of people who access the outdoors to enjoy the countryside for health and wellbeing benefits are accompanied by a dog. Dogs are a primary motivator for getting people outdoors. We want to ensure that people are out there and are enjoying themselves responsibly.

11:30

We work in conjunction with the national access forum, SPARC and land management and recreational non-governmental organisations to ensure that we have a good joined-up campaign so that the public know what they are and are not allowed to do and how to behave responsibly. If the bill goes through, with increases in fines and so on, we can incorporate that message in there, if it is appropriate to the audience we are targeting.

**Christine Grahame:** I want to give the witnesses the opportunity to put at the door of the Scottish Government a continuing duty to publicise the bill if it is passed. That has not happened with my member's bill on the control of dogs or with other members' bills, so I would like a little push for that. If the Government publicised such legislation, as it does its legislation, that would make it worth while for members to introduce bills.

**Mike Flynn:** I totally agree with Christine Grahame. Millions of people in Scotland, or at least hundreds of thousands, do not even know that her legislation on the control of dogs exists, and local authorities are not enforcing it correctly. People have to be made aware. As we said right at the beginning, such legislation has to be accompanied by a public campaign. That does not mean just having one advert in a newspaper on 1 April; it has to be continual.

**Steve Jenkinson:** I absolutely agree. There is no point in legislation if people do not know about it. The 2003 act, which underpins the access code, already says that access rights do not apply if a dog is not kept under proper control. That is very context specific and clear, and I do not think that anybody would argue that a dog that was worrying or attacking livestock was under proper control.

It is a key issue for us because, at the end of the day, deficiencies in this regard are often an animal welfare issue for the dog as well as for the livestock. I know that the people at Scottish Natural Heritage, which is now NatureScot, are working hard but, historically, there was a series of events to share good practice, which helped land managers and other access managers. The events were on all sorts of things, but we did a number of events on dogs. We are mindful that it seems that the resources are not there at the moment, yet given that the responsibilities on people taking access, land managers and the statutory agencies are a fundamental part of the access code, it seems unfair on dog owners and land managers if those agencies are not playing their part in educating. As we said at the start, this is an unintentional crime, and you deal with something unintentional by making sure that people are better informed. It is a brilliant question.

**Paula Boyden:** I agree with the previous comments. If the bill proceeds, there will be significant sanctions and penalties for the owners of dogs. That in itself could start to be the beginnings of a preventive tool. If folks realise that they will not just get away scot free or with a metaphorical slap on the wrist, that could be powerful. We will absolutely need to highlight and promote the fact that the legislation is there and that it can and will be used.

**The Convener:** I ask Emma Harper, whose bill it is, to ask any questions that she has.

**Emma Harper:** To pick up on what Paula Boyden just said, the purpose of updating 67-year-old legislation is to convey the importance of the offence. I remind everybody that the bill is not new legislation; it will update old legislation.

Do we need to focus on compensation law that already exists? Rather than create a whole new set of compensation language, should the bill refer to existing compensation law?

I am also interested in whether panel members think that the number of recorded incidents would go up. The bill might bring a bit more gravitas, which might give farmers confidence that, when they reported offences, something would be done about them.

**The Convener:** I will give every panel member a chance to answer those questions.

**Mike Flynn:** I agree with Emma Harper. I reckon that, if the legislation were to be passed, more farmers would be encouraged to report incidents, thinking that that would be worth while if it would help to solve the problem.

As for compensation, I can only speak about the Animal Health and Welfare (Scotland) Act 2006, which contains measures for the Scottish SPCA to be compensated for its costs. However, if those are not paid willingly, we have to take civil action to recover them, which can take months to go through the courts and can be costly. At the end of the process, we often find that the person does not have the money to pay the costs anyway.

**Steve Jenkinson:** Although compensation provisions exist, they are not working. In my other role as a member of NFU Scotland, I am aware of a report of an incident on a farm in Kirknewton, in which the loss was £20,000. The dogs involved had come not with walkers but from an adjacent holding. Their owners received a £400 fine, but no compensation was awarded to the farmer. NFU Scotland has since asked the procurator fiscal and the Crown Office to increase the penalty.

That example illustrates that, although the power to award compensation is there in theory, it is not being used. We should take the opportunity to deal with that if we can. Although I will always

come back to the issue of prevention, it is absolutely right that people should be properly compensated for what happens, but there are concerns about that.

**Paula Boyden:** As I mentioned earlier, the important point is that we need a good baseline for reporting. We suggest that that aspect is considered immediately, to ensure that there are good, robust reporting and recording mechanisms at the police level, so that we get consistent information. It is also important that we actively encourage farmers to report now rather than wait to see whether the bill is passed. That will give us a baseline so that we will know in future how effective the bill has been.

If there is already legislation on compensation, it would make sense to refer to that. However, it would be sensible to deal with the compensation aspect at the time of the case going to court, so that it is dealt with in one sitting rather than later on. The court would have the benefit of hearing the extent of the loss, including the level of suffering that was experienced by the sheep or other livestock involved. It would then have a full picture of the impact of the incident.

**Bridget Jones:** I echo Paula Boyden's point about improving the quality of the information that we get when incidents are reported. That would help to target matters in our awareness-raising campaigns and other activity. Having a better idea of what was happening and where, and in what circumstances, would make that aspect of our job a bit easier.

**The Convener:** Emma, does that answer your questions?

**Emma Harper:** Yes. Thanks, convener. I have found the evidence session very helpful. It feels weird to sit on this side of the table, as the proposer of a bill. I thank the committee's members and the witnesses for their input, which has been most helpful.

**The Convener:** Just before we close, I would like to ask a question that has sprung to my mind. Some people have mentioned the question of what might be considered appropriate signage. For example, if someone goes into the hills in Scotland, they might see no sheep for miles, but equally they might round a knoll and suddenly come across sheep that they did not know were there. However, it might not be appropriate to have signage in such a place. Do we not think that farmers should not have to rely on signage? They should rely on people knowing what is appropriate to do with their dog.

**Mike Flynn:** I agree with what you are saying. They should not have to rely on signage, but it is an extra safeguard for farmers. If you have moved livestock in an area and there is a suitable access

point where you can warn people, that would be an added benefit. However, you are quite right. As the law stands, dogs should be under control.

**Steve Jenkinson:** You are absolutely right. There is an issue of context and the difference between, for example, a 3 or 4-acre field on the edge of Livingston and a big open grazing in the Highlands. A good comparison is that, when you are driving a car, you have the responsibility for how you drive—you are responsible for adjusting your speed, for example—but we still put up signs when there is a bend or a ford coming up to give drivers that little bit more information to make an informed decision. That is the point of signage.

If signage is everywhere, it loses value, but if it is put up somewhere where an incident has happened, perhaps unintentionally, that can help to keep it clear. If someone is entering an open grazing, signage can say, at the point of entry, "You may not see a sheep here now, but sheep are grazed here, so keep a lookout."

**Paula Boyden:** It is clear that there is no one magic wand that will solve the issue. Signage is just one of the tools in the box that we can utilise. As has been mentioned, using signage at the appropriate time of year—so that people do not become conditioned to it, particularly if they walk the same route—to say that animals are present is just an extra warning. It is not a panacea, but it can be useful in the right context.

**Bridget Jones:** Signs are one of the tools in the box. If used well, signs can be quite effective, particularly in situations where there has been a change in circumstances. If the lambs are in a field, put a sign up, but do not leave it up all year, as people will just ignore it.

Signs should be viewed as part of a communications plan-type approach. There are all sorts of ways of getting messages across. Obviously, there are digital platforms and social media options available, but we should not forget the traditional method of talking to people face to face. Things such as that little article in the local newsletter or a visit to the community council to spread the word about issues in the area are all good ways of getting messages across. A combined approach is the trick.

**The Convener:** Thanks very much. That brings us to the end of our questions this morning. I thank panel members for the evidence that they have given, which has been extremely helpful.

11:43

*Meeting continued in private until 11:43.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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