



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 23 September 2020

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
23rd 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:

Charlie Adam (NFU Scotland)

Phil Burns (Scottish Government)

Jennifer Craig (National Sheep Association Scotland)

Mairi Gougeon (Minister for Rural Affairs and the Natural Environment)

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

Yvonne White (Scottish Crofting Federation)

Jim Wilson (Scottish Government)

Stephen Young (Scottish Land & Estates)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 23 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 23rd meeting in 2020 of the Rural Economy and Connectivity Committee.

The meeting will be conducted in a hybrid format, with three members—John Finnie, Richard Lyle and Stewart Stevenson—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 our scrutiny of her bill. However, she will be joining us remotely, in her capacity as member in charge. I welcome Christine Grahame as Emma Harper's substitute.

Agenda item 1 is the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill. In taking evidence on the bill, we will hear from two panels. There are a lot of questions to get through, so short questions and short answers will help.

Before we go any further, I invite members to declare any relevant interests. I guess that Peter Chapman will want to do so.

Peter Chapman (North East Scotland) (Con): Yes. I declare an interest as a partner in a farming business.

The Convener: Thank you. Stewart Stevenson may also want to declare an interest.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I am the joint owner of a small agricultural holding, which is generally used for sheep grazing and is therefore relevant to the subject before us today.

The Convener: Thank you very much. I also declare an interest, as a member of a farming partnership.

I welcome the first panel of witnesses: Stephen Young, head of policy for Scottish Land & Estates; Charlie Adam, vice-president of NFU Scotland; and Jennifer Craig, chair of the National Sheep Association Scotland.

We will move straight to questions.

John Finnie (Highlands and Islands) (Green): Good morning to the witnesses, and thank you for your written evidence. To kick us off, what is your assessment of the scale and nature of the problem of livestock worrying and what are the most common circumstances in which it occurs?

Charlie Adam (NFU Scotland): The problem is probably more widespread even than the evidence suggests, because quite a lot of incidents are unreported. It is also increasing. We had a survey done a couple of years ago that showed that 72 per cent of our members had been affected in one way or another. There is an increasing cost to NFU Mutual in payouts. In 2017 it paid out £1.6 million in compensation, which was 67 per cent higher than previously.

The problem is probably fairly widespread. It varies in degree and extent, but it is probably increasing—especially at present, because of increased access to the countryside.

The Convener: I am sorry, Mr Finnie—who do you want to hear from next?

John Finnie: I wish to hear from Ms White.

The Convener: I am not sure that I introduced Yvonne White at the outset of the meeting. I do not think that I did, on the basis that we could not see her, because her camera was malfunctioning or there was a technical issue.

Excuse me for not having introduced you. You are the chair of the Scottish Crofting Federation. The floor is yours, briefly.

Yvonne White (Scottish Crofting Federation): I echo the view that dog worrying is certainly on the increase. It does not just affect areas near high-population areas; it is also on the increase in rural areas in the Highlands and Islands, particularly as more people are being attracted to and take advantage of the benefits of the countryside. Increasingly, there seems to be a lack of responsibility among dog owners, which is of concern. The amendment to the Dogs (Protection of Livestock) Act 1953 is therefore most welcome.

It is a fact that a lot more cases are happening, and it is not just sheep; I have had reports of calves and heifers being run over ravines by dogs that were off the lead.

Dog worrying is very much on the increase, and it is good that something will—I hope—be done about it.

Jennifer Craig (National Sheep Association Scotland): I agree with what has been said in both previous answers. The problem is increasing—it is becoming more common. I think that it has been severely underreported in previous years, up until the past 18 months. We

have seen an increase in the number of cases that are being reported. They are certainly being covered more widely in the media, so the problem is coming more to the public's attention.

As Yvonne White pointed out, there are no specific areas in which the incidents occur. We currently have a nationwide issue.

Stephen Young (Scottish Land & Estates): I completely agree with what has been said so far. There seems to be a growing issue. We have seen shocking images of injured animals, but there are also unseen costs sometimes. Abortions are caused, and there is damage to fences from cattle being spooked. There are all sorts of issues, not just the deaths of, and injuries to, animals. There are also mental health and wellbeing issues for farmers.

All those things and all the figures are symptoms; the cause is irresponsible and reckless handling of animals. Getting to the crux of that and getting people to fully understand the severity of their actions in not controlling dogs are the big issues.

I agree with the other panellists that the issue is widespread, that it is not just about sheep and that it is not just in certain areas or near urban areas.

John Finnie: As the convener said, we have a lot of questions, so I will roll some together, if I may.

Do the panellists believe—given what we have heard, I suspect that they do—that we can make an accurate assessment of how the problem should be addressed? Is there specifically a need for new legislation? Where are the gaps in the existing legislation? I think that Mr Adam touched on the issue of underreporting. Are there other measures, including non-legislative measures, that could be used to encourage reporting?

Charlie Adam: There are a number of things in the bill, which we very much welcome as a step in the right direction, that could help with that. Obviously, one of those is simply widening the number of people who have powers to deal with issues when they arise. That will lead people to believe that, if they do not control their dog properly, somebody is likely to do something about it.

On the issue of underreporting, because the introduction of the bill has raised this issue, people will be much more inclined to report. That in itself is a valuable function.

Changing the penalty regime to one that is not just about fines would probably help, because in a situation in which someone cannot pay a fine and the penalty does not extend further than that, they may not have the same incentive to control their

dog properly or be concerned about the consequences of not doing so.

The Convener: We will come to that specific issue later.

Jennifer Craig: I echo what Charlie Adam said. There is a lack of repercussions for someone who allows their dog to commit offences; there is no deterrent. In some cases, the penalties are non-existent or extremely lenient. It is not just about the financial cost, but a lot of people who experience more severe impacts from dog worrying lose money, because there is no compensation due to there being no penalty. There is no incentive for people to ensure that their dogs are under control and behaving themselves. There is a general consensus that they will not receive any punishment, and that is where we need the extra reinforcement from bodies that are able to enforce fines or other measures against people who are repeat offenders. In certain cases, we find the same people and dogs offending in the same situation. In general, there is nothing available to a farmer to tackle the people who cause issues in their area.

Yvonne White: John Finnie asked whether there was a need for new legislation and, for various reasons, I think that there is. Any new legislation should not only be about fines and imprisonment, although I agree with such measures being increased and used more widely—I hope that I do not sound like a “hang 'em and flog 'em” type; it should go hand in hand with an increase in education, which should start in schools, although I am not sure how it would be done.

It is not ideal to address an issue after the event. The cruelty to the animals involved, the stress to humans and the economic cost should not be increasing in agricultural areas, so we need preventative measures. For when it happens, we need firm controls to prevent people from doing it again. Jennifer Craig made the point that, a lot of the time, the same owners are repeat offenders. I have personal evidence of that, and that has also been reported to me by members of the Scottish Crofting Federation.

Stephen Young: There is a need for a change in the legislation. The current legislation is relatively old, dating back to 1953, and the world has moved on quite a lot since then. The nature of farming has changed, as have the types of animals—camelids, deer and game birds—that have to be taken into consideration. It is just about updating and modernising what is there already.

On non-legislative things that we can do, education is key, as Yvonne White mentioned. Clear messaging is important, so that people understand the severity of what is happening. We

often hear people saying, “My dog wouldn’t do that,” and not understanding the nature of how dogs are around livestock.

We welcome the change in language in the bill, including the change from dog “worrying” to dog “attacks”. “Worrying” can be brushed aside—it does not sound serious—yet we are talking about attacks. It is important to get the message across to people, so that they understand the severity of the issue, and to have that backed up by penalties, if required, for people who do not move on after being educated. We definitely need penalties for repeat offenders. There are also people who do not fully understand what the issue is, so we need a mix of education and penalties.

09:15

Stewart Stevenson: As the answer to my question is unlikely to influence how we respond to the bill, I will not spend a lot of time on it. In earlier evidence sessions, we heard that the two main dog breeds that attack are German shepherds and huskies. I understand that there are a lot of German shepherds, but not many huskies. In the interest of saving time, I direct my question to Jennifer Craig solely. What is the National Sheep Association Scotland’s experience of the dog breeds that are involved in attacks?

Jennifer Craig: It is unfair to penalise certain breeds of dogs. I do not think that there is any evidence to suggest that certain breeds are more inclined to worry livestock than others. It is not a dog problem; it is a people problem. If you have a dog, you are responsible for it. A dog of any breed has the ability to attack or worry sheep. Some of the problem lies in people tending to think that smaller, fluffier dogs are less of an issue, but they can do just as much damage as bigger dogs, if not more. Penalising certain breeds of dogs is no use.

The Convener: I am glad that we are not victimising any particular dog breed, because it could open us up to criticism from breeders of those dogs.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I was the member who brought forward the member’s bill that became the Control of Dogs (Scotland) Act 2010, which brought about a big move towards a “deed not breed” approach, so I very much welcome Jennifer Craig’s response. A Jack Russell can do as much damage as a big dog, if not more. It is good to keep that in mind.

The Convener: I see most panel members nodding in agreement.

Richard Lyle (Uddingston and Bellshill) (SNP): The member who is promoting the bill commented that this is not new legislation but an

update of old legislation that is 67 years old. Is this update of the law necessary? If so, why?

Jennifer Craig: Richard Lyle makes the point that the legislation is already there, but it certainly needs to be updated. As we have already mentioned, there has been an increase in the number of attacks and worrying incidents. It can certainly be argued that legislation that has been around for that long is not fit for purpose. It does not cover the issue that we have now and it needs to be updated for everyone’s sake—not just the farmers and the people whose livestock suffers attacks but dog owners, because most dog owners are responsible, yet they end up tarred with the same brush as those who are irresponsible and who need to be targeted by the bill.

Stephen Young: I totally agree with that. One of the main changes since 1953 is the change in the law on access rights. People now walk dogs in areas where they probably would not have walked dogs in 1953, which is a crucial change. This legislation needs to keep up with and match the access legislation.

Charlie Adam: I agree with what has been said. In addition, there has probably been a vast increase in dog ownership since 1953, particularly among the urban population. There has also been quite a large decrease among the general population in understanding what happens in the countryside. For those reasons alone, the 1953 legislation is not appropriate for the current time.

Richard Lyle: Thank you. My next question—

The Convener: Richard, would you mind if I briefly brought in Yvonne White, because everyone else has had a shot at the question?

Richard Lyle: I was going to ask her to answer my next question. Yvonne—

The Convener: Richard, you are in charge. I realise that that is a dangerous comment to make. You ask your next question and Yvonne can go for it.

Richard Lyle: Do you think that the bill will reduce the incidence of livestock worrying and increase prosecutions? Could it be improved to make it more effective in achieving both aims?

Yvonne White: The bill will reduce the number of incidents if it is implemented and resourced correctly. It is very easy to pass bills and for bills not to be implemented. To be implemented correctly, the resource needs to be there. The bill will be able to reduce the number of incidents but not as a stand-alone measure.

The bill will help to prevent an increase in the number of incidents if education is part of its implementation. If there is communication about

the serious legal consequences for you if your dog attacks livestock, that will certainly put off some people. However, we really need to increase people's awareness and their sense of the responsibilities of owning a dog. Jennifer Craig said earlier that it is nothing to do with the dogs; it is the owners who are at fault. Very few dogs are mad mental—they become like that for certain reasons.

Richard Lyle: Charlie Adam, in your experience is it people with dogs who live in the countryside who cause problems, or is it people who do not live in the countryside and who might walk their dog in your area on a sunny day?

Charlie Adam: I would not like to make that distinction. It would probably be both. I suspect that people who live in the countryside and are used to what goes on there might be a bit more aware of the dangers of what their dog could do, but it would be unfair to make too much of a distinction. It is just about the attitude of owners to dogs. Quite a lot of people move from an urban area to a rural area, and some take an interest in and integrate themselves into country life more than others. There is a degree of ignorance across the board.

Richard Lyle: That is me, convener.

The Convener: Thanks, Richard. I will take back control.

Angus MacDonald (Falkirk East) (SNP): Further to Richard Lyle's theme, I note that we heard Yvonne White mention education in schools, and she was supported by Stephen Young. What education and public awareness efforts would your organisations like to accompany the bill? Perhaps we can start with Yvonne White, as she has mentioned education a few times.

Yvonne White: There should be advertising and articles in newspapers and dog clubs, and dog trainers should be involved in special sessions in primary and secondary schools. I am not sure whether schools have general awareness classes, but the subject could fit into citizenship classes, environmental classes or something like that.

There is radio, television and social media, and the Scottish Government must have quite a good communication machine. It would be good to have a lot of focus on communicating the message across all media to as many different parts of society as possible in order to see what effect that has in reducing the number of reported incidents. It could even be used as a model for implementing other acts. It needs to be tied up with good, solid communication.

Charlie Adam: I endorse everything that Yvonne White said. In general, education on food, farming and the countryside needs to be part of

normal education—that is a hobby horse of mine. Social media also has a great role to play.

Most dog owners are very responsible and proud of the fact that they handle their dogs correctly. There could be efforts among dog organisations to make anyone who does not do that a black sheep. It should be seen among the dog-owning community as a crime that brings everyone down. We could perhaps do it in conjunction with the dog organisations.

Christine Grahame: I agree about the importance of publicity and promoting the bill. However, it is a member's bill, and I know from my experience that the Scottish Government does not do the publicity—the member would have to pay for all that herself.

The minister will come to the committee later, but my question for the panel is: should the Scottish Government pick up the costs of publicising the amendment to the legislation if it is agreed to? There is no point in us doing it if the public does not know about it.

The Convener: I am sure that Christine Grahame will take that up with the minister, who will be on the next panel. It is an interesting point.

Stephen Young: I agree with everything that has been said. I do not want to go off on too much of a tangent, but there is a disconnect between urban and rural on many matters, and this is just one of them. The Scottish outdoor access code could be strengthened and the messaging could be clearer.

One thing that has been really heartening in the process is the full agreement among the organisations that have given evidence, such as the Scottish SPCA, Dogs Trust, the Kennel Club, the National Sheep Association and NFU Scotland. Everyone agrees that it is an issue and that something needs to be done. The reach of all those organisations is potentially huge and we could get real support from across the sector to publicise the changes. It should not be a huge issue to do that, and it could include people such as vets, too.

Everyone sees it as an important issue and is keen to do something about it. It is quite possible to do a lot of education work in that way.

Jennifer Craig: I agree with Stephen Young. Given the number of stakeholders who are involved in the issue, there is no reason why we cannot work collectively to come up with some sort of education and a publication. The solution to dog worrying is very simple: it is a five-second decision as to whether you put a lead on your dog and keep it under control, or not. It does not need to be more complicated than that.

09:30

Angus MacDonald: My next question is directed to Yvonne White, with her SCF cap on. I should declare that I own properties in a crofting township in the Outer Hebrides. Are there any particular issues to consider with regard to livestock worrying on crofts and common grazing land? What would the bill achieve from a crofting perspective?

Yvonne White: I think that it would give people increased confidence to report incidents. It was mentioned earlier that many incidents are thought not to be reported at present. I do not have any figures, but I know that most of the cases of dog worrying where I am are not reported. People see it as stressful and they are not sure about the process—is it the police or animal health staff that they should tell?

When the police are involved, they seem to have very little power, and it involves taking statements and so on, because that is what happens when there is a crime. However, it is often to do with someone in the locality, and Angus MacDonald will know that the community has traditionally been a close one. People do not like to be too negative about their neighbours in the Highlands and Islands, and that still carries weight.

The proposed changes would increase people's confidence in reporting incidents, which are on the increase. However, the reporting process needs to be clear and to be seen to be working. I know of cases in the past year or two in which witness statements were taken and so on, but nothing happened to the dogs. They went on to cause further damage and in the end they bit humans, but they are still wandering around. Years ago, if people came to someone's door and said that their dog was on the hill worrying, they would just shoot the dog—whether it was theirs or not, sometimes—because of the community aspect.

I think that the bill would help. People in the Highlands and Islands need to be encouraged to come forward more with regard to livestock worrying.

The Convener: That is useful, Yvonne. I will bring in Charlie Adam to say whether he has any relevant experience from any crofting members of NFU Scotland.

Charlie Adam: I do not have any specific experience from crofting members, but I am sure that those problems exist, given the number that there are, the areas that they are in and the tourism in those areas.

It struck me from what Yvonne White said that one of the most important aspects is for local authorities and the police to be made aware of and

encouraged to use the powers that are available to them. The NFUS has done a great deal of lobbying for that, but I think that those authorities could do more. Obviously, they will need the resources to do it, especially in remote areas where they may be thin on the ground. That can be a problem, particularly in crofting communities, which will probably be a long way from the enforcement authorities that can receive reports and have something done about them. That is just a thought that came to my mind.

Peter Chapman: I want to investigate dog control notices. In previous evidence sessions, witnesses have noted their support for the use of dog control notices in cases of livestock worrying. The NFUS says that it welcomes the use of DCNs in that situation and that they are “a useful interim step” in the process. However, they can be issued only by an authorised person who is acting for a local authority—they cannot be issued by the police, for instance.

Based on your members' experiences, do you think that increased use of dog control notices would be a welcome tool to reduce livestock worrying?

Jennifer Craig: Yes. I agree—and I am sure that the rest of our members would—that dog control notices would be a useful tool. They are a way of trying to educate people once incidents have occurred. I agree with what the NFUS says in its written submission: we need the police to be able to hand out DCNs, as well as local authorities. There needs to be joined-up thinking in order for them to be effective and do what they are intended to do. However, as long as it is done properly, we support them being implemented.

Charlie Adam: As Jennifer Craig says, the point is a key part of our submission. Whoever the inspectors are, whether they are dog control wardens or from the SSPCA or the police, the NFUS would say that the issuing of DCNs should be available to a wider range of people in order to increase the likelihood that they will be applied.

Stephen Young: The wording that Peter Chapman used is right: dog control notices are a tool in the box. We need a full range of resources with which to manage the problem, and DCNs are certainly one of those.

Similarly to what Charlie Adam said, we need a consistency of approach. We do not want to have different approaches in different areas from different bodies. A big aspect of the bill is about highlighting the severity of the issue, saying that it needs to be taken seriously and saying that everyone needs to take the same approach and use the same penalties for the same offences. We are looking for a consistent approach across the board.

Peter Chapman: My follow-up question is specifically for Stephen Young. SLE has suggested the establishment of a national database of dog control notices. Should the bill require a DCN national database to be put in place?

Stephen Young: That would be useful. It comes back to consistency, understanding and everyone being clear as to where we are, and I think that that would fit within the bill.

Peter Chapman: My second follow-up question is this. Do you feel that the bill should incorporate some of what we have just discussed as regards dog control notices? Should the bill address that as part of the process that it proposes?

The Convener: Who would like to answer that? Charlie Adam has his hand up. I am glad about that. Usually, the last person to look away gets nominated. However, as you have volunteered, you can answer, Charlie.

Charlie Adam: The answer is absolutely yes. Fundamentally, we are looking for things to be beefed up so that measures that have not been effective deterrents in the past become so. I agree with Stephen Young that it must be done consistently, but that should be in the bill, because it will act as a more effective deterrent compared with what we have now.

The Convener: I want to ask whether anyone has any experience of something that came up last week in the evidence from Perth and Kinross Council. It suggested that it has three people to issue notices, which seems very few people to cover such a massive area. Do we need more people to issue notices? Charlie, you are volunteering to provide some clarity.

Charlie Adam: That brings up the question of resources. We cannot get away from the fact that it is no use having legislation if we do not have the people on the ground or the resources to get the job done. This being a member's bill, there are, as I understand it, limits to what it can do in that respect. That perhaps raises the issue of whether the Government needs to address the matter via a different vehicle to ensure that the necessary resources and capacities are available.

Yvonne White: Last year, we waited six or seven months for a dog warden to come from Inverness to look at a situation. There is a very real need for resources. It would be good if dog control notices could beef up the new legislation, but they should be an integral part of the measures and not used instead of other things. There should also be enough people to issue dog control notices and follow up on them, which is really important.

A lot of it comes back to resources. However, a lot can still be done regardless of whether there is the ideal amount of resource.

Stephen Young: I completely agree that it comes down to resources.

A small note of caution is that, if too many people get involved in management of an issue, it can create confusion. We need clarity for people, including victims, about what they should do. If there is an on-going issue or someone has seen something, who do they phone? How do they deal with it? I fully agree with what Alan Dron said last week about fly-tipping. That is a good example of a situation involving the police, local authorities and the Scottish Environment Protection Agency where people do not know what to do when there is an issue. They end up phoning the wrong person, getting handed round the houses and then just giving up.

We want real clarity, and that is why resources are key. We need to make it really clear how to report things and who does what.

Oliver Mundell (Dumfriesshire) (Con): There has already been quite a lot of talk about penalties. Are the penalties in the bill appropriate, or should they be aligned with the penalties in recent legislation?

The Convener: I am looking to see who is volunteering. Stephen Young, you looked away before anyone had a chance to answer, so you can start off.

Stephen Young: I was trying to scribble down the question.

In extreme cases, we could ask for stronger penalties. It is all fairly subjective but, if there are several bills dealing with similar issues, it would make sense to have consistency. However, there is definitely a need to strengthen the penalties in the bill, and it is important to have a suite of penalties available. It makes a big difference when there is intent, or when the situation involves a repeat offender. We need to have really strong penalties to deal with repeat offenders and softer penalties for one-off incidents.

09:45

Jennifer Craig: To be quite short and to the point, I agree with everything that Stephen Young has said, and I echo him specifically on the variances in fines or penalties. As he rightly points out, repeat offenders should be targeted at a higher rate.

Accidents happen. Dogs get out accidentally. We do not want somebody who has made a genuine mistake to be hammered with a huge

penalty. Perspective and clarity are essential when it comes to the penalties.

Charlie Adam: I agree with what has been said and have nothing to add other than a point that I made earlier, that people who do not have the money to pay a fine will not necessarily be deterred by one. A range of other things is needed that will hit home with them.

Oliver Mundell: That last point leads on to my next question. Should compensation be brought in as part of the bill? Last week, we heard that compensation is sometimes an afterthought in the process. Given the value of livestock and the damage that is done, should compensation be dealt with in the bill?

The Convener: Last week, Stewart Stevenson bid me £300,000 for a tup that I did not have. That is the sort of value that could be put on a sheep, so the issue of compensation is important.

I ask Yvonne White to start off on that. Should compensation be part of the bill?

Yvonne White: I think that £300,000 for a tup is obscene.

The Convener: Stewart Stevenson is very rich. *[Laughter.]*

Yvonne White: For that money, I would want it to do housework and feed cows.

The issue of compensation is difficult. As Charlie Adam mentioned, sometimes people do not have the money. There needs to be something in the bill about compensation, but perhaps it should include community service, because there is no point in putting in levels of compensation that people cannot pay.

There are significant economic effects when livestock are attacked by dogs. There is stress to animals. Even if an animal is not fatally injured, it might abort—that happens a lot of the time—or be no good in future for breeding. There are vets' bills, and time has to be spent on the issue. Compensation should be in the bill as a deterrent, but alternate means are needed, because not everybody will be able to pay compensation.

I imagine that setting the level of compensation will be difficult, because one tup could be worth £300,000 and another might be worth £300.

The Convener: I think that we would all wish for tups to be worth that sort of money, if we owned them.

Jennifer Craig: I echo what Yvonne White said. Compensation is part of the whole issue. In most circumstances, the upset causes people more distress than the financial situation does. If it is a large-scale incident, as has happened in several places across the country, there is an argument

for compensation. However, as Yvonne White said, if that compensation cannot be met by the offender, it is irrelevant, in a sense.

The issue of compensation is difficult. Where do we pitch it? Do we take the farmer's valuation or do we have to get independent valuations? It could open up a can of worms, but I agree that there should be some form of compensation, specifically for larger incidents, where there is a big financial impact on a flock. Often, the larger impacts are on younger farmers or new entrants, or people who are not making a lot of money at the time and do not have a lot of assets behind them. For people like that, an incident could devastate their business. Therefore, at some stage, we must look at compensation.

Charlie Adam: The NFUS position on that is rather stronger. Some form of compensation package for farmers is a key ask for us. We recognise that it might not be possible to deal with that issue in the scope of a member's bill, but it needs to be addressed. We do not all have £300,000 tups, but even cast ewes are making £100 at the moment. In the normal level of profitability, even a relatively small amount of loss can be significant to the viability and profitability of some people's sheep enterprises. Therefore, from a farmer's point of view, it is important that there should be some form of compensation package. The fact that no compensation is available to people might be a contributory factor to underreporting, which means that people who ought to be brought to book are not being brought to book.

The Convener: Before we come to Stephen Young, I will ask Charlie Adam a question about stock. Do most farmers insure all their stock or do they insure only the very valuable animals? If something like that happens, can they claim on insurance?

Charlie Adam: Most farmers, including me, do not insure their commercial stock, because the premium rates are very high. For example, the premium rate for a bull is something like 18 to 20 per cent of its value, so it is not economic to insure every animal. That is not a viable option for normal commercial animals. Also, if people have a policy and make an insurance claim, that is likely to lead to an increase in their premiums so, because of the size of individual claims, there might be a disincentive to make a claim. However, that does not mean that a loss has not been taken.

Stephen Young: If we flip the scenario round to one in which livestock get out and trample through someone's garden and destroy their rose bushes, the owner of the garden would expect to receive compensation for that. If we turn the situation back, compensation for damage to livestock—which is costly in some cases—makes sense,

although, as was mentioned, there are limitations around the ability to pay.

That brings in the question of insurance for dogs, which is a tricky area. A lot of people pay insurance for the health of their dogs, in order to cover vet bills; would a bolt-on to cover a public liability element be feasible? That would need to be thought through carefully, but it is worth investigating further and it would be interesting to do that.

The Convener: Oliver Mundell has a supplementary question.

Oliver Mundell: To pick up on that last point, does any other panel member have a comment on making that a compulsory element of insurance for dogs who are walked in areas where there is likely to be livestock?

On compensation, I have had pushback from farmers in my area about the figures that have been talked about in the committee. Could a standard compensation package that looked at average values of livestock be put in place? A lot of the people who I have spoken to feel that the principle of compensation is important, and that people should be made to give something back to the farmer, even if it does not reflect the full financial value.

Charlie Adam: If that proved to be workable, it would make sense. A more practical solution would be to insist that people have insurance for their dogs against any damage that they might do, although I do not know whether that is possible. I think that Oliver Mundell's suggestion would be a viable solution and that some form of compensation package is important from a farmer's point of view. I do not see why we should be less protected against the actions of others than other sections of society are from other events.

Jennifer Craig: Oliver Mundell is right that it is about the principle of a compensation package as opposed to the exact amount of the damage that has been inflicted.

On the insurance point, it is not a bad idea to have a public liability attached to dog insurance. However, as with all insurance, there are caveats that put premiums up and we would have to be careful about how insurance companies implemented those public liabilities. For instance, would certain breeds be penalised because they are perceived—wrongly, in most cases—as more liable to take actions that could result in a claim on public liability? It could be a very grey area to disappear into, but it is certainly worth looking into for future purposes.

Yvonne White: The principle of compensation is a good idea. There could be a sort of menu

setting out the cost of a tup, a hog and so on, but that might need to be updated annually in relation to market values. However, if it is just about the principle of compensation, that might not be needed.

On insurance for dogs, I think that most people in towns certainly have health insurance for their dogs. I know that my friends have it, and they seem to pay a lot of money. About three or four years ago, I asked NFU Mutual about insuring one of our working collie dogs because he cost a lot of money, and that would have cost £750 annually. We have five working collies—some people have more and some have fewer—so a blanket law on insurance could end up penalising people who have working dogs.

Like farms, most crofts are insured with NFU Mutual—that is a plug for its croft and farm insurance, which gives public liability cover. I am not sold on blanket legislation for dogs, because a lot of crofters and others who could not afford the insurance could end up in a not very good position. The issue would need further investigation.

The Convener: The deputy convener has reminded me that I should say that there are other insurance companies out there, so that is not an endorsement. I am not entirely sure that that is what she said, but it was along those lines.

Stewart Stevenson: The issue of disqualifying people from owning dogs has come up. Is that proportionate and appropriate in this context and what kind of offence should occur or track record should people have that would lead to that? Conversely, what mitigating circumstances should we properly be looking at?

10:00

Jennifer Craig: Disqualifying people from owning dogs seems very savage and sounds severe. However, we are discovering from our members that it is the same people whose dogs habitually cause incidents of worrying and attacking sheep. In many cases, there are multiple dogs, and the same dogs might not be involved every time—that is, the same owner is involved, but they might have two or three dogs, none of which is under control. Alternatively, subsequently to an incident, the owner might have obtained other dogs, and the same problem happens again.

Part of being a responsible dog owner is keeping the dog under control and keeping it safe, as well as keeping everybody who is around it safe. If a person repeatedly causes a problem in their local area, or outwith it, if they take the dogs for a drive to walk them, that person is not fulfilling their responsibilities as a dog owner. Owning a dog is a privilege. It should not be a right, and it

comes with caveats. An owner owes it to their dog to look after it to the best of their abilities. I would argue that, if a person allows their dog or dogs to continue, on a regular basis, to cause concern, they are not looking after them properly and are clearly not a responsible owner.

I agree that there has to come a point, in the most severe circumstances and when other things are not working, at which we consider that some people should not be in charge of dogs.

The Convener: Stephen Young wants to come in on that question. I cannot hear you yet, Stephen. There we are—you are on now.

Stephen Young: You have just missed the best point that I have made all morning.

When there is intent or when there are repeat offenders, as Jen Craig pointed out is often the case, disqualification is the best way to go. That is not about punishing the person; it is about looking after the dog or dogs. If someone is not looking after dogs properly by putting them in that situation or not treating them well, that is causing danger and distress to the dog. In those cases, disqualification for the owner is only fair on the dog. After all, the ultimate sanction is that the dog would be shot, if it is caught in the act. To be fair to the victim—the animals that are attacked and the dog—and to punish the owner, that measure should be there as a deterrent. However, it should be used only in fairly serious cases such as where there are repeat offences or intent.

The Convener: I will come back to Stewart Stevenson, because he has a subsequent question to that, which we can bring the other panel members in on.

Stewart Stevenson: Earlier, we heard reference to access rights under the land reform legislation. That opens up the question of whether there should be a power to exclude people from walking on agricultural land. Of course, that raises the more general issue of how people with dogs will know that land is agricultural land. Where I live in the country, our field is agricultural land, but you have to go only a couple of hundred metres before the land is not agricultural but a site of special scientific interest. It is not necessarily obvious to a townie, although it might be more obvious to Stephen Young and me and others on the panel.

What are your views on how that would work and what contribution it would make to reducing dog attacks?

The Convener: I will go straight to Yvonne White on that, because the demarcation on croft land might be slightly more blurred than it is on more formal agricultural land.

Yvonne White: It is a difficult one. It is difficult to stop people accessing land when we have very

good access rights. However, there is probably a case for it under certain circumstances, such as lambing. I know of cases in which people have been lambing ewes, in very rural areas and before Covid, and other people have walked close by them with a dog off the lead. They have said, “Can you move your dog? They are upsetting the ewes,” and the response is, “We’ve got a right to be here.” However, if you put a padlock on an access gate because ewes were being disturbed at lambing, you would be in the wrong.

The increase in the number of people coming to the countryside is a good thing for health and so on, but a lot of people lack knowledge and experience. It goes back to education. Until everybody is a fully functioning, responsible and mature adult about all of the issues, there is a good case for restricting people from coming into areas during calving and lambing. That would help. Obviously, people would still do it; in fact, you could argue that the ones who would still do it are probably the ones with the dogs that cause the problem. However, that would still be worth exploring.

Stewart Stevenson: Given that access rights may only be exercised responsibly under the legislation—in other words, they do not mean blanket access—would it be automatically irresponsible for a dog to be off the lead near livestock?

Charlie Adam: Most farmers would totally agree that, generally, a dog should not be off the lead near livestock, but the access code maybe does not go that far, so we are stuck with that.

There is obviously a problem about education, clarity, definition and enforcement in the general banning of access to specific pieces of land. When people are ignorant about what is going on, it is difficult to deal with that. In cases involving repeat offenders, particularly where they are neighbours and where the person and specific piece of land can be defined, it should be possible to have a ban on access by a particular person to a particular piece of land. That should be set up and policed, frankly.

Christine Grahame: A panel member last week raised an interesting point about the difficulty of defining things such as “rural land”, “field”, “crofting land”, “agricultural land”, or indeed “a piece of land”, as Charlie Adam just said. We are getting in a tangle about access here. Would it not be better to focus on the deed? The bill is about attacks on livestock, so, rather than try to pin down the place and deal with difficult definitions, why do we not say that, wherever it happens, any attack on livestock is an offence? We are getting in a tangle trying to define “field”, for example.

The Convener: Christine, please be careful when you ask your questions that another member has not already indicated that they want to ask about the same specific subject.

Stephen Young: I agree with Christine Grahame: it is very difficult. I heard the conversation about defining a field or an enclosure. This is a human issue, so it has to be really clear to people what is expected of them. They should not need a degree in geography or agriculture to be able to understand it. Christine Grahame is quite right—the deed is the important part. Language is also really important. The access code is about the right of responsible access, not the right to roam. It does not mean that people can go where they want, when they want. They have certain responsibilities.

I think that the point was made last week that if someone is in a field with livestock, the only way that they really know that their dog is under close control is if it is on a lead. That is a way of really simplifying the issue. It is about clear messaging and making the issue as simple as we can. Yes, there are nuances and complications, which mix messages and create loopholes more than they solve problems. Christine Grahame is right—if there is livestock in a field, you have to be aware of that and be very clear about what your responsibilities are.

The Convener: Before we move on to questions from the deputy convener, I want to ask about the issue of putting dogs on a lead. In May, when young stock go out into a grass field, it can actually create more problems if a person walking across that field has their dog on a lead than if they had their dog off the lead, because the livestock are attracted to the person. Is that an education issue?

Charlie Adam: Absolutely. I have personal experience of someone with a dog on a lead insisting on crossing a field even when they had been warned that there were stock in the field. As you say, and as any farmer will tell you, if somebody keeps a dog on a lead in a field where there are cows and calves, for example, the cattle will probably attack the dog, and because the person is next to the dog, they will probably get hit.

It is not safe to encourage people to make for the nearest boundary, which I believe is the advice in the outdoor access code. People think that that will keep them safe, but the advice is an invitation for people to put themselves and their dogs in danger. I think that there are flaws in the advice in the access code that endanger people's lives, and in my view it ought to be changed.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): I want to tease out the question of definitions a bit more. Stephen

Young's submission highlighted inconsistencies between the definitions in the 1953 act and those in the Scottish outdoor access code. What are your views on the best definitions to have in the bill, as opposed to what has gone before?

Stephen Young: Can you give an example? I am missing the point of your question.

Maureen Watt: In your response to the call for views, you said that there were inconsistencies between the definitions in the existing legislation and those in the Scottish outdoor access code. Given those inconsistencies, what, in your view, would be the best definitions to have in bill?

Stephen Young: Sorry—my mind is completely blank.

The Convener: Okay. Instead of putting Stephen under pressure, does somebody else want to talk about definitions of "land" in the bill?

Charlie Adam: I have to admit that I am not clear on the specific definitions that are being referred to, so I do not know that I can comment on that.

The Convener: Maybe I can help. The relevant section in the 1953 act refers to "a field or enclosure". There is a question about the definition of "field or enclosure", because a larger area, such as common grazings, is not definable as a field—it could be a huge area of hill, in some cases. Maybe Yvonne White can say a bit about that, and then I will come back to Charlie Adam and Stephen Young.

Yvonne White: I can definitely say that the 1953 definition of "a field or enclosure" needs to be updated to cover the full range of agricultural land. Common grazings, which have just been mentioned, can cover 7,000 acres, and they are unfenced. A field is defined by set boundaries, usually physical, as is an enclosure. Common grazings boundaries tend to be geographic, as opposed to having a human-made boundary such as a fence.

10:15

Charlie Adam: I am a little out of my depth on the subject, but it seems to me that there comes a point at which it is almost impossible to define a piece of land. One thinks of hill sheep, and of people walking around on mountains where there are blackie ewes. At a certain point, the whole thing has to be addressed through general rules on behaviour, rather than trying to specify pieces of land. Where do we draw the line between what is and is not an enclosure? It is very difficult.

Maureen Watt: Do I get the sense that, as Christine Grahame said, it should be about the deed rather than the place—that it is just too

difficult to define places, so we should look at only the deed?

The Convener: I note for the record that I see very clearly four heads nodding. Is that sufficient for you, Maureen?

Maureen Watt: That is fine. Thank you.

The Convener: We will take that as a yes from all the witnesses.

Mike Rumbles (North East Scotland) (LD): I will concentrate on section 5, which is about inspecting bodies and the appointment of inspectors. About authorisation, section 5 says:

“The Scottish Ministers may by regulations authorise one or more persons, organisations or bodies to appoint inspectors for the purposes of this Act.”

That is quite a different approach from that taken in the Animal Health and Welfare Act (Scotland) 2006, under which the Scottish ministers appoint inspectors as an addition to the police.

Do you think that the bill takes the best approach, with organisations that are appointed by the Scottish Government then appointing their own people without reference to the Scottish Government?

Stephen Young: We have covered the need for consistency and clarity for everyone as to who should be involved. Things could get muddy and confused very quickly if too many people are involved. I agree that if different bodies appoint different people, inconsistencies can arise in the way in which things are interpreted and enforced. It is important that we have that consistency.

We have also seen that different local authorities put different emphases on things and allocate different amounts of resource. I think that things have to be as consistent as they can be across the country.

It is important that the bill is very clear as to who is ultimately responsible, so I am keen to see it being kept as tight as possible. However, we also need the resource. It is about walking the fine line between having the resource to deal with the issue and making sure that that consistency is there.

Charlie Adam: As Stephen Young said, there is a conflict between achieving consistency and getting enough people on the ground to have effective enforcement.

The only suggestion that comes quickly to mind is that, although individual organisations might find their own people, there would need to be some central training that those people had to go through to ensure that they were all singing from the same hymn book when they went out to do the job on the ground. That might be a compromise.

We need people on the ground in sufficient numbers to have some deterrent effect.

Jennifer Craig: The two panellists who answered before me have covered the subject. I do not have anything to add.

Mike Rumbles: The view of the panel is that it would be sufficient for organisations to appoint inspectors, as long as they were trained, and perhaps certificated, so that they met the standard that we expect. At the moment, there is nothing in the bill to say that that should happen. The bill says only that the Scottish Government can appoint an organisation to appoint people.

If the bill is not amended, which organisations should be authorised by the Scottish Government to appoint their own inspectors?

The Convener: We will go round the table and ask each witness to suggest a couple of organisations.

Jennifer Craig: I am not sure that I have an answer. You should pass the question to someone else.

The Convener: I cannot see everyone else; I cannot see who is looking away to avoid the question. Charlie Adam has volunteered to go first before. Off you go, Charlie.

Charlie Adam: The obvious answer would be the Scottish SPCA, but local authorities and some agricultural organisations might be able to do it. It is more important that whoever is picked is trained, knows what they are doing and can be consistent. Perhaps people could be nominated—if they pass muster, it is not that important who nominates them. I am waffling because I am not that clear, although there are obvious organisations.

The Convener: Are there any organisations that Mike Rumbles thinks should be on the list? You could give some examples, Mike, and the panel could say yes or no.

Mike Rumbles: I do not want to lead the witnesses or put my words into their mouths. It is interesting that there is confusion. I would like to hear from the other witnesses.

Stephen Young: We must be careful here. Lots of bodies might be able to do that work. A big part of the bill is about defining and making clear the severity of the issue, and we are in danger of being seen as watering it down again if responsibility is handed down to other people.

The police should ultimately be responsible for enforcement, and they have the resources to do it. I would have to check to see that I am right about this, but I think that the Scottish SPCA said in evidence that, on the basis of resources, it would struggle to do that work.

We must be careful that we do not hand the issue down the line to other people. We must be clear. A big part of this is about underlining how severe the problem is and how important it is that it is dealt with. That is paramount.

Yvonne White: There might be a budget issue. If too many organisations that do not have the budgetary wherewithal are appointed, the whole thing will fall over and we will not be any further forward.

It would be better to have the option at the start but to keep it tight and with the police, particularly because, as has been said, the police would have the budget.

It must be clear to the complainant—to the victim—who is responsible and who they can complain to. Unless there is clarity, people will become confused. Who do they go to? Is it the Scottish SPCA or the local authority? People are not that clear at the moment, and the bill would make it less clear.

The Convener: I am going to come back to Mike Rumbles in a minute, but first Oliver Mundell has a supplementary question.

Oliver Mundell: I want to pick up on the point that Stephen Young made. It might be a reality, but I am concerned that we might be saying that the offence is not serious enough for the police to deal with and investigate it. I wonder whether Charlie and Jennifer share the view that it is important for people in rural communities to know that the police are well resourced to deal with a very serious issue for a lot of farmers.

Jennifer Craig: My answer is short and to the point: I agree with that.

Charlie Adam: There is a feeling that the attitude of the police to sheep worrying offences is not consistent with their attitude to other wildlife offences, and that the police need to be more aware that wildlife crimes and sheep worrying incidents are severe and need to be taken extremely seriously. I am not sure whether that is the approach at the moment. One feels that the police are extremely strong on acting against wildlife crime and enforcing the penalties that go with it. However, that is not reflected in their response to crimes of livestock worrying on farms and crofts, in my view.

Mike Rumbles: Can I ask a question to ensure that I completely understand our four witnesses? I have taken from the responses that there is a feeling that sheep worrying is a serious crime, and that if there is a disparate number of people or organisations involved in tackling it, it might add complications to the whole process.

I am trying to interpret what the evidence is saying, so correct me if I am wrong, but the view

seems to be that it might be better to have the police take total control and have the legislation beefed up to ensure that they have adequate resources to deal with the problem. I am thinking about what Charlie Adam said. It seems that it is a question of resources: if the police do not have the resources to do it, it will not be done properly. Some organisations, such as the Scottish SPCA, have said that they do not have the resources to do it. Am I right to say that the issue is about resources and clarity of responsibility?

The Convener: If anyone disagrees with what Mike said, I am happy to bring them in. You all seem to be nodding.

Before I bring in Emma Harper, whose bill this is, I have a question. Last night, I read evidence to the committee that suggested that in the strange situation in which a dog has escaped from a garden and comes back covered in blood, with wool between its teeth, and it has clearly been involved in livestock worrying, the dog's owner should have the responsibility to report it to the police. That was from the SLE's evidence. Should it be incumbent on the owner to inform the police when such an incident has happened and that their dog might be responsible?

Yvonne White: It is akin to a road accident when a driver runs over a sheep and it is still alive, because there is an element of animal welfare involved. The dog might not have been involved in livestock worrying—it could have come across a sheep that had been involved in an incident with another dog. People cannot jump to conclusions without evidence. However, those incidents should be reported to the police for animal welfare purposes, because there could be an animal in pain that needs to be treated and probably put down.

10:30

Stephen Young: I agree. The issue is not just about when a dog comes back into sight. There are cases in which people have seen their dog chasing sheep and maybe not killing or injuring them but causing other issues. That is where reporting becomes important, so that people can inspect the animals and find out what issues have been caused, which might not be immediately apparent. It all comes back to the pattern of responsible ownership and access, which is about the things that people should do and their responsibilities within that. It would be useful to include that element.

The Convener: I will bring in Emma Harper to ask a couple of questions. Good morning, Emma.

Emma Harper (South Scotland) (SNP): Thank you, convener. Good morning to the witnesses and my colleagues at the other end of the line.

It is important that I thank the witnesses and welcome their input, and that I thank committee members for their scrutiny of my member's bill. I take on board the points about resourcing compensation, the need for continued education and the idea of deed not place.

I have a quick question. We have heard of one dog having a simple chase and folk thinking that that is a bit of fun; I have also heard of extreme cases, where 15 sheep were killed or mutilated and needed vets' attention, such as being sutured on site. In one case, a repeat offender could not have cared less and it was as if he was happy to let his Labrador do it again. Do the witnesses think that the bill is flexible enough to allow the Crown Office to have an approach that would address individual livestock incidents?

Stephen Young: I think that there is flexibility. There is a suite of actions in the bill, so that area is well covered. As Emma Harper said, there are huge differences between scenarios, so that flexibility has to be there.

Jennifer Craig: I agree that there is flexibility in the bill and that that is essential, as we have pointed out.

Charlie Adam: I agree with Jennifer Craig and Stephen Young. The flexibility is there.

The Convener: Yvonne White, in the interests of fairness, you can agree or not.

Yvonne White: I agree.

Emma Harper: I have a final question. Charlie Adam brought up the issue of the police not being consistent in taking seriously the offence of attacking, chasing and worrying livestock. Recently, the Scottish partnership against rural crime has done a lot of awareness raising and there have been campaigns from NatureScot and the *Farmers Guardian* on taking the lead. Do you think that, because SPARC and others have raised awareness of the issue, we can use the bill, along with education, to make a difference and reduce incidents of livestock worrying?

Charlie Adam: [*Inaudible.*—]—difference. NFUS has lobbied on the issue for years, and it is getting more attention now. As ever, with things that come from the agricultural side, the difficulty is getting that information away from the farming community and press and into the wider media. Reaching the people who need to be reached is always a difficulty. There is an issue with the press, and we need to pay close attention to the choice of medium to reach people. With social media, we now have vehicles that we did not have before, which have helped a great deal.

Jennifer Craig: The campaigns have been working well. There seems to be a good level of awareness and the messages seem to be shared

very well, but we definitely have more to do. Other organisations need to look at joining up that thinking.

Yvonne White: All the communication in the area must raise, and has raised, awareness. On the consistency of the police, particularly in rural areas, the people who have talked to me about attacks on livestock do not have much faith in the police. When evidence and statements have been taken, even in repeated cases—by that, I mean the same owner or the same pack of dogs—nothing has happened.

I do not want to be too negative. It is good that there is education for the police. In rural areas, the police understandably do not want to upset people, so they might be more inclined to give people more chances than they would in areas with higher populations, especially given that a lot of the police live in the area and might have gone to school with the people involved—that does not sound very good, does it? The police are more interlinked with the community, so they might not take such an objective view. That is obviously just from my anecdotal experience.

Something could be done in relation to the consistency of the police response to attacks on livestock. As Charlie Adam said, such attacks need to be taken as seriously as other wildlife crime. It is a matter of animal welfare, as well as a cause of stress for owners and victims.

Stephen Young: A lot of good work has been done so far to raise awareness. The fact that we are having this conversation is testament to how the issue has moved up the agenda. Good work has been done by SPARC, and the national access forum and NatureScot discuss the issue fairly regularly. However, there is still a huge amount of work to do, and the bill will give a bit of impetus and strength to that.

I do not have any specific evidence on consistency by the police, but there are one or two anecdotal bits of evidence. Yvonne White is right about education of the police as well as the public, and about the seriousness of the crime. Giving the police stronger powers will enhance that work, so I can see the bill leading only to improvement in all those areas.

The Convener: That brings us to the end of the evidence session. I thank Stephen Young, Charlie Adam, Yvonne White and Jennifer Craig for their evidence. I also thank the person who has now joined me in being one of the only people to have received a call at volume during a committee meeting this parliamentary term. Whoever it was will remain nameless, but I am the other guilty person. Again, I thank the witnesses.

10:39

Meeting suspended.

10:47

On resuming—

The Convener: I welcome the second panel: Mairi Gougeon, the Minister for Rural Affairs and the Natural Environment, is accompanied by the Scottish Government officials Phil Burns, policy manager in the animal welfare branch, and Jim Wilson, head of the safer communities and justice directorate Covid hub.

I invite the minister to make a brief opening statement.

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): I thank the committee for inviting me to give evidence on Emma Harper's bill, which I am pleased that she has introduced. We are happy to support the bill's general principles. That support is given under our commitment to facilitate all methods that provide more effective ways of preventing such attacks on livestock and minimising their impact. The Scottish Government believes that the welfare of all animals is important and that steps should be taken to ensure the highest levels of protection.

The current penalty of £1,000 that is available under the Dogs (Protection of Livestock) Act 1953 does not address the serious consequences of attacks on livestock and livestock worrying. The current penalty no longer reflects the value of the livestock that are harmed in such incidents. Almost 70 years on from its introduction, the act does not provide cover for all the species that are now being farmed. The proposed increases take into account the increased mobility and leisure time that we all now enjoy, an unintended consequence of which is that there is a higher risk of interaction between livestock and dogs.

I have been aware of the incidence of worrying and attacks on livestock. Chasing and harassment carry a high welfare risk for livestock, and there are occasional incidents of fatal injuries. We are also aware of the frustration and emotional distress that worrying and livestock attacks have on livestock farmers. Those feelings can have as much impact on the livestock keeper as the financial costs arising from time loss, veterinary costs, the replacement of lost animals and the disruption to breeding programmes.

The livestock industry is vital to our rural and remote rural communities, and we must take steps to ensure that it is appropriately protected. The Scottish Government considers that owning an animal brings responsibilities, not solely for the animal that an individual owns, but also for other animals with which that animal may come into contact. All dog owners should be reminded that their dogs must be kept under effective control in all places to avoid incidents of worrying and attacks. We recognise that the majority of dog

owners walk their animals responsibly in all environments and understand that owning a dog brings many responsibilities but, sadly, some do not exercise an appropriate level of control.

The bill proposes additional controls on people who are convicted of livestock offences. We consider that those controls, which are designed to limit reoffending and harm to livestock, will be useful measures in reducing reoffending. However, we expect the detail of the provisions to be considered in greater detail throughout the bill process, and we might lodge amendments to address any issues that are identified in the bill as introduced. At this stage, I highlight that the proposed new powers for inspectors and constables and the new post-conviction powers will require particular consideration to ensure that they strike the right balance in the investigation and prevention of attacks on livestock.

The Convener: Thank you for that detailed introduction, minister. The first question comes from our deputy convener, Maureen Watt.

Maureen Watt: Good morning, minister. You might have covered this in your opening statement, but what are the key reasons for the Government supporting the bill?

Mairi Gougeon: One of our key reasons for supporting Emma Harper's bill is that the current act is nearly 70 years old and the bill will modernise that legislation. The new penalties that it seeks to introduce better reflect the seriousness of the crime committed. The welfare of all animals is extremely important to us, and the bill fits in well with the other work that we have been doing. As committee members will know, in June we passed the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020. Emma Harper's bill fits in well with some of the work that we did in that context to strengthen and modernise our animal welfare legislation.

Richard Lyle: Good morning. Where does the bill fit with other legislation on dogs and animal welfare, including the Control of Dogs (Scotland) Act 2010?

Mairi Gougeon: As I mentioned in my previous answer, we have been undertaking work on animal welfare, including through the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, which we passed a few months ago. The key pieces of legislation that interact with Emma Harper's bill are the Dogs (Protection of Livestock) Act 1953—as I mentioned in my opening statement, it is nearly 70 years old—which criminalises dog owners when their dog worries livestock, and the Control of Dogs (Scotland) Act 2010. The 2010 act is distinct from the 1953 act because it involves a civil enforcement regime rather than a criminal one—it

is only if a dog control notice is breached that it becomes a criminal matter. There are two tests that have to be met for a dog control notice to be issued. As the key aim of the 2010 act was to prevent the behaviour of dogs getting to a stage where they might attack an individual, it was seen as being more of a preventative measure, although it can also be applied after an attack has taken place.

Richard Lyle: The 2020-21 programme for government states that the Scottish Government plans to consult further on the law on dangerous dogs. Will that be a comprehensive review of all the legislation on dog control, or will it address specific pieces of legislation? If the bill is passed, will it fall within the scope of such a review?

Mairi Gougeon: I believe that that review is due to take place towards the end of the year. It will focus on the Dangerous Dogs Act 1991 in particular, which was a key area of concern for the Public Audit and Post-legislative Scrutiny Committee. That review's focus on the 1991 act also reflects the fact that both Government departments face resourcing challenges.

There will be a consultation, which will focus on responsible dog ownership and the impacts on people's safety. It will also look at the seizure powers in the 1991 act and how the law affects dog walking businesses.

Colin Smyth (South Scotland) (Lab): Good morning. A number of witnesses have suggested that more effective use could be made of dog control notices in cases of livestock worrying. What are your views on that? One issue that has been raised is a lack of resources for the use of dog control notices. It is local authorities that issue such notices, but they are currently underresourced. I would like to hear your views on the need for more resources. Also, should Police Scotland be able to use dog control notices in cases of livestock worrying?

Mairi Gougeon: I know that the issue of whether the police should be able to issue dog control notices has been raised in previous evidence to the committee. I would be hesitant to confirm that we would want the police to have that power. We would have to discuss with Police Scotland whether it thought that it would be appropriate for the police to have that power.

The Public Audit and Post-legislative Scrutiny Committee looked into the Control of Dogs (Scotland) Act 2010, and a host of work has been done as a result of that scrutiny. That included a consultation that ran from September last year to January this year, which considered whether there should be a national database of dog control notices. The Government is taking forward various pieces of work as a result of that.

You asked about resources. This is not just a question of resources; it is a case of looking at how well authorities are using the powers that they have already. It is not as easy as saying that there is a problem that could be fixed by better resourcing.

Some of the figures on the issuing of dog control notices showed that there was quite a discrepancy between different local authorities, which did not necessarily correlate with the resources that were in place. That point was borne out by the committee's scrutiny. Between 2019 and this year, Glasgow City Council, which has two dog wardens, conducted 57 investigations and issued four dog control notices, whereas Angus Council, which has one dog warden, conducted 287 investigations and issued 22 dog control notices. Fife Council is another example of an authority that has used the legislation well and has been able to allocate resources to that area and to the training of dog wardens.

It is not as straightforward as saying that this is a resource issue; it is a case of looking at how the legislation is being used and whether it is being used to best effect.

Other pieces of work are being done to examine the relationships and joint protocols between local authorities and the police and to look at how they work and whether that can be improved. There is a working group on which the Scottish Government, local authorities, Police Scotland and other organisations are represented, which is considering how to bring about better working and other measures that could be taken to improve the effectiveness of the legislation.

I hope that that answers your question. Jim Wilson might want to add to what I have said.

The Convener: There might be a chance for him to come in after Colin Smyth has asked his next question.

Colin Smyth: Does the Government have a view on whether any changes to the legislation are needed? Is the bill an opportunity to change the legislation to improve the use of dog control notices, or is it primarily non-legislative measures that are required?

11:00

Mairi Gougeon: The bill is probably not the appropriate place to address that, because, as I said, a working group has been set up to tackle and address all those issues. It would be more appropriate to allow the working group to work through those issues and to focus on the issues that were raised in the consultation that was carried out late last year through to the start of this year. A lot of work is on-going. The bill is not the

appropriate place to change the legislation on dog control notices. It is a bit too soon to include any such measures in the bill. A wider part of the work will be consideration of whether legislation is needed, or whether there are other ways to address the problems.

The Convener: I cut off Jim Wilson as he was about to launch forth, so I want to give him the chance to make his point.

Jim Wilson (Scottish Government): I will add to the minister's comments on local authority spend. It is worth highlighting that the Public Audit and Post-legislative Scrutiny Committee sought information on the amount of resources and money that was being spent on dog control by each of Scotland's local authorities. We have engaged with the Society of Chief Officers of Environmental Health in Scotland to seek information from each local authority, in order to respond to the committee's request.

More generally, it is worth adding to the minister's comments about the working group that we are proactively looking to achieve some quick wins. The statutory guidance that accompanied the Control of Dogs (Scotland) Act 2010 is being reviewed, with a view to publishing updated guidance by the end of this year. The joint protocol document between Police Scotland and local authorities, which was last published in May 2016, is also under review. Again, we are aiming to publish the updated joint protocol document by the end of this year.

On the working group's membership, it is key to point out that the Scottish Government recognises that issues relating to control of dogs and responsible dog ownership stray into a number of portfolio areas. It is important not to have only the key enforcement agencies such as Police Scotland and local authorities on the working group, which will engage regularly with the Scottish Government. There should also be a close connection with justice and safer communities policy and with animal welfare policy. I can confirm that we have an animal welfare presence on the Scottish Government-led working group.

The Convener: I think that Colin Smyth is happy with those answers.

Stewart Stevenson: I want to explore the use of disqualification orders. In what circumstances might it be appropriate to issue such orders? What mitigations might apply to ensure that they are not used inappropriately? Is it the intention of the Government or the Lord Advocate to provide guidance on how the courts should operate in that regard and on how disqualification might be applied?

Mairi Gougeon: There are a couple of points in those questions. It is up to the Scottish Sentencing Council to provide guidance on sentencing. During the passage of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill, we contacted the Scottish Sentencing Council to ask it to provide similar guidance. It has quite a full work programme at the moment, but the point could be raised with it to see whether it is willing to consider providing guidance. The Scottish Sentencing Council is an independent body, so it is not for the Government to dictate to it.

On the appropriateness of disqualification orders, we consider that disqualification from ownership of a dog would be appropriate when a court considers that the offending owner is not able to, or has decided that they will not, control their dog around livestock, especially where that can present a danger to other animals and, potentially, to people, too.

Again, the appropriateness of any sentence is ultimately up to the courts to determine, based on the circumstances of individual cases.

Stewart Stevenson: I move on to the issue of how we control where dogs are and how dogs are controlled. I raised with the previous witnesses the issue that access to land under the land reform legislation is given only where it is responsible access. Would a dog that is not on a lead be automatically irresponsible adjacent to livestock?

It is fair to say that the previous witnesses, particularly Charlie Adam, were of the view that it can be irresponsible for a dog, even if it is on a lead, to be adjacent to livestock. Is the issue of the use to which land is being put a part of whether we should seek to penalise people who take or let their dog near to livestock?

Mairi Gougeon: Are you referring to the Scottish outdoor access code?

Stewart Stevenson: I am referring to the access code in relation to whether a person is irresponsible if their dog is off the lead and they are not therefore entitled to access on that basis, but I am also making a broader point about whether people should be banned from taking dogs on to agricultural land. If they were, how would they know that the land is agricultural land? Forgive me if I am conflating two issues that are perhaps slightly different.

Mairi Gougeon: Part of the issue is whether everyone knows their rights and responsibilities—what they are permitted to do and what they are not permitted to do—under the access code, so that is a valid point. I do not think that everyone would necessarily be aware of that. Some of the livestock-worrying incidents that we have heard of might have come about because of sheer ignorance, rather than out of malice. However, that

does not excuse such behaviour, because people have a responsibility to ensure that they know what their rights are when they are out and about.

I know that NatureScot has done a lot of work on the access code, on promoting awareness of it and on education, particularly given some of the issues that we have seen during the pandemic. There have been an extra 250,000 hits on its website, which is quite something.

The issue is more about how we inform people about what they should be doing and how that is managed. Obviously, it is difficult to police people out in the country, but how do we achieve an effective balance? Educating people and making sure that they are aware of their responsibilities is a key aspect of that.

It is not necessarily the case that all people should be banned from accessing agricultural land full stop. I do not know whether that was the issue that you were highlighting in your question.

Stewart Stevenson: This is my final point, minister. I am simply reflecting some of the evidence that has come to the committee. You used the word “rights” when referring to the person with a dog. Do you agree that it would be appropriate for education to focus on the obligations of people with dogs in the countryside to those who are making use of the countryside, including by having livestock on it? In other words, rights come only if a person respects the obligations that come with exercising the right to access the country. I invite you to agree that that would be the case.

Mairi Gougeon: I absolutely agree with that.

The Convener: Oh, that was a very short answer—it nearly caught me off guard. Peter Chapman will ask the next question.

Peter Chapman: The bill speaks about using vets to gather evidence. Who will be expected to cover the costs when a vet is called to examine a dog in a case of livestock worrying? How will those costs be recovered, if the farmer or the vet pays in the first instance?

Mairi Gougeon: The costs of investigation would probably have to be borne initially by the investigatory body. We will have to give greater consideration to whether those costs could or should be recouped from an offender.

I know that that issue was raised in previous meetings by witnesses, including Inspector Dron, who talked of one incident in which somebody who had been convicted of livestock worrying had been granted a compensation order. However, in the same meeting, the committee heard that only 9 per cent of farmers who had been affected by a livestock attack or worrying incident had received compensation. Clearly, there are a lot of people

who, for one reason or another, are unable to recoup their costs. There are means by which people could go about seeking compensation, and the main question that arises from all this for me is, why are only 9 per cent able to get the compensation, and are there issues around that?

Peter Chapman: It is a big issue. It is right to have this procedure, because we want to get convictions, but we must address the issue of cost. We must also address the fact that not all vets would be qualified or have the resources to do the work. Will there be standard operating procedures for vets carrying out forensic examinations, and how will training for examinations and evidence handling be provided to the veterinary community?

Mairi Gougeon: There could well be instances of evidence taking that would not be far removed from what vets currently do in relation to their care for animals at the moment, or would be part of it, so it might be that not much training is required. However, we must have conversations about these issues. I have not discussed them with any of the veterinary associations, and I will have to do so in order to find out whether any extra training would be required. Vets are already capable or carrying out such procedures as the taking of blood samples and so on. Again, that is something that could be considered further.

Peter Chapman: One final point is the question of consent for a vet to examine a dog. Will the police be able to give consent for that examination to take place or does the owner have to be the one who gives consent?

Mairi Gougeon: Under the bill at the moment, the legal authority to have a dog examined would rest with the constable or the inspector who seized the dog, and would involve there being reasonable grounds for believing that the dog had been involved in a livestock attack or worrying incident.

The Convener: I have a quick question on that issue. If there is an incident of livestock worrying and a vet is called out to treat the animals in question, it would presumably be the vet who the farmer usually uses to treat his or her livestock, which means that the vet will know the animals well. However, that vet might also be the vet who is asked to examine the dog, and that might cause all sorts of conflicts of interest when it comes to a prosecution. Are there ways around that, or is that not really an issue?

Mairi Gougeon: Again, that is something that I probably have to give greater consideration to. Under the bill at the moment, the legal authority would rest with the constable or inspector. I imagine that they would have to be present for that to be the case, but my officials might have more information or be able to offer clarification on that.

11:15

Phil Burns (Scottish Government): There is the issue of conflict of interest, but there is also the possibility that, in many remote areas, there would be relatively few vets. There would be costs involved in taking a dog to a vet who was further away.

The Convener: That might be something that you could ponder further another time, minister.

Mike Rumbles: First, I will focus on section 5, which concerns inspecting bodies and inspectors. As the minister knows, the bill says:

“The Scottish Ministers may by regulations authorise one or more persons, organisations or bodies to appoint inspectors for the purposes of this Act.”

That is quite different to the position in the Animal Health and Welfare (Scotland) Act 2006. There seems to be some controversy about that, because the bill seems to give a lot of power to the appointed inspectors. What organisations or persons does the Scottish Government think would be the appropriate ones to appoint the inspectors?

Our previous witnesses said that, if we go down the route of appointing inspectors in addition to the police constables, there should be a training system and perhaps a certification system. At the moment, it seems like the minister would appoint a body that would appoint inspectors, and there would not necessarily be any training or certification.

Mairi Gougeon: Again, we would have to consider further whether we would support the model that is proposed in the bill or adopt the one that we already use to appoint animal welfare inspectors, which is set out in the 2006 act and involves Scottish ministers directly appointing inspectors and other bodies not having an official role in the appointment process. That process is effective, at the moment.

On what the other bodies might be, there are only a limited number of bodies that it could be. Again, we will have to give further consideration to that, and we will also have to have discussions with the Crown Office and Procurator Fiscal Service. It would be beneficial for anyone who was appointed in those respective areas, or whoever those inspectors might be, to have established protocols with the police. Depending on who they might be, we would need to consider what training might be appropriate for them.

Mike Rumbles: The previous witnesses suggested that, if you appoint inspectors rather than using a properly resourced police service to deal with the issue, the perception of the severity of the crime might be diminished. I think that I am right in saying that the witnesses expressed the

view that, instead of involving several organisations—local authorities, private organisations and the police—it might be better to focus on having a properly resourced police effort to tackle the crime. Everyone agreed that it was a serious crime but they all felt that involving too many people might be a problem.

Mairi Gougeon: I understand why that point was raised. We see similar issues when it comes to wildlife crime. Livestock attacks take place in rural areas, as does wildlife crime, and the resource that the police can apply will always be finite.

I understand what the member means about it being confusing about which body to contact. However, a lot of organisations do not work in isolation. When I talked about dog control notices earlier, I talked about the working protocols that we have with local authorities and Police Scotland and trying to see how we can improve them and ensure that there is more joined-up working.

Similar arrangements are in place in the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020. We were looking at better intelligence sharing between the Scottish SPCA and Police Scotland, because they have to work together quite closely. The Scottish SPCA can be called out to wildlife incidents for which it is appropriate for the police to be involved.

Of course, all those bodies have distinct powers and it is important to take all that into consideration when determining the most appropriate authority. Regardless of whether that would be the police or other inspecting bodies, it is important to get right the protocols for how they work together and share information.

Mike Rumbles: As well as section 5 of the bill, section 4 is giving me concern. It is about powers to authorise entry, search and seizure.

As far as I understand it, the bill is a departure from the established legal norms of Scots law. As the minister will be aware, under normal everyday general principles, a police constable cannot enter a premises in the hope of searching for evidence. Any such issue must be taken to a sheriff or a justice of the peace to obtain a search warrant before the premises can be entered. In our liberal democratic society, that is the safeguard.

As it is drafted, section 4 allows that to be circumvented, if I can put it that way. It inserts new section 2A(2) into the 1953 act, which says:

“This subsection is complied with in relation to premises if—

(a) either—

(i) admission to the premises has been refused, or

(ii) such a refusal may reasonably be expected”.

Proposed new section 2A(3) says:

“This subsection is complied with if the premises are unoccupied or the occupier is temporarily absent.”

That is a huge difference from our normal, established way of policing, is it not?

Mairi Gougeon: There are similarities with other pieces of legislation. It is currently the case for constables and inspectors, under paragraph 4 of schedule 1 to the Animal Health and Welfare (Scotland) Act 2006, in connection with the investigation of certain animal welfare offences, so it would not be such a massive departure as has been suggested. Other pieces of legislation contain similar powers, which are primarily in relation to concern about the welfare of an animal.

The proposed provisions in the bill do not extend to the search of domestic premises without a warrant. In addition, the Crown Office establishes whether other approaches have been considered, prior to seeking a warrant.

I understand the member’s concern about what is proposed, and the reasons for such concern, which must be fully considered, but similar powers exist.

Mike Rumbles: The minister misunderstands my point. I am fully aware that, if a police constable feels that a crime is under way—such as animal neglect, which is a criminal offence—he has the power to enter premises under the general principles of Scots law. The provision under discussion is not about that.

If a crime has been committed somewhere else, that person is not actually committing an offence at the time, nor can be said to be likely to commit an offence. There is a major difference between the law under the 2006 act that the minister mentioned, which I fully understand, and what is proposed in the bill. The bill proposals depart from the norm of a constable, or an inspector, not being given the power to search without a warrant.

Mairi Gougeon: As I said towards the end of my statement, we want to further consider the provisions in that part of the bill, as well as the appointment of inspectors via authorising a body to appoint them. Those issues need further consideration and we will have discussions on them with the Crown Office in due course.

Oliver Mundell: The questions that I was going to ask primarily have been covered. That is the second time that I have heard the minister talking about having further discussions with the Crown Office—does that mean that there have already been discussions, and has the Crown Office raised any concerns about how the bill is drafted?

Mairi Gougeon: Those discussions are on-going because—[Inaudible.] It is not a like-for-like

example, but the member will probably be aware of discussions that we had in connection with the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill about the potential for increasing the powers that are available to the Scottish SPCA. We are still in the midst of establishing a task force to consider that specific issue. Increasing those powers has often been portrayed as quite simple, but it is not because it could have implications for the Scottish SPCA and for the investigation of crimes and the powers that are held by the Crown Office and the police. The task force is being set up to tease out those issues, and that work is still due to start.

Although this situation is not exactly the same, there are issues within that that we have not been able to fully resolve or investigate, and we are continuing to have discussions with the Crown Office to bottom out where the issues are.

Oliver Mundell: Given that experience, does it not put the Government off taking the same approach with this bill? I am concerned that that kind of process would slow down the legislation coming fully into force. The people who have been waiting many years to see the legislation updated would rather see the police given those powers straight away to get on with tackling the issue. We heard suggestions from the previous panel that sometimes the police do not see the issue as being as much of a priority as wildlife crime. I am concerned that that kind of process could delay the legislation or create confusion around it; will you take that into consideration?

Mairi Gougeon: Yes. We certainly do not want to do anything to impede the progress of the bill, because it is vital. We support the bill, because it gives livestock attacks the seriousness with which they should be recognised. That is very positive and we want to make sure that the bill progresses and is implemented. I only raised that example to highlight some of the issues that we face. Again, I am not comparing like with like in discussing that situation and what is proposed in the bill; I refer to it only to highlight how some of these issues can be quite complex, but I hope that, once we have those discussions with the Crown Office, we will be able to progress with that work again to get to the bottom of the issues so that the process is not held up. The two situations are different, and I used that as an example only to highlight how we had dealt with it in other areas.

Oliver Mundell: I will briefly return to vets for my final question. In a previous evidence session, we heard a suggestion that it might be possible to use the SRUC’s vets. They already do some work for the Scottish Government and Police Scotland in other areas; will you explore that option as a way of ironing out some of the resourcing issues for vets?

Mairi Gougeon: I am certainly happy to look into that and get back to the committee with more detail.

11:30

Maureen Watt: Is it the Scottish Government's intention that any new legislation will be accompanied by more awareness-raising educational campaigns for dog owners and land managers to prevent livestock worrying?

Mairi Gougeon: The need for education and awareness raising has been raised consistently throughout the committee's evidence taking. When penalties are introduced through a new piece of legislation, it is important that people are aware of it and of its potential impact. We will have to give further consideration to that as we move forward.

A lot of work is being done by other organisations, and it would be good to have discussions with them about working together on education and awareness raising. For example, we have been working with the Scottish SPCA over the past two years and, this year, we hope to work with it again on raising awareness about how to buy a puppy safely, which is a massive issue. If we already have such campaigns, it would make sense to consider whether there is a way to develop that.

The issue cuts across portfolios, and I am sure that the Minister for Community Safety, who is dealing with dog control notices, would probably not be too happy with me committing her whole budget to a marketing campaign, so we will have to consider that when the bill is passed. However, it is definitely an important point.

I talked about buying a puppy safely, which feeds into the dog control element. There has been an increase in the demand for puppies, especially during the course of the pandemic—I am sure that everybody will have heard about the current cost of puppies. People have been at home more and some have bought puppies in order to have a pet. From discussions that I have had with animal welfare charities in the past few weeks, I know that we are already starting to see problems arise as a result of that, because not everybody realises the extent of the responsibilities that come with owning an animal. When you take a puppy or another animal as a pet, it should not be temporary; you should have that pet for life and you should look after it properly. As I said, we might see more animal behaviour issues arising, given the sheer number of people who are taking on pets, and given that there is now less access to the education and training that animal welfare organisations provided before the pandemic, although some of that is now happening again virtually.

The Convener: Minister, your official, Jim Wilson, wants to come in. If you are happy to let him in, I am happy to hear what he has to add. Woe betide you afterwards if you say no, I suspect.

Jim Wilson: I want to briefly outline some of our recent activity. We engaged with the Scottish Government justice communications team, which allowed us to use social media platforms to raise awareness of dog control. We used Twitter to promote the Control of Dogs (Scotland) Act 2010 and highlight the importance of keeping dogs under control. Our short video clip was viewed 51,000 times, which is a decent number of views. Our second clip, which encourages citizens to report issues with out-of-control dogs to local authorities, had been viewed 8,230 times when I last checked. We did a little bit on Facebook, too. For a modest cost, we were able to get some key messages out there.

I appreciate that marketing resources are heavily focused on dealing with Covid at the moment, but there might be the chance to consider other awareness-raising opportunities in the future.

The Scottish Government-led working group is considering what other key enforcement agencies can do to promote responsible dog ownership across the country.

Christine Grahame: I want to make a couple of points, and I accept what you said about marketing resources being required for very many Covid-related things at the moment. However, more people are going to be outdoors with their dogs, so perhaps there is a quid pro quo to be had from advertising this legislation, if it passes, and the Control of Dogs (Scotland) Act 2010.

I want to ask a question about the issue of a DCN database, which was raised by Peter Chapman. All dogs in Scotland should be microchipped. I raised the issue of creating a database for animals that had been issued a DCN under the Control of Dogs (Scotland) Act 2010, which resulted from my member's bill, at the Public Audit and Post-legislative Scrutiny Committee and I seem to remember—it would be unfair to say absolutely that this was the case—that the minister, Ash Denham, said that she would consider a national database. It seems to me to be a good idea that, if this legislation comes in, it will be possible to check whether owners already have a DCN and their dog has been involved in another offence, so that the two can be linked together. Will the minister discuss that with the justice minister?

Mairi Gougeon: I would be happy to further discuss that with the Minister for Community Safety. However, work on a DCN database is

being done and that issue is being considered at the moment. I do not know whether Jim Wilson would like to add any further detail to that.

Jim Wilson: I will be very brief. That is being looked at by the working group, and the issue of the database was raised very recently—on 20 August—when the Minister for Community Safety and I appeared before the Public Audit and Post-legislative Scrutiny Committee. Therefore, we have had some exploratory conversations with the Improvement Service, Police Scotland and local authorities about the opportunities to create such a system.

The minister highlighted an earlier consultation, which took place from September last year to January this year, that looked into the operational effect of the Control of Dogs (Scotland) Act 2010. A specific question was posed on a DCN database, and a high percentage of those who responded thought that it would be a good idea and that it would become a useful enforcement tool for local authorities in situations in which an individual had been served with a DCN and then moved to a different local authority area.

It is also worth highlighting that, under article 36(4) of the general data protection regulation, there is a requirement to engage with the regulator about any statutory work that is undertaken. I know that Christine Grahame will recall that with some fondness from the 2010 act. Ultimately, there is a need to ensure that information sharing between the key enforcement agencies is considered. We want to ensure that the Information Commissioner's Office is also part of those conversations.

My final point relates to the database. What could be held on it is quite restricted: it would be information on dog control notices. However, we would be open to considering further legislative change in order for more information on dog control to be held on such a system. The key point to make, and I certainly made this point to the Improvement Service, is that if it agrees to take on that project—further conversations on that are planned for the end of this month—we have to ensure that any systems that are developed are future proofed to ensure that the digital tools can support any current plans or policy changes that might be on the horizon, whether through legislative means or otherwise. I stress that the database is limited to holding information on DCNs. There might be opportunities for such a system to do more in future, but we would need to consider legislative change to achieve that.

Christine Grahame: I do not want to focus on my bill, because this is about other legislation, but do you agree that a database would assist in getting prosecutions under this legislation? It might provide corroboration that there was a reckless

owner. It will be hard to get corroboration as the offences will take place when there is nobody about. If somebody makes a report and a dog control notice already applies to the animal that is identified, the database will be an additional tool to establish that the owner is not looking after their dog properly, the animal is out of control and the owner may have committed an additional offence under the legislation. I am interested in corroboration.

Jim Wilson: That is a good point. It is useful to highlight the links between the Control of Dogs (Scotland) Act 2010 and the Dangerous Dogs Act 1991. The review of the 1991 act will look at the concern that was raised by a number of witnesses who gave evidence to the Public Audit and Post-legislative Scrutiny Committee on the issue of reasonable apprehension. An owner might not know that their dog might be likely to attack. Each case depends on the circumstances, but that reasonable apprehension argument could cause difficulties in achieving successful prosecutions. The consultation must look carefully at that.

I agree with Christine Grahame. The database could be accessed by Police Scotland. I can confirm that, in one of our working group conversations, Police Scotland recognised the benefit of receiving that type of information and intelligence from local authorities and saw that it could support other investigations that could fall under the 1991 act.

The Convener: I am going to bring in Emma Harper. Emma, it is your bill and the floor is yours.

Emma Harper: I thank panel members for their evidence so far and I thank the committee for its scrutiny of the bill. I am pleased that the Government supports the overall principle of updating a 67-year-old piece of legislation.

My question is about the police. To my mind, the police should take the lead in any investigation. That is my goal. There might be other investigating bodies, such as local authority agents, to support them.

I lifted some language from the UEFA European Championship (Scotland) Act 2020. Sections 20 and 21 of that act include language about the

“power to enter and search”

and the

“use of reasonable force”.

I used that language because it is used in legislation that has already been passed. My intention was that, if a latch-key dog was seized in a field, somebody could take that dog and place it in a holding pen.

The Convener: Emma, I am showing you quite a lot of leniency in allowing you to explain the bill,

but I cannot show you any more. Please focus and ask the minister your question. You will have the opportunity to explain your bill when you come in front of the committee. I am sorry to interrupt you.

Emma Harper: That is fine. Does the minister think that that should be in the bill and in primary legislation, or could the idea of assigning powers to other people be placed in further regulations?

Mairi Gougeon: We are considering that point and how that might operate. I understand what the member is trying to do with that provision and with the idea of the police being the primary investigating body, with others to assist them as organisations work together. We have other examples where that happens. We need to have that full discussion with the Crown Office to see whether there are any potential issues and then iron them out. I fully understand what the member was trying to do with the provision: it is trying to ensure that the police and the inspectors have the powers to thoroughly investigate such incidents.

The Convener: Do you have another question, Emma?

Emma Harper: Not really—I will save it for another occasion, as I would need something of a preamble in order to get to the information.

11:45

The Convener: Minister, during the course of the evidence sessions so far, the issue of the value of livestock has been raised. You will know that livestock value can vary and that sheep and rams in particular can be quite expensive. Is the compensation element given enough consideration in the bill? It was suggested that it might be appropriate for dog owners to have insurance to cover any liability in relation to, say, a ram that is worth £20,000, or even, as Stewart Stevenson suggested, in extreme circumstances, £300,000—oh to be able to sell something of that value! I have not achieved that yet, but then I do not have a sheep. Do you think that we should consider insurance along with compensation?

Mairi Gougeon: Farmers should be insured against such incidents. That goes back to the response that I gave to Colin Smyth's question earlier. The committee had already heard evidence about the one case in which a compensation order was granted, but the statistics show us that only 9 per cent of farmers actually receive compensation. I would want to give that issue further consideration because all the tools could be already available to us. There is also a civil route for compensation. However, it is worth considering why those routes, given that they are available, are not working, so that we can get to the bottom of the reasons for that. Clearly, it is working for some but not for many other people.

The Convener: No other members appear to want to ask questions at this stage. I thank the minister and her team for giving evidence.

European Union (Withdrawal) Act 2018

Agriculture (Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2020

Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2020

11:48

The Convener: We have received consent notifications in relation to two UK statutory instruments as detailed on the agenda. The instruments are being laid in the UK Parliament in relation to the European Union (Withdrawal) Act 2018. One of the statutory instruments—the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2020—has already been made. The committee is therefore being asked to scrutinise the UK SI retrospectively. That is outside the protocol that such instruments are normally considered under, and does not give the committee the usual 28 days to consider it. The committee has therefore been advised that it can only note that the Scottish Government has given its consent.

The Scottish Government has also provided further clarification in writing on the Agriculture (Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2020, which has been circulated to members and is available on our website.

I will invite members to make comments but, before I do, as committee convener, I have to say that to be given an SI to scrutinise after it has been made without giving the committee due time to consider the instrument is fundamentally wrong and should be avoided. Does anyone want to comment on any of the instruments?

Stewart Stevenson: I endorse the comments that you have made, convener. You are absolutely right in what you have said.

Maureen Watt: I am reading the purpose of the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2020, and I wonder whether anything contained in those regulations will be affected by the United Kingdom Internal Market Bill.

The Convener: We can certainly put that question in the notes that we submit. I assume that no other member wishes to comment on the instruments.

Does the committee agree to note that the Scottish Government has given its consent to the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2020, an

instrument that has been made, and does it also note that we should write to the Government on the point raised by the deputy convener and to note my concern, on the committee's behalf, that it is wrong to be looking at the instrument in retrospect?

Members indicated agreement.

The Convener: Does the committee agree that it is content for consent for the UK SI, the Agriculture (Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2020, to be given?

Members indicated agreement.

11:51

Meeting continued in private until 12:22.

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