



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 23 April 2025

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE
13th Meeting 2025, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Ariane Burgess (Highlands and Islands) (Green)

*Tim Eagle (Highlands and Islands) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

*Emma Harper (South Scotland) (SNP)

*Emma Roddick (Highlands and Islands) (SNP)

*Evelyn Tweed (Stirling) (SNP)

*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Siobhian Brown (Minister for Victims and Community Safety)

Maurice Golden (North East Scotland) (Con)

Jim Wilson (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 23 April 2025

[The Convener opened the meeting at 09:00]

Dog Theft (Scotland) Bill: Stage 1

The Convener (Finlay Carson): Good morning, and welcome to the 13th meeting in 2025 of the Rural Affairs and Islands Committee. Please ensure that all electronic devices are switched to silent mode.

Our first item of business is to take evidence on the Dog Theft (Scotland) Bill from the Minister for Victims and Community Safety, Siobhian Brown, who is accompanied by a Scottish Government official. I also welcome Maurice Golden to the meeting for this item.

We have 90 minutes for this evidence session. Before we move to questions, I should make the witnesses aware—as they will already be—that they do not need to operate the microphones. That will be done for them.

I draw members' attention to Maurice Golden's response to a letter from the committee that asked specific questions on the bill. The Scottish Government highlighted similar points in its memorandum to the bill, so I hope that we can move the issue forward over the course of this morning's evidence session.

Moving to our questions, I note that Maurice Golden believes that a stand-alone statutory offence would address what are, historically, low levels of cases of and prosecutions for dog theft. The committee has heard conflicting evidence on the ability of the common law offence to adequately take account of the harm caused to the owner—and, to some extent, the dog—following a dog theft. What are your views on the necessity of a specific stand-alone offence in that context?

The Minister for Victims and Community Safety (Siobhian Brown): Good morning to the committee. First, I appreciate that dog theft is a very emotive issue, and I have had meetings with Mr Golden in the run-up to this meeting, which is why the Scottish Government is taking a neutral position at this stage. We received Mr Golden's response only yesterday morning, so we have not had a chance to go through all the responses in detail.

On the issue of the stand-alone offence, the need for a specific offence of dog theft has been

questioned with the Law Society of Scotland and other representatives in the legal system. The common law offence of theft already covers pet theft, and the penalty goes all the way up to a life sentence if a case is tried in the High Court. It can therefore be argued that existing laws are in place, with appropriate sentencing powers. The courts have wide discretion to consider the facts and circumstances when sentencing, which includes taking into account the harm that might arise from a dog theft, such as the impact on the dog's health and wellbeing and the distress that is caused to the owner. I am confident that the committee will carefully scrutinise the bill to assess what evidence there is of a gap in the law and the necessity for the bill's provisions.

The Convener: In his letter to the committee, Maurice Golden quotes evidence that shows that the common-law offence of breach of the peace has, increasingly, been replaced by an offence under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. He then goes on to say that

"it is likely that there will be a similar trend in respect of the theft of a dog".

Do you agree with that assumption?

Siobhian Brown: I have not been able to look at that response. As I have said, we saw the letter only yesterday, and I thank the clerks for advising my team that it was on the website.

I will hand over to Jim Wilson, who has a lot of experience, over many years, with Scottish Government dog legislation.

Jim Wilson (Scottish Government): I have a couple of points to make at the outset. I recognise that the topic of dog theft is emotive. I should say that I led on the bill that became the Criminal Justice and Licensing (Scotland) Act 2010, so I feel a little bit of nostalgia creeping in.

I am generalising here, but I would say that the Scottish Government takes animal welfare very seriously. As the minister has mentioned, theft is already a common-law offence, and it covers cases in which an animal, such as a dog, might be stolen.

As for whether there would be a behavioural change as a consequence of a statutory offence being introduced, I was struck by some of the comments that were made in the evidence session on 26 March. The individual from Police Scotland who gave evidence indicated that he did not think that it would act as a deterrent, although he felt that there were issues in Mr Golden's bill that were worthy of consideration. For me, this is about trying to look at ways of promoting the issue. How do we give the issue more of a prominent position, so that people understand the consequences of

dog theft and the impact that it has on the owner and on the dog?

With regard to statistics, I do not have data to suggest any difference in respect of the use of the section 38 provisions in the Criminal Justice and Licensing (Scotland) Act 2010. However—the minister and I have discussed this previously—I think that there is an opportunity to look at raising awareness of a specific policy to drive up public awareness of why Parliament is even looking at the issue of dog theft.

I hope that that is helpful, convener.

The Convener: Specifically, though, given our understanding that the common-law offence of breach of the peace is being replaced by the use of the section 38 offence, do you think that there will be a similar trend in respect of dog theft? Will we see more people being prosecuted under the section 38 offence?

Siobhian Brown: I could not envisage whether that will be the case. I have not been able to determine that exactly, so I am not really in a position, at this stage, to say whether we will see that happening or not. I think that Mr Golden is quite right to say that that could be the case, but I am not in a position to say that we would see more people being prosecuted.

Beatrice Wishart (Shetland Islands) (LD): Good morning. My question is about theft versus abduction. The committee was provided with information from the Crown Office and Procurator Fiscal Service on the difference between an offence of dog theft and an offence of dog abduction. Do you have any views on the use of the offence of theft in the bill as opposed to that of abduction, with regard to the United Kingdom Pet Abduction Act 2024?

Siobhian Brown: During the Easter break, I watched the evidence session in which that issue was brought up. The Scottish Government does not have any views on that. The Scottish Parliament information centre briefing states:

“Theft is defined as the taking and/or appropriating of property belonging to another, without the owner’s consent, with the intention to deprive them of its use. Abduction is a common law offence in Scotland and is defined as carrying off or confining a person against their will and without legal authority.”

We are comfortable with the offence of dog theft being used in the bill, but it will be up to the committee to scrutinise that and see whether it is comfortable with it, too.

Beatrice Wishart: Presumably, with an offence of dog theft as opposed to dog abduction, the sentencing would be different.

Siobhian Brown: Not that I am aware of.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): Good morning to the minister and Jim Wilson. My questions are on relationship breakdown and domestic abuse.

Minister, I would like your views on whether the proposed inclusion in the bill of an exception in the context of relationship breakdown is the right thing to do. We know that relationship breakdown can be very complex, and such an exception would allow for individuals seeking to use the provision in a way that might be damaging to the other individual. However, there might also be genuine cases of pet theft in that context. I would like to hear your views on that exception.

Siobhian Brown: That is a really important point that was raised in the evidence session in March. Procurator fiscal Laura Buchan wrote to the committee on 9 April to provide further information on a couple of issues, including the defences that have been set out in the bill. The letter from the COPFS noted that the offence does not apply where a person who previously lived in the same household with the dog takes or keeps the dog, which covers the scenario in which a couple separates following a domestic dispute and one partner keeps the dog.

As the committee heard in the evidence session on 26 March, caution was suggested when legislating for a scenario that might involve a dispute over proof of ownership in the context of criminal proceedings. In scenarios that involve domestic abuse, there are existing legislative provisions that allow for prosecution in relation to the taking of a dog following a relationship. Therefore, those types of prosecutions can already happen.

I noted from Maurice Golden’s letter to the committee, which we saw yesterday, that he remains of the view that it is entirely appropriate for the bill to include defences in respect of the breakdown of a relationship. He goes on to say that, if the committee were to take a contrary view, he would be happy to look at the matter again. His letter, which as I have said we saw only yesterday, does not provide any further evidence to support his view that the bill should include a defence in respect of a breakdown of a relationship. However, I have no doubt that the committee will wish to seek further views from Mr Golden himself when he comes before the committee on 21 May.

Elena Whitham: Thanks very much.

Perhaps we could explore the issue of domestic abuse a bit further. We have existing laws on coercive control, which has been recognised as a huge issue in domestic abuse. I have previously worked directly with women and children affected by domestic abuse, and I repeatedly witnessed pets being used—including their being the subject

of theft and their being withheld—to perpetuate coercive control. You have already alluded to this, but is the Scottish Government satisfied that domestic abuse could be used as an aggravator under the existing legislation in such cases?

Siobhian Brown: Yes.

Elena Whitham: However, the committee heard evidence from the Dogs Trust that it does not think that that is the case, and it highlighted the stand-alone concept that is going through down south in relation to domestic abuse and the theft of pets specifically. Can you comment on that?

Siobhian Brown: Absolutely. The Domestic Abuse (Scotland) Act 2018 created the offence of engaging in a course of abusive behaviour against a partner or ex-partner, including behaviour that is directed towards pets or the removal of a pet from a partner or ex-partner where that is likely to cause the victim to suffer physical or psychological harm. Those provisions are not reliant on a specific offence of dog theft, but I appreciate the comments that were raised in the previous evidence session on the bill.

It is of note that, were a defence to be created under the proposed dog theft offence for partners and ex-partners, it would not apply directly to offences under the Domestic Abuse (Scotland) Act 2018. However, the existence of such a defence for dog theft might be argued by the accused as amounting to their behaviour being reasonable, and, as such, would be the defence for a charge brought under the Domestic Abuse (Scotland) Act 2018.

Jim, do you have any further views on what is happening down south, as was raised in the evidence session?

Jim Wilson: Yes. I was struck by the comments made by Stuart Munro of the Law Society, during the evidence session on 26 March, highlighting the complexities of relationship breakdown. Sometimes, there is contested ownership of various items, but when that relates to an animal—say, a dog—those issues can be very difficult to resolve. Sometimes, issues of contested ownership are dealt with through the civil courts.

Relationship breakdown is one of the tricky areas in the bill. I appreciate that Mr Golden has taken a particular policy approach on the basis that he did not want to see people being unfairly penalised when they are going through a relationship break-up.

As for what the minister has said about domestic abuse, I stress that behaviour covered by the Domestic Abuse (Scotland) Act 2018 charge does not require to be illegal in and of itself. Rather, it has to be undertaken where it is likely to cause the victim to suffer physical or

psychological harm. Consequently, the prosecution of domestic abuse cases should not be impacted by the proposed defence, should it be created. We would want to look at similar legislation created in other jurisdictions, and the UK Government's pet abduction legislation is clearly relevant when we are considering the bill's provisions.

In relation to the domestic abuse legislation, we are on safe ground, but, as we continue through the stage 1 process, we will want to look in more detail at the issue of relationship breakdown, because there are some complexities around how that is defined in law.

09:15

The Convener: Is the minister content with the bill's current wording in relation to relationship breakdown?

Siobhian Brown: Yes, I am.

Rhoda Grant (Highlands and Islands) (Lab): Scottish ministers can ask the Scottish Sentencing Council to provide guidelines in specific areas. Has the Scottish Government made, or would it consider making, a request for guidelines in relation to pet theft? Have you looked at that?

Siobhian Brown: When giving evidence to the committee in March, the Law Society of Scotland indicated that the number of sentencing guidelines in Scotland is relatively small and that the Scottish Sentencing Council is seeking to develop new guidelines within its available resources. The Scottish Government has the ability to ask the Sentencing Council to consider preparing guidelines, but it is for the independent council to decide whether it does, or can do, so. I know that, at the moment, draft guidelines are in preparation in relation to rape, sexual assault and domestic abuse, and the Sentencing Council's work programme for the year ahead is really busy.

In saying that, the Scottish Government is interested in understanding whether Mr Golden had approached the Sentencing Council in that regard. We are happy to consider that specific suggestion further, if that is wanted, as the bill progresses.

Rhoda Grant: Just for clarity, are you saying that any individual—not just Scottish ministers—can approach the Sentencing Council?

Siobhian Brown: Jim Wilson can keep me right, but my understanding is that, in preparing a bill, Mr Golden could ask the Sentencing Council whether it would consider preparing guidelines.

Rhoda Grant: However, the Scottish Government has not asked the council to do so.

Siobhian Brown: No, we have not.

Evelyn Tweed (Stirling) (SNP): Good morning, minister, and good morning to Mr Wilson, too. Thank you for your answers so far.

I want to go back to the question whether the bill would provide a deterrent effect. The committee has not really heard evidence to support that, but what is the Scottish Government's view?

Siobhian Brown: As Mr Wilson said in response to one of the earlier questions, we have not seen any strong evidence that the bill will be a deterrent, but we must look at the bigger picture. As you will appreciate, my portfolio covers dangerous dogs and Mr Fairlie's covers animal welfare, so there is a bit of a split there, but we have been working together and looking at responsible dog ownership and raising awareness through stakeholders. If the bill proceeds, it could raise more awareness. At this stage, though, there is no strong evidence that it will be a deterrent.

Jim Wilson: I just want to come in briefly, because it is a really good question. A ministerial summit on responsible dog ownership was held on 20 September 2024; the report has recently been published, and one of its recommendations is to establish an expert advisory group that would bring in a number of key stakeholders to look at issues of dog control and dog welfare.

As the minister has said, part of our policy responsibility is to deal with dog control and dangerous dogs. At the moment, however, the concerns about dogs more generally that we are grappling with are to do with how we drive down the number of incidents in which people are bitten or attacked by them. The challenge is how to achieve that behavioural change so that society understands what can happen if a dog is dangerously out of control. That challenge is similar to the challenge with dog theft—we need to look at what would be perceived as a game changer and act as a real deterrent.

There are opportunities to further consider how we raise awareness of the issue in order to tackle it. We ran digital campaigns on responsible dog ownership with the Scottish Society for the Prevention of Cruelty to Animals in 2021, the purpose of which was to ensure that people understood the consequences and importance of exercising and controlling their dog in a public place. Again, it is always a challenge to reach the hard to reach through marketing and so on, but there is perhaps an opportunity to look at what measures might be taken through non-legislative action to raise awareness of the consequences of a dog being stolen.

Emma Roddick (Highlands and Islands) (SNP): Good morning to both of our witnesses. I am glad to see you here today, Mr Wilson. As I was listening to your answer to Ms Tweed, I was

wondering what work is going on around the licensing options that you are looking into in relation to dog control and whether any of that might act as a deterrent or as a way of spotting and tracking dog theft.

Jim Wilson: That is a great question. We sought views and representation from a number of key dog stakeholders, who will support a Scottish Government-led expert advisory group. The first meeting will probably take place in late May. Its terms of reference are still to be formulated, and nothing is off the table.

We have benefited from wide-ranging engagement in dealing with situations around XL bully dogs. The minister has regularly met the dog control coalition, and we have had separate discussions, which I appreciate. The forum that is being created will include a range of experts from welfare and justice organisations and will provide a vehicle for our consideration of the art of the possible and what we want to achieve in the short, medium and longer terms. I am not talking only about non-legislative action.

On the point about licensing, I was struck by work that the Scottish Government's justice analytical services undertook a few years ago. It was a literature review that assessed various policy approaches in other jurisdictions. From memory, it considered 15 or 16 jurisdictions, and a lot of focus was on the Calgary model of dog licensing in Canada. There was glowing praise from a number of stakeholders for that approach, which seems to make a difference, with a significant amount of resources being deployed to tackle dog control in that part of Canada. With dog licensing approaches in other places in Canada, such as Toronto, the same level of success had perhaps not been achieved.

Dog licensing is one of those topics that surfaces from time to time. Way back in 2014, a wide-ranging consultation was done on the microchipping of dogs and, at that point, the majority of respondents did not support dog licensing. Stakeholders' views on the pros and cons of licensing are generally mixed.

Evidence to the Environment, Food and Rural Affairs Committee down south indicated that the population of dogs in the UK could be as high as 11 million. If we boil that down to a Scottish figure, that means that there are perhaps 1 million dogs in Scotland. Other statistics suggest that 28 per cent of households in Scotland own a dog. We also noticed a significant spike during the Covid period, with a surge in dog ownership.

To summarise, I note that nothing is off the table when it comes to the expert advisory group that will be established in the coming weeks. I hope that that is helpful.

Siobhian Brown: To echo what Mr Wilson said, I note that the summit that we had last year with all stakeholders was really beneficial. There was a feeling that there was a lot of work to be done by Mr Fairlie and me in the short, medium and long terms—the stakeholders were very realistic about that. The expert advisory group will be set up. As Jim Wilson said, the terms of reference have not yet been determined, but those are the kind of things that we want to dig into. It is not a short-term group; I see it more as a long-term group, because there is a lot of work to be done.

Emma Roddick: On the changes relating to XL bullies, but also more widely, how strong is the relationship between more dangerous dogs, or difficult-to-control dogs, and dog theft in Scotland?

Siobhian Brown: To be honest, dog theft has not really come up in my engagement. When the XL bully issue arose in 2023, I had regular engagement with all stakeholders across the UK on a monthly basis. Because of the XL bully issue, the heightened state around the issue and everything that has happened since, that was the main topic at the summit. However, it was not only about XL bullies. We were looking at the Dangerous Dogs Act 1991, which is reserved, and there is also quite a bit of legislation in Scotland. We looked at how we could tie that up moving forward, which is one of the longer-term aims of the advisory group.

Jim Wilson: To build on that point, I have received direct engagement about a case in which an owner reported that their XL bully dog had been stolen and did not pursue the opportunity to obtain a certificate of exemption. The period for that was four months, from 1 April 2024 to 31 July 2024. In that case, the owner was reunited with the dog and lots of welfare concerns were raised. However, that begs the question of what happens in relation to exemption. There is a summary application route, which is called the section 4B process, that can be considered and initiated.

Ultimately, if we follow the letter of the law, if somebody has not adhered to the conditions that are set out in relation to the new safeguards on XL bully dogs, that would be an offence, but would it be in the public interest to prosecute in such a case? Ultimately, that is up to the procurator fiscal to determine. I stress to Ms Roddick that we have had a small number of cases in which the ownership of an XL bully dog has become a problem. As I say, in one case, it became a problem as a consequence of the dog being stolen.

The Convener: Minister, it would be helpful to the committee if you could provide a written update on the work of the advisory group and where we are with licensing.

Siobhian Brown: Absolutely.

The Convener: What would need to be done to publicise the new law, if it were to come into force, to have that deterrent effect? Does there need to be something on that in the legislation? A huge part of Christine Grahame's Welfare of Dogs (Scotland) Bill was about public awareness raising. Do we need to have that level of public awareness raising of this potential new law, to create the deterrent effect that Maurice Golden seeks?

Siobhian Brown: That could definitely be considered by the committee. One thing that has been discussed previously about members' bills is that they do not get sufficient comms after they are passed. That issue could be considered. It could raise public awareness of the Dog Theft (Scotland) Bill and increase deterrence.

Jim Wilson: To build on the minister's response, I had direct discussions with Christine Grahame when her bill was going through. One of the provisions in that bill, on the code of practice, is welcome. That could involve significant stakeholder engagement around promoting the principles of the legislation. I echo the minister's point about the opportunity to look at actions that could drive up understanding of the importance of the issue.

09:30

Ariane Burgess (Highlands and Islands) (Green): Good morning to the minister and Mr Wilson. It has been good to hear about your broader work on dogs in general and raising awareness. However, I come back specifically to section 1, which would create a new stand-alone offence of dog theft. I want to give you the opportunity to raise any other issues around that section that you have not had a chance to raise with the committee but that you think we should consider.

Siobhian Brown: As I said, we know that the proposal for a specific offence of dog theft has been questioned by the Law Society of Scotland and other representatives. The common law offence of theft already covers pet theft, so it has been argued that there are existing laws in place; I mentioned that in response to an earlier question.

I do not know whether Jim Wilson wants to add anything.

Jim Wilson: I do not have anything to add at this point. Earlier in the session, we dipped into the issue of common law versus statutory protection and what the right way to go might be in that respect.

As Mr Golden made clear in his response to the committee, which we saw yesterday, there are

examples of statutory protections being brought forward through law. However, it boils down to a question of what will enable us to tackle the issue and trying to understand whether there is a strong evidence base to justify the policy. I appreciate that the committee will still have the opportunity to consider any further written responses that come in, and that stakeholders raised a huge number of important points at the committee's evidence session on 26 March.

Nevertheless, I take the opportunity to stress that, if the bill progresses beyond stage 1, we will ultimately want to ensure that it is in line with Scots law with regard to the workability of any provisions in section 1 that contain offences that are at the heart of the legislation. We would also want to consider carefully, in due course, the committee's stage 1 report.

I have no further comments.

Ariane Burgess: That was helpful. Having been involved in the previous evidence session, I got to the point at which I thought, "Do we really need this?" I have been talking to stakeholders outside that session in order to understand why legislation might be needed. You raised interesting points in response to previous questions with regard to the fact that there are levers, or tools, that could tackle the issue, but it is clearly not being tackled. As a result, I then had a sense that perhaps we do need this legislation to bring the issue to the forefront of people's minds, to give the police robust powers to prosecute and that type of thing.

It is helpful to hear your background thoughts, Mr Wilson. You clearly have the necessary depth of knowledge and have been around the issue for a very long time.

Jim Wilson: Thank you for the kind comments. I was just reflecting on the amount of correspondence that we receive and the number of parliamentary questions that the minister has to deal with. In relation to dogs, that has been significant, but it is interesting that we have not really seen many letters coming in from members of the public about dog theft. Nevertheless, we are aware that the issue is very emotive. As I said, there are opportunities to look at non-legislative actions to drive up awareness of the importance of the issue and why it is such a problem.

I appreciate the point that Mr Golden has made about concerns that have been raised by the Kennel Club—for example, around underreporting. There is a role to be played by all the key agencies that are involved in highlighting the issue, perhaps through a joined-up communications effort to raise awareness. I think that that needs to be considered. Dog theft is certainly in the mix for consideration by the expert advisory group that I mentioned.

We have close connections with a wide range of stakeholders. For example, I met representatives of the dog control coalition on 27 March, which was the day after the committee's evidence session. That was an incredibly helpful meeting. First and foremost, they look at the interests of animals and are very welfare orientated. The minister has spoken to Mr Fairlie, given his brief on animal welfare.

I am excited at the prospect of what we can achieve through the expert advisory group. I stress that it will not be a short-life working group; we plan for it to be around for the foreseeable future, because challenges regarding dog welfare, dog control and dog theft will always be on our radar. The expert advisory group will be a good opportunity to get our teeth into some of these issues.

Ariane Burgess: It seems to me—not just in this space, but across the work that I do in the Parliament—that some people in Scotland do not feel that they have the agency to be able to say, "My dog has been stolen." Perhaps the bill can give them an understanding of the place where they can do that. There is a point about agency and people thinking, "There's a place where I can take action on this." The common-law offence has clearly not been enough. It is about creating a space for people to step into and say, "Something has happened and I need action on it."

Siobhian Brown: I agree. I am a dog owner, and if someone took my dog I would go straight to the police—that is instinctively what I would do. I appreciate your points that highlight the issue.

Jim Wilson: I, too, am a dog owner, and I would go straight to the police if our crazy cocker spaniel was taken.

There is a challenge. I have seen correspondence from members of the public who are trying to understand what can be quite a complex area if they are looking at, say, the Dangerous Dogs Act 1991 or the Control of Dogs (Scotland) Act 2010. There is sometimes uncertainty about who deals with those issues. Is it the police? Yes, if it is about dangerous dogs. Is it the local authority dog warden? If it is about dog control, yes, it is.

Some individuals might not necessarily want to engage with justice agencies for certain reasons, but they may be comfortable with going to a citizens advice bureau, for example. The member makes a great point, but we need to recognise that there will sometimes be nervousness on the part of certain individuals when it comes to engaging in what could be a criminal justice process.

Siobhian Brown: The points that Ariane Burgess raises are valuable. I would like the

expert advisory group to be able to look at all those issues moving forward.

Ariane Burgess: Thanks very much.

The Convener: Those are some fantastic reasons for the need for a consolidation bill to pull all of that together, Mr Wilson. You might consider that for the next parliamentary session. When that was suggested to our clerks at the beginning of the meeting, they almost had nervous breakdowns, but it is maybe something that the Government can take on board.

Emma Roddick: My next question is about aggravations. The committee has been told that there are no recorded cases of the theft of an assistance dog. What are your views on section 2 of the bill, which introduces the aggravation for such a theft?

Siobhian Brown: The Scottish Government notes that the bill would make the theft of an assistance dog an aggravated offence. As a result, the court would be required to consider whether the sentence given should be enhanced to reflect the significance of taking an assistance dog. That is one of the issues that the committee will be required to carefully consider as the bill is scrutinised. I note from Mr Golden's letter to the committee of 18 April that he had engaged with stakeholders such as Guide Dogs Forfar, the Scottish Society for the Prevention of Cruelty to Animals and Dogs Trust to inform the proposal.

I would like to know more from Maurice Golden about the evidence base to support and justify the position that the emotional impact on victims is not sufficiently considered during sentencing under current law. In the committee's evidence-taking session on 26 March, the representatives from Police Scotland and the Crown Office and Procurator Fiscal Service highlighted that the police

"would have to be able to demonstrate that the accused knew that the dog was an assistance dog to be able to prove the aggravation."

At the same evidence session, Stuart Munro from the Law Society of Scotland was also clear that

"the sentencing process is already structured in a way that should allow"

information about the impact of the theft of an assistance dog

"to be properly taken into account."—[*Official Report, Rural Affairs and Islands Committee*, 26 March 2025; c 20-21.]

If somebody actively seeks to steal an assistance dog, our existing law already reflects that as being worthy of a more serious penalty. We are interested in hearing Mr Golden's views on that when you take evidence from him.

I will bring in Mr Wilson.

Jim Wilson: I was just thinking about some correspondence that I received yesterday from the SSPCA in relation to the definition of an assistance dog. I understand that that correspondence has been circulated to the committee. It is quite a detailed paper. I have not had the chance to digest it fully, but to narrow it down, there is a reliance on the definition of an assistance dog in section 173 of the Equality Act 2010.

During the stakeholder engagement that was held on 26 March, the points that were raised about the complexities of how to define an assistance dog were quite thought provoking. That section of the 2010 act would generally apply when a person was perhaps blind or deaf, but there are issues with the definition of an assistance dog and what that means for those who might have a support or therapy dog. Is that covered or not? I am aware that stakeholders have raised that issue as worthy of careful consideration.

Emma Roddick: You have guessed my next question, because I was going to dig into the definition a little bit more.

What are your views on what happens if the aggravation is applied but the dog that is stolen does not fall within that specific definition although the person who is stealing it believes that it does?

Jim Wilson: That was certainly highlighted as a concern by stakeholders at the evidence session on 26 March. The bill ultimately needs to provide as much certainty as it can about how the law will be applied in practice. We have already touched on the challenges and complexities around disputed ownership. The chap from Police Scotland made it clear that that will have to be—not in his words, but in mine—nailed down, so that there is no doubt about who would be covered by that protection.

Going back a number of years, the Control of Dogs (Scotland) Act 2010 produced statutory guidance that was useful in helping local authority dog wardens to implement the legislation. I have no doubt that the committee and Mr Golden will want to consider opportunities to look at whether there is a way in which guidance might be necessary and helpful to understanding how the law is to be applied in practice. Guidance is sometimes a useful way of explaining issues to certain individuals who are not really familiar with how legislation and laws are made. They could look at the explanatory note that accompanies the legislation, but that is a fairly short and succinct description of the impact of the provision. The committee might want to delve into that a little bit deeper.

Emma Roddick: Finally, at the same evidence session, we discussed the possibility that an aggravation could be justified because it is expensive and difficult to train guide dogs in particular, but there was then a bit of discussion about how that also applies to various working dogs, such as sheepdogs. Do you think that there would be justification for an aggravation in other cases where a dog has been trained to carry out a specific task for the owner?

Siobhian Brown: It could definitely be considered. That was a valid point that was brought up at the evidence session.

Jim Wilson: It boils down to whether there is an appetite for that consistency of approach, so that the aggravation could be wider than was envisaged at first.

As I said, the paper that came in yesterday from the SSPCA is pretty detailed, and it helpfully articulates the point that you just raised about training requirements, which can be significant. It also highlights the crucial role that is played by other types of dogs that might not necessarily fall under the definition in section 173 of the Equality Act 2010.

09:45

Emma Roddick: I will move to questions on victim impact statements. You will appreciate that the committee has heard some conflicting views in the evidence that has been presented. What are your views in general on the idea that, in any case, the victim of a dog theft would be able to make a victim impact statement?

Siobhian Brown: That section of the bill proposes that dog theft becomes a prescribed offence and that any court that the case is heard in is deemed to be a prescribed court. I know that that was raised in the previous evidence session on the bill, but victim impact statements are not currently available in any summary court case. At that evidence session, Laura Buchan also informed the committee that the victim impact statement scheme currently relates only to solemn cases, which means cases that are prosecuted in the sheriff and jury courts or in the High Court. The scheme also does not apply to all solemn cases; it currently includes only those cases that involve violence, sexual offences and housebreaking.

The consultation on the bill did not ask any specific questions about allowing victims to make statements about the effect of the crime or of their going to court. Although I note Mr Golden's comments in his letter, the Scottish Government considers that it requires further information from Mr Golden on why that would be an appropriate approach, including on how that would fit with the

existing approaches to the use of such statements in the criminal justice system.

Emma Roddick: In the previous evidence session on the bill, I asked about victim impact statements and whether that would be the natural next step with regard to which crimes should be captured by such a provision. Do you have a view on that? I imagine that you come across lots of different crimes in relation to which it is suggested that the victim should be able to say their piece.

Siobhian Brown: Yes, and that has been raised with the cabinet secretary in relation to the Victims, Witnesses, and Justice Reform (Scotland) Bill. I believe that the Criminal Justice Committee completed stage 2 of that bill just before the Easter recess. Jamie Greene lodged amendments in that regard, and the cabinet secretary has agreed to work with him on the matter. I think that it was said that the process will be quite slow and staggered, but that is a matter for the cabinet secretary, because she is working on the matter of victim impact statements with Jamie Greene.

Beatrice Wishart: My question follows on from what the minister has said about the Victims, Witnesses, and Justice Reform (Scotland) Bill and the proposed amendments, so it is helpful to have an update on that. How might that affect section 3 of this bill?

Siobhian Brown: As I said, stage 2 of that bill has just finished and the cabinet secretary has committed to looking at victim impact statements. I will ask Jim Wilson to comment on how that could impact section 3 of this bill.

Jim Wilson: To add to the minister's comments, as I said earlier, we understand that the issue of dog theft is very emotive. We recognise that the current processes that allow viewpoints to be expressed can be taken into account by the courts with regard to the impact that the theft of a dog has had. With regard to victim impact statements, when I looked at the original bill proposal, my initial thoughts were that that would perhaps be a step too far but also that, ultimately, it is ministers who will need to determine the policy on victim impact statements for Scottish Government interests.

We are not looking at ways of shutting down the idea of anyone being given the opportunity to air their views on the impact that such an offence has had on them and on their dog. The challenge with regard to victim impact statements, however, is to look at a way to proceed that recognises that, under existing criminal justice processes, it is only certain types of crimes to which a formal legal right to make such a statement is attached.

As the minister said, the issue is currently under live consideration in the context of the Victims, Witnesses, and Justice Reform (Scotland) Bill. I do

not work in that area, but I have had some initial discussions with colleagues in the criminal justice division about victim impact statements in the light of Mr Golden's bill. Nevertheless, there would need to be careful consideration of how the proposal could be applied as the legislation moves forward. As I said, the Cabinet Secretary for Justice and Home Affairs will, no doubt, be considering the issues around victim statements ahead of stage 3 of the Victims, Witnesses, and Justice Reform (Scotland) Bill.

Emma Harper (South Scotland) (SNP): Good morning to the minister and Mr Wilson. I am interested in a couple of questions around the annual reporting and review requirements. Section 4 of the bill is entitled "Annual reports by Scottish Ministers". I am interested to know what your views are on the responsibilities of ministers with regard to annual reporting on, and review of, the bill if it is enacted.

Siobhian Brown: In Mr Golden's response to the committee, which was published on the website yesterday, he indicates that the reasoning for setting out

"The list of information the annual report should contain"

is so that

"sound and robust data on dog thefts is collated and reported on."

However, it may be considered unnecessary to place an annual reporting requirement on the Scottish Government for something that is considered to be low-level crime and on which we can already obtain statistics from the Crown Office.

Mr Golden's response notes that the bill also

"includes the provision that the report must set out whether the Scottish Ministers consider whether there should be a statutory offence for the theft of any other animal kept as a pet."

I am sure that every member has received emails in relation to that.

It would be welcome to get some further information from Mr Golden when he appears before the committee on 21 May as to the reasons for including that provision in the bill.

Emma Harper: If any changes are to be made to the data that is required under the reporting requirement, do you have thoughts on whether further regulations would be made through an affirmative instrument? Do you have any opinions about how changes to data gathering might need to be legislated for?

Siobhian Brown: We would be keen to hear from Mr Golden about his reasoning in that regard and how he would envisage those provisions moving forward. As I said at the beginning of the

session, we are taking a neutral stance on the bill and we will be keen to see the committee's stage 1 report. Nevertheless, as the Scottish Government, we have to ensure, as the process moves forward, that the bill is legislatively competent, so that it can be enacted, and I will be looking at that.

Emma Harper: I have another wee question on what you said about reporting. Do you think that it would be too much to require annual reporting, given that that data can already be pulled out?

Siobhian Brown: Yes—my personal opinion at this stage is that it is a bit over the top, unless there is a justification from Mr Golden that would change my view.

Mr Wilson, do you have any further views on that?

Jim Wilson: No.

The Convener: I have a brief supplementary on that. Police Scotland suggested that

"The introduction of a standalone statutory offence of Dog Theft would not enhance accuracy of crime recording as the theft may be committed in commission of another crime".

Could the bill be amended in some way to ensure that that data is collected? I suppose that that is a question for Jim Wilson.

Jim Wilson: That is a great question. From memory, I think that the response from Police Scotland indicated that it will rely on a system called Unifi. In previous discussions—on issues unrelated to dog theft, I should add—we were trying to look at the way in which Police Scotland goes about recording dog-related incidents.

Ultimately, we are overreliant on receiving statistical information from Public Health Scotland on dog bites, but I am also interested to see how many dog control incidents have been reported to Police Scotland. Sometimes, it boils down to a recording issue, in that the entry on the system suggests that there has been an animal attack but does not break it down.

I appreciate that Michael Booker gave evidence on behalf of Police Scotland and provided some written responses to the committee on the data. I have no doubt that the committee will wish to consider the collected data's purpose—what the aim is of collating statistical information. I appreciate that doing so can help to inform and enhance understanding of the scale of the problem. Ultimately, the minister is right—we have had some information from the Crown Office and Procurator Fiscal Service and Police Scotland.

I came from a justice, digital and strategy background many years ago, and we have always looked at the opportunity for data to do more. In an

ideal world, it would all be linked up. Given that there are polarised debates on dogs—for example, on breed-specific legislation—I would like to understand the health data, but I do not know enough because the information is not all there. If there is a particular rise in dog bites in particular health boards across Scotland, does it involve a particular type of breed or dog? On improving data recording, I do not wish to step on Police Scotland's operational toes, but I have no doubt that it is alive to the need to produce robust data in that area.

The Convener: Thank you. We will move on to our final questions, which are on the financial memorandum.

Tim Eagle (Highlands and Islands) (Con): I have a couple of simple questions, if that is all right. Do you have any comments on the figures that are contained in the financial memorandum?

Siobhian Brown: I will bring in Jim Wilson, but I do not have any strong views on the financial memorandum. I know from the evidence session that it was very hard to determine exact figures at that stage.

Jim Wilson: When we were thinking about the legislation's cost implications, we considered what it really meant for enforcers and agencies that might be involved in supporting owners who are experiencing the traumatic event of their dog being stolen.

As noted in the SPICe briefing on the bill, the financial memorandum outlines suggested savings that might be made following the introduction of a separate offence of dog theft. That is based on the anticipated increase in the number of prosecutions for dog theft, which would result in an increased income to the Scottish consolidated fund through a greater number of fines being issued.

The financial memorandum states:

"Should 8 to 15 additional cases result in fines of £2,500 being issued in the Justice of the Peace Court and £10,000 in the Sheriff Court, that would represent additional income in fines to the Scottish Consolidated Fund ranging from £57,750 to £105,000."

I urge a little bit of caution in relation to the figures, because the data that the Scottish Government published last year on financial penalties and other sentences indicated that the median fine that was imposed by the courts on individuals was £280 in 2021-22. The median value is the midpoint of a ranked series of data, and it is used so that very high or very low values do not excessively impact the calculated average. However, it should be noted that the data on median-level fines is for fines that are imposed across all offences and is not directly comparable to offences of theft, let alone the specific offence of dog theft.

Tim Eagle: Thank you very much for that.

My final question is about the Government's position. In the review that you carried out of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, you stated that the Scottish Government had no plans to introduce legislation for a specific offence of pet theft and that "there is no consensus" on whether such an offence was required. In your letter on the bill, you stated that you would be

"taking a neutral position on the Bill."

Reflecting on what we have spoken about today and your own research, could you advise the committee whether there are any circumstances under which you could support the bill?

10:00

Siobhian Brown: Just for clarity, the 2020 act made a number of amendments to animal welfare, animal health and wildlife legislation, and animal welfare is under Jim Fairlie's portfolio, not the justice portfolio.

Under the legislation, Scottish ministers are obliged to review whether the 2020 act's provisions are sufficient to ensure appropriate standards of animal welfare, animal health and the protection of wildlife. In August last year, when Mr Fairlie put out the review, the need for specific provisions on pet theft was considered. The Scottish Government sought views from the Crown Office and Procurator Fiscal Service, Police Scotland, the Scottish Society for the Prevention of Cruelty to Animals, the Dogs Trust and the Scottish Sentencing Council on the current approach to pet theft, such as the laws used, the effectiveness of those laws and any proposal to introduce a new statutory offence of pet theft.

After considering the matter last year, the Scottish Government review concluded that we would not seek to legislate on pet theft. There appeared to be no consensus on whether such a move was necessary, but the Scottish Government was also aware that Mr Golden's bill was being introduced.

As I said, we are taking a neutral stance at this stage, so nothing could prevent us from perhaps supporting it. However, as the Scottish Government, we want to look at the letter from the committee and the many points that were raised in it. We have not really had a chance to go into detail on that, because we received it only yesterday. We also want to look at the stage 1 report. I am happy to engage with the member further on the issue at that stage.

Tim Eagle: I appreciate that you only just got that letter, but once you have had the chance to review it, is it right that your position might

change? You might decide to come back and say, "Actually, we're fully supportive of this bill."

Siobhian Brown: Not at that stage. I want to consider the letter and then also consider the committee's stage 1 report.

Tim Eagle: Then you will have a look.

Siobhian Brown: Yes.

Tim Eagle: Thank you.

Maurice Golden (North East Scotland) (Con): I thank the minister and her officials for their constructive engagement throughout the process. As we know, dogs are part of the family, but the current legal system does not treat them as such.

The Parliament has set a precedent in legislating for statutory provisions when the law already covers a specific area, and the Scottish Government has shown long-standing and demonstrable support for that approach, most recently in 2021. In general terms, is that still the case for the Scottish Government?

Siobhian Brown: Yes. Everything is under consideration. We will not say no.

Maurice Golden: Thanks for that. How concerned is the Scottish Government about the emotional impact of dog theft on individuals and families?

Siobhian Brown: As I said, it is a very emotive issue for anyone who has a pet, whether it is a dog or any other pet. Having been in my role and had this portfolio for two years, and having extensively gone through dog legislation and the XL bully situation, I am acutely aware of how emotive dog theft and having to go through things that have happened in the past couple of years has been for families with dogs. So, yes, we consider and take cognisance of the impact.

Jim Wilson: I echo what the minister has said. I completely get the point about the consequences that owners face when they have to deal with the horrible situation of their dog being stolen. It is not only one individual that is impacted; it could be a family dog, which affects all family members. Even in cases in which the dog has not been stolen but has strayed for whatever reason, there is a panic to relocate the dog, and the emotional turmoil that families—

Maurice Golden: Especially with a cocker spaniel—that might happen more often.

Jim Wilson: I have been there, Mr Golden.

I absolutely accept the point that the consequences of dealing with such situations can be quite significant, and I would never downplay that. It is very important for the public to

understand the impact of what a theft really means in practice.

Maurice Golden: Thank you, both.

The Convener: I have one final question on Police Scotland recording the data. Mr Wilson responded to an earlier question on that.

Would the Scottish Government consider amending the crime recording standard to require dog theft to be recorded as a specific stand-alone offence, rather than as an offence of robbery, theft or housebreaking?

Siobhian Brown: I am happy to look into that. I will not commit to amending it, but it can be considered.

The Convener: Thank you. That concludes our questions this morning. Thank you, minister and Mr Wilson. We will now move into private session.

10:05

Meeting continued in private until 10:24.

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