



Proposed Protection of Livestock (Scotland) Bill

A proposal for a Bill to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying

A consultation by
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Table of Contents

Foreword by Emma Harper MSP.....	3
1. How the consultation process works.....	5
2. Aim of the proposed Bill	7
3. The extent of the problem and why action is needed	7
4. Current initiatives	10
5. Other possible non-legislative measures	11
6. What stakeholders have called for	11
7. Current legislation	14
8. Key elements of the proposed Bill.....	18
9. Financial impact of the Bill.....	19
10. Equalities.....	21
11. Sustainable development.....	21
12. QUESTIONS.....	23
13. How to respond to this consultation	30
Annex 1	38
Annex 2	41

Foreword by Emma Harper MSP

In Scotland, we all have a right to enjoy and access the countryside. Indeed, it is an entrenched right in Scotland, so long as it is done responsibly. However, over recent years, we have seen a sharp rise in the number of dogs attacking livestock, and it is my view that it is now time to bring about a change in the law both to benefit Scotland's agricultural community, as well as to improve animal welfare.



The Scottish Outdoor Access Code¹ provides guidance on access rights introduced by the Land Reform (Scotland) Act 2003. The Code is important and rightly allows for the protection of our countryside; however, it does not afford adequate or clear protection for our livestock. Similarly, existing legislation relating to livestock worrying/attack is outdated and does not provide sufficient powers to relevant authorities, which my proposed Bill will seek to do.

Available research suggests that livestock worrying/attack – where livestock is chased, attacked or mutilated – most commonly involves dogs worrying/attacking sheep. During the summer of 2018, I engaged with many people on this issue, both those involved in farming and those involved with countryside access, as well as lay members of the public. During this engagement I encountered a lack of knowledge and understanding of what the term “livestock worrying” means. I found that people assume that sheep are simply just “feart”, as one member of the public said to me.

Every animal worried, attacked or mutilated by a dog represents both an animal welfare issue and a financial loss to the farmer, gamekeeper or agricultural worker. This financial loss can include the loss of potential income if lambs are killed, the loss of breeding stock that, in some cases will have taken years to build up, as well as the substantial costs of veterinary services or, indeed, disposal of fallen livestock. In addition, it is also a traumatic and disheartening experience for the agricultural workers involved and their families.

The language used around these offences needs to be updated from that which is currently used, which is based on the language of the Dogs (Protection of Livestock) Act 1953.²

¹ <https://www.outdooraccess-scotland.scot/>

² <http://www.legislation.gov.uk/ukpga/Eliz2/1-2/28/contents>

There is a need to strengthen the maximum penalties available, provide new/extended powers to ban offenders from owning a dog (including indefinitely, subject to periodic review), have powers to enable evidence to be gathered more effectively and have powers to delegate functions to relevant agencies to increase the pool of enforcing officers.

There have been campaigns, with varying degrees of success in raising awareness of the issue, by Police Scotland, Scottish Natural Heritage, the National Farmers Union Scotland, National Sheep Association Scotland, and the farming media. However, despite these campaigns, livestock worrying/attack continues to take place.

It is this Parliament's responsibility to ensure that both the animal welfare needs of our livestock are met and that our agricultural sector, upon which, according to the Scottish Government's most up-to-date figures, around 67,000 people are directly employed, is properly supported.³ Every instance of livestock worrying/attack is unnecessary and preventable, and presents welfare, financial and practical challenges to this important sector.

We have, in Scotland, a real opportunity to provide better protection than current legislation affords to our farmers, tenant farmers, crofters, estates and wildlife by strengthening legal obligations to ensure that when enjoying the countryside, people are accessing it responsibly by keeping their dogs under control.

I welcome views from all stakeholders on this proposed legislation and hope to work together and engage with all interested parties to help eliminate livestock worrying/attack in Scotland.



Emma Harper MSP

Representing South Scotland

³ <https://www.gov.scot/publications/agriculture-facts-figures-2018/pages/8/>

1. How the consultation process works

This consultation relates to a draft proposal I have lodged as the first stage in the process of introducing a Member's Bill in the Scottish Parliament. The process is governed and regulated by chapter 9, rule 9.14, of the Parliament's Standing Orders which can be found on the Parliament's website using the link below:

<http://www.scottish.parliament.uk/parliamentarybusiness/17797.aspx>

Please do not hesitate to contact me if the relevant Standing Orders are required in a more accessible format.

At the end of the 12-week consultation period, all the responses will be analysed.

Following that, a final proposal will be lodged in the Scottish Parliament along with a summary of those responses. If that final proposal secures the support of at least 18 other MSPs from at least half of the political parties represented in the Parliamentary Bureau, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Member's Bill.

A number of months may be required to finalise the Bill and related documentation. Once introduced, a Member's Bill follows a three-stage scrutiny process, during which it may be amended or rejected outright by the Parliament and its members. If it passes at the end of the process, it becomes an Act of the Scottish Parliament.

At this stage, it is therefore important to stress, that there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to seek a range of views on the subject matter of the proposed Bill, highlighting potential problems, suggesting improvements, and generally refining and developing the policy.

Consultation, when done well, can play an important part in ensuring that legislation is fit for purpose, coherent and effective.

The consultation process is being supported by the Scottish Parliament's Non-Government Bills Unit (NGBU) and will therefore comply with the Unit's good practice criteria. NGBU will also analyse and provide an impartial summary of the responses received.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this consultation document can be requested by contacting my Parliamentary office:

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An on-line copy is available on the Scottish Parliament's website (www.parliament.scot) under Parliamentary Business / Bills / Proposals for Members' Bills.

Enquiries about obtaining the consultation document in any language other than English or in alternative formats should also be sent to me.

This consultation document is in a dyslexia friendly format.



2. Aim of the proposed Bill

The aim of the proposed Bill is to better protect livestock from worrying/attack, that is: attack, mutilation and trauma caused by dogs which are not under control. This will be achieved through updating existing legislation, increasing penalties and sanctions against dog owners, and increasing police powers to collect evidence.

“Livestock worrying” is an historic term used to describe the chase, attack, mauling, mutilation, stress and trauma of livestock by dogs.

It is suggested that the current term used in legislation should be replaced with something more accurate, such as “livestock attack” or “dog attack”, in order to reflect the stress and mutilation that can be suffered by livestock chased by off-lead uncontrolled dogs.

Research⁴ from the National Sheep Association suggests that current legislation simply either doesn’t adequately refer to livestock worrying/attack, or is not strong enough to prevent it from happening.

In addition, many, including local authorities, have indicated that the current legislation is confusing and there is often a lack of clarity over the best process to follow for successful prosecutions.

A new Act of the Scottish Parliament would provide an up-to-date piece of legislation and impose more severe consequences for committing an offence of livestock worrying/attack.

The Bill will therefore increase the maximum fine available and provide for harsher consequences for offenders, and provide the courts with a power to ban offenders from owning a dog, subject to periodic review – this might, for example, be an appropriate additional sanction for repeat offenders. It will also give Scottish Ministers powers to delegate enforcement of the Bill to a relevant agency to provide for greater enforcement and investigation.

3. The extent of the problem and why action is needed

From year-on-year data of the number of offences recorded by local authorities, under the 1953 Act, it is apparent that the problem is increasing (see table 1 at Annex 1). For example, in 2007/08, there was a total of 81 recorded instances of offences, rising to 133 in 2011/12, and 175 in 2016/17.

⁴ <https://www.nationalsheep.org.uk/dog-owners/survey-results/>

The increase in the number of recorded offences in recent years may reflect, at least in part, increased reporting. This increase may be partly due to Police Scotland's awareness raising campaigns on this issue which are now undertaken twice a year in November, when sheep move to graze on lower level fields, and in March/April, to coincide with lambing season. Although these campaigns generally have higher levels of media coverage, it would nonetheless appear that many campaigns over the years have not been successful in actively tackling this issue.

Similarly, the number of people convicted of offences under the 1953 Act by local authorities has also increased, rising from nine in 2007/08, to ten in 2011/12, and 19 in 2016/17 (see Table 2 in Annex 1).

These statistics illustrate the scale of the problem. Comparing the high number of recorded instances in, for example, 2016/17 (175) (see Table 1 in Annex 1) to the much lower number of convictions for 2016/17 (19), it is noted that the number of convictions appears to be low compared with the number of recorded instances.

A survey carried out by the National Farmers Union of Scotland (NFUS) found that, of those farmers who said they had been affected by livestock worrying/attack, around half had not reported it to the police.⁵

Farmers may fail to report incidences of sheep worrying/attack out of scepticism about the likelihood of the perpetrator being apprehended. Also, it is thought that many instances of sheep worrying/attack involve dogs belonging to neighbours who let their dogs out without supervision - these are referred to as "latch-key" dogs.

Therefore, farmers may sometimes refrain from reporting due to fear of repercussions or for the sake of good relations with their neighbours. This issue is recognised in the Crown Office and Procurator Fiscal Services Scotland (COPFS) policy on Agricultural Crime and through engagement with local groups.

During the engagement exercise carried out in the summer of 2018, examples were provided of the direct experience of the effects of livestock worrying/attack.

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http://www.thescottishfarmer.co.uk/news/16171259.Half_of_sheep_worrying_cases_unreported/ The survey is based on 100 respondents and therefore, may not be completely representative of actual numbers of incidents occurring.

One farmer from Argyll and Bute, who had 11 sheep attacked resulting in some dying, said that the outcome of the case has been disappointing, but that he is not surprised. He commented⁶:

"This incident was particularly stressful. Although we took a heavy financial loss, this has not been my focus. The cost of the damage is so high as these ewe hoggs would have been used on the farm for breeding for years to come.

"We have done everything by the book since this happened to ensure it was fairly and properly put through the justice system. However, even with doing this we have been let down by antiquated legislation.

"It is now evident that the farming community in Scotland doesn't have any protection from instances of livestock worrying as the sanctions dog owners face are far too lenient to deter them from doing this again.

"The local police and dog warden have been fantastic throughout this, and I really thank them for the time, effort and support they've given.

"Whilst there's not much I can do to change the outcome, I will be fully supporting NFU Scotland and Emma Harper in their efforts to bring the legislative framework into the 21st Century in the hope others don't have to go through what we have.

"For those suffering problems with dogs near or disturbing their livestock and posing a potential threat to their livestock contact your local dog warden to seek a Dog Control Notice (DCN) to be put in place where appropriate. This is the only means available of being able to control dogs causing persistent problems with livestock at the present time. I believe this has stopped another attack by these dogs.

"Unfortunately, once these dogs have a taste for it, they are likely to attack again, and I fear the next time it may not be an animal, but someone's child."

The following table shows the total number of Dog Control Notices (DCNs) issued across Scotland for any reason (not specific to incidents of dogs being out of control close to livestock) in recent years:⁷

⁶ The quote is from a face-to-face consultation meeting in Argyll and Bute in 2018.

⁷ Answer to parliamentary question S5W-15921, answered on 30 April 2018 by Annabelle Ewing MSP:

<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-15921&ResultsPerPage=10>

Dog control notices issued under the Control of Dogs (Scotland) Act 2010					
Year	2011-12	2012-13	2013-14	2014-15	2015-16
Scotland	92	147	244	277	290

Whilst the number may remain relatively low, it continues to increase year on year.

The number of DCNs issued by each local authority could not be obtained. However, from speaking to a number of local authority Dog Wardens – from Argyll and Bute, Dumfries and Galloway and Highlands and Islands – they explained that DCNs are not generally used for incidents of livestock worrying/attack, and that they would not normally deal with these incidences, as it is something the police tend to deal with. The Dog Wardens also explained that they would not be able to easily deal with livestock attack incidences without further resources due to the rurality and time it would take to investigate and deal with every offence.

This further demonstrates the need for Scottish Ministers to be able to have discretion to, potentially, allow for a relevant agency to be able to deal with livestock attack and worrying, in order to ensure these incidents are fully investigated.

4. Current initiatives

As mentioned, along with enforcement of the 1953 Act, Police Scotland runs regular campaigns to highlight the issue of livestock worrying/attack. These are timed to coincide with those times of the year when there has traditionally been a “spike” in the number of incidents (i.e. during the spring lambing season, and in November when sheep are being brought down from the hills). The message from the Police Scotland campaigns is very much focussed on prevention and the education of dog owners and walkers.

Scottish Natural Heritage (SNH) is also active in promoting responsible dog ownership and dog walking in the countryside. SNH published guidance, developed in partnership with NFU Scotland, the Kennel Club, the Scottish Kennel Club and Scottish Land and Estates in 2015, aimed at helping landowners to encourage responsible dog walking.⁸ This sets out an approach to tackling issues at a local level, in partnership with the access authority (local authority or national park authority) and gives practical advice to landowners regarding engaging with dog walkers. It is

⁸ <https://www.nature.scot/sites/default/files/2017-06/Publication%202015%20-%20Taking%20the%20Lead%20-%20Managing%20access%20with%20dogs%20to%20reduce%20impacts%20on%20land%20management.pdf>

suggested that this guidance would provide a useful starting point for any fresh initiative to engage with landowners and access authorities regarding responsible dog ownership and dog walking in the countryside.

While these campaigns may have had some success in educating the public and dog walkers on the issues, it is nonetheless clear they have not brought about an end to the worry, trauma, attack and mutilation of livestock, particularly sheep, across Scotland.

5. Other possible non-legislative measures

It is recognised that legislation is just one measure to help reduce livestock worrying/attack and that stakeholders and others can take steps to assist.

These might include increased awareness and education of dog owners through, for example, vets providing additional information on the issue, including about the law and penalties for livestock worrying/attack, when vaccinating or implanting microchips in dogs.

Another option might be the regulation of dog trainers and, more generally, dog training programmes. This could have the benefit of ensuring that standards of training are consistent across the country, with the appropriate behaviours being taught, and would also ensure that the relevant information about livestock worrying/attack was given out to dog owners. This would make it easier for dog owners when looking for a dog trainer as they would know that each trainer had met the relevant national standard.

In addition to the statistics which are collected for offences, there could also be improved types of data collected when an incident is reported to the police – for example, the circumstances in which worrying/attack occurs – whether there was no owner with the dog, or details of the types of access to the field where the worrying/attack occurred. It is noted that the Scottish Government has recently commissioned Ipsos MORI to undertake research investigating the incidence and impact of dog attacks on sheep.⁹

6. What stakeholders have called for

The Scottish Farmer magazine's 'Take a Lead' campaign, which is supported by NFUS and the National Sheep Association Scotland, has

⁹ Response to parliamentary question S5W-21196, answered by Mairi Gougeon on 30 January 2019:
<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-21196&ResultsPerPage=10>

called for new legislation to introduce 'tougher penalties' for livestock worrying/attack offences.¹⁰ The campaign does not appear to specify what these tougher penalties should be. NFUS has also called for a revision of the Scottish Outdoor Access Code to tackle livestock worrying/attack, though again it is not entirely clear what the detail is of the change they propose.

At the meeting of the Scottish Partnership Against Rural Crime (SPARC) on 13 March 2018, all members were asked to submit views to the Partnership secretariat about what the Scottish Government could do to better support the prevention and detection of sheep worrying/attack. As of early June, the only response received was from Scottish Land and Estates¹¹. Their response stated that:

"Scottish Land and Estates (SLE) believes there are three key areas which should be looked at to better prevent such incidences. These include measures to prevent, detect and protect. Strengthening each of these areas will be important to achieving the overall objective of preventing future livestock worrying incidences.

1. Review of current penalties. Penalties need to be at a level which will form an effective deterrent. Penalties should allow flexibility for persistent or repeat offenders.
2. Sentencing needs to be more of a deterrent. Increased enforcement and prosecution of livestock worrying incidences.
3. Greater encouragement for farmers and land managers to report incidences of livestock worrying.
4. Scottish Government support and promote SPARC livestock worrying campaign(s).
5. Scottish Government led inquiry into the use and effectiveness of Dog Control Notices, particularly in deterring irresponsible behaviour and the approach and willingness taken by different Local Authorities in using them – there is concern that some Local Authorities are reluctant to use them.
6. Consultation on a review of the Dogs (Protection of Livestock) Act 1953 and Control of Dogs (Scotland) Act 2010."

¹⁰ <https://www.thescottishfarmer.co.uk/news/16892850.calls-for-tougher-sanctions-on-livestock-worrying/>

¹¹ Letter received by the member, from Scottish Land and Estates.

In May 2018, a letter was received by the member from NFUS mapping out five areas it believes merit inclusion in any new legislative framework or guidance¹²:

1. Livestock worrying becomes a recordable crime to allow for accurate measurement and monitoring of the issue and provide easy identification of repeat offenders.¹³
2. An update of the Scottish Outdoor Access Code (SOAC) is needed to provide clearer guidance on accessing the countryside with dogs. NFUS believes that guidance should state that all dogs (except for working dogs) must be on a lead around sheep. This will send a strong message to both those taking access to the countryside and those who allow their dogs to stray.
3. Police Scotland should be provided with powers to issue Dog Control Notices. Currently, only local authority dog wardens have the power to issue Dog Control Notices, and as a result this mechanism is often unused. This will increase the use of this as a useful interim step.
4. Police Scotland should have powers to obtain evidence, seize dogs and have dogs destroyed. These powers will assist in investigations and will prevent dogs from remaining in the custody of irresponsible owners – which experience has shown often results in a repeat offence.
5. Fines levied on offenders must be proportionate and full compensation should be provided for. This will act as a deterrent to dog owners and will also ensure that farmers can redress any resulting cost to their livelihood. NFUS considers that sanctions should include powers to disqualify offenders from dog ownership.

There are around 51,000 farms across Scotland, of which 24,000 have livestock¹⁴, and, of these, approximately 13,000 breed sheep¹⁵. From face-to-face consultation, it has become clear that many people within Scotland's agricultural sector have either experienced livestock attacks themselves, or indeed know of a family member, friend or colleague who has. Therefore, it seems to be in the best interest of Scotland's agricultural sector, for a new piece of legislation, which will increase

¹² <https://www.nfus.org.uk/news/news/nfus-gets-tough-on-livestock-worrying>

¹³ Livestock worrying is already a recordable offence in Scotland-
<https://www.gov.scot/publications/recorded-crime-scotland-2017-18/pages/4/>

¹⁴ <https://www.gov.scot/publications/agriculture-facts-figures-2018/pages/9/>

¹⁵ Page 10,
<https://www.gov.scot/binaries/content/documents/govscot/publications/statistics-publication/2018/06/agriculture-facts-figures-2018/documents/00536433-pdf/00536433-pdf/govscot%3Adocument?forceDownload=true>

penalties for causing livestock trauma, to be brought forward to benefit this invaluable sector in Scotland.

From the information outlined above, it is clear that there is scope for further action to be taken to address the issue of livestock worrying/attack and, in doing so, bring about greater protection for our agricultural community, livestock and countryside.

7. Current legislation

There are currently various pieces of legislation which aim to promote the responsible ownership of dogs and, in doing so attempt to prevent livestock worrying/attack. These are, however, outdated and do not include an adequate range of measures to address the problem effectively.

Dogs (Protection of Livestock) Act 1953¹⁶ ("the 1953 Act")

The current law on livestock worrying/attack is found in the Dogs (Protection of Livestock) Act 1953 which provides at section 1:

"(1) Subject to the provisions of this section, if a dog worries livestock on any agricultural land, the owner of the dog, and, if it is in the charge of a person other than its owner, that person also, shall be guilty of an offence under this Act."

If a dog worries livestock on agricultural land then the owner, and anyone else under whose control the dog is at the time, is guilty of a criminal offence.

No offence is committed if, at the time of the worrying/attack, the livestock were trespassing, the dog belonged to the owner of the land on which the trespassing livestock were, and the person in charge of the dog did not cause the dog to attack the livestock.

The maximum penalty for an offence under s.1 of the 1953 Act is level 3 on the standard scale (currently £1,000).

Under the 1953 Act, police currently can only seize a dog in order to ascertain who the owner is.¹⁷ It is intended that the proposed Bill would include a power for police to seize a dog for the purposes of taking it to a vet, if necessary without the owner, for evidence-gathering purposes. The police would not need a warrant – that is, advance authority from a court – to do this, but the police officer would need to have reasonable grounds to believe both that livestock had been attacked and that the dog in question was the one involved. (This would not allow, for example, a

¹⁶ <http://www.legislation.gov.uk/ukpga/Eliz2/1-2/28/contents>

¹⁷ <http://www.legislation.gov.uk/ukpga/Eliz2/1-2/28/section/2>

police officer to seize any dog that happened to be in the local area at the time of a sheep-worrying/attack incident.)

Land Reform (Scotland) Act 2003¹⁸ ("the 2003 Act")

Section 1 of the Land Reform (Scotland) Act 2003 gives everyone statutory access rights to most land and inland water in Scotland. With regards to agricultural land these access rights can be responsibly exercised on a range of land, including fields where there are horses, cattle and other farm animals.

Section 9 outlines conduct excluded from access rights and includes "being on or crossing land while responsible for a dog or other animal which is not under proper control".

Section 10 provides a statutory duty for SNH to issue a Scottish Outdoor Access Code¹⁹, setting out guidance in relation to access rights. The relevant extract from the Code is set out in Annex 2 at the end of this consultation.

While there is legislation which defines the criminal offences which already exist, the Access Code is a well-known source of guidance on the appropriate way to access the countryside, and used by many. Breaching the Code is not a criminal offence, however, and this is an issue which has been regularly raised by major agricultural and legal organisations.

Control of Dogs (Scotland) Act 2010²⁰ ("the 2010 Act")

The Control of Dogs (Scotland) Act 2010 enables local authorities to impose measures on the owner, or the person in charge, of a dog where they have failed to keep the dog under control, through the issuing of a Dog Control Notice (DCN).

It is noted that the Scottish Parliament's Public Audit and Post-legislative Scrutiny Committee is currently carrying out post-legislative scrutiny of the effectiveness of the 2010 Act.²¹

Dog Control Notices

Circumstances where a DCN can be served include:

- The dog is not being kept under control effectively and consistently (by whatever means) by the proper person (generally the "proper person" is the owner of the dog) who is in charge of the dog, and

¹⁸ <https://www.legislation.gov.uk/asp/2003/2/contents>

¹⁹ <https://www.outdooraccess-scotland.scot/sites/default/files/2018-05/Publication%202005%20-%20Scottish%20Outdoor%20Access%20Code.pdf>

and the relevant paras are 3.53 to 3.56.

²⁰ <https://www.legislation.gov.uk/asp/2010/9>

²¹ <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/109352.aspx>

- the dog's behaviour gives rise to alarm or apprehensiveness on the part of any individual, and the individual's alarm or apprehensiveness is, in all circumstances, reasonable. The 'apprehensiveness' mentioned above may be as to (any or all) the individual's own safety, the safety of another person, or the safety of an animal other than the dog in question.

In order for a DCN to be served, both parts of the "out of control test" outlined above must be met. A DCN can be imposed whether or not a dog attack has taken place. What matters is that the two-part test is met. Therefore, it can be said that the 2010 Act can be used to deal with dogs that are out of control either close to, or in the general vicinity of, livestock if the two-part test is met.

A DCN will generally specify control measures that have to be followed, such as keeping the dog on a lead in a place of public access, specified in the notice, if the authorised officer considers that to be appropriate. It is for the local authority authorised officer to determine the content of the DCN.

Once a DCN is in place, the local authority must supervise the enforcement of the conditions. If the person subject to the DCN does not take the required steps, then a criminal offence is deemed to have been committed, the penalty for which is a fine not exceeding level 3 on the standard scale (currently £1,000). Imprisonment is not available as an option for the court.

Following a conviction, the court may also make an order to disqualify the person from owning or keeping a dog for such period as the courts think fit. In cases where the court has decided that the dog is dangerous, it may make an order for the dog's destruction. The court may discharge the DCN and impose a requirement that the person should be subject to a further DCN.

Although these DCNs can be issued pre-incident, it is a much more complex process. Police Scotland currently do not have the power to issue DCNs.

Dangerous Dogs Act 1991²² ("the 1991 Act")

In addition to introducing strict controls on dogs which were specifically bred for fighting, Section 3²³ of the 1991 Act also made it an offence for anyone in charge of any type of dog to allow it to be dangerously out of control in a public place, or in a private place, where it has no right to be.

²² <https://www.legislation.gov.uk/ukpga/1991/65/contents>

²³ <https://www.legislation.gov.uk/ukpga/1991/65/section/3>

However, the interpretation section of the Act defines 'dangerously out of control' as "any occasion on which there are grounds for reasonable apprehension that it will injure any person or assistance dog, whether or not it actually does so."²⁴ It therefore does not apply in circumstances where the dog may injure another animal or instances of livestock worrying/attack.

Civil Liability

Civil liability arises from the Animals (Scotland) Act 1987²⁵ ('the 1987 Act'). Under the 1987 Act, anyone who is the keeper of a dog which causes damage by killing or injuring livestock will be liable for the damage caused. The keeper of a dog for the purposes of the Act is the owner, the person in possession of the dog, or the head of a household where the owner is a member of the household under the age of sixteen.

Defence for killing a dog that is worrying/attacking livestock

Section 129 of the Civic Government (Scotland) Act 1982²⁶ and section 4 of the Animals (Scotland) Act 1987²⁷ provide a defence for people who kill or injure a dog which is worrying/attacking livestock, subject to stringent conditions.

This person would have to be the owner of the livestock or someone who was authorised to protect the livestock if they were not the owner. The defence can be used where:

- there were no other means of ending or preventing the worrying; and
- where the dog that had done the worrying was still in the vicinity and not under control and there were no practicable means of establishing ownership.

This means that if a dog was shot whilst worrying/attacking livestock and its owner was in the vicinity, the person who carried out the shooting would not necessarily be able to rely on this defence, as ownership had been established. The person killing the dog must also inform the police within 48 hours of the killing or injuring of the dog.

There is, therefore, already a range of legislation which makes livestock worrying/attack a criminal offence and which imposes a number of sanctions for breaches of the law for livestock worrying/attack. However, they all appear to have limitations - the current legislative framework is just not working effectively.

²⁴ <https://www.legislation.gov.uk/ukpga/1991/65/section/10>

²⁵ <http://www.legislation.gov.uk/ukpga/1987/9/section/1>

²⁶ <https://www.legislation.gov.uk/ukpga/1982/45/section/129>

²⁷ <https://www.legislation.gov.uk/ukpga/1987/9/section/4>

8. Key elements of the proposed Bill

It is therefore recognised that livestock worrying/attack is a significant issue which can have financial and stressful consequences for those involved. It is also recognised that it is not a straightforward issue and that no single course of action will bring about its complete eradication.

However, the Bill will represent a significant step in taking matters forward by including a package of measures to improve the current situation with a view to reducing the number of incidents.

Package of measures to be included in the Bill

The measures can be summarised as follows:

- i) Increasing the penalties for the offence of livestock worrying/attack, so that the owner of the dog, and/or the person in charge of it at the time, would be liable to:
 - a) a fine up to level 5 on the standard scale (currently set at £5,000) or imprisonment for up to six months (or an equivalent community penalty – i.e. community payback order) and/or
 - b) a ban on owning dogs, including for life, subject to periodic review.
- ii) Providing police officers with powers, in suspected cases, to require the owner or person in charge of a dog suspected of livestock worrying/attack, accompanied by a police officer, to take the dog, within a 24-hour period, for examination to a vet for the purpose of evidence gathering; or for a police officer to have the power to seize the dog and take it to a vet themselves.
- iii) Enabling the Scottish Ministers to delegate powers, in order to aid in the investigation and enforcement of the offence to an appropriate body (such as the SSPCA).

Appropriateness of the term “worrying”

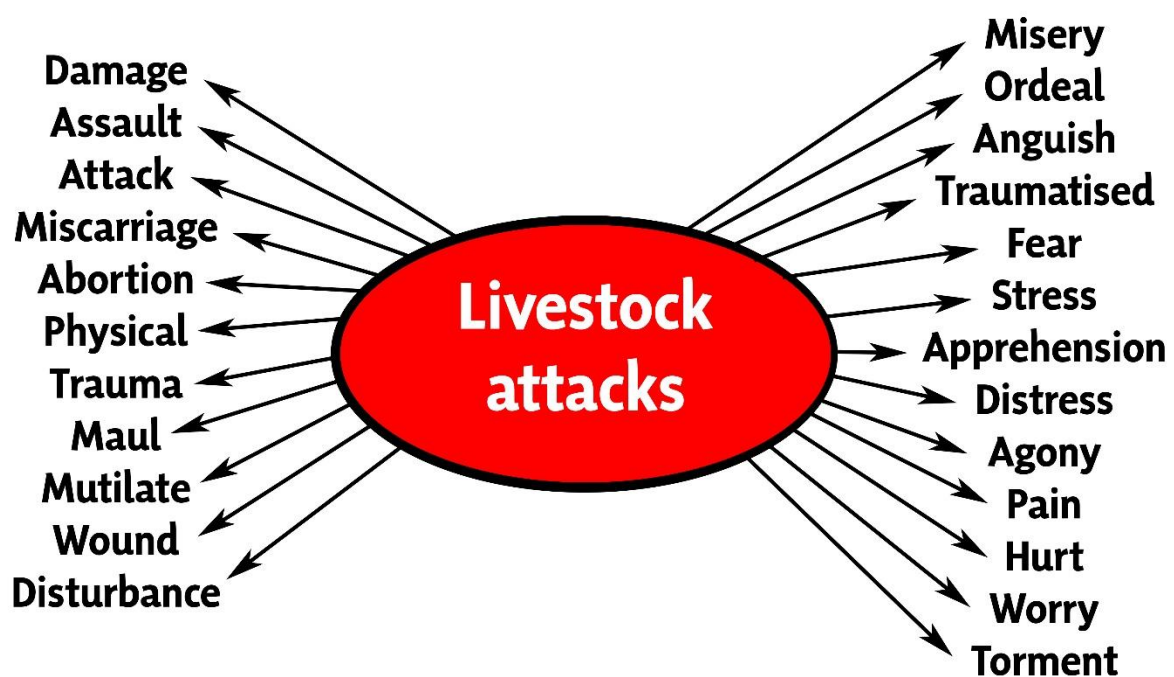
In terms of the 1953 Act, “worrying” is defined as:

- a) Attacking livestock,
- b) Chasing livestock in such a way that it could reasonably be expected to cause injury or suffering or, in the case of females, abortion or the loss or diminution of their produce (milk yields etc).
- c) Being at large (that is to say not on a lead or otherwise under close control) in a field or enclosure in which there are sheep.

Sheep dogs, police dogs, guide dogs, working gun dogs or a pack of hounds (in Scotland "a dog lawfully used to hunt") are exempted from subsection (c) above, of the 1953 Act.

While the above definition may cover the **act** of dogs at large in this context, the label "worrying" does not adequately reflect the actual mauling, mutilation, physical and even psychological trauma that livestock may suffer.

It is suggested that the following terms reflect a more realistic representation of what is suffered by the animals who are subject to worrying/attack:



Definition of "livestock"

In terms of the 1953 Act, the definition of "livestock" includes cattle, sheep, goats, swine, horses and poultry. "Poultry", however, does not include game birds such as pheasants and grouse.

The definition in the Act does not include camelids (alpacas and llamas) or other farmed species, such as ostrich or deer. It is proposed that these species should be included in order to improve the definition and to bring it up to date with current farming practices in Scotland.

9. Financial impact of the Bill

Quantifying the financial impact of the Bill is problematic, as identifying the true scale of livestock worrying/attack and all the costs involved is

challenging. However, it is anticipated that if the Bill's objectives are achieved and the numbers of livestock worrying/attack incidents are reduced, this will be of significant economic benefit to farmers and livestock owners. If there is an increase in the number of offences reported, and there is a requirement for additional police/local authority/courts' time spent on cases, there may be some resource implications for these bodies, but it is anticipated that these may be absorbed within existing budgets.

In terms of the extent of the problem for affected stakeholders, there is evidence to suggest that there may be significant under-reporting. This is compounded by the apparent absence of a consistent approach to formally recording livestock worrying. These factors make it very difficult to produce accurate data on how many incidents occur across Scotland and the rest of the UK every year.

Once source of information is from the UK Parliament's All-Party Parliamentary Group for Animal Welfare (APGAW) who published a report²⁸ on livestock worrying in November 2017. The report indicates that most attacks are on sheep – an estimate provided by SheepWatch UK suggests that approximately 15,000 sheep were killed by dogs in 2016. The report estimates the cost of replacing these animals to be around £1.3 million.

Attacks are not limited to sheep, with cattle, horses and other livestock also affected. The British Horse Society has provided APGAW with anecdotal evidence of 662 attacks for the whole of the UK on horses since 2012.

Precise data on attacks in Scotland alone is also scarce. As also cited earlier, Scottish Ministers' 14 November 2018 response to Parliamentary Question (PQ) S5W-19928 gives some insight, with figures on the number of offences recorded by Police Scotland under the 1953 Act.²⁹ These relate to dogs worrying/attacking livestock on agricultural land, where 175 offences were recorded in 2016/17 and 170 offences were recorded in 2017/18. (This is only the number of offences recorded, not the number of animals attacked. Many incidents involve attacks on multiple animals.)

²⁸ <https://csjk9blog.files.wordpress.com/2017/11/apgaw-livestock-worrying-report-2017-1.pdf>

²⁹ Response to parliamentary question S5W-19928, answered by Fergus Ewing on 26 November 2018:
<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Simple&Keyword=S5W-12821&ExactPhrase=True&DateChoice=0&SortBy=DateSubmitted&ResultsPerPage=10>

The absence of robust data on the scale of the problem means that very little information is available on the financial impact. In addition to APGAW's estimate of £1.3 million to replace sheep killed in attacks in 2016 across the UK, NFU Mutual has published data on the cost of insurance claims related to livestock worrying/attack.³⁰ In 2017, the UK-wide figure reached £1.6 million, with claims in Scotland totalling £51,000. The average cost of a claim has risen by over 50% in the last two years, to nearly £1,300.

10. Equalities

At this stage it does not appear that the draft proposal will have any positive or negative impacts in terms of protected characteristics under the Equality Act 2010.

It is noted that, in terms of the 1953 Act (section 1), guide dogs are exempt from the provisions which involve a penalty where a dog worries livestock on agricultural land by being at large in a field of sheep and not on a lead or under close control. It is proposed that guide dogs (and other assistance dogs) should be similarly exempted in the Bill, but only where they are being used as such (e.g. there should be no exemption for a guide dog that is not, at the relevant time, being used as a guide dog but is being exercised by a sighted person).

11. Sustainable development

It is suggested that the proposed Bill can support sustainable development issues by increasing wellbeing and equity.

The Bill will primarily focus on the welfare of livestock. It is not the intention of the Bill to limit anyone's access to green spaces, although it might deter some dog owners from entering fields containing livestock, without taking responsible measures, who are aware that their dogs are likely to worry livestock. There should be a positive impact on the local environment as it will assist in increasing a safer and more sustainable countryside for all, where livestock, dogs, and people can access green spaces more safely.

Encouraging more responsible dog ownership will impact on the distress experienced by livestock and the potential loss of life. This should also make the experience of accessing the countryside more positive for members of the public who would not have to witness potentially distressing scenes of livestock being attacked.

³⁰ <https://www.nfumutual.co.uk/news-and-stories/a-guide-for-farmers-to-deal-with-livestock-worrying/>

The proposed Bill should impact upon fairness and equity by assisting farmers who currently suffer the consequences of livestock worrying/attack but believe that the penalties imposed on the few dog walkers who are caught often are not equivalent to the loss caused. Increasing the maximum penalties against the irresponsible dog owners might assist in addressing this imbalance.

The Bill can also potentially benefit wider society as a whole. Modern society has developed in parallel with the ability to farm and look after livestock, and to secure food in exchange for providing for the animal's needs. It is argued that optimal food production (in terms of nutrition) is linked to ensuring that animals are kept in stress-free environments where their welfare has been considered. This proposal aims to reduce the stress to livestock caused by worrying/attack which will increase their overall quality of life.

12. QUESTIONS

ABOUT YOU

(Note: Information entered in this "About You" section may be published with your response (unless it is "not for publication"), except where indicated in **bold**.)

1. Are you responding as:
 - an individual – in which case go to Q2A
 - on behalf of an organisation? – in which case go to Q2B

- 2A. Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)
 - Politician (MSP/MP/peer/MEP/Councillor)
 - Professional with experience in a relevant subject
 - Academic with expertise in a relevant subject
 - Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

- 2B. Please select the category which best describes your organisation:
 - Public sector body (Scottish/UK Government or agency, local authority, NDPB)
 - Commercial organisation (company, business)
 - Representative organisation (trade union, professional association)
 - Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
 - Other (e.g. clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

3. Please choose one of the following:

- I am content for this response to be published and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published ("not for publication")

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or "not for publication".)**

Name:

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**

Contact details:

5. Data protection declaration

- I confirm that I have read and understood the privacy notice attached to this consultation which explains how my personal data will be used.

YOUR VIEWS ON THE PROPOSAL

Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Aim and approach

1. Which of the following best expresses your view of the proposal to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying?

- Fully supportive
- Partially supportive
- Neutral (neither nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

2. What other measures could be taken (either instead of, or in addition to, legislation) to achieve the aims of the proposal?

Penalties

3. Which of the following best expresses your view of increasing the maximum penalty for livestock worrying/attack to level 5 on the standard scale (currently set at £5,000) or imprisonment for up to six months (or an equivalent community penalty – i.e. community payback order)?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

4. Which of the following best expresses your view of giving the courts the power to ban anyone convicted of livestock worrying/attack from owning a dog, including for life, subject to periodic review?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

Evidence gathering

5. Which of the following best expresses your view of providing police officers with powers to require a person to take their dog, within a 24-hour period, for examination to a vet for the purpose of evidence gathering; or for a police officer to have the power to seize the dog and take it to a vet themselves?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

6. Which of the following best expresses your view of giving Scottish Ministers the power to delegate powers to investigate and enforce the offence to an appropriate body (such as the SSPCA)?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

Definitions

7. The 1953 Act defines “livestock” as including cattle, sheep, goats, swine, horses and poultry. Which of the following best expresses your view of extending this definition to include camelids (alpacas and llamas) and other farmed species, such as ostrich or deer?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response, including whether there are any other categories which should be included under the definition.

Financial implications

8. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Government and the public sector

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(b) Businesses

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(c) Individuals

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

Please explain the reasons for your response.

9. Are there ways in which the proposed Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

Equalities

10. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

- Positive
- Slightly positive
- Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response.

Sustainability

11. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- Yes
- No

Unsure

Please explain the reasons for your response.

General

12. Do you have any other comments or suggestions on the proposal?

13. How to respond to this consultation

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

Format of responses

You are encouraged to submit your response via an online survey (Smart Survey) if possible, as this is quicker and more efficient both for you and the Parliament. However, if you do not have online access, or prefer not to use Smart Survey, you may also respond by e-mail or in hard copy.

Online survey

To respond via online survey, please follow this link:

<http://www.smartsurvey.co.uk/s/LivestockWorrying>

The platform for the online survey is Smart Survey, a third party online survey system enabling the SPCB to collect responses to MSP consultations. Smart Survey is based in the UK and is subject to the requirements of the General Data Protection Regulation (GDPR) and any other applicable data protection legislation. Any information you send in response to this consultation (including personal data) will be seen by the MSP progressing the Bill and by staff in NGBU.

Further information on the handling of your data can be found in the Privacy Notice, which is available either via the Smart Survey link above, or at the end of this document.

Smart Survey's privacy policy is available here:

<https://www.smartsurvey.co.uk/privacy-policy>

Electronic or hard copy submissions

Responses not made via Smart Survey should, if possible, be prepared electronically (preferably in MS Word). Please keep formatting of this document to a minimum. Please send the document by e-mail (as an attachment, rather than in the body of the e-mail) to:

emma.harper.msp@parliament.scot

Responses prepared in hard copy should either be scanned and sent as an attachment to the above e-mail address or sent by post to:

Emma Harper MSP
M4.06
Scottish Parliament

Edinburgh EH99 1SP

Responses submitted by e-mail or hard copy may be entered into Smart Survey by my office or by NGBU.

If submitting a response by e-mail or hard copy, please include written confirmation that you have read and understood the Privacy Notice (set out below).

You may also contact my office by telephone on (0131) 348 6965

Deadline for responses

All responses should be received no later than **15 May 2019**. Please let me know in advance of this deadline if you anticipate difficulties meeting it. Responses received after the consultation has closed will not be included in any summary of responses that is prepared.

How responses are handled

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received (other than “not for publication” responses) on my website:

<https://emmaharpermsp.scot/livestock-worrying/>

Published responses (other than anonymous responses) will include the name of the respondent, but other personal data sent with the response (including signatures, addresses and contact details) will not be published.

Where responses include content considered to be offensive, defamatory or irrelevant, my office may contact you to agree changes to the content, or may edit the content itself and publish a redacted version.

Copies of all responses will be provided to the Scottish Parliament’s Non-Government Bills Unit (NGBU), so it can prepare a summary that I may then lodge with a final proposal (the next stage in the process of securing the right to introduce a Member’s Bill). The Privacy Notice (below) explains more about how the Parliament will handle your response.

If I lodge a final proposal, I will be obliged to provide copies of responses (other than “not for publication” responses) to the Scottish Parliament’s Information Centre (SPICe). SPICe may make responses available to MSPs or staff on request.

Requests for anonymity or for responses not to be published

If you wish your response to be treated as anonymous or “not for publication”, please indicate this clearly. The Privacy Notice (below) explains how such responses will be handled.

Other exceptions to publication

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory content. If I think your response contains such content, it may be returned to you with an invitation to provide a justification for the content or to edit or remove it. Alternatively, I may publish it with the content edited or removed, or I may disregard the response and destroy it.

Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request anonymity or ask for it not to be published. I will not publish your signature or personal contact information. The Privacy Notice (below) sets out in more detail what this means.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person’s consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response. Further information about data protection can be found at: www.ico.gov.uk.

Freedom of Information (Scotland) Act 2002

As indicated above, NGBU may have access to information included in, or provided with, your response that I would not normally publish (such as confidential content, or your contact details). Any such information held by the Parliament is subject to the requirements of the FOISA. So if the information is requested by third parties the Scottish Parliament must consider the request and may have to provide the information unless the

information falls within one of the exemptions set out in the Act. I cannot therefore guarantee that any such information you send me will not be made public should it be requested under FOISA.

Further information about Freedom of Information can be found at:

www.itspublicknowledge.info.

Privacy Notice

This privacy notice explains how the personal data which may be included in, or is provided with, your response to a MSP's consultation on a proposal for a Member's Bill will be processed. This data will include any personal data including special categories of personal data (formerly referred to as sensitive personal data) that is included in responses to consultation questions, and will also include your name and your contact details provided with the response. Names and contact details fall into normal category data.

Collecting and holding Personal Data

The Scottish Parliamentary Corporate Body (the SPCB) processes any personal data you send to it, or that the MSP whose consultation you respond to shares with it (under a data-sharing agreement) according to the requirements of the General Data Protection Regulation (EU) 2016/679 (the GDPR) and the Data Protection Act 2018 (the DPA)

Personal data consists of data from which a living individual may be identified. The SPCB will hold any personal data securely, will use it only for the purposes it was collected for and will only pass it to any third parties (other than the MSP whose consultation you respond to) with your consent or according to a legal obligation. Further information about the data protection legislation and your rights is available here:

<https://ico.org.uk/for-the-public/is-my-information-being-handled-correctly/>

Sharing Personal Data

The data collected and generated by Smart Survey will be held by the Non-Government Bills Unit (NGBU), a team in the Scottish Parliament which supports MSPs progressing Members' Bills, and shared with the MSP who is progressing the Bill and staff in the MSP's office. Data submitted by other means (e.g. by email or hard copy) will be held by the MSP's office and shared with NGBU for the purpose of producing a summary of responses to the consultation. The MSP and NGBU are joint data controllers of the data. Under a data-sharing agreement between the MSP and the Scottish Parliament, access to the data is normally limited to NGBU staff working on the Member's Bill/proposal, the MSP and staff in the MSP's office working

on the Member's Bill/proposal; but data may also be shared by NGBU with the Scottish Parliament's solicitors in the context of obtaining legal advice.

Publishing Personal Data

"Not for publication" responses will not be published and will only be referred to in the summary of consultation responses in the context of a reference to the number of "not for publication" responses received and, in some cases, in the context of a general reference that is considered by you to be consistent with the reasons for choosing "not for publication" status for your response.

Anonymous responses will be published without your name attached, your name will not be mentioned in the summary of consultation responses, and any quote from or reference to any of your answers or comments will not be attributed to you by name.

Other responses may be published, together with your name; and quotes from or references to any of your answers or comments, together with your name, may also be published in the summary of consultation responses.

Contact details (e.g. your e-mail address) provided with your response will not be published, but may be used by either the MSP's office or by NGBU to contact you about your response or to provide you with further information about progress with the proposed Bill.

Where personal data, whether relating to you or to anyone else, is included in that part of your response that is intended for publication, the MSP's office or NGBU may edit or remove it, or invite you to do so; but in certain circumstances the response may be published with the personal data still included.

[Please note, however, that references in the foregoing paragraphs to circumstances in which responses or information will not be published are subject to the Parliament's legal obligations under the Freedom of Information \(Scotland\) Act 2002. Under that Act, the Parliament may be obliged to release to a requester information that it holds, which may include personal data in your response \(including if the response is "not for publication" or anonymous\).](#)

Use of Smart Survey software

The Scottish Parliament is licensed to use Smart Survey which is a third party online survey system enabling the Scottish Parliament to collect responses to MSP consultations, to extract and collate data from those responses, and to generate statistical information about those responses. Smart Survey is based in the UK and is subject to the requirements of data protection legislation.

Any information you send by email or in hard copy in response to a consultation on a proposal for a Member's Bill may be added manually to Smart Survey by the MSP's office or by NGBU.

The privacy policy for Smart Survey is available here:

<https://www.smartsurvey.co.uk/privacy-policy>

While the collected data is held on SmartSurvey, access to it is password protected. Where the data is transferred to our own servers at the Scottish Parliament, access will be restricted to NGBU staff through the application of security caveats to all folders holding consultation data.

Access to, retention and deletion of personal data

As soon as possible after a summary of consultation responses has been published, or three months after the consultation period has ended, whichever is earlier, all of your data will be deleted from Smart Survey. If, three months after the consultation period has ended, a summary has not been published, then the information that we would normally publish – including all your answers to questions about the proposal (unless your response is "not for publication") and your name (unless you requested anonymity), but not your contact details – may be downloaded from Smart Survey to SPCB servers and retained until the end of the session of the Parliament in which the consultation took place. If the MSP lodges a final proposal, he/she is required to provide a copy of your response (unless it was "not for publication"), together with your name (unless you requested anonymity), but not your contact details, to the Scottish Parliament Information Centre (SPICe), where it may be retained indefinitely and may be archived.

Purpose of the data processing

The purpose of collecting, storing and sharing personal data contained in consultation responses is to enable Members to consider the views of respondents to inform the development of the Bill, with the support of NGBU. Personal data contained in consultation responses will not be used for any other purpose without the express consent of the data subject.

The legal basis

The legal basis for collecting, holding, sharing and publishing your personal data is that the processing is necessary for the performance of a task carried out in the public interest, or in the substantial public interest, in accordance with Art 6(1)(e) GDPR, s8(d) DPA, or Art 9(1)(g) GDPR, s10 of and paragraph 6 of Schedule 1 of the DPA. The task is the support of Members seeking to introduce Members' Bills to the Parliament. This is a core task of the SPCB and therefore a Crown function. The adequate support of the Members Bill process and the ability to seek, use and temporarily store personal data including special category data is in the substantial public interest.

If the person responding to the consultation is under the age of 12 then consent from the parent or guardian of the young person will be required to allow the young person to participate in the consultation process (however, the legal basis for the processing of the personal data submitted remains as the public interest task basis identified above).

Your rights

Data protection legislation sets out the rights which individuals have in relation to personal data held about them by data controllers. Applicable rights are listed below, although whether you will be able to exercise data subject rights in a particular case may depend on the purpose for which the data controller is processing the data and the legal basis upon which the processing takes place. For example, the rights allowing for erasure of personal data (right to be forgotten) and data portability do not apply in cases where personal data is processed for the purpose of the performance of a task carried out in the public interest. The right to object to the processing of personal data for the purpose of a public interest task is restricted if there are legitimate grounds for the processing which override the interest of the data subject. This would be considered on a case by case basis and depends on what personal data is involved and the risks further processing of that data would pose to you. As described above, the collection, storage, sharing and publishing of personal data contained in consultation responses is a task carried out in the public interest, which means that these three data subject rights do not apply here or only in a restricted scope.

Access to your information – You have the right to request a copy of the personal information about you that we hold.

Correcting your information – We want to make sure that your personal information is accurate, complete and up to date and you may ask us to correct any personal information about you that you believe does not meet these standards.

Objecting to how we may use your information – Where we use your personal information to perform tasks carried out in the public interest then, if you ask us to, we will stop using that personal information unless there are overriding legitimate grounds to continue.

Restricting how we may use your information – in some cases, you may ask us to restrict how we use your personal information. This right might apply, for example, where we are checking the accuracy of personal information about you that we hold or assessing the validity of any objection you have made to our use of your information. The right might also apply where this is no longer a basis for using your personal information but you don't want us to delete the data. Where this right is validly exercised, we may only use the relevant personal information with

your consent, for legal claims or where there are other public interest grounds to do so.

Please contact us in any of the ways set out in the *Contact information and further advice* section if you wish to exercise any of these rights.

Changes to our privacy notice

We keep this privacy notice under regular review and will place any updates on this website. Paper copies of the privacy notice may also be obtained using the contact information below.

This privacy notice was last updated on 28 June 2018.

Contact information and further advice

If you have any further questions about the way in which we process personal data, or about how to exercise your rights, please contact:

Head of Information Governance

The Scottish Parliament

Edinburgh

EH99 1SP

Telephone: 0131 348 6913 (Text Relay calls welcome)

Textphone: 0800 092 7100

Email: dataprotection@parliament.scot

Complaints

We seek to resolve directly all complaints about how we handle personal information but you also have the right to lodge a complaint with the Information Commissioner's Office:

- Online: <https://ico.org.uk/global/contact-us/email/>
- By phone: 0303 123 1113

Annex 1

The table below³¹ contains information on the number of offences recorded under the 1953 Act in recent years:

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Aberdeen City	0	0	2	3	3	0	1	2	6	6	3
Aberdeenshire	16	12	14	14	12	24	9	10	15	16	21
Angus	3	0	6	2	1	3	1	2	6	1	2
Argyll & Bute	3	10	6	3	3	11	3	5	8	11	7
Clackmannanshire	0	5	0	0	2	1	2	0	4	2	2
Dumfries & Galloway	7	11	3	7	7	5	6	6	12	7	21
Dundee	0	0	0	0	0	0	0	0	0	0	0
East Ayrshire	4	3	4	4	2	1	2	1	8	3	9
East Dunbartonshire	1	1	1	2	1	1	3	0	4	0	3
East Lothian	1	1	2	1	2	0	3	2	0	0	1
East Renfrewshire	0	2	1	4	1	0	0	0	1	1	1
Edinburgh City	2	1	0	2	2	2	3	3	2	7	4
Falkirk	0	0	4	2	5	8	0	3	4	3	2
Fife	3	7	4	9	12	9	6	7	4	8	6
Glasgow City	0	0	0	0	0	0	0	0	0	0	0
Highland	14	18	21	23	18	15	10	15	23	23	20
Inverclyde	0	0	0	0	0	1	0	0	1	2	1
Midlothian	0	2	1	3	3	6	5	5	4	10	8
Moray	3	9	2	5	3	2	3	5	4	5	3
Na h-Eileanan Siar	0	7	7	12	14	7	3	8	5	8	6
North Ayrshire	3	2	1	1	3	1	2	3	4	0	2
North Lanarkshire	1	2	0	2	4	0	1	4	6	11	3
Orkney Islands	0	0	2	2	5	4	1	2	7	2	3
Perth & Kinross	8	1	3	2	3	2	2	3	7	14	11
Renfrewshire	1	0	1	2	6	2	1	0	4	4	2
Scottish Borders	0	7	2	3	2	4	8	10	7	7	4
Shetland Islands	0	0	0	4	2	2	0	0	3	0	0
South Ayrshire	0	5	2	2	1	0	3	0	1	1	3
South Lanarkshire	3	1	1	3	0	2	2	2	8	12	13

³¹ Response to parliamentary question S5W-19928, answered by Fergus Ewing on 26 November 2018:

<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Simple&Keyword=S5W-12821&ExactPhrase=True&DateChoice=0&SortBy=DateSubmitted&ResultsPerPage=10>

Stirling	5	5	2	2	10	8	8	8	7	8	4
West Dunbartonshire	0	0	0	2	1	1	3	1	2	1	1
West Lothian	3	3	3	1	5	3	7	2	7	2	4
Scotland	81	115	95	122	133	125	98	109	174	175	170

The table below provides information on the number of convictions under the 1953 Act since 2008³²:

	2007 -08	2008 -09	2009 -10	2010 -11	2011 -12	2012 -13	2013 -14	2014 -15	2015 -16	2016 -17
Aberdeen City	-	-	1	1	2	-	-	-	1	-
Aberdeenshire	1	2	2	1	-	-	-	-	1	-
Angus	-	-	-	2	-	-	-	2	1	1
Argyll & Bute	1	-	-	-	-	-	-	-	-	-
Clackmannanshire	-	-	-	-	-	1	1	1	-	2
Dumfries & Galloway	-	-	1	1	2	-	4	-	1	1
Dundee City	-	-	-	-	-	-	-	1	1	1
East Ayrshire	2	-	1	-	-	-	-	-	-	1
East Lothian	-	-	-	-	-	-	1	1	-	-
Edinburgh, City of	-	1	-	-	-	-	-	1	1	1
Fife	1	-	1	-	-	3	-	-	-	-
Glasgow City	-	-	-	-	-	-	1	-	-	-
Highland	2	-	1	3	1	1	-	-	-	3
Moray	-	1	-	-	-	-	-	-	2	1
Na h-Eileanan Siar	-	-	1	-	2	-	1	2	-	1
North Ayrshire	1	1	-	-	-	-	-	-	-	-
Orkney Islands	-	-	-	-	1	2	-	-	2	1
Perth & Kinross	-	-	2	-	-	-	-	-	2	-
Renfrewshire	-	-	-	-	-	1	-	-	-	-

³² Response to parliamentary question S5W-16107, answered by Fergus Ewing on 1 May 2018:
<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-16107&ResultsPerPage=10>

Scottish Borders	-	2	4	-	-	-	1	-	-	4
Shetland Islands	-	-	-	1	-	-	-	-	1	-
South Ayrshire	-	1	-	-	1	-	-	-	1	1
South Lanarkshire	-	-	-	-	-	-	-	-	2	-
Stirling	1	1	2	-	-	2	1	-	-	1
West Dunbartonshire	-	1	-	-	1	-	-	1	-	-
West Lothian	-	-	-	1	-	1	-	1	-	-
Scotland Total	9	10	16	10	10	11	10	10	16	19

Annex 2

Scottish Outdoor Access Code

<https://www.outdooraccess-scotland.scot/sites/default/files/2018-05/Publication%202005%20-%20Scottish%20Outdoor%20Access%20Code.pdf>

Extract:

Keep your dog under proper control

3.53 Access rights extend to people with dogs, provided that the dog(s) are “under proper control”³³. Many people own dogs and about one in five visits to the outdoors are by people with dogs. Walking a dog is the main opportunity for many people to enjoy the outdoors, to feel secure in doing so and to add to their health and well-being. On the other hand, many people, including many farmers and land managers, have concerns about dogs when they are not under proper control as this can cause serious problems, including worrying of and injury to livestock, disturbance of wildlife and alarming other people. Farmers also have concerns about dogs spreading diseases, particularly if dogs have not been regularly wormed³⁴.

3.54 In exercising access rights, you must keep your dog(s) under proper control. You must also ensure that your dog does not worry livestock.³⁵ What ‘proper control’ means varies according to the type of place you are visiting. Essentially, there are four important things to remember:

- do not take your dog into a field where there are young animals;
- do not take your dog into a field of vegetables and fruit (unless you are on a clear path);
- keep your dog on a short lead or under close control³⁶ in a number of other places; and
- remove any faeces left by your dog in a public open place.

3.55 These responsibilities are explained in more detail below.

³³ Section 9 (d) of the Land Reform (Scotland) Act 2003

³⁴ It is good practice to keep your dog regularly wormed, particularly if you take your dog into the outdoors frequently

³⁵ Dogs (Protection of Livestock) Act 1953. Under the Animals (Scotland) Act 1987, a farmer, in some cases, has the right to shoot your dog if it is attacking livestock.

³⁶ A short lead is taken to be two metres and “under close control” means that the dog is able to respond to your commands and is kept close at heel.

- Fields where there are lambs, calves and other young animals. Dogs can worry young livestock and cows can be aggressive when protecting their calves. For these reasons, do not take your dog(s) into a field where there are lambs, calves or other young animals. Go into a neighbouring field or onto adjacent land. In more open country, keep your dog on a short lead if there are lambs around and keep distant from them.
- Fields of vegetables or fruit. The main risk in these fields is that of diseases in dog faeces being transmitted to people. If there is a clear path, such as a core path or a right of way, follow this but keep your dog to the path. In all other cases, it is best to take access in a neighbouring field or on adjacent land.
- Fields where there are cows or horses. Cows can be frightened by dogs and may react aggressively or panic causing damage to themselves or property, or be dangerous to the dog owner and the dog. Where possible, choose a route that avoids taking your dog into fields with cows or horses. If you do need to go into such a field, keep as far as possible from the animals and keep your dog(s) on a short lead or under close control. If cows react aggressively and move towards you, keep calm, let the dog go and take the shortest, safest route out of the field.
- Fields where there are sheep. If you need to go into a field of sheep, keep your dog on a short lead or under close control and stay distant from the animals. In more open country, when there are sheep around keep your dog under close control and keep distant from them.
- Areas where ground-nesting birds are breeding and rearing their young. You can reduce the likelihood of your dog disturbing ground nesting birds during the breeding season – usually from April to July – by keeping your dog on a short lead or under close control in areas where ground nesting birds are most likely to be found at this time. These areas include moorland, forests, grassland, loch shores and the seashore.
- Reservoirs and stream intakes. Some reservoirs and streams are used for public water supply. If there are intakes nearby, keep your dog out of the water.
- Recreational areas and other public places. Do not allow your dog to run onto sports pitches, playing fields or play areas when these are in use. In places where other people are around, particularly children, keeping your dog under close control or on a short lead will help to avoid causing them concern.

3.56 If you are handling a group of dogs be sure that they do not pose a hazard to others or act in a way likely to cause alarm to people, livestock or wildlife. Dog faeces can carry diseases that can affect humans, farm animals and wildlife. The highest risks are in fields of cattle, sheep and other animals, in fields where fruit and vegetables are growing, and in public open places where people can come into direct contact with dog faeces, such as sports pitches, playing fields, golf courses, play areas, along paths and tracks, and along riverbanks and loch shores. If your dog defecates in these sorts of places, pick up and remove the faeces and take them away with you.³⁷

³⁷ Not doing so in any public open place is an offence under the Dog fouling (Scotland) act 2003. A public open place does not include agricultural land but it is responsible to lift faeces where there is a risk to farming interests.