

# **PROPOSED PROTECTION OF LIVESTOCK (SCOTLAND) BILL**

**EMMA HARPER MSP**

## **SUMMARY OF CONSULTATION RESPONSES**

This document summarises and analyses the responses to a consultation exercise carried out on the above proposal.

The background to the proposal is set out in section 1, while section 2 gives an overview of the results. A detailed analysis of the responses to the consultation questions is given in section 3. These three sections have been prepared by the Scottish Parliament's Non-Government Bills Unit (NGBU). Section 4 has been prepared by Emma Harper MSP and includes her commentary on the results of the consultation.

Where respondents have requested that certain information be treated as "not for publication", or that the response remain anonymous, these requests have been respected in this summary.

In some places, the summary includes quantitative data about responses, including numbers and proportions of respondents who have indicated support for, or opposition to, the proposal (or particular aspects of it). In interpreting this data, it should be borne in mind that respondents are self-selecting, and it should not be assumed that their individual or collective views are representative of wider stakeholder or public opinion. The principal aim of the document is to identify the main points made by respondents, giving weight in particular to those supported by arguments and evidence and those from respondents with relevant experience and expertise. A consultation is not an opinion poll, and the best arguments may not be those that obtain majority support.

Copies of responses (apart from those which are "not for publication") are available on the following website-

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

This version of the summary has been revised to include reference to two additional submissions that were received during the consultation period but not included in the original summary. Corresponding changes have been made to any statistical analysis.

### **SECTION 1: INTRODUCTION AND BACKGROUND**

Emma Harper's draft proposal, lodged on 20 February 2019, is for a Bill to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying.

The reasoning behind the proposed Bill is to improve the protection for livestock from worrying/attack, and the associated financial and stressful consequences for those involved, with a view to reducing the number of incidents.

The measures proposed are:

1 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 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
- a ban on owning dogs, including for life, subject to periodic review.

2 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.

3 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).

4 Extending the definition of “livestock” in the Dogs (Protection of Livestock) Act 1953 (“the 1953 Act”) (which covers cattle, sheep, goats, swine, horses and poultry) to include camelids (alpacas and llamas) or other farmed species, such as ostrich or deer.

The proposal was accompanied by a consultation document, prepared with the assistance of NGBU. This document was published on the Parliament’s website, from where it remains accessible:

<https://www.parliament.scot/parliamentarybusiness/Bills/111027.aspx>

The consultation period ran from 21 February to 15 May 2019.

The member has advised that:

- A wide range of organisations, individuals and groups who had been part of the pre-consultation engagement were sent copies of the consultation. These groups included the Scottish SPCA, The National Farmers Union Scotland, The Scottish Outdoor Access Network, Dog’s Trust, Police Scotland, COSLA, the Kennel Club and many other key stakeholder groups and individuals.

- The consultation was also widely publicised both by farming and national media. In addition, prior to its formal launch Ms Harper held a number of stakeholder engagement meeting and roundtable discussions about the issue of livestock worrying and attack – to ensure the content of the consultation was appropriate.

The consultation exercise was run by the member's parliamentary office.

The consultation process is part of the procedure that MSPs must follow in order to obtain the right to introduce a Member's Bill. Further information about the procedure can be found in the Parliament's standing orders (see Rule 9.14) and in the *Guidance on Public Bills*, both of which are available on the Parliament's website:

- Standing orders (Chapter 9):  
<http://www.scottish.parliament.uk/parliamentarybusiness/26514.aspx>
- Guidance (Part 3):  
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/25690.aspx>

## SECTION 2: OVERVIEW OF RESPONSES

In total, 621 responses were received, and the vast majority were submitted via “Smart Survey” (an online survey which allows responses to be completed and submitted online). Only six responses were received in other formats (direct to the member via email or in hard copy).

There were 208 (34%) anonymous submissions and 57 (9%) were marked “not for publication”.

There were 43 (7%) responses from organisations and 578 (93%) from individuals.

The responses can be categorised as follows:

### Organisations

- 6 (less than 1%) from public sector organisations (Argyll and Bute Council, East Ayrshire Leisure, Loch Lomond and the Trossachs National Park, Police Scotland (on behalf of the Scottish Partnership Against Rural Crime (SPARC)), Scottish Natural Heritage, Shetland Islands Council);
- 16 (2%) from private sector organisations (including Aberdeenshire Farm Contracting, Argyll Estates, Bronte Alpacas, Eden Brook Farm and Partners, M and C Ralston, Netherfield Alpacas, Nith Valley Alpacas, Scottish Farmer (Newspaper));
- 7 (1%) from representative organisations (Law Society of Scotland Sheep Veterinary Society, National Sheep Association (Scotland), NFU Scotland, Scottish Countryside Alliance, Scottish Land and Estates, Scottish Tenant Farmers Association);
- 11 (2%) from third sector organisations (including the Scottish SPCA, One Kind, the Kennel Club and the Scottish Kennel Club, Dogs Trust, Battersea Dogs and Cats Home and Perthshire Gundog Rescue);
- 3 (less than 1%) from other categories of organisation.

### Individuals

- 8 (1%) from politicians (4 MSPs and 4 councillors);
- 435 (70%) from private individuals (members of the public);
- 120 (19%) from professionals in a relevant field;
- 15 (2%) from academics.

Where reference to a specific response is made in the summary, this includes the index number as it appears on the member’s website and an identity number generated by “Smart Survey”.

There was one late response, which has not been included in the analysis below.

One respondent did not specifically answer the questions presented in the survey but instead supplied comments and analysis on the member's proposal.

A significant majority of respondents (95%) were supportive of the proposal for increased penalties and additional powers outlined in the consultation to investigate and enforce the offence of livestock worrying, and overall all questions had more positive than negative responses.

There were a number of themes which recurred throughout responses, some of which are highlighted below.

Many respondents had personal experience of owning livestock which had been attacked, or having witnessed such an incident, and spoke of the resulting financial and traumatic impacts of the incident, as well as the welfare implications for the animals attacked.

The importance of dogs being kept under control around livestock was recognised as essential and various ways of promoting this objective were suggested, including the need for dog owners to be made aware of this through, for example, education and publicity. Training for dogs was a key feature, and a number of respondents felt that electronic training devices were a viable means of controlling dogs' behaviour around livestock.

As well as action by dog owners, there was also a view that livestock owners could take measures to improve the situation, such as signage or better quality of enclosure fencing.

There was overall agreement that current legislation was inadequate and that there was a need for clearer definitions in the Dogs (Protection of Livestock) Act 1953, as well as the "right to roam" legislation (the Land Reform (Scotland) Act 2003), and the Scottish Outdoor Access Code.

The issue of under-reporting of incidents and the importance of data collection was emphasised by some, as a basis for monitoring and providing statistical information about the scale of the problem.

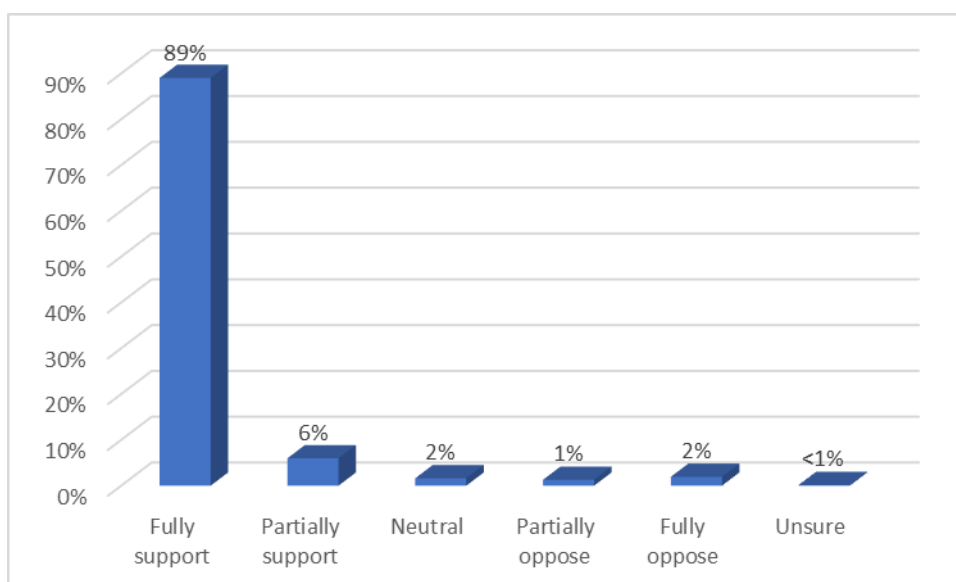
## SECTION 3: RESPONSES TO CONSULTATION QUESTIONS

This section sets out an overview of responses to each question in the consultation document.

### General aim of proposed Bill

**Question 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?**

Of the 620 responses received to this question, 551 (89%) were fully supportive of the proposal to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying, 37 (6%) were partially supportive, 11 (2%) were neutral in their view, 8 (1%) were partially opposed, 12 (2%) were fully opposed, and one was unsure.



There was a broad range of reasons for supporting the proposal, as well as points on other issues – many of these were also detailed in responses to other questions and, where this is the case, these views are not repeated here.

### **Support for the proposal**

An overwhelming proportion of respondents were supportive of the proposal for increased penalties and additional powers outlined in the consultation to investigate and enforce the offence of livestock worrying/attack. NFU Scotland for example, felt that current penalty levels did not act as enough of a deterrent to prevent dog owners from allowing their dogs to carry out livestock attacks and that “increasing financial penalties would send a strong message that it is unacceptable to allow a dog to worry livestock.” The organisation also welcomed additional investigative powers which might assist in increasing the number of prosecutions for offences (586, ID: 116690850).

Another over-arching theme was recognition of “livestock worrying/attacks ... [as] a serious offence, with huge financial, emotional and animal welfare implications” (301, Sheep Veterinary Society, ID: 113591846).

The Law Society of Scotland (607) supported reviewing the level of penalty to keep it up to date. It suggested that fines and compensation should be appropriate in view of the level of financial loss incurred by livestock owners. Sentencing in each case would be a matter for the judge “who requires full information about the facts and circumstances of any offences so that they can sentence to reflect the seriousness of any offence.” Offenders should be made aware, by means of publicity and education, of the likely level of penalties and the implications of a conviction (non-Smart Survey response).

#### *Personal experience of attacks on livestock*

Many respondents provided details of personal experience they had had, mainly from the perspective of livestock owners or as witnesses of attacks.

Reference was made to the effects of these attacks, such as the financial and emotional impact, and also to action which could have been taken to redress the situation. A flavour of such experiences is provided below:

“Having had a livestock attack by out of control dogs the costs ran into thousands and I received no recompense. Dog owners should be held responsible by law not the onus put on landowners to take out private prosecutions.” (40, Anonymous, ID: 108530757).

“I have had sheep and poultry killed by dogs. The sight of these animals I have cared for since birth, torn to shreds, needlessly killed is truly sickening. The dogs, on different occasions, were not identified so no compensation was paid.” (68, Anonymous, ID: 108701263).

“We have dogs let off leads in our area that does NOT have a public footpath running through it.... The dogs wander onto our farm and stress out ALL of our animals like a chain reaction. Many of ours are valuable both financially and personally and are often pregnant or have youngsters at foot. Being alpacas predominantly we have been told we have little rights to protect them because they are considered exotic pets and not livestock. We also have miniature donkeys foaling and they are terrified of dogs.” (319, Anonymous, ID: 113971752).

These views were also reflected in Argyll and Bute Council’s response: “as a largely rural Council area, we see too often the carnage caused by out of control dogs and irresponsible owners wreaked upon local farmers and their livestock.” (189, ID:110469405).

### *Financial loss to livestock owners*

Some respondents were of the view that the current penalties failed to reflect the financial loss suffered by livestock owners – “... especially [for] those of us with pedigree bloodlines that have taken time, money and years to establish. Alpacas are particularly vulnerable when pregnant, and easily lose their unborn cria through stress, let alone injury” (12, Elaine Loydall, ID: 108480024).

Similarly, Scottish Land and Estates (547, ID: 116593344) said that “the penalty imposed should be equivalent to the financial loss caused”, adding that this would “act as an important deterrent and will ensure that financial losses incurred by the farmer are redressed.”

### *Current laws are inadequate*

There was an argument presented that current legislation was either inadequate or outdated, with the laws being “riddled with inconsistencies, e.g. in terms of the type of animal”, with the Dangerous Dogs Act 1991, for example, covering “persons and assistance dogs but not livestock.” (137, Ron Duncan Rose, ID: 110074384). The SSPCA (318, ID: 113941357) also referred to the Dogs (Protection of Livestock) Act 1953 as “an outdated piece of legislation that does not give the court sufficient penalties to deter livestock worrying.”

### *Animal welfare*

Particular attention was drawn to the animal welfare implications of attacks; Alison Barr (142, ID: 108863296) was of the view that the proposed Bill would “stop the unnecessary and preventable suffering of stress, injury and death to livestock caused by out of control dogs.” This view was also shared by the National Sheep Association (Scotland) (543, ID: 116566441).

### *Enforcement*

In addition to increased penalties acting as a deterrent, the need for adequate enforcement measures was also recognised: Shetland Islands Council (549, ID:116606593) for example, called for “increased powers of investigation in relation to seizure and inspection of suspect dogs.”

The Law Society of Scotland referred to the number of “recorded and convicted” offences set out in the consultation, and commented that, from these statistics, it might be difficult to establish exactly where any problems with the current legislation might arise in terms of enforcement. The Law Society of Scotland felt that: “These reasons would need to be investigated in full to understand any issues arising from enforcement”.

### *Worrying/attacks are not taken seriously*

There was a perception that some owners did not take the issue of livestock worrying seriously. According to Ethne Brown, some owners believed that “their dogs will not harm sheep and let them run loose” (63, ID: 108685234); another respondent said that “too many think it’s funny that their dog is “playing” with livestock” (67, Anonymous, ID: 108692395).



Thirty-seven respondents indicated partial support for the proposal; their reasons for the lesser degree of endorsement included:

- Concerns were expressed by Dogs Trust (582, ID: 116668242) that the measures would not sufficiently improve the welfare of livestock or the dogs involved. They felt that “in order to fully and effectively tackle the problem, we also need to better understand the extent of the issue and the circumstances in which it occurs.” It was recommended that all incidents needed to be reported so “the impact of the measures can be monitored and assessed.”
- Battersea Dogs and Cats Home emphasised the importance of owners preventing dogs from straying and ensuring that property is “properly secured when leaving their dog unattended” (585, ID: 116689380). Drawing on the disparity between reported incidents and the number of prosecutions, they suggested that “the police and enforcers are given clear guidance on the evidence requirement to ensure more reported incidents can lead to prosecutions.”
- Aberdeenshire Local Outdoor Access Forum (597, ID: 116737414) was concerned that “ill-thought out or vaguely worded legislation may have a deterrent effect on responsible dog owners from exercising their legitimate right of responsible access to the outdoors.”
- David Eades’ view was to advocate “proper and meaningful livestock avoidance training” for dogs by using electronic collars to make “the dog believe that chasing livestock is a very uncomfortable activity to take part in” (344, ID: 114741423).

### **Opposition to the proposal**

A small minority of respondents (20) were fully or partially opposed to the proposal.

One anonymous respondent was of the view that the response from livestock owners to such attacks was “entirely disproportionate to their levels of care before the fact” with “... ever expanding areas of grazing, but no increase in efforts made [to] work with the public” (14, Anonymous, ID: 108480591).

Chris Woolner had not “seen any good evidence that livestock worrying has increased” and felt that “to allocate larger fines and more power to the protection of livestock over wildlife sets a dangerous, unfair and imbalanced precedent” (89, ID: 108915450).

East Ayrshire Leisure (592, ID: 116719545) was against the option of imprisonment as a sentence.

## Neutral

The Kennel Club and Scottish Kennel Club (Non-Smart Survey response), although broadly supportive of the intent of the proposal, questioned “whether there is a sufficient evidence base ... to fully understand the causes of livestock worrying in Scotland.” They raised concerns at the prospect of “changing legislation with only half the picture available ... and therefore potentially only addressing part of the problem.”

## Other possible measures

<b>Question 2: What other measures could be taken (either instead of, or in addition to, legislation) to achieve the aims of the proposal?</b>
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There were various views expressed in relation to other measures which could be taken to meet the proposal’s aims.

### **No option other than legislation**

An opinion expressed by some was that there was no other feasible option except legislation (24, Sine Steele, ID: 108503465) or that “this is a watertight proposal as it is” (326, Gillian Martin MSP, ID: 114114292). The Scottish SPCA (318, ID: 113941357) was of a similar view, stating that updated legislation was the way forward.

Scottish Land and Estates (547, ID: 116593344) recognised that legislation was one measure but felt it was important that other measures were also put in place to help reduce incidences of worrying/attack.

### **The role of dog owners**

A number of other proposed measures related to the role of dog owners and what could be done to increase responsible ownership.

#### *Education and awareness raising*

A recurring theme was the need for education about dog owners’ responsibilities when around livestock with their dogs, through measures such as training (4, Anonymous, ID: 108462902) and education campaigns through schools (103, Kathryn Garven, ID: 109090501). The Kennel Club and Scottish Kennel Club noted that “much more work needs to be done regarding unaccompanied dogs. This includes joined up education of dog owners of the risks that free roaming dogs pose to themselves (i.e. risk of being hit by a car, stolen, shot by a famers), and others, including attacking livestock.” (non-Smart Survey response).

#### *Media coverage/increased publicity*

As part of the education of dog owners, several measures were highlighted which could assist to that end, including providing material (leaflets, posters) in

relevant premises (such as vets' surgeries, animal charities, animal feed and agricultural stockists) or on their websites.

Alison Barr suggested there could be a role for vets in discussing "with their small animal clients the importance of training/socialisation of the new puppy/the control of the dog when around livestock" (142, ID: 108863296).

Dogs Trust stressed the importance of viewing the situation from a dog owner's perspective, and engaging effectively with them (582, ID: 116668242). Similarly, OneKind emphasised appropriate communication with dog owners: "getting the tone right when communicating with dog walkers will play a major part in gaining their understanding and co-operation" (548, ID: 116604539).

### **Control of dogs**

The need for dogs to be kept under control around livestock was a theme which permeated the consultation responses to many of the questions.

#### *"Right to roam" and Scottish Outdoor Access Code*

A number of respondents referred to the Scottish Outdoor Access Code (SOAC) and the "right to roam" and called for more stringent standards to apply to dogs around livestock, in particular the need to keep dogs on leads around sheep.

#### *Training*

Many expressed the view that dogs could be trained not to approach livestock. One anonymous respondent, for example, felt that: "instead of raising penalties, training dogs with balanced methods (including positive reinforcement, and also punishment with correction collars) can greatly help [in] dealing with dog attacks" (168, ID: 110392790).

#### *Electronic training devices*

A number of respondents believed that electronic training devices represented a viable option for improving dogs' behaviour in environments where there was livestock:

"I support the use of regulated training for dogs using e-collars" (147, Kate Hinze, ID: 110353812).

"The use of Electronic collars can be very helpful in communicating to the dog what behaviour is actually required around livestock, it can also help interrupt their behaviour should the dog and owner be caught off guard. The E collars can help a dog learn to not worry the livestock, and to leave completely alone, meaning that once fully trained it would not matter if the dog was on or off lead, it should have a good understanding of what is expected around livestock" (159, Saffie Rowan, ID 110363689).

Alex Bettcher felt it would be useful to consult organisations such as the Association of Responsible Dog Owners and the Association of Balanced Dog Trainers “who have demonstrable evidence in eliminating these behaviours using electronic training aids” (151, Alex Bettcher, ID: 110360591).

### **Action by farmers/livestock owners**

As well as measures aimed at dog owners, action which could be taken by farmers was also suggested by several respondents.

Some were of the view that the farming community could do more to make the public aware that livestock were in a particular area “i.e. signage stating if there are or are not sheep there at a particular time” (14, Anonymous, ID: 108480591).

Kenneth Anderson felt that signage was “particularly important when the presence of livestock is new, unexpected, not obvious (e.g. as one emerges from a wooded area) and adjacent to recreational areas (e.g. National Trust for Scotland properties, country parks etc.)” (50, ID: 108553620). Another felt that the rights of the farmer, as well as information for dog owners, should be included in signage (109, Anonymous, ID: 109183417).

Other suggestions included:

- Creating separate walking routes in popular areas, which could be fenced off (31, Anonymous, ID: 108515283), or the closure of paths at certain times (e.g. lambing season) with alternative routes for walkers provided (253, Fran Raw, ID: 112227349).
- The quality of enclosure fencing should be sufficient to prevent the livestock escaping and dogs entering the field (325, Wayne Gault, ID: 114094758).

### **Collaborative working**

The importance of collaborative working involving all relevant individuals and agencies was identified as an area which could be improved upon. Police Scotland on behalf of the Scottish Partnership Against Rural Crime (SPARC) advocated “a clear partnership approach highlighting all stages of an incident i.e. dog/dog owner/livestock owner/vet etc. and involving all relevant sectors plus those already with legislative/reporting powers need to focus on developing a practical and sustainable process that is applicable across 32 local authority areas.” (496, ID: 116194478).

Scottish Land and Estates (547, ID: 116593344) advocated greater information sharing between local authorities and policing divisions which “addresses issues around data protection which are currently preventing a pro-active approach to incidences of livestock worrying and attacks from taking place. The development of a national database would be an important step forward and would, for example assist in the tracking of dogs which move from one Local Authority area to another.”

### **Clearer definitions within legislation and guidance**

The issue of definitions and terms associated with relevant legislation and guidance arose in the responses to a number of the questions (for example, Aberdeenshire Local Outdoor Access Forum (597, ID: 116737414) as previously discussed in its response to question 1). The Scottish SPCA (318 ID: 113941357) felt that “the term “livestock worrying” should be redefined to reflect the potential serious welfare implications of livestock chasing and attacks.”

### **Data collection**

The issue of under-reporting of incidents was highlighted by some and the need for more accurate data collection to understand the scale of the problem.

Scottish Land and Estates (547, ID: 116593344), for example, was of the view that a consistent approach to recording incidents would “allow for improved monitoring of the effectiveness of enforcement and enable improved action to be taken including preventative measures. It is also key that a requirement is put on Local Authorities and the police to formally record any incidents of livestock worrying/attacks as a crime, this will ensure the extent of the issues is fully recorded – at the moment this data as highlighted in the consultation is patchy.”

Similarly, Dogs Trust (582, ID: 116668242) said that mandatory data gathering was “crucial to understand[ing] the prevalence and circumstances of incidents of livestock worrying ... not only to be able to quantify the problem, but also to help identify what actions best result in reducing incidents of livestock worrying.” It further highlighted that “the Police are not currently required to formally record instances of livestock worrying, as such there is no uniformly recorded national statistical picture of the true scale of the problem.”

OneKind (548, ID: 116604539) emphasised the need to identify how many attacks were by stray or “latch-key” dogs, and how many were by dogs accompanied by an owner or other person.

### **Other measures identified**

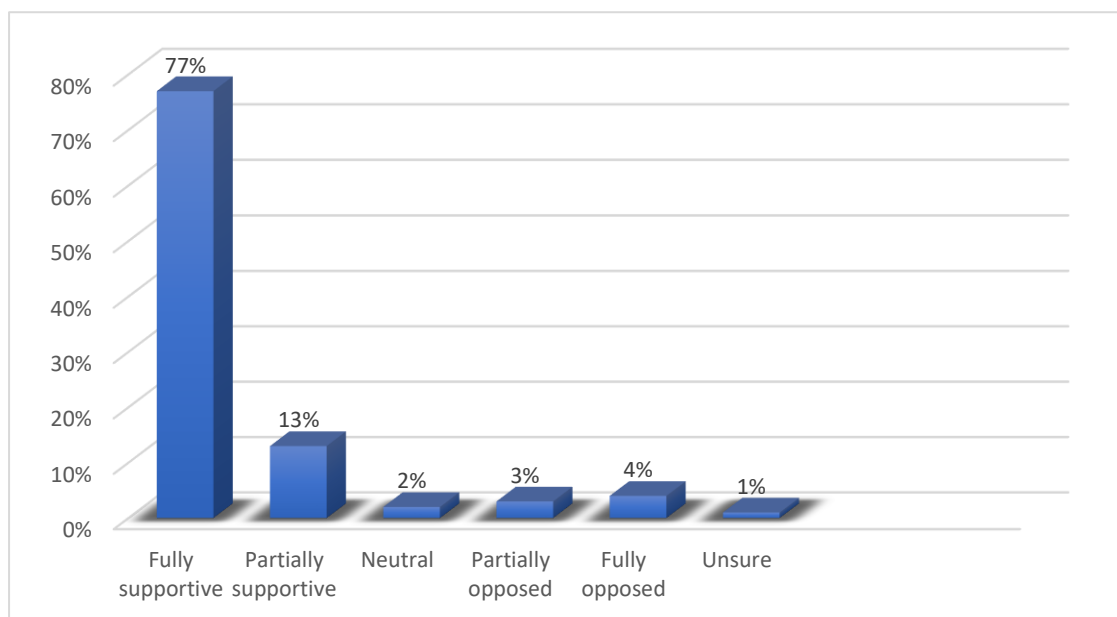
There were several other suggested measures and points made, including:

- Funding issues such as whether the forensic costs of investigation would be met by the Scottish Government (451, Anonymous, ID: 116084455); whether income generated from the tourism industry could be used to compensate farmers for the loss of livestock (270, William Findlay, ID: 113055346);
- Making the use of muzzles on dogs compulsory in areas with livestock (278, Anonymous, ID: 113162574);
- Reintroducing a dog licensing regime (237, Anonymous, ID: 111876080);

- Requiring dog owners to have liability insurance. (82, Rod McKenzie, ID: 108828123);
- Greater enforcement of microchipping (531, Anonymous, ID: 116405900).
- The Scottish Government issuing clear guidance on the use of Dog Control Notices to deal with straying/latchkey dogs (Kennel Club and Scottish Kennel Club, non-Smart Survey response).

**Question 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)?**

Of the 620 responses received to this question, 479 (77%) were fully supportive of increasing the maximum penalty for livestock worrying to level 5 on the standard scale or imprisonment for up to six months (or an equivalent community penalty), 83 (13%) were partially supportive, 14 (2%) were neutral in their view, 16 (3%) were partially opposed, 23 (4%) were fully opposed, and 5 (1%) were unsure.



### Reasons for support

Arguments made by those who were fully supportive of the proposed penalties drew on the apparent ineffectiveness of the current penalties, the need for the severity of the offence to be recognised, and the possibility that increased penalties might lead to more dog owners behaving responsibly.

### *Current penalties not high enough*

The large number of respondents who stated they believed the current penalties for livestock worrying were not high enough fell into two main categories: those who believed the current penalties were not a deterrent for dog owners, and those who believed penalties should reflect the cost and severity of livestock attacks.

Peter Apps, for example, stated that “current penalties are clearly inadequate to deter careless and ineffectual owners from letting their dogs run riot” (163, ID: 110382051).

There was a view that penalties should be increased to reflect the severity of livestock attacks: the Scottish SPCA, (318, ID: 113941357) felt that the “penalty available to the court should reflect the level of suffering and distress caused by the incident”, while Susanne Powell (73, ID: 108740439) was of the view that: “An attack on livestock is a crime and should [be] viewed just as sternly as attacking farm buildings or equipment.”

### *Increase the responsibility of owners*

A number of respondents supported the proposal because they believed that harsher penalties would increase the responsibility of owners. Saffie Rowan argued that such an approach would be “more proactive in avoiding the consequence rather than risking it” (159, ID: 110363689); another respondent felt it might have an effect “similar to penalties for drink driving” (394, Anonymous, ID: 116032675).

### *Community Payback Orders*

There were differing views as to whether equivalent Community Payback Orders should be used instead of a prison sentence.

A number of respondents did not agree with using community payback orders, believing it to be “the soft option” (480, April Smith, ID: 116115249).

Others, particularly responses from organisations, highlighted the benefits of community payback orders: NFUS (586, ID: 116690850), for example, noted that they were a means of providing a sanction where there was an inability to pay a financial penalty, while OneKind (548, ID: 116604539) suggested improving the effectiveness of community payback orders, and wondered whether the court could “attach a condition of taking the dog to obedience training”.

The Law Society of Scotland (607) expressed a neutral view in response to this question but stated that the imposition of a community-based disposal such as Community Payback Orders may have merit, with “an extensive menu from which sheriffs or justices of the peace can select a disposal that would include

unpaid work and could include a compensation requirement. However, compensation is available under the 1953 Act in any event.”

#### *Proposal does not go far enough*

Many respondents believed that the proposed penalties did not go far enough.

Aberdeenshire Farm Contracting Ltd wanted penalties to be strengthened further by:

“Making the offending dog's owner / keeper pay a monetary equivalent of the value of the livestock killed or damaged ... [and banning the offender] from keeping a dog or dogs for 5 years” (121, ID: 109405853).

Examples were given of levels of fines that they thought would be more appropriate, for example: John Gowrie, (53, ID: 108561627) suggested that the level of fine should [be] up to £25,000, while Paul Walsh (390, ID: 116030917) suggested that the maximum “penalty ideally should be increased to [a] 10-year jail term and [a] £20,000 fine.”

#### *Compensation to livestock owner*

There was a view that the dog owner should also have to pay compensation to the livestock owner, in addition to a fine. For one respondent, this would be “to cover loss of earnings as well as vet bills and personal trauma as well” (109, Anonymous, ID: 109183417).

A number of farmers provided examples of the impact of livestock worrying, for example, one anonymous respondent referred to the loss of ewes and lambs and financial losses totalling £2,000 following an attack “by two dogs whose owner had nothing to pay us any compensation” (113, ID: 109287396).

#### *Prison not appropriate*

Many of those selecting ‘partial support’ thought that prison was not an appropriate punishment for livestock worrying.

Reasons for this view included:

- Prison resources were already stretched, and prison might not be suitable for some offenders.
- Other measures, such as Community Payback Orders, might be more appropriate.

#### *Other views*

A number of respondents put forward other ideas for dealing with dog owners whose dogs worry livestock, such as:

- Preventative measures, such as education and training (e.g. 588, West Lothian Local Access Forum, ID: 116703064 and 547, Scottish Land and Estates, ID: 116593344).



- Better enforcement of dog control notices (582, Dogs Trust, ID: 116668242).
- Use of Fixed Penalty Notices (585, Battersea Dogs and Cats Home, ID: 116689380).

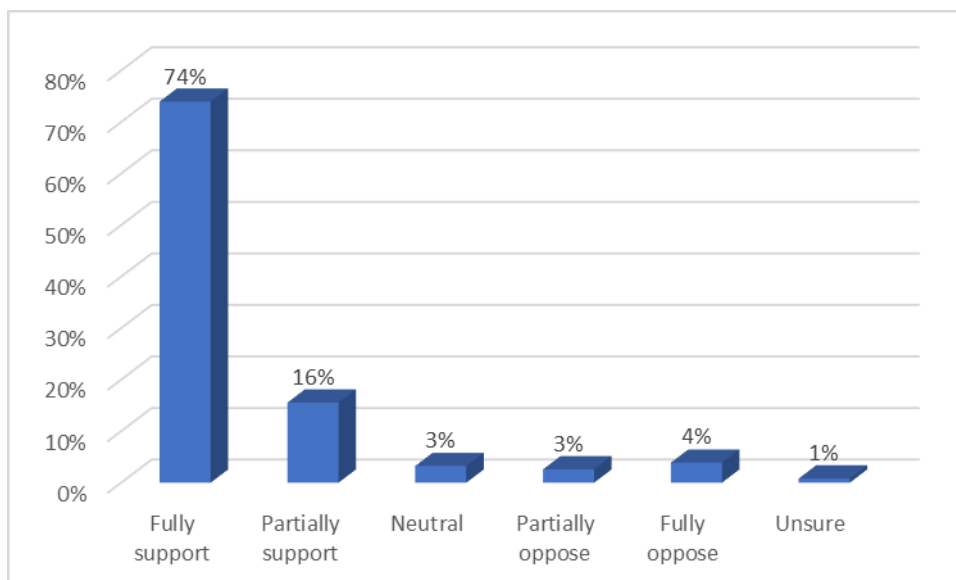
### Reasons for opposition

Respondents who opposed the increase in penalties provided a range of reasons for their views, including that the proposals were too harsh (111, Anonymous, ID: 109256312), particularly in instances where, if a dog walker is threatened by cattle, some stakeholders advise that they should release dogs from leads for safety (Kennel Club and Scottish Kennel Club, non-Smart Survey response). Other respondents felt that the law was already adequate (406, Anonymous, ID: 116041084), and that the proposals were not harsh enough (74, Bethany Haines, ID: 108744359).

Some respondents believed that fines would not solve the problem, while others felt that the use of electronic collars would assist in addressing such behaviour.

**Question 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?**

Of the 619 responses received to this question, 457 (74%) were fully supportive 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; 96 (16%) were partially supportive, 20 (3%) were neutral in their view, 17 (3%) were partially opposed, 24 (4%) were fully opposed, and 5 (1%) were unsure.



## **Support for a ban**

While a majority of respondents (553, 89%) were fully or partially supportive of giving the courts the power to ban ownership of a dog in such circumstances, there was a range of views about the extent of any ban.

Some respondents were supportive of a lifetime ban being imposed, particularly on a repeat offender, where there was a risk of re-offending. NFU Scotland, while supporting the power to impose such a ban, recognised the need for periodic review:

“Adding a periodic review could be argued to introduce a level of fairness. This should be applied [for] by the individual concerned rather than it being an automatic requirement. This method would place the onus on the individual to initiate a review and place less burden on relevant authorities.” (586, ID:116690850).

Many respondents felt that, rather than imposing a blanket ban, the circumstances of each case would need to be taken into account. One example given was of dogs escaping from leads accidentally (230, Anonymous, ID:111538797 and 187, Anonymous, ID:110390067). Dogs Trust said that, “for example, banning an owner with a previous unblemished record as a result of a dog escaping due to a visitor accidentally letting them out would seem inappropriate.” (582, ID: 116668242).

One respondent felt that the danger from an out of control dog extended beyond livestock to other areas, including pedestrians, and argued that the ban should be on any person living in the same household, not just the owner, as “the owner will simply transfer ownership to a spouse or offspring” (68, Anonymous, ID: 108701263).

### *Enforcement*

The subject of enforcement of a ban was raised in a number of responses. Dogs Trust (582, ID: 116668242), for example, felt that there needed to be a robust system of monitoring of such a sanction for anyone found in breach of the ban as, at present, “bans are not consistently recorded on a centralised database, and it can therefore be difficult to identify breaches.”

### *Other points*

There were a number of other reasons/points catalogued in supportive responses:

- The need for guidance:
  - on the proposed power for periodic review, and that the “intended applications of disqualification orders are made clear on the face of the Bill” (548, OneKind ID: 116604539); and

- to enforcers on what constitutes a “serious enough offence for a ban to be considered” (585, Battersea Dogs and Cats Home, ID: 16689380).
- A “controlling order” could be issued, “which should include prohibiting the owner taking dogs into [the] countryside” (222, T.W.W. Brain, ID:111167766).
- The need to monitor who is banned “if the proposed changes to the legislation [are] to be a real deterrent” (397, Anonymous, ID 116028392).
- The need for owners to have a place to exercise their dogs, recognising that “in some cases dogs can be the only friend some people have” (270, William Findlay, ID 113055346).
- Depending on the severity of the offence, consideration might be given to a ban on keeping any sort of animals.
- The incidents that occur are due to a mistaken “belief by the owner that their dog is not capable of attacking livestock” (547, Scottish Land and Estates, ID: 116593344).
- “Removing a dog for reasons other than the dog’s welfare would require justification” (548, OneKind, ID: 116604539).

### **Opposition to a ban**

Similar points were presented by those opposed to the measures, in many instances, as by those supporting them, including:

- The need for appropriate training to address the behaviour;
- The potential for inadvertent escaping from leads; and
- An increase in penalties to those proposed, and compensation to the livestock owner.

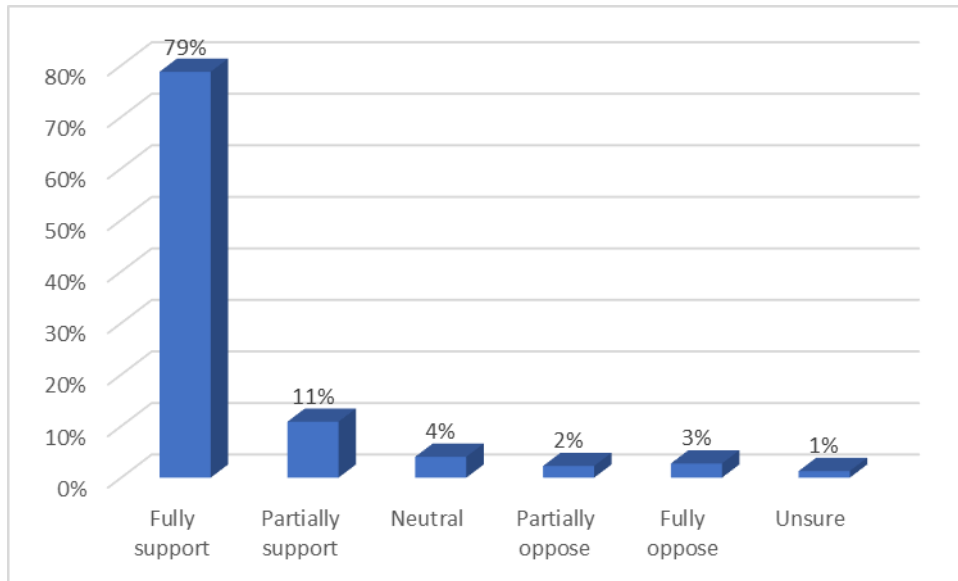
The point that dogs are natural predators was also raised - Rita Nemes, for example, commented that:

“... none of these measures address the root cause, the dog’s desire to chase. As outlined in the consultation document, punitive measures are already in force while livestock worrying incidents are still on the increase.” (574, ID:116635903).

**Question 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?**

Of the 618 responses received to this question, 486 (79%) were fully supportive of providing police with powers to require a person to take their dog to a vet for the purpose of evidence gathering, or for the police officer to have the power to seize the dog for that purpose, 67 (11%) were partially supportive, 25 (4%) were

neutral in their view, 14 (2%) were partially opposed, 17 (3%) were fully opposed, and 9 (1%) were unsure.



### Reasons for support

The majority of respondents were supportive of the proposal for such additional powers for evidence-gathering. Of those who were fully supportive, respondents noted that having DNA evidence should enable more prosecutions of livestock worrying and a greater chance of compensation of the farmer (167, Anonymous, ID: 110397279) and that “these powers would improve the conviction rate” (130, Kenneth Bone, ID: 109782157).

Laura Haddow noted that providing the police with these powers should ensure that the evidence was gathered when owners were not willing to take their dog to the vet, particularly if they knew that the evidence would be incriminating (65, ID: 108688204).

Bill McIntosh commented that providing police with these powers should ensure that the offending dog was identified correctly (13, ID: 108480825 and 16, Colin Stark ID: 108484780) and NSA Scotland noted that this proposal might enable an official record to be kept of dogs and owners involved in livestock worrying (543, ID: 116566441).

West Lothian Local Access Forum suggested “the development of a database for these samples” (588, ID: 116703064), while Scottish Land and Estates also suggested that there should be a legal obligation on dog owners to report any incidents to the police (547, ID: 116593344).

### Supportive but some concerns

A number of respondents who were fully or partially supportive of the proposal highlighted concerns about some of the practicalities. These included:

- That training would be required for the police on how to handle seized dogs (159, Saffie Rowan, ID: 110363689).
- How vets would be trained to gather forensic evidence. Dogs Trust commented that to be effective, standard operating procedures would need to be developed and that a “veterinary surgeon in general practice is not equipped or trained to undertake a forensic examination of this type and is likely to be challenged on their level of forensic expertise at prosecution”. Remote and islands communities might find it difficult to implement such a system (582, ID: 116668242).
- That the seizure of a dog by the police could cause significant stress to the animal (302, Neil Mackenzie, ID: 113606258). OneKind noted that “the seizure of a dog from an uncooperative or unhappy owner is likely to heighten stress for all concerned ... we would support the involvement of the Scottish SPCA, whose Inspectors are used to handling dogs in a heightened state and have a clear remit to ensure their welfare.” (548, ID: 116604539).

Battersea Dogs and Cats Home was supportive of additional measures to assist those enforcing the law, such as recording dog microchip ID numbers etc., but said that it might not always be possible to know who was in charge of a dog at the time of an attack as 66% of incidents occurred when the dog was unaccompanied by the owner or had escaped from the house or garden (585, ID: 116689380).

### **Resource implications**

There were some concerns about the resource implications of the proposed powers. For example, S Ferguson said that: “In an ideal world this would be great but unless the government get more police by increasing budgets it will never happen” (564, ID: 116634398).

The Scottish SPCA, highlighted the cost of DNA analysis and keeping a dog secure for the months prior to and during court proceedings. He suggested that “if a person is subsequently found guilty they should be responsible for all reasonable costs incurred in the investigation” (318, ID: 113941357).

Another respondent also suggested that, in relation to veterinary services associated with the seizure and examination of a dog, “if a dog owner is responsible then they should pay, or their dog insurance should pay” and pointed out that farmers have working dogs insured in case they injure a member of the public (286, Anonymous, ID: 113237915). NFU Scotland also called for dogs to be insured (586, ID: 116690850).

Shetland Islands Council suggested an alternative approach, namely that this power should rest with local authorities rather than the police, noting that Shetland Islands Council had “fully implemented the Control of Dogs Scotland

Act 2010 and it would be sensible to consider extending this Act to include livestock worrying in the definition of a dog being out of control in any place” (549, ID: 116606593).

### **Timing for the dog to be taken to the vet**

Comments were made on the timing aspect of the proposal, i.e. evidence to be examined within 24 hours of an incident.

Some respondents offered a number of alternative time periods for evidence examination, including:

- “The dog should be examined there and then. Not 23.5 hours later” (113, Anonymous, ID: 109287396).
- “48 hours is more practical” (38, Anonymous, ID: 108526180).
- “Period of time should be 72 hours” (436, Maxine Peters, ID: 116075909).

Others, such as veterinary nurse Kirsteen Yuill, commented that, as soon as a dog was suspected it should be examined (260, ID: 112543359). The Scottish Farmer newspaper stated that: “it is imperative that a dog is taken quickly to be checked over for hair particles in its mouth and small tears etc ... this is important if a case goes to trial to ensure all the investigative steps have been taken” (243, ID: 112050409).

### **Opposition to the proposed powers**

The Scottish Partnership Against Rural Crime advised that there may be practical difficulties which may make the proposal less effective, such as:

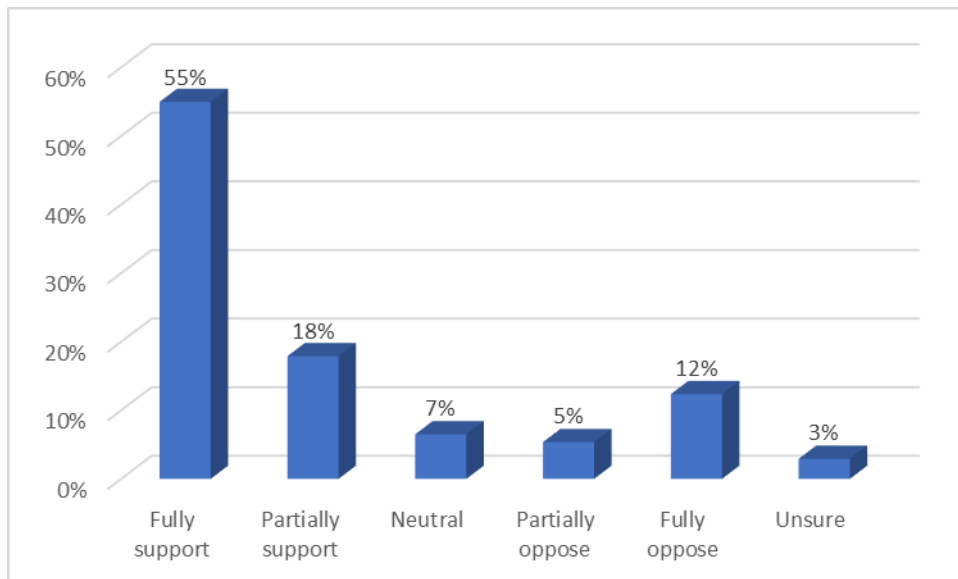
“a significant number of livestock attacks and distress occur where the offending dog is not witnessed at the time of the incident, a high percentage of dogs are not in the control of a responsible individual at the relevant time or, if with an individual, that person does not inform or take steps to inform a livestock owner/police/dog warden that their dog has caused livestock to be attacked or distressed ...” (496, ID: 116194478)

One respondent cited specific scenarios in which an innocent dog could be implicated in an incident:

“... a dog is seen off lead, but not chasing or threatening livestock, but may have found a dead lamb and had a sniff at it or eaten some remains. This dog may be believed to be the culprit but was only finding the remains left by another animal. Their DNA would be on the carcass, but they were not responsible for the death. If they were the only dog seen then they and the owner could be prosecuted unfairly” (155, Anonymous, ID: 110359633).

**Question 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)?**

Of the 616 responses received to this question, 338 (55%) were fully supportive of the delegation of powers to an appropriate body to investigate and enforce the offence, 110 (18%) were partially supportive, 41 (7%) were neutral in their view, 33 (5%) were partially opposed, 76 (12%) were fully opposed, and 18 (3%) were unsure.



**Reasons for support**

Those fully and partially supportive of the proposal to give Scottish Ministers the power to delegate powers to investigate and enforce the offence to an appropriate body, such as the SSPCA, expressed a number of reasons for their support.

*SSPCA experience and expertise*

There was a view that agencies such as the SSPCA had relevant experience and expertise: NSA Scotland (543, ID: 116566441) for example, was of the view that the SSPCA “have experience in a range of scenarios involving animal welfare and the process of taking these cases to court. It makes sense for them to take on the responsibility of livestock attack cases as well, from both the livestock and the dog’s perspective”.

*Importance and benefits of collaborative working*

As mentioned in earlier sections, the importance of collaborative working between the police and other experienced agencies/authorities was noted, particularly within rural communities (201, Anonymous, ID: 110808717).

Argyll and Bute Council noted that a number of experienced organisations were already involved in this area:

“All the different agencies, SSPCA, Police Scotland, Local Authority, NFU etc., are pursuing the same aims and so therefore should be able to use their local officers, with their local intelligence, to fully and fairly investigate incidents. The agency does not matter, obtaining justice does” (189, Argyll and Bute Council, ID: 110469405).

However, Willie Johnstone of the National Rural Crime Unit with Police Scotland, whilst supportive of the proposal, also cautioned that continual assessment and review would be needed to ensure the quality of investigations and prosecution reports (544, ID: 116101197). An anonymous respondent raised a similar point, asking “who polices the appropriate body?” (4, ID: 108462902).

#### *Easing pressure on police resources*

A number of respondents stated that delegating police powers would address the perceived issue of a lack of police resources to tackle livestock worrying (for example, 81, Christine Lester, ID: 108815031 and 65, Laura Haddow, ID: 108688204). Penicuik Estate Partnership welcomed the proposal for that reason “both in relation to attacks that have occurred but also in helping to prevent these happening in the first place” (321, ID: 113351114).

#### **Partial support**

##### *Funding for the SSPCA and/or other organisations*

A significant number of respondents, whilst supportive of delegating police powers, shared a similar view to the above and noted that other bodies would require additional funding for any increase in workload (e.g. 209, Louise Hamill, ID: 110974238 and 211, Anonymous, ID: 110983860).

##### *Fully supportive of delegation but not of SSPCA or charity involvement*

Several individual respondents were supportive of the proposal to delegate police powers but felt that these powers should not be delegated to the SSPCA - one anonymous individual, for example, said: “They do not have agricultural experience. I would suggest that the NFUS and Agricultural Colleges should be included in the appropriate list” (233, Anonymous, ID: 111680539).

According to Jayne MacArthur:

“Having the police deal with it imparts much more of an impression of the severity of the offence than having an SSPCA officer deal with the situation. Having another body involved in enforcement would lead to people viewing the offence as not so serious, in my opinion.” (239, ID: 111901809).

Some respondents were supportive of delegating police powers, for example, around investigation, but believed that the police or government bodies should be enforcing the law (e.g. 120, Geoffrey Stoddart, ID: 109287615 and 103,



Kathryn Garven, ID: 109090501). Amanda Lindsay suggested that it would be “better surely to appoint specific officers to work in partnership with the agencies” (27, ID: 108509219).

OneKind was supportive of giving powers to the SSPCA and noted that its inspectors already have statutory responsibility to enforce the Animal Health and Welfare (Scotland) Act 2006, but:

“would not like to see all responsibility for enforcement effectively devolve onto the Scottish SPCA, as this could reduce the obligation on other authorities, and thus overall enforcement. OneKind recommends that all powers to be introduced under the proposed Bill should be allocated on exactly the same terms to police, local authorities and the Scottish SPCA” (548, ID: 116604539).

### **Reasons for opposition**

Some of the respondents who opposed the proposal were of the view that the police and/or current authorities were the most appropriate body for the investigation and enforcement of livestock worrying offences, not a separate body such as the SSPCA (for example 121, Aberdeenshire Farm Contracting Ltd, ID: 109405853).

Dennis Gowland raised a concern that:

“If the SSPCA is seen to be increasingly an arm of the police then it is likely to drive a wedge between it and the public” (44, ID: 108539691).

Similarly, Susanne Powell noted that:

“The SSPCA’s authority is not recognised in the same way as police authority” (73, ID: 108740439).

Other respondents emphasised that only the police would be “totally impartial and fair” (167, Anonymous, ID: 110397279) and have “the independence and professional expertise to carry out this work” (597, Aberdeenshire Local Outdoor Access Forum, ID: 116737414).

Angus James Millar argued that:

“charities are not instruments of law ... funding must be made available to ensure rural communities are protected by the police from the crimes affecting them in the same way urban communities can rely on the police” (363, ID: 115751403).

Another respondent noted that:

“since SSPCA do not have representatives in all areas time would be lost with them having to travel whereas the police give a better representation” (197, Anonymous, ID: 110662345).

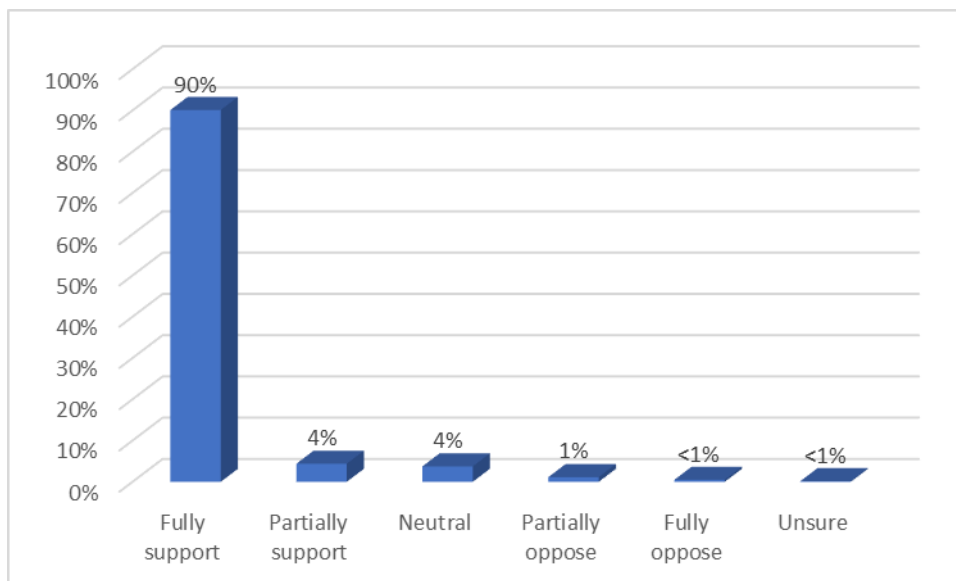
The Association of Responsible Dog Owners expressed the view that the “SSPCA is famous [for using] only positive reinforcement in their training which is not successful” (161, ID 110369120).

Shetland Islands Council argued that:

“giving LA’s the responsibility and funding to undertake this new role will also strengthen their current enforcement roles with regards to dogs in our communities ... Using a charity as a specialist reporting agency to enforce criminal activities is setting a dangerous precedent, diverts resources and training and devalues the role and responsibility of local government” (549, ID: 116606593).

**Question 7: The Dogs (Protection of Livestock) Act 1953 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?**

Of the 617 responses received to this question, 583 (94%) were fully or partially supportive of extending the definition of “livestock” as set out in the 1953 Act, 23 (4%) were neutral in their view, 7 (1%) were partially opposed, 3 were fully opposed, and 1 was unsure.



There was a significant degree of support for extending the definition of “livestock” to include camelids and other farmed species and a range of reasons given for the support.

It was recognised that the types of animals now farmed had changed since the introduction of the 1953 Act, and “the law should reflect the more diverse range of livestock kept these days” (103, Kathryn Garven, ID: 109090501).

#### *Individual species*

Other species identified by respondents which should be covered by the 1953 Act included peafowl and fish (from commercial fish farms) (23, C B Hutton, ID: 108499453), while others identified specific wild animals which should be covered, such as pine martens, rabbits, otters, and game birds (116, Anonymous, ID: 109305739).

Some felt the definition should be extended beyond farmed animals to any species “... in a[n] enclosed field or area ... as they have nowhere to escape” if attacked (91, Anonymous, ID: 108958005).

Others felt that all animals, including domestic pets, should be protected from attacks.

#### *Revisions to existing terms*

There were some references to the need to set out more clearly existing descriptions of species:

- One anonymous respondent suggested that: “The use of 'horses' should be substituted with 'equines'. Donkeys, mules and ponies all come under the equine heading but would be excluded if the term 'horses' is used. It may sound quibbling, but the law requires accuracy if a court case is to succeed.” (68, ID: 108701263).
- C Davis thought that the reference to poultry “...could be expanded to cover gamebirds, but this would need to apply only to birds held in captivity and then more definitions of captivity would be required.” (138, ID: 110217076).
- It might be problematic to ensure the definition was comprehensive or could be extended when other species emerge (e.g. buffalo for mozzarella) (508, Friends of the Pentlands, ID: 116310461).

Others preferred to move away from a list of species:

- A definition might be “along the lines of any animal kept within the [confines] of the owner’s property, land or land they rent, which is reared as part of their business” (544, Willie Johnstone, National Rural Crime Unit with Police Scotland, ID: 116101197).
- Scottish Land and Estates (547, ID:116593344) proposed a description that is a collective approach to captive animals used for the purpose of farming and/or financial gain.

- Dogs Trust recommended a tightly worded definition to ensure it does not apply to wild animals found on farming land, i.e. similar to the definition of a protected animal within the Animal Health and Welfare Act 2006 (582, ID: 116668242).

There was a range of views in relation to deer, with some respondents arguing that they should not be included as they are wild animals, even if they are farmed (265, Anonymous, ID: 112831078), or that including deer “would cause too much confusion and conflict on the open hill” (268, Neil McLachlan, ID: 112995836). Ruth Cahill queried whether the proposal referred to “farmed deer [and] not deer that merely “belong” to whoever owns the land they are on?” (206, ID: 110387698).

## **Finance**

**Question 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**  
**(b) Businesses**  
**(c) Individuals**

### **Financial impact on the Government and the public sector**

Of the 607 responses to this part of the question, 58 respondents (10%) felt that there would be a significant increase in cost for this sector; 253 (42%) felt that there would be some increase in cost; 145 (24%) that the impact would be cost neutral; 16 (3%) that there would be some reduction in cost for this sector, and 9 (1%) that there would be a significant reduction and 126 (21%) were unsure.

Reasons cited for possible increases in costs in these areas included:

- The cost of extra training for police officers and dog owners falling on the Government and public sector (22 Emma Bryden, ID:108499279).
- An increase in the reporting of incidents, and a possible increase in the number of prosecutions and associated costs, as reflected in one anonymous response: “with tougher legislation I consider that the amount of prosecutions will spike enormously, leading to significant public cost” (14, Anonymous, ID:108480591).
- An increase in cost to the police who “would have increased costs in carrying out DNA sampling and the costs of kennelling dogs prior to the accused appearing in court.” (318, SSPCA, ID 113941357).

Some thought that, over time, there could be a gradual decrease in the number of incidents of dog worrying, leading to a reduction in the amount of time and money spent on legal costs, while others felt that the level of level of fines should be set to cover the costs incurred by the Government and public sector (e.g. 121, Aberdeenshire Farm Contracting Ltd, ID:109405853).

### **Financial impact on businesses**

Twenty-six respondents (4%) felt that there would be a significant increase in cost for businesses; 71 (12%) felt that there would be some increase in cost; 194 (32%) that the impact would be cost neutral; 103 (17%) that there would be some reduction in cost for this sector, 63 (11%) that there would be a significant reduction; and 141 (24%) were unsure.

A general comment noted in the response from NFU Scotland set out the serious financial impact of livestock worrying on the farming businesses:

“The cost to the farming business runs into substantial sums, NFU Mutual has previously reported that it paid out £1.6 million in claims for 2017 and has seen a 67% increase in the cost of livestock worrying. Current legislation does not provide for compensation to be provided for, which can result in significant financial impacts on individual farmers. Livestock farmers operate on small margins, and any loss can have a devastating impact on the farm business. In large scale cases, this problem has the potential to threaten the sustainability of a farm business. As civil actions are currently the only mechanism for cost recovery from individuals, the real cost of this problem is likely to be much higher than published figures. NFUS does not foresee any of the proposals in the Bill causing significant costs for Government or the public sector.” (586, ID: 116690850).

There were comments about the increase in costs livestock owners might encounter if they had to increase public awareness of the presence of livestock (through signage, for example), or provide better maintenance of enclosures (e.g. 389, Anonymous, ID:116027496).

One of the arguments made in support of a reduction in costs was that the public would become more aware of the issue, resulting in “less losses due to livestock worrying therefore more profits and less medical bills.” (109, Anonymous, ID:109183417).

Several respondents felt that the proposal would be cost neutral for businesses. Amy Geddes, in her response, stated that:

“Enforcement and investigation will cost the Government and public sector, but businesses and individuals need not see any increase in their costs if they abide by the rules of the Protection of Livestock Bill (proposed), it is common sense, and better education that is required to avoid unnecessary cost.” (132, ID:109872825).

### **Financial impact on individuals**

Sixty-one respondents (10%) who responded to this part of the question felt that there would be a significant increase in cost for individuals; 106 (17%) felt that there would be some increase in cost; 195 (33%) that the impact would be cost

neutral; 40 (7%) that there would be some reduction in cost for this sector, and 47 (8%) that there would be a significant reduction; and 150 (25%) were unsure.

Some of those who believed that the proposed Bill would increase costs for individuals thought this might be a good thing:

“individuals who are responsible for a dog worrying livestock would be hit hard, and rightly so” (157, Anonymous, ID:110364622).

Aberdeen Local Outdoor Access Forum were concerned that:

“If the bill does not clarify what constitutes livestock worrying/attack, it might inappropriately deter dog walkers from walking their dogs in the countryside. Given that 48% of all trips to the countryside are accompanied by a dog, this would mean that owners would have to endure the expense and emotional hardship of trying to find alternative places to walk.” (597, ID: 116737414).

Of those who felt that there would be a reduction in costs for individuals, reference was made to the owners of livestock. C B Hutton, in their response, stated “better, broader, stronger enforcement and significantly stiffer penalties will lead to less individual and personal financial losses” (23, ID: 108499453).

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

There were 329 responses to this question.

The need for proactive measures and preventative strategies was raised in this context by some respondents: Scottish Land and Estates, for example, called for improved education promoting responsible dog ownership and social responsibility – “... the establishment of dog ownership courses and/or competency tests would be a good way to make sure owners are aware of their responsibilities as well as highlight to them the powers available to the Local Authorities and the police to deal with irresponsible owners.” (547, ID: 116593344).

Similarly, Dogs Trust expressed a need for proactive action before worrying occurred and again referred to the need for mandatory reporting and standardised data collection, which would provide a clearer picture of the problem and for “...effective, preventative measures to be put in place based on the evidence gathered. Whilst mandatory reporting will not decrease costs, having a standardised process will make this as smooth as possible and facilitate easier evaluation.” (582, ID: 116668242).

Other measures which might reduce costs were:

- A review of the “right to roam” legislation as a means of preventing damage to livestock and crops (87, Anonymous, ID:108886461 and 235, Anonymous, ID:111753460); and
- A requirement for dog owners to meet any costs incurred through, for example, dog licensing, liability insurance or fixed penalties as a means of raising funds to address the costs of any livestock attacks (128, Robin Waddell, ID:109707707 and 171, Anonymous, ID:110406484).
- The Kennel Club and Scottish Kennel Club noted that extending powers to the police to issue Dog Control Notices may have preventative benefits on cost (Kennel Club and Scottish Kennel Club, non-Smart Survey response).

## Equalities

**Question 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?**

Of the 604 responses to this question, 77 (13%) felt that there would be a positive impact on equalities issues; 8 (1%) that the impact would be slightly positive; 405 (67%) that the impact would be neutral; 9 (1%) that there would be a slightly negative impact, and a further 19 (3%) that the impact would be negative; and 86 (14%) were unsure.

Views expressed in relation to equalities included:

- That the Bill would not impact negatively “as long as guide and service dogs (whilst working) are exempted” (318, SSCPA, ID:113941357).
- Aberdeenshire Local Outdoor Access Forum (597, ID:116737414) expressed the view that any legislation that has the effect of deterring people walking their dogs in the countryside would have a detrimental impact, particularly on:
  - Older people “for whom companion animals are true family members” and the impact on mental wellbeing and physical activity; and
  - Disability and the importance of companion animals as “methods of avoiding or recovering from mental health issues due to loneliness and social isolation”.
- The Kennel Club and Scottish Kennel Club noted that “a considerable number of older people keep pet dogs to provide companionship, banning orders being applied to this group of dog owners would

significantly impact upon their quality of life.” (Kennel Club and Scottish Kennel Club, non-Smart Survey response).

- In answer to question 4 about penalties, one respondent pointed out that a lifelong ban might prevent the banned individual from having an assistance dog in the future, if they needed one (155, Anonymous, ID: 110359633)

## **Sustainability**

**Question 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?**

Of the 615 respondents who answered this question, 469 (76%) were of the view that the Bill could be delivered sustainably. Forty-three (7%) felt that the Bill could not be delivered in this way, and 104 (17%) were unsure.

Some of the positive impacts in specific areas of sustainability were identified as:

### *Social benefits*

By increasing awareness of the impacts of, and issues around, livestock worrying, understanding and relations between people living in urban and rural areas might improve: “to better unite urban and rural communities and improve relationships with farmers and dog walkers, and reducing stress on farmers, leading to improved mental health” (243, The Scottish Farmer (newspaper), ID:112050409).

### *Economic benefits*

Some respondents pointed to improvements in animal welfare and wellbeing, as well as the fact that farmers would likely have to replace fewer livestock if fewer were lost due to worrying, and farmers would benefit economically and therefore make their businesses more sustainable.

### *Environmental benefits*

Others pointed to the environmental benefits that could be associated with the proposed Bill. The Scottish Farmer newspaper noted that the proposed Bill would:

“...encourage better dog owner behaviour which will no doubt in turn encourage a better relationship with the natural environment such as removing dog poo bags when out walking which causes harm to wildlife and livestock.” (243, ID:112050409).

West Lothian Access Forum agreed that the proposed Bill was likely to enhance socio-economic impacts through encouraging greater responsible access, with



positive impacts on the environment and the working countryside” (588, ID:116703064).

Aberdeenshire Local Outdoor Access Forum felt that care should be taken to make sure that the Bill does not end up deterring people from accessing and enjoying the countryside:

“To ensure no detrimental impacts on responsible access takers, the Bill needs to be focused in its purpose (i.e. about prevention and holding people to account for actual harm to livestock because of their acts or omissions) rather than potentially deterring innocent people enjoying their legitimate rights. If the latter were to occur, the economic and social negative impacts could be significant.” (597, ID: 116737414).

Of the minority of respondents who felt that the Bill could not be delivered sustainably, reasons included that an increase in penalty might not make any difference (James Alexander, 191, ID:110508867) or that the proposed legislation might not be sufficiently robust enough to make a real change (235, Anonymous, ID:111753460).

<b>Question 12: Do you have any other comments or suggestions on the proposal?</b>
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Two hundred and ninety-five respondents answered this question.

Where areas of concern/comment had already been raised in responses to other questions, they are not replicated in detail in this section.

Other comments included:

- NFU Scotland suggested that Police Scotland, as well as local authorities, should have the ability to issue Dog Control Notices, which would “reduce the burden on dog wardens, and make their use more widespread, thus acting as an effective deterrent” (586, ID:116690850). This was also supported by the Kennel Club and Scottish Kennel Club (non-Smart Survey response).
- The animal protection charity OneKind proposed the removal of exemptions in the 1953 Act for police dogs, guide dogs, trained sheep dogs, working gun dogs and dogs ‘lawfully used to hunt’. It stated in its response that the last of these exemptions should be deleted on the basis that:

“Numerous incidents have been observed and, in some cases, filmed, where packs of foxhounds have been hunting in proximity to flocks of sheep ... Sheep have been seen panicking and taking flight, even attempting to climb over stone dykes in an attempt to

escape the hounds. ... it is anomalous and unjustifiable to allow sheep or any other livestock to be put at this type of risk and OneKind recommends that the 1953 Act be amended to reflect this." (548, ID:116604539).

- Scottish Natural Heritage (SNH) commented on the consultation document's statement that some stakeholders, such as NFUS, have suggested an update of the Scottish Outdoor Access Code. SNH pointed out that the National Access Forum (which includes the NFUS) is "now considering whether there is scope to refine the guidance on access with dogs to maximise its effectiveness." SNH advised against making the Code mandatory "on grounds of proportionality and practicality." (non-Smart Survey response).
- Aberdeenshire Local Outdoor Access Forum hoped that the Bill would be drafted in such a way as to encourage responsible land use while not deterring dog walkers from visiting the countryside:

"The Bill must not create a blanket ban on dogs being off lead in the countryside ... given that dog walking is one of the main reasons why many people visit the outdoors (one or more dogs accompanies an adult on 48% of all visits to the Scottish countryside), it is important that we address both issues in tandem." (597, ID: 116737414).

- Although not specifically in response to this question, the Law Society of Scotland noted the post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010 by the Scottish Parliament's Public Audit and Post-legislative Scrutiny Committee and suggested aligning the results of that scrutiny with the responses to the proposal, as there is an overlap from a policy perspective with regard to how dogs may be dealt with.

## **SECTION 4: MEMBER'S COMMENTARY**

**Emma Harper MSP has provided the following commentary on the results of the consultation, as summarised in sections 1-3 above.**

Firstly, I would like to take the opportunity to personally thank all individuals and organisations who took the time to respond to my consultation.

I am pleased with the particularly high number of responses (621) to the consultation. Most responses showed significant support for the policy measures outlined in the consultation, with 95% of respondents - both organisations and individuals - agreeing that the steps outlined are needed.

I believe that the high number of responses indicates a clear appetite from Scotland's agricultural sector and from the public to bring about a change in the law, as outlined in my proposal, to better protect livestock and to deter people from allowing their dogs to run out of control in the countryside. It is my aim that the consultation will also help to promote responsible ownership.

One of the key themes I believe is worth noting from the responses is the number of respondents who had personal experience of owning livestock which had been attacked, or who had witnessed an attack. These people spoke of the resulting emotionally traumatic and financial impacts of the incident, as well as the welfare implications for the animals attacked.

These personal testimonies are crucial both in helping to educate the public about the issue of livestock attack and its severity, as well as in helping to show official organisations such as Police Scotland and the Crown Office and Procurator Fiscal Service the reality of the crime. This is important as, from the consultation, we have seen comments from people who do not feel that the Police and Crown Office and Procurator Fiscal Service take these offences as seriously as should be the case.

Another key point which I believe is worth noting is that, of the 615 respondents who answered the question in the consultation on sustainability, 469 (76%) were of the view that the Bill could be delivered sustainably.

One of the key reasons for economic sustainability, as identified from the consultation, is due to the improvements in animal welfare and wellbeing, as well as the fact that farmers would likely have to replace fewer livestock if fewer were lost due to worrying or attack, and farmers would benefit economically and therefore make their businesses more sustainable.

Others pointed to the potential environmental sustainability of the Bill. A number of responses pointed to the potentially improved relationship between both urban and rural Scotland as a result of the Bill. It was noted that the Bill may encourage better dog owner behaviour which will no doubt in turn encourage a

better relationship with the natural environment such as taking dog poo bags home, and not disposing of them inappropriately, when out walking, which causes harm to wildlife and livestock.

However, there were a few responses to the consultation where I differ in opinion. The animal protection charity OneKind proposed the removal of exemptions in the 1953 Act for police dogs, guide dogs, trained sheep dogs, working gun dogs and dogs 'lawfully used to hunt'.

The response stated that: "numerous incidents have been observed and, in some cases, filmed, where packs of foxhounds have been hunting in proximity to flocks of sheep ... Sheep have been seen panicking and taking flight, even attempting to climb over stone dykes in an attempt to escape the hounds. ... it is anomalous and unjustifiable to allow sheep or any other livestock to be put at this type of risk and OneKind recommends that the 1953 Act be amended to reflect this".

I disagree with this opinion as, in some circumstances, it is necessary for the likes of Police and hunt dogs to operate on agricultural land for the purposes of either criminal investigation, or for pest control. I will therefore not propose that these exemptions be removed from the 1953 Act by my proposed Bill.

Respondents also recognised the importance of dogs being kept under control around livestock and various ways of promoting this objective were suggested, including the need for dog owners to be made aware of this through, for example, education and publicity. Training for dogs was a key feature, and a number of respondents felt that electronic training devices were a viable means of controlling dogs' behaviour around livestock.

As well as action by dog owners, there was also a view that livestock owners could take measures to improve the situation, such as signage or better quality of boundary enclosure including fencing. I have taken these comments on board.

Finally, I again thank those who responded to my consultation, and I propose to take forward all policy initiatives outlined in the consultation.

**Emma Harper MSP**

## Consultation responses

All publishable responses can be seen on the member's website at <https://emmaharpermsp.scot/livestock-worrying/>.

Below is a list of responses attributable to organisations. Because of the volume of responses, a list of individuals who responded has not been included here.

Response number	Smart Survey ID	Organisation
121	109405853	Aberdeenshire Farm Contracting Ltd
597	116737414	Aberdeenshire Local Outdoor Access Forum
189	110469405	Argyll and Bute Council
88	108890998	Argyll Estates
173	110419269	Association of Balanced Dog Trainers
161	110369120	Association of Responsible Dog Owners
585	116689380	Battersea Dogs and Cats Home
386	116026212	British Alpaca Society
515	116338446	Bronte Alpacas
582	116668242	Dogs Trust
592	116719545	East Ayrshire Leisure
119	109390653	Eden Brook Farm and Partners
508	116310461	Friends of the Pentlands
607	Non-Smart Survey response	Law Society of Scotland
589	116715562	Loch Lomond and The Trossachs National Park Authority
423	116066802	M & C Ralston
461	116089708	Morvich Sheepstock Club
586	116690850	NFU Scotland (NFUS)
92	108960618	Netherfield Alpacas
97	108994078	Nith Valley Alpacas
543	116566441	National Sheep Association (NSA) Scotland
548	116604539	OneKind
321	113351114	Penicuik Estate Partnership
8	108470320	Perthshire Gundog Rescue

496	116194478	Police Scotland on behalf of the Scottish Partnership Against Rural Crime (SPARC)
606	116090529	Scottish Countryside Alliance
243	112050409	The Scottish Farmer Newspaper
547	116593344	Scottish Land and Estates
318	113941357	Scottish SPCA
566	116635786	Scottish Tenant Farmers Association
301	113591846	Sheep Veterinary Society
549	116606593	Shetland Islands Council
588	116703064	West Lothian Local Access Forum
	Non-Smart Survey response	The Kennel Club and Scottish Kennel Club
	Non-Smart Survey response	Scottish Natural Heritage