

## **RURAL ECONOMY AND CONNECTIVITY COMMITTEE**

### **CALL FOR EVIDENCE ON THE DOGS (PROTECTION OF LIVESTOCK) (AMENDMENT) (SCOTLAND) BILL**

#### **SUBMISSION FROM DOGS TRUST**

##### **1. What is your experience of livestock worrying? What is the scale of the issue?**

Dogs Trust is the UK's largest dog welfare charity. We have twenty rehoming centres across the UK, through which we care for approximately 14,000 dogs each year. In 2019 we rehomed 786 dogs in Scotland via our two rehoming centres in West Calder and Glasgow.

We invest substantial resources in information services, community outreach programmes, and education on responsible dog ownership. Since Dogs Trust was founded in 1891 (formerly National Canine Defence League) we have always campaigned on dog welfare issues. In recent times this has included the creation of a dedicated Scottish Campaigns Team, who deliver Responsible Dog Ownership workshops across the country.

At present there is a lack of consistent recording and reporting of incidents of livestock worrying which makes assessing the true scale of the problem difficult, with an underestimation of occurrences likely. Dogs Trust believes it is crucial to understand the prevalence and circumstances of incidents of livestock worrying. The Police are not currently required to formally record instances of livestock worrying and as such there is no uniformly recorded national statistical picture of the true scale of the problem. We would therefore strongly encourage the introduction of mandatory standardised data gathering and reporting, not only to be able to quantify the problem, but also to help identify what actions best result in reducing incidents of livestock worrying.

In terms of current knowledge, the National Police Chief's Council's (NPCC) Livestock Worrying Police Working Group recently worked to identify the true extent of the problem of livestock worrying, as well as the outcomes of those incidents. Their report<sup>1</sup> compiled four years' worth of data from five police forces across England and Wales. Whilst the report was recognised as being limited by the lack of a requirement for the Police to record the level of detail needed to understand the true extent of the problem, it is indicative of what we do know about livestock worrying, for example that of the incidents which are reported, the majority occur without the owner of the dog/s causing the issue present.

##### **2. Does legislation need strengthening in this area? If so – does the Bill do this? Is the Bill the best way to do this?**

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<sup>1</sup> National Police Chiefs' Council, Livestock Worrying Police Working Group Final Report, February 2018

Dogs Trust welcomes this Bill, which is intended to strengthen protection for livestock from worrying and attack.

Livestock worrying has a significant negative impact on the welfare of the livestock involved and a detrimental effect on the farming community, and not just financially. Efforts to protect and promote the welfare of livestock through the prevention of incidents of worrying will not only prevent livestock from unnecessary harm, but avoid dogs being shot, something that is obviously distressing for all concerned. Whilst we can see benefits to many of the proposals in the consultation, we are concerned that the measures will not sufficiently improve the welfare of livestock or the dogs involved. This is due to the proposed actions being reactive, therefore continuing to address the challenge of livestock worrying only after an incident has occurred and only if it is reported.

We support the proposal to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying. We believe this legislative action will help to raise the profile of this problem. However, 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 is crucial that farmers and the public are encouraged to report every incident of livestock worrying. The National Sheep Association conducted a survey in 2016<sup>2</sup> and again in 2017<sup>3</sup> to better understand sheep worrying by dogs from the perspective of the farmer. In 2016, 37% of 233 responses reported every incident. In 2017, 39% of 89 responses reported every incident. The NSA survey indicates that currently there is no real incentive for farmers to report incidences to the police; if recording and reporting were mandatory for police forces, national data would be readily available, showing clearly the prevalence of incidences. If the proposals within this consultation are to reduce incidents of livestock worrying from occurring, then there needs to be mandatory standardised data gathering and reporting so that the impact of the measures can be monitored and assessed.

It is anticipated that the proposals in the Bill, coupled with improved reporting of incidents of livestock worrying, will likely result in at least an initial increase in court cases. It can be expected that the outcome of some of these cases will be the removal of dogs from irresponsible owners, consequentially there will be heightened public awareness of the penalties for allowing a dog to worry livestock. However, as the proposals are essentially reactive, after an incident has occurred, it is crucial that reporting of incidents is made mandatory and ensuring that the Police record incidents systematically and in a standardised way. This will provide much needed data which will be imperative in helping to better understand the issue and how to tackle it.

Mandatory standardised data gathering, and reporting will also help to monitor and maintain progress on this issue after the initial momentum following the introduction of these proposals has passed.

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<sup>2</sup> National Sheep Association, Sheep Worrying by Dogs Survey 2016, April 2016

<sup>3</sup> National Sheep Association, Sheep Worrying by Dogs Survey 2017, May 2017

Through mandatory standardised data gathering and reporting, we believe it will be possible to better educate dog owners of the consequences associated with livestock worrying. Whilst there is currently a concerted effort to raise awareness of incidents of livestock worrying, many dog owners may not be receptive to this information if they do not appreciate the significant impact of a dog worrying livestock, or if they believe their dog would not attack livestock.

Dogs Trust's campaigns team, of which there is a dedicated Scottish branch, works to proactively change dog owner behaviour. We strongly believe that identifying and engaging with dog owners in a face to face setting helps to influence and change their behaviour. By working to better understand the problem, we believe it will be possible to undertake targeted proactive measures that aim to result in the *prevention* of worrying, therefore protecting the welfare of livestock more robustly.

To be effective, we also need to understand from a dog owner perspective what would be a deterrent and encourage them to take greater measures to prevent their dog worrying livestock. The National Sheep Association's 2017 survey<sup>4</sup> asked farmers what activity(s) they thought would help reduce sheep worrying incidents. 21% of respondents stated displaying sheep worrying signs all year would help, whilst 15% believed only displaying signs when sheep are in the field would be helpful. The findings of this survey go some way towards demonstrating that this is a problem without a simple solution, and that engagement with dog owners is also necessary.

A recent report by the All-Party Parliamentary Group for Animal Welfare<sup>5</sup> at Westminster exploring how to tackle livestock worrying and promote responsible dog ownership surmises following its inquiry that 'there is a need for multiple approaches to tackling this problem'<sup>i</sup>. The report provides examples of preventative work that could help to educate dog owners and walkers, such as the introduction of a traffic light system for dog walkers to indicate where leads are needed due to livestock grazing and efforts to improve understanding of responsibility as an owner to ensure dogs are kept secure at all time. However, it acknowledges the need to understand the key factors in a local area as it is clear that there is no 'one size fits all' solution to tackling this problem.

In summary, to measure effectiveness, and also to identify other measures that can be used to prevent incidents from occurring, we need to fully understand the extent and nature of incidents. Consequently, it is crucial that mandatory standardised data gathering, and reporting is introduced, which will help to create a better understanding of what interventions might act as a deterrent for dog owners.

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<sup>4</sup> National Sheep Association, Sheep Worrying by Dogs Survey 2017, May 2017

<sup>5</sup> All-Party Parliamentary Group for Animal Welfare, Tackling Livestock Worrying and Encouraging Responsible Dog Ownership, November 2017

### **3. What are your views on the increased penalties the Bill creates for livestock worrying?**

Dogs Trust supports increasing the maximum penalty available for livestock worrying offences. Similar to the penalties available for other animal welfare offences, we believe that sentences should act as a deterrent and be a punishment that fits the cruelty being inflicted on animals. During criminal court cases we also suggest that compensation should be considered for farmers due to their livelihood being affected by these incidents, allowing the process for compensation to be simplified and dealt with at the same time would remove additional bureaucracy from the process.

We continue to emphasise that it is crucial to have mandatory standardised data gathering and reporting in order for proportionate penalties to be given. For example, a higher or maximum penalty would be appropriate for a repeated and serious offender. Equally, this would help to ensure high penalties are not given to a first-time offence when the dog escaped, the owner was not aware, and the owner took steps to ensure the incident will not happen again.

In addition to increased penalties we strongly urge better enforcement of dog control notices as a means of addressing dogs being out of control, before they are able to worry and/or attack livestock. We therefore recommend the extension of the dog control notices scheme to allow other enforcement authorities, such as the Police, to use this measure to prevent incidents of livestock worrying. Furthermore, to ensure effective enforcement of dog control notices a national database needs to be created to enable tracking of dogs across local authority borders, this aspect is in line with our call to ensure mandatory standardised data gathering and reporting

It is a legal requirement for all dogs to be microchipped and we therefore recommend that when an unchipped dog is involved in an incident the Local Authority takes steps to ensure it is microchipped to aid in both identification and reunification with owners for any future incidents. In addition, recording microchip numbers should be part of the Police's mandatory standardised data gathering and reporting to aid in the identification of owners and dogs who continue to flout restriction or are involved in repeat offences.

### **4. Would the proposals to disqualify convicted persons from owning or keeping a dog or taking a dog onto certain types of land, assist in the aim of reducing the number of livestock worrying instances?**

Dogs Trust understands the devastating impact livestock worrying can have both on the livestock affected and the farmer. We fully support the option to ban someone convicted of livestock worrying / attack from owning a dog if there is robust evidence of them being repeat offenders / irresponsible owners. However, we need to ensure that such measures are appropriately administered and proportionate – 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. We believe that education and the use of dog control notices where relevant also play a part both in a preventive aspect, and also as a sanction for some cases.

Whilst we do not have complete understanding of the circumstances behind incidents of livestock worrying, research conducted by the NPCC across five police forces (North Yorkshire, Devon and Cornwall Police, Hertfordshire Constabulary, North Wales Police and Sussex Police<sup>6</sup>) has found that on average 66% of reported cases of livestock worrying during a four year period involved a dog where the owner or walker was not present. The research also found that on average 11.5% of recorded cases were committed by a repeat offending owner or walker. In this circumstance, for repeat offending owners or walkers, we believe it is entirely appropriate to pursue through the court system a ban on the individual owning a dog. However, to be able to pursue this course of action it is crucial that there is mandatory standardised data gathering and reporting of incidents to assist in identifying when repeat offending is occurring.

We also need to understand how sanctions such as banning an individual from owning an animal would be enforced. It is imperative there is a robust system of monitoring and enforcement should anyone be found to be in breach of their ban. At present bans are not consistently recorded on a centralised database, and it can therefore be difficult to identify breaches. We encourage the Scottish Government to explore ways of identifying and dealing with breaches of bans.

We support the principle of banning owners and their dogs from specific areas and types of land; however, we recognise the challenge of enforcement and would encourage the engagement of the farming community to assess how this aspect could be enforced. For example, CCTV or photographic evidence would only be practical in a few specific areas.

## **5. What is your opinion on extending the types of livestock and type of agricultural land covered by livestock worrying, as described by the Bill?**

Dogs Trust supports extending the definition of livestock to include camelids and other farmed species. In keeping with the original intention of the Bill, the definition should only extend to those animals which are livestock and therefore are a person's livelihood. We recommend 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:

“An animal is a “protected animal” if it is – (a) of a kind which is commonly domesticated in the British Islands, (b) under the control of man on a permanent or temporary basis, or (c) not living in a wild state.”

The NPCC's Livestock Worrying Police Working Group Final Report<sup>7</sup> also recognises that the current definition of 'livestock' does not provide cover for modern farming of all livestock types. They too recommend extending the definition in line with the proposal within the consultation.

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<sup>6</sup> National Police Chiefs' Council, Livestock Worrying Police Working Group Final Report, February 2018

<sup>7</sup> National Police Chiefs' Council, Livestock Worrying Police Working Group Final Report, February 2018

We support the proportionate extension of type of land covered, specifically to ensure where a dog chases livestock off owned agricultural land a prosecution would still be possible. We would urge proportionality when incidents occur on areas of common land and to ensure appropriate signage allows dog owners to be aware of when such areas have livestock present.

**6. What are your views on the powers allowing Scottish Ministers to appoint inspectors, other than police, to investigate and enforce livestock worrying offences?**

Dogs Trust can see the benefit of allowing Ministers power to appoint inspectors to have powers to investigate and enforce offences related to livestock worrying but continue to advocate that the proposed reactive measures are inadequate on their own when it comes to addressing and preventing livestock worrying. To support any enforcement authority in their efforts to enforce this legislation it is crucial that we also look to take a proactive approach to addressing the issue, thus aiming to prevent worrying and attacks before they occur. This can be best achieved through the mandatory standardised data gathering and reporting of all incidents to build a clearer picture of the problem.

We believe that anyone investigating animal related offences should be properly qualified and trained in animal welfare. We would be comfortable for investigations to be undertaken by the Scottish SPCA, should they have the capacity to take on an increased workload right across Scotland. The benefit of the Scottish SPCA undertaking such inspections is that inspectors have appropriate knowledge and experience of animal welfare issues.

Ideally, we'd also like to see the introduction of a central unit of appropriately trained inspectors which could be utilised by Local Authorities across Scotland, to carry out inspections of licensed animal establishments and to lead on the enforcement of other animal related issues. This inspectorate unit would have to have no profit-making commercial interests in order to ensure that the goal is not on profit but on animal welfare. A benefit of such an inspectorate, if suitably trained, could also be to assist the Scottish SPCA and Police Scotland in investigating incidents of livestock worrying.

**7. Do you have any comments on the expanded powers for police and inspectors to seize dogs, to enter premises and to take a dog to the vet?**

Dogs Trust agrees that should a prosecution be taken forward it is vital to gather the relevant evidence to support the case.

However, we believe the process proposed in the Bill needs to be further developed to be able to provide the robust evidence required for a prosecution to be successful. It should be noted that this process may not be useful in every case, particularly if a dog has not come into direct contact with livestock.

The proposal that the Police should be equipped with powers to require a person to take their dog, within a 24-hour period, for examination, needs to be strengthened. We believe, to be most effective, the Police should have the powers to seize a dog as soon as possible after an incident and require that the seized dog is sent for examination. It may be necessary to keep the dog for up to 24 hours to allow for full evidence gathering, such as for faecal sampling to take place. If it is required to collect dog faeces, we would support the practice of seized dogs being signed over to the care of the attending vet for a period of 24 hours rather than being kept on police premises as a veterinary practice will be better equipped to provide for a dog's welfare.

The proposal that a seized dog is sent for examination to a vet for the purpose of evidence gathering also requires further development. In order to be most effective, this process needs to be conducted according to a precise Standard Operating Procedure. A veterinary surgeon in general practice is not usually equipped or trained to undertake a forensic examination. However, if the vet's role was primarily to attend the crime scene, in the presence of a Scottish SPCA inspector or the police, to take appropriate samples, following appropriate training, we would support this. It is anticipated that training for sampling and preserving the chain of evidence could be achieved by resources such as an instructional video. Samples should always be taken in the presence of an inspector (or police officer if Scottish SPCA cover cannot extend to the area in question) to ensure chain of evidence is secure.

In addition, it is important that, where possible, a seized dog is taken to an independent veterinary surgeon i.e. such that neither the dog owner nor livestock owner are a client as this could result in a potential conflict of interest for the vet. We recognise that Scotland's many islands and communities in remote areas may find it difficult to implement a system such as the one proposed with an independent vet. In such circumstances, and as highlighted as good practice above, any potential for conflict of interest could be mitigated by ensuring a Scottish SPCA inspector is present. Failing this, in exceptional circumstances, a police officer should be present to oversee and verify the evidence collection and chain of custody. Another option for veterinary attendance might be to consider using Animal Health and Plant Agency (APHA) vets with appropriate training. However, we recognise this might not be practicable as this is a time critical process. What is very clear is that a robust system is necessary across the board in order to gather and preserve the evidence, maintain its integrity and that of the attending veterinary surgeon.

We would also suggest that in cases of significant injury or multiple deaths, that a veterinary forensic pathologist carry out a full post-mortem of at least one of the affected animals. This would assist the court's understanding of the extent, suffering and severity of injuries to the animal, which cannot be achieved by merely proving that a dog was responsible. The degree of suffering could then be taken into consideration regarding appropriate penalties

#### **8. Does the Bill adequately balance the rights of dog owners and the rights of livestock farmers?**

Dogs Trust would urge the use of proportionate penalties as mentioned in response to question three. We support increasing the maximum penalty available for livestock

worrying offences, to reflect the serious nature of the offence and impact on both farmers and their livestock. We believe that penalties should act as a deterrent and be a punishment that fits the cruelty being inflicted on animals.

As mentioned throughout this response, we continue to stress how important it is to introduce mandatory standardised data gathering and reporting in order to build up a detailed understand of how widespread livestock worrying is across Scotland. This will also ensure that dogs and their owners are not disproportionately penalised, for example if it's a first-time offence and the dog escapes without the owner being aware.

The introduction of mandatory standardised data gathering and reporting would help to produce a clear picture of the issue, and therefore how best to tackle the issue. This would in turn provide a greater incentive for farmers to report incidents to the Police if they know something will be done about the issue.

As already acknowledged, we understand the devastating impact livestock attacks can have both on the livestock affected and the farmer and therefore support the option to ban someone convicted of livestock worrying / attack from owning a dog if it is found they are repeat offenders and intentionally irresponsible owners. It is vital however, that measures are appropriately administered and proportionate. We also support the simplification of compensation claims for farmers seeking recompense and would suggest that the court dealing with the prosecution is also able to handle compensation claims at the same time so farmers do not have to endure several court cases or repeated insurance claims to cover their financial losses.

## **9. 9. Is there anything else that should be included or excluded from the Bill?**

As mentioned throughout this response, Dogs Trust believes it is important to better understand the prevalence and circumstances of incidents of livestock worrying to be able to take action that will be proactive in tackling this problem before worrying occurs. It is also important to be able to ensure that proportionate action is taken depending on the nature and frequency of offences. For this to be achievable it is necessary that there is mandatory standardised data gathering and reporting. As a result of reporting every incident that occurs it will be possible to build a clearer picture of the scale of the problem and the situations where it occurs, and for effective, preventative measures to be put in place based on the evidence gathered.

In line with the conclusions from the NPCC's Report<sup>8</sup> we agree that the majority of livestock worrying incidences occur without an owner present, often from so called 'latch key' dogs, who have escaped a garden and are then able to attack livestock without interruption and result in the devastating loss of so many animals. Dogs Trust again stresses that this sort of incident and how to prevent such an attack is not adequately addressed within this Bill and more emphasis must be placed on prevention.

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<sup>8</sup> National Police Chiefs' Council, Livestock Worrying Police Working Group Final Report, February 2018



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