26 April 2019

BVA SCOTTISH BRANCH RESPONSE TO SCOTTISH GOVERNMENT PROPOSED AMENDMENTS TO THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

1) BVA is the national representative body for the veterinary profession in the United Kingdom and has over 18,000 members. Our primary aim is to represent, support and champion the interests of the veterinary profession in this country, and we therefore take a keen interest in all issues affecting the profession, including animal health and welfare, public health, regulatory issues and employment matters.

2) BVA’s Scottish Branch brings together representatives of the BVA’s territorial and specialist divisions, government, academic institutions and research organisations in Scotland. The Branch advises BVA on the consensus view of Scottish members on Scottish and United Kingdom issues.

3) To produce this response, we have worked jointly with the following specialist species divisions:

- The British Cattle Veterinary Association (BCVA) is a specialist cattle division of the BVA comprising 1,250 members, of whom approximately 950 are practising veterinary surgeons working with cattle in farm animal veterinary practice.

- The British Equine Veterinary Association (BEVA). BEVA serves and leads the equine veterinary profession in the championing of high standards of equine health and welfare and the promotion of scientific excellence and education. BEVA represents some 3,000 members.

- The British Small Animal Veterinary Association (BSAVA) exists to promote excellence in small animal practice through education and science and is the largest specialist division of BVA representing over 10,000 members. It has 1,123 Scottish members.

- The Goat Veterinary Society (GVS) is a division of BVA and has approximately 300 members, including veterinary surgeons with a specific interest in goat health and welfare, but also has a significant “non-veterinary” membership including owners and farm personnel from across the entire spectrum of goat keeping in the UK.

- The Veterinary Public Health Association (VPHA) is a division of BVA and is committed to the protection of the consumer and the environment as well as to...
the promotion of animal welfare. VPHA currently has over 300 members many of whom work as Official Veterinarians in slaughterhouses dealing with both public health and animal welfare issues.

4) We welcome the opportunity to respond to this consultation. We are supportive of the Scottish Government’s proposed measures to increase sentences/penalties for animal cruelty offences and ensure expedient rehoming of animals who may have been taken into the possession of the relevant authorities to protect their welfare. It is paramount that these measures are coupled with robust enforcement to ensure that they fulfil their potential to act as a serious deterrent and prevent the unnecessary suffering of animals under Animal Health and Welfare (Scotland) Act 2006.

5) 1. **The Scottish Government proposes that the maximum penalties for the most serious animal welfare offences should be strengthened. Do you agree?**

As the representative body for veterinary surgeons, BVA does not have expertise in sentencing or penalty policy. However, in consultation with our members the responses indicate general support for proposals to strengthen the maximum penalty for animal welfare offences to ensure penalties act as an effective deterrent and are proportionate to the severity of the most serious animal welfare offences.

6) We are in support of the principle of introducing ways of enabling enforcement authorities to keep a check on those who are disqualified from keeping animals and further consideration might need to be given to whether a register of those who are banned from keeping animals should be developed and made available to enforcement authorities only.

7) **Cross organisation approach to prevention**

It is also important to recognise that animal welfare offences are often part of complex public health issues that require a ‘One Health’ collaborative, cross-organisational approach. For example, increasing research and clinical evidence suggests that there are inter-relationships between the abuse of children, vulnerable adults and animals.\(^1\) In addition, in the case of farmers and livestock, animal welfare breaches may occur due to complex mental health or economic issues. Consequently, social services, local authorities, police forces, farming unions and welfare organisations should work collaboratively to identify early animal health and welfare risk factors, as well as wider human health and social care issues. With this in mind, appropriate knowledge exchange and training, as well as clear channels of communication and reporting between social services, local authorities, farming unions, police forces and welfare organisations would be useful in order to ensure the early identification of both animal and human health and welfare risk factors.

8) 2. **Do you agree that the maximum prison sentence available for offences under section 19 (unnecessary suffering) and section 23 (animal fighting) should be increased from twelve months to five years?**

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\(^1\) [http://www.thelinksgroup.org.uk/about-us/](http://www.thelinksgroup.org.uk/about-us/)
As the representative body for veterinary surgeons, BVA does not have expertise in sentencing or penalty policy. However, in consultation with our members the responses indicate general support for the proposals to increase the maximum penalty for the specified animal welfare offences from twelve months to five years’ imprisonment.

We are aware that RSPCA and Battersea have produced reports on these issues.\(^2\), \(^3\)

9) **Do you agree that there should be no upper limit on fines for offences under section 19 (unnecessary suffering) and section 23 (animal fighting)?**

As the representative body for veterinary surgeons, BVA does not have expertise in sentencing or penalty policy. However, in consultation with our members we would suggest that the fine should be proportionate to the seriousness of the offence, the resulting suffering experienced by the animal(s) and the financial benefit the offender may have gained. Increasing penalties and allowing prosecuting through “solemn procedure” instead of “summary procedure” to remove 6-month time limits would be in line with other offences of a similar seriousness. Overall, the responses from our members indicate general support for the proposals to have no upper limit on fines for offences under section 19 (unnecessary suffering) and section 23 (animal fighting).

10) **Other than increasing the maximum penalties for unnecessary suffering, should we amend legislation in any other ways, in regard to attacks on service animals?**

As the representative body for veterinary surgeons, BVA does not have expertise in sentencing or penalty policy. However, in consultation with our members the responses indicate general support for increased penalties for attacks on service animals, including guide dogs, military and police dogs and horses. If existing legislation, such as section 4.2 of the Animals (Scotland) Act 1987, is not regarded as sufficient to prevent a potential offender using the defence of self-defence the we would also support making it a specific offence to inflict unnecessary suffering on service animals when engaged in activities relating to their service.

11) **Do you agree that there should be no statutory time limit for prosecuting offences under section 19 (unnecessary suffering) and section 23 (animal fighting)?**

We agree that there should be no statutory time limit for prosecuting offences under section 19 (unnecessary suffering) and section 23 (animal fighting).

12) **Do you agree the introduction of proportionate fixed penalty notices would improve the enforcement of animal welfare offences?**

We recognise that the introduction of proportionate fixed penalty notices could improve the enforcement of animal welfare offences in less serious cases relating to minor or technical offences such as identification and some minor non-compliances relating to

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In order to be effective and consistent in their application across local authorities, it is crucial that enforcing officers receive enough training to ensure appropriate elements of existing animal health and welfare legislation are applied. Equally, as has been seen with the enforcement of the Control of Dogs (Scotland) 2010 Act, there appears to be a lack of financial and personnel resource in local authorities as well as a disparity of proportionate resource between local authorities. With this in mind, we would strongly support the ring-fencing of government allocated funds and any financial penalties received from offenders to enable the effective enforcement of fixed penalty notices, should they be introduced. Unless funding for enforcement of fixed penalty notices is ring-fenced, their effectiveness could be questionable as it is unlikely that they will be enforced or enforced consistently across local authorities.

13) Do you agree that there is a need to speed up the process of making permanent arrangements for animals taken into possession under section 32 of the Act?

Companion animals
In the case of companion/pet animals (including goats kept as pets), we agree that there is a need to speed up the process of making permanent arrangements for animals taken into possession under section 32 of the Act. At present, the often-lengthy process to sell or rehome animals that have been taken into possession can have unintended welfare consequences on the animals that are seized.

Seizure – can be stressful for animals, resulting in anxiety and a potential increased risk of aggression towards those trying to seize the animal.4

Kennelled environments - research has shown that many animals find kennelled life challenging and it is difficult to sufficiently meet the welfare needs of dogs in kennelled environments. In addition, studies have shown that specific aspects of this environment, e.g., noise levels, lack of environmental enrichment, small kennel sizes may influence animals’ behaviour patterns and social interactions.5,6,7 This is particularly pertinent for puppies taken into possession during investigations into illegal breeding, where a prolonged period in kennelled environments may prevent opportunities for appropriate socialisation and expression of behaviour in a domestic environment, in turn limiting their potential and suitability for rehoming.

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Sudden changes in diet – sudden changes in diet if an animal is seized and a diet regime is discontinued or interrupted may lead to health issues.

14) **Livestock**
We would welcome further clarity as to how livestock would be rehoused with the necessary health and welfare safeguards under these proposals. It is important to recognise that the ability to re-home livestock is limited and expensive, with fewer facilities to rehome livestock and few farmers who would be willing to take on these animals. In practical terms, a lack of rehoming facilities for livestock could present a significant logistical challenge and adversely impact on welfare if animals are required to travel long distances to the nearest available facility for rehoming.

15) In addition, there are significant biosecurity risks across a range of infectious diseases associated with the movement of livestock, particularly if livestock are in a poor state of health or if an animal is moved onto a premises with other animals. This is especially pertinent in the case of cattle concerning the Scottish BVD eradication scheme, where if individual cattle or the herd in question does not have a BVD negative status they are not legally permitted to be moved unless to slaughter. We are aware that APHA can issue a licence to move animals for welfare purposes subject to biosecurity requirements. The enforcement agency seizing the animals becomes the keeper as defined in the BVD order and therefore liable for paying for BVD testing, any veterinary care and costs of keeping the animals.

16) From a pig perspective, we would be very concerned about an animal of unknown health status being relocated and possibly housed (indoors or outdoors) in close proximity to a commercial pig unit. A number of pig pathogens spread in aerosol for up to 9 km or can be transferred by birds and other vermin. Scotland is just starting to undertake Porcine Reproductive and Respiratory Syndrome elimination and movement of animals with unknown health statuses could carry a particularly high risk to units that have already eliminated this disease. Where there has been the risk of inappropriate feeding (food/kitchen waste) to a pig that may be being moved as part of being taken into possession, there is also the risk of moving an animal incubating Foot and Mouth Disease, Classical Swine Fever, African Swine Fever or other infectious disease.

17) **8. Do you agree that the ability to make suitable permanent arrangements for animals taken into possession (using a court disposal order) after service of a notice and after a lapse of specific period will benefit the welfare of animals?**

We agree in principle that the ability to make suitable permanent arrangements for animals taken into possession (using a court disposal order) after service of a notice and after a lapse of specific period will benefit the welfare of animals. However, clarity within the legislation will be required to ensure such powers are used appropriately.

18) **9. Do you agree that the ability to make suitable arrangements for these seized animals after a short period will free up resources of the relevant enforcement authorities and animal welfare charities, allowing them to help**
We agree that the ability to make suitable arrangements for seized animals after a short period will free up resources of the relevant enforcement authorities and animal welfare charities. They may also lead to financial savings for authorities. However, it is important that enforcement authorities and animal welfare charities continue to use robust criteria to ensure that these animals are rehomed or sold to responsible owners or keepers. This will ensure that expediency is not prioritised over health and welfare and that there are no unintended welfare consequences associated with the expediting of this process or indeed, that mismatched new owners are not discouraged from participating in the re-homing process due to their poor experience of the process.

19) 10. Should a new power to make permanent arrangements for animals that have been taken into possession apply to all animals, or only commercially kept animals; such as puppies in breeding facilities, puppies for sale and livestock?

We would support that this new power applies to all protected animals as set out under the Animal Welfare Act 2006 (excluding wild animals). The unintended welfare consequences of seizure and prolonged periods in the possession of the relevant enforcement authorities will affect all animals equally, regardless of whether they are kept in relation to business activities or not. However, as outlined above, it is important that enforcement authorities and animal welfare charities continue to use robust criteria to ensure that these animals are rehomed or sold to responsible owners or keepers. This will ensure that expediency is not prioritised over health and welfare and that there are no unintended welfare consequences associated with the expediting of this process.

20) 11. Do you agree that the owner or previous keeper should have an opportunity to appeal against permanent arrangements being made within a short time period?

We agree that the owner or previous keeper should have an opportunity to appeal against permanent arrangements being made within a short time period.

21) 12. Do you agree that three weeks is a reasonable period of notice before making suitable arrangements for animals taken into possession?

We agree that three weeks is a reasonable period of notice before making suitable arrangements for animals taken into possession.

22) 13. Do you agree that the previous keeper should be able to apply for compensation based on the commercial value of these animals, less reasonable costs?

We agree with this proposal and support the inclusion of a rule that any compensation due to the owner must be held pending the outcome of any prosecution of that owner for an animal welfare offence in relation to the circumstances that led to the animal being taken into possession. It should also be clearly indicated that if an offender is prosecuted,
they will not receive any compensation.

23) 14. Do you have any practical suggestions about how to value commercially kept animals other than farm livestock?

It may be worth consulting with insurers to ascertain how they value animals kept commercially other than livestock. Vets may also be able to help with determining the commercial value of certain companion animals, e.g., those kept for breeding. In terms of commercially valuing horses, commercial valuations are highly subjective based on an expert opinion of how the age, stage, breeding and competition results would be reflected in the market.

24) Concluding remarks
As the representative body for veterinary surgeons, BVA does not have expertise in sentencing or penalty policy. However, in consultation with our members the responses indicate general support for the proposals to strengthen penalties and sentences for animal welfare offences. We trust that these proposals will be robustly and consistently enforced so that they will act as an effective deterrent and are proportionate to the severity of the most serious animal welfare offences.

25) We are supportive of proposals to expedite the process of making permanent arrangements for animals taken into possession under section 32 of the Act. At present, the often-lengthy process to sell or rehome animals that have been taken into possession can have unintended welfare consequences for the animals in question. However, it is important that enforcement authorities and animal welfare charities continue to use robust criteria to ensure that these animals are rehomed or sold to responsible owners or keepers to ensure that expediency is not prioritised over welfare. Further, we would support that this power applies to all animals as set out under the Animal Welfare Act 2006 (excluding wild animals).