



ConsultationResponse

FROM THE RSPCA IN WALES

Consultation response: A Ban on Third Party Sales of Puppies and Kittens

August 2020

The RSPCA played an active part in the Welsh Government working group which eventually led to the innovative 2014 puppy breeding regulations. Although we had retained significant concerns on the efficacy of certain aspects of the legislation, the RSPCA very much supported the long awaited modernisation of the legal framework for puppy breeding, having actively campaigned on it in Wales for many years.

Following the implementation of the 2014 puppy breeding regulations, the RSPCA has been keen to see a review of the legislation with a view to optimising the welfare standards as well as looking beyond the confines of that specific framework to encompass other scenarios where the welfare of puppies, kittens, and indeed all pet species, in Wales need better protection. As the primary enforcer of animal welfare legislation, the RSPCA sees first hand the results of poor standards of puppy and kitten breeding and has a long history of working with colleagues within local government to try to tackle both the poor welfare standards in licensed breeding as well as the wholly illegal practices in the unlicensed sector that occur far too often in Wales. However, such initiatives, despite commitment from all parties, are not sufficient on their own as to resolve the problem.

The RSPCA was delighted, along with Animal Welfare Network Wales (AWNW) colleagues, to take part in the recent review of puppy breeding regulations, commissioned by Welsh Government, and undertaken by the Animal Health & Welfare Framework Group¹, and further pleased to see much of our input contained within the Group's recommendations. The RSPCA therefore supports the Welsh Government's response with a commitment to taking these recommendations forward, beginning with tackling the regulation of third party sales, but also with the recognition that this is only one of many measures that will be needed to better protect the welfare of puppies and kittens being bred and sold in Wales.

The following submission responds directly to the questions contained with the consultation document but for context and further background this should be read alongside the RSPCA's submission to the previous Welsh Government consultation on banning third party sales².

¹www.gov.wales/sites/default/files/publications/2020-03/dog-breeding-review-of-animal-welfare-breeding-of-dogs-wales-regulations-2014.pdf

²www.politicalanimal.org.uk/wp-content/uploads/2020/01/Welsh-Government-Third-Party-Sales-Consultation-RSPCA-Response-May-2019-2.pdf

QUESTION 1: WE PROPOSE INTRODUCING A BAN ON THE COMMERCIAL THIRD PARTY SALES OF PUPPIES AND KITTENS. BY 'COMMERCIAL THIRD PARTY SALES' WE MEAN THOSE WHO ARE LICENSED PET SELLERS; IN WALES WHO HOLD A LICENCE UNDER THE PET ANIMALS ACT 1951. OUR DEFINITION OF 'PUPPIES' AND 'KITTENS' ARE DOGS AND CATS UP TO 6 MONTHS OLD.

DO YOU AGREE WITH A BAN ON THE COMMERCIAL THIRD PARTY SALES OF PUPPIES AND KITTENS IN WALES? PLEASE EXPLAIN THE REASON FOR YOUR ANSWER AND PROVIDE SUPPORTING EVIDENCE

As stated in previous responses, the RSPCA believes that banning third party sales, with robust enforcement, has the potential to offer benefits to securing better welfare standards for puppies and kittens bred in Wales. Any measure that simplifies the breeding/selling/acquiring a pet process, raises awareness and allows members of the public to better understand and navigate what is or isn't legal, enables them to make conscious decisions that are better informed. This also supplements the regulatory and enforcement process as consumers become more aware of the correct way to acquire a pet in such a manner as to better protect that animal's welfare. By permitting licenced breeders to only sell direct to the public, it may improve transparency at breeding premises and reduce the need for multiple journeys for puppies and kittens. As highlighted in our May 2019 consultation response³ on this issue (please read this response for full details), there are a number of potential welfare issues associated with commercial third party sellers of puppies which it can be assumed have the potential to be addressed via the proposed ban.

Concerns

With England passing regulations for a ban on Third Party Sales in 2019 and implementing that ban in April of this year, there has been a, albeit limited, opportunity to observe the efficacy of that ban and also develop scenario based questions or comments on the efficacy of the legislation. Although the lockdown resulting from Covid-19 may have affected the puppy trade and therefore the implementation of the ban in England, it may still be possible to determine what amendments to the framework could enhance the efficacy of a similar restriction in Wales or at the very least highlight the questions on what remains to be addressed for a ban to work as it is intended.

This section offers three observations and corresponding recommendations regarding potential loopholes:

1. A ban can be affected by the regulations, or lack of, in neighbouring countries:

The ban in England is clearly limited to English territory and, as written, the legislation cannot stop a breeder selling a dog bred from outside of the jurisdiction to which it pertains. In other words there is no statutory obligation to prohibit the sale of a puppy or kitten that has been bred outside of England where the breeder of that animal is licensed as a business selling animals as pets in England (under Sch1 Part 2⁴). Indeed this was confirmed by Defra via a Written Question to Ministers in May⁵ and later reiterated by the Local Government Animal Welfare Group in their briefing to members⁶, stating 'There is no statutory obligation to prohibit the sale of a puppy or

³www.politicalanimal.org.uk/wp-content/uploads/2020/01/Welsh-Government-Third-Party-Sales-Consultation-RSPCA-Response-May-2019-2.pdf

⁴www.legislation.gov.uk/ukdsi/2018/9780111165485

⁵www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-05/43750

⁶ www.localgovernmentanimalwelfare.org/the-third-party-ban/

kitten that was bred outside of England'. This has created very unfortunate loopholes, highlighted in the recent well publicised death of 'Mr Chai', a pomeranian dog imported by a breeder allegedly licensed by Cheshire Council⁷ and who has received negative press attention on previous occasions⁸.

Recommendation: Consistency across GB is clearly one aspect of ensuring such loopholes are closed; as the Welsh Government cannot legislate on standards in third countries, there will always be a loophole whereby breeders can sell in the third country and import or be licensed in the UK and sell legally in Wales; only raising the minimum age for imported puppies to 24 weeks - which the RSPCA strongly supports - would close this loophole. This will be possible when GB leaves the EU on 31 December 2020 and has already been trialled and tested in Norway.

2. The ban excludes non-commercial sellers therefore severely limiting its impact to control sales:

To be truly effective it is desirable to have the legislation capture all third party sales. At present it is believed that the majority of problems with sales and welfare conditions arises amongst the already illegal aspects of the trade that masquerade as legitimate breeders online. It is also known that the largest supply of puppies is from the low volume, usually *non-licenseable*⁹ breeders, indeed it was estimated that in the UK in 2015 fewer than 12% of puppies annually came from the licensed sector¹⁰. For there to continue to be legitimate sales from the low-volume, non-licenseable breeders, is to maintain a quagmire of regulations for the puppy purchaser to navigate as well as provide additional avenues for the unscrupulous and illegal breeders to go on largely undetected. This is especially the case considering that the failure to secure a pet shop licence to sell puppies is rarely prosecuted and thus fails to act as a deterrent.

Recommendation: Amend the 2014 regulations to require the additional registration of all breeders currently operating below the threshold of the three bitches/three litters minimum rule. Only by allowing for full transparency/traceability can the ban hope to be effective (see later sections which address puppies sourced from Animal Welfare Establishments [AWEs]).

3. Commercial breeders have disguised their true purpose by setting up animal rescues:

If puppies sourced from AWEs is not addressed through regulation (see later question) a loophole will be provided for breeders to set themselves up as a rescue in order to obfuscate their true purpose. This will be difficult for members of the public to determine for themselves (given that without any regulation governing AWEs it is already impossible to tell a good sanctuary from a bad one) if they are acquiring an animal from a legitimate rescue or a commercial breeder. It also makes the enforcement of the ban by local authorities impossible. This type of activity by those seeking to circumvent controls has been seen recently with one puppy farm pretending to be a dog rescue service. Although this took place in the Republic of Ireland¹¹ it is thought that this may already have been mirrored by unscrupulous breeders in the

⁷www.dailymail.co.uk/tvshowbiz/article-8411619/Molly-Mae-Hagues-puppy-healthy-Love-Island-star-got-according-breeder.html

⁸ www.mirror.co.uk/news/uk-news/simba-tiny-puppy-whose-short-13623737

⁹ Those that breed less than three litters from three breeding bitches in any calendar year and are therefore not required to have a licence.

¹⁰ www.battersea.org.uk/battersea%E2%80%99s-new-report-exposes-murky-world-dog-breeding

¹¹ www.irishmirror.ie/man-who-jailed-animal-cruelty-14044234

UK - with one case of a 'rescue' selling dogs, with very poor welfare, for much higher prices than a legitimate rescue would seek to charge¹².

Recommendation: Introduce a regulation governing sanctuaries: how they are defined and are to be run, as has long been campaigned for by the RSPCA¹³ and the AWW¹⁴, and then ensure AWEs are also clearly defined within the regulations that prohibit third party sales but permit AWEs to rehome puppies and kittens.

QUESTION 2: DO YOU THINK THAT A BAN SHOULD APPLY TO ANY OTHER ANIMALS SOLD IN PET SHOPS?

PLEASE EXPLAIN THE REASON FOR YOUR ANSWER INCLUDING WHICH ANIMALS AND PROVIDE SUPPORTING EVIDENCE.

In Wales, 47 percent of households own at least one pet, with dogs and cats making up the larger proportion of pet species at 62 percent and 39 percent respectively¹⁵. While dogs and cats are therefore likely traded in greater numbers, there is a strong argument that all pets require the same protection and indeed the Animal Welfare Act does not seek to differentiate in its protections which extend to all animals under the care of man. It is also noted that Scotland is considering including rabbits within a proposed ban on third party sales, and given that the Welsh Government was the first to seek to improve the protection offered in law for rabbits through the introduction of a unique code of practice in 2009, the RSPCA would urge the Welsh Government to consider mirroring this extension and indeed encompassing all pet animals which need protection from unscrupulous breeders and traders.

QUESTION 3: ARE THERE ANY MEASURES WHICH COULD BE INTRODUCED, OTHER THAN A BAN, WHICH COULD ADDRESS THE WELFARE PROBLEMS ASSOCIATED WITH COMMERCIAL THIRD PARTY SELLERS?

PLEASE EXPLAIN THE REASONS FOR YOUR ANSWER AND PROVIDE ANY SUPPORTING EVIDENCE

The RSPCA does not believe that there are alternative ways to address the welfare concerns inherent within a system that permits third party sellers to trade in animals. However the ban on third party sales, which the RSPCA fully supports, is not the only measure needed in order to tackle the hugely significant problems within the wider production of puppies and kittens for market. In addition to ensuring any potential loopholes to a ban on third party sales are addressed (please see Q1), the RSPCA has detailed the many concerns we have regarding the breeding of animals as pets and these are contained within our response to the previous consultation on this issue¹⁶ as well as within the Animal Health & Welfare Framework Group's recent review of dog breeding¹⁷. As mentioned above the RSPCA also supports an amendment to the minimum import age of a dog to 24 weeks as it would confine the market to the puppies produced within the UK; the breeding standards for which can be scrutinised and amended by each government.

¹² www.mirror.co.uk/news/pet-store-inspectors-move-after-22170385

¹³ www.politicalanimal.org.uk/topics/wales/awes/

¹⁴ www.awnwales.org/wp-content/uploads/2013/03/AWE-report-final.pdf

¹⁵ Welsh Government, National Survey for Wales 2014-15: Pet welfare

www.gov.wales/sites/default/files/statistics-and-research/2019-03/national-survey-wales-pet-welfare-2014-15.pdf

¹⁶ www.politicalanimal.org.uk/wp-content/uploads/2020/01/Welsh-Government-Third-Party-Sales-Consultation-RSP-CA-Response-May-2019-2.pdf

¹⁷ www.gov.wales/sites/default/files/publications/2020-03/dog-breeding-review-of-animal-welfare-breeding-of-dogs-wales-regulations-2014.pdf

Enhancing existing welfare standards and both introducing and increasing oversight to the pet breeding industry is crucial to tackling poor welfare conditions in dog and cat breeding (and in fact all species) and securing public confidence. It is important to do so in a way that enables, and not complicates, enforcement. And as a commercial enterprise, the licence fee for all breeders should be as sufficient as is needed to pay for the scrutiny and ongoing inspection of premises, so that there is no burden on the public purse.

QUESTION 4: SANCTUARIES AND REHOMING CENTRES ARE NOT LEGALLY DEFINED BUT WE WILL REFER TO THEM AS ANIMAL WELFARE ESTABLISHMENTS FOR THE PURPOSE OF THIS CONSULTATION. THEY CHARGE A FEE FOR THE REHOMING OF ANIMALS IN THEIR CARE (BUT ARE EXEMPT FROM CURRENT PET SHOP LICENSING BECAUSE THEY ARE NOT COMMERCIAL IN NATURE). THERE IS NO LEGAL REQUIREMENTS FOR CHECKS TO BE UNDERTAKEN AND GENERALLY SPEAKING, ROUTINE CHECKS ARE NOT CARRIED OUT BY LOCAL AUTHORITIES AT THESE ESTABLISHMENTS.

FURTHER, WE HAVE CONCERNS THAT THIS MAY LEAVE A LOOPHOLE IN THE LEGISLATION TO AVOID A POSSIBLE BAN.

DO YOU THINK THERE SHOULD BE CLOSER SCRUTINY OF ANIMAL WELFARE ESTABLISHMENTS IN WALES?

PLEASE EXPLAIN THE REASON FOR YOUR ANSWER AND PROVIDE ANY SUPPORTING EVIDENCE

The RSPCA¹⁸ and the AWW¹⁹ have long campaigned for the regulation of animal sanctuaries, rescues and centres, which are referred to as ‘Animal Welfare Establishments’ (AWEs). Our response to the previous consultation on third party sales, as well as the aforementioned RSPCA and AWW reports and documents provide the fuller detail. But as has been seen through the innovative work of the AWW on this subject (supported by its diverse membership), the animal rescue ‘sector’ is effectively calling for the regulation of itself in order to better protect: animal welfare; the legitimate AWEs with good standards of welfare; and public confidence in the sector. This is also supported by the public - in a poll commissioned by the RSPCA in Wales, 69 percent wished to see sanctuaries regulated²⁰ and only eight percent opposed it²¹. Investigations into problem AWEs are often prevented through the lack of any regulatory system that would grant regular access to the local authority. Even where some cases are successful at removing and protecting the affected animals, such as in the case of Capricorn in North Wales²², this has followed a protracted investigation by multiple stakeholders and may still not achieve the desired outcome. Regulation through a system of licensing would prevent these situations occurring and greatly reduce the burden on local authorities, RSPCA and equine charities in particular who work to try to resolve these situations, with little or no power, often for many months and years, and usually in an undisclosed way due to the legalities involved.

The Voluntary Code of Practice for AWEs, produced by the AWW in 2018 on behalf of the Welsh Government, is the first of its kind and provides an opportunity to demonstrate how complex and specialist operating an animal rescue should be. The Code provides critical information on animal welfare and governance standards for those working in the rescue sector but also for enforcers whose

¹⁸ www.politicalanimal.org.uk/topics/wales/awes/

¹⁹ www.awnwales.org/wp-content/uploads/2013/03/AWE-report-final.pdf

²⁰ Which may also reflect the fact that many members of the public wrongly assume that sanctuaries must already be regulated or subject to some form of oversight.

²¹ All figures, unless otherwise stated, are from YouGov Plc. Total sample size was 1,012 Welsh adults. Fieldwork was undertaken between 18th–22nd July 2013. The survey was carried out online. The figures have been weighted and are representative (politically) of all Welsh adults (aged 18+).

²² www.dailypost.co.uk/news/north-wales-news/how-crisis-capricorn-animal-rescue-15473460

expertise may lie in other disciplines; as well as for the criminal justice system (on the rare occasion a prosecution of a poor AWE reaches court). Ultimately, however, it needs to be a statutory code underpinned by a regulatory system of licensing in order to truly protect animals in AWEs. The RSPCA firmly believes that the case for regulation has been made out through our work with the AWW and it is only further underlined by the need to now define AWEs within a third party sales ban in order to close any loopholes criminals and unscrupulous breeders will look to exploit.

QUESTION 5: DO YOU THINK SANCTUARIES/REHOMING RESCUE CENTRES SHOULD BE CLASSED AS COMMERCIAL THIRD PARTY SELLER IN WALES AND BE LICENSED?

PLEASE EXPLAIN THE REASON FOR YOUR ANSWER AND PROVIDE ANY SUPPORTING EVIDENCE.

No, rescue centres are not third party sellers. As has been discussed elsewhere in this document and previous, the RSPCA strongly believes that AWEs should be licensed. It is preferable that the form of licensing should be within standalone regulations designed specifically for AWEs and that look to incorporate the other problems understood to be a factor within the rescue sector as well as make statutory the Voluntary Code of Practice. Once this was achieved the legislation to ban third party sales can provide the appropriate exemption for legitimate, licensed AWEs. Failing that, or by way of an interim measure, the RSPCA would support the licensing of AWEs through the third party ban to ensure no loopholes are created.

QUESTION 6: WE WOULD LIKE TO KNOW YOUR VIEWS ON THE EFFECTS THAT A BAN ON COMMERCIAL THIRD PARTY SALES MAY HAVE ON PEOPLE WITH PROTECTED CHARACTERISTICS AS DEFINED IN THE EQUALITY ACT 2010. THE CHARACTERISTICS ARE:

- AGE;
- DISABILITY;
- GENDER REASSIGNMENT;
- MARRIAGE AND CIVIL PARTNERSHIP;
- PREGNANCY AND MATERNITY;
- RACE;
- RELIGION OR BELIEF;
- SEX; AND
- SEXUAL ORIENTATION.

WHAT EFFECTS DO YOU THINK THERE WOULD BE?

The RSPCA is not aware of any effects upon any of the protected characteristics arising from a ban on the third party sale of puppies and kittens.

QUESTION 7: WE WOULD LIKE TO KNOW YOUR VIEWS ON WHETHER THE BAN ON COMMERCIAL THIRD PARTY SALES COULD OFFER ANY OPPORTUNITIES TO REVERSE THE DECLINE OF BIODIVERSITY IN WALES, IN LICE WITH THE WALES NATURE RECOVERY ACTION PLAN.

WHAT EFFECTS DO YOU THINK THERE WOULD BE?

The RSPCA is not aware of any potential effects - positive or negative - upon biodiversity arising from a ban on the third party sale of puppies and kittens.

QUESTION 8: WE WOULD LIKE TO KNOW YOUR VIEWS ON THE EFFECTS THAT BANNING THIRD PARTY SALES OF PUPPIES AND KITTENS WOULD HAVE ON THE WELSH LANGUAGE,

SPECIFICALLY ON OPPORTUNITIES FOR PEOPLE TO USE WELSH AND ON TREATING THE WELSH LANGUAGE NO LESS FAVOURABLY THAN ENGLISH.

WHAT EFFECTS DO YOU THINK THERE WOULD BE? HOW POSITIVE EFFECTS COULD BE INCREASED, OR NEGATIVE EFFECTS BE MITIGATED?

PLEASE ALSO EXPLAIN HOW YOU BELIEVE A CHANGE IN POLICY COULD BE FORMULATED OR CHANGED SO AS TO HAVE POSITIVE EFFECTS OR INCREASED POSITIVE EFFECTS ON OPPORTUNITIES FOR PEOPLE TO USE THE WELSH LANGUAGE AND ON TREATING THE WELSH LANGUAGE NO LESS FAVOURABLY THAN THE ENGLISH LANGUAGE, AND ON TREATING THE WELSH LANGUAGE NO LESS FAVOURABLY THAN THE ENGLISH LANGUAGE

The RSPCA is not aware of any impacts or opportunities in relation to the Welsh language arising from a ban on the third party sale of puppies and kittens.

QUESTION 9: WE HAVE ASKED A NUMBER OF SPECIFIC QUESTIONS. IF YOU HAVE ANY RELATED ISSUES WHICH WE HAVE NOT ASKED OR HAVE ANY COMMENTS PLEASE USE THIS SPACE TO REPORT THEM.

PLEASE PROVIDE AS MUCH DETAIL AS POSSIBLE AND ANY SUPPORTING EVIDENCE.

For reasons previously outlined the RSPCA also wishes to see the ban extend to dogs and cats of all ages so that it is easier for members of the public - who are unlikely to be able to age a dog/puppy or cat/kitten themselves - to understand what is or isn't a legitimate sale/transfer of ownership.

Whilst the ban in England hasn't been in place for a sufficient period to comprehensively determine its strengths and weaknesses, its impact thus far is thought to have been low. During the time since its implementation, and largely attributable to the pandemic, more people at home full time have sought the companionship of a pet. Between 23 March 23 and 19 July of this year, the RSPCA's Find a Pet section of the website had 3,843,089 unique views compared to 1,768,131 in the same period the previous year, which is a rise of 117%. In addition, our fostering page had 215,000 unique visits in the same period compared to 40,566 during the same period in 2019 which is a staggering 430% increase. It has also become a seller's market with demand, for dogs in particular, far outstripping supply, and thus prices have increased. The RSPCA is hearing cases of puppies changing hands regularly for figures well into the thousands, not hundreds²³. May 2020 also saw the biggest drop in the transportation of animals under PETS²⁴, which is clearly due to travel restrictions, but there was also one of the biggest ever increases in licences issued for the commercial import of dogs during that same period of time²⁵ suggesting that dealers have essentially continued with business as usual, no doubt driven by a market that is offering much higher financial rewards. In turn these lucrative profits may also be fueling the illegal trade²⁶.

²³ news.sky.com/story/coronavirus-fears-over-dog-smuggling-as-lockdown-puppy-prices-rise-by-up-to-89-12048005

²⁴ www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-06-01/52516/

²⁵ www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-06-01/52515/

²⁶ www.inyourarea.co.uk/news/liverpool-mp-warns-on-danger-of-illegal-puppy-trade/amp/