



Ref: P-04-398
Attention of:
Committee Clerk
Petitions Committee
National Assembly for Wales,
Cardiff Bay
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Dear Mr Powell

**Petitions committee consultation: Animal Offenders Register
Response by Cats Protection: March 2013**

Thank you for consulting Cats Protection with regard to this petition under cover of your letter of 27 February 2013, addressed to Peter Hepburn our Chief Executive. He has passed this to me as Advocacy Manager to collate our submission. We are pleased to submit our response as below to the consultation questions.

Introduction

Cats Protection (CP) is the UK's leading feline welfare charity. We have approximately 7000 cats in our care at any one time across the UK. Our work is centred on homing, neutering and education and is supported by 252 voluntary branches, and over 8700 volunteers and supporters. CP has 20 centrally run and staffed Adoption Centres, 5 staffed Branch Adoption Centres and 5 unstaffed Branch Adoption Centres. The majority of our Adoption Centres are staffed with the support of volunteers. In 2011 CP rehomed and reunited 48,000 cats.

In Wales we have 7 volunteer branches plus 2 Adoption Centres (Bridgend and Wrexham). We also run 3 branch shops in Llandudno, Swansea and Wrexham. In Wales we helped just over 13,400 cats in 2011.

We welcome any deliberations and policy proposals aimed at improving animal welfare and deterring animal cruelty offences in Wales. We are pleased to submit our views on a potential animal offenders register for Wales as the issue of animal welfare, and preventing any occurrence or reoccurrence of cruelty to an animal, is of great concern to CP and its volunteers and supporters, both in Wales and across the UK.

CP's rehoming work is done through its Adoption Centres and a UK network of branches. The branches are entirely volunteer run and the majority of Adoption Centres are staffed with the support of volunteers. Currently our staff and volunteers have no formal way of checking whether someone who comes to adopt a cat from us has been convicted or cautioned regarding an animal welfare offence. We ask questions of all adopters to determine their suitability to home a cat (past experience, current home environment, other pets, children) to

determine if they could offer a long term suitable home. Our process involves taking steps to match a cat to a suitable environment so that the chance of the cat coming back into our care is limited.

Our Adoption Form also asks the adopter to confirm and declare that they have never been convicted of an animal welfare offence. It is a term of the adoption agreement that this is the case and we consider it a breach of that agreement if the adopter does take a cat under false pretences. In such cases we would ask for the cat to be returned to us.

As an animal welfare charity we sympathise with the intention of this petition entirely. RSPCA Wales statistics show that in 2011 84 people were convicted for animal cruelty in Wales, a rise of 31 % from the 2010 figures. It is concerning that offences are on the rise. We agree that it would be desirable to reduce these offences and therefore a Welsh offenders register would be desirable if it helped ensure such a reduction. The intention of this proposal is that breeders and sellers would check an animal offenders database to find out if a person who had a conviction and/or ban from keeping animals was seeking to obtain another animal. If the register showed the person was an offender than the sale would be refused. In theory, a register acting in this way would not only prevent offenders obtaining animals and reoffending but the existence of the database might also act as a disincentive – thus also helping to reduce the number of animal cruelty incidents occurring throughout Wales.

As outlined in the submissions of Blue Cross and RSPCA Wales, we can see the merits of the proposed database system; including the wider animal welfare benefits. However, we also have a number of concerns relating to the practical implications of this proposal, potential administrative burden on users, costs and workability of such a system. We hope the comments below are helpful.

Committee questions

The risks and benefits of creating an Animal Offenders Register for Wales.

Benefits

The very existence of an animal offenders register might serve as an additional deterrent for convicted offenders considering obtaining another animal and then reoffending. However, the extent to which it did act as a deterrent may be hard to assess. There will be those offenders who avoid the register in some way, a point we return to later. In theory our Adoption centres and branches would be able to use the database as part of the assessment of an adopter's suitability but, in practice, this may not be possible across CP's network for a range of resource, training and operational reasons which we detail below.

Risks

Currently the deterrent for an animal welfare offence leads to a range of penalties including a conviction and/or a ban on keeping animals, imprisonment or a fine. However, those cautioned, (47 in Wales in 2011) would not be on the proposed register (which relates only to convictions) so it would have no bearing on them "offending".

RSPCA Wales have clarified that their main goal for severe cases of animal cruelty is to secure a ban on an offender keeping further animals (to prevent re-offending) and a custodial sentence if appropriate. If this proposal were taken further we would recommend further research amongst offenders into effective deterrents and whether making it harder to obtain another animal is an effective deterrent for someone determined to reoffend. We suspect that if a person is determined they would find a way to avoid the register – for

example by asking a third party to obtain an animal for them from a breeder or seller or elsewhere.

A major risk of the proposal in this petition is the risk, and potential likelihood, of mechanisms being created to avoid the register so as to make it less effective.

We support the comments made by RSPCA Wales that if the proposal in this petition were taken forward it would be illogical to confine its application to pet shops or breeders. If the intention is to ensure that those who have committed an offence against an animal are stopped, insofar as is possible, from obtaining another animals to which they may do harm, the register would need to be extended to all those places where animals could be obtained (and this would include animal rescues and charities). Even with this extension of the proposal there would still remain the opportunity for a determined person to obtain an animal via the internet and/or a private transaction or from a friend or neighbour. This brings into question the effectiveness of a register.

Another risk, identified by other respondents to the petition, is that of vigilante attacks on identified offenders. Much would depend on how much information was divulged from a search of the offenders register – and we would agree that if a search simply produced a result i.e. offence yes or no, then this would avoid risks of personal data being used by vigilantes.

Another risk which we identify is that many breeders or sellers would perhaps breach the duty to check the register on sales; perhaps not intentionally but due to computer crashes, shortage of staff or ignorance of the requirements of the register. There will also be breeders who deliberately fail to check the register. Any system to spot check compliance risks being disproportionate, through expense or burden on the organisation charged with checking.

The legal and practical implications of placing a duty on sellers/breeders to consult a register

Legal

We agree that if any register were maintained it is right for it to focus on convictions. Clearly as a matter of law, a person cannot be barred from obtaining another pet based on having been investigated and/or cautioned. Other respondents (particularly RSPCA and Blue Cross) have questioned how breeders and sellers would be checked for compliance with their legal duty to check the offenders register. We agree with the points they raise, particularly regarding the potential costs, and indeed efficacy, of “spot checks” on breeders and sellers. Also, it would be imperative that the register were maintained and regularly updated to prevent challenges in cases where, for example, a person was refused an animal and disputed the fact of his conviction and entry on the register.

Placing a legal duty on CP staff, but more particularly its volunteers, to consult a register would, we feel, be disproportionate and unworkable for the practical reasons below.

Practical issues

CP operates its rehoming through its Adoption Centres and volunteer run branches – of which there are 252. Branches either foster cats for adoption in their houses, and/or pens in their garden. Our cats are therefore homed from literally hundreds of sites of varying types. Although many branch fosterers do have computers in their homes they are not necessarily used for CP business. Some of our volunteer fosterers may not have access to a computer at home at all and/or might not be familiar with using computers.

If CP were obliged to provide all volunteers with access to an online system this would necessitate significant costs and potentially provision of literally hundreds of computers or a system of phone calls to get a colleague to do a register check. It would necessitate briefing and training all volunteers about how to search the register, what to do with search results and so forth. We know that currently branches use their own common sense when rehoming, asking questions about an adopter's reasons for adopting or home circumstances. All adopters complete an adoption form at the point of adoption. Our adoption form asks the adopter to confirm and declare that they have never been convicted of an animal welfare offence. It is a term of the adoption agreement with adopters that this is the case.

The alternative to an online register system would be some sort of paper based system and as Blue Cross point out this may well be impractical due to it being slow and overburdening with regard to administration, completion, postage, return. It also would be unduly cumbersome. With only 84 convictions and 47 cautions in Wales in 2011 it needs to be borne in mind that in terms of animal welfare the greater good may well be achieved by not placing a disproportionately administrative and burdensome offenders register system in place. Resources might be better spent elsewhere in animal welfare, for example on securing more prosecutions for animal welfare offences.

In addition to the costs issue we support those who express concerns about how and who would fund the checking of the register itself. We agree with comments that to ask the adopter to pay a checking fee is unworkable. Our adoption fees do not cover all of the costs which the charity expends (vet care, neutering, microchipping, cat care) in caring for our cats up to the point of adoption. If we were to pass on the additional cost of arranging for our staff and volunteers to check the offenders register to the adopter we would risk making our adoption fees even less proportionate. An increased fee risks deterring adopters from adopting a cat from us and from other welfare charities operating similarly to ourselves. If adopters were deterred this would in turn create longer waiting lists for cats coming into our care (because we would have no space for them). Currently, for every call CP receives to our National helpline seeking to adopt a cat we have 10 calls asking us to take in a cat. Our Bridgend centre is full to capacity. If an enhanced fee were introduced there is a significant risk of CP rehoming far fewer cats in Wales.

If the costs of compliance with the database were to be borne by animal welfare charities themselves another option would be for CP and others to absorb the costs rather than pass them onto the adopter. Again this would reduce funding available for our core work of homing, neutering and education and seriously undermine our capacity in Wales

Policing, ensuring compliance to consult the register

Whilst it is important to try and ensure the register is used as intended, we question whether there will be 100% compliance. Policing and ensuring compliance will require resources and risks likely to be disproportionate to the benefits of consulting the register.

In the case of pet shops the duty to check compliance might fall to Local Authorities and be linked to renewal of pet shop licences etc. Local Authorities will no doubt have views on the feasibility of this given their stretched and declining local authority budgets.

Expenditure on compliance may be missing the core point that a determined animal cruelty offender, if declined an animal from a pet shop or breeder, may then simply obtain an animal from elsewhere, for example from a friend, relative, pick up a stray cat, go on the internet and buy privately.

It is arguable that public resources may be better spent on carrying out more investigations into cruelty complaints and increasing potential for cautions and prosecutions. Other respondents have also mentioned that criminological research into the benefits of rehabilitating offenders and possibilities for restorative justice may be a more effective use of funds and better deliver the objective of reducing instances of offenders re-offending.

Penalties for non- compliance (offenders and sellers/breeders)

See our earlier comments regarding non-compliance with the duty on sellers/breeders to check the register.

CP is not in a position to comment on appropriate penalties other than to say that if the obligation to consult the register is extended to animal welfare charities then fines (for failing to consult) would seem potentially disproportionate and unfair on-charities. Such fines would take away much needed resources from charities and harm their key work.

If an offender is subject to a ban and tries to purchase an animal an appropriate penalty for the offender would need to be considered but we defer to the enforcement agencies and courts to advise on this.

Cross border

We welcome the initiative taken by the Welsh Assembly to investigate the feasibility of an offenders register. This is an important issue in Wales and across the UK and it is important to seek views on solutions including the potential of an offenders register. The Welsh Government has been especially ground breaking on many animal welfare issues, most recently with its proposals regarding the control of dangerous dogs with regard to attacks on other animals including cats. We welcome the leading and pioneering role that the Welsh Government is taking with regard to animal welfare issues.

Blue Cross and others have referred to several potential cross border issues related to a register in Wales with which we agree. A person convicted of an animal welfare offence may then cross the border from Wales to deliberately avoid being picked up by the Welsh register when they purchase another animal.

Also, if a person were to purchase a pet in Wales who has been convicted of an animal welfare offence in another part of the UK then this person would not be recorded on the Welsh register. This may be an issue that could be overcome if information were exchanged cross border between enforcement agencies.

Conclusion

CP understands and supports the desired outcome of the proposed animal cruelty offender register as outlined in this petition. As a welfare charity we support any measures that would reduce animal suffering through cruelty or a breach of the duty of care. However, we have significant concerns about whether the proposal in this petition would achieve the desired objective, chiefly because of the numerous ways an offender could avoid the register if he or she were determined to obtain an animal and then reoffend. We are also concerned that the mere existence of the register would not necessarily serve as any significant deterrent to a determined person.

Animal welfare charities would logically need to be subject to the duty to inspect any offenders' register in order to make the register truly effective and to seek to limit offences against animals. However, a key concern is that the practical effect of including animal

charities (both large and small) in these proposals appears disproportionate given the numbers of convictions for offences against animals in Wales and risks placing undue stresses and administrative burdens on charities to the detriment of their core work to protect and rehome animals. If fewer animals were taken in and rehomed by charities as an indirect result of the duties placed on them under these proposals, there is the further risk that those excess animals may be abandoned and/or mistreated.

We have considered whether a register would be workable for CP if the duty to check a register were extended to animal welfare charities such as ourselves. We are of the view that for us, as a charity with high numbers of volunteers doing day to day homing and adoption work in multiple locations, the proposals would risk being unworkable. Implementation would also risk being disproportionately costly in terms of administration and resources relative to the potential benefit for cat welfare overall in Wales. We would welcome, and would be pleased to input into, further consideration by the Assembly of any future proposals or initiatives to reduce animal offences in Wales.

For further information about this submission or any aspect of our work please do not hesitate to contact us.

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