Explanatory Memorandum to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014. I am satisfied that the animal welfare benefits justify the likely costs.

Alun Davies AM
Minister for Natural Resources and Food

DATE: 19 June 2014

1. Description

These Regulations provide for the licensing of persons involved in the breeding of dogs by their local authority. This replaces the requirement to obtain a licence under the Breeding of Dogs Act 1973 (as amended) in Wales.

The Regulations set out how a person may apply to the local authority for a licence and set out matters on which a local authority must be satisfied when considering the granting and renewing of a licence. This includes the local authority's duty to have regard to guidance issued by the Welsh Ministers in carrying out their functions under these Regulations.

The Regulations:

- provide for a local authority to charge fees to cover any reasonable expenses incurred in performing this function and for monitoring compliance with these Regulations;

- set out circumstances in which a licence may be suspended, varied or revoked and provides for appeals against licensing decisions by local authorities. A breach of a condition of a licence granted under these Regulations is an offence;

- provide powers for inspectors to take samples and enter premises and applies relevant post conviction powers contained in the Animal Welfare Act 2006;

- provide for local authorities to enforce the Regulations; and

- provide that licences granted under the Breeding of Dogs Act 1973 continue to have effect as if granted under these Regulations.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

These Regulations address the comments made by the Constitutional and Legislative Affairs Committee in respect of the draft Regulations laid on 11 June 2013 and subsequently withdrawn 5 July 2013.

3. Legislative background

Section 13 of The Animal Welfare Act 2006 created the power for the National Assembly for Wales to repeal the Breeding of Dogs Act 1973 and replace it with new Regulations in relation to Wales. Those powers are now vested in the Welsh Ministers by operation of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

The power to make new Regulations must be exercised for the purpose of promoting the welfare of animals. Section 13 also requires that the Welsh

Ministers consult with persons appearing to them to represent any interests concerned prior to exercising the power.

The Regulations are subject to approval of the National Assembly by affirmative resolution by virtue of section 61 of the Animal Welfare Act 2006 and section 162 of and paragraph 34 of Schedule 11 to the Government of Wales Act 2006.

The Regulations repeal section 1(1) of the Breeding of Dogs Act 1973 and makes consequential amendments to the:

- Local Government (Wales) Act 1994;
- Guard Dogs Act 1975;
- Dangerous Wild Animals Act 1976; and
- Zoo Licensing Act 1981

4. Purpose & intended effect of the legislation

The existing Breeding of Dogs Act 1973 (as amended) was made over 40 years ago and set out the requirements for licensing which are based upon a breeder producing 5 or more litters per annum.

Modern science and changes in animal welfare legislation suggests that higher animal welfare standards are required. Existing dog breeding establishments have come under intense scrutiny in recent years due to the increased number of high profile incidents where puppies were being bred in inappropriate conditions. Television programmes such as Byd Ar Bedwar, The One Show, Week In Week Out and Rogue Traders have all investigated alleged unscrupulous breeders across Wales. Campaign groups such as Puppy Love, Puppy Alert, CARIAD and the Advisory Council on the Welfare Issues of Dog Breeding have been set up amongst other things, to raise awareness of puppy breeding with the general public and UK Governments. There has also been a strong veterinary input via the British Veterinary Association and others to the debate.

Research carried out under the Companion Animal Welfare Enhancement Scheme (CAWES)[1] reported that, as of 31st March 2011, there were 251 licensed dog breeding establishments in Wales, along with 149 premises that meet the licensing criteria under the 1973 Act and should be but are not licensed and a further1587 that do not meet the licensing threshold under the current legislative requirements (further investigation by local authorities on

[1] A Welsh Government funded programme from 2008 to 2011 aimed at establishing a baseline of data on companion animal welfare. It also included research e.g. on dogs, cats, pet shops, equines, developed a schools programme and created third sector/local authority/ Welsh Government forums on animal welfare related topics.

unlicensed premises has either placed them in the exempt category or they have become licenced).

The Animal Welfare Act 2006 came into force in Wales on 27 March 2007 and the proposed Regulations are coming forward under Section 13 of that Act. The overarching policy intent is to improve the welfare standards within establishments and facilities that breed dogs.

The main policy proposals within the new Regulations include:

- tighter licensing criteria;
- the requirement to microchip all dogs on the premises and puppies before they are 56 days old;
- a staff: adult dog ratio which has a minimum staff requirement;
- standardising the minimum age a puppy can leave the breeding premises; and
- the need for breeding establishments to introduce socialisation, and environmental enrichment and enhancement programmes.

In developing the above policy proposals from the Task and Finish Group on Dog Breeding and the responses from consultation, the Welsh Government has striven to find the right balance on introducing appropriate standards to existing and future licensed dog breeders and providing much needed provision to enhance the health and welfare of breeding bitches, stud dogs and their offspring. Another aim was to deter individuals from operating any illegal dog breeding activity and the financial details provided to the Welsh Government following the first consultation have been utilised.

A draft Regulatory Impact Assessment (RIA) formed part of the second and third consultations. The third consultation included a specific request for respondents to provide any robust evidence to support their assertions, including case studies and any relevant financial evidence which the Welsh Government could use to make it final decision. None was forthcoming.

5. Consultation

Details of consultations undertaken are included in the RIA set out in Part 2.

PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)

This RIA contains a best estimate of the likely costs associated with the Regulations.

In November 2009 a Task and Finish Group was set up to examine the need to update the Breeding of Dogs Act 1973 (as amended) to reflect the "five needs" as identified in the Animal Welfare Act 2006. Since then there has been three public consultations on these Regulatory proposals which have included requests for additional data to inform the RIA. In addition, all local authorities in Wales and a number of animal welfare organisations have been contacted directly to provide information to inform this RIA.

Following this work there still remains a degree of uncertainty in some areas and a number of assumptions have had to be made when developing the cost estimates. Appendix B contains sensitivity analysis testing the impact on costs of altering some of the key assumptions.

Options

Three options have been considered, these are:

- Option 1: Do Nothing.
- Option 2: Licensing of all dog breeders in Wales.
- Option 3: Licensing of all dog breeders in Wales that operate above a determined threshold.

Option 1

This is the 'Do Nothing' option and maintains the current policy position in which all dog breeders producing five or more litters per annum are required to obtain a license from their local authority.

Option 2

In this option, Regulations would be introduced that required all dog breeders to be licensed. This would include those breeders with just a single breeding bitch and those owners whose bitch was mated accidently.

This option was initially considered by the Task and Finish Group on Dog Breeding However, this will have significant implications for enforcement officials who are already stretched and is not considered to be a proportionate approach to the problem. Whilst this option would perhaps encourage owners who do not wish to be licenced to be more responsible (for example, by neutering their animal(s)), it is not seen as a realistic option due to the difficulties that might be encountered in an enforcement action.

Option 3

Under Option 3, Regulations would be introduced that would require any person or persons who breed dogs, and who operate above a determined threshold to be licensed. This is consistent with the structure of the current legislation, the Breeding of Dogs Act 1973 (as amended), however, the threshold will be reduced from five or more litters per annum to three or more litters per annum. This option also introduces stricter licensing requirements to meet the objective of raising welfare standards.

Costs & benefits

Option 1 – Do Nothing

This option maintains the existing licensing regime and requirements, there are therefore no additional costs associated with this option.

Option 2 - Licensing of all dog breeders in Wales

The Task and Finish Group on Dog Breeding initially considered the viability of introducing Regulations that would make anybody who bred just one litter eligible for licensing. However, this would have massive implications for enforcement officials, and could result in dog owners who have breeding bitches that are mated accidentally, requiring a licence. Whilst it would perhaps encourage owners to be more responsible (for example, by neutering their animal(s), this was not seen as a realistic option due to the difficulties that might be encountered in licensing and enforcement action.

Option 3 - Licensing of all dog breeders in Wales that operate above a determined threshold.

Welsh Government

There will be an upfront cost to Welsh Government associated with developing and disseminating guidance for local authorities on the new Regulations. The cost of these activities is estimated to be £1000.

This would include communicating the change in Regulations to stakeholders,

Local Authorities

This option is expected to result in an increase in the administration, inspection, monitoring and enforcement costs incurred by local authorities. Since over 65% of the 22 local authorities are already applying the 'Model Licensing Conditions' the additional costs will largely relate to the additional breeders that will need to be licensed in the future (i.e. those producing 3 or 4 litters each year).

Determining the increase in the number of dog breeders that will need to be licensed under the new Regulations is not straightforward. Since the breeders do not currently require a license, local authorities do not collect data on or

monitor the activities of breeders producing 3 or 4 litters each year. The best available data of the number of unlicensed dog breeders in Wales (i.e. those not captured by the existing Regulations) is from the Companion Animal Welfare Enhancement Scheme (CAWES)[2] and The Kennel Club.

CAWES reported that, as of 31st March 2011, there were 1587 breeders that were exempt from the current legislative requirements.

The Kennel Club (KC) has 168 members in Wales who bred three or four litters in 2013. It is estimated that membership of the Kennel Club stands at 33% of the total UK dog population. Assuming that a broadly equivalent proportion of small scale breeders are members of the Kennel Club suggests that approximately 500 additional breeders may now come within scope of the new regulations. This estimation assumes that no breeders will reduce the number of breeding bitches they own to avoid having to obtain a license.

A local authority report[3] states that the average cost for inspecting and licensing a dog breeding establishment in Wales is approximately £130. For the additional 500 breeders that will need to be licensed under this option, this equates to an additional cost of approximately £65,000. The figures presented here are based on each establishment only requiring a single visit, the cost would be increased if an additional visit or subsequent further action was required.

Legislation under the current Breeding of Dogs Act 1973 already allows for a cost neutral approach to be set through the charging of licence fees which are set by individual local authorities. Similarly, under the new Regulations it will be at each local authority's discretion as to how they handle the fee level in complying with the requirements to raise standards. Any increase in the volume of licence applications caused by the tightening of breeding criteria will also result in additional licence application revenue (see below).

Existing Licensed Dog Breeders

The latest data from local authorities shows that there were 247 licensed dog breeders operating in Wales in 2013-14 with 5025 breeding bitches on their premises. The number of licenced premises per LA varies from zero up to 81. The majority of the large scale breeders are in West Wales.

[2] A Welsh Government funded programme from 2008 to 2011 aimed at establishing a baseline of data on companion animal welfare. It also included research e.g. on dogs, cats, pet shops, equines, developed a schools programme and created third sector/local authority/ Welsh Government forums on animal welfare related topics.

[3] Animal Establishment Licensing – Creating a Shared Service, Watts, N. and Amos, T, 2011.

License fees

These breeders will currently be paying a license fee, however, the LA questionnaire responses suggest a split with some LAs expecting license fees to remain the same and some intending to review license fees. The review is part of an ongoing evaluation of charges to and is not directly linked to the new Regulations

Microchipping

Under this option, breeders would be required to microchip their dogs and all puppies before they are 56 days old. The breeders will be able to choose between microchipping their animals themselves or taking the animal to a vet or other suitably trained implanter to have them microchipped. The cost an implanter charges for microchipping varies but it is typically between £10 and £30.

Data gathered from the industry suggests that a high proportion of breeders already microchip their puppies before they are sold. For the purposes of this RIA it is assumed that 50% of breeders currently microchip their puppies. For these breeders, the requirement in the Regulations to microchip puppies presents no additional cost.

Of those licensed breeders that currently microchip puppies, the majority are trained to do the microchipping themselves. Before a breeder will be allowed to microchip puppies, they will be required to undertake a training course, the cost of which is expected to be £174, this includes the cost of the course (£130) and the value of time spent by a breeder on the course (£44[4]). Each breeder will also need to purchase a scanner to enable them to read the information on the microchip at a cost of £80. Despite these up front costs, it is assumed to be more cost effective for large scale breeders to microchip the puppies themselves rather than take them to an implanter.

The additional upfront cost for the assumed 124 (50%) licensed breeders that do not currently microchip their puppies is estimated to be approximately £31,500.

In addition to this upfront cost, there will be an ongoing cost associated with having to purchase and implant the microchips. Enquiries of microchip suppliers suggest the cost of the microchips and registering dogs to implanters is £4-£7.50 per dog depending upon the supplier and size of the order for microchips including the cost of the microchip and registration of the breeders' details. Assuming that each licensed breeder has an average of 20 breeding bitches (the average for licensed breeders in Wales as a whole) and that each bitch has a litter of 5 puppies per annum, the additional cost to each breeder for the microchips is between £400 and £750 per annum. This equates to an

[4] The Annual Survey of Hours and Earnings, provisional results 2013, code 6131 (animal care and control service) gives £8.45 per hour. This has been increased by 30% to cover non-wage costs of labour (leave, employer NI contributions, etc.). A course will typically last 4 hours.

additional cost of between £49,600 and £93,000 per annum for the 124 licensed breeders that do not currently microchip their puppies.

Minimum staffing requirement

The Regulations will introduce a minimum staffing requirement for dog breeders, set at 1 full-time member of staff for every 20 adult dogs. Data received from local authorities across Wales suggests that there may be 30 licensed dog breeders that do not currently meet this minimum staffing requirement.

How breeders respond to this new requirement is likely to vary from one case to another. Some breeders may opt to reduce the number of adult dogs on their premises, they may enlist the help of an (unpaid) family member or they may recruit an additional employee to enable them to comply with the requirement.

Assuming that each breeder that does not meet the staffing requirement will employ one additional employee in order to comply and that a full-time employee on the National Minimum Wage earns approximately £12,000 per annum, suggests that the cost to the industry could be in the region of £360,000 per annum. For the reasons set out above, the actual cost to the industry may be significantly lower.

'Enhancement and enrichment' and 'Socialisation' programmes

The Regulations include a requirement for breeders to have 'Enhancement and enrichment' and 'Socialisation' programmes in place. This requirement is not expected to impose an additional cost on those breeders that are already operating to a high standard.

The 'Model Licensing Conditions' followed by 63% of the breeders include a requirement for the breeder to have these programmes in place. Local authorities have indicated that approximately 54% of breeders would need to improve their premises to meet this requirement.

Information provided by the Kennel Club suggests that the cost of developing acceptable 'Enhancement and enrichment' and 'socialisation' programmes is approximately £100 per average sized litter. For the 133 (54% of currently licensed breeders) breeders that would need to make these improvements and assuming an average of 20 breeding bitches each having one litter per annum, this equates to an additional cost of £2,000 per annum per breeder or a total of £266,000 per annum. As noted above, it is only those breeders that are not currently operating to high standard that would incur this additional cost.

Existing breeders who will meet the licencing threshold in the new Regulations

As noted above, there is some uncertainty surrounding the number of additional dog breeders that will require a license as a result of the Regulations now

applying to breeders producing three or more litters per annum rather than five or more litters per annum. This is because local authorities are not currently required to collect data from or interact with these smaller breeders. Furthermore, those breeders currently producing three or four litters per annum may opt to cease or reduce their breeding activities in order to avoid the need to be licensed.

It is estimated that an additional 500 dog breeders in Wales will require a license under the new Regulations.

As with the current regulations, there is a risk that only the more responsible dog breeders will apply to be licensed. There will be a clear role for local authorities to ensure that all of the dog breeders that are operating above the specified threshold of breeding 3 or more litters per annum are captured and that it is not just the more responsible dog breeders that will incur the costs associated with these Regulations.

License fees

Data obtained from local authorities shows that the license fees they charge currently range from £80 to £255 for those with several breeding bitches. For these smaller breeders it is assumed that the cost of applying for a license and the license fee will be between £80 and £150 per annum. Based on the estimate of the number of additional breeders that will require a license (500), this suggests a cost to the industry of between £40,000 and £75,000 per annum.

This fee will be paid to the relevant local authority.

Microchipping

As with the currently licensed breeders, it is assumed that 50% of these smaller scale breeders will already be microchipping their puppies and that there will be no additional cost to these breeders. The remaining breeders will have the option of having a vet or other trained implanter to microchip their puppies or undertake training to enable them to microchip the puppies themselves. This decision is less clear cut for smaller breeders than the larger scale breeders and so it is assumed that 50% will undertake the microchipping themselves and 50% will take their puppies to a vet or another trained implanter.

The costs involved are as presented above namely £174 for training, £80 for a scanner and £4-£7.50 per animal where a breeder implants the microchip themselves or £10 - £30 if the breeder takes the animal to a vet or other implanter.

For the 125 breeders that are assumed to microchip their puppies themselves, there is an upfront cost of £31,750 for the training and scanner and a cost of approximately £8,750 - £16,400 per annum for the microchips.

For the 125 breeders that are assumed to take their puppies to a vet or another implanter to be microchipped the cost is approximately £21,900 to £65,600 per annum.

As noted above, Dogs Trust are currently running a microchipping campaign that will microchip all dogs and puppies for free. This would either be at an organised event or through an arrangement with a local vet. Breeders may also be able to pass the additional cost associated with microchipping the puppies on to the customer.

Minimum staffing requirement

The minimum staffing requirement set out in the Regulations is not expected to impact on these smaller breeders who will now come within scope.

Enhancement and enrichment' and 'Socialisation' programmes

The socialisation and enhancement requirements of a license will include activities such as exercise in various environments, introduction of low level noise, a suitable amount of human contact and play with suitable toys. It is likely that many of the small breeders who will now come within scope would already fulfil these requirements and possibly be operating in a home environment; therefore it is not expected to impose an additional cost to this group. Where a breeder has to implement an enhancement or socialisation programme the cost is estimated to be £100 per litter.

Sensitivity analysis is included in Appendix B to test the impact of changing some of the above assumptions.

Wider costs

All of the local authorities in Wales reported that their officer would be accompanied by a veterinary surgeon when they inspected dog breeding premises. By requiring more breeders in Wales to be licensed, this option will increase the burden on vets, however, the vets receive a commensurate fee for this work.

In addition, the increase in the number of breeders requiring a license may result in additional costs being incurred by the UK Justice System in dealing with cases of non-compliance. Evidence provided by local authorities suggests that there have been relatively few instances in which they have had to take enforcement action against dog breeders in recent years and where action has been taken it has tended to be in the form of improvement notices. There has only been one case in which a dog breeder has been taken to court since 2010 and they were unlicensed. The impact of this option on the UK Justice System is therefore expected to be minimal.

Summary of costs

Table 1 presents a summary of the costs identified above. The majority of the costs associated with these Regulations fall on the dog breeding industry itself. The cumulative costs have the potential to have a significant impact on individual businesses, particularly those businesses that need to employ additional staff to meet the minimum staff to adult dog ratio, those breeding lower value dogs and/or those with already marginal profitability. However, there is the potential for the breeders to pass at least some of the additional costs on to their customers (this will need to be balanced against the impact on demand). It is also worth noting that the largest additional costs will be incurred by those businesses that are not currently operating to the highest animal welfare standards.

Table 1. Summary of the estimated costs of the legislation

	2014-15	2015-16	2016-17	2017-18	2018-19
Welsh Government	**1,000**				
Local Authorities*	**65,000**	**65,000**	**65,000**	**65,000**	**65,000**
Existing Dog Breeders					
Microchipping Upfront	31,500				
Microchips	49,600 - 93,000	49,600 - 93,000	49,600 - 93,000	49,600 - 93,000	49,600 - 93,000
Minimum Staffing Requirement	360,000	360,000	360,000	360,000	360,000
Enhancement and Socialisation	266,000	266,000	266,000	266,000	266,000
Total	**707,100 - 750,500**	**675,600 - 719,000**	**675,600 - 719,000**	**675,600 - 719,000**	**675,600 - 719,000**
Newly licensed breeders					
License Fee**	40,000 - 75,000	40,000 - 75,000	40,000 - 75,000	40,000 - 75,000	40,000 - 75,000
Microchipping Upfront	31,750				
Microchips	30,650 - 82,000	30,650 - 82,000	30,650 - 82,000	30,650 - 82,000	30,650 - 82,000
Total	**102,400-188,750**	**70,650 - 157,000**	**70,650 - 157,000**	**70,650 - 157,000**	**70,650 - 157,000**
Total	**875,500 - 1,005,250**	**811,250 - 941,000**	**811,250 - 941,000**	**811,250 - 941,000**	**811,250 - 941,000**

* local authroities will receive a fee from breeders to cover at least part of this cost.

** This is a fee paid by the dog breeders to the local authorities to cover the cost of administering license applications and inspecting premises.

Benefits

The Breeding of Dogs Act 1973 (as amended) provides basic details on the construction and operation of dog breeding establishments. However there is a lack of clarity on the requirement in the 1973 Act. The new Regulations help to address this issue through the Statutory Guidance. It is important that all breeding establishments ensure they meet the "five needs" as set out in the Animal Welfare Act 2006.

A special project under the CAWES programme "An examination of the licensing of dog breeding establishments in Wales[5]" included the following information:

5 http://wales.gov.uk/topics/environmentcountryside/ahw/animalwelfare/pets/cawes/specialprojects/?lang=en

> ‘Breeda et al (1997) considered that poor and restricted housing conditions, noise and unpredictable social environments were highly likely to create symptoms of chronic stress in dogs. Breeda also observed more subtle behavioural indicators of distress, such as increased vocalisation and increased behaviour associated with fear and appeasement – snout licking, fore-paw lifting and lowered postures. In more severely affected dogs increased salivation, panting and repetitive behaviours were recognised.’
>
> ‘The environment external to the whelping pen becomes most significant to the puppy once the puppy’s neural development allows interaction with and adaptation to the environment from about 21 days old (Scott & Fuller 1965). This is probably the single most important time in the dog’s life relative to social interaction (Beaver 2009). It is at this stage that the young puppy becomes capable of seeking non-maternal social interaction and it is most receptive to its environment and capable of learning about it.’

In addition to the animal welfare benefits, CARIAD (Care and Respect Includes All Dogs) – a coalition of dog rescue and welfare organisations in Wales – has identified a number of financial costs associated with poor breeding practices, these include:

- the veterinary costs incurred by the purchasers of puppies for treating medical conditions associated with poor standards at a breeding establishment (such as illnesses and infections);
- the veterinary costs incurred by the purchasers of puppies for treating medical conditions associated with poor practices such as failing to test breeding dogs for genetic conditions and in-breeding;
- the cost to purchasers of behaviourist advice and/or professional training arising from failure to properly socialise puppies or to breed for temperamental soundness;
- the cost to the emergency services and the general public associated with dog attacks. Serpell and Jagoe[6] identified an association between the failure to properly socialise as a puppy and the likelihood of subsequent aggression by the dog;
- the cost to local authorities and animal welfare organisations of having to house (and in some cases destroy) dogs that have been abandoned or are unwanted due to socialisation problems.

While it is not possible to produce a quantified analysis, it is reasonable to assume that by improving standards at breeding establishments and discouraging improper breeding practices, these costs will be reduced.

[6] Serpell, J., Jagoe, J.A. Early experience and the development of the dog. In Serpell, J. (Ed.) (1995) The domestic dog : its evolution, behaviour and interaction with people. Cambridge : Cambridge University Press. 82-102

Staff:Adult Dog Ratio

The 'Independent Inquiry into Dog Breeding', published by Patrick Bateson in 2010, identified the *"poor socialisation of both bitches and puppies, failure to meet both the bitches' and the puppies' needs for stimulation, play and exercise"* as a major reason for concern, suggesting the need for a suitable staff:dog ratio to be set to ensure licensed breeders dedicated sufficient time to meet the behavioural needs of their animals.

It is considered that a minimum staff to adult dog ratio of 1:20 would meet the animal health and welfare requirement set out in the Animal Welfare Act 2006 and ensure that the socialisation needs of puppies are met. However, the Regulations provide flexibility to enable local authorities to decide whether a higher staff to adult dog ratio is appropriate on particular premises (for example, based on the breed of dog involved, size of premises and potential litter sizes).

Microchipping

Microchipping has clear welfare benefits, namely reinforcing an owner's responsibilities under the Animal Welfare Act 2006. It would allow vets to contact owners of stray dogs in situations where emergency treatment is required.

The greater traceability would assist enforcement officers greatly in situations such as dog theft, animal cruelty or if a puppy sold by a breeder has health problems as a direct result of the conditions in which it was raised. It would also assist in situations where the true ownership of a dog needed to be proven.

There will also be cost savings to local authorities and animal welfare organisations through a reduction in the costs associated with kennelling and in some cases putting to sleep stray dogs. This is considered in further detail in the RIA for the Animal Welfare (Identification of Dogs) (Wales) Regulations 2014.

It is also important to recognise that the changes in the new Regulations are part of a wider set of controls relating to dogs. The Regulatory Impact Assessment for the Draft Control of Dogs Bill went into detail on the consequences of an animal becoming out of control or even dangerously out of control.[7]

That work has now been taken forward by the UK Anti-social Behaviour, Crime and Policing Bill which is due for Royal Assent in 2014 – the implications are the same.

[7] http://wales.gov.uk/docs/drah/consultation/121122dangerousdogsriaen.pdf

Summary of the preferred option

Based on the information set out above the preferred option is to introduce legislation that would require any person or persons who breed dogs, and who operate above a determined threshold to be licensed.

Consultation

The first consultation on the draft Animal Welfare (Breeding of Dogs) (Wales) Regulations 2011 took place over 12 weeks between 21 October 2010 and 13 January 2011. The groups consulted were those that had an interest in the policy area and included:

- Other UK Administrations;
- All Welsh Local Authorities;
- Environment Agency;
- HMRC;
- Animal Health Veterinary Laboratories Agency;
- All member organisations of Animal Welfare Network Wales with a vested interest in the policy area;
- Wales Council for Voluntary Action;
- Representative bodies for veterinarians;
- Federation of Small Businesses;
- Police;
- Pet Industry Unions;
- All licensed breeding establishments in Wales
- Ad hoc members of the public who had written to the Welsh Government about dog breeding and had asked to be kept informed of developments;
- Welfare organisations;
- The Kennel Club;
- Agricultural organisations;
- Countryside Council for Wales;
- Animal Health & Welfare Strategy Steering Group;
- All Party Group for Animal Welfare;
- Hunt Committees; and
- Members of the Task for Finish Review Group on Dog Breeding.

The consultation pack was also available to download from the Welsh Government website.

It was clear that there were a number of key areas of concern:

- Irresponsible breeding in so called “puppy farms” should be brought to an end;

- The welfare of all breeding dogs (stud dogs and bitches) and their offspring is paramount;

- Some of the criteria for being licensed was too narrow;

- There was strong support for microchipping to become compulsory, but there were issues that needed to be clarified.

Discussions have taken place with organisations that expressed an interest in meeting to discuss the concerns they raised during the consultation process. They were split into four groups, namely:

- Welfare campaigners;

- Countryside, working dog and Hunt sector;

- Licensed breeders; and

- Hobby breeders.

We have taken the outputs of the discussions and applied them against the existing proposed Regulations. It was clear that across the board there were a number of areas where we were asked to make changes to the proposed Regulations. Key changes sought were:

- The point at which a person become qualified to be licensed in terms of the number of breeding bitches and the number of litters;

- Anybody advertising or supplying dogs for sale and has more than four breeding bitches should be caught by the licensing regime;

- A specific exemption for hunt packs affiliated to the Council for Hunting Associations and the Masters of Draghounds and Bloodhounds Associations; and

- A tighter definition of 'full time attendant'.

<u>Major change</u>

The inclusion of a staff:adult dog ratio was broadly accepted, however it was agreed that the proposed ratio was changed from 1:20 to a minimum of 1:30 for a second consultation on the basis that local authorities would be able to reduce this ratio if they believed that the licence applicant was unable to meet the standards required.

The second consultation took place in November 2012, with the same groups consulted as above, plus individuals who had expressed an interest in being contacted.

It was clear that the amended staff:dog ratio (1:30 instead of 1:20 for full-time workers, and 1:15 instead of 1:10 for part-time workers) was inappropriate.

Of the 137 consultation responses who answered the specific questions in the consultation, 78% did not agree with the change. Critically the British Veterinary Association (BVA) and the British Small Animal Veterinary Association (BSAVA) updated advice that now reflects our original policy and recommends a ratio of no more than 20 dogs to one full time member of staff (or 10 dogs to one part time staff).

Other welfare experts and in particular the Advisory Council on the Welfare Issues of Dog Breeding (set up following the Bateson Report), calculated that it was impossible for one person to have control of 30 dogs and all their puppies and be able to satisfy reasonably the requirements laid out in the Animal Welfare Act 2006 and indeed the Welsh Government's Code of Practice for the Welfare of Dogs.

An example of time allocation was provided by a number of respondents based on the 1:30 staff:dog ratio. The figures were based on the interpretation of a full-time worker in the Regulations as 'a person who works at least 37 hours per week', split over 7 days a week. It was suggested that this would result in approx 5.5 hours for care each day, an average of approximately 11 minutes per dog per day (assuming continuous effort and totally undivided focus on the dogs).

However, the following was provided, based on conservative estimates reflecting a respondent's personal dog care experience in rescues:

Cleaning of kennel	(say) 15 minutes
Assume 3 dogs in kennel	min. 5 minutes per dog/day
Replacement of bedding material	min.3 minutes per dog/day
(note, most 'volume' breeders use shredded paper or sawdust which would require changing daily)	
Cleaning of individual food and water bowls	min. 2 minutes per dog/day
Food preparation and replacement of water bowls	min. 5 minutes per dog/day
Grooming (for required breeds)	weekly 15 minute grooming session - averaging min. 2 minutes per dog/day

Routine cleaning, feeding and grooming tasks are likely, then, to take a minimum of 17 minutes per dog per day, on the above conservative analysis.

Based on the above examples it suggests that a minimum staff/dog ratio of 1:30 does not allow time even for this to be done in a thorough way.

Minor changes

Some minor changes have been made to the draft Guidance following comments on consultation:

- Adding the following sentence to the requirement for water in section 2.1: *"Where there is more than one dog in a kennel and there are no automatic drinking facilities, it is advisable to provide a number of drinking bowls and checked at least twice daily to ensure adequate access to fresh water at all times".*

- Adding the following sentence about waste management: *"Licensee should check with Natural Resources Wales for current guidance on the appropriate means of disposal."*

- The addition of a Schedule containing a template for breeding bitch logbooks.

A third consultation in 2013 was undertaken to clarify the original policy intent, that the minimum staff:dog ratio requirement only applied to adult dogs (defined for this purpose as a dog over 6 months of age).

However, the consultation reinforced the message that the Welsh Government is not overlooking the welfare needs of puppies on licensed breeding premises, and asked a specific question on the critical factors that local authorities should consider when determining the staff to adult dog ratio, for example, facilities on site, breed and average litter size.

The responses to the staff:adult dog ratio question did not provide a clear cut outcome. In many instances the responder's answers to the two questions, one about ratio the other about the local authority controls, contradicted each other. Many of those who disagreed with the minimum 1:20 proposal also agreed that the local authority should have flexibility and should prescribe a higher staff ratio where necessary.

The dog breeding industry and welfare organisations are at completely different ends of the spectrum regarding this issue and it would be impossible to satisfy both parties. Taking both arguments into account, the intent of these proposed Regulations is to strengthen and raise animal welfare standards in dog breeding premises.

The ratio is provided to act as a starting point for local authorities to determine the most appropriate ratio for individual premises based on critical factors such as breed, litter size, premises and breeding programmes.

It is not suggested that this ratio is used as the 'norm' but as a **baseline** or as a "safety net" beyond which dog breeders *cannot* be licensed. It would certainly not be appropriate for a premise that would have 20 whelping bitches at one time, as the RSPCA campaign responses suggested. Indeed part of the statutory guidance is that each premise has to have a veterinary health plan which would clearly lay out the way that they care for each dog and their puppies.

Regulation 9 within the Regulations details that flexible approach. The statutory guidance emphasises that local authorities have the responsibility for ensuring that licensed premises are fit for purpose – as follows:

> ***"Local authority licensing officials should have regard to factors such as the size and type of dogs kept at a dog breeding establishment when deciding the most appropriate conditions to apply. In particular, this relates to accommodation; the dogs' health, environmental and socialisation needs; and the staff: adult dog ratio."***

The Welsh Government proposes working with local authorities on these particular and other points in the new Regulations and that the current Statutory Guidance is right. Discussion will also be held on setting ratios and establishing a process whereby the staff: adult dog ratio can be reviewed after a full 12 months operation time-line.

The consultation documents and summary of responses can be found at: http://wales.gov.uk/consultations/?lang=en&status=closed

Competition Assessment

A competition filter can be found at Appendix A.

Post implementation review

It would be appropriate to consider starting a review of legislation three years after the legislation is made and brought into effect, although consideration of the staff: dog ratio will begin one year after operation.

APPENDIX A

The Competition Assessment

The competition filter test

The competition filter test is set out below, together with points raised

The competition filter test	
Question	**Answer yes or no**
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	Yes
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	Yes
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Questions 1 to 3: the market

No one firm will have at least 10% of the market. At the last Companion Animal Welfare Assessment in March 2011 there were some 251 licensed premises in Wales and 1587 premises which breed animals but which are not under current Regulations eligible to be licensed.

Question 4: substantially different effect on businesses/organisation

All businesses should already be complying with the Animal Welfare Act 2006 and the duty of care. These Regulations provide for the detail to ensure animal

welfare standards are not compromised. We have had no figures supplied to us from the industry on potential infrastructure changes that might be needed, despite three consultations and meeting with them. Some local authorities have been in discussion with licensed breeders for some time on potential changes that might occur.

Question 5: changes to market structure

A yes answer is given but that is by no means a certainty. If these Regulations penalise certain firms it is because the welfare of the animals may have become compromised and investment is needed to ensure an animal's welfare is not compromised. This could result in some businesses ceasing to trade. But a different business strategy might produce far higher returns.

A by-product of these Regulations could also be an increase in activity in the microchipping sector. As demand grows, so more individuals and businesses may choose to train to become implanters to provide this required service.

Questions 6 and 7: penalising new suppliers

There will be an appropriate delay on commencement to allow local authorities and licensed breeders to consider these Regulations further. However, after that commencement, the new standards will be applied at the next licensing for new premises. If a premise is due to be renewed the day following implementation the local authority must issue a licence if they comply. Likewise premises whose licensing is not due, for example, until 9 months time will not be affected until then. New applications should be in a position to comply at the beginning of their licensing cycle regardless of when that is.

Question 8: technological change

A no answer is given. Change of animal welfare standards can take some time to evolve through research and development.

Question 9: restrictions on suppliers

Whilst we do not agree that the proposals will restrict breeders, it is possible that new standards may cause existing prices to rise. The Welsh Association of Licensed Kennels argue that the traceability of puppies to Wales, because of its reputation as 'the puppy farming capital of the UK', may deter potential buyers. However, if positive marketing is undertaken there will be an indication that Welsh breeders will be working to higher standards than are required in other parts of the UK. Responsible licensed breeders in our discussions welcomed this positively.

Appendix B - Sensitivity Analysis

As is mentioned in the main body of the RIA, there are a number of uncertainties in the analysis where assumptions have had to be made in order to provide an estimate of the likely costs of these Regulations. This annex provides some sensitivity analysis around those assumptions.

Local authority costs

The RIA estimates that administering each license application and inspecting breeder's premises will cost an average of £130. This is based on each breeding establishment requiring only a single visit. The cost associated with having to undertake a second inspection is estimated to be £50. On the basis of an additional 500 breeders requiring a license under the new Regulations, the additional cost to local authorities of all breeders requiring a second visit would be £25,000, taking the overall total to £90,000.

Microchipping

i) The RIA assumes that all currently licensed breeders (i.e. 5 or more litters per year) would choose to microchip their puppies themselves rather than pay for an implanter to do it. This assumption is based on a comparison of the relative costs of the two options as shown in the table below. The cost for implanting their own puppies includes the one-off cost of attending a training course (£174) and purchasing a scanner (£80). Having completed the training and purchased a scanner the cost of implanting the puppies in subsequent years would be £254 lower. There are assumed to be an average of 5 puppies per litter.

Comparison of the cost of implanting own puppies v. taking them to an implanter, by size of breeder (£)

		Number of litters per year						
		3	**4**	**5**	**10**	**20**	**50**	**80**
Implanter cost	**£10**	150	200	250	500	1,000	2,500	4,000
	£20	300	400	500	1,000	2,000	5,000	8,000
	£30	450	600	750	1,500	3,000	7,500	12,000
Cost for implanting own puppies	**£4 per chip**	314	334	354	454	654	1,254	1,854
	£7.5 per chip	367	404	442	629	1,004	2,129	3,254

ii) The RIA assumes that 50% of the 247 currently licensed breeders already microchip their puppies. The table below shows the impact of altering this assumption. The calculation is based on an average breeder with 20 breeding bitches each having one litter of 5 puppies per year and assumed each breeder will microchip their own puppies.

Additional cost of microchipping puppies with differing assumptions on the percentage of breeders that currently microchip their puppies.

		Percentage of breeders that currently microchip their puppies				
		0%	25%	50%	75%	100%
Training		43,000	32,200	21,500	10,700	-
Scanner		19,800	14,800	10,000	4,900	-
Ongoing cost of microchips	4	98,800	74,100	49,600	24,700	-
	7.5	185,250	138,900	93,000	46,300	-

iii) There is some uncertainty around the proportion of smaller breeders that currently microchip their puppies and whether they will choose to implant them themselves or take them to an implanter. The RIA assumes that 50% of breeders currently microchip and that 50% will do this themselves. The tables below present the impact of changing these assumptions on the estimated upfront cost (training and scanners) and the ongoing microchip costs. All of the estimates are based on there being 500 additional breeders needing to be licensed.

Additional upfront cost of microchipping puppies with differing assumptions on i) the percentage of breeders that currently microchip their puppies ii) the percentage of breeders that will microchip their own puppies.

			Percentage of breeders that currently microchip their puppies				
			0%	25%	50%	75%	100%
Percentage of breeders that implant their own puppies	0%	Training	0	0	0	0	0
		Scanner	0	0	0	0	0
	25%	Training	21,750	16,300	10,900	5,400	0
		Scanner	10,000	7,500	5,000	2,500	0
	50%	Training	43,500	32,625	21,750	10,900	0
		Scanner	20,000	15,000	10,000	5,000	0
	75%	Training	65,250	48,900	32,600	16,300	0
		Scanner	30,000	22,500	15,000	7,500	0
	100%	Training	87,000	65,250	43,500	21,750	0
		Scanner	40,000	30,000	20,000	10,000	0

Additional cost of microchips with differing assumptions on i) the percentage of breeders that currently microchip their puppies ii) the percentage of breeders that will microchip their own puppies.

			Percentage of breeders that currently microchip their puppies				
			0%	25%	50%	75%	100%
Percentage of breeders that implant their own puppies	0%	Low cost	87,500	65,600	43,750	21,900	0
		High cost	262,500	196,900	131,250	65,600	0
	25%	Low cost	74,400	55,800	37,200	18,600	0
		High cost	213,300	160,000	106,700	53,300	0
	50%	Low cost	61,250	45,900	30,600	15,300	0
		High cost	164,100	123,000	82,000	41,000	0
	75%	Low cost	48,100	36,100	24,100	12,000	0
		High cost	114,800	86,100	57,400	28,700	0
	100%	Low cost	35,000	26,250	17,500	8,750	0
		High cost	65,625	49,200	32,800	16,400	0

Minimum staffing ratios

Local authorities have identified 30 licensed premises that may not meet the 1:20 staff to adult dog ratio. The RIA assumes that each of these premises will need to employ 1 additional member of staff paid a salary of £12,000 per annum. This equates to a total cost of £360,000.

As is mentioned in the RIA, rather than employ an additional member of staff some breeders may choose to reduce the number of dogs on their premises or use a family member (or other unpaid labour) to meet the staffing requirement. It is unclear how breeders will respond to the staffing requirement (it is likely to vary on a case by case basis) but if half of the breeders that do not currently meet the staffing requirement choose not to employ someone then the cost to the industry would be reduced to £180,000.

Number of smaller breeders that will be captured by the extended Regulations

Using data from the Kennel Club, it is assumed that there will be an additional 500 breeders that will need to be licensed as a result of reducing the licensing threshold from 5 litters per pear to 3 litters per year. The fee for a license is between £80 - £150 per breeder or £40,000 - £75,000 in total. The cost to local authorities for administering each licence and inspecting each establishment is £130 or £65,000 in total.

Altering the number of additional breeders that will need to be licensed will have a proportionate impact on the total license fee and local authority costs.