

Briefing for the Public Petitions Committee

Petition Number: [PE01776](#)

Main Petitioner: Maryann Parry-Jones

Subject: Dogs are not inanimate objects

Calls on the Parliament to urge the Scottish Government to change the classification of dogs to sentient beings from inanimate objects, for the purposes of legal action on dog theft.

Background

The petitioner raises concerns that theft of a pet is treated in the same way as the theft of an inanimate object, statistics on dog theft are not readily available, and penalties are not acting as a sufficient deterrent. The petitioner raises concerns about linkages between dog theft and other crime such as dog fighting, and recommends legislation is needed to address the issues.

Levels of dog theft

It is not possible to provide official statistics on dog theft in Scotland, because pet or dog theft is not a specific offence. Police Scotland have previously declined to provide information on how many dogs have been stolen in Scotland [under a freedom of information request](#) on the basis that the only way to provide this accurately would be to examine every theft crime report. Dogs Trust (a UK charity) [state on their website](#) that “incidences of dog theft have been increasing over the past few years.

Protection of dogs

Dogs are protected animals under the [Animal Health and Welfare \(Scotland\) Act 2006](#), meaning that a number of animal welfare provisions apply to them, and it is an offence under this Act to cause them unnecessary suffering (amongst other offences). The [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Bill](#), currently at Stage 1 in the Scottish Parliament, seeks to increase maximum penalties for two offences under the 2006 Act – causing unnecessary suffering, and animal fighting - to 5 years imprisonment and/or an unlimited fine. The Bill does not create new offences.

Sentencing

There are no specific sentencing guidelines for theft in Scotland. However, [general sentencing guidelines set by the Scottish Sentencing Council](#) include

a principle that sentences must be “fair and proportionate”. As part of this principle, “all relevant factors of a case must be considered including the seriousness of the offence, the impact on the victim and others affected by the case, and the circumstances of the offender”.

Law on animal sentience

The principle of animal sentience is recognised in the Treaty on the Functioning of the European Union. There has been a debate about how animal sentience should be transferred into domestic law following EU Exit.

The Animal Health and Welfare (Scotland) Act 2006 does not explicitly mention animal sentience, although section 48 states “references to suffering include physical or mental suffering”. In [response to a written question on 30 November 2017](#) the Scottish Government set out its acceptance of the concept of animal sentience:

Question S5W-12975: Mark Ruskell: To ask the Scottish Government whether it will ensure that the principle of animal sentience is reflected in its legislation after the UK leaves the EU.

Answered by Roseanna Cunningham (30/11/2017): I can assure Parliament the Scottish Government fully accepts the principle of animal sentience and will take all appropriate action to safeguard animal welfare standards. Animal sentience has been recognised in Scottish legislation for over a century, most recently in the Animal Health and Welfare (Scotland) Act 2006.

Compulsory microchipping of dogs

All dogs over eight weeks old in Scotland must be microchipped under the [Microchipping of Dogs \(Scotland\) Regulations 2016](#). The Scottish Government consider [one of the benefits of mandatory microchipping](#) to be that it could help to deter dog theft by making it harder to sell on stolen dogs.

Campaigns for legal change in England and Wales

The [Stolen and Missing Pets Alliance \(SAMPA\)](#) have campaigned for legal changes in England and Wales in relation to dog theft. They have called for either sentencing guidelines to be revised to increase penalties, or for amendments to animal welfare legislation to create a new offence of pet theft. The UK Parliament [debated a petition to reclassify pet theft as a specific crime](#) in July 2018. The UK Government responded that theft of a pet is already a criminal offence under the Theft Act 1968, for which the maximum penalty is 7 years’ imprisonment, and the Sentencing Council updated its guidelines for sentencing for theft in 2016 – saying the guidelines take account of emotional distress and therefore harm that theft of a pet can have.

UK Private Members Bill

In July 2018, Ross Thomson MP introduced a Private Members' Bill in the House of Commons that would create a specific offence of theft of pets. The UK [Pets \(Theft\) Bill 2017–19](#) would have created a new, separate criminal offence of pet theft in Scotland, England and Wales, by amending the Animal Welfare Act 2006 and the Animal Welfare (Scotland) Act 2006 (requiring a legislative consent motion as animal welfare is devolved). The Bill included requirements for a judge to consider, when sentencing, the emotional harm caused to the pet and owner. The Bill did not proceed past its second reading before the end of the session, so will make no further progress.

Scottish Government policy and action on animal sentience

In the [2018-2019 Programme for Government](#) the Scottish Government committed to establish a Scottish Animal Welfare Commission “to provide expert advice on the welfare of domesticated and wild animals in Scotland and ensure that we maintain high standards of animal welfare after Brexit”. The Government has proposed to establish the Commission via legislation and is in the process of establishing an interim Commission.

Scottish Parliament action

The Environment, Climate Change and Land Reform Committee conducted [an inquiry on EU Environmental and Animal Welfare Principles](#) in 2018 and requested an update from the Scottish Government on animal sentience. The Cabinet Secretary for Environment, Climate Change and Land Reform Committee, Roseanna Cunningham MSP, wrote on 17 December 2019:

“What has recently become known as the sentience principle is an existing EU treaty obligation on the Commission and all member states to have regard to the welfare of animals as sentient beings when developing policy or legislation in areas wider than specific animal welfare legislation.

Animal sentience has been implicitly recognised in Scottish animal welfare legislation which protects animals from physical and mental suffering for over 100 years. The new Scottish Animal Welfare Commission will be tasked with providing an annual report and making appropriate recommendations on how the welfare of sentient animals should be taken into account in all areas of Scottish Government policy development. This demonstrates a real practical commitment to the issue of animal sentience which is leading the UK.”

Alexa Morrison
Senior Researcher
16 January 2020

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