

Registration and Licensing of Animal Sanctuaries and Rehoming Activities in Scotland

Summary Report

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Introduction

This report provides a summary of responses to the Scottish Government's consultation on proposals for a modern system of registration and licensing of animal sanctuaries and rehoming activities in Scotland. The consultation ran for 12 weeks from 11th December 2017 until 4th March 2018.

Background

At present there is no specific legislation in place for those operating animal sanctuaries and rehoming activities in Scotland. The Programme for Government 2017-18 committed the Scottish Government to prepare legislation for a modern system of registration and licensing of animal sanctuaries and rehoming activities to allow for independent accreditation of applicants. The overall aim is to regulate this area to protect animal welfare in a way that is not unduly burdensome for those doing a good job whilst being effective in dealing with cases where welfare is not being sufficiently protected or where such rescue activities are effectively operating commercially in the guise of a charity.

Animal welfare is a devolved matter and the consultation applied to the proposed introduction of regulations on animal sanctuaries and rehoming activities in Scotland only. The consultation covered proposals to introduce new secondary legislation under the Animal Health and Welfare (Scotland) Act 2006.

The consultation covered proposals for a modern system of registration and licensing of animal sanctuaries and rehoming activities, allowing for independent accreditation of applicants to reduce the burden on local authorities. This includes all rehoming activities in Scotland, including charities and agencies rehoming animals from abroad. The consultation also considered how thresholds for registration and licensing should be determined depending on the size of the undertaking and how this may work for larger organisations with multiple premises.

The consultation provided an opportunity for all interested parties to scrutinise and comment on these proposals. The evidence gathered from the consultation will inform the regulations we will lay before the Scottish Parliament.

The proposals were formulated into 17 specific questions for those responding to the consultation.

Summary of Responses

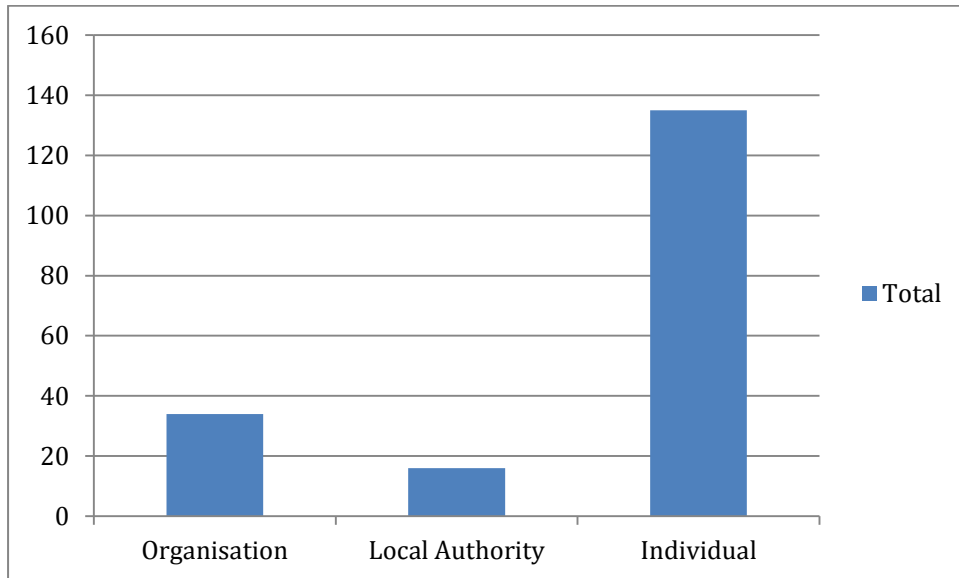


Table 1 – Breakdown of respondent groups

A total of 185 responses were received. Of these 34 (18.3%) were from groups or organisations which included animal welfare charities; animal sanctuaries; rehoming centres; veterinary profession; legal profession and the Office of the Scottish Charity Regulator. We received 16 (8.7%) responses from Local Authorities (LAs) and the remaining 135 (73 %) were from members of the public with an interest in this subject.

Responses to individual questions

Question 1 - The Scottish Government proposes that animal sanctuaries and rehoming centres should be regulated. Do you agree?

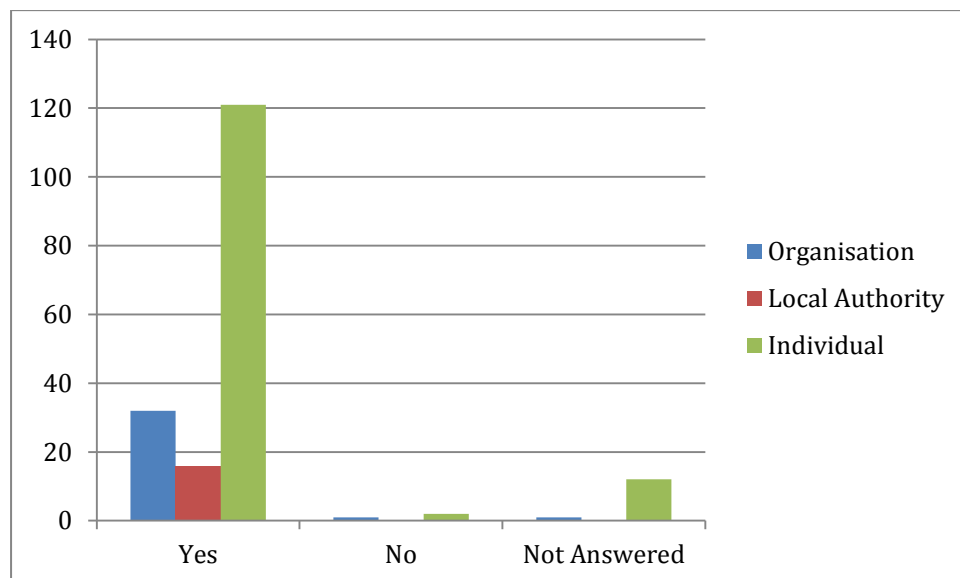


Table 2 – Breakdown of respondent groups to Question 1

Of the 172 responses to this question, 98.3% were in favour of the Scottish Government’s proposals to regulate animal sanctuaries and rehoming centres in Scotland with 1.7% against the proposed regulations.

Of those that were positive, the most common theme was that it would improve the welfare of animals by ensuring a national minimum standard and consistency of care. Others noted that this would address an anomaly in the legislative framework whereby almost all other animal welfare activities i.e. pet shops and breeding centres, are covered by licensing and registration. Another frequently raised point was that it would police against the monetary gain of animal exploitation, either through selling the animals they take on for a profit or from falsely claiming charitable status.

Many LAs felt that licensing and registration would aid in their ability to police the illegal trade in animals.

“Due to the previous lack of any need for registration, there have been a significant number of instances where people have operated sanctuaries where illicit animals have been distributed from. With no requirement to give any details, these can be difficult to trace and impossible to monitor.” (East Ayrshire Council)

Others felt that regulation was necessary not only to protect against those who would seek to exploit animals for fiscal gain but also to prevent well-

intentioned members of the public who lack adequate knowledge or resources from setting up and mismanaging sanctuaries.

This view was echoed in the responses of long established sanctuaries and rehoming centres who are often asked to repair the damage from improperly run establishments.

“As a 30-year-old sanctuary we have frequently been asked to step in and rescue animals from so-called sanctuaries that have been set up without proper knowledge of animal husbandry, health and safety requirements, policies, risk assessments etc.” (Mossburn Community Farm)

Of the small number of respondents who did not support the proposal the most common response was that the potential cost and bureaucracy of regulation would potentially inhibit smaller sanctuaries and rehoming centres and therefore reduce the overall standard of animal welfare in Scotland.

Separating responses by respondent type showed that the vast majority of organisations, LAs and individuals were positive about the proposals.

Question 2 – Do you agree with the principle that registration is appropriate for those with fewer animals and that licensing is appropriate for those with more animals?

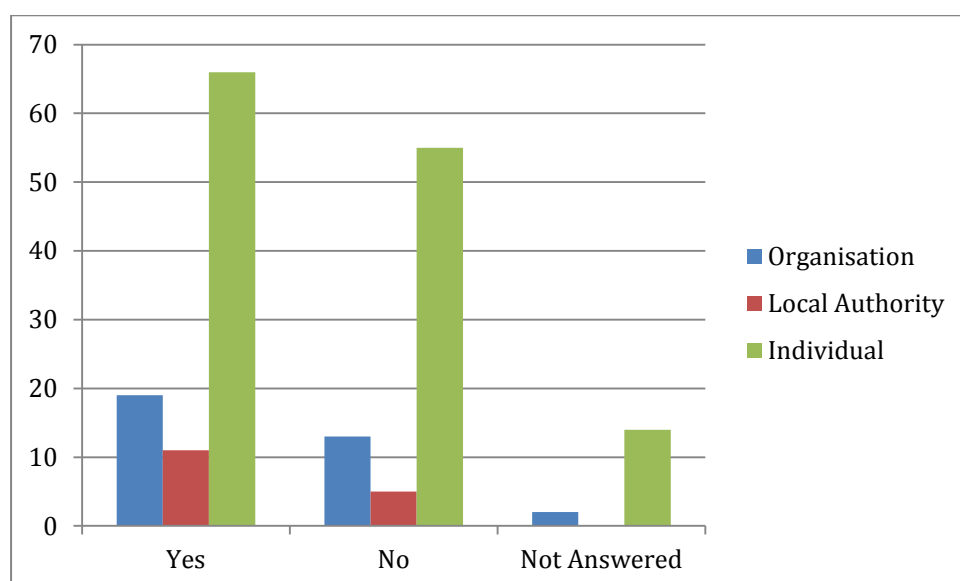


Table 3 – Breakdown of respondent groups to Question 2

Respondents were more evenly split in their responses to this question. Of the 169 responses received, 56.8% were supportive of a tiered approach with those with fewer animals requiring registration and licensing for those with more animals. 43.2% of respondents were against these proposals.

Those who were supportive of a tiered system agreed with the principle of a distinction and commented that the key issue was where the threshold should lie. Many felt that a lesser burden of registration for those with fewer animals was sensible as this would ensure that smaller organisations were not dissuaded from providing care to needful animals.

“A full licensing regime would be overly burdensome for the smallest operators and would incur significant costs for individuals and organisations operating to the smallest margins.” (Battersea Dogs & Cats Home)

A large number of respondents felt that the greater burden of licensing was appropriate for those with more animals due to the increased risk for breaches of animal welfare when holding more animals. Additionally, many felt that a tiered system would be financially fair as larger charities, who are often in receipt of public funding, could afford the cost of licensing; a cost which could not be borne by smaller organisations.

However, many felt that licensing should be required for every establishment as registration was not sufficient to ensure animal welfare standards are maintained. Indeed, some LAs felt that as smaller sanctuaries and rehoming

centres have fewer resources, staff, and potentially, experience they would require a higher level of scrutiny.

“I think it highly likely that the smaller rescues will have fewer resources/less expertise and therefore operate to lower standards. This makes it MORE important that they come under scrutiny and have to be inspected/licensed. Just offering a registration option will give them some undeserved credibility in the public's eyes.” (Dumfries and Galloway Canine Rescue Centre)

A point raised repeatedly was that the threshold should not be based on the number of animals held but should take account of a broader range of factors including species of animal, complexity of their care and, availability of sufficient space.

Finally, several respondents highlighted that a tiered system may create a disincentive for smaller organisations to expand and provide care for more animals.

Separating responses by respondent type showed that a narrow majority of organisations, LAs and individuals agreed with the proposal of a tiered approach.

Question 3 – Do you have any comments on the threshold that should apply?

134 respondents provided detailed comment on the factors, in addition to number of animals held, that should be taken into account when setting the threshold. These included:

- Staff/animal ratio,
- Level of qualification of staff and,
- Available facilities and type of care required by species of animal housed.

Others felt that the threshold should be considered on “throughput” i.e. an average over the year and not simply at the point at which the application is made.

‘...there is a significant difference between caring for 10 cats or dogs in the course of a year and caring for 10 cats or dogs at any one time and this should be reconsidered.’ (OneKind)

Question 3(b) - Should these be different for separate species?

The most common comment from respondents was that the proposed thresholds needed to be species (or at least grouping) specific to be meaningful and appropriate. These should take into account existing welfare standards and the nature of the animal concerned.

“The exemption does not take account of the appropriate requirements depending on the species of animal, e.g. 5 rabbits would be on a different scale to keeping 5 horses for rehoming” (South Lanarkshire Council)

Many respondents felt that neither the Scottish Government nor LAs should determine the threshold. Instead, they felt that veterinarians and those with extensive animal welfare experience should answer the question of whether distinct thresholds are required for separate species and, if so, they should set these thresholds.

Others proposed alternative thresholds including those based on the size of the animal or the distinction between a companion and a non-companion animal.

Another concern that was raised by a small number of respondents was how thresholds would be affected by the condition of the animal being taken into care, e.g. pregnancy.

Of those who did not support the proposal the most common response was that the same thresholds should apply to every organisation irrespective of species.

Question 4 – Larger networks and charities that may have a network of homes and smaller branches in different local authority areas should be able to apply centrally for the relevant licensing. Do you agree?

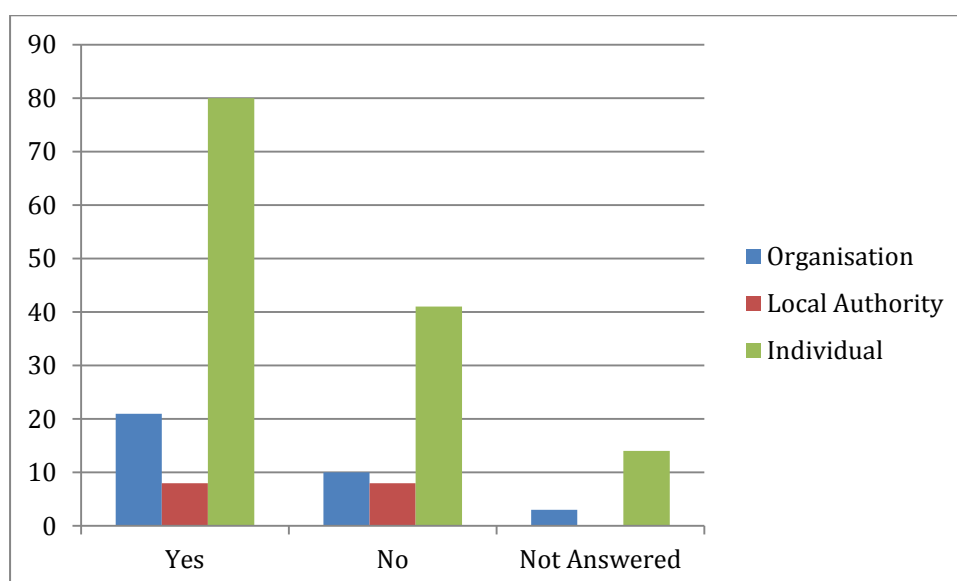


Table 4 – Breakdown of respondent groups to Question 4

Of the 168 responses received to this question, 64.9% agreed that larger networks and charities that have a network of homes and smaller branches in different local authority areas should be able to apply centrally and 35.1% did not agree with these proposals.

Of those who responded positively it was commonly felt that established organisations should be able to operate under an umbrella scheme as they had well-established standards of care and sufficient staffing to effectively monitor their own satellites.

However, many agreed with the proposal on the provision that larger organisations be required to keep detailed and easily accessible records of all their premises and that frequent spot checks be undertaken. Others agreed with the concept of a central licence but felt that where larger organisation used satellite sites or third-party facilities these should be registered/licensed separately.

Many larger organisations with multiple sites felt that to license each site individually would be an inefficient use of their time and limited resources.

“It would be too great a financial commitment if they had to apply to each local authority. This would detract from the funds available to spend on animals, as well as duplicating administrative procedures”.
(Anon)

The most common theme of those who disagreed with the proposal was that each premises should be inspected, irrespective of the pedigree or size of the

organisation they belong to, as each has the potential to fall below expected standards of animal welfare. Many commented that standards of premises can vary even within the same organisation.

“The problem is that the branch in say Dundee could have very high standards but the branch in Kirkcaldy could have lower standards.”

(Pets Pantry)

Perhaps unsurprisingly, responses to this question by animal welfare organisations tended to reflect the scale of the respondent. Large multi-site animal welfare organisations were in favour of the centralised licence stating that this would save on cost and the administrative burden for renewal. However, single-site organisations stated that this would place a proportionately greater burden of the administration and cost of a registration/licensing system on them.

In disagreeing with the proposal many LAs preferred the current model operating for pet shop licences in which LAs inspect each premises within their area.

“The same standards would apply nationally however the Local Authority should be obligated to license premises in their area. This would facilitate better enforcement based around local knowledge and experience....” (Aberdeenshire Council)

Separating responses by respondent type showed that a sizeable majority of organisations and individuals agreed with the proposal of centralised licensing for multisite organisations. However, a narrow majority of LAs disagreed with the proposal as this would diverge from current licensing practice with regard to other animal activity.

Question 5 – The Scottish Government believes that all premises must be inspected before licensing (but not registration). We propose that, as well as local authorities, expert independent bodies such as the Scottish SPCA, should be able to carry out inspections. Do you agree?

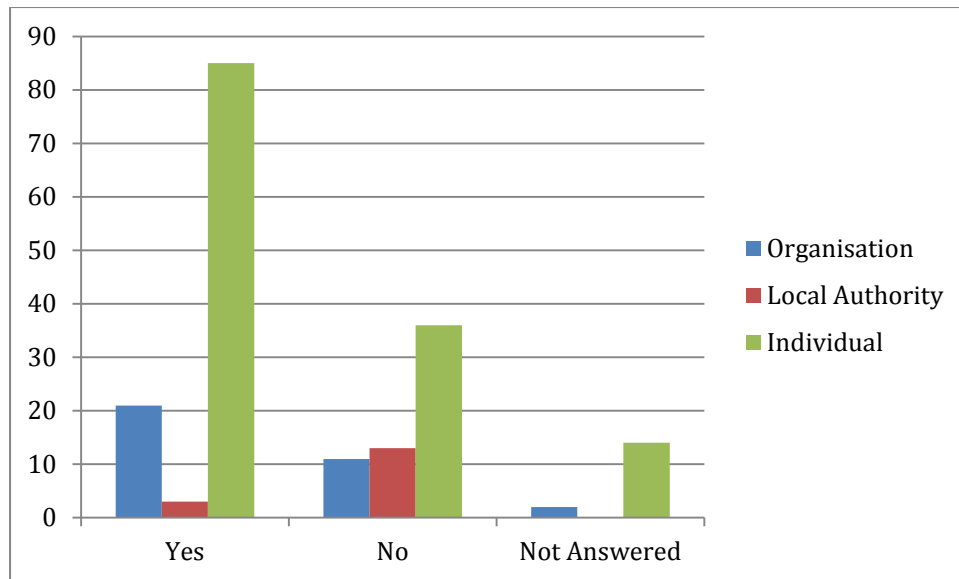


Table 5 – Breakdown of respondent groups to Question 5

Of the 169 respondents who answered this question, 64.5% favoured the Scottish Government’s proposals on the inspection of licensed premises by expert independent bodies. However, 35.5% were not in favour of these proposals. Further detailed comment was provided by 138 respondents.

Many respondents highlighted the perceived unfairness of allowing the Scottish SPCA to police their own locations. In light of this, we wish to clarify that it was the Scottish Government’s intention that the Scottish SPCA would not be responsible for inspecting their own premises and that this duty would be carried out by independent experts and LAs. The Scottish SPCA agrees with this approach stating in their response:

“...obviously the Scottish SPCA could not inspect or license our own premises.”

Of those who agreed with the proposal, a common theme was that given their history, size and expertise, the Scottish SPCA was the only independent body with sufficient resources to act as an independent inspectorate under the regulations. This was coupled with a concern that LAs lack both the expertise and funding to carry out inspections.

Some respondents felt that the Scottish SPCA should not be the sole independent body conducting inspections and they should share this role with local authorities and other long-established animal welfare organisations. It was suggested that this model would allow LAs to minimise the cost of

enforcement ensure that experienced organisations, such as the Scottish SPCA, are able to deliver it for maximum effectiveness.

“Some Local Authorities may wish to retain operational responsibility for inspections themselves and should be permitted to do so. Furthermore, organisations such as the Kennel Club have accredited inspectors and may wish to reach an arrangement with any given Local Authority to offer outsourced services if the Local Authority considers it is the best way to deliver inspections.” (Battersea Dogs & Cats Home)

Of those who responded negatively the most common comment was that only “qualified” individuals such as vets, zoologists and animal behaviourists, should be used for inspection purposes.

Separating responses by respondent type showed that a majority of organisations and individuals agreed with the proposal of inspection of licensed premises by expert independent bodies whilst a majority of LAs opposed the proposal. Many felt that third party inspections would not reduce the burden on LAs but instead incur the additional burden of the transfer of information and co-ordination with operators and third-party inspection organisations.

Question 6. Do you agree that individuals with unspent convictions for animal welfare offences or other criminal convictions (e.g. fraud) should not be allowed to register or hold a licence for an animal sanctuary or rehoming centre?

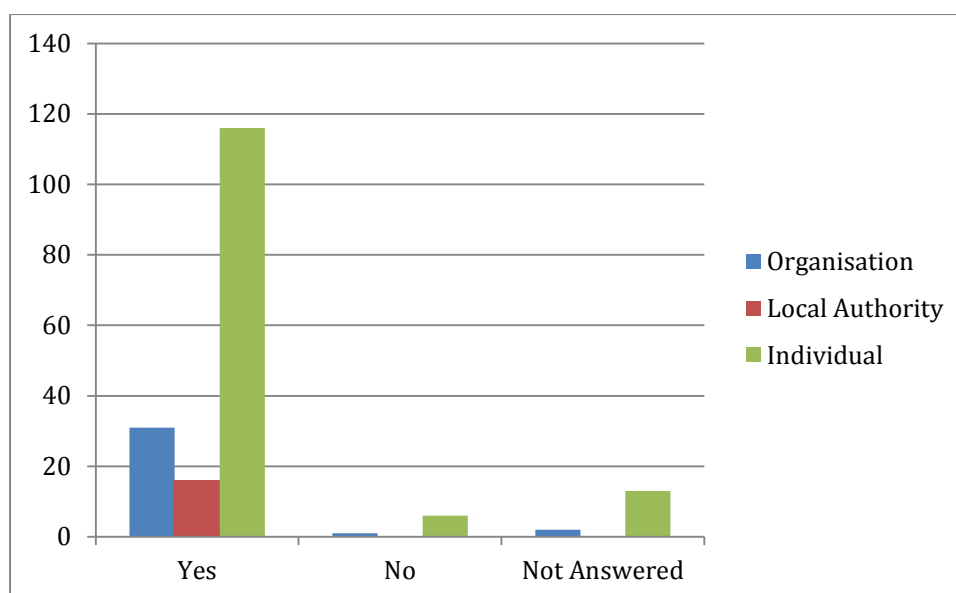


Table 6 – Breakdown of respondent groups to Question 6

The majority of respondents, 95.9%, agreed that individuals with unspent convictions for animal welfare offences or other criminal convictions should not be allowed to register or hold a licence for an animal sanctuary or rehoming centre. 4.1% did not support this proposal.

Respondents have interpreted this question in different ways. Some answered the question only in relation to unspent convictions for animal welfare offences and not other types of criminal offence. Others focused their responses on the criminal conviction of fraud whilst a third group answered the question more widely.

There was almost universal agreement that those with unspent animal welfare convictions should not be allowed to register or hold a licence as this would put vulnerable animals at risk. In addition, most felt that premises seeking to register or hold a licence should not be able to employ a person with such an unspent conviction. Respondents drew the parallel of the vulnerability of animals being like that of children and the requirement of similar protections to be put in place. Whilst agreeing with the proposal, some commented that it did not go far enough. In addition to a ban on those with unspent convictions, it was felt that, in the case of animal welfare offences, this should be a lifetime ban.

“irrespective of the species the offences were against, anyone with a conviction for animal welfare offences or other animal related criminal convictions should not be allowed to register or be licensed as an animal sanctuary or operate a rehoming establishment.” (Dogs Trust)

There was broad agreement that those with fraud convictions should also not be allowed to register or hold a licence. Many centres would be in receipt of funds in the form of public donations, and it was feared that this would be open to abuse and may be used to fund criminal activity.

LAs agreed with the proposal but raised concerns that self-reporting was insufficient and that to ensure proper safeguards a system of third-party verification should be created. A number of organisations echoed these concerns and called for a National Offenders Register for animal offences.

Of those who did not support the proposal, a common theme was that the ability to register or hold a licence should depend on the nature of the crime they had committed and the rehabilitation they had received.

“Not all criminal activity equates to inability to effectively look after animals and not everyone who commits a crime will continue to behave in a criminal way. It depends on the nature of the crime and the rehabilitation – looking after animals could be a positive way forward for some”. (Anon)

Separating responses by respondent type showed that a vast majority of organisations, LAs and individuals agreed with the proposal that individuals with unspent convictions for animal welfare offences or other criminal convictions should not be allowed to register or hold a licence for an animal sanctuary or rehoming centre.

Question 7 – Are there other requirements, apart from criminal, that should be part of a “fit and proper person” test for those running animal sanctuaries or rehoming activities?

143 respondents provided comment on this question.

A number of additional requirements were suggested to be part of the “fit and proper person” test.

The most common comment was that applicants should have relevant knowledge and experience of working with, training or providing welfare for the type of animal within their care. It was suggested that this knowledge could be demonstrated either through some form of test or written submissions and references. A number of respondents felt that to obtain a licence a staff member or person responsible for making welfare decisions should have a relevant qualification at a minimum of S/NVQ Level 3.

“I am in favour of formal assessment of this knowledge as I have seen; as a veterinary surgeon, many animal welfare issues resulting from a lack of awareness of the above.” (Anon)

A frequently highlighted point was that if the applicant is operating a sanctuary/rehoming centre in their home there should be sufficient safeguards in place to segregate children from animals, to protect both.

Given the tight budgets on which many sanctuaries and rehoming centres operate, a number of LAs commented that applicants should have to provide evidence of their financial security without solely having to rely on public donations.

“They should provide written assurances that they have adequate finances available to provide for the day to day care and any veterinary treatment an animal may require”. (Aberdeenshire Council)

A number of additional criteria were also suggested, these include:

- Evidence they have sufficient and suitable space for each animal they propose to look after,
- Insurance to cover the proposed premises and,
- A named veterinary surgeon and veterinary records maintained; and passed to any new owner.

Question 8 – The Scottish Government proposes that reasonable costs of inspection should be charged to recover costs to inspectors approved by Scottish Ministers or local authorities. Do you agree with this proposal?

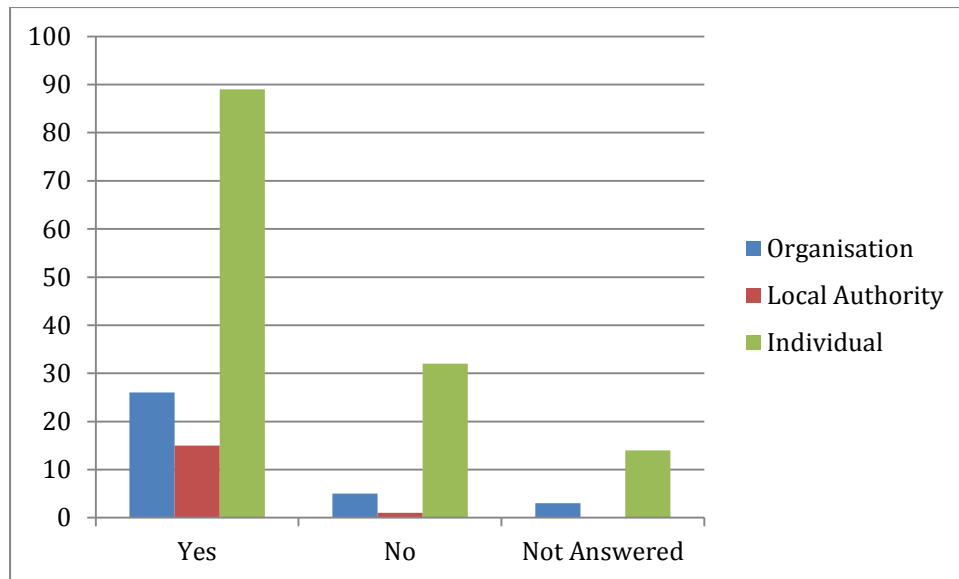


Table 7 – Breakdown of respondent groups to Question 8

Of the 168 responses to this question, 77.4% of respondents agreed that there should be a reasonable charge to allow inspectors to recover costs for inspections. 22.6% did not agree with this proposal. 124 respondents went on to provide further information.

Of those who responded positively to this question it was commonly felt that the funds raised through the licensing scheme could be used to sustain the registration/licensing system and ensure that inspections are carried out in sufficient numbers and for standards to be effective. Many stated that the licence/registration fee should cover the cost of the inspection process in its entirety i.e. both the administrative process and the actual inspection.

It was highlighted that some form of cost recovery would be in line with other similar licensing regimes currently being undertaken by LAs and that in order for the inspection/registration system to be viable it should be operated on a full cost recovery model.

“Full cost recovery would be required to administer such a Licensing or Registration scheme.” (Stirling Council)

In addition, some respondents felt a fee might act as a filter to ensure only the most serious and solvent candidates would apply. It was suggested that a willingness to pay a reasonable fee would show commitment on behalf of the applicant and if they could not afford the fee they were unlikely to be able to afford the costs of looking after the animals in their care.

However, many of those who felt positively did so on the proviso that the cost or fee remained affordable to ensure that reputable individuals and organisations were not financially penalised for the good work they do.

A number of organisations felt that a nationally set (inflation linked) fee would provide transparency, consistency and end the “postcode lottery” of varying fees set by individual LAs.

Of the negative responses the most common remark was that the payment of a fee would take away money which could otherwise be used on animal care and, therefore, result in a fall in the standard of care provided. As such, a number of responses stated that the Scottish Government should cover or subsidise the fees and employ the inspectors.

Separating responses by respondent type showed that a vast majority of organisations, LAs and individuals agreed with the proposal that reasonable costs of inspection should be charged to recover costs to inspectors.

Question 9 – Should license fees be set by the local authorities, authorised inspectors, or by the Scottish government? Do you have any comments on what cost is reasonable and what should be included in this?

150 respondents provided comment to this question.

For respondents who felt that licence fees would be best set by LAs, the most common comment was that the cost of administering the system of registrations/inspections could vary per local authority due to the availability/lack of qualified staff and the geographic particulars of the area.

“Licence fees should be set by LA, as at present, and reflect true costs....This will inevitably vary between local authorities as each endeavours to reflect true costs. In addition, the fee may require the size and complexity of the operation to be taken into account.” (West Lothian Council)

Some LAs stated that although some variation in fees should be allowed, control measures should be put in place to ensure as much consistency across Scotland as far as possible.

“The Scottish Government should set appropriate criteria when calculating costs/fees.” (Aberdeenshire Council)

Other respondents felt that to ensure clarity and avoid regional discrepancy the licence fee should be set by Scottish Government.

“Scottish Government should set any fee to ensure that animal centres don’t end up in a postcode lottery” (Anon)

It was suggested that authorised inspectors should work in conjunction with LAs and the Scottish Government to set a rate as they will be working closest to the organisations and will, therefore, have the best understanding of what cost could reasonably be borne.

Responses to the question of what constituted a reasonable cost ranged from £10 to £1000. It was suggested that any cost should meet two main criteria. Firstly, the fee should be sufficient to cover the cost of inspections and associated administration and secondly, the fee should be set at a sufficiently high level to deter those who would have to rely on public donations to operate.

Setting the licence on a sliding scale was highlighted as one way to be both fair and ensure affordability.

“Rather than one set licence fee we would like to see a standardised scale of licence fees which would take into account the size and type of premises and the number and species kept. A larger organisation with multiple sites should pay a greater fee than a small home-based rescue organisation.” (Blue Cross)

In addition, respondents suggested various models of licensing schemes are already in existence to provide a potential guide. These included as potential models; the PVG/Disclosure scheme and the Welfare of Animals (Dog Breeding Establishments and Miscellaneous Amendments) Regulations (Northern Ireland) 2013.

Question 10 – The Scottish Government considers that licensing lasting more or less than one year may be issued on the basis of a welfare risk assessment. Do you agree?

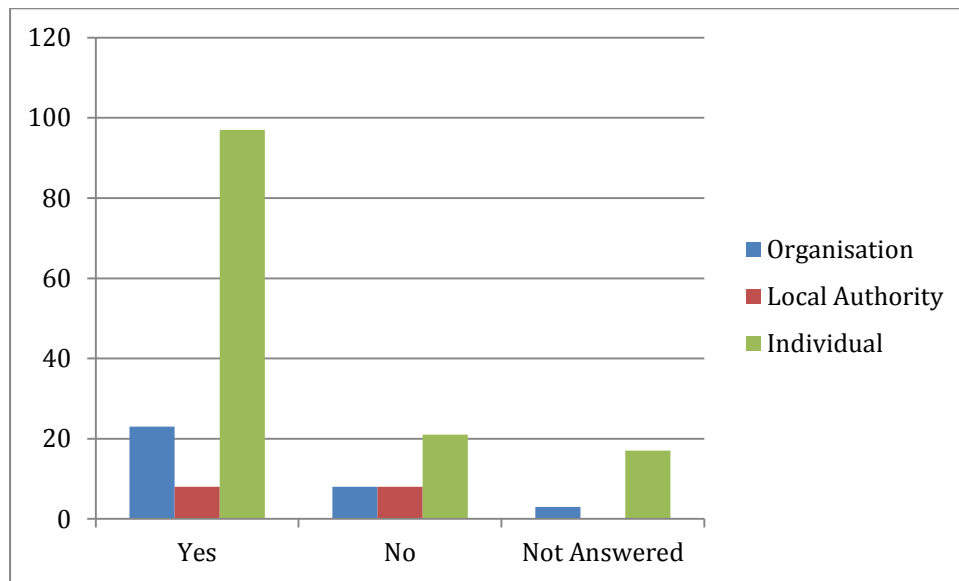


Table 8 – Breakdown of respondent groups to Question 10

165 respondents answered this question. A majority of respondents, 77.6%, agreed that licences could last more than one or less than one-year dependent on a welfare risk assessment. 22.4% did not agree with this proposal.

It appears that respondents have interpreted this question in one of two ways i.e. (1) more than one year or less than one year; (2) around a year.

Of those who responded positively, the most common comment was that a risked based evidence approach is a fair and sensible way to conduct a licensing system, as it would allow inspections to be targeted to premises of higher concern.

A number of LAs and organisations expressed that such a system would allow greater flexibility in which a short term temporary licence could be offered to allow an establishment to address minor failings before a full licence is issued.

“Although inspecting at less than a 1-year interval is recognised as onerous, it is useful to have the ability to do it when there are improvement notices or welfare concerns. After initial inspection lower risk sites could be inspected less frequently.” (Cats Protection)

A point raised regularly was that a risked based approach provides an incentive for premises to achieve the highest standards in their assessments so they are issued with a longer licence.

For respondents who disagreed with the proposal for licences to last more than or less than one year, it was felt that a licence should last no longer than one calendar year as circumstances can change quickly whether through loss of funds or staff turnover.

It was also highlighted by some LAs that the current licence inspections for other animal activities such as kennels, catteries, riding establishments, dog breeding establishments and pet shops are carried out annually. Therefore, a movement to longer licensing could lower standards of animal welfare.

“We think this would weaken the system. Licences should be issued for a set period with the relevant sanctuary complying fully with the necessary animal welfare standards from outset.” (Mossburn Community Farm)

Separating responses by respondent type showed that a vast majority of organisations and individuals agreed with the proposal whilst LAs were equally split.

Question 11 – Do you consider that the relevant Local Authority should have a duty to enforce the regulations on animal sanctuaries and rehoming activities in Scotland?

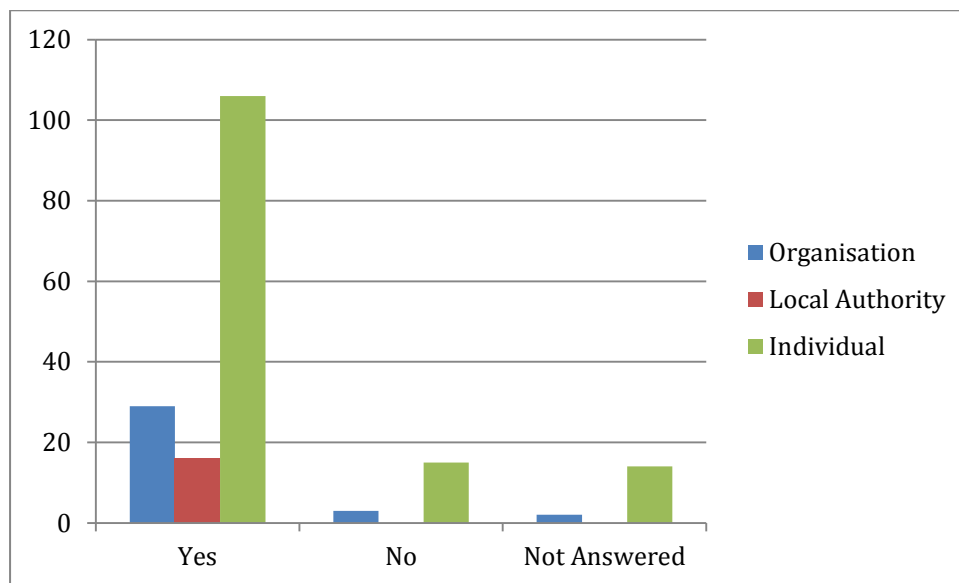


Table 9 – Breakdown of respondent groups to Question 11

89.3% of respondents thought that the relevant Local Authority should have a duty to enforce the regulations. 10.7% were not supportive of this.

Of those who responded positively it was commonly felt that LAs have the requisite local knowledge and will, therefore, be more efficient and cost effective in enforcing regulations.

In addition, it was stressed by LAs that as they are the licensing authority this would simply be an extension of their existing role. This would ensure that a fair and consistent approach is adopted across the country by trained professionals currently undertaking similar duties.

“As Local Authorities currently are responsible for the enforcement of animal licensing regulations, as well as carrying out many other regulatory enforcement roles, it would make sense to make them responsible for this new piece of regulation.” (Shetland Islands Council)

Many agreed, but only on the provision that LAs had sufficient number of staff with the prerequisite training and experience to carry out inspections. The lack of LA staff trained and experienced in animal welfare was echoed as a main concern of those who responded negatively.

Additionally, concern was raised that carrying out inspections would place additional strain on the limited resources of LAs.

“I don’t think local authorities have the time or the staff to deal with this issue.” (Anon)

Separating responses by respondent type showed that a narrow majority of organisations, LAs and individuals agreed with the proposal that LAs should have a duty to enforce the regulations on animal sanctuaries and rehoming activities in Scotland.

Question 12 – Do you consider that the Scottish SPCA should be able to act on behalf of the relevant Local Authority using the powers contained in the Animal Health and Welfare (Scotland) Act 2006 to enforce proposed regulations on animal sanctuaries and rehoming activities in Scotland?

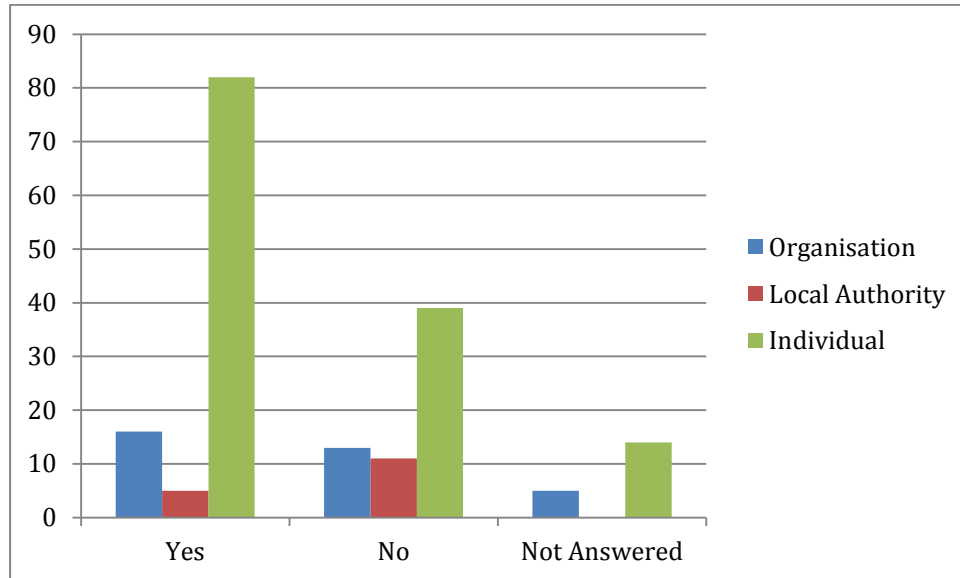


Table 10 – Breakdown of respondent groups to Question 12

62% of respondents agreed that the Scottish SPCA, using the powers contained in the Animal Health and Welfare (Scotland) Act 2006, should be able to act on behalf of the relevant Local Authority to enforce the proposed regulations. 38% were not in favour of this proposal.

Similarly, to Q5 many respondents highlighted the perceived unfairness of allowing the Scottish SPCA to police their own locations. As previously stated, we again wish to clarify that it is the Scottish Government’s intention that the Scottish SPCA would not be responsible for inspecting their own premises and that this duty would be carried out by independent experts and LAs.

Of those who responded positively a theme emerged that given their current role in enforcing the Animal Health and Welfare (Scotland) Act 2006, the Scottish SPCA has the knowledge and expertise to carry out an additional function. In addition, some noted, it is not unprecedented for the Scottish SPCA to be authorised by the LA to act on their behalf in matters of animal welfare. Since 2016, the Scottish SPCA has worked with Dumfries and Galloway Council on Operation Delphin in an effort to combat the illegal puppy trade from Ireland.

“In practice, the Scottish SPCA reports the majority of cases under the 2006 Act and a wide spread of other legislation, and often acts in partnership with local authorities when doing so.” (OneKind)

In addition, many felt that given this experience it would prove more cost effective to have the Scottish SPCA carry out inspections than to provide additional training/staff to LAs.

Conversely, many argued that it would be unfair to place the Scottish SPCA in a position where they are able to inspect, fine and potentially close down other charities.

Some stated that due to this potential conflict of interest the LA should have sole responsibility for enforcement and administration of the licensing regime. Several LAs commented that the use of the Scottish SPCA sent a negative signal as to the trust held by the Scottish Government in LAs in matters of animal welfare.

“The use of Scottish SPCA inspectors to fulfil the normal duties of Local Authority officers will undermine the confidence of local authority staff, sending a strong message that the Scottish Government is wanting to reduce staffing levels within LAs by using non-LA staff to carry out regulatory roles within Scotland.” (Shetland Islands Council)

Instead, many felt that enforcement of the regulation should be a joint effort by LAs, the Scottish Government and leading animal welfare charities.

Separating responses by respondent type showed that a majority of organisations, and individuals agreed with the proposal whilst a sizeable majority of LAs disagreed on the basis that would infringe upon the role of the LA.

Question 13 – Do you think that a national list of licensed premises should be kept?

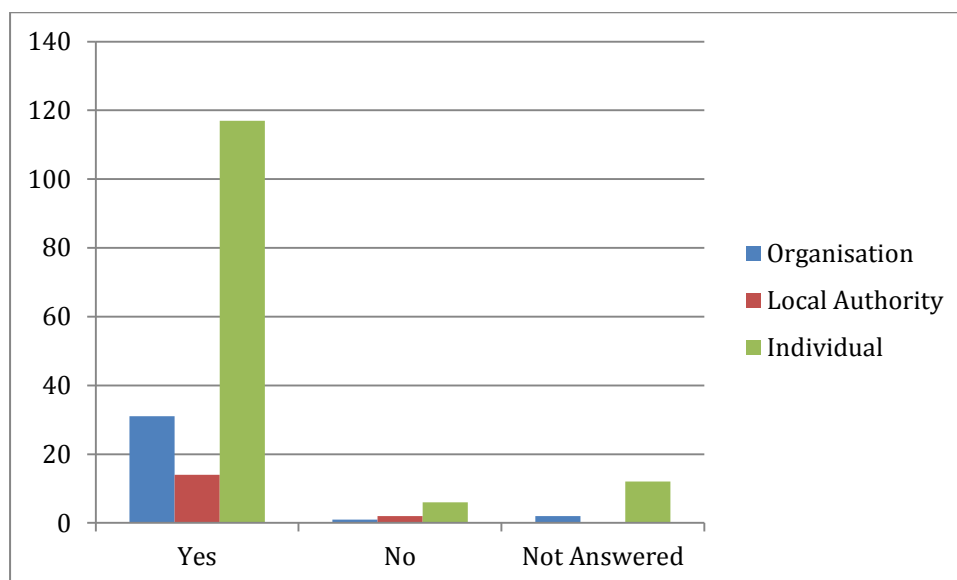


Table 11 – Breakdown of respondent groups to Question 13

The majority of respondents were supportive of a national list of licensed premises (94.7%). 5.3% did not agree with this proposal.

Most respondents interpreted this question to mean that a national list would be made available publicly. On this basis, it was commonly felt that a national list would allow a member of the public to easily identify premises that did not meet the licensing standards. As such, a publicly available national list would create accountability and transparency thus providing assurance to a member of the public looking to donate, volunteer or source a pet that they were dealing with a reputable organisation.

The vast majority of LAs were also in favour as a national list would aid in their efforts to police animal welfare by streamlining intelligence gathering and information sharing amongst authorities.

For many organisations placement on a national list of licensed premises would be a source of legitimacy. In addition, many organisations felt that a national list be a valuable tool to educate the public against the sourcing from the illegal trade in pets.

“This is critical to the success of licensing.” (Edinburgh Dog and Cat Home)

A number of respondents suggested criteria which they felt should be part of keeping a national list of licensed premises. Of these the most common suggestion was that the list should be updated annually to record any changes of circumstance in licensed premises. To facilitate this, the owners

of the premises should/be required to provide details regarding any related changes as a requirement of licensing.

“premises could be required to submit their data annually in electronic format and this could be collated centrally to form a national list.” (Joint response from British Veterinary Association Scottish Branch, British Small Animal Veterinary Association and British Veterinary Zoological Society)

Of those who responded negatively it was felt that a mandatory placement on a publicly available national list raised privacy concerns. It was highlighted that members of the public may operate small sanctuaries from their homes and may not wish this information to be publicly available. To correct this, it was suggested that the placement on a national list should be voluntary.

Several individuals raised a concern that the creation of a national list may prove to be a fruitless exercise as the compilation and administration would be costly and the list would regularly be out of date.

“This would be another level of monitoring and serve no useful purpose” (Anon)

Separating responses by respondent type showed that a majority of organisations, LAs and individuals agreed with the proposal that a national list of licensed premises should be kept.

Question 14 – Do you have any comments on who should be able to access information from the list, and if a charge should be made for information?

143 respondents commented on this question.

Of those who answered that information from the list should be available to the general public it was felt that the public should have access to the information to ensure they are only supporting those sanctuaries/rehoming centres who meet the sufficient animal welfare standards. It was frequently highlighted that a public list would aid enforcement efforts as through their interactions with sanctuaries and rehoming centres the public are often better placed to identify illegal activity.

As in Q13, many organisations welcomed a national list of licensed premises as their placement on such a list would be a source of legitimacy.

“Bona fide sanctuaries and rehoming centres will want the public to be aware of their services, so they know where they can relinquish their animals in a responsible manner, and for those wishing to rescue an animal.” (The Kennel Club and Scottish Kennel Club)

A number of LAs highlighted that if a national list was held by the LAs it would automatically become available to the general public through the Freedom of Information (Scotland) Act 2002. As such the information should be made free and easily available.

“The existence of licensed premises should be public information. As it is likely to be available under a local authority publication scheme or (if not) through Freedom of Information (Scotland) Act, it is unlikely to be workable to impose a charge to access the information.” (West Lothian Council)

In addition, LAs felt that they should be able to access the list to determine if an individual is operating across more than one local authority.

The majority of individual respondents stated that as it is in the public interest the information should be widely shared and any cost of maintaining or storing the list should be met by the license fee.

“You don’t charge for parents to be able to look at a school’s performance or if a chip shop has passed its hygiene rating. Why on earth would not be easily accessed information free for all to see.”
(Anon)

Of those respondents who felt that a cost should be charged it was commonly felt that a nominal fee would help cover the cost of administering the list and inspecting premises.

“A fee to access the list may claw back some fees.” (Anon)

However, a number of respondents commented that the national list should operate on a system of differentiated access in which basic information would be publicly available. This could include the name of the premises, address, species dealt with, when the licence was granted, opening hours etc. Any additional information would be accessible to only LAs, the Scottish Government and any other authorised bodies.

Question 15 – The Scottish Government believes that enforcement agencies should be able to suspend, vary or revoke registrations and licenses or issue improvement notices for minor irregularities. Do you agree with this proposal?

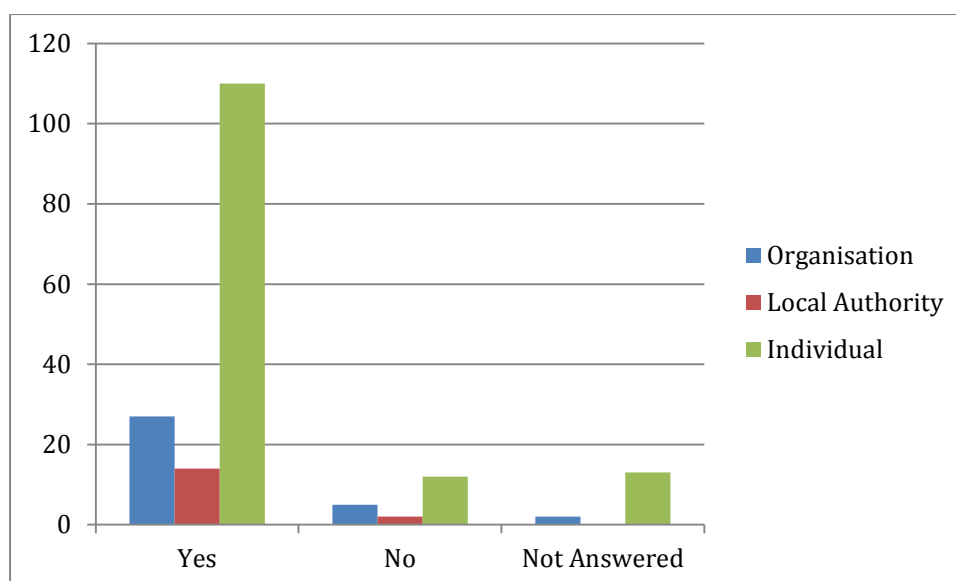


Table 12 – Breakdown of respondent groups to Question 15

Of the respondents who answered this question, 88.8% agreed that enforcement agencies should be able to suspend, vary or revoke registrations and licences or issue improvement notices for minor irregularities. 11.2% were not in favour of this proposal.

A significant number of respondents seemed to interpret the question to mean that the enforcement action, listed above, would be available for “minor irregularities” rather than simply the issuance of improvement notices.

A common theme of those in favour of the proposal was that such powers would deter acts of animal cruelty and ensure that high standards of animal welfare are maintained. Without these powers enforcement action would prove to be difficult or even impossible.

“There is no point in having a licensing system unless there are sanctions and animal welfare must be protected. It shouldn’t just be a paper exercise.” (Cats Protection)

Many LAs were in favour on the basis that such a system would accord with their current regulatory power over other animal establishments such as boarding kennels, breeding establishments and pet shops.

“The Local Authority currently regulate other establishments such as Boarding Kennels, Breeding Establishments and Pet Shops. Concerns are currently brought to the attention of the Council by trained Officers.”

I would suggest the same procedure is implemented for animal sanctuaries. (East Ayrshire Council)

In addition, a number of LAs emphasised mechanisms they would wish to see integrated into an enforcement system. These included:

- Providing LAs with the power to suspend licences/registrations with immediate effect in extreme cases where animal welfare is being compromised, and
- An appropriate and independent appeal process in place.

However, a number of respondents suggested that minor irregularities should not merit significant enforcement action i.e. suspension or revocation of a licence/registration. They felt that such steps or measures should only be used for repeat offenders and that minor offenders should be offered help under guidance rather than immediate enforcement action.

“Most people who set up an animal sanctuary want to help animals. Low staffing or lack of support or financial constraints may cause issues to develop. Offer help and advice rather than punishment, unless there is a case of actual animal abuse” (Anon)

Separating responses by respondent type showed that a sizeable majority of organisations, LAs and individuals agreed with the proposal that enforcement agencies should be able to suspend, vary or revoke registrations and licences or issue improvement notices for minor irregularities.

Question 16 – The Scottish Government proposes to adopt welfare standards based on those published by the Association of Dog and Cat Homes that all licensed animal sanctuaries and rehoming organisations should follow for the species they hold. Do you agree that this should be a condition of licensing? Are you aware of any other relevant standards?

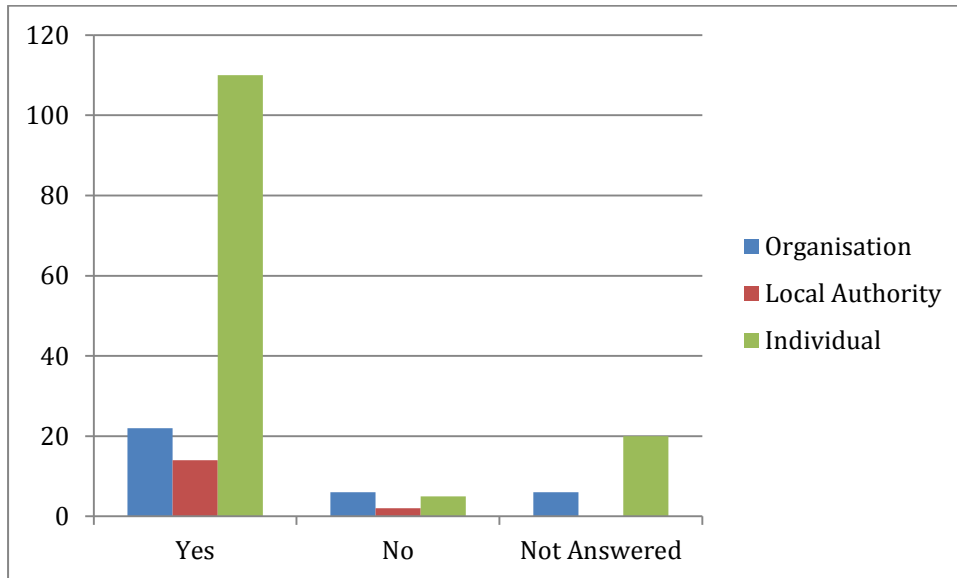


Table 13 – Breakdown of respondent groups to Question 16

The majority of respondents, 91.8%, agreed that the Scottish Government should adopt welfare standards based on those published by the Association of Dog and Cat Homes (ADCH) for all licensed animal sanctuaries and rehoming organisations. 8.2% were not in favour. 83 respondents went on to provide further comments and information on other relevant standards which could apply.

Of those in favour of the proposal, many expressed confidence that the ADCH welfare standards were long established and well respected; and would ensure a fair comprehensive standard for premises to meet.

“As an existing member of ADCH we recognise the value of a UK wide pool of experience in setting welfare standards.” (Borders Pet Rescue)

However, concerns were raised that the ADCH welfare standards were designed in exclusive cooperation with dog and cat charities. Therefore, many respondents felt that whilst they would provide a strong basis, the welfare standards should be expanded to include the views of qualified individuals and groups for other species. It was also suggested that the guidance should be regularly reviewed based on the outcome of inspections and the latest advancements in welfare knowledge.

A number of additional relevant standards were also suggested, these include:

- The Chartered Institute of Environmental Health (CIEH) Model License Conditions for dog and cat boarding establishments, pet shops, riding establishments and dog breeding establishments,
- The minimum standards for each species as devised by the Global Federation of Animal Sanctuaries,
- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018,
- The British Veterinary Zoological Society (BVZS) Good Practice Guidelines for Wildlife Rehabilitation Centres
- The Scottish Government Codes of Practice for Welfare of Animals, and
- The National Equine Welfare Council Code of Practice.

Separating responses by respondent type showed that a sizeable majority of organisations, LAs and individuals agreed with the proposal that the Scottish Government should adopt welfare standards based on those published by the ADCH for all licensed animal sanctuaries and rehoming organisations.

Question 17 – Do you agree that appropriate fixed penalties should apply for minor non-compliance with the legislation?

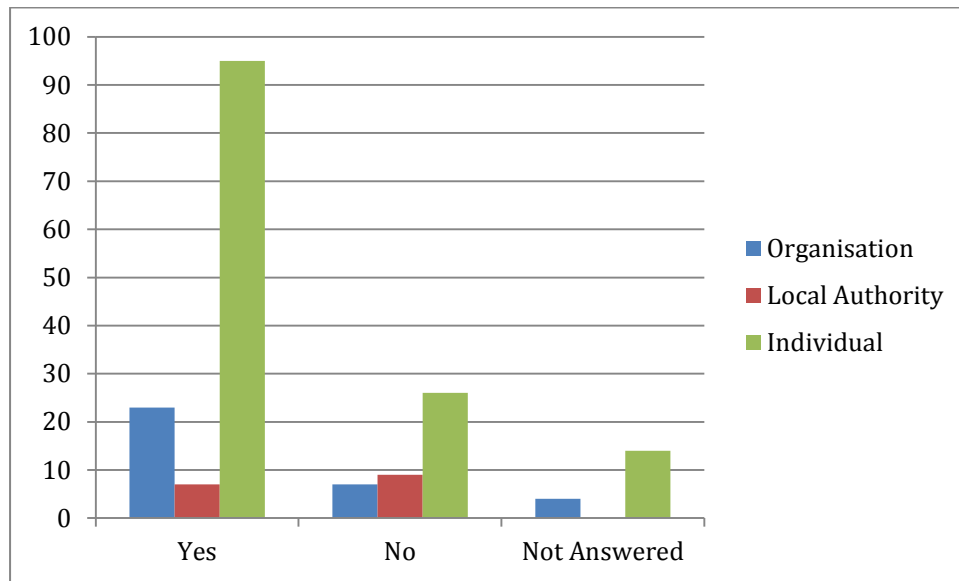


Table 14 – Breakdown of respondent groups to Question 17

Of those who answered this question, 74.9% agreed that appropriate fixed penalties should apply for minor non-compliance with the legislation. 25.1% did not agree and thought that there were alternate ways to deal with non-compliance issues.

Of those who favoured the proposal, it was suggested that financial penalties could provide a strong incentive for premises to maintain compliance with the legislation. In addition, the fixed penalties could be used to fund the registration/inspections scheme.

Several LAs and organisations confirmed that in their experience Fixed Penalty Notices (FPN) were also an effective and efficient alternative to court action.

“fixed penalty notices would save time and resources and achieve rapid compliance with the required standards, which is in the interest of the animals.” (OneKind)

However, many favoured the proposal with the proviso that the fixed penalties are proportionate to the offence, with some suggesting there should be a sliding scale of fines.

Of those who responded negatively, it was frequently expressed that as animal sanctuaries and rehoming centres are run on very tight budgets animal welfare is likely to suffer further if sanctuaries/rehoming centres are short of funds. Instead, it was suggested that a warning and an opportunity to reform could be more effective for minor offences.

“Many sanctuaries already struggle and penalising them through fines will only cause further suffering to the animals in their care. Improvement notices/ follow up inspections and where appropriate, closure would be a better route.” (Dumfries and Galloway Canine Rescue Centre)

Therefore, the majority of LAs felt that fixed penalties should be imposed only after refusal to comply with a warning notice.

“In our view FPN should only be considered following non-compliance with e.g. a Care Notice...” (Aberdeenshire Council)

Separating responses by respondent type showed that a majority of organisations and individuals agreed with the proposal that appropriate fixed penalties should apply for minor non-compliance with the legislation. On the other hand a narrow majority of LAs disagreed on the basis that it would remove needed funds from animal welfare organisations.

About the consultation

Question 1 – Are there any other measures you consider should be included in legislation for animal sanctuaries and rehoming activities in Scotland?

The Scottish Government asked respondents to provide information on other measures they thought should be included in legislation which had not been previously addressed in the consultation. 103 respondents provided further information on other measures they thought should be included.

One concern was the need for sanctuaries and rehoming centres in receipt of charitable donations to disclose their finances. This would ensure transparency on how the funds were being spent by each charity and ensure that they were not being run for profit. Legislation should also be clear that when money is exchanged in the rehoming process then the premises/operation must be licensed.

“Premises should be required to provide information as to the amount of monies being donated and the cost of expenditure in running the premises. This would ensure that charitable donations are being spent as intended and that no person makes substantial profitable gain from running an animal sanctuary.” (East Ayrshire Council)

Respondents suggested that there should be clear definitions on the types of activity the legislation will cover and that further consideration should be given to species-specific risk based assessments. It was highlighted that consideration be given to the space required for each individual animal cared for on the premises and this could perhaps be stipulated in the legislation.

Many felt that consideration should be given to the inspection and licence process. In particular to premises which are currently licensed for animal activities by aligning the licence periods and ensuring a joint inspection for all animal activities. However, if a premises is boarding animals as well as rehoming then they should hold two licences for the two animal activities.

“For someone who already holds an animal activity licence such as dog breeding there should be provisions for licence periods to be aligned and ways to avoid unnecessary duplication of inspections e.g. local authority could inspect for breeding and rehoming within the same visit.” (The Kennel Club and Scottish Kennel Club)

Respondents felt that the Scottish Government needed to give more thought to the implications of the licence scheme for multi-site organisations in particular what species are kept on these premises at any one time. There were also suggestions of additional conditions which could be imposed on licence holders. These included;

- Dangerous Wild Animal species should not be allowed,
- People should be over 18 years to apply,
- A ban on animals being brought in from abroad for rescue.

Question 4 – Do you have any other comments on the way this consultation has been conducted?

A total of 81 respondents made one or more comments about the way the consultation has been conducted.

Positive comments included:

- Consultation has been conducted well and happy that it has been carried out.
- Look forward to the implementation of this proposal given the growing amount of problems in this area.
- It is good that the Scottish Government have reached so far in making an attempt to bring more regulations into force to protect animals from suffering in animal sanctuaries that were set up to assist them.

Negative comments include:

- There was insufficient publicity surrounding the consultation and it was only after seeing an article in a local paper in which they became aware of it.
- Thought it would have been useful to include specific ideas of what will be included in the legislation.
- Local Authorities have not been involved in the discussion process.
- Has not taken into consideration the basic requirements for enforcers to be qualified and to operate within a fair, proportionate and transparent system.
- There would appear to be an emphasis on the role of the SSPCA in formulating this consultation.
- The issues requiring attention are greater than this consultation suggests are being looked at.
- Some of the questions were too vague to answer yes or no.
- This online form includes requests for comments which are not included in the consultation document.
- There was a very limited amount of detail which meant it was difficult to make informed responses and the questions did not consider issues such as proposed definitions for 'sanctuary' and rehoming centre.
- The consultation focused largely on the rehoming of dogs and cats and did not provide much information about the wider sector including sanctuaries that care for other species of animals and sanctuaries that offer long-term or life-time care for animals. There appear to be relatively few animal sanctuaries on the list of organisations consulted and we are concerned that their views may not be fully represented.

Next Steps

The Scottish Government is very grateful to all those who took the time to respond to this consultation. Overall, the responses were positive about introducing a registration and licensing system for rehoming centres and animal sanctuaries, which has reassured us that we are taking the right approach. Regulations will now be drafted which will take into account the views expressed in the consultation.



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