

Licensing of Dog, Cat and Rabbit Breeding 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 to introduce new regulations for the licensing of dog, cat and rabbit breeding activities in Scotland. The consultation ran for 12 weeks from 7th September 2018 to 30th November 2018.

Background

The practice of breeding dogs in Scotland is governed by the Breeding of Dogs Act 1973 and the Breeding and Sale of Dogs (Welfare) Act 1999. Under these Acts, a licence is required for any individual who keeps a breeding establishment.

A breeding establishment is where a person undertakes the business of breeding dogs for sale, owns or is responsible for breeding bitches which produce a total of five or more litters between them in a 12 month period. The Breeding of Dogs Act 1991 provides for inspection of premises unlicensed for the purposes of dog breeding. The breeding of cats and rabbits is currently unregulated.

The dealing of young dogs and cats is regulated by the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009. Under the regulations an individual who sells or acquires a cat or dog at less than 84 days old, with a view to sell requires an animal dealing licence. The dealing of young rabbits is currently unregulated.

These licences are granted subject to compliance with a set of standards, specific to the type of activity in question. They enable local authorities to inspect the premises, allow an appeals process to the courts in case of refusal or imposition of onerous conditions, provide that operating without a licence is an offence, and set out a number of disqualifications that are relevant to the local authority when assessing licence applications (such as a conviction for animal cruelty). They also permit a local authority to recover the costs for inspection, processing, and enforcement expenditure through a licence fee.

Despite these Acts and the ongoing work of many animal welfare organisations and enforcement agencies, serious animal welfare concerns remain, in particular with regard to puppies, for which there is an increasing demand.

The Programme for Government 2017-18 committed the Scottish Government to prepare legislation for a modern system of licensing of dog, cat and rabbit breeding activities, allowing 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 at present, while being effective in dealing with cases where welfare is not being sufficiently protected.

Animal welfare is a devolved matter and the consultation applied to the proposed introduction of regulations on the licensing of dog, cat and rabbit breeding activities depending on the size of the undertaking in Scotland only. The consultation covered proposals to introduce new secondary legislation under powers contained in the Animal Health and Welfare Act (Scotland) 2006.

The consultation covered proposals to update the minimum legal requirements for dog, cat and rabbit breeding activities based on current scientific and technical evidence on animal health and welfare. It is proposed that this will be set out in revised regulations, which will mean that in future changes can be made more easily by amending regulations rather than changing primary legislation.

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 for its approval.

Summary of Responses

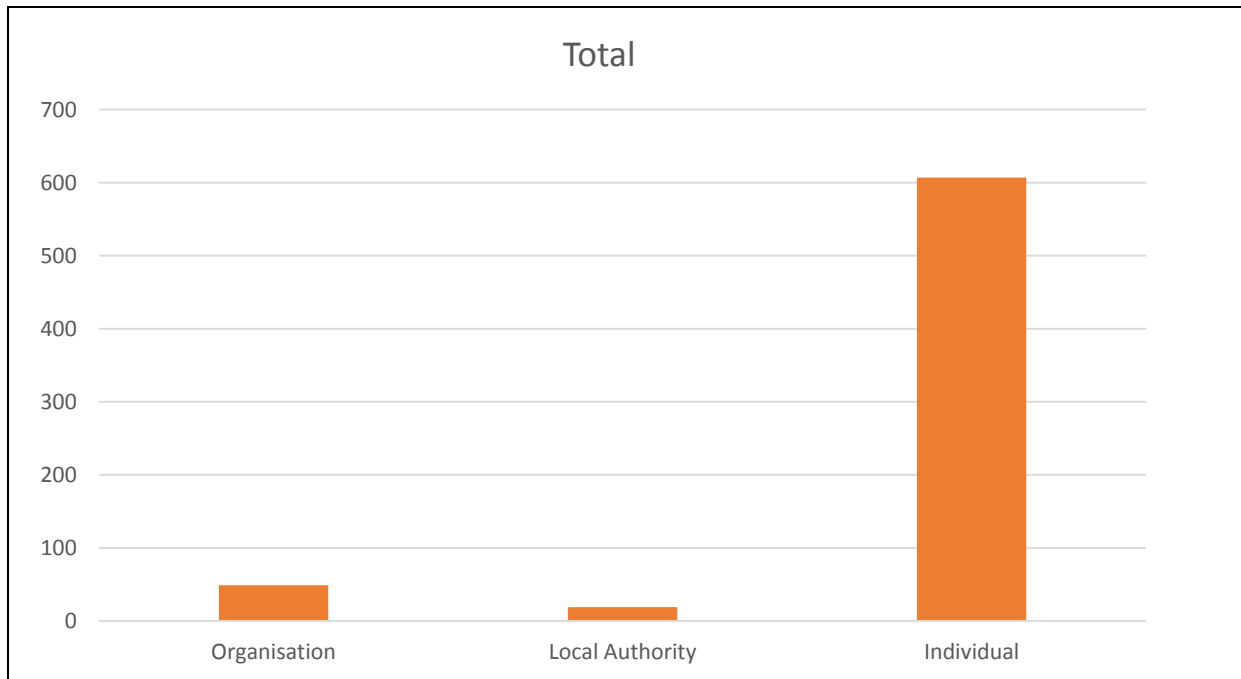


Table 1 – Breakdown of respondent groups

A total of 675 responses were received. Of these 49 (7.3%) were from groups or organisations which included animal welfare charities; animal sanctuaries; animal rehoming centres; veterinary profession and the legal profession. 19 (2.8%) responses were received from Local Authorities (LAs) and the remaining 607 (89.9%) were from members of the public with an interest in this subject.

Responses to Individual Questions

Question 1 - The Scottish Government proposes that dog, cat and rabbit breeding activities should be regulated. Do you agree?

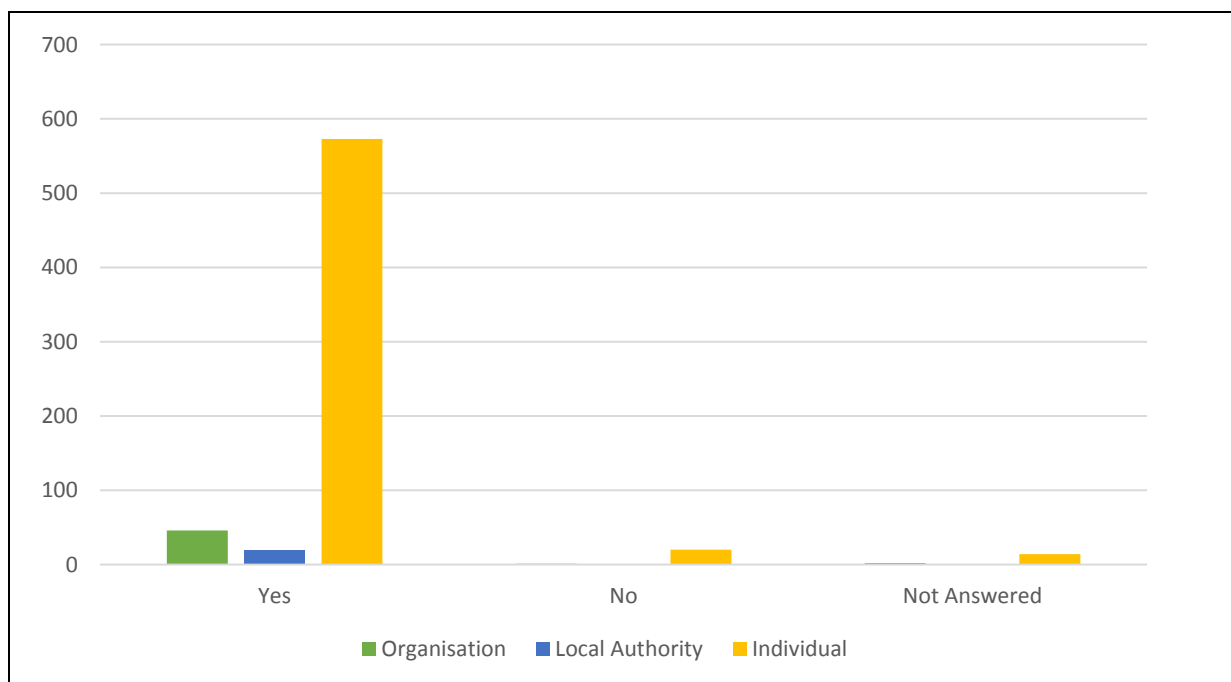


Table 2 – Breakdown of respondent groups to Question 1

Of the 659 responses to this question, 96.8% were in favour of the Scottish Government’s proposals to regulate dog, cat and rabbit breeding activities with 3.2% against the proposed regulations.

Of those in favour of the proposal, the most common theme was that the proposals would improve welfare by reducing the number of high-volume, low-welfare breeders suspected of putting maximisation of profit ahead of animal welfare concerns.

“Without regulation there is inevitable cruelty and neglect where profit is deemed more important than welfare of the animals.” (Anon)

A large number of respondents also noted that a reduction in the number of low-welfare breeders would reduce the number of animals being sold with a predisposition to genetic disorders and conformational concerns.

Another frequently raised point was that a reduction in the number of animals being bred without proper concern for their welfare would reduce the financial and logistical burden on animal welfare charities and animal rescue centres; and would increase demand for rescue animals allowing greater numbers to be successfully rehomed.

“As an animal rescue centre we are all too well aware just how long regulation has been necessary. Far too much thoughtless breeding takes place with the only interest of the breeders being money, resulting in literally thousands of

unwanted, and often neglected animals, needing to be either euthanised or taken into care.” (Mossburn Community Farm)

Many LAs felt that significant animal welfare improvements could be made by introducing licensing regulations. However, several LAs also expressed concerns about the potential financial and logistical burden that a new licensing regime would place upon LAs.

“Increasing the scope of licensing to other animals will have the consequence of increasing the workload during a period when the demands on Environmental Health Services are already high. In general, we support the idea of expanding the scope to include cat and rabbit breeding but would express concern that this will create demands beyond the licensing scheme itself; there will be tangential demands in responding to complaints, enquiries and freedom of information requests.” (South Lanarkshire Council)

Of the small number (3.2%) of respondents who were not in favour of the proposals the most common concern was that the proposed regulations would do little to restrict the activities of unscrupulous breeders and would only place additional burdens on law-abiding reputable breeders with no discernible positive effect on animal welfare standards.

“With any regulation, the responsible ones that follow rules get regulated, and the irresponsible that are the problem, do not.” (Anon)

Separating responses by respondent type showed that the vast majority of organisations (97.9%) and individuals (96.6%) were positive about the proposals while LAs were unanimously positive about the proposals.

Question 2 - Do you agree with the proposal to set the licensing threshold for dog, cat and rabbit breeders at three or more litters a year?

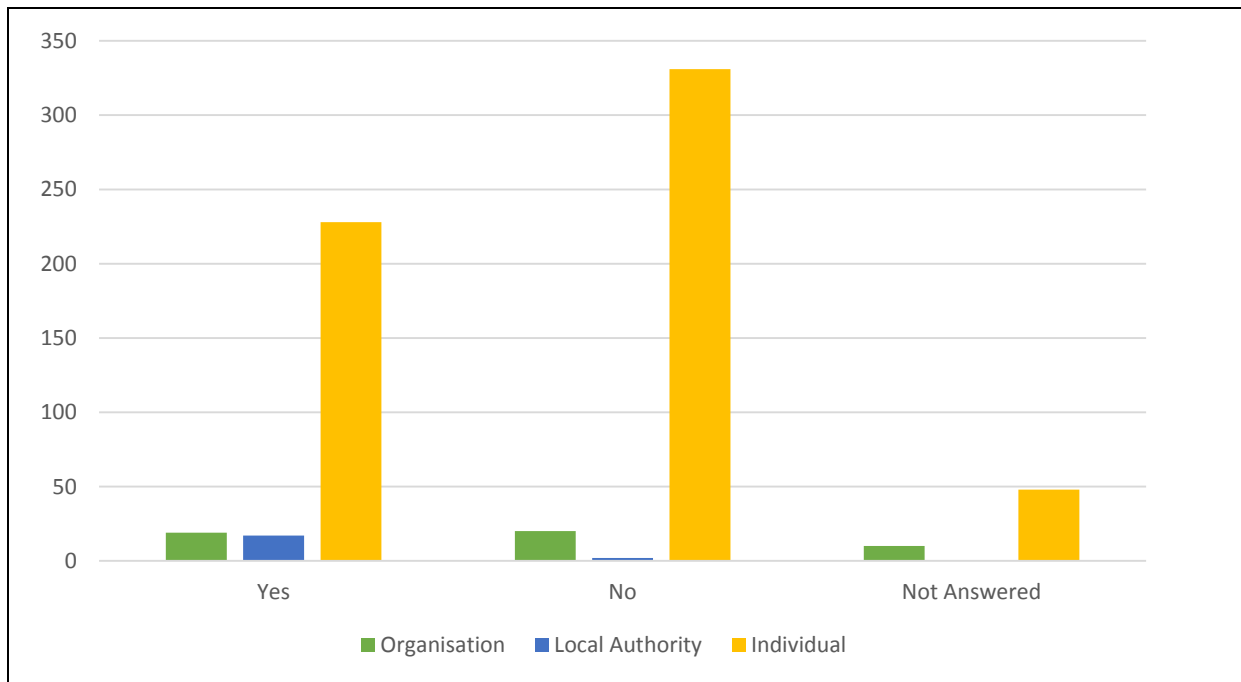


Table 3 – Breakdown of respondent groups to Question 2

Of the 617 respondents to this question, 42.8% were in favour of the Scottish Government’s proposal to set the licensing threshold for dog, cat and rabbit breeders at three or more litters a year with 57.2% of the respondents against the proposed licensing threshold. Further comment from respondents on their views was provided in Question 3.

Of the 39 organisations who responded to this question, 48.7% were in favour of the proposed licensing threshold with 51.3% against the proposed licensing threshold.

Of the 19 LAs who responded to this question, 89.5% were in favour of the proposed licensing threshold with 10.5% against the proposed licensing threshold.

Of the 559 individuals who responded to this question, 40.8% were in favour of the proposed licensing threshold with 59.2% against the proposed licensing threshold.

Separating responses by respondent type showed a small majority of organisations were against the proposed licensing threshold, the vast majority of LAs were in favour of the proposed licensing threshold and a large majority of individuals were against the proposed licensing threshold.

Question 3(a) - Do you have any comments on the thresholds that should apply?

514 respondents provided detailed comment on the thresholds that should apply to the breeding of dogs, cats and rabbits.

A clear majority of respondents supported the idea of introducing licensing of breeders based on a threshold number of litters. However, there was a common concern that these thresholds should be backed up relevant scientific, technical and veterinary expertise.

“It is difficult to know if three is the appropriate threshold for either cats or rabbits in that there is no particular reservoir of information or history of complaints about cat and rabbit breeding to draw conclusions from. That said, we would assume that the threshold has been set based upon the available scientific and technical evidence.” (South Lanarkshire Council)

A small number of respondents suggested that a threshold of three litters was too high and that few, if any, non-commercial breeders would breed more than two litters per animal per year in order to replace working animals.

“...three litters per year is too high... A dog or cat, for example, would not normally have more than one litter in a year... If it is to be different for separate species then the threshold for rabbits needs to be low.” (Anon)

It was also noted that, with regard to certain in-demand breeds such as Pugs or French Bulldogs, two litters per year could amount to a significant commercial enterprise with no requirement for licensing under the proposal for a three litter per year licensing threshold.

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

A clear majority of respondents agreed that there should be different thresholds for the separate species.

Frequent factors cited in favour of distinct thresholds for each species included:

- The difference in gestation and recovery period between the species and the difference in the potential effect on welfare.
- The prevalence of over-breeding of the respective species, specifically the scale of the issue that feral cats pose in comparison to stray dogs.
- The differences in the normal social behaviour of the species.
- The average life expectancy of each species.

A small number of respondents commented that distinct licensing thresholds should be set for certain breeds of dogs, particularly those with a predisposition to genetic health conditions.

“Different for different species and also different breeds when it comes to dogs, smaller breeds may not be able to cope with the same number of litters as larger breeds.” (Anon)

Several LAs felt that a universal threshold for all species would allow for more efficient enforcement of licensing regulations and consequently a greater positive effect on welfare.

“Thresholds should be the same to avoid confusion, there is an issue with rogue breeders who trade online and obfuscate their identity. For the legislation to overcome this anyone in the business of breeding and selling dogs, cats and rabbits regardless of the numbers involved should be licensed.” (North Lanarkshire Council)

However, several LAs also noted that the scale of breeding indicative of a commercial enterprise was likely to differ between species.

Question 4 - Do you agree with the proposal that a breeding dog, cat or rabbit must not give birth to more than six litters in their lifetime?

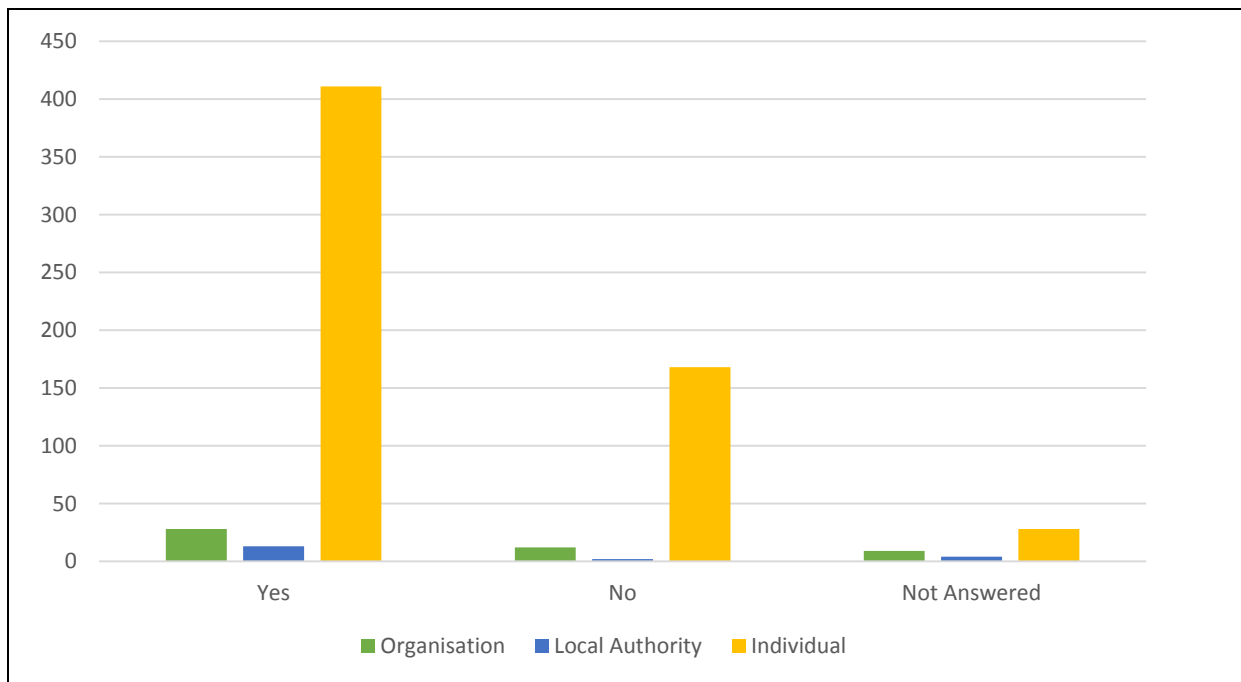


Table 4 – Breakdown of respondent groups to Question 4

Of the 634 respondents to this question, 71.3% agreed with the proposal that a breeding dog, cat or rabbit must not give birth to more than six litters in their lifetime with 28.7% not in agreement with the proposal.

Of those who responded positively to the proposal, it was commonly felt that, while a breeding dog, cat or rabbit should not give birth to more than six litters in their lifetime, this could reasonably be amended to an upper limit of four litters for dogs on welfare grounds in line with the standards required by the existing Kennel Club Assured Breeders Scheme.

“We agree with the proposal that a breeding dog must not give birth to more than six litters in their lifetime. However it is worth noting that Kennel Club rules go further than this and as of January 2012, breeders were prevented from registering pedigree puppies with us if the dam had already whelped 4 litters (the limit changed from 6 litters to 4 litters).” (The Kennel Club & Scottish Kennel Club)

It was also frequently suggested by respondents that the differences in fecundity and gestation periods between the three species meant that differing upper limits should be considered. Several respondents commented that rabbits, as a prey species, are generally predisposed to breeding in larger numbers than either dogs or cats.

However, some concerns were expressed that regulating for a lower upper threshold for litters in a breeding mothers’ lifetime could lead to breeding females being disposed of at an unduly young age.

“Cats and rabbits breed more frequently: a cat can produce three litters in a year and a rabbit six. Therefore, while we do agree with limiting the number of litters, it must be taken into account that a mother cat’s profitability and commercial value could potentially expire in two years and a rabbit’s in just one.” (OneKind)

Of those who were not in favour of the proposal that a breeding dog, cat or rabbit must not give birth to more than six litters in their lifetime the common theme was that six litters was an excessive number of litters for a single breeding mother to give birth to in her lifetime.

However, many of these respondents specified that this applied to dogs and cats rather than to rabbits owing to differing gestation periods and fecundity.

“Serial pregnancies carry a much higher risk than neutering, and pregnancy and birth bring their own complications, infections and diseases.” (Anon)

Separating responses by respondent type showed that a majority of organisations (57.1%), LAs (68.4%) and individuals (67.7%) were in favour of the proposal that a breeding dog, cat or rabbit must not give birth to more than six litters in their lifetime.

Question 5 - Do you agree with the proposal that as a condition of licensing, premises should only be allowed a maximum of 20 breeding dogs or cats within one calendar year?

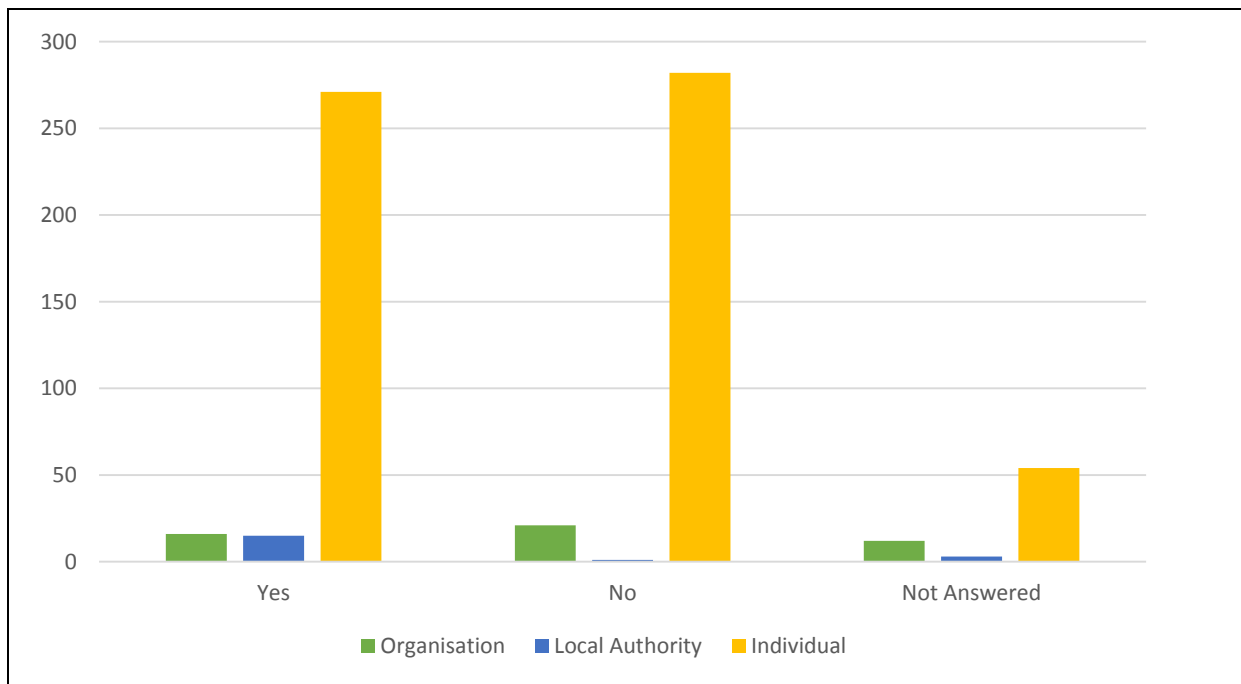


Table 5 – Breakdown of respondent groups to Question 5

Of the 606 respondents who answered this question, 49.8% favoured the Scottish Government’s proposal that, as a condition of licensing, premises should only be allowed a maximum of 20 breeding dogs or cats within one calendar year while 50.2% of respondents were not in favour of the proposal.

Of those respondents who agreed with the proposal, a common theme was the beneficial role that the introduction of a maximum number of breeding dogs or cats allowed to be kept at a licensed premises could play in combating the rise of “puppy farms”.

“A major problem in dog breeding is the existence of ‘puppy farms’. These are operations in which the over-riding concern of the breeder is the maximisation of profit, with minimal concern for the welfare of the dogs or puppies kept... A very important action that the Scottish Government can take is to specify a maximum number of breeding dogs that may be kept. This is more likely to ensure that only those with a commitment to the welfare of dogs operate.” (Dog Breeding Reform Group)

Another recurring comment from those in favour of the proposal was that a limit on the number of breeding animals allowed at a licensed breeding premises would bring about a reduction in the number of unwanted animals being bred. Consequently, this would mean fewer animals ending up in the care of animal welfare charities and rehoming centres, providing an overall welfare benefit.

Of those respondents who were not in favour of the proposals, a common theme was that a limit of twenty breeding animals per year per premises would not provide significant welfare improvements. Respondents felt that the proposal was unlikely to affect inadequate welfare standards at large scale breeding premises or the over-provision of specific breeds.

It was also repeatedly noted that welfare concerns are not exclusively an issue with large scale breeders. Many respondents considered there was potential for equally severe welfare problems to be in evidence at small scale breeders and that this may lead to welfare issues at smaller breeders being overlooked.

“We cannot ignore the fact there are also large problems with small scale breeders. Many of these breeders could easily meet acceptable welfare standards but they simply do not... Whilst the number of dogs they breed each year may be smaller, the welfare of these dogs can be as severely compromised as those bred in larger puppy farms.” (Blue Cross)

Separating responses by respondent type showed that a narrow majority of organisations who provided a response (56.7%) disagreed with the proposal, though it should be noted that many of these objections were based on a limit of twenty being excessively large. Meanwhile the vast majority of local authorities (78.9%) were in favour of the proposal while a very narrow majority of individual respondents who provided a response (50.1%) were opposed to the proposal.

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 hold a licence for breeding activities?

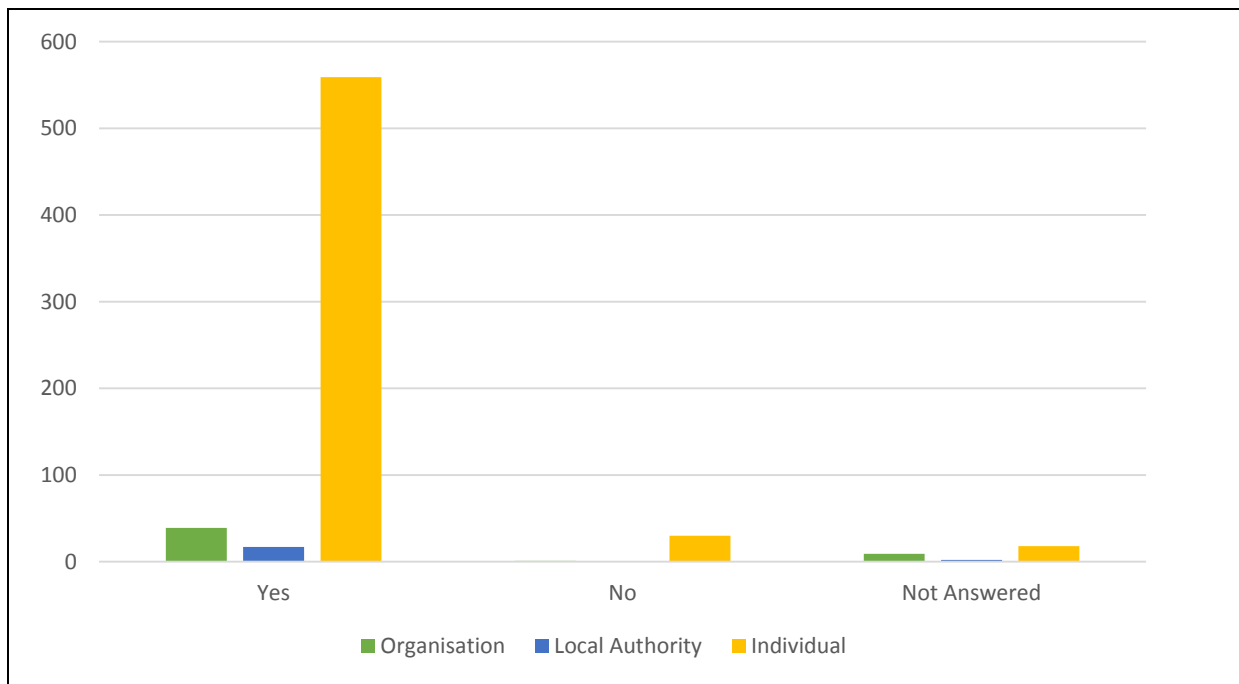


Table 6 – Breakdown of respondent groups to Question 6

Of the 646 respondents who answered this question, 95.2% agreed with the Scottish Government’s proposal that individuals with unspent convictions for animal welfare offences or other criminal convictions should not be allowed to hold a licence for breeding activities with 4.8% not in agreement with the proposal.

Of the respondents who were in favour of the proposals, there was near unanimous agreement that individuals with unspent convictions for animal welfare offences should not be allowed to hold a licence.

Others noted that individuals holding a licence for animal breeding activities would be entrusted with the welfare of the animals in their care and should therefore be of good character.

“The welfare of individual animals is paramount in any breeding operation and if the person(s) have convictions relating to an animal welfare offence, spent or otherwise, it should be grounds for instant refusal of a breeding licence.”
(Advocates for Rabbit Welfare)

However, a frequently raised point was that in the case of individuals with non-welfare related criminal convictions the licensing authority should be able to exercise some degree of discretion, particularly for non-violent criminal convictions.

Another common theme was that those residing at the same address as an individual not allowed to hold a licence for animal breeding activities due to unspent

convictions for animal welfare offenses should also not be allowed to hold a licence for animal breeding activities.

“As regards other offences, these would need to be carefully considered and those that may preclude or disqualify someone from holding a licence would need to be proportionate and reasonable in relation to the nature of the licence.” (Rabbit Welfare Association)

Of the respondents who were not in favour of the proposals, the common theme was that prohibiting individuals with criminal convictions not related to animal welfare was unnecessarily restrictive, though the majority agreed that those with unspent convictions for animal welfare offenses should not be allowed to hold a licence for animal breeding activities.

Others suggested that unspent criminal convictions not related to animal welfare offenses should be considered on a case-by-case basis.

“Those who are found guilty of animal welfare offences should be banned from owning or working with animals for life... Someone who has a conviction for an offence unrelated to animals or animal welfare should not automatically be excluded from being a licence holder.” (Anon)

Separating responses by respondent type showed that the overwhelming majority of organisations (79.6%) and individuals (92.1%) were positive about the proposal, while all of the 17 local authorities who responded to the question were in favour of the proposal.

Question 7 - Are there other considerations, apart from criminal convictions, that should be part of a 'fit and proper person' test for those running dog, cat or rabbit breeding activities?

527 respondents provided further detailed comment on the other considerations, apart from criminal convictions, that should be part of a 'fit and proper person' test for those running dog, cat or rabbit breeding activities. These included:

- Appropriate qualifications in animal care and animal husbandry with animal first aid specifically highlighted.
- Knowledge of the species and breed being bred.
- Access to premises appropriate for the scale of breeding operation and the species involved
- Access to appropriate financial resources in case of necessary unplanned expense.

"We... would welcome a requirement that those undertaking breeding activities should be required to demonstrate that they have the knowledge and resources to meet the health and welfare needs of the animals in their care, as well as the knowledge to provide suitable advice to prospective owners and the ability to assess behaviour such that animals are matched to new homes appropriately." (British Veterinary Association, British Small Animal Veterinary Association & British Veterinary Zoological Society)

Others suggested that animal welfare charities and other relevant authorities should be contacted to discuss whether there were any outstanding concerns about the fitness of applicants for a licence to provide appropriate care for the animals they intend to breed during the licence period.

"Information and intelligence from reputable sources or authorities should also be considered." (OneKind)

It was also commented that local authorities should have discretionary power to include additional criteria above and beyond a minimum standard if it was felt necessary.

"...a local authority should have power to devise and administer a meaningful test of an applicant for a licence. This would cover relevant matters relating to breeding and animal welfare. This could include testing on knowledge of any Codes or Guidance as other matters considered relevant by the authority. A fit and proper test should be one of a range of grounds of refusal, suspension or revocation of a licence." (Law Society of Scotland)

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

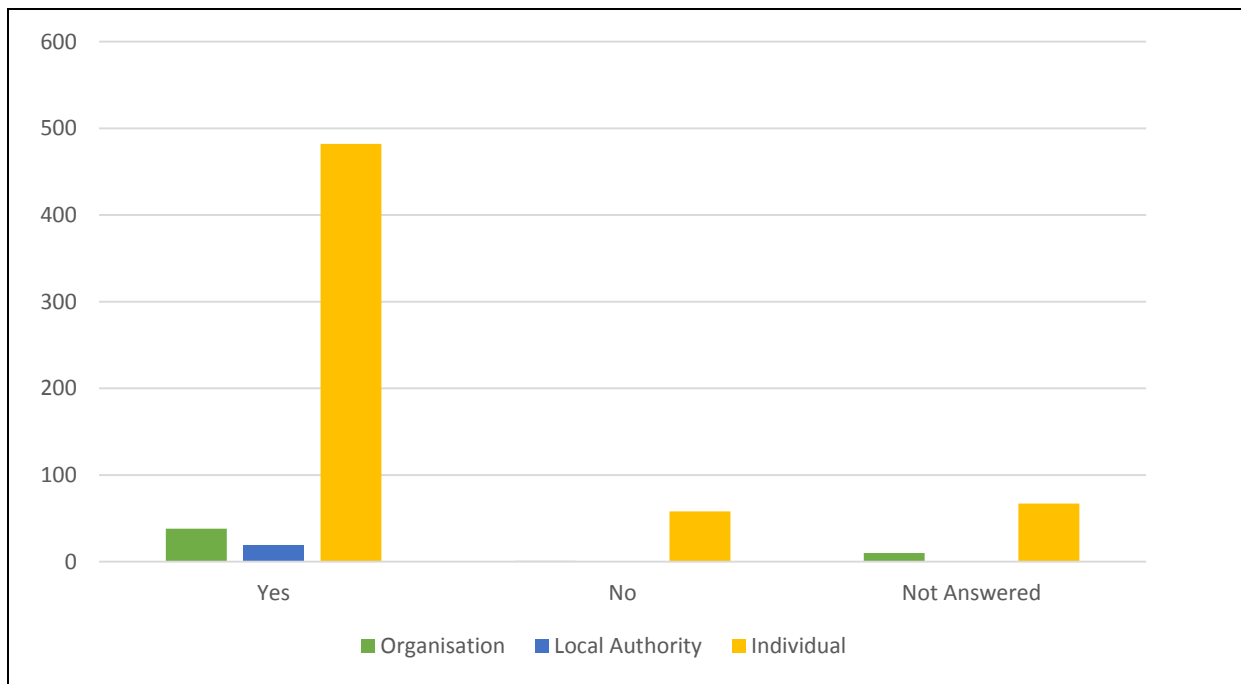


Table 7 – Breakdown of respondent groups to Question 8

Of the 598 respondents who answered this question, 90.1% were in favour of the Scottish Government’s proposal that reasonable costs of inspections should be charged to recover costs to inspectors approved by Scottish Ministers or local authorities while 9.9% of respondents who answered were not in favour of the proposal.

Of those who responded favourably to the proposal, a common theme was that a full cost recovery model would be appropriate. It was noted frequently that this would allow local authorities to properly fund comprehensive inspections in order to maintain the highest possible welfare standards in addition to discouraging licensing applications from breeders incapable of providing appropriate welfare standards.

“It is Battersea’s view that it is entirely reasonable that the applicant should bear the cost of all fees that will be incurred in connection with the application”
(Battersea Dogs and Cats Home)

Others suggested that there should be some differentiation in the fees charged to prospective breeders based upon the value of the animals being bred. Several organisations highlighted the difference in the average value of a rabbit bred in the UK compared to the average value of a dog as an example of why a scale of fees would be more appropriate than a flat rate for all prospective breeders.

“This would be best on a full cost recovery basis which can be standard across the country for dogs and reflects the commercial profit. It may be

reasonable to have a lower fee for cat and rabbit breeding inspections to reflect different levels of profit.” (Anon)

Of those who were not in favour of the proposal, the common theme was that there were concerns about how fees would be set and the degree of oversight that there would be if local authorities were allowed to set their own fees.

“...“reasonable costs” - what does that mean? Who will decide what is reasonable? Is this going to turn into a money-making exercise for cash-strapped local authorities?” (Dumfries & Galloway Canine Rescue Centre)

Other respondents expressed concerns that fees could force small scale and hobby breeders to cease breeding activities as the increased costs could make their breeding activities less viable.

Separating responses by respondent type showed that the vast majority of organisations (77.5%) and individual respondents (79.4%) were in favour of the proposal while all 19 local authority respondents were unanimously in favour of the proposal.

Question 9 - Should licence fees be set by the authorised inspectors, local authorities or by the Scottish Government?

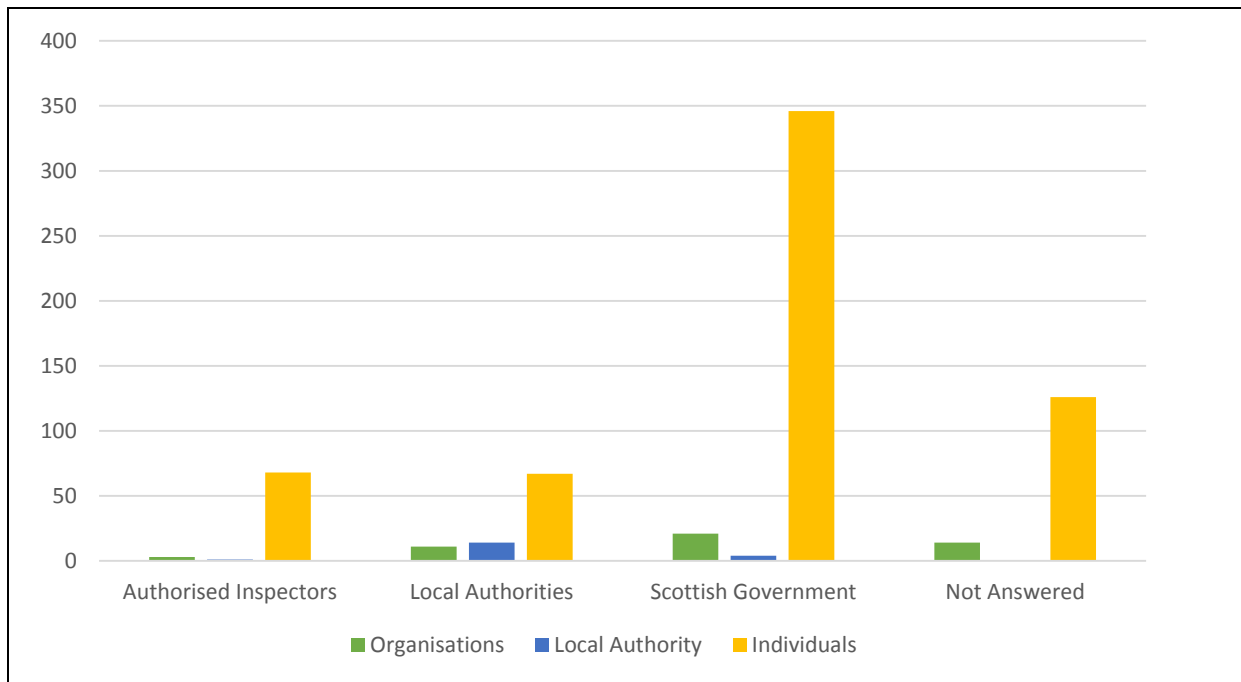


Table 8 – Breakdown of respondent groups to Question 9

Of the 535 respondents who answered this question, 69.3% were in favour of the Scottish Government setting licence fees, 17.2% were in favour of local authorities setting the licence fees and 13.5% were in favour of authorised inspectors setting the licence fees.

Separating responses by respondent type showed that the majority of organisations (60%) and individuals (71.9%) who provided a response to this question were in favour of the Scottish Government setting the licence fees while the majority of local authorities (73.7%) favoured local authorities setting the licence fees.

Question 9(b) - Do you have any comments on what cost is reasonable and what should be included in this? (For example, this might include recovery of administrative costs, or payment for the inspector’s time etc.).

429 respondents to this question provided further detailed comment on the level of cost that they deemed reasonable and which factors the licence fee should seek to recover the cost of. A variety of figures were given by respondents for what constituted a reasonable cost but there was no general consensus.

Of those who favoured the Scottish Government setting licence fees, a common theme was that this would standardise costs for breeders across Scotland and allow for a more consistent and fair licensing regime.

Others commented that a sliding scale of fees dependent on the scale of the breeding activities being licensed for and the species being bred would better ensure

costs were recovered and that smaller and hobby breeders were not disproportionately affected.

“To avoid discrimination or a post code lottery it makes complete sense to have a nationwide scale on which to set inspectors' fees. Different costs in different parts of Scotland would be confusing, and a potential cause of disputes which are even more costly.” (Anon)

Of those who favoured the local authorities setting licence fees, the common theme was that local authorities could have huge variance in the cost of enforcing a licensing regime and should therefore have the discretion to set an appropriate level of fees for their geographical licensing area.

However, it was repeatedly suggested that some form of fee structure should be set out by the Scottish Government to avoid unjustified differences in cost between local authorities.

“Local authorities know their region, know the access issues with more remote areas and are better placed to set a fair fee. There should be a fee structure recommended by the Scottish Government, with defined upper and lower limits, and local authorities should be able to set a regional fee to suit, within those national limits.” (Anon)

Of those who favoured the authorised inspectors setting licence fees, the most frequent comment was that, as the persons actually carrying out the inspections, authorised inspectors would be best placed to judge the level of work involved in comprehensively inspecting a breeding establishment.

“The people carrying out the inspections would be best placed to determine cost. It would be reasonable to set the fee based on business turn over with the price capped at the upper end.” (Anon)

Question 10 - The Scottish Government considers that licences lasting from one to three years may be issued on the basis of a welfare risk assessment. Do you agree?

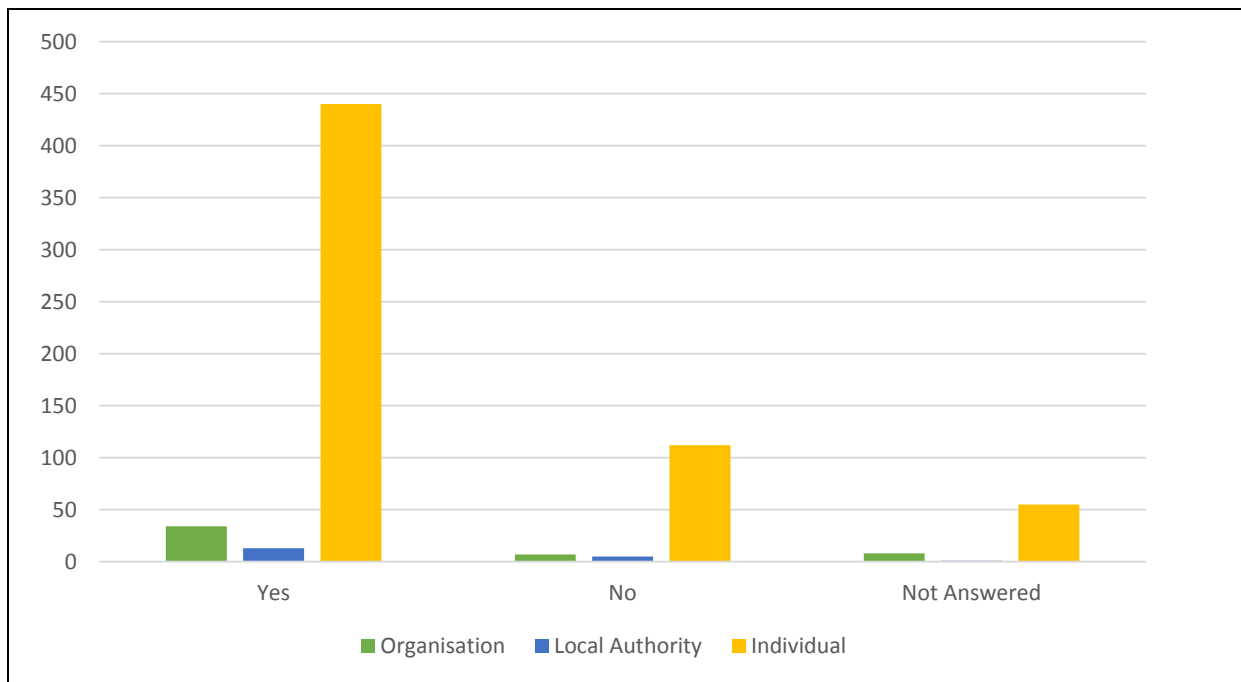


Table 9 – Breakdown of respondent groups to Question 10

Of the 611 respondents who answered this question, 79.7% were in favour of the Scottish Government proposal that licences lasting from one to three years may be issued on the basis of a welfare risk assessment, while 20.3% of respondents did not agree with the proposal.

Of those in agreement with the proposal, a common theme was that issuing licenses of variable length would reduce the burden on local authorities and free up resources to fully investigate breeding establishments where there were concerns about welfare standards.

It was also frequently suggested that breeders new to the scheme should only be eligible for a longer licence after completing a probationary initial licence period of one year to ensure that they were capable of meeting the expected welfare standards for an extended period of time.

“...lower welfare breeders would receive a much shorter licence period, and as a result are inspected more frequently to ensure they are making improvements to meet high standards of animal welfare. We recommend that new breeders receive a shorter licence length until they have been deemed to be continuously meeting the higher welfare standards that allows a longer licence duration.” (Anon)

Of those not in favour of the proposal, the common theme was that licenses should be renewed annually due to the potential for breeders’ circumstances to change over the course of a year.

Others commented that inspections should be unannounced in order to prevent lapses in welfare standards between scheduled inspections of breeding establishments and to give inspectors a better idea of regular conditions at breeding establishments.

“Annual licence thresholds with yearly inspections required for renewal is best for the welfare of animals. Longer periods will only allow for higher instances of lax practises being undertaken by breeders. Inspections should also be 'random', as in unplanned/unannounced... It will also give a true picture of operations and standards within, lessening the likelihood of the breeder being 'prepared' for inspection visits.” (Advocates for Rabbit Welfare)

Separating the responses by respondent type showed that the majority of organisations (69.4%), local authorities (68.4%) and individuals (72.5%) who responded to the consultation were in favour of the proposal.

Question 11 - Do you think that a national list of licensed premises and activities should be kept?

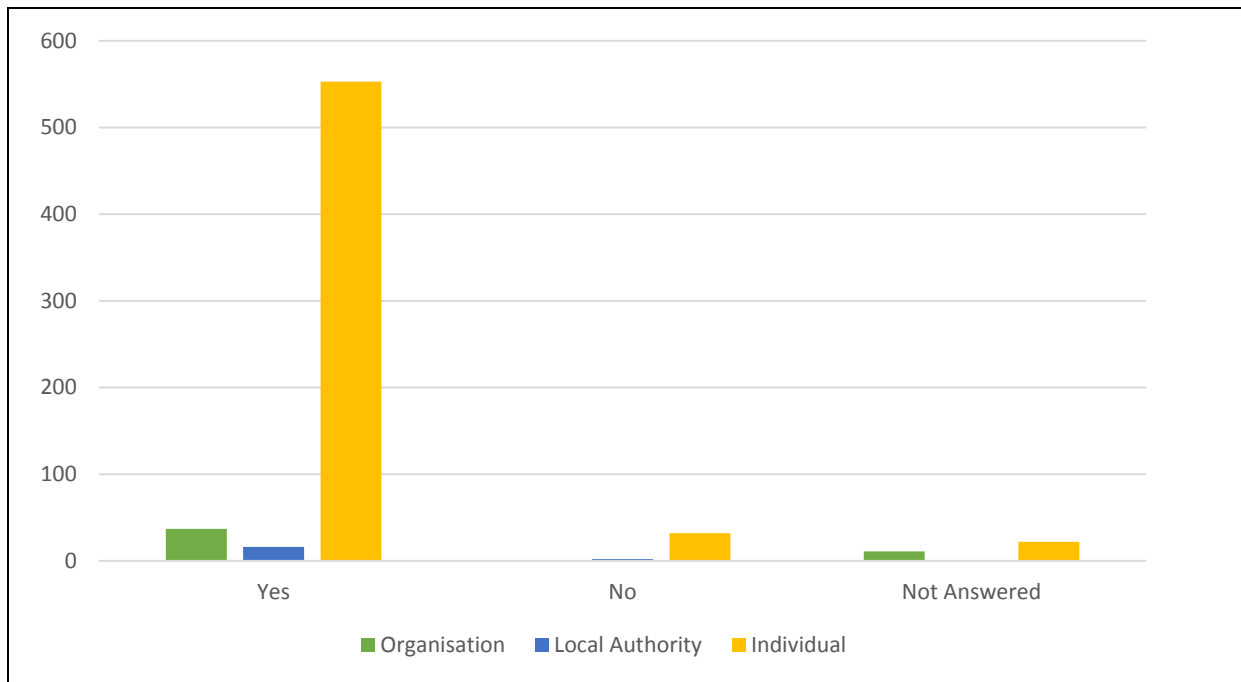


Table 10 – Breakdown of respondent groups to Question 11

Of the 641 respondents who answered this question, 94.5% were in favour of the proposal that a national list of licensed premises and activities should be kept with 5.5% of respondents not in favour of the proposal.

Of those who agreed with the proposal, the common theme was that the proposal would provide both improvements to animal welfare through better regulation of breeding establishments and breeding activities and increased peace of mind to potential buyers of dogs, cats and rabbits.

It was also frequently raised that this would allow easier identification of unscrupulous breeders. However, some concerns were raised about how much information could be made available to the public and the potential risks this might pose to breeding establishments and breeders from criminal activity or activist groups.

“This would enable the activity of breeders to be traced allowing those working unscrupulously to be identified. It would also be an opportunity for Scotland to lead in their ability to track and monitor pet breeding, which could be showcased to the other nations in the UK.” (Anon)

Of those who were not in favour of the proposal, the common theme was that there were concerns around what information could become publically available, particularly with regard to the risk from criminal activity and activist groups, and how information on breeders would be released to the general public.

Others expressed concerns about the viability of keeping the proposed list of licensed premises and activities up to date with all the necessary and relevant information.

“...making such a list publically available could attract criminal or animal welfare extremist attention.” (British Association for Shooting and Conservation)

Separating the responses by respondent type showed that the clear majority of organisations (75.5%), local authorities (84.2%) and individuals (91.1%) were in favour of the proposal that a national list of licensed premises and activities should be kept.

Question 12 - 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?

512 respondents provided detailed comment on the question of who should be able to access information from the proposed list of licensed breeders and breeding premises and whether a charge should be made for accessing that information.

A clear majority of organisations and local authorities were in favour of the public having access to the proposed list without a charge to access information. The common theme was that free public access to the list would encourage potential pet buyers to ensure that they only bought from licensed and reputable breeders.

“...there should be a publicly available national list of dog, cat and rabbit breeders, to provide intelligence for enforcers and allow the public to check the list.” (British Veterinary Association, British Small Animal Veterinary Association & British Veterinary Zoological Society)

It was also frequently noted that an additional charge and/or application process to access the list would be another hurdle for those wanting to buy a pet from a reputable breeder and could discourage potential pet buyers from consulting the list of licensed breeders, undermining the benefit the system could provide.

“There could be a nominal charge to release the information online to public requests, but this may put off people who want to find out if their local premises is registered or not.” (Anon)

However, others expressed some concerns about potential invasion of privacy, given that many small scale breeders are based from their homes, and how such a list could be managed so that it did not contravene data protection laws. It was suggested that limited data could be available to the public, with the full database available to local authorities and authorised inspectors.

“I think we should tread very carefully here. Data protection laws apply. I think any application for information should be assessed individually and carefully on a "need to know" basis.” (Dumfries & Galloway Canine Rescue Centre)

Individual responses were largely divided between those who felt that it was necessary for the public to have easy access to the list in order to improve animal welfare standards in the pet breeding industry and those who felt that access to the list should be limited to professionals such as authorised inspectors and veterinary surgeons for the purposes of ensuring standards were maintained by licensed breeders.

Of those who felt the list should be publically available, a common theme was that this would provide another level of protection against disreputable breeders for potential pet buyers. Others suggested that the list could be combined with current microchipping technology and documentation to identify the breeder and breeding establishment of any given animal.

“The register should be publicly available, free of charge, on the web. Every licence-holder and every licensed premises should be respectively identified by registration numbers which should be included on the microchip database and any other paperwork connected with the animal.” (Mike Radford - School of Law, University of Aberdeen)

It was also suggested that a redacted list could be available to the public in order to protect the privacy of breeders and prevent them becoming a target for activist or criminal activity.

“...the list could be redacted in the sense that consumers can check the list but no personal information, such as full addresses, are given. This should be free because, if a fee is charged, this will limit the number of consumers willing to check the list before purchasing.” (Anon)

Among those individuals not in favour, the common theme was that if such information were publically available it could make breeders and breeding establishments the targets of criminals or animal rights activists. It was generally commented though that this information should be available to professionals, such as veterinary surgeons or authorised inspectors.

Question 13 - The Scottish Government believes that enforcement agencies should be able to suspend, vary or revoke licenses or issue improvement notices for minor irregularities. Do you agree with this proposal?

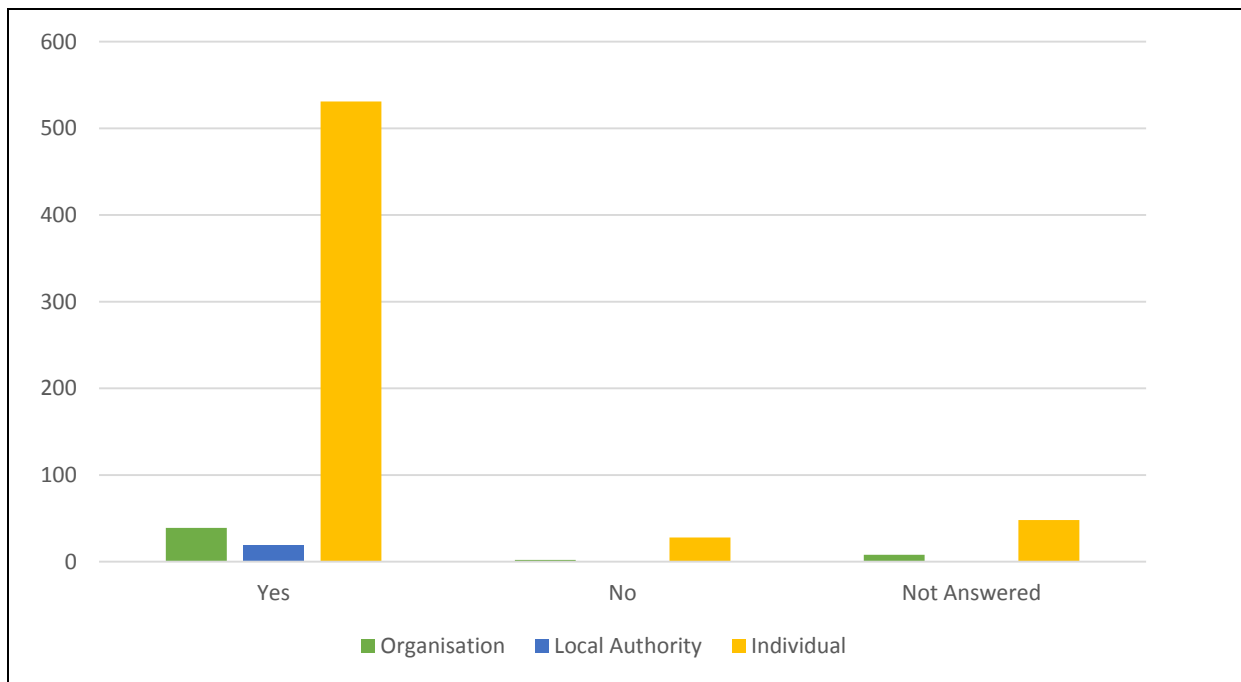


Table 11 – Breakdown of respondent groups to Question 13

Of the 619 respondents who answered this question, 95.2% were in favour of the proposal that enforcement agencies should be able to suspend, vary or revoke licenses or issue improvement notices for minor irregularities, while 4.8% of respondents were not in agreement with the proposal.

Of those in favour of the proposal, the common theme was that giving enforcement agencies the power to suspend, vary or revoke licenses or issue improvement notices to breeders would lend proper weight to the regulations and allow for proper enforcement.

“...it is important that enforcement agencies are able to effectively enforce the legislation, and revocation/suspension is a useful tool in this enforcement arsenal, as is the ability to issue non-conformance and improvement notices for minor infringements.” (Anon)

It was repeatedly noted that a tiered system of enforcement options would be in line with existing good practice and would enable swift improvements to animal welfare in situations where breeders were not ensuring the best possible care for animals in their charge.

“A tiered system of proportionate interventions, ranging from informal action, enforcement notices, licence suspensions, etc. through to reporting to the Procurator Fiscal is already a tried and tested approach to gaining legal compliance.” (Anon)

Of those not in favour of the proposal, the common theme was that respondents were concerned about the phrase “minor irregularities” and the lack of clarity around what might constitute a minor irregularity. It was repeatedly raised that an open-ended definition of the term could lead to inconsistent or “draconian” enforcement of the regulations and left a lot up to the subjective judgement of enforcement agencies.

“I could see this becoming too difficult to regulate, 'minor irregularities' may be too much a grey area unless listed specifically.” (Anon)

Others suggested that any breach of regulations should incur an instant revocation or suspension of a breeding licence, effective until the breeder could demonstrate steps had been taken to improve animal welfare standards.

It was also noted that suspension of a licence could cause practical issues if a breeder had their licence suspended at a time when they had a pregnant animal in their care. Evidently, they could not suspend the pregnancy but seemingly they could be in breach of regulations if the animal gave birth while the breeding licence was suspended.

“If a local authority is to revoke a licence, reasonable notice must be given (6 months) to allow any mothers already mated to have their young, rear them , and let them be sold.” (Anon)

Concerns were also raised that if breeders were unable to sell animals at a reasonable age, due to suspension of a licence, then confining them to a breeding premises for months at a time could cause social and behavioural issues for the animal in question.

“Suspending a licence for breeding activities is not a practical solution... if the licence to sell stock is suspended, young animals will be held beyond the optimum time for them to go to their homes and continue their development and socialisation .This could cause behavioural problems in later life for these young animals.” (Anon)

Separating responses by respondent type showed that the clear majority of organisations (79.6%) and individuals (87.5%) were in favour of the proposal with all 19 local authorities unanimously in favour.

Question 14 - The Scottish Government proposes that new legislation will require compliance with any relevant Scottish Government guidance as one of the licence conditions. Do you agree that this should be a condition of licensing?

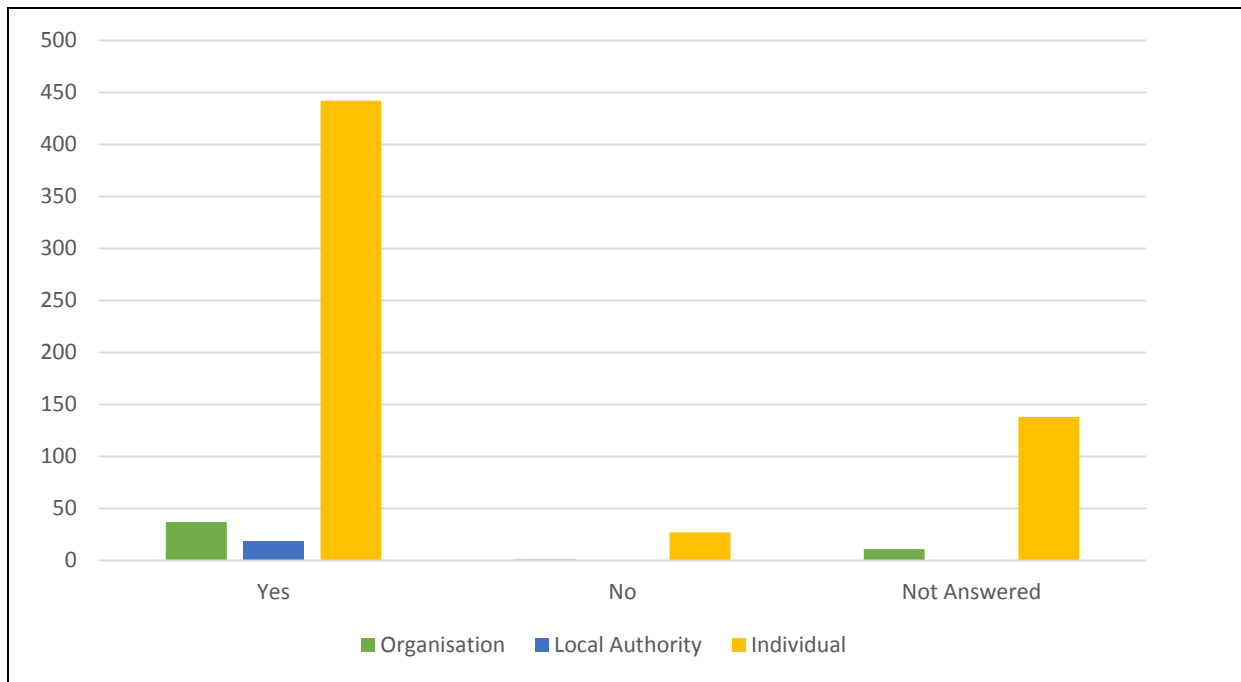


Table 12 – Breakdown of respondent groups to Question 14

Of the 526 respondents who answered this question, 94.7% were in favour of the Scottish Government’s proposal that new legislation will require compliance with any relevant Scottish Government guidance as one of the licence conditions, while 5.3% of those who answered were not in favour of the proposal.

Of those in favour, the common theme was that it was felt that mandatory compliance with relevant Scottish Government guidance would improve welfare standards among breeders and breeding establishments but that there would need to be clear standards set for the appropriate level of compliance in order to provide clarity, both for inspectors and for breeders.

“There is a plethora of guidance, it will be important to state the relevant and correct ones.” (British Horse Society)

Others commented that guidance should be reviewed with relevant experts and stakeholders in order to ensure it was fit for purpose before becoming part of any future licensing regulations.

Of those not in agreement with the proposal, it was frequently commented that guidance would not provide a strong enough basis to properly enforce licensing standards. It was suggested that some form of minimum welfare standards could be produced and included in the criteria for licensing of a breeder or breeding premises.

“I do not think much of guidance and would prefer that compliance requirements be properly included in enforceable legislation.” (Animal Concern Advice Line)

Separating the responses by respondent type showed that the majority of organisations (97.4%) and individuals (94.2%) who answered this question were in favour of the proposal, while the 19 local authorities who answered were unanimously in favour of the proposal.

Question 14(b) - If you are aware of any other relevant standards please comment.

Respondents provided several examples of relevant standards that could be considered, in addition to Scottish Government guidance, as a factor in the licensing conditions for breeders and breeding premises. Those frequently mentioned included;

- The Royal Environmental Health Institute of Scotland Animal Welfare Standards
- Kennel Club Assured Breeder Scheme
- Chartered Institute of Environmental Health Model Licence Conditions and Guidance for Dog Breeding Establishments 2014
- British Rabbit Council Code of Practice

Question 15 - Do you agree that appropriate fixed penalties should be available for minor non-compliance with the licensing legislation? (These are not currently available for animal welfare offences but may be introduced in future.)

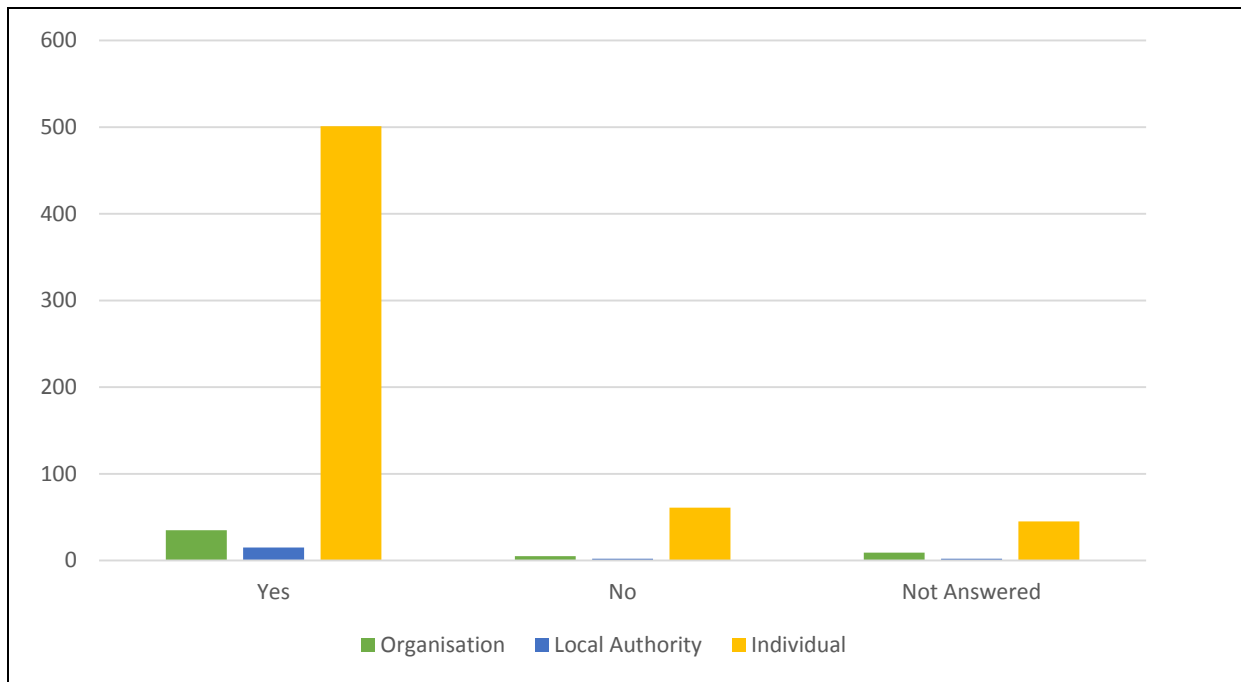


Table 13 – Breakdown of respondent groups to Question 15

Of the 619 respondents who answered this question, 89% were in favour of the proposal that appropriate fixed penalties should be available for minor non-compliance with the licensing legislation while 11% of respondents who answered this question were not in favour of the proposal.

Of those in favour, the common theme was that the option of using fixed penalties to deal with minor non-compliance with licensing legislation would provide a valuable alternative to costly and complicated court proceedings while also incentivising breeders and breeding establishments to maintain the highest possible standards of welfare for animals in their care.

“The Highland Council strongly supports this proposal. Fixed penalties are a widely established method of enforcement within Local Authorities that provides a quick, effective way to enforce minor contraventions that avoids unnecessary burdens on the Court system.” (The Highland Council)

Others noted that fixed penalties would have to be sufficiently heavy in order to act as an effective deterrent. There were concerns raised that small financial penalties might simply encourage unscrupulous breeders to increase the scale of their breeding operation to cover the cost of financial penalties rather than seeking to make positive welfare changes.

It was also suggested by some respondents that a sliding scale of financial penalties would allow an appropriate penalty to be applied to a breeder based on the nature of the non-compliance and the relative scale of their operation.

Of those not in favour, the common theme was that fixed penalties were not sufficiently punitive for non-compliance with animal welfare regulations and that revocation of breeding licenses was the only appropriate sanction.

“Fixed penalties are seldom substantial enough in value to have any lasting change of culture in people who see that as a minor cost of being caught, against the major business costs of designing in facilities in order to be regulatory correct.” (Hungarian Vizsla Society)

It was also raised by those not in favour that illegal, unscrupulous or otherwise non-compliant breeders often run highly profitable breeding operations and might therefore not be deterred by the prospect of incurring a financial penalty.

Separating responses by respondent type showed that the clear majority of organisations (71.4%), local authorities (78.9%) and individuals (82.5%) were in favour of the proposal that appropriate fixed penalties should be available for minor non-compliance with the licensing legislation.

Question 16 - Do you agree that the Scottish Government should discourage the breeding of dogs, cats and rabbits with a predisposition for specific genetic conditions, which lead to health problems in later life?

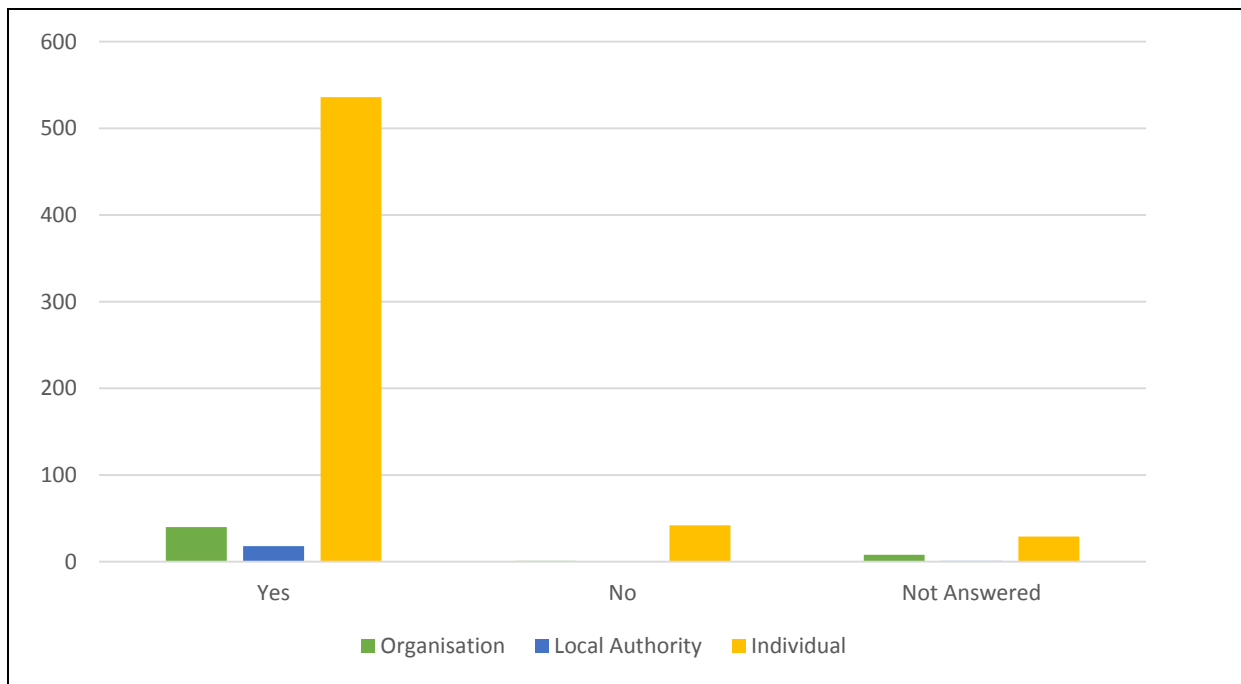


Table 14 – Breakdown of respondent groups to Question 16

Of the 637 respondents who answered this question, 93.2% were in favour of the proposal that the Scottish Government should discourage the breeding of dogs, cats and rabbits with a predisposition for specific genetic conditions, which lead to health problems in later life, while 6.8% of respondents who answered the question were not in agreement with the proposal.

Of those in favour of the proposals, the common theme was that the Scottish Government proposal would bring about significant welfare improvements if successfully implemented. However, it was raised that not all genetic conditions wait for later life to present and that there may be justification for increasing the scope of the proposal in that regard.

“This is a forward-looking and much-needed proposal... We would point out, however, that many of the health and welfare problems caused by genetic conditions manifest themselves early in life – often from birth, and sometimes even pre-birth – and therefore the provision should not be limited to conditions that cause problems in later life.” (OneKind)

Others suggested that the inbreeding which they felt often occurs in order to maintain the appearance or characteristics of certain breeds of animal can have the side effect of reducing the gene pool and increasing the incidence of harmful genetic anomalies and susceptibility to disease.

“By selectively breeding to increase the similarity or homogeneity and reduce the random variability within a given breed gene pool, the chances of

undesirable and in some cases harmful genetic anomalies being expressed are increased.” (Cats Protection)

Of those not in favour of the proposal, the common theme was a concern that discouraging the breeding of animals with a predisposition to genetic conditions which may cause health problems could lead to a ban in-effect on the breeding of certain breeds.

“...if there is a predisposition, then rather than make that breed extinct, work with the Kennel Club to ensure that breeding practices are changed to make these conditions less likely.” (Anon)

It was suggested that rather than discouraging the breeding of these animals, a rigorous screening process could be added to the licensing requirements for breeds known to be predisposed to inherited genetic health conditions.

Others noted that campaigns to improve breeding practices might also be more effective than discouraging the breeding of certain breeds given that many popular breeds of animal are known to be prone to inherited genetic conditions.

“...raising public awareness of these issues may be a more effective way of reducing animals with these genetic predispositions” (Anon)

Separating the responses by respondent type showed that the majority of organisations (97.6%) and individuals (92.7%), in addition to all of the 18 local authorities, who answered this question favoured the proposal that the Scottish Government should discourage the breeding of dogs, cats and rabbits with a predisposition for specific genetic conditions, which lead to health problems in later life.

Question 17 - Do you agree that as a condition of licensing, any breeding practices which are likely to cause the offspring suffering in later life should be prohibited?

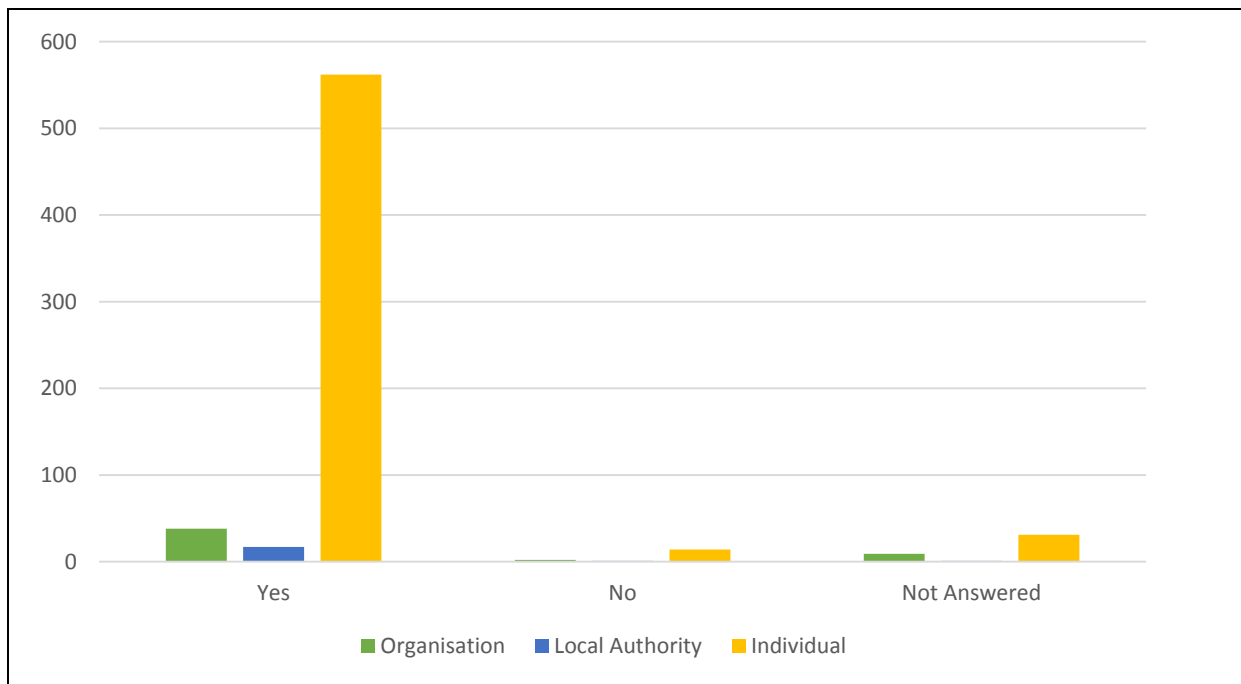


Table 15 – Breakdown of respondent groups to Question 17

Of the 634 respondents who answered this question, 97.3% were in favour of the Scottish Government’s proposal that as a condition of licensing, any breeding practices which are likely to cause the offspring suffering in later life should be prohibited, while 2.7% of respondents to this question were not in favour of the proposal.

Of those in favour of the proposal, it was frequently raised that prohibition of breeding practices likely to lead to health problems for the animals being bred should be a licensing condition and that any breach should be a cause for revocation of a breeding licence.

“...prohibition of such breeding practices should be a condition of licensing, breach of which would result in a licence being revoked or not issued” (Cats Protection)

A common theme was that selective breeding in order to cultivate certain physical traits is a major cause of serious health problems and, as such, prohibition of these breeding practices would be a major welfare improvement.

It was also suggested that breeders of breeds known to be predisposed to inherited genetic health problems should be considered a high-risk case by licensing officials and consequently be subject to a greater level of scrutiny.

“As part of the risk-based assessment for licensing, a breeder of those breeds which are known to be predisposed to breed specific health issues, could be

considered higher risk and licence conditions, inspections and penalties should be tailored accordingly.” (British Veterinary Association, British Small Animal Veterinary Association & British Veterinary Zoological Society)

Of those not in favour of the proposal, the common theme was a concern that the proposal could lead to the end of certain breeds that are known to be predisposed to inherited genetic health conditions, rather than allowing these predispositions to be progressively eliminated from the breed by selective breeding practices.

“Runs the risk of eliminating certain breeds of dog which in the hands of decent breeders are producing healthy pups whereas puppy farmers are breeding pups/kittens with health problems for life.” (Anon)

Others suggested that a programme of education and information for breeders aimed at discouraging the use of breeding practices known to lead to animal welfare or animal health issues would be a better approach than outright prohibition.

“...discourage the breeding of dogs, cats and rabbits with a predisposition for specific genetic conditions, which lead to health problems in later life, rather than prohibiting such activity.” (Anon)

Separating the responses by respondent type showed that the majority of organisations (95%), local authorities (94.4%) and individuals (97.6%) who provided an answer to this question were in favour of the proposal that as a condition of licensing, any breeding practices which are likely to cause the offspring suffering in later life should be prohibited.

Question 18 - Do you have any comment on any other appropriate measures the Scottish Government could take to discourage harmful breeding practices?

383 respondents provided further comment on other appropriate measures the Scottish Government could take to discourage harmful breeding practices.

37 organisations provided comment, 13 local authorities commented and 333 individual respondents provided comments.

Many of the local authorities who provided comment on other appropriate measures the Scottish Government could take to discourage harmful breeding practices believed that further consultation with a wide variety of veterinary experts from across Scotland would provide more comprehensive and useful ideas for appropriate measures. This was echoed by a number of organisations and individuals.

“...the best reservoir of knowledge lies in the commercial veterinary sector - both practicing vets and research establishments. There is now a lot of genetic knowledge about pedigree breeding of animals and this can be used very effectively.” (Anon)

A number of respondents proposed that more should be done to encourage potential pet owners to look at rescuing and adopting animals rather than seeking to purchase animals from breeders and so hopefully reduce the supply of harmfully bred animals by reducing demand for animals bred for profit.

“We also suggest that consumers be encouraged to consider adopting an animal rather than purchasing.” (Cats Protection)

Several individuals expressed concerns that measures targeted at improving welfare among large scale breeding operations could inadvertently affect hobby breeders, reducing the number of low volume, high welfare breeding premises in Scotland. It was suggested that some form of distinction between low-volume and high-volume premises would be useful in preventing this.

“...distinctions need to be made between hobby breeders producing healthy happy family pets and commercial breeders... Anything that makes it too difficult for hobby breeders to operate will push custom towards larger scale outfits which is exactly the opposite of what’s required.” (Anon)

It was frequently commented that the Scottish Government should take steps to curb the online trade in companion animals. Suggestions included; creating new legislation, education campaigns on the risks of buying animals online, some form of monitoring system and introducing restrictions as part of the proposed licensing regime.

“...if this legislation is to be successful in its aims of promoting responsible breeding practices, the Scottish Government should accompany this with measures to address all sources of supply and demand for pets, including

regulating internet sales” (British Veterinary Association, British Small Animal Veterinary Association & British Veterinary Zoological Society)

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 licensing system for dog, cat and rabbit breeding activities, which has reassured us that we are taking the correct approach. Regulations will now be drafted which will take into account the views expressed in the consultation.



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