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Rural Affairs and Islands Committee

Stage 1 report on the Welfare of Dogs (Scotland) Bill



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Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.



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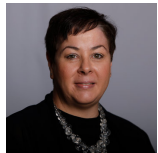
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Introduction

1. The [Welfare of Dogs \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 20 June 2023 and referred to the Rural Affairs and Islands Committee for consideration at Stage 1. The [Bill and accompanying documents can be found on the Bill's web pages](#).
2. The Committee ran a call for views between 30 June and 11 August 2023. The call for views included a questionnaire for the general public, which received 95 responses, and a more detailed survey for stakeholder organisations, which received 23 responses. The [Scottish Government set out its views on the Bill in a memorandum to the Committee](#) on 15 August 2023.
3. The Committee also took [evidence from the Law Society of Scotland and animal welfare organisations on 20 September](#), [evidence from the Minister for Energy and the Environment and Scottish Government officials on 25 October](#) and [evidence from the member in charge of the Bill, Christine Grahame, and clerks from the non-government bills unit \(NGBU\) on 22 November 2023](#).
4. All [information relating to the Committee's evidence taking is available on the Committee's web pages](#) and the Committee thanks everyone who took the time to respond to the call for views or to give evidence on the Bill.

The purpose of the Bill

5. The [policy memorandum](#) states that the purpose of the Bill is to “improve the health and well-being of dogs throughout their lives, by establishing a more responsible and informed approach to acquiring and owning a dog; and by making provision for the regulation of the selling and transferring of puppies from unlicensed litters”.
6. Part 1 of the Bill relates to the promotion of good practice pertaining to the sale or transfer of a dog as a pet. It requires the Scottish Ministers to consult on, and make, a code of practice. The Bill sets out the content of the code and gives the Scottish Ministers the power to include other matters, so long as they relate to the sale or transfer of a dog. The Bill also requires both parties to the sale or transfer to sign a certificate to confirm they have had regard to the provisions set out in the Bill. The Scottish Ministers must take reasonable steps to promote public awareness of the code. Further detail about the provisions in Part 1 is set out later in this report.
7. The policy memorandum states these provisions are “intended to be educational, aiming to bring about a cultural shift in the way puppies and dogs are acquired, sold and transferred”. The policy memorandum concludes that this approach is “appropriate and proportionate, given the Member’s intention to achieve behavioural change, without placing formal legal obligations on the parties involved and without penalising well-intentioned and generally law-abiding citizens”.
8. Part 2 of the Bill would give the Scottish Ministers the power to make regulations to establish a register for the sale, giving away or advertising of a puppy aged less than 12 months. Further detail about the provisions in Part 2 is set out later in this report.
9. The policy memorandum states the policy intention of Part 2 is “to promote the increase of traceability and transparency of where an advertised puppy is coming from”.
10. The [SPICe bill briefing](#) was published on 31 August 2023.
11. The Bill succeeds an earlier Welfare of Dogs (Scotland) Bill which was introduced in Session 5 and fell at dissolution. [Further information about the Session 5 Welfare of Dogs \(Scotland\) Bill can be found on the Parliament’s web pages.](#)

Existing legislation relating to the sale or transfer of dogs

12. The principal animal welfare legislation in Scotland is the [Animal Health and Welfare \(Scotland\) Act 2006](#) which places a duty of care on animal owners and keepers for the animals they are responsible for. [Section 37 of the 2006 Act](#) gives the Scottish Ministers the power to make animal welfare codes; the Scottish Ministers must consult in advance of making an animal welfare code and it must be laid before, and approved by resolution of, the Scottish Parliament before it can come into effect.
13. The code of practice for the welfare of dogs came into effect on 1 May 2010ⁱ and states that its aim is to help dog owners “to look after your dog properly”; it covers topics such as the need to provide the dog with a suitable environment and diet. The 2010 code covers all domesticated dogs for which a person is responsible.
14. The [Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021](#) updated the licensing scheme already in place for breeding dogs and lowered the threshold for the number of litters which would require a breeding licence from five to three. The Regulations also set out a number of animal welfare requirements for licensed breeders and prohibit the sale of dogs under six months’ old by someone other than the first owner of the litter. The breeders’ licensing scheme is administered by local authorities.

ⁱ The code of practice for the welfare of dogs was made on 17 December 2009, approved by resolution of the Scottish Parliament on 27 January 2010 and came into effect on 1 May 2010. For the purposes of this report, it is referred to as the 2010 code of practice.

The rationale for further measures relating to the sale or transfer of dogs

15. Christine Grahame set out her reasons for introducing the Bill when she gave evidence to the Committee on 22 November 2023. She told the Committee that—

” Six years ago, I became aware of the growth in the supply of puppies and dogs purchased online and from puppy factory farms, and I considered what could be done to reduce that. I decided that, if supply was the issue, the current legislation and policing were not having a sufficient impact and that I should perhaps tackle demand, which would have an effect on supply.

We all know that there has been a surge in the level of dog ownership across Scotland, exacerbated by Covid. Combined with the lack of an informed approach among the public to buying a dog—which I understand—that has led to a rise in unscrupulous breeding. It is, therefore, more urgent to ensure that those who are thinking of getting a dog do so in an informed way. My bill is a valuable tool in the box alongside other on-going work set out by the Scottish Government in the minister's evidence.

The animal welfare issues, emotional distress, massive vets' fees and high mortality rates as a result of illegal puppy farming and the buying of dogs that people cannot care for have been well established in evidence to the committee.

16. Christine Grahame went on to detail how her Bill seeks to influence unscrupulous breeding by educating prospective dog owners. She told the Committee that—

” Part of the issue that I want the public to understand is that they are the custodians and are policing the welfare of Scotland's puppies and young dogs that come into the system. I go back to the fact that demand will change the nature of supply. My expectation is that informed demand—it is a horrible expression—will mean that the puppies that come through the system will change.

17. During its evidence taking, the Committee explored the need for additional legislation to promote a responsible approach to the purchase or acquisition of dogs and to regulate the selling and transferring of puppies from unlicensed litters.

18. Animal welfare organisations were unanimous in their support. Witnesses all referred to the increased number of requests to their organisations for dogs to be re-homed and gave examples of the behavioural and health issues presented by some of these dogs. Battersea Dogs and Cats Home spoke about the “influx of puppies and adolescent dogs being brought to our centres” and that “some of those dogs display behavioural issues, which might be a result of challenges around lack of socialisation or being bred from unsuitable dogs”. The Scottish SPCA detailed some of the health problems it has seen, with some puppies dying within 48 hours of going home with a new family. Stakeholders agreed that the Covid-19 pandemic had exacerbated the problem but that these issues have been ongoing over many years.

19. Animal welfare organisations argued that existing legislation has not been effective enough to tackle unscrupulous dog breeding. The Kennel Club told the Committee that—
 - ” From our perspective, the main issue is that irresponsible dog breeders can get away with it. The demand for puppies has levelled off, but it is still huge. Regulations are in place, but they are not enforced adequately. Therefore, whether you are a bad breeder, a rogue breeder or importing illegally bred dogs, you can pretty much get away with it.
20. The Scottish SPCA told the Committee about its experiences dealing with unscrupulous breeders; it stated that “it is quite a difficult trade to disrupt because, whatever advice we put out, unscrupulous breeders are entrepreneurial and will try to ... find ways to get around it”. The Scottish SPCA highlighted its recent focus on canine fertility clinics into which unscrupulous breeders have diversified into in order “to make money from high-value breeds, including breeds of dogs that cannot give birth naturally and require a caesarean section” and which give rise to poor canine health.
21. The Committee also sought witnesses’ views on whether the approach taken in the Bill, to move the emphasis from breeders to prospective buyers, is appropriate. The Kennel Club acknowledged that “when one looks at the Bill in isolation, it seems that the balance is off, because it places much more emphasis on the buyer than on the breeder” but it thought that the Bill complements the current regulatory environment, which places all the emphasis on the breeder. The Scottish SPCA agreed, telling the Committee that “we need to challenge buyers now and change the pathway so that they take more responsibility”.
22. The issue of traceability recurred throughout the Committee’s inquiry. Animal welfare organisations suggested the Bill – especially the section 4 requirement for a certificate and the Part 2 registration scheme – would help address issues around traceability which would, in turn, help address irresponsible breeding. The Scottish SPCA told the Committee that “the biggest challenge is lack of traceability” and that the Bill “could be used as a vehicle for getting us to the optimum solution of having that traceability”. The Dogs Trust agreed, saying that—
 - ” One of our big concerns is that we do not have a system that enables full traceability of all dog breeding and sales. The Bill presents an opportunity to really look at the registration of anyone who is breeding or selling a dog and to close the loophole in which anyone breeding fewer than three litters can completely evade the system. That is one of the biggest issues that we are interested in tackling through the bill.
23. The Scottish Government set out its support for the general principles of the Bill in its memorandum. It “supports the general intention of the Bill in attempting to increase public awareness of responsible behaviour when acquiring a dog by providing practical guidance which may help drive behavioural change”. The Minister for Energy and the Environment expanded on this when she gave evidence to the Committee—

” There has been a real increase in the practice of selling puppies without the puppies’ welfare at heart, and it is becoming increasingly difficult for people who want to source a puppy to know whether they are getting one that has been bred well and that they are not perpetuating some kind of trade that does not have animal welfare at heart. [...] We support the general principles, because anything that would create an improved code of practice that was up to date to deal with the issues that I mentioned and give people advice, through a campaign that was centred on the subject, would be helpful.

24. The Scottish Government also, however, set out its reservations about Part 2 of the Bill, stating it was not “convinced that developing a registration scheme would be an effective or proportionate way of tackling these issues”. The Scottish Government concluded it “will support the general principles of the Bill and may seek amendments to address issues that are identified”.

25. The Committee notes the broad support from the animal welfare organisations for further measures to encourage a more responsible approach to acquiring a dog and to help address the activities of unscrupulous breeders. Witnesses from these organisations highlighted the growing problem of abandoned dogs and unscrupulous breeding and their view that current legislation, aimed at breeders rather than those acquiring a dog, has not been enforced and has not been effective. Witnesses also highlighted that the existing legislation does not enable traceability of every dog from breeder through to owner. Animal welfare organisations believe the Bill would help address this problem of lack of traceability.

26. The Committee acknowledges, as does Christine Grahame, that this member’s bill, in itself, cannot solve all the problems it seeks to address. The Committee does, however, agree that some further measures are needed to focus on the demand for, rather than the supply of, puppies and dogs and which aims to educate buyers to encourage them to acquire a dog in a more responsible way.

Issues raised with the Committee during its evidence taking on Part 1 of the Bill

Sections 1 and 5

27. Section 1 would require the Scottish Ministers to make a code of practice, following consultation and within six months of Royal Assent, “setting out good practice for people to follow” when acquiring or transferring a dog as a pet. The code of practice must include provision “giving effect to what is set out in sections 2 to 4”. Section 5 would provide that the Scottish Ministers may revise the code “as it has effect for the time being”. The Scottish Ministers must consult before revising the code and any revisions must still give effect to sections 2 to 4.
28. The Scottish Ministers already have the powers, under the 2006 Act, to make a code of practice relating to the welfare of dogs and, as detailed earlier in this report, made a code in 2010 to give guidance to dog owners “to look after your dog properly”. The 2010 code addresses meeting a dog's needs, but does not address acquiring a dog. Section 1 would *require* the Scottish Ministers to make a code relating to the matters set out in the Bill on acquiring a dog.
29. The [delegated powers memorandum](#) states that a code of practice is “an appropriate tool for the specific set of measures in the Bill given the Member’s intention to achieve behavioural change, without placing formal legal obligations on the parties involved and without penalising well-intentioned and generally law-abiding citizens”. It also gives the view that a code would provide flexibility for the information “to be presented in the most user-friendly and accessible format tailored for its intended use” and “to respond to any changes in circumstance”.
30. The [financial memorandum](#) suggests “minimal” costs of £10,000 associated with producing the code. The financial memorandum goes on to set out Christine Grahame’s view that “it is reasonable to estimate” the code would be reviewed every five years and estimates a cost of £10,000 for each revision.

Requirement on the Scottish Ministers to make a code of practice

31. Animal welfare organisations supported the requirement on the Scottish Ministers to make a code of practice relating to the acquisition of a dog as a pet. The Kennel Club explained why it supported a code of practice—

” A big part of the problem is that people do not know what questions to ask; we think that the proposed code is really important because, currently, there is a lot of onus on breeders—that is not being enforced—but there is no requirement for people to do their research properly before they get a dog. That is key, because it is about what is driving the demand. If people knew and took the time to properly research what they were getting, they might think twice, and there might be fewer calls to rescue centres as a result, because people would have worked harder and put in the effort to know what questions to ask. Back in August, our puppywise survey found that a fifth of people still spend less than two hours researching whether to get a puppy—this is a 15-year commitment, and people are spending less than two hours researching—and nearly a third admit that they would not know how to spot a rogue breeder. For us, the educational piece is really important because, ultimately, we need members of the public to demand better standards of breeders.

32. Animal welfare organisations emphasised that, in order to be effective and well-understood, the code should be as “simple and accessible as possible”. It was also suggested that “the term ‘code of practice’ perhaps sounds a little bureaucratic and not as engaging or accessible as it might need to be to fulfil its role”.
33. The Minister agreed that “there are gaps that a new code of practice could usefully fill”, such as awareness about health issues of particular breeds or advice about responsible acquisition of a dog as a pet.

34. The Committee agrees that providing and publicising accessible information about good practice for people to follow when acquiring or giving away/selling a dog could be a valuable additional tool to address the irresponsible acquisition of dogs and, through this, unscrupulous breeding.
35. The Committee notes that the Scottish Government already has the power to make a code of practice relating to the sale or transfer of dogs and that the Bill would require them to exercise that power. The Committee notes the Scottish Government’s support for the general principles and the proposed code of practice.

Case for standalone code of practice rather than incorporating the proposed code into the 2010 welfare of dogs code of practice

36. The Committee explored the possibility of revising and incorporating the proposed code of practice in to the 2010 welfare of dogs code of practice, introduced under the 2006 Act. Concerns were expressed about an overlap and the need to avoid any duplication, or contradiction, between two separate codes.
37. The Dogs Trust told the Committee it was “really keen on there being streamlining so that there is one code of practice, if possible ... that makes perfect sense”. It went on to say that, if there were to be two separate codes, “they would each need to clearly reference the other” and it be made clear that one relates to the

acquisition of a dog and the other relates to caring for a dog. The UK Centre for Animal Law also expressed a preference for a single code of practice.

38. The Scottish SPCA said that “our plea is to keep it simple and update or revise the existing code, because it would be better from a practical point of view to prove whether a person should have had that knowledge as part of an investigation”. The Scottish SPCA went on to state that—

” Having multiple documents is not an easy way of proving that somebody has managed to grasp all that knowledge if they are required to look at various sources of information. Our plea is to keep it simple and update or revise the existing code, because it would be better from a practical point of view to prove whether a person should have had that knowledge as part of an investigation.

39. The Minister told the Committee that she had “some sympathy” with those who have called for the existing code of practice to be amended to include the matters contained in this Bill. She went on, however, to give her view that a parliamentary bill “could shine an additional spotlight” on the issues around irresponsible dog acquisition and unscrupulous breeding.

40. The Minister agreed “it is time for a refresh” of the 2010 code of practice, “given that it came off the back of a piece of legislation in 2006 and was not enacted until 2009”. She concluded that, if the Bill had not been introduced, “it is possible that ... we might have been looking at doing that work”.

41. The Minister would not be drawn into confirming whether the Scottish Government should incorporate the proposed code of practice into the 2010 code of practice.

42. The Committee explored this issue further with Christine Grahame. She told the Committee that incorporating her proposed code in the 2010 code would mean it would “get lost in translation”—

” The code in the Bill serves a purpose that is very different from that of the existing code. Given that distinctive purpose, it will have a different appearance. It applies to a different group of people, and a new certificate and associated process are attached to it. It applies to people who are considering acquiring a dog; the existing code applies to people who already own one. [...]

The code will also be short and easily understood. It will be a punchy checklist of key considerations, including the key questions that I set out in my bill. That contrasts with the existing code, which is a long reference document that runs to 28 pages and is linked to a wealth of other reference material. I want my code to be easily understood. Subsuming its contents into the existing code would mean that the key considerations that I seek to get buyers to engage with would get lost and therefore would have less prominence. Furthermore, the distinct purposes of the two codes would be diluted. Clarity would be lost, and the code would therefore be less effective.

43. NGBU clerks added that, “effectively, the entire contents of the proposed code [would] fit on two sides of A4 paper”.

44. In response to some stakeholders’ concerns that two codes of practice would be confusing and burdensome, Christine Grahame told the Committee she would “dispute that suggestion”. She went on—

” I could go out tomorrow and show people in Tesco that checklist of questions and I think that they would understand it. However, if I went out and showed them the full amended code, I think that they would go, “For goodness’ sake, I’m not reading 40 pages.

45. The majority of the Committee agrees with Christine Grahame that a standalone, concise and accessible code of practice relating to the acquisition of dogs would seem more likely to engage and, therefore, inform prospective dog acquirers than incorporating the proposed code into the existing 36-page 2010 code.ⁱⁱ
46. The Committee notes, however, that – if the Bill is passed – decisions about the final form of the code would be taken by the Scottish Ministers, following a public consultation. The Committee seeks the Scottish Government’s reassurances that, notwithstanding any additional matters raised in a public consultation which the Scottish Ministers decide should also be included, it will endeavour to make a standalone, concise and accessible code of practice.
47. The Committee also notes the potential for confusion between any standalone code made under this Welfare of Dogs Bill and the existing 2010 code of practice for the welfare of dogs. The Committee recommends that, in the event that the proposed code is made as a standalone code, it should be made clear that this is separate to, and different from, the 2010 code. In addition, and noting the Scottish SPCA’s concerns that two codes may hinder establishing whether a person has knowledge of the proposed code in any animal welfare investigation, the Committee recommends that each code should clearly signpost the other.
48. The Committee notes the Minister’s view that “it is time for a refresh” of the 2010 code. The Committee suggests that a consultation on both a refresh of the 2010 code and the proposed code would provide an opportunity to reflect more broadly on the information about good practice relating to all aspects of dog ownership. This would also enable the Scottish Ministers to ensure the two codes would compliment, rather than contradict, each other.

Requirement for code of practice to be made within six months of Royal Assent

49. The Minister stated the Scottish Government would seek to amend this provision on the basis that six months would not be long enough to undertake an effective consultation. The Minister stated—

” If the Bill is to have the impact that Ms Grahame wants ... the best thing to do is have a consultation that means that the code of practice is the best that it can be, and we would require more than six months for that.

ii Rachael Hamilton and Jamie Halcro Johnston believe that the proposed code should be incorporated into the 2010 code. Jamie Halcro Johnston participated in the discussion on the draft report as committee substitute.

50. The Committee agrees with the Minister that the requirement for a code to be made within six months of Royal Assent is impractical and, given the value of a consultation to inform a code, unlikely to result in a well-drafted code which is fit for purpose. The Committee recommends this provision be amended at Stage 2.

Application of code of practice to pets rather than all dogs

51. The Committee discussed with animal welfare organisations whether the Bill should apply to all dogs, rather than just dogs kept as a pet. The Dogs Trust and Battersea Dogs and Cats Home both argued that the Bill should apply to all dogs. The Dogs Trust told the Committee that, given the existing code of practice applies to all dogs, there is a “huge argument” for including all dogs. Battersea Dogs and Cats Home also referred to the existing animal welfare legislation which protects all dogs and said “I am not sure why ... working dogs, for example, would earn less protection at the point of breeding, even if they were being bred for a defined purpose”.
52. The Kennel Club did not “flag this as an issue”. It acknowledged that, “if you are in the community of people who work their dogs, there is a high chance that you will know what questions to ask and be more aware of what you are looking for compared with general members of the public who are purchasing a puppy for the first time”. At the same time, however, it believed the requirement on acquirers of all dogs would “not really impact that community” as “essentially, people would be signing a piece of paper”.
53. The [Minister’s letter to the Committee, dated 31 October 2023](#), set out the Scottish Government’s view that the scope of Part 1 of the Bill should extend to all dogs regardless of the purpose for which they are kept. The Minister stated it would not be too onerous to extend the scope to all dogs and referred to the 2010 code of practice which extends to all dogs.
54. Christine Grahame stated her view that the Bill does not need to include working dogs as there is not the same need to educate those acquiring working dogs about unscrupulous breeders. She told members that those acquiring working dogs—

” [...] know the dog’s pedigree, their attributes and where they come from; they are not buying casually. That dog has got to earn its keep. It is therefore a very different kettle of fish. Working dogs, police dogs, assistance dogs, guide dogs and gamekeepers’ dogs are all trained. They have certain attributes from their breeding. My bill was never aimed at those dogs, and I do not see the point of its being aimed in that way.
55. NGBU clerks confirmed that, although the acquisition of working dog would not be within the scope of the Bill, where a puppy from a litter from a working dog was being sold as a pet, the responsibility would be on the acquirer to rely on the code and complete the certificate.

56. The Committee recommends the proposed code should apply to all dogs and not just dogs to be kept as a pet. The Committee notes the logic Christine Grahame

gave for the Bill not applying to all dogs – that there is not the same need to educate those acquiring a working dog – but is concerned that this provision may unintentionally create a loophole. The Committee does not anticipate that extending the requirement would create a significant burden on those acquiring or selling/giving away a working dog.

57. The Committee notes the Bill does not include a definition of a pet. If the Bill is not amended to apply to all dogs, the Committee recommends the Bill is amended to include a definition of a pet.

Parliamentary scrutiny of the code of practice

58. As stated earlier in this report, any animal welfare code made under section 37 of the 2006 Act must be laid before, and approved by resolution of, the Scottish Parliament before it can come into effect. Any code of practice made under this Bill, however, would not be subject to any parliamentary scrutiny.
59. The delegated powers memorandum explains that Christine Grahame took this approach as the scope of the sections 1 and 5 power is “narrowed by provisions set out on the face of the Bill” and that any other matters included by the Scottish Ministers would be informed by their consultation exercise and would be required “to be tied to the purpose of setting out good practice for people to follow when acquiring or supplying a dog to keep as a pet”. The delegated powers memorandum concludes that—
- ” The Member considers that the core content of code will stand the test of time and that it is therefore appropriate to include it in this way. As the substantial elements of the code will have been scrutinised by the Parliament during the passage of the Bill, it was felt not a good use of valuable parliamentary time to also require Parliament to approve the code itself at a later point.
60. During its consideration of the delegated powers memorandum, the Delegated Powers and Law Reform Committee (DPLRC) explored Christine Grahame’s reasons for this approach. In a letter to the DPLRC, Christine Grahame reiterated her view that “the core content [of the code] will stand the test of time”, could not subsequently be removed by the Scottish Ministers (section 1(2)) and that “the key elements of the code are set out in Bill provisions and are therefore already subject to extensive parliamentary scrutiny”. Christine Grahame did, however, conclude that her “decision to prescribe no parliamentary procedure was a finely balanced one”.
61. In the [DPLRC’s report on the Bill](#), the DPLRC concluded that the code of practice should be subject to parliamentary scrutiny due to the evidential link between compliance with the code and the possible commission of an offence (section 6) and in order for any other matters which the Scottish Ministers choose to include in the code to be scrutinised. The DPLRC recommended the code of practice should be subject to a parliamentary procedure and sets out the argument for either the affirmative or negative procedure. The DPLRC reported—

” The arguments the Committee sees in favour of the affirmative being because of:

(a) the evidential link of a failure to follow the code of practice to the possible commission of an offence; and

(b) the power for Ministers to revise the code after consultation. This would align the code with codes of practice made under the 2006 Act.

Those which it sees in favour of the negative being that:

(a) there is a defined scope for the code of practice; and

(b) there are already a number of key elements outlined on the face of the Bill.

62. In evidence to this Committee, Christine Grahame confirmed that she would be content for the proposed code to undergo parliamentary scrutiny.

63. This Committee is aware, however, that the Scottish Government has a commitment to update the codes of practice (made under section 37 of the 2006 Act) for the welfare of farmed animals and to replace them with guidance (made under section 38). Guidance made under section 38 does not require parliamentary approval. The [Committee considered the replacement of the welfare of pigs code of practice with guidance at its meeting on 24 January 2024](#).

64. In a letter, dated 20 December 2023, the Minister provided further information about the reasons for replacing animal welfare codes of practice with guidance. She told the Committee guidance would—

” [...] provide a more practical method for good practice information to be published and updated quickly in order to keep stockkeepers up to date with developing scientific evidence and the latest recommendations, and thereby better promote animal welfare. What is considered to be good practice in the area of animal welfare is constantly changing, and it is important that the information issued, and requirements made, by government are kept up to date. The formal process for producing animal welfare codes is highly resource consuming, requiring significant official and parliamentary time, which means that it is difficult to update animal welfare codes as often as is ideal for animal welfare purposes.

65. The Committee notes the Delegated Powers and Law Reform Committee’s recommendation that the proposed code of practice should be subject to parliamentary procedure to bring it on a par with the 2010 code. The 2010 code was made under section 37 of the the Animal Health and Welfare (Scotland) Act 2006 and must be approved by resolution of the Parliament.

66. The Committee is aware of the Scottish Government’s commitment to replace farmed animal codes of practice, made under section 37 of the 2006 Act, with guidance, made under section 38 of the 2006 Act. Guidance made under section 38 does not require parliamentary approval. The Committee is not aware whether the Scottish Government’s commitment to replace farmed animals codes

with guidance will be extended to the 2010 code of practice. The Committee is keen to avoid a situation where the 2010 code is moved to guidance, and no longer requires parliamentary scrutiny, but the Bill is amended and the proposed code of practice does requires parliamentary scrutiny.

67. The Committee asks the Scottish Government to confirm – in advance of Stage 2 – if its commitment to replace farmed animal codes of practice will, or is likely to, be extended to the 2010 code.
68. If the Bill is to be amended to require parliamentary scrutiny of the code, the Committee recommends this be done under the negative procedure. The Committee believes the negative procedure would be appropriate given the defined scope of the proposed code.

Section 2

69. Section 2 would provide that the code include six questions the prospective acquirer should ask themselves before acquiring a dog of any age; these relate to the breed of dog, the prospective acquirer's home environment and lifestyle and costs. The policy memorandum states "these questions should prompt careful consideration of the main factors related to owning and caring for a dog responsibly and ensuring its wellbeing throughout its life". Section 2 also provides that the prospective acquirer and prospective supplier should meet in person, "unless this is not practicable", before reaching an agreement.
70. Notwithstanding their support for the code of practice giving effect to the issues raised in section 2, a number of witnesses commented on the "appropriateness" of including this level of detail on the face of the Bill and thought this approach would be inflexible as any changes to the terms of these questions would need to be made via primary legislation. The UK Centre for Animal Law argued that, "given that science and the understanding of animal and human behaviour all change, it seems rather rigid to have the code in the Bill".
71. The Law Society of Scotland agreed and referred to several examples of analogous legislation which provide that a code 'may' make provisions about certain things rather than setting these out in the legislation. The Law Society of Scotland suggested this might be a more appropriate approach.
72. The Minister also highlighted concerns with the questions being set out on the face of the Bill. She told the Committee that the code should be informed by stakeholders' views through the consultation rather than by "a prescriptive provision in primary legislation tying us to a definitive code of practice". The Minister also stressed the need to take a flexible approach, as "trends change in dog ownership, breeding standards change, and different types of dogs with different issues come on the market" and highlighted that any changes to questions set out on the face of the Bill would require primary legislation.
73. Christine Grahame explained her reasons for setting out the questions on the face

of the Bill when she gave evidence. She stated these were “fundamental”, “straightforward” and “easily understood” questions and had been included in section 2 “as a direction to the Government, to ensure that those particular questions go into the code”. As set out earlier in this report, Christine Grahame believes “the core content of code will stand the test of time” and should not require amendment. She added that other questions could be added, if the Scottish Ministers felt they were necessary.

74. Notwithstanding Christine Grahame’s view that “the core content of code will stand the test of time” and should not require future amendment, the Committee believes that it would not be appropriate to include the questions on the face of the Bill. The Committee believes the Scottish Ministers, after public consultation, should design the content of the proposed code. Accordingly, the Committee recommends that section 2 be amended to remove the questions.
75. The Committee refers to the Law Society of Scotland’s evidence which gave examples of how the Bill could give direction to matters that the Scottish Ministers should have regard, whilst retaining the flexibility and discretion to respond to changes in dog ownership and understanding of animal science.

Section 3

76. Section 3 would provide that the code should set out additional requirements in relation to the sale or transfer of a dog under 12 months old by the first owner of the litter. These include a restriction on the sale of a dog under eight weeks old (extending the existing restriction on the sale of a dog under eight weeks from a licensed litter) and that the prospective acquirer should see the dog with the bitch which gave birth to it “unless this is not practicable”. Section 3 also places a responsibility on the prospective owner to “become familiar” with the circumstances when the transfer of a dog aged less than 12 months would require a licence under section 27 of the 2006 Act (ie, where the breeder has bred more than two litters in that year) or any registration scheme established under Part 2 of this Bill. The prospective buyer also has a responsibility “to take all reasonable steps to establish” that such a licence or registration is in place if the circumstances “may be applicable”.
77. A number of animal charities identified a concern around the section 3(3) requirement that, *‘Before acquiring the dog, the prospective acquirer is (unless this is not practicable) to see the dog with the bitch which gave birth to it’*. Battersea Dogs and Cats Home argued that the exception for where it is not practicable might create a loophole and suggested the provision be amended to *‘(unless this is not practicable for welfare reasons)’*. The Dogs Trust recommended the Bill be amended to reflect the wording in the 2021 Regulations.ⁱⁱⁱ

ⁱⁱⁱ The 2021 Regulations provide that—(5) No puppy aged under 8 weeks may be—(a) sold, or (b) permanently separated from its biological mother. (6) A puppy may only be shown to a prospective purchaser if it is together with its biological mother. (7) Sub-paragraphs (5)(b) and (6) do not apply in relation to a puppy if— (a) separation of the puppy from its

78. The Scottish SPCA and Dogs Trust both gave evidence about how some unscrupulous breeders rent accommodation to “set up fake home environments” which are very difficult for prospective acquirers to see through. The Scottish SPCA also told the Committee that some unscrupulous breeders have also used a bitch who is unrelated to a puppy to satisfy acquirers’ request to see a puppy with its mother.

79. The Committee recommends section 3(3) is amended to ensure the provision relating to the requirement to see a dog with its mother is consistent with the 2021 Regulations. The Committee has heard evidence about how some unscrupulous breeders pass a bitch off as a puppy's mother and present what looks like a home environment to a prospective buyer. The Committee recognises that tackling this wider issue is outwith the scope of this Bill.

Section 4

80. Section 4 would require the prospective buyer to complete a certificate confirming they have followed the code of practice and which they and the prospective supplier must both sign. A suggested template certificate is included in the policy memorandum and the financial memorandum details Christine Grahame’s view that a copy of the template certificate would be available online for the acquirer or supplier to print off and sign.

81. The policy memorandum states that the certificate would provide “a mechanism, that should cause prospective owners to pause for thought before acquiring a dog and should result in better informed decisions on dog ownership”. The supplier of the puppy is also required to sign the certificate to confirm that the prospective owner is “the right fit for the dog”. Section 3 provides that the code must prescribe the form of the certificate and includes some requirements the certificate must include. The certificate is to be kept and shown to a police officer or inspector “in response to any reasonable request to see it”.

Views on the requirement to complete a certificate

82. The Scottish SPCA thought the certificate “gives the buyer some comeback to challenge the seller”. It went on to set out a concern about the rigour of the certificate, suggesting that “people might create their own versions and their own numbers” and that this relates to “the idea of registering that kind of activity and the issue of where the certificates are logged”.

83. The Minister agreed that the requirement for a certificate is “helpful and that it will focus minds”. The Minister went on to suggest that, “if someone has to sign something in order to get a certificate, to show that they have had to think through some of the aspects of that, that would prompt reflection”.

biological mother is necessary for the health or welfare of the puppy, other puppies from the same litter or its biological mother, or (b) the puppy’s biological mother is deceased.

84. Christine Grahame emphasised “the importance” of the certificate which, she argued, would ensure that “anyone who is buying a dog will reflect on the questions to be answered”. She also highlighted the responsibility on the provider of the dog to sign as “a responsibility on the supplier to ensure that the acquirer has gone through all the necessary steps in the checklist of questions that are contained in the certificate”.
85. The Law Society of Scotland thought that there are areas in section 4 where “the balance could be added to”. It gave the example of section 4(4)(b) – *[the certificate must] if section 3 applies, require the prospective acquirer to (i) confirm that they have checked with the prospective supplier and believe the dog is at least 8 weeks of age* – and thought that it “would be appropriate” for a corresponding responsibility be placed on the supplier to further confirm that the dog is at least 8 weeks old.
86. The Committee agrees with the requirement that both the person buying and the person selling/giving away a dog is to sign a certificate confirming they have discussed the matters contained in the code. The Committee believes this should prompt prospective buyers, perhaps at a point in the process where ‘the heart may rule the head’, to pause and think about the practicalities before taking on the responsibilities of dog ownership.
87. The Committee agrees with the Law Society of Scotland’s suggestion that section 4(4)(b) be amended to place the responsibility for confirming a dog is at least 8 weeks old with both the buyer and the person who is selling/giving away the dog.

Views on the enforcement of the requirement to complete a certificate

88. Some witnesses raised concerns around the enforcement of the proposed code and certificates. Battersea Dogs and Cats Home argued that, “as the certificate is non-statutory, there is no real incentive for people to obtain, keep or carry the certificate”. It went on to say “you could argue that, in order for certificates to be effective, they should be a legal requirement with a clear enforcement mechanism—the use of fixed-penalty notices, say—for non-compliance. We should consider all those things as we look at the legislation as it stands.” The Scottish SPCA went on to express the view that there is “no real consequence” for failing to complete and retain a certificate. The Law Society of Scotland thought the enforcement mechanisms for the code “do not have teeth”.
89. The Committee notes concerns raised by the Law Society of Scotland and some animal welfare organisations around the lack of enforcement provisions for the certificate. The Committee also notes, however, Christine Grahame’s objective for the Bill to educate, rather than penalise, those acquiring or selling/giving away a dog and agrees with the advisory status of the certificate.

Section 6

90. Section 6 makes it clear that a person would not be liable if they failed to comply with the code of practice but that compliance or failure of compliance may be relied on in any proceedings for a relevant offence. A relevant offence would be an offence under Part 2 of the Animal Health and Welfare (Scotland) Act 2006 or under regulations made under sections 26-27 of the 2006 Act or Part 2 of this Bill. The policy memorandum states that “any failure to produce a signed certificate could then be used as part of a body of evidence, should welfare concerns be raised about a dog”. This provision takes the same approach as section 37 of the 2006 Act in relation to animal welfare codes.
91. As set out earlier in this report, however, this Committee is aware that the Scottish Government has a commitment to update the codes of practice (made under section 37 of the 2006 Act) for the welfare of farmed animals and to replace them with guidance (made under section 38). In the event that the 2010 code is replaced with guidance made under section 38 of the 2006 Act, the provisions relating to the evidential link with a possible offence would thereafter take a different approach from the proposed code.
92. In a letter, dated 20 December 2023, the Minister stated that “the ability to use guidance to assess compliance with the law is not set out in statute”. She went on—

” Nonetheless, this does not prevent a court from taking into account compliance or non-compliance with guidance issued by Scottish Ministers in establishing liability for an animal welfare offence. Indeed, in attempting to establish liability for an offence, the court will consider evidence in relation to compliance or non-compliance with a legal duty as set out in the 2006 Act or other legislation, and may look for further information as to how this legal duty should be met. In the absence of an up to date code of practice, Scottish Government guidance would provide an indication as to how the duty should be met. In particular, under the 2006 Act, a person commits an offence if they fail to take reasonable steps to ensure that the needs of an animal for which they are responsible are met, to the extent required by good practice (section 24). Compliance with guidance issued by Scottish Ministers may provide an indication of “good practice” for the purposes of enforcement.

The animal welfare guidance documents published so far all note that they may be taken into account in establishing liability for an offence under the 2006 Act. It would ultimately be up to a court to decide what weight, if any, to give compliance or failure to comply with guidance in any given case. It is likely that up to date guidance would be more helpful in this respect than an outdated code.

93. The Committee notes the section 6 provisions replicate the approach taken in section 37(9) of the Animal Health and Welfare (Scotland) Act 2006 and agrees with this approach.
94. As set out earlier in this report, however, the Scottish Government has indicated its intention to replace farmed animal codes of practice, made under section 37 of

the 2006 Act, with guidance, made under section 38 of the 2006 Act. Earlier in this report, the Committee asks whether the Scottish Government's commitment to replace farmed animal codes of practice will, or is likely to, be extended to the 2010 code. If the 2010 code is replaced with guidance, the Committee is concerned that different approaches relating to an evidential link guidance would apply. The Committee asks the Scottish Government for its view on this matter.

Section 7

95. Section 7 would require that “the Scottish Ministers must take reasonable steps to ensure public awareness and understanding of the code of practice”. The policy memorandum states that, “for the behavioural shift envisaged to take place, effective public awareness raising will be vital in ensuring those acquiring a dog become aware of and understand the contents of the code and the associated certificate”.
96. The financial memorandum sets out Christine Grahame's view that “an initial national campaign lasting up to three months would be appropriate in the first instance and supplemented with further promotional work at later stages”. The financial memorandum acknowledges the difficulties in comparing the proposed awareness-raising campaign with previous campaigns but highlights the Scottish Government's “extensive campaign” on responsible dog ownership in 2018 and 2019 and suggests an estimate of £200,000 to £250,000 would be required.
97. All witnesses supported section 7 and strongly agreed that a public awareness campaign would be essential in order for the Bill's objectives to be achieved. As stated earlier in this report, the Kennel Club's puppywise survey found “a fifth of people still spend less than two hours researching whether to get a puppy [...] and nearly a third admit that they would not know how to spot a rogue breeder”. It concluded that, “for us, the educational piece is really important because, ultimately, we need members of the public to demand better standards of breeders”.
98. At the same time, however, a number of animal welfare organisations spoke about the challenges of awareness campaigns having a meaningful impact on public behaviour. The Dogs Trust referred to the “very low” public awareness of the existing codes of practice for cats and dogs. The Scottish SPCA spoke about “people following their hearts, not their heads” and that “they know that standing in a car park with a puppy in the boot of a car is the wrong thing to do, but they think, “I want to go and rescue that pup, because who else is going to do it?”
99. The UK Centre for Animal Law referred to animal charities joining together “to run very effective ‘Buy a puppy safely’ and ‘Say no to puppy dealers’ campaigns but stressed that “the problem is intractable because ... the people who are engaging in the criminal activity are so determined to do it, so cynical and, one might say, so heartless that they will go on to find a way round the legislation”. As highlighted earlier in this report, some breeders have avoided the recommendation that a puppy be seen with its mother by passing a bitch off as a puppy's mother and presenting what looks like a home environment to a prospective dog owner.

100. The Minister acknowledged that public awareness “of the letter of the code of practice as it is written is probably not high” but that there is “very much so” a general awareness that has come from campaigning from the 2010 code of practice. The Minister also indicated she was content with the projected costs as set out in the financial memorandum; the [Minister set out further information about the scope and cost of recent publicity campaigns related to dog ownership in her letter to the Committee dated 31 October 2023](#).
101. When she gave evidence, Christine Grahame stressed the importance of the public awareness campaign, arguing that this would be “the key difference between a new, successful code and a new certification process and the existing code, about which there are very low awareness levels among the public and which has not been revisited or revised since 2010”.
102. Christine Grahame recognised that “publicity campaigns on various issues are already running and telling people that they should not buy this or that, but those are not working”. She gave her view that a campaign on the acquisition of dogs would go back to the key message and expressed a hope that, “if we start there, we will decrease the requirement for subsequent messages such as ‘A dog is for life, not just for Christmas’”.

103. The Committee agrees that a publicity campaign to raise public awareness of the proposed code would be essential in educating the public about unscrupulous breeding. The Committee notes the Minister’s view that the costs set out in the financial memorandum would be sufficient.
104. The Committee is also aware, however, of the views expressed by many about the challenges of an awareness campaign to make a sustained and meaningful difference to public behaviour, especially on such an emotive issue as acquiring a puppy when, very often, ‘the heart may rule the head’. The Committee expects the Scottish Government to maximise its marketing expertise to ensure any campaign is more effective than previous campaigns.

Issues raised with the Committee during its evidence taking on Part 2 of the Bill

Sections 8, 9 and 10

105. Section 8 would allow the Scottish Ministers to prohibit the sale, giving away or advertising of a puppy aged less than 12 months unless the first owner of the litter has first registered the litter. Section 8(1) would delegate to the Scottish Ministers the power to make the regulations to require registration and section 8(3) would delegate the power to make regulations relating to the establishment of a register. Section 8(4) sets out a non-exhaustive list of what these regulations may include, such as the information to be provided for registration, information relating to public access to the register and for the charging of fees.
106. The register would not apply where a breeding licence is already required under the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 or where the first owner is not a resident in Scotland.
107. The policy memorandum sets out Christine Grahame's expectation that any advertisement for the sale would include either a breeder's breeding licence or litter registration number. This would ensure "there would be no legitimate reason for a supplier not to be part of some form of regulated process for the sale of puppies" and that the absence of a licence or registration number could "be reasonably taken to mean that the supplier is not willing to comply with the necessary regime".
108. Christine Grahame set out her expectation that the register would be an online tool and that registration "should not be an onerous task". Her view is that prospective dog owners would access the register by entering a registration number and would see the name of the registered litter owner and details related to the litter. Specified third parties, such as animal welfare organisations, would also have access to the register.
109. The financial memorandum states the Scottish Government would fund the initial establishment of the register and, thereafter, routine maintenance and IT support costs. It estimates a cost of £21,500 for this, based on "the similarity between the functionality of the 'tobacco register' with the Member's policy intentions for the register of unlicensed litters". The register of tobacco and nicotine vapour product retailers cost approximately £20,000 to set up in 2017. The financial memorandum estimates on-going maintenance costs of approximately £16,000 per year, again based on a comparison with the tobacco register. This cost would be reduced if the Scottish Ministers decided to charge a registration fee.
110. Christine Grahame proposes that local authorities would have responsibility for managing and enforcing the register as this would be "the most practical approach" given "the interplay" between the breeding license scheme and proposed register.
111. The financial memorandum assumes that, on average, the Bill would increase enforcement officers' full time equivalent workload by 5% at a cost of £1,500 per officer per year or between £60,000 to £90,000 per year for all officers across Scotland in total. It does not envisage that additional staff would need to be

- recruited. The financial memorandum suggests that, “if the Bill succeeds in its aim to encourage more responsible breeding and ownership of dogs, it is likely that more people will comply with the requirement to register a litter and the number of investigations and prosecutions for failure to comply will be minimal”.
112. The delegated powers memorandum recognises that the Scottish Ministers already have the power to regulate ‘low-volume’ breeders under the 2006 Act. In setting out the reasons why this regulation-making power is required, the delegated powers memorandum states that the 2006 powers “are very general and do not specify the creation of such a register for unlicensed litters of puppies and how it would function”. It also highlights that the Scottish Government has no intention of using these powers to introduce regulation.
113. Section 10 provides that the Scottish Ministers may make regulations in connection with securing compliance with any regulations made under section 8. Section 10(2) states these may include provisions relating to requirements on the first owner of a litter; relating to enforcement; or relating to conferring powers of entry, search, inspection and seizure. Section 10(3) gives the Scottish Ministers the power to make regulations making it an offence to breach any requirements set out in regulations or obstruct any person on whom powers of entry, search, inspection and seizure have been conferred.
114. Section 9 makes supplementary provision for regulations made under Part 2 of the Bill. This includes provision that the Scottish Ministers must consult “such persons as they feel appropriate” before making regulations and that any regulations should be subject to the affirmative procedure.
115. The delegated powers memorandum states that the affirmative procedure is considered the appropriate level of scrutiny, given the range of provision that may be made, and the significant nature of some of it, including possible powers for search, inspection and seizure in connection with breaches (and suspected breaches) of provisions of regulations made under the Bill or the creation of criminal offences.

Views on the effectiveness of the proposed register of unlicensed litters

116. The animal welfare organisations who gave evidence to the Committee were generally supportive of the proposed register for unlicensed litters. The UK Centre for Animal Law told the Committee that a register would “close a loophole” by addressing the anomaly whereby “the standards that apply to licensed breeders are completely absent” when it comes to hobby or low-volume breeders.
117. These witnesses also strongly felt that a register would assist with the traceability of dog ownership. The Scottish SPCA said that the register would give “another tool” to certify ownership and the Dogs Trust agreed that a register would provide traceability without being “overly onerous”. Witnesses highlighted that, although it is a legal requirement for all dogs to be microchipped in Scotland, there are difficulties in using microchips as a traceability tool. Battersea Dogs and Cats Home told the Committee that only 20% of the dogs it takes in have been microchipped. The Scottish SPCA gave evidence about the challenges of checking microchip details across the different databases for different manufacturers and that details are often not up to date or have been falsified by unscrupulous breeders.

118. Notwithstanding their general support for the proposed register, however, the animal welfare organisations who gave evidence to the Committee did support a number of amendments to the Bill which they felt would improve its effectiveness. The Dogs Trust and the UK Centre for Animal Law expressed their disappointment that the Bill did not require the Scottish Ministers to establish the proposed register and supported an amendment to address this. The Dogs Trust argued that traceability would be further improved if the Bill required the breeder of a litter to register, rather than the litter itself. The Scottish SPCA thought that “a big stumbling block” to the effectiveness of the proposed register was that it is not clear that it would be accessible to the public; without public access, it argued that “anyone could conceivably make up a series of letters and numbers and pass off that, indeed, they are registered”.

119. The Kennel Club supported the principle of the proposed register but expressed concerns about the timing of its introduction. It suggested that it is “potentially too soon to introduce that measure” because the existing regulations that are in place to regulate high-volume breeders are not being properly enforced. It told the Committee—

” At the moment, until we have the enforcement right at the higher-volume level, we should not introduce more measures for home breeders and lower-volume breeders, when we know that that could potentially turn some people away from breeding.

It is about timing and striking a balance. We want the lower-volume breeders—the home breeders—to continue to breed. We would like more of them to breed, because we know that people who breed fewer dogs in a loving environment are much more likely to get a healthy and happy pet at the end of it. For us, it is always about striking a balance and incentivising lower-volume breeders, if they are confident and following advice, because they would probably do a good job.

Just to give some context, of the breeders that we register, a huge proportion will only ever register one or two litters in their lifetime, never mind per year. We are looking at a cottage industry—it is quite a niche area.

120. The Minister, however, questioned the extent to which the proposed register would make a meaningful difference to the traceability of dog ownership and told the Committee she was not convinced that the register “is needed, that it would have an effect and that it would be workable”.

121. First, she argued that it would be too onerous to require all owners of a dog which has a litter to register. She suggested that not all low-volume breeders could be classed as a business as many of these dogs would be a family pet having a litter in a domestic setting. She told the Committee—

” Mistakes happen, not to put too fine a point on it, and, all of a sudden, you might find that your unneutered dog is having puppies in your kitchen at 4 in the morning. You might not have the wherewithal or the time for that and, all of a sudden, you have to be licensed as a dog breeder.

122. Second, the Minister argued that, in itself, the requirement to register a litter of puppies would not have any impact on animal welfare as it would not carry any of

the responsibilities required by a licensing scheme, such as conditions around animal welfare standards and conditions. The Minister said that what worried her the most about the proposal was that it “could act almost as a kite mark-type of front that would add legitimacy to something that was otherwise not legitimate”. She went on to tell the Committee—

” What would a person who wanted to buy a puppy from somebody see on the register? What would show them that they were making a responsible purchase, that the puppy had had its welfare looked after and that they could trust where the puppy had come from? The register would probably have relatively little on that.

123. Scottish Government officials referred back to the Scottish Government’s discussions with stakeholders when it was drafting the 2021 licensing regulations and when the Scottish Ministers considered, but ultimately decided against, regulating low-volume breeders. Officials told the Committee—

” It became apparent that there was a lot of confusion about the difference between registration and licensing. The basic registration requirement simply requires someone to give their name. [...] Licensing comes with stringent conditions about how the accommodation for the dogs should be constructed and how bitches should be looked after, as well as restrictions on how they are bred. Those conditions come with inspections by local authority inspectors and periodic renewal of the license, so it is a stringent protocol. There is clearly room for confusion for the general public, who would not necessarily understand the difference between a simple registration requirement and a much more substantial licensing requirement.

124. Third, the Minister also raised a concern that making low-volume breeders register could put them at risk of being targeted by unscrupulous breeders as a legitimate front for their puppy trafficking or high-volume breeding. She argued a register would not be able to protect prospective dog owners from falling victim to these types of scams.

125. The Minister concluded her evidence on Part 2 of the Bill by confirming her intention to lodge amendments at Stage 2 to remove these provisions.

126. The Committee has taken evidence over the course of this inquiry which has illustrated the importance of the traceability of dog ownership, especially as a means to address the activities of unscrupulous breeders. Animal welfare organisations have given their view that, albeit with some amendment, Part 2 of the Bill would help strengthen the mechanisms to deliver better traceability.

127. The Minister set out the reasons why the Scottish Government does not support Part 2 of the Bill. The Committee agrees with the Minister that the provisions set out in the Bill would not deliver better traceability or effectively tackle unscrupulous breeding.

128. The Committee considers that the proposed registration of litters, rather than the registration of dog owners or breeders, would do nothing more than indicate a litter had been registered. At this point, it is not clear whether the register would indicate how many other litters the person selling or giving away a dog has

registered in the past. As the Minister set out, the registration of a litter could not provide any reassurances about a dog's welfare or whether it had been bred by a responsible, or unscrupulous, breeder. The Committee shares, therefore, the Scottish Government's concerns that the registration of the litter may confer a false legitimacy to a litter and mislead prospective dog owners. It is also unclear how the proposed register would operate in practice and whether, for example, it would be accessible to the public.

Views on the enforcement of the proposed register of unlicensed litters

129. The two local authorities who responded to the Committee's call for views questioned the projected costs set out in the financial memorandum. Aberdeenshire Council felt that the projected increase of enforcement officers' full time equivalent workload of 5% at a cost of £1,500 per authority "seems extremely low" and that, "for a large rural area such as Aberdeenshire where there are a lot of dogs, the demands may be significantly greater than smaller, less rural authorities". It also stated that it "is simply not possible [to incorporate the additional duties into existing workloads] as existing resources are extremely stretched at the moment". The City of Glasgow Council also queried the projected additional costs and workload and stated that "any additional demands will require additional resource [and], therefore, without this, Glasgow City Council would be unable to meet any further financial costs".
130. All the witnesses who gave oral evidence to the Committee raised similar concerns about local authorities' capacity to enforce the proposed register and argued that, without enforcement, the register would be ineffective. The Scottish SPCA told members—
- ” [...] if you do not have the resource to do those checks and to enforce it then it does not work. That is something that we have seen time and again. A lot is being allocated to local authorities and this will be yet another thing that they will be required to do. Money is not ring fenced to do it. Who will manage the databases and so on? To make the scheme work and be effective, that needs to be considered and the resource needs to be put in place.
131. The Dogs Trust and the Scottish SPCA suggested a centralised body, with responsibility for registration across Scotland, might be a solution. Highlighting a model trialled in Wales, the Dogs Trust reported that "providing a service across local authorities there has improved inspections and so increased compliance among breeders, and it has also increased prosecutions for non-compliance".
132. The Minister also spoke about enforcement of the Bill being "onerous and probably unmanageable from local authorities' point of view at a time when they are stretched and finding it difficult to provide the services that they already provide".
133. Christine Grahame told the Committee that she "made the question of when and if to introduce a registration scheme a matter for the discretion for the Scottish

Government” was because she “did not want to burden local authorities with additional costs when their budgets are pressured”.

134. The Committee notes the concerns voiced by all witnesses – including Christine Grahame – that local authorities would not be able to meet the costs to implement and enforce the proposed register. In addition, those local authorities who responded to the Committee’s call for views questioned whether the actual costs would be higher than those projected in the financial memorandum.
135. The Committee understands that Christine Grahame is content for the Scottish Ministers to introduce a registration scheme when they believe local authorities will be in a position to enforce it. It is not clear, however, when local authorities will be in a position to enforce a registration scheme and what impact a delay would have on unscrupulous breeding in Scotland in the meantime.
136. Taking into consideration, therefore, the concerns around the workability and enforcement costs of the proposed registration scheme, as well as the uncertainty about the length of delay before the registration scheme would be introduced, the Committee does not believe that Part 2 of the Bill is the right approach. The Committee agrees, therefore, with the Scottish Government’s view that Part 2 of the Bill should be removed at Stage 2.
137. The Committee does, however, recognise the strong concerns voiced by animal welfare organisations about issues with traceability. The Committee believes that, rather than seeking to amend this Bill, traceability of dog ownership would be better enhanced via a different mechanism.

Delegated Powers and Law Reform Committee’s consideration of the proposed delegated powers in Part 2 of the Bill

138. The DPLRC, in its report on the Bill, agreed with the delegated powers set out in sections 8, 9 and 10 and confirmed it was content with the proposed affirmative procedure.

139. The Committee notes the DPLRC’s agreement with the delegated powers provisions and proposed affirmative procedure. The Committee agrees that, if Part 2 of the Bill is to proceed, it is also content with the delegated powers provisions and proposed affirmative procedure.

Section 11

140. Section 11 would require that “the Scottish Ministers must take reasonable steps to ensure public awareness and understanding of circumstances” where either a dog breeding licence or section 8 registration is required to encourage responsible acquisition of a puppy and to dissuade purchasing a puppy from an unscrupulous

breeder.

141. The financial memorandum suggests an estimate of £200,000 to £250,000 would be required for an awareness campaign as she “considers that the cost incurred may be of a similar range” as for the campaign for the section 1 code of practice.

142. Given the Minister’s confirmation that the Scottish Government would lodge amendments to remove Part 2 of the Bill, the Committee did not explore the section 11 provisions and costs.

Christine Grahame’s proposals for an alternative to Part 2

143. Following the Minister’s evidence to the Committee, Christine Grahame wrote to the Scottish Government on 14 November 2023 in relation to Part 2. Christine Grahame emphasised that “the value of the policy set out in Part 2 is traceability and transparency of where an advertised puppy is coming from”.

144. Christine Grahame sought the Minister’s view about exploring an alternative approach to improve traceability via a centralised database of microchip data and indicated her agreement to the removal of Part 2 in favour of this alternative approach—

” It has long appeared to me to be a logical next step to establish a central database where these details are available to prospective buyers. Notwithstanding the work required to establish a workable system, would the Scottish Government be supportive in principle to developing a means of improving traceability of every puppy that is sold or given away in Scotland, based on the existing legal requirement to microchip every dog in Scotland?

In addition to an indication as to whether the Government would be supportive of such an approach, I would also be very grateful for any details of ongoing work by the Government in this area. For example, would the Government support, and has it explored the potential for, a UK wide system to improve traceability on a UK wide basis which would remove the potential for cross border issues?

If the benefits I associate with Part 2 are intended to be delivered through the existing microchipping system, I would be amenable to supporting this as a viable alternative to progressing with Part 2 of the Bill. I am also hugely committed to protecting the progress of the policy set out in Part 1.

145. The Committee discussed this alternative approach with Christine Grahame when she gave evidence on 22 November 2023. Christine Grahame told the Committee that, given the Scottish Government’s concerns about the efficacy and costs associated with Part 2, “I am prepared for that alternative to be used, with the caveat that we move forward with some kind of cross-referencing of microchipping”.

146. In the Minister’s response to Christine Grahame, dated 23 November 2023, she

states that “the Scottish Government believes the traceability and transparency benefits that you feel Part 2 of the Bill could bring could instead be achieved by reviewing and updating our current microchipping legislation”. The Minister states this could be done by amending the [Microchipping of Dogs \(Scotland\) Regulations 2016](#) and refers to discussions in 2022 between Scottish and UK government officials about a consistent UK or GB approach. The Minister confirms the Scottish Government’s strong support for this approach in principle and states that, although the Scottish Government is not aware of the current UK Government’s position, it “will be pressing for further joint work in this area with current and future UK administrations”.

147. The Committee notes with interest Christine Grahame’s letter to the Scottish Government to explore an alternative approach to that set out in Part 2 to enhance traceability via a single microchip database. The Committee also notes the Minister’s “strong support” for this approach, whilst also indicating that this would need to be done on a GB or UK basis with agreement between all administrations.
148. The Committee has not taken any evidence on Christine Grahame’s alternative approach and, therefore, is not in a position to comment on its merits of enhancing the traceability of all dogs, especially puppies. The Committee requests an update from the Scottish Government on any further dialogue between UK administrations in advance of Stage 2.
149. As set out earlier in this report, however, the Committee recognises the strong concerns voiced by animal welfare organisations about issues with traceability. If Part 2 of the Bill is removed at Stage 2, and if there is no immediate prospect of progress towards a single microchip database on a GB or UK basis, the Committee calls on the Scottish Government to detail what other measures it is considering to address the issues with traceability.

Conclusion

150. The Committee agrees with the general principles of the Bill. In relation to Part 1, some members support the incorporation of the proposed code into the 2010 code, rather than its introduction as a standalone code.^{iv} In relation to Part 2, the Committee agrees with the Scottish Government's position that this should be removed by amendment at stage 2.

^{iv} Rachael Hamilton and Jamie Halcro Johnston.

