



Cymdeithas Frenhinol Atal Creulondeb i Anifeiliaid Royal Society for the Prevention of Cruelty to Animals

Committee Clerk
Petitions Committee
National Assembly for Wales,
Cardiff Bay
CF99 1NA
Submitted to: petition@wales.gov.uk.

Petitions committee consultation Animal Offenders Register

February 2013

RSPCA Cymru would like to apologise to the Committee members for the brevity of our response, we have been unable to allocate the resources this complex issue deserves due to capacity issues beyond our control at this time. If the Committee felt able to allow a longer or extended consultation period, we would of course be happy to respond in full. In the mean time we have supplied some initial points for the Committee's consideration under the questions posed in your consultation. We would also be more than happy to attend a meeting to discuss these issues in more detail if that were convenient.

To reiterate our first response to the Committee on this issue in September 2012 – as the main enforcer¹ of animal welfare legislation in Wales (and England) the RSPCA certainly welcomes a comprehensive investigation into the practicalities and legalities of a register of offenders. The RSPCA would be pleased to support the Assembly in this endeavour and as such we very much hope this consultation by the Committee marks the beginning of a very forward-thinking and innovative development in policy and legislation by the National Assembly for Wales.

Committee questions

The risks and benefits of creating an Animal Offenders Register for Wales.

The RSPCA is currently reviewing its position across the whole spectrum of sentences for offences involving the cruelty and neglect of animals, but it is widely thought that the sentences available, certainly for the more serious offences, are not a sufficient deterrent nor are they perhaps a proportionate punishment. Having said that we are also keenly interested in the developments within the restorative justice sector where perhaps both the issues of deterrence and punishment may present better opportunities.

An Animal Offenders Register in Wales could perhaps offer two functions, which are not necessarily mutually exclusive, that is a) a form of punishment for the offender and

¹ Please see www.politicalanimal.org.uk/wales for data and statistics on the work of the RSPCA and the prosecutions taken in Wales each year

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Noddwr Ei Mawrhydi
Y Frenhines

Patron HM The Queen

Is-noddwr Ei
Ras Archesgob Caergaint

Vice Patron His Grace
The Archbishop of Canterbury

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b) to prevent some forms of re-offending, in terms of that offender firstly acquiring another animal after having been banned by the court, and secondly potentially going on to make that new animal suffer.

In respect of the issue of punishment, the RSPCA's main goal in court cases – of a severity that merits it – is to secure a ban on the keeping of animals. This, and where appropriate custodial sentences, are important both as a means of punishment and to prevent further suffering to those, or other, animals. The proposal to add the offender to a register is possibly not a strong form of punishment if it is – as it would likely to be – a closed list i.e. not publicly available information. In terms of the second function of preventing offending, this is more complex because what is not known is how many people go on to repeat their offences although we certainly come across a significant number of such cases each year.

As stated earlier, the RSPCA is the main enforcer² of animal welfare legislation in Wales (and in England) and as such we already hold the majority of relevant data on the offenders we have prosecuted, indeed all potential new employees face a background check using this database. What we are not able to do however, due to the level of resources involved, is to monitor those that have been convicted. RSPCA Cymru has 29 Inspectors, six Animal Collection Officers, four Animal Welfare Officers, three Chief Inspectors and one Superintendent, but we receive 60,000 calls from the public in Wales, each year, which amounts to 1 in 50 people calling for advice or to report an animal suffering. In 2011, 11,152 of these calls were subsequently investigated as complaints and from these 84 defendants were convicted of 239 offences with an additional 47 offenders cautioned. There are consistently similar numbers each year and thus it is not possible to monitor the accumulated total of offenders in Wales. As such it would indicate that a system whereby a person must be checked against a register of offenders before they can acquire an animal may provide additional safeguards.

It would be *imperative* however that the same requirement for a pet shop or breeder to check the person against the register should apply to animal rescues and sanctuaries that rehome animals, otherwise there would be a significant loophole in the legislation.

The legal and practical implications of placing a duty on sellers/breeders to consult a Register.

The administration and funding implications of such a Register and how these could be addressed and in particular:

a) Who should be responsible for administering the Register?

Because the RSPCA takes the majority of prosecutions there are implications of added responsibilities about our obligations to return that data to the Register. Therefore this is a more complex issue that in our opinion requires a

² Parliamentary answer by Harriet Harman (the then Solicitor General): "The Royal Society for the Prevention of Cruelty to Animals undertakes most prosecutions for animal cruelty. It has long established expertise in both the investigation and prosecution of cases involving animal welfare." (Hansard, 13 March 2003, col 427)

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thorough investigation and a dialogue between the RSPCA and legislators, which we would welcome.

b) Who should have access to the information contained in the Register?

The RSPCA is unaware of the access rights in the systems that exist elsewhere in the world (perhaps they would be willing to provide details to the Committee if approached) and it would seem prudent to collect such information to determine the correct way forward because the intention should be to limit access to only *precisely* those that have a legitimate need.

The requirement to check the database for the potential purchaser/adopter's status in terms of any offences, does not require the pet shop/animal rescue to have 'access' to the data, only the results of the search.

As the main enforcer of legislation it would seem clear that the RSPCA would need full access, as would the police/CPS and local authorities who also take prosecutions for animal cruelty.

c) How should administration of a Register be funded?

As stated above the RSPCA has not studied the comparable systems in operation however it would appear that those Registers are funded through a fee charged to the offender when their details are added at the time of conviction(s). At first glance this would seem to be the fairest option however we would urge some caution on this point because current court prosecutions taken by us rarely result in any funds paid to the RSPCA by the offender when they have been awarded to us by the court.

We would also recommend that a project is undertaken to ascertain the costs of such a system utilising our data, plus Local Authorities and Police, on the numbers of offenders in Wales.

We would not wish to see the Register funded by either a) the organisation or company commissioning the search of the Register nor b) the person acquiring the animal. This is with animal welfare and rehoming charities and organisations in mind. Firstly adoption fees charged by us and contemporary organisations are usually only a fraction of the cost of rehabilitating, rehoming, neutering and microchipping that animal. As such it would not be fair that any cost of checking the register should be borne by the RSPCA or other animal welfare organisations who are already struggling to find homes for the many hundreds, if not thousands, of unwanted animals in Wales each year. Similarly we would expect to see the numbers of potential adopters drop dramatically if they had to first pay to demonstrate they were not on the Register.

d) What details about offenders should be held in a Register?

Only the most relevant details should be retained, such as names, locations, contact details and the precise details of offences the individual was convicted of and also the sentences given.

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It would also need to be made a requirement that the offender update their details should any such details change and it might even be more prudent to require an annual registration to ensure their details are regularly checked and remain correct. The latter would also increase the monitoring effect and intention from introducing such a Register.

Policing of a Register and who should be responsible for ensuring the compliance of sellers/breeders with any requirement to consult the Register.

Compliance with any legislation is always fraught with problems and a difficult issue to resolve satisfactorily without infinite resources. This requires further thought but in the first instance we would suggest that pet shops could be spot-checked as part of their licensing by the local authority. The RSPCA also supports the proposal to regulate Animal Welfare Establishments³ otherwise known as 'sanctuaries' and if this was introduced the same system could apply as part of their licensing by the local authority.

The penalties and offences that should be associated with non-compliance of both offenders and sellers/breeders.

The RSPCA would welcome further research into this field to make a scientific assessment of the effectiveness of such penalties and offences. But we would not expect any sentence for the offender (on the Register) to be lower than those currently provided for under the Animal Welfare Act for instance.

For pet shops who sell an animal without checking the purchaser's status on the Register first could be punished through a suspension of their licence. It should perhaps remain irrelevant as to whether the purchaser of the animal in that situation had indeed been convicted of cruelty, what would be more important is the consistent and effective compliance by the pet shop in checking every purchaser.

For animal welfare organisations the same conditions could be applied if a system of licensing existed – as advocated by the RSPCA and many other organisations (please see the earlier reference to the AWWN report), however if no system existed there would still need some form of penalty, which would involve the prosecution of the individual or the organisation.

The cross border implications of developing an Animals Offenders Register for Wales only.

This is perhaps not a new issue considering that municipalities that have introduced such a register in the USA must be presented with the same problems. The fact will remain that an individual will be able to secure an animal through various legal – such as a gift from an individual - and *illegal*⁴ means, including theft as well as visiting other nations within the UK and further afield. Indeed the illegal trade and movement of animals as

³ <http://www.awnwales.org/userimages/AWWN%20AWE%20Report.pdf>

⁴ If they had been banned and placed on to the Offenders Register then acquiring any animal for that individual would be illegal

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well as the suffering of animals being moved legally is of constant concern to the RSPCA.

Conclusion

We hope that this brief response is somewhat helpful in your considerations. As stated earlier, we would be extremely pleased to work with the Assembly further to develop these proposals further and determine what help and role the RSPCA can provide.

We would also suggest that this area is in urgent need of criminological study to examine sentences and their relationship to recidivism in this sector, coupled with an analysis of how restorative justice may present opportunities for thorough and long-lasting behaviour change. We have strong links to the criminology departments of the main Universities in Wales and we would be happy to assist in designing such a study.

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