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| Consultation Title | Proposed Protection of Livestock (Scotland) |
| Date | 15/05/19 |
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Scottish Land & Estates is the voice of rural businesses throughout Scotland. We are a membership-based organisation representing a wide range of rural businesses, including farmers, foresters, tourism operators, housing providers, leisure companies, and renewable energy providers.

Our members provide a wide range of economic, environmental and social benefits which are vital to the success and survival of communities throughout rural Scotland. They play a critical role in ensuring sustainable, healthy and empowered rural communities, providing housing, employment and a wide range of economic, environmental and social benefits.

Aim and Approach

1. Which of the following best expresses your view of the proposal to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying?

- Fully supportive**
- Partially supportive
- Neutral (neither nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

SLE is supportive of the proposed increase in penalties and believes these need to be at a level that will form an effective deterrent. We also fully support the proposal for additional powers to investigate incidents and believe enforcement action needs strengthening and improving.

It is important that fines levied on offenders are proportionate. At present the maximum penalty for an offence under section 1 of the Dogs (Protection of Livestock) Act 1953 is currently £1,000. The penalty imposed should be equivalent to the financial loss caused, this will act as an important deterrent and will ensure that financial losses incurred by the farmer are redressed.

The threat of penalties alone will not prevent offenders and it is important penalty and enforcement measures are robust and support one another. As well as ensuring penalties are at a level which will form an effective deterrent, there needs to be increased enforcement and prosecution of incidents – a consistent approach on the investigation and sentencing of incidents would be a useful step forward.

2. What other measures could be taken (either instead of, or in addition to, legislation) to achieve the aims of the proposal?

SLE recognises that legislation is just one measure and it is important that there are other measures in place to help reduce incidences of worrying/attack. It is important that measures to prevent, detect and protect are strengthened, doing this will be important to the overall objective of preventing future incidences. Such measures could also be helpful in stopping wider rural crime issues such as attacks on other wildlife i.e. deer and hares.

We support the additional measures detailed on page 11 of the consultation which highlight the importance of ongoing awareness campaigns and improved education of dog owners which are key. We fully support the idea to develop dog ownership and training courses and believe these would be helpful in making sure dog owners are aware of their responsibilities as well as the powers available to Local Authorities and the police to deal with irresponsible owners.

As outlined in the consultation, there is evidence to suggest there is significant under-reporting, not helped by the inconsistent approach being taken to recording livestock attack/worrying incidents. It is important farmers have confidence in the system. We would fully agree with the points made on page 9 of the consultation regarding the need to improve data collection and the type of data collected.

Ensuring a consistent approach is taken to how livestock incidents are formally recorded will allow for improved monitoring of the effectiveness of enforcement and enable improved action to be taken including preventative measures. It is also key that a requirement is put on Local Authorities and the police to formally record any incidents of livestock worrying/attacks as a crime, this will ensure the extent of the issues is fully recorded – at the moment this data as highlighted in the consultation is patchy.

We would also highlight that it is important a system is put in place which allows for greater information sharing and collaboration between Local Authorities and policing divisions and which addresses issues around data protection which are currently preventing a pro-active approach to incidences of livestock worrying and attacks from taking place. The development of a national database would be an important step forward and would for example assist in the tracking of dogs which move from one Local Authority area to another.

It is important that Local Authorities and the police are aware of their responsibilities and have adequate training to ensure they are aware of relevant legislation and enforcement measures.

It is also important that all current and proposed new measures are robustly applied and enforced and to do this it is important from the start that adequate support and resource is put in place. Current evidence suggests that Local Authorities are struggling to deal with livestock worrying/attacks incidences due to insufficient resourcing, the rural nature of these incidents mean they can be time consuming to investigate and deal with – it is important this is recognised and appropriate support and funding mechanisms are put in place to help tackle this.

Penalties

3. Which of the following best expresses your view of increasing the maximum penalty for livestock worrying/attack to level 5 on the standard scale (currently set at £5,000) or imprisonment for up to six months (or an equivalent community penalty – i.e. community payback order)?

Fully supportive

Partially supportive

Neutral (neither support nor oppose)

Partially opposed

Fully opposed

Unsure

Please explain the reasons for your response.

We agree that sentencing needs to be more of a deterrent and that there needs to be increased enforcement and prosecution of incidents relating to livestock worrying/attacks. At present there appears to be inconsistency in the penalties that are handed down. SLE is fully supportive of fines and penalties that are consistent and reflect the seriousness of the incident.

Depending on the situation custodial sentencing might be appropriate and we would fully support harsher consequences being made available for repeat offenders and/or where a clear intent can be proved.

While we recognise that in some situations, tougher sentencing may act as a deterrent, we also accept that in many instances owners of dogs involved in incidents of livestock worrying/attacks are ignorant rather than knowingly irresponsible. As per our response in question 2 it is important that preventative measures such as training and education sit alongside the proposed reactive measures.

4. Which of the following best expresses your view of giving the courts the power to ban anyone convicted of livestock worrying/attack from owning a dog, including for life, subject to periodic review?

Fully supportive

Partially supportive

Neutral (neither support nor oppose)

Partially opposed

Fully opposed

Unsure

Please explain the reasons for your response.

As per our response to question 3, in some situations tougher sentencing may provide a deterrent, however many of the incidents that occur do so due to a mis held belief by the owner that their dog is not capable of attacking livestock.

In instances where dogs are being trained to be aggressive and/or there are repeated/multiple attacks or a clear intent we fully support tougher sentencing. We would also encourage harsher sentencing when the owner fails to report the crime. As per our response in question 1, we believe it is important that fines and penalties reflect the seriousness of the incident.

Evidence Gathering

5. Which of the following best expresses your view of providing police officers with powers to require a person to take their dog, within a 24-hour period, for examination to a vet for the purpose of evidence gathering; or for a police officer to have the power to seize the dog and take it to a vet themselves?

Fully supportive

- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

We fully support the proposal to increase police powers to collect evidence and believe this would be a positive step forward. In addition, we think a legal obligation should be placed on any dog owner to report to police that their dog has attacked livestock. This would assist investigations and be beneficial to the animal's welfare as it could ensure faster veterinary treatment.

A power to obtain a dog's DNA, if the dog was suspected of, or had committed, an attack would be a welcomed step as too would the development of a database for these samples.

6. Which of the following best expresses your view of giving Scottish Ministers the powers to delegate powers to investigate and enforce the offence to an appropriate body (such as the SSPCA)?

Fully supportive

- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

Enabling the Scottish Ministers to delegate powers, in order to aid in the investigation and enforcement of the offence to an appropriate body would be a useful tool to have and would help to ensure cases are fully investigated, particularly where Local Authorities are struggling to cope.

Definitions

7. The 1953 Act defines "livestock" as including cattle, sheep, goats, swine, horses and poultry. Which of the following best expresses your view of extending this definition to include camelids (alpacas and llamas) and other farmed species, such as ostrich or deer?

Fully supportive

- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

SLE supports the proposal to extend the definition of livestock to include modern farming livestock types (i.e. llama, alpaca, emu and ostrich), bringing it up to date with current farming practices.

Another approach might be to move away from listed animal types and move towards a description that is a collective approach to captive animals used for the purpose of farming and/or financial gain.

Financial Implications

8. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Government and the public sector

Significant increase in cost
Some increase in cost
Broadly cost-neutral
Some reduction in cost
Significant reduction in cost
Unsure

(b) Businesses

Significant increase in cost
Some increase in cost
Broadly cost-neutral
Some reduction in cost
Significant reduction in cost
Unsure

(c) Individuals

Significant increase in cost
Some increase in cost
Broadly cost-neutral
Some reduction in cost
Significant reduction in cost
Unsure

Please explain the reasons for your response

If the Bill is successful in achieving its objective and there is a reduction in the number of livestock worrying/attack incidents, then it would be expected that there would be an economic benefit to all as there would be fewer incidents to investigate and there would be no loss in livestock.

If there was an increase in incidents and investigation, then you would naturally expect costs to rise for all due to loss of livestock costs and the time and resources spent investigating these incidents.

As per our response in question 2, there will be a need to ensure the proposed measures to be included in the Bill are appropriately resourced, as such it is envisaged there will be some additional costs to Government and the public sector.

9. Are there ways in which the proposed Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

The proposed Bill concentrates on a package of measures which allows for reactive steps to be taken following an incident of livestock worrying/attacks. It is also important that the Bill considers preventative strategies.

As outlined above, penalties alone will not stop dog attacks and improved education around the issue is important. We would like to see Scottish Government invest in an education campaign which promotes responsible dog ownership and social responsibility.

As per our response to question 2 the establishment of dog ownership courses and/or competency tests would be a good way to make sure owners are aware of their responsibilities as well as highlight to them the powers available to the Local Authorities and the police to deal with irresponsible owners.

We also believe there is a strong case to be made for dog owners to put their dogs on leads in enclosed fields where there is livestock (releasing them if they become threatened by cattle). Diverting or restricting access to areas during the lambing could also assist in helping prevent worrying/attack incidents.

10. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

- Positive
- Slightly positive
- Neutral (neither positive nor negative)**
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response.

There is no reason to suggest the proposed Bill will have an impact on equality.

Sustainability

11. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- Yes**
- No
- Unsure

Please explain the reasons for your response.

There is no reason to expect the Bill to have a disproportionate economic, social or environmental impact, if anything the Bill is likely to enhance socio-economic impacts through encouraging greater responsible access, with positive impacts on the environment.

12. General

Do you have any other comments or suggestions on the proposal?

Despite the efforts of agencies and police to warn the public of the dangers that can occur from uncontrolled dogs in the countryside irresponsible dog ownership remains an ongoing problem. A new approach is needed to try and convey the message that this form of anti-social access is not acceptable, and we welcome the proposed Bill.