

# Advisory Council on the Welfare Issues of Dog Breeding

---

## Advisory Council Review of Regulation – recommendations to Governments

### EXECUTIVE SUMMARY

1. Current legislation on dog breeding does not adequately protect the welfare of dogs and is difficult to enforce within reasonable resource cost.
2. The Breeding of Dogs Act 1973, The Breeding of Dogs Act 1991 and the Breeding and Sale of Dogs (Welfare) Act 1999 should be repealed and replaced by regulations made under the Animal Welfare Acts.
3. The proposals for new regulations are based on the following principles:
  - i. That self regulation should be employed to maximum effect and the regulations themselves are as light touch as is proportionate to the extent of the welfare problems being addressed.
  - ii. That the ready identification of breeding premises and breeders, and accurate traceability of dogs back to their breeder, are key factors without which any proposed system will not be effective.
  - iii. That the necessarily outline controls in the regulations should be amplified and supported by detailed statutory Codes of Practice where appropriate.
4. It is proposed that essential elements of the new regulations should:
  - i. Impose new duties of care on all persons planning a mating of dogs and any organisation exercising public duties with regard to the establishment of Breed Standards.
  - ii. If not already in place, create a requirement for dogs to be permanently identified, currently by Microchip, as put forward by the Microchipping Alliance.
  - iii. Create a requirement for every person breeding a dog to register with their Local Authority, obtain a breeder's registration number, and provide their address and details of the veterinary practice with which their dogs are registered.
  - iv. Require any advertisement for the sale or supply of any puppy or puppies to include the breeder's registration number.
  - v. Oblige any person breeding two or more litters a year to obtain a dog breeding licence from their Local Authority.
  - vi. Require all persons breeding a dog or dogs to comply with the Council's Standard for Breeding Dogs, which should become a statutory Code of Practice.
  - vii. Facilitate enforcement activity on the basis of an informed risk assessment, enable enforcement authorities to recover the costs of managing the registration database and of enforcement visits to licensed premises, and provide for enforcement authorities to remove a dog breeding licence if the person or organisation concerned fails to comply with an Improvement or Care Notice issued under the Welfare Acts.
  - viii. Prohibit the sale, supply or gifting of any dog which
    - a. is less than 8 weeks old;
    - b. has not been micro-chipped.
  - ix. Also prohibit the sale, supply or gifting of any dog unless holding a current breeder's registration number with the relevant Local Authority, and prohibit the sale, supply or

## Advisory Council on the Welfare Issues of Dog Breeding

---

gifting of a dog to anyone other than a recognised rehoming organisation or a licensed pet shop, who is known, or believed, to be planning to sell or gift the dog to a third party.

- x. Require all licensed pet shops selling dogs to observe the standards established in a statutory Code of Practice.
5. The Council also makes some recommendations with regard to possible non-statutory approaches to support improvements in welfare standards.

# Advisory Council on the Welfare Issues of Dog Breeding

---

## Discussion

### Introduction

1. In 2010 both the APGAW and Bateson reports<sup>1</sup> identified a need for improved regulation and/or the improved enforcement of regulation with respect to dog breeding and the welfare issues associated with it. Specifically, they identified a number of areas where human behaviours need to change if the duty of care established in the Animal Welfare Acts<sup>2</sup> is to be reliably fulfilled for dogs. These include:

- a. Negligent and/or ignorant breeding practices (on large or small scales) which compromise the health and welfare of the parent dogs and/or the puppies;
- b. The deliberate breeding and conditioning of dogs for illegal or anti-social purposes which renders them unsuitable for human society;
- c. The sale and transport of dogs (including their importation) in conditions which do not fulfil their welfare requirements as defined in the Welfare Acts and other legislation such as the EU Transport Regulation 1/2005;
- d. The advertising, sale and purchase of dogs in conditions and by individuals who take insufficient care to ensure that a dog and prospective owner are well-matched in both expectations and requirements and likely to form a partnership which is beneficial to all concerned for the duration of the dog's life.

2. In carrying out its review the Council has been mindful that Government policy is strongly in favour of de-regulation where possible and, that where regulation is deemed necessary, it should be as light in touch as is commensurate with achieving its aims. The possibilities of self regulation, guidelines, and both statutory and non-statutory Codes of Practice have been explored. The Council accepts that legislation is the last resort, only used where a change in behaviours cannot be achieved by other means. The Council is also conscious that if action is to be effective, any statutory intervention designed to change public behaviours and standards needs:

- a. To enjoy public support for action to be taken;
- b. To be capable of being enforced effectively and with maximum resource efficiency.

3. Regarding public support for a need for intervention in this area, the Council has observed that:

- a. There is widespread public concern about the poor welfare of some dogs used for breeding and well-informed support for action to impose improved standards on large scale poorly run commercial enterprises, or so-called 'puppy farms'. However there seems little recognition by the wider public that some of its own

---

<sup>1</sup> Associate Parliamentary Group for Animal Welfare: A healthier future for pedigree dogs (2009)

Bateson P: Independent Inquiry into Dog Breeding (2010)

<sup>2</sup> Animal Health and Welfare (Scotland) Act 2006, Animal Welfare Act 2006, Welfare of Animals Act (Northern Ireland) 2011

# Advisory Council on the Welfare Issues of Dog Breeding

---

actions (purchasing puppies from such breeders) is helping to perpetuate the problem.

b. There is also vocal support for action to resolve the problems of inbreeding and selection for extreme characteristics. It is less obvious that there is a clear recognition of the need for action amongst all those most directly affected (ie the pedigree breeders and those representing them).

c. It has been argued that the veterinary profession can be conflicted to some degree because the profession earns income from the surgical correction or clinical mitigation of the problems caused by poor breeding. However it is also the case that these interventions do not form a significant proportion of the income of most veterinary practices and the majority of veterinary surgeons are happy to promote improved preventative measures by advising prospective breeders. Senior representatives of the profession and recent veterinary research papers and reviews have all attested to significant professional concern about the impact of genetic conditions and breed related problems. There is a generally shared view that veterinary surgeons should be encouraged to be, and be seen to be, more pro-active in the prevention of poor welfare and the promotion of good welfare.

4. In conclusion, the Council believes that there is persuasive evidence both that action is necessary to address the welfare problems which have been clearly identified, and that the level of public concern and the inadequacies of the existing controls over dog breeding justify the making of new, more effective and more resource efficient regulations under the Animal Welfare Acts. The Council also believes that regulation is not the only means of improving welfare standards and that any statutory action should be supported by non-statutory means including self-regulation.

## Recommendations

### Non Statutory Action

#### Recommendation 1

1.1 **The Royal College of Veterinary Surgeons should be asked to consider how best to require veterinary surgeons to advise on breeding issues and be accountable for that advice. Examples of areas which might be included would be a requirement to carry out pre-breeding and puppy health checks to an appropriate standard; or if involved in a breeding establishment, being aware of the Standard for Breeding Dogs and able to advise on how the Standard can be met.**

1.2 **A duty should also be laid on veterinary surgeons to report surgical changes of conformation (as defined) and Caesarean sections in any dog to the appropriate body; ie SAVSNET or VetCompass. For Kennel Club registered dogs this information should also be reported to the Kennel Club. Information on animals which have had surgical correction or Caesarean section should be available to potential purchasers (see the Puppy Contract <http://puppycontract.rspca.org.uk/webContent/staticImages/Microsites/PuppyContract/Downloads/PuppyContractDownload.pdf> ) and sanctions or restrictions should relate both to future breeding if appropriate. (see the Standard for Breeding Dogs – also referred to in the document as “the Standard”)**

# Advisory Council on the Welfare Issues of Dog Breeding

---

1.3 The Council recognises that these issues raise concerns about client confidentiality and may be too detailed for inclusion in the Code of Professional Conduct for Veterinary Surgeons and might more properly be addressed in an annex to the Code.

1.4 There would also need to be a reciprocal responsibility on the part of anyone involved in dog breeding to consult their veterinary surgeon on matters relating to breeding and be prepared to pay for proportionate pre-breeding and puppy health-checks. These matters are covered in the Council's Standard for Breeding Dogs and in the Council's Puppy Health-check form and guidance.

*Explanation:*

1.5 *Many bodies have noted a need for the veterinary profession to become more proactive in the encouragement and support of preventative measures to reduce the challenges to dog health and welfare. The Council consider that this route would be the most efficacious, and would be happy to work with the Royal College of Veterinary Surgeons on a draft for consideration. Since the Royal College of Veterinary Surgeons is the expert body responsible for the Code, the Council would be happy to take its advice on the most appropriate means of achieving the desired end. The changes of conformation to be reported would also require definition (see British Veterinary Association List).*

## **Statutory Action**

### **Recommendation 2**

**2.1 The Breeding of Dogs Act 1973, The Breeding of Dogs Act 1991 and the Breeding and Sale of Dogs (Welfare) Act 1999 should be repealed and replaced by new regulations made under the Welfare Acts. The new regulations should encompass the breeding, advertising, sale and supply of dogs.**

*Explanation:*

2.2 *This would enable the replacement of three items of elderly primary legislation with a single set of new secondary regulations designed to be clear in the duties they impose and easy (cost-effective) to enforce.*

2.3 *The existing legislative controls have proved difficult to enforce because of the difficulty in detecting un-licensed breeders and of lack of precision in the standards they set. For example, The Breeding of Dogs Act 1973 includes a number of conditions that an authority is required to ensure before granting a licence (see Section 1(4)). These include, amongst others, that there should be accommodation that is 'suitable' with respect to aspects such as construction, ventilation, cleanliness and exercise facilities. It also requires that dogs be supplied with 'suitable' bedding, food and water and that they are 'adequately exercised'. Further, the Act requires, with respect to health, that precautions should be taken to prevent spread of infectious disease. Local Authorities have drawn up licence conditions based on these requirements. The criteria are very limited, inadequately defined, and do not reflect the range of needs specified in the Animal Welfare Acts. Local Authority licence conditions emphasise structural features of the environment, but most often very limited attention has been paid to the behavioural needs of dogs, and 'exercise facilities' and 'suitable accommodation' has been interpreted very narrowly. While some guidance was*

## Advisory Council on the Welfare Issues of Dog Breeding

---

provided separately in 2000 (devised by a working party comprising the British Veterinary Association, the British Small Animal Veterinary Association, the Local Government Association and the Chartered Institute of Environmental Health) which could have aided interpretation of criteria, the helpful advice in the document has been widely disregarded as it is not statutory.

2.4 Similarly, The Breeding and Sale of Dogs (Welfare) Act 1999, which amends the 1973 Act introduced additional requirements that breeding bitches should not be bred from prior to age 12 months, more than once in any 12 month period, and no more than six times. While these criteria are pertinent, they are very difficult to enforce by Local Authorities without adequate identifying details (e.g. microchip numbers) and full records, and have existed primarily on paper.

2.5 These two Acts, and the associated 1991 Act, which gave additional powers of entry, were implemented prior to the Animal Welfare Acts. The Animal Welfare Acts, in principle, create additional over-arching criteria that are relevant to the welfare of breeding dogs, including the provision of the dogs' needs to have a suitable environment, their need for a suitable diet, their need to be able to exhibit normal behaviour patterns, their need to be housed with [or apart from] other animals, and their need to be protected from pain, suffering, injury and disease – to the extent of 'good practice'. While the Breeding of Dogs Act criteria if properly followed should ensure the needs for a suitable environment and diet are met, they do not explicitly address the need to be housed with other dogs and they allow, for example, dogs to be kept in isolation, without providing scope for adequate rest or separation from other dogs when wanted and lack of interaction with carers, all of which may lead to distress. The extant regulations effectively do not require that the many health problems occurring are addressed – including treatment for injury, neoplasia, eye, ear and mouth infection or treatment for parasitic infestation (both endoparasites and ectoparasites). The regulations only require that steps should be taken to prevent spread of infectious disease. The breeding regulations do not require opportunities for expression of normal behaviour patterns – reference to exercise facilities have commonly been met by access to small, barren mesh 'runs' linked to the kennel. The regulations also create no expectations of appropriate socialisation of puppies. While the Animal Welfare Acts do imply these additional requirements, many authorities have chosen not to enforce them, with the consequence that large numbers of breeders are 'licensed' yet may be in breach of one or more of the Acts provisions. The Council's proposals seek to address these issues.

2.6 As matters stand, the legislation applies to a person carrying on a business of breeding dogs, which is defined as producing five or more litters a year. However, a breeder producing only four litters, for example, might produce up to 40 puppies per year yet be exempt from scrutiny. Moreover, the Council is strongly of the view that **all** dogs, whether bred commercially or simply as a hobby in a private home, are entitled to good standards of health and welfare and to the full protection of the Animal Welfare Acts.

2.7 The Breeding and Sale of Dogs (Welfare) Act, 1999 additionally seeks to address matters of sale. Since there has been a significant problem of sale of dogs via third-parties – most particularly 'dealers' – the Act specified that a licensed breeder may not sell knowingly to a third-party who in turn sells on. This was qualified so that such a sale could occur if the third-party had a 'pet shop licence'. These regulations have had no effect whatsoever in restricting sales to third-parties. First, monitoring of the disposal of puppies has been

## Advisory Council on the Welfare Issues of Dog Breeding

---

*inadequate; indeed, arguably non-existent. Second, licences for 'pet shops' have been readily obtained by dealers without pet shop premises and monitoring of their standards has been exceptionally lax. Third, the current lack of traceability of breeders and puppies makes avoidance of these provisions easy. A large proportion of commercial dog breeders, particularly those with the lowest standards, sell through dealers. Amongst other things, this precludes the opportunity for a purchaser to see a puppy with its parents as is advised. There have only been three prosecutions under this Act since it was made in 1999.*

*2.8 The nature of puppy sales has changed over the last two decades. A very substantial proportion of puppies are now sold over the Internet. Most Internet sellers simply present the details of the puppies. Often sellers provide no verifiable contact details, relying on a mobile phone number and 'delivery' of a puppy. This source of sales is currently unregulated and is a primary avenue by which puppy farmers sell puppies. The regulations relating to sale of dogs and puppies are therefore in urgent need of review.*

*2.9 The detailed proposals below relating to the new regulations aim to extend the practical protection of the Animal Welfare Acts to all dogs, simplify the identification and traceability of breeders, facilitate the targeting of enforcement action on the basis of risk and, as far as possible, align proposals across the different administrations within the UK.*

### **Recommendation 3**

**3.1 The new regulations should create clear duties of care as follows:**

- a. All persons or organisations planning a mating of dogs should be required to have regard to the welfare of their animals and those that result from the mating.**
- b. Any organisation or body devising and/or promulgating Breed Standards should be required to have a duty of care with regard to the welfare of the animals to which the standard is applicable.**

*Explanation:*

*3.2 At present the duty of care in the Welfare Acts does not apply to animals in the foetal or embryonic state, nor to animals not yet in existence. However the Welfare Acts specifically provide a power to make regulations "for the purpose of promoting the welfare of animals for which a person is responsible, or the progeny of such animals." The Council believes that in making decisions regarding the mating of dogs, those responsible should also have a duty of care to the progeny that will result from the mating. For example, in some dog breeds or cross breeds the prevalence of specific heritable problems is high and there are well understood genetic tests for the problems, such that where the mating of specific parents is contra-indicated any such mating could be regarded as negligent with respect to the welfare of the resulting progeny. Equally, where the selection for extremes of conformation has resulted in welfare problems, any further selection which makes the problem worse, or does not seek to improve the conformation in the progeny, should be avoided. A similar provision relating to a duty of care for progeny already exists in other legislation with respect to farm animals. It is intended that this duty of care should apply to those who make the decisions with regard to a mating such as selecting the parents. It is not intended to apply to those who may subsequently acquire responsibility for the care of a pregnant bitch, eg re-homing or rescue organisations.*

## Advisory Council on the Welfare Issues of Dog Breeding

---

3.3 *Any organisation or body can set themselves up as establishing Breed Standards. Currently in the UK this role is overwhelmingly exercised by the Kennel Club and Breed Clubs, such that they exercise considerable influence over the welfare of dogs bred to their rules. The Council considers it likely that some of the non-Kennel Club registered designer breeds such as Labradoodles, will also develop Standards. Any such organisation should have a duty of care for the welfare of the animals for which the Standard was set, recognising that such a duty could extend only to what was contained in the Breed Standard, rather than to the enforcement of compliance with the standard.*

3.4 *The Council would also propose that any person or organisation which publishes a breed or similar standard for the guidance of breeders and other keepers of a particular type of dog is properly to be regarded as exercising a power of a public nature. As such, the Council considers that they should be placed under a specific legal duty in drawing up and applying standards to make the welfare of the dogs concerned their primary consideration. The exercise of this duty should fall within the supervisory jurisdiction of the courts. This would be a civil, not a criminal, matter, and subject to the same range of remedies as are generally available through the judicial review procedure. The Council recognises that this recommendation is opposed by the Kennel Club on the basis that "it is clearly not a public body and there is no legislative requirement for any dog breeder to follow its recommendations." However, the Council also notes that the Kennel Club has sought exemption from Local Authority enforcement inspections in Wales for those breeders who are members of the Kennel Club Assured Breeder Scheme and in those circumstances would be exercising a public role with respect to the maintenance of statutory standards. After due consideration the Council therefore stands by its original recommendation for two reasons. First, if a body is exercising what is in effect a public function it should be open to the possibility of public scrutiny and accountability. Second, while the Council recognises that the Kennel Club has accepted that it should and does exercise a duty of care with respect to Breed Standards, not every such body may be so responsible and it is poor practice to design legislation to deal only with the circumstances of one particular organisation.*

### **Recommendation 4**

**4.1 If not already in place the microchipping regulations as put forward by the Microchipping Alliance should be incorporated into these new regulations.**

**4.2 Consideration should be given to providing guidance, perhaps via a Code of Practice, on how dogs may be microchipped, covering such matters as where (ie the site on the dog), the level of qualification and/or training required of the operator and the data to be held on microchip database(s).**

#### *Explanation*

4.3 *Recommendations 4 and 5 (below) both relate to traceability. It is the Council's contention that effective traceability of both individual dogs and of dog breeders is fundamental to effective regulation. It should be noted that the requirement for identification of puppies must include registration on the database of the breeder's details.*

4.4 *It is a matter of concern that there is as yet no clear guidance on where (anatomically) dogs can best be micro-chipped, nor on who should be allowed to do it and, if*

## Advisory Council on the Welfare Issues of Dog Breeding

---

*this extends beyond veterinary surgeons and veterinary nurses whose competence can be enforced, how they should be trained and qualified in order to avoid welfare problems. The Council considers that these issues should be addressed as a matter of urgency and would be willing to assist.*

### **Recommendation 5**

**5.1 Any person or organisation breeding a dog or dogs should be required to register their address and contact details with their Local Authority, which will enter them on a database and allot them a unique identifying registration number. Such a registration would remain valid as long as the responsible person or organisation keeps the same name and remains at the same address. It should be open to the Local Authority to permit a registered person or organisation to retain their unique identifying number on change of name and/or address provided the changes are transparent and traceable. The act of registration will also constitute the granting of a right of access to enforcement inspectors. The Local Authority should be permitted to charge for registration, sufficient to cover their costs.**

5.2 For those breeding only a single, occasional litter of puppies, this simple registration would be the only formal notification of breeding required by law. However this is key to ensuring the identification and traceability of all persons breeding dogs, to Recommendations 6, 7 and 8 below and to many enforcement issues.

### *Explanation*

5.3 *With respect to breeders, the requirement for registration should apply to any breeding of any number of dogs whether deliberate or accidental. As stated above, the Council's view is that the duty of care in the Welfare Acts and the new duty of care in the proposed regulations do and should apply to all dogs used for breeding. It is not acceptable for a dog to be bred in any way which damages its health or welfare simply because the owner is a 'hobby' breeder. The requirement for registration should therefore apply to all (see also proposed definitions below.) On the other hand, requirements for enforcement action following registration should be judged according to a risk assessment – see further recommendations below.*

5.4 *This has elicited considerable discussion during consultations on the Council's recommendations. It was generally agreed that the identification of all breeders was important and that there should be a database that identified all breeders. An alternative proposal put forward was that this could be achieved through the microchip databases as this would record the original breeder in every instance and concern was expressed in a number of quarters about the burden of maintaining such a database which this would impose on Local Authorities. The Council has considered these views at length and takes seriously the issue of Local Authority resource. However, it concluded that many of the concerns expressed were based on a misunderstanding of what the Council had in mind.*

*The Council's vision is that every breeder would be required to register with their Local Authority. This could be done on-line through the completion of a simple on-line form and the payment of a nominal fee. All the Local Authority would need to do is:*

- *Make available an on-line registration and charging facility;*
- *Maintain their area register and make it publicly available – also on-line.*

# Advisory Council on the Welfare Issues of Dog Breeding

---

*All the breeder would need to do is to enter some basic details such as name, address, contact details, and address of the veterinary practice with which the dogs were registered and pay a nominal fee. They would be allocated a registration number which they would be required to use when, for example, advertising or selling any puppies.*

5.5 *The benefits would include*

- *a publicly available Local Authority list,*
- *the opportunity for the Local Authority to cover the database costs by charging for registration*
- *The ready identification of local breeding establishments for the benefit of enforcement officers*
- *The possibility for anyone, enforcement officer, member of the public, advertising authority etc to check that a registration number provided when advertising, selling or even micro-chipping a puppy is valid.*

5.6 *Those involved in larger scale breeding would also be required to have a dog breeding licence – see Recommendation 7*

## **Recommendation 6**

**6.1 Any person or organisation breeding a dog or dogs should be required to register their dogs with a veterinary practice and to supply the latter's contact details to the Local Authority as part of the registration process.**

*6.2 Explanation: The Council regards access to appropriate specialist advice and veterinary assistance as key to welfare-friendly breeding practices. It would recommend that all dogs should be registered with a veterinary practice, not just those being bred from, but on balance considered that it might not be proportionate to require such general registration by regulation. If governments felt differently the Council would be delighted to support such a move.*

## **Recommendation 7**

**7.1 In addition to the simple registration of all breeders recommended above, regulations should require all breeders breeding commercially to obtain a dog breeding licence from their Local Authority.**

**7.2 Local Authorities should be enabled to recover the costs of licensing from the licensees .**

7.3 Licensed dog breeding premises would, of course, be subject to all other recommendations in this paper, with particular respect to compliance with a Standard for Breeding Dogs which has been deliberately designed to facilitate robust inspection of compliance with clear and measurable requirements. It is anticipated that, subject to all conditions being met, a dog breeding licence would remain valid for three years and would be renewable.

### *Explanation*

*7.4 The Council has given serious consideration to the need or otherwise for continuing licensing provisions in addition to the registration requirement articulated above. It has*

## Advisory Council on the Welfare Issues of Dog Breeding

---

*listened to the feedback from stakeholders, with particular regard to the need for a more formal inspection regime relating to dogs being bred commercially and/or with greater frequency. It has also taken on board points made respecting the benefit of maintaining as much consistency as possible between various parts of the United Kingdom and the early advances made by the Welsh Assembly.*

7.5 *To ease enforcement across different areas of the UK, the Council therefore would recommend aligning the definition of commercial dog breeder (or dog breeder requiring licensing) with that adopted in the Welsh regulations, since at the time of drafting these are the most developed. In the most recent available draft of the Welsh regulations a breeder requiring licensing is defined as follows:*

*“A person carries on the activity of dog breeding for the purposes of section 13(1) of the Act if that person keeps on premises 3 or more breeding bitches and —  
breeds on those premises 3 or more litters of puppies in any 12 month period;  
advertises for sale from those premises a puppy or puppies born from 3 or more litters of puppies for sale in any 12 month period;  
supplies from those premises a puppy or puppies born from 3 or more litters of puppies in any 12 month period;  
advertises a business of breeding or selling dogs from those premises; or  
occupies premises which benefit from a planning consent authorising dog breeding.  
For the purposes of paragraph (1) any dog found on the premises will be presumed to be kept by the occupier of those premises until the contrary is proved.”*

### **Recommendation 8**

**8.1 Any advertisement for the sale or supply of a dog or dogs should be required to include the breeder’s registration number, the registered address, and the advice that a puppy should be seen interacting with its dam before purchase.**

**8.2 It should be an offence for any person or organisation or a licensed pet shop to advertise the sale or supply, whether for benefit or not, of a dog unless the above requirements are met.**

#### *Explanation*

8.3 *A further element in the traceability requirement, this provision also provides a first point of enforcement – see below. It also supports organisations that provide advertising services, both electronic and in print, that wish to do so responsibly and exclude irresponsible and/or unregulated breeders. The ability to check the veracity of a breeder’s status easily is an important filter for them.*

### **Recommendation 9**

**9.1 All persons or organisations breeding dogs should be required to comply with the Standard for Breeding Dogs.**

### **Recommendation 10**

**10.1 The Standard referred to above should be established as a statutory Code of Practice for breeding dogs.**

#### *Explanation:*

## Advisory Council on the Welfare Issues of Dog Breeding

---

10.2 *The Welfare Acts already create a duty of care such that “a person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.” The Council would argue that its published Standard for Breeding Dogs (the Standard) is the statement of what is good practice for this group of animal keepers (ie dog breeders). The Standard therefore provides the basis for effective enforcement. In addition, the Standard includes or supersedes the licence provisions currently set out in the Breeding of Dogs Act 1973 as amended.*

10.3 *The Welfare Acts also contain a specific provision enabling the appropriate national authority to issue and revise Codes of Practice. Replacing the current, out-of-date and inflexible primary legislation with regulations and a Code of Practice would provide a far more flexible and light touch means of providing practical guidance on how the provisions in the Act can be met.*

10.4 *In addition, one of the difficulties in enforcing the existing primary legislation is that many of the provisions are inexact and require the exercise of professional judgment by enforcement officers who may not be veterinary surgeons. For breeders whose operations will depend on being registered with a Local Authority, Local Authority enforcement officers who undertake inspections and enforcement visits will need to be able to rely on very clear criteria to have a basis for suspending or refusing licensing, or for issuing Improvement or Prohibition notices. The Council’s Standard is drafted in order to provide explicit and measurable standards and its endorsement as a statutory Code of Practice would facilitate effective enforcement. As with any statutory code, failure to comply with a relevant provision may be relied upon by an enforcement authority as tending to establish liability and could be used to support the issue of an Improvement Notice or a prosecution under the Act. Equally, from the breeder’s point of view, compliance with the Code confers some protection as compliance with a relevant provision may be relied upon as tending to negative liability.*

10.5 *This proposal has received wide support, noting that recent work between the Council and the Kennel Club has succeeded in aligning the Kennel Club Assured Breeder Scheme Standard with the Council Standard and that the Kennel Club has expressed itself willing to work towards a Single Standard. As the Kennel Club Scheme is currently the only one with UKAS accreditation for its inspection scheme this was seen by the Council as a very positive development.*

### **Recommendation 11 – risk based enforcement**

**11.1 The regulation should facilitate enforcement activity on the basis of an informed risk assessment.**

**11.2 Enforcement authorities should be enabled to charge for activities such as the registration of dog breeders and the carrying out of enforcement visits on a cost recovery basis. The structure of the fees system should reflect the level of dog breeding activity being undertaken and the risk of non-compliance leading to risk based inspection.**

## Advisory Council on the Welfare Issues of Dog Breeding

---

**11.3 Enforcement authorities should be enabled to remove a licence from any person or organisation breeding a dog or dogs if they fail to comply with an Improvement Notice issued under the Welfare Acts.**

**11.4 The regulation should provide for enforcement visits to licensed premises to be unannounced where the Local Authority enforcement officers consider it appropriate.**

### *Explanation*

*11.5 Whether in the text of the regulation itself or in supplementary non-statutory measures, the Council believes that the hard-pressed enforcement authorities should be enabled to focus enforcement activity where it is most needed and where it will deliver the maximum benefit for cost incurred. The application of focussed enforcement activity should also encourage the public to embrace non-statutory schemes which deliver good standards of welfare. All inspections should be done on a risk basis and (as is the case for food inspections and safety inspections) the risk assessment should be based on size, degree of activity, past performance, number of complaints and membership of an appropriate quality assurance scheme. When completing such an assessment, being a member of an Assured Breeders Scheme would be one additional factor that is taken into account. It should not automatically confer a complete exemption from inspection.*

*11.6 The primary requirement in respect of the assurance provided by appropriate non-statutory schemes is that the relative risk posed by an assured premises is significantly reduced **provided** the breeder(s) are members of a United Kingdom Accredited Service (UKAS) inspection scheme which inspects to the required Standard (or Code of Practice), and have successfully passed an inspection. Such inspections should be at least annual and in the case of licensed premises should preferably be unannounced.*

*11.7 In addition to breeders who have not passed accredited inspections, enforcement visits should be prioritised to:*

- any breeder (whether registered or licensed) against whom a valid complaint has been made;*
- any breeder who has failed an accredited inspection and is not currently undertaking improvement action;*
- any unregistered breeder who comes to the attention of the Local Authority, for example by advertising a dog for sale when not registered;*
- licensed breeders who are not members of an accredited inspection scheme inspecting to the approved Standard **and** have not been inspected within the last 12 months. The Council would also strongly encourage the active use by enforcement authorities of the powers to impose Improvement Notices which are provided in the Welfare Acts.*

### **Recommendation 12 – Definitions**

**12.1 “a person responsible for an animal” should be interpreted as set out in the Welfare Acts.**

**“a person or organisation which has bred a dog or dogs” should be defined as any person responsible for a dog who has:**

## Advisory Council on the Welfare Issues of Dog Breeding

---

- **bred at least one litter of puppies within the last 12 months;**

*Explanation:*

12.2 *The definition is intended to cover any person who has bred, or who may be intending to breed, puppies within a 12 month period for the reasons explained above. In addition, one of the problems of enforcing the existing breeding of dogs legislation has been the difficulty of proving whether a qualifying number of litters is, or is going to be, bred during the qualifying period. Changing the definition to include anyone who has bred a dog resolves that problem.*

### **Recommendation 13 – sale of dogs**

**13.1 Assuming Recommendation 2 is accepted, the provisions relating to the sale of dogs in the Breeding and Sale of Dogs (Welfare) Act 1999 will be repealed. The Council recommends that these provisions should be replaced with regulations which make it an offence for any responsible breeder:**

- a. to sell or supply for sale or gift a dog which is less than eight weeks old.**
- b. to sell or supply for sale or gift a dog otherwise than to a recognised rehoming organisation or to the keeper of a licensed pet shop, knowing or believing that the person who acquires it intends that it should be sold or gifted by him or any other person.**
- c. to sell or supply for sale or gift any dog which, when delivered, has not been microchipped (or otherwise permanently identified by an approved method) and its identification details (including details of the original breeder and the current owner) entered onto an approved database.**

**13.2 It should be an offence for any person or organisation breeding a dog or dogs to sell or supply for sale or gift any dog unless holding a current registration with the relevant Local Authority and, if appropriate, a current dog breeding licence. (see recommendations 5. and 7.)**

**13.3 Further, the Council recommends that the Codes of Practice relating to the Breeding of Dogs and the Sale of Dogs (see Recommendation 14 below) should make clear that anyone offering a dog for sale or gift must not keep it isolated from others of its species unless a certificate supplied by a veterinary surgeon states that it is necessary or unavoidable for the dog to be so isolated.**

*Explanation:*

13.4 *As explained above, the Council believes that all dogs should be protected by the requirements of welfare regulations, not just those bred by establishments require licensing. The key controls provided by the Sale of Dogs provisions in the Breeding and Sale of Dogs (Welfare) Act 1999 should therefore be replaced by regulations which extend the protection to all puppies.*

13.5 *It is recommended that the offence of selling or gifting a dog less than eight weeks of age should apply whatever the destination of the dog. There is good evidence that the early removal of puppies from their dam is detrimental to their long term welfare. Moreover, the existing provision is illogical in welfare terms, as there is no evidence that the needs of an under-age puppy will be better met in a pet shop than in a family. Indeed, it could be argued*

## Advisory Council on the Welfare Issues of Dog Breeding

---

*that the pet-shop environment, while subject to inspection and potentially good in terms of physical environment, is very poor at meeting the need for a puppy to develop and exhibit normal behaviour patterns and the need to be housed with other animals.*

*13.6 Concerns have been raised about the potential impact of the eight week minimum before change of ownership on custom and practice by those training Assistance Dogs. The Council feels, however, that this concern is based on a misconception. It notes that not only do groups such as the Guide Dogs for the Blind Association have very particular reasons for wishing to begin the habituation and training of potential assistance dogs at the early age of six weeks, but they also have very stringent controls in place which ensure the welfare of the puppies and, as no change in ownership is involved, they would not be affected by this provision.*

*13.7 The final recommendation above is intended to address the specific problem which the Council has observed in pet shops offering puppies for sale – ie the housing in isolation of very young puppies because their litter mates have already been sold and the pet shop is unwilling to undertake the cost of vaccination which would enable litters to be mixed. The Council has been advised that the current Model Conditions for a pet shop licence are also unhelpful on this point and require urgent amendment or replacement.*

*13.8 The reference to licensed pet shops is retained because the 1951 Pet Animals Act, which creates the requirement for a pet shop to be licensed, relates to a broad range of pet animals. The Council's remit is limited to dogs and therefore it is not able to make recommendations relating to other species. It notes, however, that the fifty two year old Act is well overdue for substantial review and revision, not least to take account of the advent of Internet sales, and advances in the understanding of behavioural development in the dog, and its replacement by appropriate regulations under the Welfare Acts would facilitate the repeal of yet another outdated piece of primary legislation.*

### **Recommendation 14**

**14.1 The Council is strongly of the view that a pet shop does not provide an appropriate environment for the homing, even on a temporary basis, of puppies. Even less does a dealer, operating under these regulations, but not from premises in any way recognisable as a pet shop, offer anything like an appropriate environment. Ideally it would like the practice of the sale of puppies from pet shops (and dealers) to cease, either through a voluntary ethical decision made by pet shop proprietors or through legislation. However, recognising that such an outcome is almost certainly some way off, the Council would recommend that a further Code of Practice should be developed with some urgency to cover the sale of dogs from pet shops. The Council would be willing to accord this work priority.**