



A Voice for Dogs™

**Welsh Government Consultation on Third Party Sale of Puppies
June 2020**

Question 1:

Do you agree with a ban on the commercial third party sales of puppies and kittens in Wales?

Agree.

The position of DBRG, consistent with our objectives, is that a ban on the commercial third-party sale of puppies (our brief does not extend to kittens) is an essential adjunct to incentivise welfare improvements in high risk commercial dog breeding establishments by ensuring transparency, accountability and increased financial gain for breeders.

DBRG does not believe that licensing, no matter how robust, can protect the welfare of dogs sold through pet shops, or other third-party outlets. The breeding and sale of pet dogs should be regarded in all circumstances as an activity that demands good welfare standards. DBRG regards all those who breed dogs as having the responsibility for homing them with compassion and ensuring that the future owners are suitable. Third party sellers such as dealers and pet shops represent a key vehicle for the sale of puppies from puppy farms and other irresponsible breeders. The arguments and evidence for a ban are well-established. The duty of care should rest with breeders until puppies are sold and breeders should bear responsibility for socialisation and disease prevention.

Banning third party sales will reduce the regulatory burden on local authorities by removing the need and the subjectivity of compliance monitoring of premises for licensing purposes. Enforcement action against illegal sellers can be undertaken and shared between by various agencies and illegal activity can be more efficiently tackled at a regional and national level.

A ban should prevent the sale in Wales of puppies which have not been bred to standards of welfare recognised by the national and devolved administrations.* (See response to Q9)
This will ultimately improve consumer confidence in the industry and transactions will benefit the UK economy rather than breeders based abroad.

A ban removes the legitimacy of a source where even *adequate* welfare cannot be ensured. This is essential in order to assist purchasers to make informed choices based upon seeing a

puppy with its mother and encourage responsible buying decisions. It ensures consistency with the Welsh Government's advice that purchasers should see puppies with their mother. Consumers are vulnerable due to the inevitable emotional component involved in purchasing a puppy. Vendors who cannot adhere to the basic good practice of enabling purchasers to see puppies with their mothers should therefore be eliminated from the market place. DBRG recognises that removing the highest risk category of vendors is only the first step towards overall improvements in dog breeding health and welfare standards. It is essential that consumers are also able to identify welfare conscious breeders, for example through the use of the AWF Puppy Contract and breeding schemes such as the DBRG Standard for Dog Breeding. Educating the general public to avoid purchasing a puppy from irresponsible breeders is an important part of an overall official welfare strategy and we are pleased that the Government's preferred option includes an education provision.

Question 2:

Do you think that a ban should apply to any other animals sold in pet shops?

This question is beyond the remit of DBRG. There has been a precedent for several decades to recognise and protect the welfare of dogs thorough legislation (e.g. licensing dog breeders, microchipping). DBRG would support the extension of a ban on third party selling to the sale of cats and kittens.

Question 3:

Are there any measures which could be introduced, other than a ban, which could address the welfare problems associated with commercial third party sellers?

No. DBRG notes the similarity between this question and Question 3 in the 2019 Consultation. There have been no developments during the intervening period which have altered our view, therefore our response remains the same.

3.1.1 DBRG is aware that there are concerns a ban on third party selling may not be the most appropriate route at this time and has considered the alternative option of continued licensing.

The breeding and sale of pet dogs should be regarded in all circumstances as an activity that demands good welfare standards. Continued regulation through licensing is a permissive strategy that implies that selling puppies through third party agents is appropriate and if processes are correctly followed, can be done well.

3.1.2 One of the reasons sometimes given for not introducing an immediate ban on third party sales is that responsible breeders cannot meet the demand for puppies and that the shortfall will be made up by unscrupulous licensed or illegal breeders and dealers. These claims lack substance and DBRG refutes the proposition that irresponsible breeding and selling is inevitable, as it implies an acceptance of failure. This should not be the basis for policy making.

3.1.3 Prospective purchasers are advised to see puppies with their mothers by all reputable sources. There is no indication that third party sellers would be considered a recommended

source from which to obtain a puppy – even with the supposed protection of licensing. This implies a recognition that the purpose and intention of licensing will fail for this activity. DBRG is opposed to the sale of puppies through third parties including pet shops as these represent a key vehicle for the sale of puppies from puppy farms and other irresponsible breeders. It is impossible to separate the negative welfare impact from the third party puppy trade. The inherent negative welfare impact is reflected in the Model Licence Conditions for Pet Vending 2013:

“Transport and the introduction to a novel environment are stressful and animals should be allowed to acclimatise before **being further stressed by being offered for sale.**”

3.1.4 If regulating the third party trade cannot prevent welfare harm, the only justification for a licensing regime would be that it could offer a **better** outcome for tackling illegal activity and would be able to **significantly** improve the welfare of dogs and puppies in licensed establishments, above the standards observed in the illegal trade.

3.2 EVALUATING THE EFFECTIVENESS OF A ROBUST LICENSING REGIME:

3.2.1 DBRG does not believe that the Pet Animals Act 1951 can protect the welfare of dogs sold through pet shops, or other third-party outlets. The Model Licence Conditions for Pet Vending 2013 fall far short of providing the ‘robust’ measures that would be required to make even a minimal improvement to the issues typically associated with illegal third party selling. Regulating sellers under a licensing regime is intended to prevent (to some degree) the welfare harm observed in the illegal trade. However, if the trade poses an inherent risk, insubstantial licence conditions cannot raise the standard of welfare sufficiently. It is therefore impossible to justify claims that licensing offers greater protection compared with issues identified in unregulated illegal trading.

3.2.2 Local authorities would also need to commit to intensive monitoring of suitably demanding conditions. This would require additional training of inspectors and would take considerable resources to implement.

3.2.3 Attempting to remedy welfare concerns only at the point of sale does not address problems occurring earlier in the chain, from the breeding establishment onwards. The continuation of a legitimate market for puppies produced with an emphasis on quantity and at minimal cost almost guarantees the existence of low welfare, intensive dog breeding establishments. A continued strategy of licensing will have little effect on tackling the systemic welfare problems throughout the puppy supply chain, many of which occur well before the point of sale. Licensing is also unable to tackle associated issues such as impulse purchasing.

3.2.4 Licensed premises must be inspected for compliance with licence conditions, but a licence regime must also include the detection and investigation of unlicensed operatives, which is the only element of enforcement that would be required under a ban. This does not suggest that robust licensing would be cheaper or easier to implement.

3.3 INSPECTING LICENSED PREMISES:

3.3.1 DBRG is concerned that annual, pre-arranged inspections are insufficient to achieve an appropriate level of protection for animals in the third party trade. Inspections would need to occur with sufficient frequency, some of which unannounced, to monitor continued compliance with the licensing inspections. However this may be problematic for establishments in private dwellings and non-retail premises.

3.3.2 Inspecting officers also need to have a thorough knowledge of canine welfare to make a robust assessment. The Kennel Club, Dogs Trust and Blue Cross (among others) have highlighted the lack of trained inspectors as an area of concern, as there is considerable variation in inspectors' expertise. Demanding licensing conditions (e.g. adherence to socialisation requirements) require expert interpretation and may lead to subjectivity of opinion.

3.3.3 As the risk of disease is considerable, inspections should also involve taking samples from the animals and the premises for external tests. This is of particular importance for visits following up complaints about sick puppies and simple visual checks (sometimes without a physical examination of the animals) are far from adequate. However the cost of testing will significantly add to the expense of enforcement.

3.4 LICENSING IN PRACTICE:

3.4.1 Model Licence Conditions are designed to offer guidance for good practice, based on the presumption that the operator will be motivated in this direction. Where there are strong incentives for non-compliance as seen with third party selling, the effectiveness of the Conditions depends upon the strength of enforcement. In practical terms this means commitment to regular monitoring and meaningful sanctions. The investment of resources that would be needed to exert any sort of control is disproportionate to the small improvements in welfare that might result.

3.4.2 For the activity of third party selling of dogs, licensing works as a reactive rather than proactive measure and is therefore not appropriate for animal welfare protection. The conditions would need to be breached with sufficient frequency to be detected and of such severity to require drastic action for dogs to be removed from a licence schedule or revocation of the licence entirely. In real terms this is likely to mean that multiple puppies must suffer or potentially die before a change can be effected. There is a strong evidential basis for this conclusion as the implementation of demanding licence conditions by a number of local authorities has failed to stop puppies being sold with serious and life threatening illnesses. Licensing third party sellers is therefore not effective at PREVENTING harm, only (potentially) responding once harm has occurred.

<https://www.salford.gov.uk/licensing-and-permits/trading-and-business/animals/pet-shops/pet-shop-licence-conditions-results-of-public-consultation/>

<https://www.mirror.co.uk/news/dead-after-just-five-days-11121013>

3.5 CONTINUATION OF ILLEGAL TRADE:

3.5.1 Concerns have been raised that banning third party sales could drive the activity 'underground' and that this would pose an even greater welfare threat than permitting the activity to continue under regulatory control. DBRG contests this argument because if effectively enforced, robust licence conditions should remove non-compliant sellers from regulatory control, thus carrying the same perceived risk of driving such traders underground. In reality, while the activity continues to be legitimate, illegally operating traders are more difficult to detect and it is therefore far more likely that sellers removed from the licensing regime would continue to operate. The challenge of responding to illegal activity involves detecting and taking action against errant sellers, irrespective of the legality of the trade itself.

3.5.2 While a system of licensing exists, it may be difficult for enforcement agencies to determine the most appropriate course of action. Local authorities may seek to licence illegal operatives rather than pursuing prosecution and other bodies can be reluctant to intervene as a case may be viewed as a licensing issue rather than Consumer Protection. Banning third party sales would remove this area of confusion.

<https://www.youtube.com/watch?v=3IghevEZhn0>

BBC Watchdog 'Rogue Traders' aired 18th April 2018: Cameron Dorbin Barnett, illegal dealer

3.5.3 The illegal third party puppy trade implies intentional criminal behaviour. As such, the assumption that dealers would voluntarily apply for licensing seems misplaced. Deterring or punishing offenders would seem a more effective course of action than attempting to bring them into a regulatory system.

<https://www.express.co.uk/news/nature/829968/Puppy-farms-UK-RSPCA-dogs-trade-breeder-Gumtree-online-sales>

http://www.bucksfreepress.co.uk/NEWS/16147444.VIDEO_PICTURES_Disgraced_vet_cought_red_handed_helping_puppy_farming_gang/

3.5.3 Without the presence of a legal market for imported puppies,*(see response to Q9) there would be no legitimate reason for dealers to bring large quantities of puppies into Wales, even 'correctly' under commercial movement rules. While a ban may not be a deterrent to those already engaged in illicit activity, it will make such activity easier to identify because it will not be concealed by the presence of a legal trade. Further measures are undoubtedly needed to address the issue of 'concealed puppy smuggling' (falsification of documents, hiding puppies etc.) but animal welfare protection dictates that this is essential irrespective of the legal status of the trade.

3.6 IMPLICATIONS OF CONTINUED LICENSING:

3.6.1 DBRG's view is that continuing a policy of licensing third party sales compromises the welfare of breeding dogs, enables a market for puppies bred and traded with scant regard for their long term welfare and exposes buyers to irresponsible sellers. Granting a licence to

third party puppy sellers gives them the same legal status as licensed responsible dog breeders and will not assist purchasers to make informed choices. If no attempt is made to restrict the legal market to responsible breeders, measures to improve dog welfare related to genetic and breed related health, breeding, rearing and selling practices are unlikely to succeed.

Question 4:

Do you think there should be closer scrutiny of animal welfare establishments in Wales?

This question is outside the remit of DBRG, however we feel that while there may be merit for considering regulation of rescue centres, these questions do not fall within the scope of a consultation on banning commercial third party selling of puppies and kittens. The consultation states that the activities are clearly distinct because welfare rehoming is not commercial in nature. (See also our response to Question 5). In addition, the background information included within the consultation does not specifically reference concerns with the operation of animal welfare establishments.

The potential regulation of rescue and rehoming activity is a separate policy area and therefore these questions should be asked under a specific consultation dealing with this issue.

Question 5:

Do you think sanctuaries/rehoming/rescue centres should be classed as a commercial third party seller in Wales and be licenced?

No. The work of rescue and rehoming organisations should easily be distinguishable from the activity of third party selling as the practice and purposes are entirely different.

Although most rehoming organisations will charge a rehoming fee, which may be interpreted as an act of 'selling,' this should not exceed the amount necessary for cost recovery.

If the activity is conducted as a business (i.e. trading animals with the intention of making a profit from sales) then it would either be prohibited under a ban, or would require licensing as a pet shop under the Pet Animals Act. As such, there are no loopholes that could be exploited by illegal third parties.

It has been claimed that some dealers are already masquerading as rescue organisations, yet there are no clear examples that directly compare to third party puppy sales. If these situations do exist and are 'known' then it supports the position that illicit activity of this nature is detectable and therefore appropriate enforcement action can be taken. If commercial activity is being carried out on the pretext of charitable rescue it becomes an issue of tax evasion and fraud.

Question 6:

None

Question 7:

None

Question 8:

This question is out of our remit to provide a response.

Question 9:

DBRG was delighted when a ban on the commercial third party sale of puppies and kittens came into force in England on 6th April 2020 and is keen to see this extended across the devolved nations to ensure consistency of regulation and to prevent the issue being moved to other locations. We hope this second consultation is an indication of the Welsh Government's commitment to bring in a ban in the immediate future. We are also anticipating that this will be the first of a number of improvements to The Animal Welfare (Breeding of Dogs) (Wales) Regulations following the recommendations in the Review of the Regulations (December 2019).

The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 Regulations were intended to address serious welfare issues that had been perpetuated under the previous legislation, leading to the unfortunate reputation of Wales as the 'puppy farming capital of the UK.' While measures such as socialisation plans and a minimum age limit for sale led the way in dog breeding legislation, unfortunately the new regulations made no other provision for the sale of puppies. The continuing lack of transparency in the industry leaves puppies, breeding dogs and consumers vulnerable to unscrupulous breeders and sellers.

In addition to responding to the consultation questions, we feel that it would also be helpful from a planning perspective to examine key aspects of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 as they relate to a ban on third party sales.

The ban is an amendment to Schedule 3 of the regulations covering Selling Animals as Pets and prevents the holder of the licence from selling puppies and kittens unless the licence holder is also the breeder. Contrary to media coverage, this ban does not restrict purchasers to a limited number of sources. It also does not restrict breeders. However new measures introduced in the Regulations make additional requirements for the sale of puppies: under Schedule 6, Breeding dogs:

1.(1) (a) the licence holder must not offer for sale any dogs not bred by the licence holder.
1.(6) a puppy can only be shown to a prospective purchaser if it is together with its biological mother

While these are not essential requirements for a ban on commercial third part sales to succeed, nevertheless they are consistent with consumer advice to see a puppy interacting with its mother and prevent the activity of hybrid selling (where the licence holder sells bought in puppies alongside those bred on the premises. A further requirement within

Schedule 6, 6. (14) ensures that any additional activity, including carrying out a business as a pet seller, must be separate and distinct from the dog breeding premises:

Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding dogs is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.

This should provide buyers with clarity about the exact nature of the business and helps to prevent disease transmission. Taken together with the requirement 1 (1)(a) mentioned above, it should prohibit the activity of hybrid selling.

DBRG encourages the Welsh Government to make similar provisions when current dog breeding regulations are updated.

DBRG is aware that a 'loophole' exists with the ban on third party puppy sales in England, whereby puppies are permitted to be imported for sale, as long as the seller is the purchaser. We are deeply concerned about the implications of this situation, as it effectively undermines the purpose and function of the ban. At the time the ban came into force on 6th April 2020, it was understood that any commercial sale of puppies would be restricted to licensed breeders, as the 2018 Regulations and the predecessor legislation made the breeding of dogs in the course of a business a licensable activity. However the newly implemented Regulations have been interpreted to mean that only breeders with premises located in England are required to be licensed under Schedule 6 (Breeding Dogs). Breeders with premises located outside of the jurisdiction may apply for a pet seller's licence under Schedule 3 and advertise and sell puppies, thereby evading the robust requirements of the dog breeding licence. This situation is counterintuitive because it continues to perpetuate a two-tier system. The dog breeding regulations impose exacting and specific controls to protect the welfare of breeding dogs and puppies and afford a greater degree of transparency so consumers can buy from licensed establishments with confidence. The Selling Animals as Pets regulations (Schedule 6) have no measures for the welfare of breeding dogs and limited requirements for the sale of puppies. While the Guidance accompanying the Regulations has been updated to include 'checks' – realistically local authorities will be unable to enforce these requirements for practical and legal reasons. This means that puppies will continue to be sold in England under commercial licensing regulations that leave them vulnerable to potential welfare harm. It also takes away the option for consumers to make an informed choice as prospective purchasers cannot see the premises where they were born and raised.

DBRG believes this situation could have been avoided by requiring the holder of a pet sellers licence to also be licensed under Schedule 6 (Breeding Dogs) if selling dogs, or by restricting commercial puppy sales to licensed breeders. There should be no circumstances where a puppy is sold in the course of a business by anyone other than the holder of a dog breeding licence. DBRG therefore strongly urges the Welsh Government to ensure that a ban on third party sales explicitly states that only the holder of a dog breeding licence may sell a puppy in the course of a business.