



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 26 March 2025

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 26 March 2025

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RURAL AFFAIRS AND ISLANDS COMMITTEE

11th Meeting 2025, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Ariane Burgess (Highlands and Islands) (Green)

*Tim Eagle (Highlands and Islands) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

*Emma Harper (South Scotland) (SNP)

*Emma Roddick (Highlands and Islands) (SNP)

*Evelyn Tweed (Stirling) (SNP)

*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Chief Inspector Michael Booker (Police Scotland)

Dr Paula Boyden (Dogs Trust)

Laura Buchan (Crown Office and Procurator Fiscal Service)

Maurice Golden (North East Scotland) (Con)

Gilly Mendes Ferreira (Scottish SPCA)

Mike Moore (Guide Dogs for the Blind Association)

Stuart Munro (Law Society of Scotland)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 26 March 2025

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Finlay Carson): Good morning, and welcome to the 11th meeting in 2025 of the Rural Affairs and Islands Committee. Before we begin, I ask everyone to ensure that their electronic devices are switched to silent.

The first item on our agenda is a decision on whether to consider in private the evidence taken in our scrutiny of the Dog Theft (Scotland) Bill at this and future meetings and our consideration of draft reports on the bill at future meetings. Are we agreed to do so?

Members *indicated agreement.*

Dog Theft (Scotland) Bill: Stage 1

09:00

The Convener: The next item on our agenda is our first evidence session on the Dog Theft (Scotland) Bill.

I welcome our panel of representatives from stakeholder organisations. This morning, we are joined by Chief Inspector Michael Booker, Police Scotland; Dr Paula Boyden, veterinary director, the Dogs Trust; Laura Buchan, procurator fiscal for policy and engagement, the Crown Office and Procurator Fiscal Service; Gilly Mendes Ferreira, director of strategic communications and partnership engagement—my goodness—the Scottish SPCA; Mike Moore, policy and campaigns manager for Scotland, the Guide Dogs for the Blind Association; and Stuart Munro, convener of the criminal law committee, the Law Society of Scotland. You are all very welcome.

I also welcome Maurice Golden MSP, who is the member in charge of the bill, although I understand that he will be with us for only a short time this morning.

We have up to 90 minutes for the session. Before we start, I remind everyone that you do not need to operate your microphones; we have a gentleman here who will do it for you.

I will kick off with the first question. There are no official statistics on the level of dog thefts in Scotland or across the United Kingdom. However, Police Scotland provided the data that there were 63 dog thefts recorded in 2024. Do we believe that that is an accurate figure? If not, what is the best available data indicating the number of dog thefts and the trends in Scotland?

Who would like to kick off?

Chief Inspector Michael Booker (Police Scotland): I will kick off, if that is okay. Good morning, committee.

I do not believe that that is a true reflection of the picture in Scotland. The issue that we have had in Police Scotland is that our reporting and recording systems were legacy systems, so each geographical division had a different reporting system. That was updated just last year, and we now use one system, which will make it a lot easier to accurately record dog thefts in Scotland.

I do not believe that 63 thefts is an accurate picture of the situation in Scotland. However, I am confident that we will have a more accurate picture going forward.

The Convener: When you say that it is not accurate, is that because the figure is likely to be a lot higher? *[Interruption.]*

Chief Inspector Booker: That was not me. [Laughter.]

The Convener: I note that your watch said, “I do not have an answer for that,” but we are not allowed to ask Alexa in here. [Laughter.]

Does that figure of 63 suggest that there is an underreporting of dog thefts? What is the general trend?

Chief Inspector Booker: I would anticipate that there is an underreporting of dog thefts. There is the common law crime of theft and, unless a differentiation is made on our systems, those figures relating specifically to dog thefts will simply be encompassed in that common-law crime. If this bill is successful and there is a differentiation, I anticipate that there will be an increase in reporting.

Emma Harper (South Scotland) (SNP): Good morning. To pick up on that, we know from work that we have done over recent years around the trafficking of puppies and high-value dogs—such as French bulldogs—that some sell for a lot of money and that they come in from Ireland or wherever. Do you think that there is an increase in thefts because the value of some of those dogs is in the thousands of pounds?

Chief Inspector Booker: There potentially could be. Our intelligence is not telling us that, but I am sure that that factor would have an impact. The most common breed to be stolen in Scotland is a bulldog, and I do not think that that is a coincidence—they are high value and sell for a lot of money, so I am sure that there is a direct correlation between the cost and its being the most popular breed for dog theft.

Gilly Mendes Ferreira (Scottish SPCA): I totally agree that there is an underreporting of what we see. The Scottish SPCA gets calls from people who are maybe looking to report some of that, and we signpost them to Police Scotland. Last year, a total of 69 calls came through, 46 of which were for advice—people looking for clarification on what they should do—and 23 of which were incidents, which is where we have an overlap with Police Scotland. Often, there is a dispute between a couple, with one accusing the other of having stolen their dog, and a welfare concern is raised about how that dog is being treated. One of our inspectors would normally go, but Police Scotland would then deal with the theft claim. Essentially, I would say that the figure that you gave is a result of underreporting.

On the link with organised crime, the Scottish SPCA leads a UK and Irish pet trade task force, which met recently, and those are the types of things that we have discussed. Certain breeds are more desirable than others, and I would not be

surprised if there were a correlation between that and the breeds that are confirmed as being stolen.

The Convener: Is there a sort of steal-to-order culture out there, with organised crime targeting pets on the street?

Chief Inspector Booker: The widespread advertisement of puppies on social media will have an impact, because it is readily available and visible. The instances that we have seen of puppies being stolen appear to involve social media adverts.

Beatrice Wishart (Shetland Islands) (LD): Good morning. Do you think that the bill would have an impact on animal welfare. If so, how, and what would be your reasons for thinking that?

Gilly Mendes Ferreira: The bill is very much focused on the human side, but there is the animal welfare side as well. We know the impact, and we have plenty of research to show how important animals are to people—not just the adult owners, but children, too. In written evidence, I mentioned the importance of pets to children, and we have done research with the University of Edinburgh involving more than 1,200 school-aged children between the ages of 7 and 12 years old. It came through really clearly how important pets are in children's lives—76 per cent of children reported that their pet was their best friend and 62 per cent reported that they would be lonely without their pet.

On the animal welfare side, if somebody has taken an animal, the question is whether they will look after it properly and provide what it needs. It is a traumatic experience for the animal, which raises serious concerns from our perspective. With the bill, you would expect that somebody who was charged with the theft of a pet might also be charged under the Animal Health and Welfare (Scotland) Act 2006, if you could prove that the animal had suffered from going through that experience.

We see the impact for both sides, which is why the bill is very important. The inclusion of those victim impact statements is a crucial part of the bill.

Beatrice Wishart: That is interesting. Anybody else?

Chief Inspector Booker: To echo that point, I think that the current legislation—the common-law crime of theft—does not sufficiently reflect the impact on families and children. The pet is not an item; it is a part of the family. For me, the animal welfare side is a welcome part of the bill.

Laura Buchan (Crown Office and Procurator Fiscal Service): From the point of view of the Crown Office, I would just like to reassure the committee that we prosecute these cases. Under

Scots law, it is a crime to steal a dog or any pet, and we prosecute those cases under the common law. In those circumstances, information is contained in the police report about the impact that the theft would have on a family and on children. As a dog owner, I can only imagine the devastation to me, my children and my family if anything were to happen to my dog. You can be reassured that that type of information can be shared with the court and that the court can take it into consideration when sentencing.

To go back to the earlier point on the number of reported dog thefts, we do not receive reports on that number, so it is difficult to get a picture of the data. It is helpful to hear the evidence from the SSPCA and the police about underreporting, which we see in relation to many offences. My interest is in how the implementation of the bill might encourage people to report such offences and effect an increase in reporting.

The Convener: Currently, is a criminal more likely to be convicted of an animal welfare charge or a theft charge in the event of a pet being stolen?

Laura Buchan: It would be determined from the evidence in each case, but, as Gilly Mendes Ferreira highlighted, we could prosecute animal welfare offences along with the theft of a pet on the same complaint.

The Convener: Thank you. We will move on to section 1 of the bill, and we have a question from Evelyn Tweed.

Evelyn Tweed (Stirling) (SNP): Good morning. Some of the consultation responses on the draft bill noted that a stand-alone offence could result in a deterrent effect. Do you agree with that proposition? If you do not, what are your reasons for that?

Chief Inspector Booker: From a Police Scotland perspective, I do not believe that it would deter people. In a degree of the domestic cases that have been reported to us, there is a dispute over ownership. That will exist whether or not there is a specific bill. For organised criminals who are perhaps targeting puppies for sale online, the monetary value would probably supersede any deterrent effect of the bill. However, the bill highlights the impact and significance of dog theft.

Stuart Munro (Law Society of Scotland): I am the convener of the Law Society of Scotland's criminal law committee. One has first to consider whether deterrence has much effect in the system in general. I do not doubt that greater attention being paid to dog theft as a social problem and greater concern being expressed by Parliament about the damage that such conduct can have has a benefit. Whether it would deter individual criminals from committing crimes is entirely moot.

Laura Buchan made the point that the Crown does not see terribly many cases coming through in reports from the police. It is also important to remember that not every crime is necessarily comprehensively investigated. Not every crime necessarily has evidence that allows a prosecution and not every case that is reported to the Crown necessarily results in a prosecution. There are all sorts of ways in which cases can fall off that process. Therefore, one sees relatively few dog theft cases coming through to the court. Those cases that do come through often end up being prosecuted on summary complaint. In very busy courts, very little time is devoted to individual cases.

It goes back to Laura Buchan's earlier point about sentencing. We already have a clear sentencing policy that judges are required to apply in any criminal case. One of the important issues is what harm has been caused by the offence. One would hope that, in cases in which family members or, indeed, the animals concerned had experienced real harm, that would be communicated and the judge would take it into account.

No doubt, specifying a separate offence distinct from the common-law charge of theft would allow greater attention to be focused on that, enable the police to collect better data on how prevalent the offence is and enable Parliament to properly monitor the effect of the legislation, but, fundamentally, it would require resources. It would require money to be spent on investigations and on prosecutions and, ultimately, those cases to be given the time that they deserve.

09:15

Laura Buchan: I agree with most of Stuart's points in relation to the cases that come to us. We can only prosecute cases in which there is a sufficiency of evidence.

I have been a prosecutor for more than 20 years, and I have seen a small number of dog theft cases come through the courts. My experience is that any cases involving animals that come before the courts are given thorough consideration, and the facts and circumstances are laid by the court. That is done by the defence, the prosecutor and the sheriff who is dealing with the case.

Dr Paula Boyden (Dogs Trust): Good morning. I am the veterinary director at Dogs Trust. I agree with Police Scotland that, in relation to serious organised crime, the proposal would not be a deterrent. However, having dog theft as a stand-alone crime would reflect the seriousness of the issue. You will be aware that the Animal Welfare (Sentience) Act 2022 recognises that dogs are

sentient creatures, which means that not only can they experience pleasure, but they can experience pain and distress as well. Interestingly, we are starting to see prosecution for the emotional abuse of dogs because of the abuse that they have been subjected to.

On dogs being a member of the family, the fact that a dog tends to walk on four legs rather than two does not mean that, during times of illness or bereavement, the feelings are not just as intense. In my experience of working in dog welfare for many years, if individuals do not understand the strength of that bond, they are not going to give it the right attention. We have seen that “It’s just a dog” mentality in the sentencing of animal welfare offences. It is not just a dog; it is a member of the family. I think that having a stand-alone bill gives the issue the right standing.

Gilly Mendes Ferreira: I completely support what Paula Boyden said about creating a stand-alone offence. Organised criminals will change tactics. One of the tactics that we are now seeing in the trade is people utilising vulnerable individuals to play host to a litter of puppies and using their homes to sell the puppies out of, and so on. Having a stand-alone offence would show the seriousness of the issue and would encourage people not to get caught up in such situations. Although it would not create a deterrent for the organised criminals, such an offence would raise the bar for those they might get to support their activities, so that they would not get involved and would not facilitate such activities. It is, therefore, important to have a stand-alone offence.

Rhoda Grant (Highlands and Islands) (Lab): Chief Inspector Michael Booker talked about the reasons why reporting and data might not reflect the true nature of the crime. We see that in England and Wales, where cases in which charges are brought are estimated to be below 5 per cent. I wonder whether the same reasons for that—how it is recorded—apply here. I also wonder whether the bill will make a difference not only to the recording of incidents. Might we see recording increase but incidents fall due to the impact of the bill, or should we add something to the bill to make it more impactful?

Chief Inspector Booker: We always encourage reporting. For Police Scotland, it is about a change in legislation rather than a change in practice. We always encourage people to give us intelligence and report incidents so that they are recorded. As I explained earlier, the new reporting system will help to give a true picture of what is happening in Scotland.

The introduction of the bill’s provisions on reporting would highlight to victims and reporters the fact that there is a focus on this type of crime. Occasionally, the feedback from victims and

reporters is that, because it is a common-law crime of theft, they do not have confidence that enough significance is placed on the theft of a dog. The bill’s provisions would show that we treat the issue seriously and investigate incidents thoroughly. From our point of view, it is not a change in process; it is more about a change in legislation.

Rhoda Grant: There would be a change in perception.

Chief Inspector Booker: Absolutely.

Tim Eagle (Highlands and Islands) (Con): Good morning. I want to go back to the stand-alone offence part of the bill. Other acts have created a stand-alone offence—an example is the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021. You might not know that one; it is aimed at protecting retail workers. What, if anything, would change in the investigation or prosecution of offences following the introduction of a stand-alone offence?

Laura Buchan: That is a very good example. As Chief Inspector Booker said, the prosecution process would remain the same in terms of the evidence and corroboration that would be required to show that there had been a theft.

As with the provisions relating to retail workers in the 2021 act, which you highlighted, that would mean that options would be available to prosecutors as to how they prosecuted an offence. That could make it more difficult to have the data available, because some would be prosecuted under one part of the legislation and some might continue to be prosecuted under the common law.

I do not see any change in the way that a prosecutor would consider a case or in the manner in which it would be reported. We would still approach the case in the same way.

Chief Inspector Booker: From an investigative point of view, it would not change our processes. The only additional demand that could be placed on officers would be in obtaining the victim impact statement. The true impact of that is still to be seen, because we do not have the true figures available. It is difficult for me to say what the actual impact would be, but it would certainly be an extra demand on officers to obtain those victim impact statements.

With regard to the new bill being introduced, additional training would be required, which, again, would have an impact. However, the investigative process would be the same.

Tim Eagle: Thank you.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): Good morning. The use of the term

“abduction” in the United Kingdom Pet Abduction Act 2024 switched the focus from the owner’s loss to the animal’s welfare. In current common law, as has been outlined this morning, and under the proposed bill, the victim of the crime of theft would be the dog owner. Do you have any views on the use of “theft” versus “abduction” in respect of investigation and prosecution? Perhaps Laura Buchan can start.

Laura Buchan: Again, from a practical perspective, I do not think that it would make a difference to the way that we would approach the case in terms of the evidence that would be required to prove either a theft or an abduction. From one point of view, I do not consider that there would be any difference as to the term used. However, I can understand that emotionally—if that is the right word—the words make a difference, perhaps with regard to the evidence that Paula Boyden has given.

Elena Whitham: I am trying to figure out whether, in the UK context, a decision was made to focus on the crime being abduction, which feels like a very different type of language to use as opposed to theft, because abduction puts some of the context on to the abductee, which in this case would be the dog. That was the gist of where I was coming from, but you are stating that neither of the terms would make any difference to how the offence would be investigated or prosecuted.

Laura Buchan: Not that I can consider at this stage. I could not comment on how the courts might interpret the terms in sentencing.

Elena Whitham: I worked for Scottish Women’s Aid for more than a decade, and there are definitely instances of coercive control under the Domestic Abuse (Scotland) Act 2018 in which it is recognised that instances of theft of pets or harm to pets, especially dogs, are related to the perpetuation of such coercive control and domestic abuse. Could the proposed bill be strengthened in any way in that regard, or do you think that the existing legislation takes on the seriousness of that perpetuation of coercive control by the theft of dogs?

Laura Buchan: That is very important as well. The domestic abuse legislation that we currently have in Scotland is really strong, and we now see—and narrate, record and libel—instances of that type in relation to coercive control. We can see that pets, whether it be dogs or cats, are used in that context, but that should properly be libelled within the domestic abuse legislation.

Dr Boyden: As you will be aware, the Dogs Trust runs Freedom, a pet fostering service for dogs belonging to people who are fleeing domestic abuse. The legislation could be strengthened for exactly the reasons that you

mention in relation to coercive and controlling behaviour. I certainly have reservations about the bill not applying to situations where two people have lived together.

I chair a small group called the Links Group, where we raise awareness of the link between the abuse of animals and the abuse of people. We know the lengths that perpetrators will go to in order to have a negative impact on the victim/survivor, and that is of concern. For example, perpetrators have had pets euthanised, and they have killed pets. That really needs to be addressed in the bill. It is a significant concern, and we should be able to address it.

Although pets are now mentioned in the Domestic Abuse (Scotland) Act 2018, that is very much focused on the behaviour of the perpetrator—not feeding the dog, for instance. I do not believe that there is sufficient protection for pets in the domestic abuse legislation.

Yesterday, I was at a meeting at Westminster, where there is a proposal for a new law called Ruby’s law, which would bring pets into non-molestation orders—and it would apply within accommodation. That reflects the point that pets are not sufficiently accommodated in domestic abuse legislation.

Elena Whitham: That is very helpful. Thank you for that.

The Convener: The SSPCA highlighted the calls that it has received about dogs involved in domestic break-ups. What is your view of section 1(2) and the defence that an offence is not committed after a relationship break-up?

Gilly Mendes Ferreira: I fully back what Paula Boyden has just said. In cases such as those where we have had to step in because of welfare concerns around an individual animal, ownership is very hard to prove, particularly in a situation where there is coercive control going on. We also see that where we are involved with animals that have had a non-accidental injury. Perpetrators have vet shopped: they have bounced between different vets’ practices, and animals have disappeared. That is one aspect of the bill that needs to be considered. Such consideration would make the bill stronger, recognising that people will be in situations—as we already have been, in practical terms—where there is an ownership dispute going on. The bill could be strengthened to help it to address such situations, in line with other offences under the Domestic Abuse (Scotland) Act 2018 and animal health and welfare offences.

Chief Inspector Booker: I absolutely echo that. In domestic abuse situations, Police Scotland will thoroughly investigate the circumstances and will get to the bottom of what has caused the situation. As Gilly Mendes Ferreira has said, there can be a

lot of domestic disputes over ownership. I would welcome a strengthening of the bill, with clarity on how we prove ownership. That is a difficulty that we are also experiencing.

Stuart Munro: I would urge caution in conflating domestic abuse and relationship breakdown. There are plenty of relationships that break down where there has been no domestic abuse. The idea of bringing in the police to regulate issues of property ownership where there is no domestic abuse represents a very substantial step.

Identifying ownership can be incredibly difficult. A couple who live together might decide to buy a dog, and they assume that their relationship will continue permanently, but it does not. Who owns the dog? Those are issues that even our civil courts do not find easy to resolve. In a situation involving a married couple or a cohabiting couple, who have similar sorts of rights, the issue often has to be dealt with in a civil court in the same way—whether we like it or not—as other property belonging to the couple is dealt with.

There are interesting questions as to the extent to which the welfare of the animal ought to be taken into account in such situations, and we are beginning to see movements towards that in the family courts, but the idea of people having recourse to the police purely to resolve what are fundamentally property disputes would be a pretty substantial step.

Laura Buchan: I agree. We need to be cautious about thinking that legislating will resolve issues around proof. Proof is always the difficult part in ownership, and the evidence that is available will not change. I reiterate that there is no legislative gap that means that we cannot adequately deal with such situations with the current provisions. If there is a gap, it might be in the evidence that is available to prove offences of the type that we are discussing, but that will not be remedied by further legislation.

09:30

Dr Boyden: I respectfully challenge that. I understand the point in relation to straight property disputes, but, when you are dealing with domestic abuse, it is a very different situation.

We need to understand how perpetrators work. They often buy a pet for their victim and allow them to develop a bond. That is when the coercive control starts. For example, the perpetrator will often register the dog at the vet and put the microchip details in their name. Therefore, when we bring dogs on to our Freedom service, we lock down the microchip database details, because perpetrators will go to any length to find out where the dog is. That is not because they particularly

want it themselves; it is because they do not want their victim to have it, because of that bond.

We cannot overstate the domestic abuse aspect. I agree with Laura Buchan in relation to straight ownership disputes, but, in domestic abuse cases, it is a very different situation.

Rhoda Grant: Is the bill where we should deal with that? Listening to both sides of the argument, it seems a complex matter. Could we deal with it in the bill? We have the ability to amend it at stage 2, so is there something that it would be useful to put in the bill? Or should the matter be dealt with in domestic abuse law, although we do not have a vehicle at the moment in which to do that?

Dr Boyden: It is not a one-size-fits-all situation. It is great that pets are recognised in the domestic abuse legislation, although that could be strengthened—I mentioned Ruby's law. Perhaps the wording of the bill should be modified to say that, in general ownership disputes, the offence should not apply in relationship break-ups but that there should be an exemption when we know that there is domestic abuse, because of the coercive and controlling nature of those situations.

Ariane Burgess (Highlands and Islands) (Green): Before I ask my main question, which is on penalties, I want to go back to Elena Whitham's question about the use of "theft" rather than "abduction". The term "abduction" was used in a piece of UK legislation. Do we have a specific definition of "abduction" in Scotland that relates to people rather than pets or things? I just want clarification on that. Is that why we have gone with "dog theft" rather than "abduction"? Laura, you are nodding your head.

Laura Buchan: I am nodding my head to say that, if it assists the committee, I can submit a paper or letter after the meeting to outline the current law in relation to abduction and theft, comparing abduction with theft so that you have the full definition before you.

Ariane Burgess: Can you say anything about it now? Is there a specific use of the word "abduction" that provides the reason why we have not gone with it?

Laura Buchan: I have only ever seen "abduction" used in relation to people. I would have to go back and look at the common law to determine whether that prevents us from using the term. It might not—we might simply never use the law of abduction in relation to pets—but it might be that, following the common law, we have always referenced people when using the law of abduction and that "theft" has commonly been used in relation to the theft of pets.

Stuart Munro: I echo Laura Buchan's suggestion that that be looked at and responded to, because those are not simple concepts.

I will make two brief points. First, when you start talking about abduction, you potentially bring in issues of consent, which might complicate matters unduly. Secondly, I am reminded of what we used to libel in cases involving children: the old common-law offence of plagium, which is, in effect, the theft of a child when we are really talking about a parent abducting a child. I could not say how often that is libelled these days or how the Crown deals with it, but those are complicated issues that need to be considered closely.

Ariane Burgess: I imagine that my colleague Maurice Golden considered it pretty closely in the process of developing the bill. It would be interesting to ask him those questions when he comes in front of us.

Maurice Golden (North East Scotland) (Con): Not now. *[Laughter.]*

Ariane Burgess: Not now—exactly. This is just your warm-up.

I will move on to a question about penalties. I will direct it to Laura Buchan in the first instance and then open it up to whoever wants to come in. I am interested in your views on the penalties that are included in the bill. Would you expect the provisions in the bill to have any impact on prosecution or sentencing when the new offence is used?

Laura Buchan: All the penalties are currently available in relation to the common-law offences. It would be determined by when and in which court the prosecutor would progress proceedings, whether the summary or solemn court. As it stands, all sentencing options would be available.

Ariane Burgess: Would the proposed sentencing framework allow courts to properly reflect the emotional harm that is experienced by victims instead of just the monetary value of the dog?

Dr Boyden: We need measures such as victim statements to fully understand that. Sentencing guidelines include consideration of the value of the pet, but that does not reflect the impact that the theft has. For example, my dogs were adopted from the Dogs Trust for a couple of hundred pounds, but my emotional tie to them is no different to that of somebody who paid £3,000 for a dog. Therefore, using that as a mechanism for sentencing does not reflect the seriousness and impact of the crime.

Ariane Burgess: Are you saying that you would like the sentencing guidelines to account explicitly for the sentence of the dogs, to ensure

consistency and recognition of the bond between the owner and the animal?

Dr Boyden: Yes, very much so.

Gilly Mendes Ferreira: I agree. The sentencing guidelines really need to include that. This is probably a debate for another day, but we see the inconsistency in sentencing under the current legislation. Sometimes, the sentencing in cases that have gone through does not meet our expectations.

The overarching sentencing guidelines will be considered. There is an opportunity to set the bar and bring in the emotional impact on the victim and the fact that dogs are sentient beings. The bill will be a good opportunity for that. Those guidelines are so important. When such cases come to court, the courts deal with a raft of legislation, and they do not use animal welfare legislation routinely. That is why we are keen to address the guidance that is given when it comes to animal welfare offences. We see significant inconsistency in sentencing under the current legislation, and we would not want to see the same happen with the bill.

Stuart Munro: We have little in the way of sentencing guidelines in Scotland. There are two or three specific guidelines for particular categories of case, not including dog theft, and there is a general sentencing process policy guideline, to which I and, I think, Laura Buchan referred, whereby there has to be some quantification of the harm that is caused as part of working out how serious a crime is and what penalty should be considered. We do not have any explicit sentencing policy whatsoever on theft, and certainly not on the theft of animals.

Dr Boyden might have been referring to the guidelines from the Sentencing Council for England and Wales, which are far more extensive. That reflects the different approach that we have tended to take in Scotland. It would be open to the Scottish Sentencing Council to consider making guidelines in connection with theft or dog theft cases, or indeed under the bill, although that would not happen automatically. Although the Scottish Sentencing Council is looking at expanding the range and utility of sentencing guidelines, it has a lot of work ahead of it.

Laura Buchan: I reassure the other witnesses and the committee that ways other than the victim impact statement scheme are used. That scheme is currently only for legislated offences and offences that are in the solemn court—although not all offences in the solemn court. However, in courts across the country, we tell sheriffs about the impact of crime day in and day out. We tell sheriffs about the emotional impact of crime so

that that can be taken into account in sentencing. That ability still exists.

Stuart's point in relation to sentencing guidelines is a good one. I understand Gilly's point on the concern about the different sentencing options that are available, but, ultimately, that is for the judiciary and the Scottish Courts and Tribunals Service to decide on.

Ariane Burgess: Stuart, you said that we do not have much in the way of sentencing guidelines. Are you saying that creating precedents through having such guidelines is not a door that we want to open?

Stuart Munro: Ultimately, it is for the Parliament to decide on the range of penalties for particular crimes. That is in its gift. However, generally, once a crime exists, it is for the judiciary to make decisions on sentencing. We now have a move towards having a greater structure in that process, whereas, traditionally, we would leave it all to the discretion of judges. The Scottish Sentencing Council is beginning to erect a framework within which judges are expected to operate. However, the picture here is very different to that in England and Wales, where there is an altogether more comprehensive structure for sentencing guidelines, which becomes almost formulaic in its application. That is not really the position that we have had here.

All that I am saying is that the bill proposes the creation of a new offence that maps on to an existing common-law offence with identical sentencing powers. In that respect, it does not change anything. Changing sentencing policy is a different matter altogether.

Emma Harper: The bill proposes to make it mandatory that a victim impact statement can be provided. Does that mean that, in other legal cases, impact statements might or might not be provided? Is it a choice? Would the bill create a difference in the law so that a victim impact statement for dog abduction is mandated but it is not required or mandatory in other criminal cases?

Laura Buchan: We highlighted in our submissions on the bill that the victim impact statement scheme currently relates only to solemn cases, which means those that are prosecuted in the sheriff and jury courts or the High Court. Further, the scheme does not apply to all solemn cases. It currently includes those involving violence, sexual offences and housebreaking.

The bill's provisions mean that the victim impact statement scheme would apply to the theft of any dog, and the offence could be prosecuted in any court. There could be an anomaly if a domestic abuse victim in a summary court case were not entitled to make a victim impact statement, but a summary court prosecution of the theft of a dog

could involve one. We absolutely support victims being able to provide impact statements and the courts being able to have that information available, but we must ensure that we are creating the scheme in the right way.

At last week's meeting of the Criminal Justice Committee, amendments to the Victims, Witnesses, and Justice Reform (Scotland) Bill were debated in the context of victim impact statements. The Cabinet Secretary for Justice and Home Affairs spoke of her hope of expanding the scheme, but doing so in a staged way that would cover all victims of solemn offences.

I will make two points about that. First, there is reassurance that such information can be provided in another way. It is not that that information is not provided to the court, but that this is a separate scheme. The way to increase the scope of offences covered by the victim impact statement scheme is to amend the legislation to cover more offences.

I do not know whether that has explained it, but I reiterate that it is a scheme. Therefore, in terms of rolling that out, there is currently no mechanism in the summary process for obtaining victim impact statements, considering them and providing them to the court. That would require a separate process. Again, quite distinct from that separate process, you might find, for example, that victims of stalking in solemn cases do not yet have the ability to provide victim impact statements in the solemn courts. I just wanted to highlight those points to the committee.

09:45

Emma Harper: A victim impact statement could be written, made in private or presented in court. Is there a hierarchy around what would be required, which would make it more complex to define?

Laura Buchan: All the information can be provided to the court, whether it be through a victim impact statement, by the Crown providing it or, if a victim is giving evidence, their telling the court about the impact that the offence has had on them.

From a legislative perspective, the bill places on the court a duty to take that victim impact statement into consideration when sentencing. Courts already should take all the information before them into consideration, but the scheme places a duty on them to ensure that they consider it in determining sentences.

Stuart Munro: To briefly echo Laura Buchan's point, one would ordinarily expect that information to be collected and passed on anyway. Even if there is no formal victim impact statement within

the terms of the scheme, the police should ask victims of crime what the impact on them has been. The police should record that and pass it on to the Crown. If the Crown makes a victim or complainer aware that a prosecution is under way, and they then contact the Crown to say, "I just want you to know how this has impacted us," I would expect the Crown to pass that information on at the point of sentencing.

The sentencing process guideline makes it entirely clear that such information would have to be taken into account in the assessment of the seriousness of the offence. Although a victim impact statement is another layer on top of that, it really replicates something that should be happening already.

The Convener: Emma Roddick has further questions on impact statements.

Emma Roddick (Highlands and Islands) (SNP): I want to press you on the victim statement issue, particularly having read the COPFS submission. Given what you know from the crimes for which victims can currently make statements, do you see any potential impact on the seriousness with which they are treated if they start to be used in different courts?

Laura Buchan: No, I cannot see that. Going back to Stuart Buchan's point, the scheme is just another mechanism for having the impact statement put before the court for its consideration. We simply wanted to highlight the offences that the scheme already covers. There are on-going discussions between criminal justice organisations and the Scottish Government on how the scheme might be extended and the offences that it might cover. There is therefore an opportunity for us to have on-going discussions with the representatives round the table here, to ensure that they are involved when the Scottish Government and the Parliament consider expanding the scheme's scope.

As the committee will see, the scope of the scheme is currently quite limited as regards which cases it covers, albeit that many cases before the solemn courts are sexual offences. One would hope that other types of offences would come within the scheme in due course. However, that expansion would require to be done in a staged and managed way to allow it to be successful.

Emma Roddick: In the context of that expansion, are there other crimes that you consider should form the next part of that managed process?

Laura Buchan: I could not prioritise the types of crimes, but serious offences would be among them. I spent a long time on oversight of deaths investigations, so I know that, for example, the families or loved ones of people who are killed or

injured through health and safety offences do not have the opportunity to provide victim impact statements, although, again, their positions can be put to the court during prosecutions, and the sheriff or judge can take them into account. However, there are many offences that one might want to consider should fall within that scheme in due course.

The Convener: We will now look at section 2. I will bring in Mike Moore for any thoughts on the aggravation for theft of assistance dogs. Do you have any general views on that section?

Mike Moore (Guide Dogs for the Blind Association): We, at Guide Dogs, support that provision in the bill. It was not part of the Pet Abduction Act 2024, which the UK Parliament passed last year, so the bill would mean that Scotland has the strongest legislation in the UK on the theft of assistance dogs.

I stress that, at Guide Dogs, we do not have any recorded cases of dogs such as a working partnership puppy and so on having been successfully stolen at any stage of their life. Attempts have been made, however, and we know that it would be immensely impactful on a guide dog owner, puppy walker or member of our staff if a dog was to be taken.

Even bearing in mind the fact that the bill aims to decouple the value of a pet dog from the true emotional and psychological impact, taking into consideration the resources to train a guide dog, match it with a blind or partially sighted person, and the associated costs of insurance, vet bills and so on, it is a substantial resource investment. However, that very much fails to account for the difficulties, challenges and impact that would be experienced by a guide dog owner if their dog was taken.

That is not to detract in any way from the value and importance of pet dogs, which are very much family members—I have one, so I can speak on that basis. There are also other assistance dogs as defined under the Equality Act 2010, but guide dogs are uniquely difficult to replace as mobility aids for people.

A lot of the understanding of why a stand-alone offence would be helpful in Scotland comes down to weighing the value of a dog as a sentient being against any random possession that might be taken from a person. For someone with sight loss, it could perhaps be compared to having something stolen such as a long cane or assistive technology such as a laptop or tablet with screen-reading software. However, the bond and companionship with an assistance dog for somebody with sight loss, the resource that goes into training and creating that partnership and the significant difficulty in replacing a stolen guide dog that

cannot be reunited with its owner justify the provision being in the bill.

The Convener: Will the inclusion of such a provision achieve something that cannot be achieved under the common-law offence of theft?

Mike Moore: In terms of the aggravation for the theft of an assistance dog, some of the same points that have already been covered in relation to section 1 of the bill apply. However, considering the impact of the loss of an assistance dog on somebody much in the same way as pet theft is considered, as well as the points that I have just made about the value of an assistance dog and the difficulty in replacing it, it is difficult to see how such theft could be treated in the same way as the theft of any other possession. For those reasons, we see it as important that the courts make a distinction between assistance dogs and pets.

We need to consider the broader legislative context and the motivation for stealing an assistance dog. It could happen in any number of contexts: it could be a puppy in training to become a guide dog; a working guide dog that is harnessed up, out in the community and working with its owner; or a working guide dog that is off the lead in an exercise area and running free. There are different contexts that might or might not indicate greater malice towards a disabled person in depriving them of an assistance dog. In any of those cases, we would strongly agree that it ought to be treated more severely than the loss of a pet, and the aggravation would help to prosecute the case in a stronger way than the common law allows.

The ability of victims to make an impact statement about the loss of an assistance dog is also relevant, but maybe we will come on to questions about that.

Dr Boyden: We agree that there should be an aggravated offence. Common-law theft underestimates not only the importance of the dog's sentience but the impact of the loss.

In one study that examined people who live with mobility or medical service dogs, 98 per cent of them described the benefits of their dogs not only as the assistance that they provide but also as the companionship. That is true not only for the supported person but for their family, who experience the emotional benefit, the sense of confidence, the motivation and the social benefits of having an assistance dog.

The impact is much broader. I have heard assistance dogs described as equipment, but they are way more than that. The aggravation would reflect that.

Gilly Mendes Ferreira: I am in total agreement. The theft of an assistance dog impacts the victim's

independence and their quality of life. Ultimately, if the dog is involved in medical support, you are risking that person's life if the dog is not picking up on the warning signs that it is trained to notice.

It is not quick to train dogs to facilitate the different needs that are required of assistance dogs, so, as well as the immediate impact on the victim, there is a longer-term impact while they are matched with another dog. To link that to Mike Moore's point about the costs, it takes time. It is not simple. You cannot just get a puppy to grow up faster and get them back into the community to support somebody.

Therefore, I feel strongly that there should be a separate aggravation and that importance should be placed on the situation, because, ultimately, the theft impacts the person's independence, quality of life and, potentially, medical health.

Chief Inspector Booker: The bill looks to make an aggravation for all thefts of assistance dogs but, if the dog is not obviously performing the role of an assistance dog, should that aggravation still apply? I agree that there is a huge distinction between a family pet and an assistance dog but, for example, if the dog is not wearing a reflective vest to identify it as an assistance dog and the offender does not know that it is an assistance dog, should that still qualify as an aggravated offence?

Laura Buchan: Again, the question is whether the bill achieves something that cannot already be achieved under the current legislation. I understand and agree with the points that have been made about the importance and significance of an assistance dog and how heinous it is for somebody to steal it. I am grateful to Mike Moore for giving us some idea of that. I have never seen an example of an assistance dog being stolen, but that is not to say that it has not happened or could not happen.

10:00

The point that Michael Booker raised is a good one. We would have to be able to demonstrate that the accused knew that the dog was an assistance dog to be able to prove the aggravation. That might be easy to prove. The point of the aggravation is that a sheriff is required to consider it when determining a sentence. However, as we discussed, the sheriff can also do that by considering the full circumstances and the impact.

If and when we have a report of an assistance dog being stolen, perhaps we should seek proper information. We might come to organisations to understand the impact, so that that information can be provided to the court and properly considered when determining a sentence.

Stuart Munro: I understand entirely everything that Mike Moore said about the impact on people who depend on assistance dogs when such a dog is stolen. That is, of course, crucial and should be reflected in any disposal that a court might ultimately make if such a case comes before it—I am in no doubt about that.

I would simply say that the sentencing process is already structured in a way that should allow that information to be properly taken into account. Sure, that depends on the information being collected and on the process by which it is ultimately put before the court. However, the sentencing process guideline requires certain things to be taken into account in assessing harm, including

“an especially serious physical or psychological effect on a victim”,

which is just what Mike Moore described, and existing aggravating factors under the guidelines include

“The deliberate targeting of a victim who is vulnerable or perceived to be vulnerable”.

Therefore, if somebody actively sought to steal an assistance dog, our existing law would reflect that as being worthy of a more serious penalty.

To put it another way, if the bill were to pass and there was an instance of somebody stealing an assistance dog, would the new formulation in the bill necessarily lead to a different sentence being imposed than if the case were prosecuted under the existing common law? I see no reason why it would, provided that the same information was provided to the sentencing judge at the appropriate time. However, if the committee and, ultimately, Parliament are of the view that dog theft should be a separate stand-alone offence, I would have no difficulty with the notion of the theft of an assistance dog being treated as a formal aggravation.

Emma Roddick: I will press the point a little further, Stuart. It sounds to me as though there is a little bit of a contradiction in the use of language around why the bill is necessary, with the theft of a dog being described as the theft of a family member, which is a more emotional thing, and then moving back when it comes to guide dogs. Accepting that guide dogs can be part of the family as well, the language is more about their consideration as equipment, which can currently be sentenced. Is there a confusion or could such confusion arise if the bill is passed? Is there a contradiction in approaches that might complicate matters?

Stuart Munro: I do not think so. Of course, a dog can be both. It can be a loved part of the family and a valuable assistance dog. As matters stand, both of those factors can and should be

taken into account by a sentencing judge, were the matter to come before him or her. If the bill were to be passed in its current form and the theft of an assistance dog was to be a statutory offence with an aggravation, there would be no reason why the court could not take into account the additional family impact or, for that matter, the impact on the dog itself.

There is a wider debate about how we treat animals in our system as a whole. I refer not only to the criminal justice system but to how we treat dogs in family breakdown and minimum standards of welfare for dogs. There is a range of issues that involve the deeper question of the dog as a sentient being.

However, in the context of what we are looking at—the criminal justice system when there is the theft of a dog—our system allows all those potentially complex and sometimes conflicting considerations to be weighed in the balance and taken into account. Ultimately, whatever the framework, the judge who comes to sentence in the case will still have to do that.

Emma Roddick: This question is open to anybody. Does the argument that guide dogs are hard to replace and that they have to be trained and matched to the person they support also apply to other working dogs? Is there an argument for an aggravation in relation to other types of trained dogs?

Gilly Mendes Ferreira: You will all be familiar with the definition of an assistance dog. Through our animal guardians programme, which supports children who have harmed animals or shown behaviours that are a cause for concern, we are now seeing a lot more support dogs or dogs that are there for emotional support that you would argue have the same impact. We have some young people who take dogs in to schools to support them with anxiety about being in social situations. That is a good example.

One thing that is a challenge in all of this is that definition, and we have specifically referenced what is laid out in other legislation. It might be helpful to the committee if I pass out a research paper. There are about 100 of us around the world trying to get definitions of the different categories of how animals are used. I will share that information as a follow-up.

There are dogs for different purposes, and they will require different training. The specific purpose definitely needs to be taken into consideration, and the definition needs to be looked at as part of the bill.

Chief Inspector Booker: That definition would be essential for us if the bill were passed. If people knew that there was an aggravation and there was no clarity around the definition of an assistance

dog, we could have everyone saying that a dog was a therapy dog when it was not. We would greatly welcome a definition.

The Convener: The member in charge of the bill is no longer here, but that is certainly something that we will ask him about.

It appears that the thrust of the bill is very much about the personal connection that an individual has with an animal, whether it is an assistance dog, a companion dog or a pet. That raises the question of whether Shep the collie, the working sheepdog, should be recognised in some way. If a shepherd was to lose his collie, that would have a major impact on his ability to do his job, but that area is not touched on at all. It feels as though the bill is very much about the emotional impact on victims and how to address that. At stage 2, should we look not just at assistance dogs but at working dogs and someone's ability to carry out their day-to-day work?

Gilly Mendes Ferreira: Ultimately, it will probably come to that. When someone is in that investigation state and is, quite rightly, advocating the impact on the purpose that the dog has been used for, it will become more complicated if those definitions do not exist. Someone might rightly say that their livelihood depends on having that working dog out in the field, doing the job that it needs to do, and, because they do not have that dog any more, there is an impact on their livelihood—plus all the emotional impact. The police would then be back in that definition space and would have relate it back to this bit of legislation. That issue needs to be looked at.

Beatrice Wishart: Sections 4 and 5 are about the annual reporting and review. Section 4 requires Scottish ministers to report annually on the act, and section 5 requires Scottish ministers to review the act five years after it has come into force. Do you have any views on that?

Chief Inspector Booker: As I explained earlier, with our new reporting and recording system being a national system, I am confident that those reports will be more readily available and that there will be a true reflection of what has been reported. Therefore, I would welcome that.

Gilly Mendes Ferreira: Likewise, I would welcome that and the five-year review. We are just about to hear the five-year review of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020. We have contributed evidence to that review. When something is quite new, there should always be a review period and a look at how it is working in practice.

Dr Boyden: I completely agree. I would also like to see greater detail in that review, which I hope will be available through the new recording system, on things like breeds of dog, particularly if

we are potentially looking at organised crime and such. What are the trends? That would be incredibly helpful.

Laura Buchan: The data in any review would be available from our system, depending on human ability to put it into the system properly.

The Convener: Finally, every piece of legislation comes with a cost. Are there any views on the financial memorandum and how it might apply to your organisations? Does anyone have any comments on that?

Chief Inspector Booker: It is difficult for us to predict what the financial impact will be if the bill is passed. There will be the legislative learning, such as training the workforce and making sure that they are aware of the legislation and how to apply it, but it is difficult to know the scale of that without accurate data and without seeing how the legislation might increase reporting. There will be an impact for us, but it is difficult to assess what it will be.

Laura Buchan: As Police Scotland has said, with the current numbers, it would be difficult to estimate the costs. We would also require to update our guidance, to think about training for staff and to amend other internal guidance. If the provisions in the bill that relate to victim impact statements came in, that would incur a further cost as we look at how we could roll out a further process.

The Convener: That concludes our questions this morning. Thank you for joining us. The committee will now move into private session.

10:12

Meeting continued in private until 10:43.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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