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Minister for Rural Affairs and the Natural Environment  
The Scottish Government  
St. Andrew's House  
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9 April 2021

Dear Minister

## **SAWC OPINION ON EAR CROPPING OF DOGS**

At its meeting on 11 March 2021, the Scottish Animal Welfare Commission (SAWC) discussed the increasing number of ear-cropped dogs being seen in veterinary practices and in the wider community. Commission members agreed to write to you to outline current animal welfare concerns and to offer an Opinion as to how this trend could be reduced and ultimately eradicated in Scotland.

### **Animal welfare concerns**

The SAWC considers that any surgical procedure carried out on a dog for purely cosmetic purposes is ethically questionable, and detrimental to its welfare. Ear cropping is a painful mutilation that provides no benefit to the animal but is intended to give a dog a more aggressive appearance. Research into perceptions of dogs with cropped ears (and their owners) has found that both were seen as more aggressive (Mills et al. 2016).

The procedure is usually performed on puppies at 7 to 12 weeks of age and involves the removal of a portion of the pinna, the external flap of the ear. Up to two-thirds of the ear flap is removed and the wound edges are closed with stitches. The ears are bandaged and may be taped or splinted to a frame until they heal into the desired shape. There are reports of this procedure being undertaken on conscious animals, but even if carried out under anaesthesia it will cause considerable pain at the time and for a period afterwards. Pain will recur every time the bandages are changed.

In addition to the risks inherent in using anaesthesia on animals, there may be post-surgical complications (AVMA, 2013). These can include infection, bleeding, sensitivity, phantom pain and psychological trauma.

Longer term adverse effects are thought to include a reduction in a dog's ability to communicate using ear position. Unfortunately, there is a dearth of scientific research in this area, but it can be said with certainty that dogs rely on a suite of visual signals to communicate with other dogs and with humans. Facial expressions

and body postures, including ear and tail positions, form a 'continuum of communicative signals' incorporating levels of aggression and fear (Simpson, 1997). Loss of this communication mechanism may, in turn, reduce the ability of humans and other dogs to read an individual's body language, with potential consequences for safety.

The pinna of a dog's ear is shaped to capture sound waves and funnel them through the ear canal to the eardrum (MSD, 2019) and there have been suggestions that a dog's hearing and its ability to localise sound might possibly be affected by alteration to the pinna. There does not appear to be any empirical evidence to support such claims. Conversely, the dog's pinna appears in various shapes and there are assumptions that dogs with large erect ears are especially proficient at localising distant noises. However, there has not been any systematic assessment of hearing effects of different pinna types. The SAWC therefore treats all claims with regard to hearing with a degree of caution but hopes to see more evidence emerge in future.

One common argument for ear cropping is to prevent injuries in dogs with pendulous ears, but, again, there is no evidence to support these claims (AVMA, 2013a; Bain, 2020; Caglar Sinmez et al, 2017; Packová and Takáčová, 2020).

### **Legislative background**

Ear cropping of dogs is a prohibited surgical operation in all European states that have ratified the European Convention for the Protection of Pet Animals (Council of Europe 1987). This does not currently include the UK, but the matter is covered in domestic animal welfare legislation.

In Scotland, it is an offence under s.20 of the Animal Health and Welfare (Scotland) Act 2006 to carry out, or cause to be carried out, a prohibited procedure on a protected animal. Permitting or failing to take reasonable steps to prevent another person carrying out a prohibited procedure or taking an animal out of Scotland so that it can undergo such a procedure is also an offence. A prohibited procedure is one which involves interference with the sensitive tissues or bone structure of an animal, unless carried out for the purpose of medical treatment of an animal or such a purpose and under such conditions as Scottish Ministers may specify by regulations. Significantly, in relation to dogs all of the latter are for objectively positive purposes: identification; controlling reproduction or general animal management; or dog welfare. (AH&W(S)A 2006, s. 20(5); Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010, art. 3 and sch. 9.)

Equivalent measures for England and Wales are to be found in the Animal Welfare Act 2006 (s.5) and for Northern Ireland in the Welfare of Animals Act (Northern Ireland) 2011 (s.5).

Despite the prohibition on ear cropping, the Scottish SPCA has informed the Commission that in 2020, 39 calls were made to its animal helpline regarding the illegal procedure, leading to 32 investigations. The RSPCA has reported a 236% increase in the number of reports of ear cropping in England and Wales over the last five years (178 reports in total between 2015-2019). (RSPCA 2021)

### Case history

A Borders couple allowed their American bully dog, Russia, to have her ears cropped when she was four months old. The Scottish SPCA received information that the offenders were keeping American bully dogs with cropped ears and that one puppy had freshly cropped ears. When she was rescued, Russia's ear flaps were swollen and infected. They had been stitched up with nylon thread similar to fishing line and the dog appeared to be suffering considerable pain. Following prosecution, the owners were given a one-year conduct order, 80 hours community payback and a five-year ban on dealing in and trading dogs.

The offence in the above case involved the carrying out of the prohibited procedure and the puppy was found before its injuries had healed. It was therefore possible to demonstrate that the procedure was carried out in Scotland, leading to a successful prosecution.

However, it is not currently prohibited to possess a dog with cropped ears and, as suggested by the Scottish SPCA and RSPCA reports above, animals that have undergone this mutilation are being seen in greater numbers. These animals may have been cropped illegally in Scotland or elsewhere in the UK, or they may have been imported.

The lack of a ban on possessing a dog with cropped ears means that, once the injury has healed, it becomes much more difficult to prove beyond reasonable doubt that the mutilation took place in Scotland. The present position therefore serves to frustrate enforcement of the existing ban.

It is not possible to quantify the imports of ear-cropped puppies as checks at ports do not routinely identify consignments of puppies and ages are not recorded. Nonetheless, enforcement agencies including the Scottish SPCA and RSPCA believe that more dogs with cropped ears are being imported. The Scottish SPCA has seen several reports of cropped dogs imported from the United States, and dogs are also transported from parts of Eastern Europe, supposedly on welfare grounds, by rehoming organisations.

### **Import rules**

The Pet Travel Regulation (Retained EU Regulation 576/2013) or "pet passport scheme" (PETS) is intended only for pets travelling with their owner or an authorised person (or within 5 days of the movement of the owner / authorised person). As all dogs travelling under PETS undergo a document and identity check at the port, in principle cropped dogs should be detected. In practice, the aforementioned check does not even require visualisation of the dog.

Imports where animals are intended to be sold or otherwise transferred - including re-homing - are subject to Council Directive 92/65/EEC laying down animal health requirements governing trade in and imports of animals (the "Balai" Directive) which requires a health certificate to be issued prior to travel and registered on the TRACES system. There are no formal checks at the port and the animals should stay at their point of destination for 48 hours for a post-import check. The Dogs Trust reports that these amount to fewer than 10% of movements and that checks stopped completely during the Covid-19 lockdown.

The challenge remains that many 'rescue' dogs are coming into the UK under PETS when they should enter under Balai, with full checks in place. There appears to be some confusion among new owners as to the import rules actually followed by the re-homing organisations with which they engage (Norman et al 2020).

### **Public opinion**

A current Scottish SPCA campaign is calling for review of the law around the import of dogs with cropped ears. There appears to be public support for this approach<sup>1</sup>.

On a UK basis, the Veterinary Animal Welfare Coalition, whose members include the British Veterinary Association (BVA), British Small Animal Veterinary Association, British Veterinary Nursing Association, British Veterinary Zoological Society, RSPCA, Scottish SPCA, PDSA and Blue Cross, has supported a petition led by the Focus on Animal Law (FOAL) group seeking a ban on the sale and import of ear-cropped dogs as well as a prohibition on taking dogs abroad to be cropped.

Among other things, these bodies believe that the lack of more comprehensive prohibitions is acting a smokescreen for illegal cropping taking place within the UK.

On 9 March 2021, the UK government responded to the petition stating that it would explore options to tackle the import of mutilated dogs, consistent with World Trade Organisation rules, after the transition period. The UK government also referred to existing powers under Regulation (EC) 1/2005 on the protection of animals during transport and in the domestic transport regulations, noting that these would apply to dogs that are suffering injury as a result of non-exempted mutilations.

### **Recommendations for further regulation**

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 will address some of the concerns around imported rescue dogs, when they come into force in September. Schedules 3 and 4 of the Regulations contain provisions intended to prevent third-party sales and ensure that animals are in good health. It is acknowledged, however, that there are limits to the ability of licensing measures to control operations that bring dogs into Scotland but are based elsewhere.

**The Commission wishes to support the Scottish Government in its aims to improve animal welfare in Scotland and would recommend consideration of the following further measures to discourage and prevent the growing incidence of ear cropping:**

1. In particular, the Commission recommends that the Scottish Government act to secure a timely ban on the importation of dogs with cropped ears. We appreciate that this would require UK legislation, but it is to be expected that

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<sup>1</sup> A survey of 2,813 people carried out by ScotPulse on behalf of the Scottish SPCA showed that 76% of those surveyed believe it should be illegal to import dogs with cropped ears.

the administrations will be of one mind regarding closing down the market for dogs subjected to a mutilation that is prohibited in all parts of the UK. The Commission therefore recommends that the Scottish Government consult with the UK government as soon as possible with regard to an import ban.

A prohibition on the import of dogs with cropped ears, combined with the existing prohibition on carrying out the procedure in Scotland would in time effectively prohibit the possession of such dogs, as there would be no legal means of acquiring the animals.

Any ban on importation would have to apply to both commercial (Balai) and non-commercial (PETS) activities, otherwise the trade is likely to shift from one regulatory regime to the other.

2. A further potential control would be to increase the minimum age at which puppies may be imported to the UK, from 15 weeks to six months. This recommendation would therefore be useful in addressing the low welfare puppy trade. There are anecdotal reports of puppies illegally imported at less than 15 weeks old, then cropped in the UK. If challenged, the owner would be likely to claim that the puppy had been imported at the legal age, having previously been cropped.
3. Finally, the Commission notes the Scottish Government's commitment to public education against the illegal puppy trade and suggests that, as part of this, it would be valuable to highlight the welfare concerns and potential illegality associated with acquiring an ear-cropped puppy. This could include advice as to the information a prospective rescuer should seek about an imported dog.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cathy Dwyer', written in a cursive style.

Professor Cathy Dwyer  
Chair  
Scottish Animal Welfare Commission

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