



Northern Ireland
Assembly

Committee for Agriculture, Environment
and Rural Affairs

OFFICIAL REPORT (Hansard)

Pet Abduction Bill Legislative Consent Motion:
Department of Agriculture, Environment
and Rural Affairs

9 May 2024

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Members present for all or part of the proceedings:

Mr Tom Elliott (Chairperson)
Mr John Blair
Mr Tom Buchanan
Mr William Irwin
Mr Patsy McGlone
Miss Michelle McIlveen
Miss Áine Murphy

Witnesses:

Mr Christopher Andrews	Department of Agriculture, Environment and Rural Affairs
Mr Darrin Fullerton	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr Elliott): I welcome Christopher Andrews and Darrin Fullerton.

Mr Christopher Andrews (Department of Agriculture, Environment and Rural Affairs): Thank you, Chair.

The Chairperson (Mr Elliott): You are both welcome. It is over to you. You have heard some of the queries, so maybe you can address those.

Mr Andrews: Absolutely. We will begin by giving you a bit of contextual background and detail on the Bill, as well as touching on the process and the consultation. Apologies in advance if some of it cuts across what you have heard from the research officials, but it is important that we provide a bit of the context from the Department's point of view and from working with officials in the Department of Environment, Food and Rural Affairs (DEFRA).

As you may or may not be aware, the origin of this was that a pet abduction offence was originally mooted and included in a Westminster Bill called the Animal Welfare (Kept Animals) Bill. That followed a recommendation on the matter from the pet task force, which the UK Government had set up to address and take forward concerns about the rise of pet theft during the COVID-19 pandemic. That Bill was later withdrawn due to its running out of time in Parliament. The UK Government acknowledged the depth and strength of feeling around pet theft and pet abduction and are now supporting a private Member's Bill that will create, as you are aware, a specific offence around the abduction of cats and dogs. We in DAERA have worked alongside the Departmental Solicitor's Office

(DSO), our DEFRA colleagues and the Department of Justice to ensure that the Northern Ireland provisions will be and have been appropriately drafted.

As we note and acknowledge, this is normally a devolved matter, and the inclusion of the provisions in the Bill will require the support of the Assembly in the form of a legislative consent motion (LCM). By doing so, we as officials are acknowledging that it would normally be within the competence of the Assembly to cater for this matter, but it is important to note that this would normally be dealt with as an Assembly Act and that it would take much longer if we were to do this ourselves rather than as part of this process. By starting from scratch, we would absorb scant departmental resources that would be better used to advance other animal welfare measures.

Again noting your initial briefing, the Bill is short, containing a limited number of clauses. However, that would not make the passage of a Bill through the Northern Ireland Assembly any speedier. It would be required to complete all the designated steps in that process in full. Consequently, it is our assessment that it would take at least one to two years before we would have legislation in place in Northern Ireland that would match the provisions being advocated in England. Therefore, in our view, an LCM is the most timely, reasonable and proportionate way forward in the current circumstances.

It is also appropriate that we as officials acknowledge the issue of consultation, specifically consultation and engagement in Northern Ireland. Again, due to the extremely tight legislative pressures — you have heard that the Bill was introduced in December 2023 — the Department has not been left with a great deal of time to carry out a stand-alone public consultation in Northern Ireland. That said, there has not been a formal public consultation process in the UK, but, as you have heard, there has been specific engagement with the likes of the Kennel Club and third-sector organisations as part of the work of the pet task force. I know that I am repeating what you have already heard, Chair, but several welfare and companion animal organisations are positive about the direction and impact of the Bill. When it completed Report Stage in the House of Commons, it was broadly welcomed by everybody in that sector. It is appropriate to point out that there is strong support in the media and across social media platforms for the Bill's provisions. We expect the legislation to be universally popular; it is noted that the theft of a pet can be a very emotive issue.

At this stage I will hand over to my colleague Darrin, who will take you through some of the specifics of the Bill.

Mr Darrin Fullerton (Department of Agriculture, Environment and Rural Affairs): Good morning, Chair and members. The legislation creates specific offences for the abduction of dogs and cats to recognise that pet animals are not mere property but sentient beings. The intention is to allow courts to place greater focus on the impact on the animal's welfare, as well as the interests of the owner, in deciding penalties, rather than on financial loss, which, for some animals, might be quite low. The Bill makes it an offence for a dog or cat to be taken from a person with lawful control of the animal. The Bill makes it an offence to "detain" a dog but limits it to "taking" a cat, to account for the different lifestyles of those animals. The intention of the Bill is to deal with unscrupulous people who abduct a dog or a cat; it is not intended to criminalise genuinely kind behaviour to cats and dogs by people who are not their owner who, for instance, believe that the animal is a stray. The Bill includes a power to allow the Department to extend the offences to other species of pet, but that power is limited. The Department must consider that the animals of the other species are kept as pets, and there must be evidence of a significant number of or rise in cases of unlawful taking or detaining of such animals.

The Bill also seeks to enhance criminal justice data reporting and monitoring of pet abduction cases, which will help us better understand and tackle the issue. If the Bill receives Royal Assent, the provisions creating the new pet abduction offence in Northern Ireland will not come into force until the Department introduces a commencement order.

Penalties were covered earlier. The maximum sentence attached to a cat or dog abduction is up to five years in prison, a fine or both, and the maximum penalty aligns with that for other serious animal welfare offences under the Welfare of Animals Act (Northern Ireland) 2011. For context, the maximum penalty for child abduction in Northern Ireland is seven years.

A number of safeguards and exemptions are set out in the Bill. It does not seek to criminalise cases involving domestic disputes between partners. No offence is committed if a dog is taken or detained from a household that the dog had entered after the two people in it had started living together. It is a defence for a person to show that they had lawful authority to take or detain the dog. That covers, for example, vets and dog-sitters. There is also a defence in relation to unaccompanied or stray dogs, if a person charged with an offence can show that they complied with current notification requirements

under the Dogs (Northern Ireland) Order 1983 and made reasonable steps to comply with requirements for the collection of the dog. Finally, there is a fallback defence of "reasonable excuse". That is to ensure treatment on a case-by-case basis so that we do not inadvertently criminalise well-meaning behaviour.

The Bill was introduced in the Commons by Anna Firth MP on 6 December 2023. It completed Report Stage on 19 April and progressed to the Lords. It is scheduled for Second Reading in the Lords tomorrow, 10 May, and is expected to move into Committee, if required, in early June.

Thank you for your time. We are happy to take members' questions.

The Chairperson (Mr Elliott): Just confirm the timescale that you mentioned at the end for bringing the Bill through Committee.

Mr Fullerton: It has its Second Reading in the House of Lords tomorrow, 10 May. It is then expected to move to Committee Stage, if that is needed, in the House of Lords in early June. They hope it to be made then.

The Chairperson (Mr Elliott): Why, then, is an LCM coming here before it is further advanced?

Mr Fullerton: It would be the normal process to provide the LCM before the Bill reached the Lords. In this situation, given that the Bill was progressing so quickly and given that it is a private Member's Bill — they do not have as many sittings to consider those — there was a risk that it could run out of time if they delayed it until we provided the LCM.

The Chairperson (Mr Elliott): OK, and an LCM cannot be brought forward after a Bill becomes an Act, can it?

Mr Fullerton: Normally, it would be provided before, because, if we did not provide consent and the Bill was enacted, it would cause difficulties.

The Chairperson (Mr Elliott): Yes. It could be, but it does not normally, is that what you are saying?

Mr Fullerton: I do not think that it would be normal practice. You would have to be able to provide consent beforehand.

The Chairperson (Mr Elliott): OK.

Is it normal even for a private Member's Bill to have no formal public consultation?

Mr Andrews: It is not normal, Chair. It is a factor of the origins and passage of this Bill. It is because it came from the Animal Welfare (Kept Animals) Bill. It was separated out of that and became a private Member's Bill. That private Member's Bill, as Darrin said, picked up speed and moved rapidly. I totally agree that, in normal circumstances, there should be a public consultation. However, whilst that is no defence, we are very aware that third-sector organisations, animal welfare charities, the general public and the media in general are very supportive of the legislation; it is not seen as controversial. I guess that it grew out of the need to deal with pet theft and pet abduction as a specific offence because of the spotlight shone on it during the pandemic.

The Chairperson (Mr Elliott): We raised with the Assembly's Research and Information Service (RaISe) the issue that there is more lenient sentencing than there is in justice legislation around property theft.

Mr Fullerton: Because the new offence considers the impact on the welfare of the animal, it aligns with our current animal welfare offences under the Welfare of Animals Act (Northern Ireland) 2011. The maximum sentence under that Act is five years. As the new offence is a welfare issue, it seemed appropriate to align it with that.

Mr Andrews: To provide a bit more context, when DEFRA officials were looking at the clauses and how the Bill would be constructed, it was signalled as a welfare measure, rather than an abduction or a pet offence, on the basis that abducting animals can result in their welfare being compromised

because the individuals who are abducting them may not have their best interests at heart. They may be abducting the animals to resell them, to breed from them, if they are pedigree cats or dogs, or, as was touched on in a previous question, to use for other reasons, for example, to facilitate fighting.

The Chairperson (Mr Elliott): I take your point on that. This may be an issue for the police, but are you aware of many convictions under property theft legislation in relation to the theft of pets?

Mr Andrews: This is a bit of a chicken-and-egg situation. As was noted in the RaISe briefing, as pet abduction is not called out as a specific offence under the Theft Act (Northern Ireland) 1969, we are at the mercy of how that information is recorded by the PSNI. There is no universal requirement to identify or record in official statistics that a pet has been involved in a theft, robbery or burglary.

As the researcher noted, the only available statistical evidence for Northern Ireland has come from freedom of information requests. I think your researcher said that thefts were running at about 35 per year. The freedom of information requests that we have noted from the PSNI suggest the same, with a slight uptick during the pandemic. One of the freedom of information requests also noted that, in two financial years, out of those recorded thefts or abductions, only two pets had been recovered.

Mr McGlone: Thanks very much. You probably got a flavour from the RaISe briefing of where this is going, but, first and foremost, have you engaged with the police as consultees to see whether they have the resources to follow through on it?

Mr Andrews: We have engaged primarily with the Department of Justice. We have good relations with the police, but I do not think that we have spoken directly to the PSNI.

Mr McGlone: As a word of advice, they might need to be consulted.

It is a laudable enough Bill, and nobody could disagree with the principles of it, but I go back to this question: if a police officer goes out and somebody says, "Somebody has taken my black cat" — that situation will happen — in what way does the legislation envisage that police officer pursuing an investigation to identify a black cat?

Mr Andrews: I will join that question and your previous question together. There will be no additional burden on the PSNI because they already have the responsibility for investigating theft, so calling that out as a separate offence does not create an additional investigatory burden on the PSNI.

On your second point, it is the Department's advice and guidance to all cat owners that they get their cats microchipped. That is in our code of practice for cat owners. We heavily recommend that. It is not as yet a mandatory requirement for cats to be microchipped in Northern Ireland. It becomes a mandatory requirement in England from 10 June. The Minister has indicated that he is willing to look at the mandatory microchipping of cats, and, as officials, we are keen to see how it plays out in England before we consider measures here. If it supported a measure like this, that could be useful evidence to advance the cause of cat microchipping.

Mr McGlone: You might have fun with that one, but that is just my observation.

To go back to the issue of a person having reasonable excuse to detain or have the animal in their possession, you outlined one or two of those, which included being in rural areas and dogs worrying sheep. Those situations can become contentious. I have seen situations where the owner of the dog has said, "My dog couldn't have done that", but the farmer has witnessed it, and the dog may still be alive. If, in that situation, a farmer has corralled the dog or taken the dog into his possession, pending the arrival of a dog warden or something else, how do you envisage that panning out?

Those are the sorts of live situations that you could enter into, especially if the police are called and the owner says, "The farmer up the road has my dog". I am just trying to work through the real-life situations. The legislation might have unintended consequences, but those are the sorts of things that could wind up in court and could make headlines in the newspaper.

Mr Andrews: I will start, and then I will hand over to Darrin. There are specific requirements in the Dogs (Northern Ireland) Order 1983 to deal with dogs worrying livestock.

Mr McGlone: I understand that.

Mr Andrews: There are specific provisions allowing a farmer to do certain things to dogs when they have worried livestock or if he believes that they are about to worry livestock. We could probably write to you and set out what those are.

Darrin, do you want to pick up on the other question?

Mr Fullerton: The Bill covers that specific defence in relation to finding an unaccompanied dog or a dog that, you believe, is a stray. As long as you have complied with the requirements under the Dogs Order to report it to the police or the district council within 24 hours and have made the dog available for them to collect it, that is a defence; you will not be accused of abducting that dog.

Mr McGlone: What is the situation if, say, the owner of the dog invokes the legislation that we are talking about? Is it left to the police to make the call on it?

Mr Andrews: My view is that the Dogs Order would have primacy and the individual would be within their rights. It would have to be dealt with as two separate issues. First, the livestock-worrying issue would need to be dealt with and cleared off the decks, and, secondly, the PSNI would be brought in to determine whether there was an abduction offence.

Mr McGlone: I go back to the issue of targeted consultation. You would probably need to have some more beefed-up words with the police.

Mr Andrews: We totally agree; that is a fair point. The other issue — Darrin may wish to elaborate on it — is that, prior to the commencement order taking effect, we intend to engage with all significant stakeholders around the provisions in the Bill.

Ms Á Murphy: Patsy stole my thunder about the cats and microchipping, so I will move quickly on to resource issues. I noted that, according to the Clerk's paper, the Welsh Government had looked to extend the LCM over there but were unable to do so, "due to resource pressures". Do you know exactly what those resource pressures were? I assume that they were looking to take it through as an LCM, just as we are looking to do.

Mr Fullerton: There were resource pressures with the process of gaining the LCM. There was only one member of staff, and they were involved in other LCMs, so they did not have the capacity to take on this one as well. That does not prevent them from taking forward the legislation at a later date.

The Chairperson (Mr Elliott): Are there any other questions?

Mr Irwin: I want to touch on what Patsy said about sheep. Last week, three of my constituents — three farmers — had sheep killed on their farm. Each farmer knew the dogs involved, and they went to the police. Legislation is fine: the interpretation of the legislation is the issue. Most people are good at sidestepping legislation. They might say, "I didn't steal that dog. It came to me. I felt sorry for it, so I took it in". It is difficult to nail these things down tightly. I can see issues. Legislation for the sake of legislation is not a good thing. It needs to be meaningful and to work.

Mr Andrews: I appreciate that point. I take your point around dogs, but it is the law in Northern Ireland to have your dog microchipped and licensed, and the two must go hand in hand. Where a person has a dog in their possession, that dog should be microchipped and licensed. The ownership details of the dog must be recorded on the licence, and that should correlate with the information on the microchip. There is, therefore, already a safeguard in legislation, and it is up to the council to investigate any issues around non-licensing or missing microchips.

Mr Irwin: I understand that. The people concerned have some difficulty getting someone to act, I know that.

Miss McIlveen: I will be brief. Can you give some clarity on why the Department is not bringing forward legislation in response to the request on the microchipping of cats?

Mr Andrews: As I touched on earlier, the only part of the UK that has decided to microchip cats and make that a compulsory measure is England. Those regulations will come into force on 16 May, and the onus that that places on cat owners comes into force on 10 June. The Minister is aware of that,

and we, as officials, have indicated that, before we explore something similar here, it would be useful to see how that legislation plays out in England and what benefits and, in particular, welfare enhancements it brings to cat ownership there.

I am conscious that Cats Protection has written to the Minister a number of times and has met officials to strongly advocate mandatory cat microchipping in Northern Ireland. Again, it is set out in our DAERA code of practice for cats that owners should microchip their cats, albeit that is just guidance and places no statutory obligation on them to do so.

Miss McIlveen: The information in our packs from the welfare charities highlighted the issue of not having a single national database. Obviously, that is problematic. The fact that there is only a short piece of water between us and the mainland probably makes it easy to transport small pets. Is any representation being made by the Department here in response to those concerns?

Mr Andrews: Yes. It is important to note that DEFRA has recently published a consultation response on microchipping reforms for cats and dogs. One of the issues raised in that response is the prospect of a single database. DEFRA officials have indicated that that single point of access — I should not have said "single database"; it will be a single point of access — will, basically, sit as an interface over all the existing microchipping databases. That could be extended to include Northern Ireland. We are keen to explore that, because you are right to say that there is no requirement in Northern Ireland for pet owners to use a single database. In reality, the database in which your microchip ends up being registered probably depends on who microchips the pet in the first place, and different databases are in use in Northern Ireland. We are interested in looking at that single point of access to see whether it could be extended to Northern Ireland, because it would confer obvious benefits.

Miss McIlveen: Thank you.

The Chairperson (Mr Elliott): Thank you very much. There are no other questions. That was interesting. We appreciate that. We will be doing a report in which all the information will be recorded. Thank you for your time and for the presentation.