

Dog Breeding in Carmarthenshire

What is the purpose of this report?

The purpose of this report is to:

- Detail the current position in relation to the licensing of dog breeding in Carmarthenshire and the approach that is taken;
- Outline the level of pro-active regulation and enforcement that has taken place in the last couple of years, how our approach has evolved and the challenges we face;
- Consider how we continue to improve standards at licensed breeders and where best to target resources in future;
- Provide recommendations to support the above; and
- To ensure we comply with Scrutiny Procedure rule 10 (1) for this matter to be placed on the agenda.

What is the context?

There are currently 85 licensed dog breeders in Carmarthenshire, one of the highest in England and Wales. Around 10 of the licensed breeders have over 100 dogs. A further 43 illegal dog breeders have been highlighted by proactive internet monitoring. The authority has 2 dedicated officers to all elements of this work. This work includes the inspection and regulation of boarding kennels.

We have a number of regulatory responsibilities in relation to dog breeding establishments and covers:

- Licencing breeders who breed 3 or more litters in a rolling 12 month period;
- Licensing pet shops/dealers and investigate unlicensed pet shops/dealers; and
- Investigating welfare matters in relation to commercial breeding or running pet shops, whether licensed or not. (Welfare concerns relating to animals outside the commercial definition is the responsibility of the RSPCA).

Carmarthenshire has among the highest number of dog breeders in England and Wales. Some farmers have diversified and this has become an important part of their income which supports employment in some of our most rural areas. However some have expanded their business without sufficient investment in staffing and facilities.

Dog breeding is on the increase nationally. It is also now seen by some organised criminals as a high yield, low risk enterprise with a turnover of anything between £10 and £15 K per month.

It should also be recognised that there is a growing disconnect between certain breeders who see dogs as a commodity to trade and the public's perception in terms of animal welfare and what is reasonable. Whilst the law permits large scale dog breeding, many of the general public are against it in principle.

Some dog breeders sell on to a third party rather than direct to the public. They in turn sell on again to retailers all over the UK. With tens of thousands of dogs being traded from the county it makes it complex and resource intensive to monitor. Currently we have more dedicated resources than many counties but not nearly enough to meet public expectation of the service in regulating such a dynamic and complex industry.

New legislation known as Lucy's will mean that puppies and kittens can no longer be sold by a third party seller – such as a pet shop or commercial dealer – unless they have bred the animal themselves. Instead, anyone looking to buy or adopt a puppy or kitten under six months must either deal directly with the breeder or an animal rehoming center. Welsh Government have committed to introducing this law along with a review of the regulations. Whilst this will make the chain of sale easier to identify it will be complex for the service to monitor and may increase workloads in the service.

What approach do we currently take?

1. At first contact, the service seeks to support the breeder by issuing advice and guidance in order to improve standards. Initially breeders are provided with an opportunity to comply over a period of time through advice and guidance. This process has a number of benefits in terms of striking a balance between regulation and support. This approach helps us where refusals/revocations are challenged by the trader in court, the authority can demonstrate that sufficient opportunity and support has been provided in the first instance.
2. Compliance with the licensing conditions is evaluated by means of a visit to the premises every 12 months. Breeders who are found to be compliant with the licensing conditions do not receive any further visits within the twelve month period, other than reactive visits in response to any complaints / concerns received. Non-compliant breeders will receive further visits until compliance is reached or formal action is instigated.
3. For consistently compliant breeders we have re-categorised as medium risk. This resulted in these compliant breeders being visited every two years which then released resources to focus on unlicensed and high risk licensed breeders¹.
4. In 2018/19, 873 proactive internet visits / monitoring for dog breeders took place. This monitoring highlighted 43 illegal dog breeders, all of which are currently being investigated.

¹ In line with the Government's Hampton review of enforcement activity

5. Where support and guidance fails to deliver improvements enforcement priority is set by risk based assessment. The assessment of risk will be based on animal welfare, living conditions, compliance with the dog breeding regulations, licensing conditions and to Trading Standards law.
6. During 2018/19, nine license applications were refused, compared with thirteen short licenses issued for remedial work, one suspension of license and one refusal appeal successfully defended within court.

These actions are in addition to four prosecutions for illegal dog breeding and the seizure of 11 dogs.

During 2019/20 to date, a further 23 licenses have been refused, 14 on-going criminal investigations.

7. The Proceeds of Crime Act 2002 is seen as a key tool for the service to tackle illegal dog breeding. Where a criminal prosecution takes place the legislation allows the authority to apply to the court for confiscation of any monies made by illegal breeding and to reinvest into tackling such crime.

The service has, over the past two years, secured £275,000 in confiscations from illegal dog breeding.

What are the current issues in regulating dog breeding establishments?

1. Whilst there is a view by the court, that if no support or guidance is initially provided by the Council the Court is very likely to overturn the authority's decision and provide the applicants an opportunity to improve and continue trading. Such judgments are not only time consuming, but also costly in terms of the authorities legal fees. A further risk is that the court may direct the authority to pay the applicants legal fees, whilst also providing a possibility of litigation against the authority for loss of earnings.
2. By nature, illegal breeders have little or no regard for compliance with any kind of standard and is not a priority for these individuals. As such, animal welfare and living conditions can be worse and need to become higher priority for the animal health service.
3. Revocation of a dog breeding license is an invariably lengthy process, which also takes up a great deal of officer time. License revocation appeals routinely exceed 9 months. In practice an appeal to the Magistrates Court will allow a breeder to continue to trade until the appeal is decided. Due to these reasons and for the purpose of supporting the trade, the service uses short term licenses in order to raise standards and conclude any licensing issues more efficiently.

4. Licensing conditions are subject to interpretation, especially in Court e.g. Licensing Condition 9.9 this requires the segregation and disposal of waste water. In response to this condition, dog breeders often install soakaways that are not acceptable as they do not prevent waste and chemical leaching into farmland. Breeders argue that such soakaways are acceptable for human sewage and building regulations therefore should be acceptable for dog breeding.
5. Licence fees also require review to cover the increase in costs the service is incurring. They currently range from £448 to £763.
6. Difficulties also arise with the sometimes conflict of interest between a private vet's professional standards and the high potential revenue from a dog breeder. This may affect the vet's judgement in terms of breeding reports and vaccinations arrangements.
7. A Memorandum of Understanding has been in place with the RSPCA for over 10 years. This agreement provides an information sharing protocol and allocates responsibility for animal welfare. We continue to work with the RSPCA in addressing dog breeding issues
8. Case file preparation for criminal prosecution of breaches of licensing law and enforcement is an extremely time consuming exercise for officers. Investigation, to the point of court proceedings, can be in excess of 12 months, sometimes up to 24 months. This can mean a reduction of officer availability for routine inspections.

A case study example

- **06/2016:** Dog breeding license revoked. This was following the issuing of a short term license and failure to rectify faults;
- **06/2016 – 03/2017:** Dog breeder monitored in terms of sales and case file prepared for prosecution - illegal dog breeding, case submitted to court;
- **06/2017 – 08/2018:** Prosecution case proceeds through the court system – conviction for illegal dog breeding 08/18;
- **08/2018:** – Same dog breeder applies for a license. Authority refuses license;
- **08/2018 – 10/2019:** Dog breeder appeals the authorities refusal via the court;
- **10/2019:** License refusal appeal agreed within Magistrates court system; and
- **10/2019:** Illegal dog breeding investigation restarts.

How has our approach evolved?

As dog breeding crime developed through the involvement of organised crime groups, so has our approach to investigate the crime. This includes:

- It is now our standard practice that individual prosecutions are routinely investigated and conducted on behalf of Animal Health, Trading Standards and Financial Investigations as a whole;
- A decision to take legal action is not isolated to dog breeding issues alone, but also include offences under The Fraud Act 2006 / Consumer Protection from Unfair Trading Regulations 2008 (false documents, false descriptions), Forgery and Counterfeiting Act 1981 along with money laundering offences under The Proceeds of Crime Act 2002;
- Since 2017 significant resources have been released for officer development/training in enforcing the legal requirements relating to this trade sector, much financed through proceeds of crime, and received from specialist legal professionals in this field;
- Contracting a specialist expert witness vet to assist officers in routine inspection of particularly high risk dog breeders. This has resulted in officers becoming more confident in discharging their duties and in their interpretation of the regulations and licensing conditions, whilst also strengthening the Authorities position when contemplating any legal action; and
- Producing a standardised report document used by all vets.

What standards should we set for the future and why?

As dog breeding has evolved and increased we recommend the following should be considered moving forward:

Targeting high risk/illegal establishments:

- Increased focus on illegal dog breeding and associated animal welfare issues;
- Continuing the pro-active online monitoring to highlight instances of illegal dog breeding;
- Licensing of appropriate new breeders and enforcement action for those who wish to remain unlicensed;
- More focus on licensed breeders who do not deal with the public directly, i.e. supply agents, dealers and pet shops. There is little incentive for breeders who do not contract directly with the public to uphold standards;
- More focus on large scale licensed dog breeders where we have intelligence of non-compliance;
- Raising standards with high risk licensed dog breeders, who continue to barely exceed the licensing threshold;
- Implementing shorter licensing periods for higher risk establishments; and
- Continuing to pro-actively implement the Proceeds of Crime Act 2002 (2002) where appropriate.

Promoting better standards:

- Promoting the “Buy with Confidence Dog Breeder” scheme to prospective eligible Licensees in order to increase the desire of breeders to raise standards and become approved, along with consumers driving demand for such approval;

Licensing conditions and fees

- Reviewing of licensing conditions in order to clarify areas of interpretation, strengthening conditions to include best practice and more stringent recording requirements;
- Reviewing licensing fees in order to ensure costs of administering a license are fully recovered, whilst also ensuring that there are no financial disincentives to trade;

Working with partners:

- Better liaison with the RSPCA regarding welfare of dogs in non-licensed premises by means of the MOU which has been in place for over 10 years; and
- Liaising with the Royal College of Veterinary Surgeons in order to promote good veterinary practice and clarify required standards for licensing conditions.

Resources

- Reviewing the resources available to ensure that any priorities are achievable within designated timeframes.

The “Buy with Confidence” Scheme

Production of a comprehensive advice and guidance document for dog breeders.

Scheme advantages for dog breeders:

- *Promotion as an approved breeder on the Carmarthenshire “Buy with Confidence” website;*
- *A Trading Standards and Animal Health check-up before admission to ensure legal compliance;*
- *Use of the “Buy With Confidence” logo and description ‘Trading Standards Approved’;*
- *A differentiation from other breeders by means of promoting higher standards;*
- *Access to advice direct from the Authority - Trading Standards / Animal Health professionals; and*
- *Regular updates in relation to changes to the law;*

Scheme advantages for consumers:

- *Fully auditable, vetted and approved to a higher standard by Trading standards and Animal Health;*
- *Businesses commitment to operate in a legal, honest and fair way;*
- *Criminal record checks;*
- *Qualified, experienced and fully insured; and*
- *Monitored to ensure a high level of customer service and animal welfare.*

Eighteen breeders have, so far, been highlighted as being eligible to apply for the scheme. They will now be subject to stringent audit, in order to assess their suitability to become members of the scheme.

It is hoped that planned promotional work will increase the desire of breeders to raise standards and become approved, along with consumers driving demand for such approval.

The Committee are asked to note and comment on:

1. Our current approach in regulating dog breeding, and our planned future approach to high risk and illegal dog breeding establishments.
2. Increasing the level of unannounced visits outside of regulatory requirements to breeders based on informed risk assessments.
3. Publishing a new set of standards, promoting our “Buy with Confidence” scheme.
4. Reviewing current dog breeding licensing conditions to ensure clarity in approach.
5. Reviewing current licensing fees to ensure balance between cost incurred and disincentive to trade legally.
6. Reviewing what resources will be required in the future to regulate and enforce dog breeding standards.