



Northern Ireland  
Assembly

# Research and Library Service Bill Paper

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# Welfare of Animals Bill

**NIAR 344-10**

This paper provides an overview of the main proposals contained within the Bill. The paper also identifies those areas within the Bill which may prove to be contentious in the light of consultation responses received, views gathered from a variety of stakeholder events, and the Departmental responses to both.



## Key Points

The Welfare of Animals Bill has been developed to replace the 1972 Welfare of Animals Act (Northern Ireland) which currently governs issues dealing with animal welfare in Northern Ireland.

The Welfare of Animals Bill seeks to update animal welfare legislation in Northern Ireland by building and enhancing upon elements of the 1972 Act and by aligning welfare standards for farmed and non farmed animals.

The Bill also proposes the introduction of the following new measures.

- It will be an offence to fail to take steps to ensure the welfare of animals for which a person is responsible;
- The docking of dog tails will be prohibited;
- The transfer of animals by way of sale or prize to people under 16 will be prohibited;
- The abandonment of an animal will be an offence whether an animal is likely to suffer or not;
- Provisions relating to animal fights will be strengthened;
- An inspector or constable will have the power to take into their possession an animal which is suffering or likely to suffer;
- A person can be deprived of possession or ownership of an animal on conviction for certain specified offences;
- A person can be disqualified from participating in animal related activities following conviction for certain offences;
- Provision has been made to make regulations for the purpose of amending both the definition of an animal or extending the application of the Bill to animals in foetal or embryonic form – should these be required in the future;
- Requiring certain animal activities to be licensed or registered;
- Prohibiting the keeping of certain animals;
- Extending the provision enabling the detention of vessels so that it includes aircraft and hovercraft.

Based upon the analysis of public consultation responses and the comments from a number of stakeholder workshops it would appear that most respondents and participants were generally happy with most elements of the proposed Bill.

There are however a number of proposals within the Bill which are potentially contentious largely due to the lack of specific detail within the Bill itself, and a lack of detail regarding any guidance or subordinate legislation that will either accompany or follow the Bill. These issues are explored within this paper.



## Executive Summary

Whilst there is evidence for the good treatment of animals in both domestic and agricultural settings within Northern Ireland, it is impossible to get away from the fact that there continue to be high profile and less well known instances of animal cruelty throughout our community.

Against this background the Department of Agriculture and Rural Development (DARD) has brought forward the Welfare of Animals Bill which was formally introduced to the Northern Ireland Assembly on the 21<sup>st</sup> June 2010 following public consultation in 2006 and a series of stakeholder meetings in 2009.

As well as building on elements of the 1972 Welfare of Animals Act the Bill proposes the creation of a number of new legislative measures as follows:

- It will be an offence to fail to take steps to ensure the welfare of animals for which a person is responsible – this will include causing physical suffering through either a positive act or by an omission;
- The docking of dog tails will be prohibited – but there will continue to be provision for the removal of dew claws in dogs and tail docking in relation to sheep and pigs under certain criteria;
- The transfer of animals by way of sale or prize to people under 16 will be prohibited;
- The abandonment of an animal will be an offence whether an animal is likely to suffer or not;
- Provisions relating to animal fights will be strengthened – these will include making it an offence to make or accept a bet on an animal fight, train an animal to fight and to record, supply or possess any recording an animal fight without due reason;
- An inspector or constable will have the power to take into their possession an animal which is suffering or likely to suffer – local councils will also be able to appoint inspectors to carry out animal welfare enforcement;
- A person can be deprived of possession or ownership of an animal on conviction for certain specified offences;
- A person can be disqualified from participating in animal related activities following conviction for certain offences;
- Provision has been made to make regulations for the purpose of amending both the definition of an animal or extending the application of the Bill to animals in foetal or embryonic form – should these be required in the future;
- Requiring certain animal activities to be licensed or registered – which will have the potential to introduce regulation in the form of subordinate legislation to areas such as dog breeding and circus animals;
- Prohibiting the keeping of certain animals;

- Extending the provision enabling the detention of vessels so that it includes aircraft and hovercraft.

Consideration of the consultation views suggests that the proposed Bill has been generally well received.

There are however a number of proposals within the Bill which are potentially contentious largely due to the lack of specific detail within the Bill itself and a lack of detail regarding any guidance or subordinate legislation that will either accompany or follow the Bill. These areas, which are examined further within this paper relate to:

- Definition of what constitutes an “animal” – an opportunity for the advocacy of additional codes of best practice without regulation;
- Definition/detail of commonly domesticated animals in Northern Ireland;
- Tail docking and dew claw removal in dogs;
- Tail docking in other animals – inconsistencies;
- Enforcement of the proposals within the Bill – skills, costs and cost recovery;
- Enforcement of the measures within the Bill- definition of inspectors;
- Five freedoms for animal welfare – possible inclusion.

# Contents

- Key Points ..... 1
- Executive Summary ..... 3
- Contents..... 5
- 1 Introduction ..... 7
- 2. Context for proposed changes to Animal Welfare measures ..... 8
- 3. Main elements of the Bill ..... 8
- 4. Possible areas of contention within the Bill ..... 9
- 4.1 Lack of specific detail within the Bill ..... 9
- 4.2 Definition of what constitutes an “animal” – an opportunity for the advocacy of additional codes of best practice without regulation ..... 10
- 4.3 Definition/detail of commonly domesticated animals in Northern Ireland..... 10
- 4.4 Tail docking and dew claw removal in dogs ..... 11
- 4.5 Tail docking in other animals – inconsistencies ..... 14
- 4.6 Enforcement of the proposals within the Bill – skills, costs and cost recovery..... 15
- 4.7 Enforcement of the measures within the Bill – definition of inspectors ..... 16
- 4.8 The regulation of puppy farms/dog breeding establishments ..... 17
- 4.9 Five freedoms for animal welfare – possible inclusion ..... 17





# 1 Introduction

The welfare of animals within Northern Ireland is currently governed by the Welfare of Animals Act (Northern Ireland) 1972. The 1972 Act dealt with issues relating to animal welfare under three distinct sections as follows:

- livestock on agricultural land;
- control of pet shops, animal boarding, riding and zoological establishments
- protection of animals.

The 1972 Act related to the welfare of vertebrate animals and included birds, fish and reptiles under its auspices.

The regulation of the 1972 Act was the responsibility of appointed inspectors/officers from the Veterinary Division within what is now Department for Agriculture and Rural Development, and the RUC/PSNI also played a role particularly in relation to section 3 of the Act and the enforcement of powers in respect of cruelty and unnecessary suffering offences against any animal.

The 1972 Act whilst mainly focussing on welfare issues relating to farmed animals, also provided the only mechanism by which to combat cruelty to non-farmed animals including horses, cats and dogs.

In late 2006 the Department for Agriculture and Rural Development instigated a public consultation exercise aimed at determining how issues pertaining to animal welfare could best be addressed. This move was made in recognition of the fact that the 1972 Welfare of Animals Act was over 40 years old and had in some understandable respects failed to foresee, take account of, or keep pace with particular scientific and other developments in the area of animal welfare.

Following her appointment as Minister for Agriculture and Rural Development in 2007, Michelle Gildernew built upon the previous public consultation exercise by engaging with a range of stakeholders to gather their views on animal welfare issues and potential solutions. These stakeholder meetings culminated in an animal welfare stakeholder workshop attended by representatives from 21 animal welfare and stakeholder organisations which was held in September 2009.

Having considered the comments made as a result of both the public consultation and stakeholder meetings The Minister decided to proceed with the development of a new Welfare of Animals Bill to replace the 1972 Act and in so doing update and strengthen the powers available for the protection of animals.

The draft Bill had its first reading in the Assembly on the 21<sup>st</sup> June 2010.

## 2. Context for proposed changes to Animal Welfare measures

Whilst there are no freely available statistics detailing the actual total number of animal welfare cases or convictions in Northern Ireland, it is fair to say that the issue is very topical, based upon reports within the local and national press over the last few years.

Notable examples of animal cruelty over the last few years that have made a major media impact have included the discovery of a puppy farm near Katesbridge in January 2006 containing 37 dogs in various states of deprivation, subsequently 12 dogs had to be put down. In addition, and also within the Banbridge District Council area, in September 2008 the USPCA removed over 100 animals from the Little Acre Open Farm<sup>1</sup> in various states of neglect while they also discovered the rotting carcasses of around 60 animals.

January of this year saw both DARD officials and USPCA staff discovering significant cases of animal cruelty and neglect involving cattle and horses in a number of different locations across counties Down and Armagh<sup>2</sup>.

Whilst there is no verifiable evidence to suggest that cases of animal cruelty and neglect are on the rise in Northern Ireland the instances cited previously indicate that this is very much a live issue impacting upon both farmed and non farmed animals

## 3. Main elements of the Bill

The Welfare of Animals Bill contains 60 clauses and 5 schedules and is presented in 6 parts. The substantive elements of the Bill in terms of changes to the 1972 Act are contained within the first 18 clauses and schedule 1.

In broad terms the new Bill aligns welfare standards for farmed and non farmed animals.

As well as building upon and enhancing certain elements of the 1972 Act the Bill will also introduce the following measures:

- It will be an offence to fail to take steps to **ensure the welfare of animals** for which a person is responsible – this will include causing physical suffering through either a positive act or by an omission;
- The **docking of dog tails** will be prohibited – but there will continue to be provision for the removal of dew claws in dogs and tail docking in relation to sheep and pigs under certain criteria;
- The transfer of animals by way of sale or prize to **people under 16** will be prohibited;

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<sup>1</sup> [USPCA's sickening find at Open Farm, Banbridge Leader, 30th September 2008](#)

<sup>2</sup> [Inquiries continue into livestock deaths, Newsletter, 28th January 2010](#)

- The **abandonment** of an animal will be an offence whether an animal is likely to suffer or not;
- Provisions relating to **animal fights** will be strengthened – these will include making it an offence to make or accept a bet on an animal fight, train an animal to fight and to record, supply or possess any recording an animal fight without due reason;
- An inspector or constable will have the power to take into their possession an animal which is suffering or likely to suffer – local councils will also be able to appoint inspectors to carry out animal welfare **enforcement**;
- A person can be **deprived of possession** or ownership of an animal on conviction for certain specified offences;
- A person can be **disqualified** from participating in animal related activities following conviction for certain offences;
- Provision has been made to make regulations for the purpose of amending both the **definition of an animal** or extending the application of the Bill to animals in foetal or embryonic form – should these be required in the future;
- Requiring certain animal **activities to be licensed or registered** – which will have the potential to introduce regulation in the form of subordinate legislation to areas such as dog breeding and circus animals;
- **Prohibiting** the keeping of certain animals;
- Extending the provision enabling the **detention of vessels** so that it includes aircraft and hovercraft.

An overview of the individual clauses contained within the Bill is contained within the Explanatory and Financial memorandum which accompanied the Bill and this document can be accessed from the following Northern Ireland Assembly website at the following address

[http://www.niassembly.gov.uk/legislation/primary/2009/niabill28\\_09\\_efm.htm](http://www.niassembly.gov.uk/legislation/primary/2009/niabill28_09_efm.htm) .<sup>3</sup>

## 4. Possible areas of contention within the Bill

Whilst many of the elements within the Welfare of Animals Bill appear sound and reasonable, there are nonetheless a number of areas and issues within the Bill around which there is a lack of consensus based upon the findings from the consultation and stakeholder workshop exercises.

### 4.1 Lack of specific detail within the Bill

As a general point, and before dealing with specific issues, it should be noted that many of the concerns identified in relation to the Bill by stakeholders and consultees alike arose from the lack of specific detail within the Bill. Whilst recognising that one of the functions of the Bill is to enable the creation of subordinate legislation further down

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<sup>3</sup> [Welfare of Animals Bill, Explanatory and Financial Memorandum, Northern Ireland Assembly website](#)

the line to deal with specific issues, and that as a result the lack of specific detail is deliberate, it should be recognised that this situation appears to have been a source of frustration for many interested parties. With this mind it would be useful for the Department, at the earliest opportunity, to set out both a timetable and a methodology for engaging stakeholders in the development of effective subordinate legislation.

#### 4.2 Definition of what constitutes an “animal” – an opportunity for the advocacy of additional codes of best practice without regulation

The majority of consultee and stakeholder responses agreed with the proposed definition of an animal within the Bill as being a “*vertebrate other than man*”. Some respondents and participants were however keen to see invertebrates and the embryonic, foetal or larval forms of vertebrates included. In recognising that **Clause 1** within the bill provides an option for the extension of the definition of an animal to cover both of these areas, pending new scientific evidence, it may be appropriate for the Department to publish more guidance on best practice pertaining to the welfare of these forms of animal life which are currently not covered under the Welfare of Animals Bill.

**Clause 16** within the Bill which covers codes of practice for animal welfare may provide just such an opportunity for a proactive approach to animal welfare. DARD already has codes of recommendation for the welfare of livestock such as cattle<sup>4</sup>. A number of consultees and stakeholders for example raised the specific issue of the need to legislate for cephalopods and decapod crustaceans. The most quoted instance of an animal welfare issue here related to the preparation of crabs and lobsters for eating by the means of being boiled alive. In instances such as these the Bill and any subsequent subordinate legislation could make reference to a more humane and animal welfare considerate method for killing crabs and lobsters. The RSPCA has produced such guidance in the form of a fact sheet<sup>5</sup> that could easily be referred to without requiring regulation.

#### 4.3 Definition/detail of commonly domesticated animals in Northern Ireland

**Clause 2** within the Bill sets out the criteria for the definition of what is a “*protected animal*”. Under this clause it is proposed that any animal of a kind which is “*commonly domesticated within Northern Ireland should be a protected animal*”. As pointed out by a number of consultees and stakeholders there is a need to set out in more detail those animals which qualify as being domesticated.

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<sup>4</sup> [Northern Ireland Code of Recommendations for the welfare of livestock; Cattle, DARD, 2005](#)

<sup>5</sup> [Humane electrical stun/killing of Crustacea, RSPCA fact sheet](#)

The creation of such a list would also align the Welfare of Animals Bill with provisions under the Dangerous Wild Animals (Northern Ireland) Order 2004<sup>6</sup>. A number of stakeholders and consultees raised the issue of the keeping of primates as pets and questioned whether primates could be referred to as domesticated animals. The Dangerous Wild Animals Order sets out those animals that should be classed as dangerous wild animals within schedule 2 of the order. This list includes many sub species of primate such as the chimpanzee, gibbon and tamarin to name but a few. As such, and at face value, this would appear to exclude named primates from being classed as domesticated animals, but this issue could once again be addressed through the production of the aforementioned comprehensive list detailing those animals which are classed as commonly domesticated.

#### 4.4 Tail docking and dew claw removal in dogs

The issue of tail docking in dogs is undoubtedly the most controversial element within the Bill based upon the comments made by consultees and stakeholders. The Bill as it currently stands proposes a complete ban on the docking of dog tails unless the tail is removed for medical reasons or to prevent danger to the life of a dog and this is set out within **Clause 6**.

The proposal for a complete ban would see Northern Ireland being aligned with the current legal position around tail docking in Scotland and the proposed position within the Republic of Ireland. The situation regarding England and Wales is not as clear cut due to the fact that in general terms the removal of dog's tail in whole or part is an offence but this does not apply if the dog is a certified working dog that is not more than 5 days old. Under the Animal Welfare Act 2006, a dog is classed as a working dog within England and Wales if it is verified as being so by a vet. To reach this status the dog needs to fulfil two conditions as set out in Clause 6, points 5 and 6 within the Act. In broad terms these conditions are met if the dog is a police or military dog, involved in lawful pest control, emergency rescue or lawful hunting. The definition employed is also not breed specific.

Much of the contention around this particular issue is linked to the often conflicting and in some instances contradictory evidence provided by those who both advocate and oppose tail docking in dogs. There is not an extensive catalogue of evidence either advocating for or opposing the docking of dog tails. Advocates and opponents tend to refer to two 'key' pieces of research when presenting their case and Table 1 below provides a brief overview of these two studies.

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<sup>6</sup> [Dangerous Wild Animals \(Northern Ireland\) Order, 2004](#)

Title of Research	Date completed	Methodology	Main findings
<i>'Risk factors for tail injuries in dogs in Great Britain'</i> , G.Diesel, D.Pfeiffer, S. Crispin, D.Brodbelt <sup>7</sup>	2010	Questionnaire sent to 224 owners of dogs with tail injuries and 799 owners whose dogs had no tail injuries. Dog owner details were obtained from a stratified random sample of veterinary practices throughout GB	<ul style="list-style-type: none"> <li>• Weighted risk of tail injuries was 0.23 percent/year;</li> <li>• Risk among working dogs was 0.29 percent;</li> <li>• Risk among non working dogs was 0.19 percent ;</li> <li>• Variation in risk of tail injury ;depending on breed – highest risk being English springer spaniel (0.45 percent) and lowest risk Jack Russell terrier (0.03 percent);</li> <li>• Overall risk of tail injuries is low.</li> </ul>
<i>'Tail Injuries of Shorthaired German Pointer Dogs Born in Sweden in 1989'</i> , Gunilla Strejffert on behalf of The Breed Council – German Shorthaired Pointer <sup>8</sup>	1992	Interview investigation carried out among 53 litters of German Pointers registered during 1989.  Dogs were then tracked in 1990 and 1991 to establish the number of tail injuries incurred.	<ul style="list-style-type: none"> <li>• Autumn 1990 – dogs were now 1-1.5 yrs old and 27% had suffered tail injuries;</li> <li>• Autumn 1991 – dogs were 2-2.5 yrs old – 35% had suffered from tail injuries;</li> <li>• Over 1/3 of dogs had tail injuries.</li> </ul>

**Table 1: Overview of main research quoted in relation to tail docking in dogs**

As can be seen from table 1 the evidence either for or against tail docking is primarily based upon the two studies identified. Given the fact that the studies are used to either advocate for or against the docking of dog tails table 2 below sets out the caveats that need to be considered when referring to either of these pieces of research as providing a definitive case either for or against tail docking in dogs.

<sup>7</sup> [Risk factors for tail injuries in dogs in Great Britain, G. Diesel, D. Pfeiffer, S. Crispin, D. Brodbelt, 2010](#)

<sup>8</sup> [Council of Docked Breeds Website](#)

Research	Caveats regarding use of findings
'Risk factors for tail injuries in dogs in Great Britain', G.Diesel, D.Pfeiffer, S. Crispin, D.Brodbelt <sup>9</sup>	<ul style="list-style-type: none"> <li>• Only involved a small number of working dogs due to random sampling and selection of veterinary practices – could reduce the chance of finding a significant association between work and tail injuries;</li> <li>• Potential for bias in the representativeness of the sample selected – may not fully reflect the GB dog population due to national variation and fact that not all tail injuries may have been seen by a vet;</li> <li>• Response rate of veterinary practices and dog owners was relatively low;</li> <li>• Research may have been completed too soon after the ban on tail docking and as such may have underreported tail injuries in breeds which were previously docked - ban came in early 2007 and research was completed between March 2008 and March 2009;</li> <li>• Only conducted in GB – consideration should be given to possible differences in dog populations between GB and Northern Ireland.</li> </ul>
'Tail Injuries of Shorthaired German Pointer Dogs Born in Sweden in 1989', Gunilla Strejffert on behalf of The Breed Council – German Shorthaired Pointer <sup>10</sup>	<ul style="list-style-type: none"> <li>• Limited sample size of 53 litters and the owners of the litters were self selecting – open to bias;</li> <li>• Lack of comparison between docked and undocked dogs;</li> <li>• Did not compare animals before and after the tail docking ban;</li> <li>• No statistical comparisons to test the validity of the conclusions;</li> <li>• Only conducted in Sweden – consideration should be given to possible differences in dog populations between Sweden and Northern Ireland.</li> </ul>

**Table 2 : Caveats regarding use of research findings relating to tail docking in dogs.**

The overwhelming message to be drawn from this situation is that there is a real need for further objective research using a much larger sample of dogs to determine whether tail docking does significantly reduce the risk of serious tail injury amongst dogs in general and certain species of working dog specifically. It would also be useful for such research to either include or focus exclusively on dogs in Northern Ireland. The evidence that currently exists, whilst undoubtedly interesting and thought provoking, makes any decision around the advocacy or banning of tail docking in dogs very difficult.

It is also interesting to note that the removal of dew claws from dogs prior to the opening of their eyes will continue to be permissible (schedule 1 of the Bill) despite the fact that the evidence either for their retention or removal could accurately be described as sparse and largely anecdotal. For some dog owners and vets the removal of dew

<sup>9</sup> [Risk factors for tail injuries in dogs in Great Britain, G. Diesel, D. Pfeiffer, S. Crispin, D. Brodbelt, 2010](#)

<sup>10</sup> [Council of Docked Breeds Website](#)

claws protects the dog from injury whilst others advocate for their retention on the basis that removal may contribute to arthritis in later life. Given that the practices of tail docking and dew claw removal generally occur at the same point early in a puppy's life, it seems inconsistent to ban one procedure on questionable evidence whilst allowing another to continue where there is no empirical evidence.

#### 4.5 Tail docking in other animals – inconsistencies

Some stakeholders and consultees raised the issue of inconsistency in relation to the docking of tails in different animal species. The proposals within the Welfare of Animals Bill continue to allow for the docking of pig and lamb tails up to a certain age for example. The rationale for such allowances appears to be on the basis of good animal husbandry. Tail docking in pigs, sheep, horses and dairy cattle is common across many parts of the world as revealed by a paper completed by the Department for Environment, Food and Rural Affairs as part of a review of the scientific aspects and veterinary opinions relating to tail docking in dogs<sup>11</sup>.

There has however been research completed in recent years which seems to suggest that allowing tail docking in lambs and pigs is questionable given that it causes pain to the animal and may not reduce risks to animal health. With regard to the issue of pain, research conducted in New Zealand by Peers et al<sup>12</sup> and published in the New Zealand Veterinary Journal in 2002, revealed that newly docked and castrated lambs experienced a significant increase in blood pressure and heart rate and that these levels remained significantly raised for at least four hours – indicative of stress and pain.

With regards to improving animal health, whilst tail docking in lowland grazing sheep is generally accepted as an effective means of preventing fly strike, research completed by Morris<sup>13</sup> in 2000 reported the successes that organic farmers had in addressing the incidence of fly strike by placing flytrap bins in paddocks and regularly inspecting stock. Similarly, the docking of pig tails is generally undertaken on the premise that removal prevents tail biting, and as a result prevents infection and ill effects on pig health. There is however evidence which would suggest that tail docking is not the only way to prevent tail biting. A NADIS Pig Health Update from October 2007<sup>14</sup> for example, highlights the fact that other options such as providing straw, chewable toys and the introduction of dietary supplements such as salt can also prevent tail biting.

The question which needs to be asked here is what the motivation is for banning tail docking? If the major motivation for banning tail docking in this Bill, or any other

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<sup>11</sup> [A review of the scientific aspects and veterinary opinions relating to tail docking in dogs. Briefing paper, Animal Welfare Veterinary Team, DEFRA, 5th August 2002.](#)

<sup>12</sup> Peers, A., Mellor, D.J., Wintour, E.M. and Dodic, M. (2002) Blood pressure, heart rate, hormonal and other acute responses to rubber ring castration and tail docking of lambs. *New Zealand Veterinary Journal* 50:2, 56-62

<sup>13</sup> Morris, M.C. (2000) Ethical issues associated with sheep fly strike research, prevention and control. *Journal of Agricultural and Environmental Ethics* 13, 205-217.

<sup>14</sup> [NADIS Pig Health - October 2007, Tail Biting, British Pig Executive](#)



legislation for that matter, is the prevention of pain in animals then it should stand to reason that there should surely be a blanket ban across all animal species given the evidence quoted. In such a scenario continuing to allow the docking of sheep and pig tails whilst banning the docking of dog tails would suggest the existence of a hierarchy of animal pain, with the infliction of pain on dogs being deemed unacceptable whilst pain in sheep and pigs is acceptable. Due to the fact that there is no scientific evidence to suggest that such a hierarchy exists between either domesticated or farmed animals there should also be no hierarchy based upon social convention.

Equally, it would appear to be inconsistent to ban tail docking in dogs and continue to allow the practice in sheep and pigs if the argument is that tail docking in pigs and sheep promotes better animal health. This argument is challenging given the conflicting messages emerging from the evidence on tail injuries in dogs referred to in the previous section of this paper and that presented in relation to sheep and pigs here highlighting alternatives to tail docking that can improve animal health or reduce the risk of disease.

#### 4.6 Enforcement of the proposals within the Bill – skills, costs and cost recovery

Part 4 of the Welfare of Animals Bill deals with the issue of enforcement of animal welfare. Building upon the previous legislation the powers of enforcement will be the responsibility of either the PSNI or inspectors appointed by either DARD or one of Northern Ireland's current 26 District Councils. Councils are not legally required to appoint animal welfare inspectors but can choose to do so. In this respect the Bill provides permissive powers but does not place a statutory duty on councils to enforce the legislation as it relates to non farmed animals. The guidelines in relation to how councils could fulfil this function do not currently exist, but any subordinate legislation or guidance that does emerge on this matter needs to take account of concerns raised by consultees and stakeholders.

These concerns around the ability of councils to fulfil the animal welfare enforcement role could broadly be grouped under the two headings of skills and resources. With regard to skills, there is a real need for guidelines around the role and responsibilities for council based animal welfare inspectors which will also need to be applied on a consistent basis by those councils who decide to fulfil this function. Training may also be required to ensure that appointed inspectors are up to speed and standard in performing this role and questions remain over whether DARD, who seem ideally placed to do so, will either fund or deliver this training.

Turning to the issue of resources there appear to be no proposals in the Bill for additional resources from central to local government for either the training of inspectors, or the actual carrying out of enforcement duties and bringing prosecutions. All of these things will cost unknown amounts of money to deliver and it is hard to see how councils could perform any of these duties without some form of direct support

from central government or through the creation of a mechanism/s to enable income generation as a legitimate part of the enforcement and prosecution processes.

The issue of income generation for councils could potentially be addressed by mirroring proposals in the Dogs (Amendment) Bill which is currently at committee stage within the Assembly. Clause 12 within the Dogs (Amendment) Bill<sup>15</sup> proposes that any fixed penalties in relation to dogs are payable to the local district council rather than the courts. Whilst the proposals contained within the Welfare of Animals Bill relate to fines rather than fixed penalties there may be merit in exploring the concept of a system which would enable councils to collect either a proportion or all of fine income relating to animal welfare cases. Additionally, the creation of improvement notices as proposed in the Bill might provide a means whereby a fixed penalty could be issued upon the issuance of an improvement notice, with the income being collected by the local council.

#### 4.7 Enforcement of the measures within the Bill – definition of inspectors

Part 4 of the Welfare of Animals Bill sets out the proposed powers of enforcement that will be available to address issues of animal welfare. The clauses contained within this part of the Bill make it clear that the power of enforcement either lies with an officer (PSNI) or an inspector which is defined as someone appointed by either the Department or a council. A number of stakeholders and consultees were concerned that such a definition would limit the potential for other organisations such as animal charities to be pro active on animal welfare issues. The USPCA for example, who participated in the stakeholder workshop that took place on the 17<sup>th</sup> September 2009, felt that the proposals as they currently stand, could delay the removal of an animal from circumstances in which it was suffering as an approved inspector(council) or officer(police) are required to remove any such animal. The USPCA also raised concerns around the fact that the PSNI are currently not dealing with many of the animal welfare cases reported to them, and that this situation may only get worse if the new Welfare of Animals Bill, when enacted, identified a wider number of animal welfare abuses.

In these circumstances, and given the fact that councils will not be obliged to appoint animal welfare inspectors, there may be a need to ensure that inspectors can be appointed from a wider pool than simply the Department or Council. Another alternative could be to enable the Department or Councils to appoint, or even sub contract, inspectors from organisations such as the USPCA. Subordinate legislation could include such provision but would also need to ensure that inspectors appointed in such a manner where required to have the same skills and training as inspectors appointed by the Department or councils.

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<sup>15</sup> [Dogs \(Amendment\) Bill, 2010](#)

## 4.8 The regulation of puppy farms/dog breeding establishments

Dog breeding establishments, and more particularly the issue of puppy farming, are undoubtedly high in the public consciousness as a result of a number of high profile cases of animal welfare abuse over the last few years. Concerns around the regulation of dog breeding featured prominently within the comments made by stakeholders and consultees.

Clauses 11, 12 and 13 within the Welfare of Animals Bill provide a means by which activities including dog breeding can be regulated, licensed or banned. In line with previous comments in this paper, whilst the Bill offers the opportunity to address many of the concerns raised around dog breeding, it will be for any subordinate legislation subsequently developed to actually address the issue. With this in mind the Department needs to set out its intentions for subordinate legislation at the earliest opportunity, and given the interest shown, consideration should be given to legislation relating to dog breeding.

Work done in Wales by the Welsh Assembly's Dog Breeding Review Group<sup>16</sup> sets out draft guidance on licence conditions for dog breeders. This document covers a range of issues including accommodation and environment, diet and nutrition, normal behaviour, health and welfare and record keeping, and as such could provide a useful starting point for subordinate legislation here. In addition the recent Independent Inquiry into Dog Breeding<sup>17</sup> completed by Professor Patrick Bateson from the University of Cambridge and Commissioned by the Kennel Club and the Dogs Trust makes a number of key recommendations around how dog breeding can be improved under the three broad headings of inbreeding and inherited diseases, poor or negligent management and care, and inadequacies in the buying and selling of dogs.

## 4.9 Five freedoms for animal welfare – Brambell Report

Further proposals in Clause 9, which mirror the measures contained within Clause 9 of the enacted Animal Welfare Act adopted in England Wales in 2006<sup>18</sup>, were deemed by some to fall short of the standard set through the creation of the 'Five Freedoms' for Animal Welfare that have emerged from the Brambell report in 1965<sup>19</sup>. The 'five freedoms' that emerged from Brambell's report and subsequent work by the Farm Animal Welfare Council<sup>20</sup> are generally accepted as the benchmark for animal welfare standards and are as follows:

- **Freedom from hunger and thirst** – by ready access to fresh water and diet to maintain full health and vigour;

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<sup>16</sup> [Draft guidance on licence conditions for dog breeders incorporating Animal Welfare Act 2006 "Five Needs". Dog Breeding Review Group, Welsh Assembly Government, 2010](#)

<sup>17</sup> [Bateson, P. \(2010\) Independent Inquiry into Dog Breeding, Cambridge University](#)

<sup>18</sup> [Animal Welfare Act, 2006](#)

<sup>19</sup> Brambell Report, 1965. Report of the Technical Committee to enquire into the welfare of animals kept under intensive livestock husbandry systems. Her Majesty's Stationery Office, London, UK.

<sup>20</sup> [Farm Animal Welfare Council Website](#)

- **Freedom from discomfort** – by providing an appropriate environment including shelter and a comfortable resting area;
- **Freedom from pain, Injury or disease** – by prevention or rapid diagnosis and treatment;
- **Freedom to express normal behaviour** – by providing sufficient space, proper facilities and company of the animal's own kind;
- **Freedom from fear and distress** – by ensuring conditions and treatment which avoid mental suffering

Whilst the measures for promoting and ensuring animal welfare contained within both the enacted Animal Welfare Act and proposed Welfare of Animals Bill are undoubtedly loosely based upon these 'Five Freedoms' it may be appropriate to make explicit reference to the five freedoms.