



Waterside Action Group – Say “NO” to Puppy Farms

Sale and Supply of Pet Animals

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Introduction

Our Group was formed in an effort to end the suffering of animals, which were being bred and kept in very poor conditions. This has become extended in that a number of animals sold end up with varying problems and issues. Some of these issues have surrounded various aspects of the sale of puppies to the public. With this in mind we believe the current legislation is both inappropriate and ineffective.

Current Situation

At present the Sale of Goods Act is the legislation most currently used when there are issues surrounding the sale of puppies. Many of these issues are: -

- Puppies are sold with pre-existing veterinary health problems
- Contracts of sales are often not relevant to the puppy sold
- When problems arise the vendor refuses to compensate for the financial burden encountered.
- Many problems arise late in the first year of sale and the many agencies tasked with enforcing this legislation are claiming that the law of time-bar prevents action.
- A number of vendors declare themselves bankrupt and thus there are no funds or means for obtaining compensation.
- The dates of birth and vaccination certificates offer dates that are not compatible with the animal being sold.

Along with the foregoing the Trade Description Act also comes into effect for the following reasons: -

- A number of puppies sold are not of the breed claimed
- In some cases, as with the Sale of Goods Act, the documents supplied bear no relevance to the animal sold.
- As before many agencies claim that time-bar prevents them from enforcing any breaches of the legislation.

We have also discovered that the Business Advertisements Disclosure Order is also being breached as follows: -

- Many adverts do not disclose that the vendor is a Breeder/Dealer/Rearer
- Adverts are often published by use of mobile phone only and often it is difficult for the purchaser to locate the true vendor of the puppies.

Further to the foregoing there are also a number of breaches of the current Breeding and Sale of Dogs legislation and Pet Animals Act in that: -

- A number of sales take place in car parks which are not part of where the relevant licence is issued
- Puppies are delivered to the purchaser by an intermediary thus again concealing the true vendor in respect of the sale of the puppies
- Lack of disclosure, many are sold under the pretence that the puppy has been bred on the premises when in fact they have been brought to the premises from a third party where they were bred
- Again documentation relevant to the contract of sale are misleading, possibly false or could even be described as forged or fraudulent

As well as the foregoing a number of incidents could be found to be in breach of the Scottish Common Law of Fraud, covered by legislation in the remainder of the UK.

However what is not considered is the fact that the Sale of Goods Act and Trade Description Act were brought in to deal with the supply of goods to the public. The unfortunate problem is the fact that these 'goods' that we are discussing are living breathing animals, which are capable of suffering pain and forming bonds with the purchasers. The legislation allows for the vendor to take back the 'goods' and give a full refund. This horrifies many of the purchasers as they do not wish the animal to return to the circumstances from whence it came or they and their family have formed a 'loving' relationship with the said 'goods'. Clearly the same cannot be said for other goods such as kettles and toasters and the legislation is very relevant for them but obviously not for animals.

Whilst we consider the foregoing one major problem is the fragmentation of enforcement. The agencies involved in these matters are local authority Trading Standards Department and Environmental Health, The Scottish SPCA and finally the various Police Forces throughout the UK. All of these agencies tend to pass complaints between each other claiming lack of jurisdiction. In respect of the Scottish SPCA they are a charity who have no authority to enforce the law merely report it.

It can be clearly seen that there is a great need for a united investigation of the trade, which seems to continue unchecked free from any form of regulation. In a number of these premises it has been alleged that there could be VAT and Tax evasion or even VAT fraud but yet again another agency, HM Revenue and Customs Agency, seems to avoid investigation of the monetary transactions being carried out.

It should be noted that at present the source of many of the litters that are offered for sale originate in Eire being transported via Northern Ireland. Agencies in Ireland have suggested that they have proof of links to some of the more unsavoury illegal organisations there. Money laundering and Drug smuggling have also been alleged but without a deep, thorough and intense investigation these can only be described as allegations although the source of these allegations appear to be beyond approach.

Proposals

From the information in the preceding paragraphs there are many problems that require to be addressed. With this in mind we would like to proffer the following proposals. It should be noted that these are proposals, which should be taken as the commencement of discussions and not as hard and fast rules. It should also be noted that we wish many of the other agencies involved in these matters to put forward suggestions, amendments or even hard and fast proposals based on the problems that they have either encountered or foreseen.

Time-bar:

At present the law is set at one year from date of purchase. This has been set aside by courts and taken from date of discovery however the enforcement agencies do not follow this. As such we would propose that the 'time-bar' should commence from date of discovery. For what reason you may ask? Well simply put when you purchase a puppy it may bear a resemblance, or not, to the species being purchased and this is not apparent until the animal is older or until someone with some knowledge of the breed reveals that the animal is not what it seems. Further genetic and health problems do not reveal themselves until later in life. Many reputable breeders will test to endeavour to prevent these genetic faults and will reveal their history to potential purchasers. Those who do not should therefore be penalised either with financial responsibility or for possible criminal liability.

Contract of Sale:

We have learned that in many occasions that the documentation can bear little or no relevance to the animal being sold. At present the onus of proof is on the purchaser not the vendor. We would propose that when found in doubt the onus of proof should be on the vendor. Failure to provide this proof should therefore deem a criminal offence has been committed. It can be argued that forgery and uttering are the relevant offences here but rarely has this been considered whereas if a specific offence has been created there can be no question as to its relevance.

Veterinary Health Certificates/Inoculation Certificates

It has been found that some of these are not true or accurate documents. We therefore ask that the BVA provide a document similar to that of the Ministry of Transport Vehicle Test certificate be brought in to endeavoured to prevent the production of false/fraudulent or tampered with document. In that we would propose that a specific offence be created.

Pre-existing Illness:

Where a pre-existing health problem has existed, which is more the norm than the unusual, there should be a specific offence of failure to disclose a known pre-existing health condition. Along with this all veterinary fees should become recoverable from the vendor and no longer should there be a mandatory law allowing a full refund and a return of the goods. This may be offered and accepted voluntarily by any purchaser, in fact a voluntary agreement between both parties.

Genetic Faults:

This is a slightly more difficult issue. At present many breeds with recognised genetic faults are tested in an endeavour to prevent the continuance of this fault. In fact the Kennel Club have made many efforts to encourage this course of action. All reputable breeders when they find a genetic fault present in their current breeding will not breed with what is described as infected stock thus hoping to end a propagation of the inherited condition. With these breeds it would be our proposal that if the stock has not been screened, i.e. both parents, or that such possibilities are not revealed by the vendor becomes a specific criminal offence. It also should include order of compensation to the purchaser to offset the vast veterinary expenditure that can be incurred. The onus of proof of testing shall be the duty of the vendor.

Pedigrees:

a number of certificates issued by vendors do not necessarily bear any relevance to the parentage of the animal being sold. The Kennel Club registration certificates and pedigrees require that both parents were registered with them at birth. This has been the process for some considerable time. This then allows for DNA testing when the parentage comes into question. Other agencies will issue similar documents taken only on the word of the person registering the animals and it could be that the animals in question do not exist. In some cases it has been found that two distinctively different dogs of different breeds have had an identical pedigree and parentage. Unfortunately these agencies can allow for the production of false pedigrees, done so by the vendor registering the animals. It is therefore or proposal that the onus of proof of parentage shall be the duty of the vendor and when this comes into question or the vendor cannot prove the existence of the parents then a specific criminal offence be created. Also should there be no proof of parentage then the purchaser be provided with a refund to the value of a current unregistered or unpedigreed animal.

Advertisements:

Many agencies given the task of enforcing legislation surrounding the advertisements for sale of pet animals hold the Business Advertisements Disclosure Order an out dated piece of legislation rarely enforced. They have, in one case, alleged that the Crown Office will not accept charges relevant to this offence. With that in mind we would propose that all advertisements for sale by a business **must** disclose this in their advertisement. Further that no advertisement is accepted with mobile phone numbers only. In some cases the person placing and advert cannot be traced. Any advertisement failing to do the foregoing will be guilty of a criminal offence. As well as this any person knowingly placing a false or misleading advertisement be guilty of a criminal offence. Once again the onus of proof shall be on the vendor.

Identification:

In line with other animal welfare legislation there should be a legal requirement to have identification of the puppy from birth to point of sale. This should be a recognised system e.g. micro-chipping. A central database of identification should be available to allow the purchaser to confirm the identity of the said puppy. Any breach of this should be a criminal offence and should also be a bar on the sale of any pet animal.

Insolvency and Bankruptcy:

Any person who has been declared bankrupt or insolvent shall be barred from the sale and supply of pet animals. Nor should any person who has been declared bankrupt or insolvent have any involvement in any process of the supply of pet animals. We have noted that a number of dealers have declared themselves bankrupt to possibly evade having to pay compensation or refunds and yet with the advertisements being produced by them they appear to be running a solvent business. Although there are specific offences in connection with this we have found no evidence of any investigations into this. Barring such person from the trade may prevent the public from suffering financial loss.

CONCLUSION

At present there are a large number of premises involved in the sale of puppies. In a number of cases it could be suggested that there is a large number involved in a 'rogue' trade intent of 'conning' the public out of their money.

It is clear that there is a lack of communication or understanding between agencies in dealing with this industry and with the vast sums of money involved there seems to be a number of wealthy people who appear to have no sustainable source of income. We cannot understand how? Also profits made perhaps illegally can exceed those made by middle level dealers in illicit substances but that industry is constantly investigated.

There clearly needs to be a level of training needed in some areas. Many of those that are required to investigate these matters do not understand the law of corroboration (*the requirement of two credible sources of evidence not two witnesses only*) or that courts may, with could reason, in the interests of justice set aside the law of time-bar.

If the statement alleging that the Crown Office will not enforce certain legislation is true then the Crown Office requires to issue guidance to the agencies and to answer the question why?

We fully appreciate that there are issues involving other pet animals offered for sale and some of the foregoing will not be relevant to them. With that in mind we would urge them to supply proposals covering their area of interest and this to be taken into consideration. It is true that some of the foregoing already exists in other legislation but there is a need of consolidation of legislation allowing for a single piece of legislation to be in place for agencies to enforce.

Other industry invests funds in counterfeit or copyright thefts and it is seen as a growing criminal industry but then we can draw comparisons to this in the present circumstances involving the sale of pet animals. These ideas cannot progress without the assistance, involvement and the will from politicians, the Crown Office and various enforcement agencies and we would hope that all can see the need for these proposals.

Kenneth McKie
Secretary
WAG

Rogue horse trader now in 'puppy farming' fury

By LYNN McPHERSON

ROGUE horse trader Paul Anderson is up to his old tricks – but now he is dealing in dogs.

The disgraced lawyer and partner Rose Craigie are selling labradoodle designer pups for £750 each from their Fife farm.

They turned their attention to the lucrative trade by mating their pet labrador with a friend's poodle.

A Kennel Club spokesman said: "They are puppy farming and flaunting people's



Exposed: August story

lack of awareness for what they are buying."

The couple, who don't have the necessary planning permission for their business

at Collessie, are being probed by Fife Council.

The pair are already under investigation by Fife Trading Standards after complaints about horses they sold.

The Sunday Mail exposed how Anderson was selling dying animals as potential showjumpers and how a schoolgirl broke her leg after being thrown from a horse he described as "placid".

The couple have applied for retrospective planning permission to change their stables to equestrian sales.

Craigie said: "Planning is being processed."