

**Written evidence submitted by the Legal Advisory Group on Extreme Conformation in Dogs
(LAGECD)(PWA0057)**

1. We are a multi-disciplinary group dedicated to informing the creation of an effective legal and policy regime in the UK to protect dogs from conformation-related suffering. Our research concerns the welfare of dogs selectively bred for conformational extremes, and our current primary focus is on dogs with brachycephaly (short muzzles).
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EXECUTIVE SUMMARY

3. The negative health and welfare impacts on dogs from exaggerated and extreme physical traits are well-established¹ and widely agreed upon by all major canine welfare stakeholders.²
4. Brachycephalic dogs, for instance, are at high risk of suffering a range of disorders intrinsically linked to their conformation, including respiratory disease, eye disease, dystocia, spinal disease, heat stroke and pneumonia.³ In addition to ill-health, exaggerated features negatively

¹ O'NEILL, D. G., PEGRAM, C., CROCKER, P., BRODBELT, D. C., CHURCH, D. B. & PACKER, R. M. A. 2020. Unravelling the health status of brachycephalic dogs in the UK using multivariable analysis. *Scientific Reports*, 10, 17251; PACKER, R. & O'NEILL, D. (eds.) 2021. *Health and welfare of brachycephalic (flat-faced) companion animals: a complete guide for veterinary and animal professionals*, Boca Raton: CRC Press.

² http://www.ukbwg.org.uk/?page_id686

³ O'Neill et al, (2020) n.1

impact other dimensions of welfare and the ability to live a good life.⁴ For example, severely reduced breathing capacity limits the ability to sleep, enjoy exercise or play, whilst lack of facial mobility or tail impairs communication.⁵

5. This suffering could be significantly reduced if dogs were bred or purchased with more moderate conformational traits. These should allow for functional anatomy (with regards to both health and behavioural functions) and not increase their risk of associated inherited disorders.
6. The legal and policy framework could do more to reverse the normalisation, and indeed, celebration of extreme conformation in UK society. It should establish an expectation in purchasers, owners and breeders of the basic key physical traits necessary for health and welfare. These traits include the **ability to breathe, blink, sleep, exercise, mate and give birth, as well as exhibiting normal behaviours such as interacting with conspecifics, playing and being able to maintain their own hygiene.**
7. We identify weaknesses in the current law under the headings '*Unscrupulous Breeding and Importation*', '*Ownership*' and '*Current Preventative Measures*' and propose measures to address these. In particular, we highlight:
 - The role of Canine Fertility Clinics in facilitating the production of dogs with extreme conformational traits (e.g., disproportionately large heads) that are likely otherwise not to be able to breed naturally, with impairments from conception through to birth due to their selected body shape, and the need for such practices to be regulated under an appropriate framework and existing laws to be applied effectively.
 - The need for an expanded statutory Code of Practice on the Welfare of Dogs to emphasise the legal responsibilities associated with choosing, owning and breeding from a dog with extreme conformation.
 - The need for urgent clarification of whether the Animal Welfare Act 2006 applies to offspring to ensure the Act can be effectively used to deter breeding of dogs likely to suffer due to their conformation by either:
 - if the AWA 2006 is understood as making it an offence to knowingly breed dogs with conformational defects, introducing a statutory COP specifically in relation to breeding under s.14 to outline the extent of breeder duties in this regard and establish the scope of liability,
 - or
 - if the AWA 2006 as currently drafted does not apply to offspring and thus breeding, introducing a new provision under s.12 to cover this.
 - The need for higher mandatory standards under Sch. 6 (6)5 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations (LAIAR) 2018 and more detailed guidance for breeders and inspectors.
 - The need for an expanded licensing threshold able to capture all forms of dog breeding activity.

⁴ Mellor, D.J.; Beausoleil, N.J.; Littlewood, K.E.; McLean, A.N.; McGreevy, P.D.; Jones, B.; Wilkins, C. The 2020 Five Domains Model: Including Human–Animal Interactions in Assessments of Animal Welfare. *Animals* 2020, *10*, 1870.

⁵ Siniscalchi, M.; D’Ingeo, S.; Minunno, M.; Quaranta, A. Communication in Dogs. *Animals* 2018, *8*, 131, 132-8

- The need for improved monitoring and enforcement of animal welfare legislation that could protect dogs from conformation-related suffering.

UNSCRUPULOUS BREEDING AND IMPORTATION

What risks do unregulated and illegal Canine Fertility Clinics present to dog welfare, including the breeding of so-called “designer” dogs?

8. Assisted breeding techniques, such as artificial insemination and routine caesarean-sections pose unjustifiable risks to dog welfare and especially to dogs with extreme conformation by circumventing their inability to reproduce naturally.⁶
9. We are concerned that many Canine Fertility Clinics facilitate the production⁷ of dogs with extreme conformation, including a new wave of ultra-extreme ‘designer’ dogs that are totally reliant on human assisted reproduction. In particular they enable:
 - production of dogs with the most extreme conformation by assisting mating via artificial insemination where this would not be able to take place naturally due to their extreme conformation.
 - the production of higher numbers of puppies with extreme conformation than could be bred without artificial means.
 - the escalating exaggeration of extreme conformational traits that break biological limits for natural breeding, including extremely disproportionate skull shape and size.
10. We are also concerned that Canine Fertility Clinics also have negative welfare impacts on adult dogs with extreme conformations used in the production of puppies. For instance, the majority of English Bulldog bitches will require caesarean sections⁸ and, like other bitches with brachycephaly, will have further impaired respiratory function whilst pregnant and during parturition. This is a problem that extends beyond Canine Fertility Clinics and highlights the inadequacies of the licensing regime, see para 55.
11. In our view, there are strong welfare grounds for appropriate legislative intervention to make the performance of all invasive fertility treatments on companion animals other than by registered veterinarians unlawful. And for these rules to be properly monitored and enforced.
12. We support the submission and proposals made by Naturewatch Foundation and others⁹ and would highlight, in particular:
 - (1) Artificial insemination and semen preservation / collection should not be used to overcome dogs’ physical disabilities to reproduce due to innate health issues, or to breed from dogs who are otherwise unsuitable for breeding due to their health, welfare or temperament.¹⁰

⁶ Naturewatch Foundation, ‘Breeding Beyond Dogs’ Limits? Canine Fertility Clinics in the UK available at: <https://naturewatch.org/wp-content/uploads/2022/10/Breeding-beyond-dogs-limits-Canine-Fertility-Clinics-in-the-UK-October-2022.pdf>

⁷ We are calling irresponsible breeders whose primary goal is financial ‘producers’, to distinguish them from other ‘breeders’ for whom welfare is likely to be a higher priority and whose relationship to a breed with extreme conformation is more complex than simply financial gain.

⁸ O’NEILL, D. G., O’SULLIVAN, A. M., MANSON, E. A., CHURCH, D. B., BOAG, A. K., MCGREEVY, P. D. & BRODBELT, D. C. 2017. Canine dystocia in 50 UK first-opinion emergency-care veterinary practices: prevalence and risk factors. *Veterinary Record*, 181.

⁹ Naturewatch Foundation and others, EFRA Committee Enquiry, *Pet Welfare and Abuse* consultation response, April 2023

- (6) Dog breeding regulations should be strengthened to 1. prevent irresponsible use of reproductive biotechnology to breed from dogs who are not suitable for breeding, including female dogs who can reasonably be expected to require a caesarean and 2. provide protections for male dogs kept and used for breeding (including for semen production).¹¹
- (7) Existing legislation must be utilised to take enforcement action against canine fertility clinics that are breaking the law.¹²

OWNERSHIP AND ANIMAL WELFARE

There was a marked increase in pet ownership during the pandemic. What is the situation for companion animals' welfare post-pandemic, especially given recent factors such as the cost-of-living crisis?

13. Despite the numerous health and welfare issues, large numbers of people continue to be attracted to dogs with extreme conformation.¹³ Ownership of extreme brachycephalic breeds such as the Pug, French Bulldog and English Bulldog has surged over the last decade.¹⁴ The health of these dogs is often extremely compromised and their welfare is low,¹⁵ even without the addition of recent post-pandemic factors.
14. The financial cost of meeting the needs of dogs with extreme conformation is often significantly higher than dogs with species-average conformation. The high-risk of health disorders means insurance is extremely expensive and often comes with many excluded conditions for some breeds.¹⁶ The cost-of-living crisis may therefore lead to a multi-level welfare impact on these dogs, with suffering caused by poor innate health exacerbated by the failure of owners to seek or afford the necessary interventions and, potentially, their subsequent abandonment or relinquishment.¹⁷
15. Reducing the appeal to purchasers of dogs with extreme conformation is key for reducing demand and, in turn, supply. This is not a simple task, as the reasons behind initial attraction, and subsequent attachment to breeds with extreme conformation is complex.¹⁸ Standard educational approaches to influencing prospective and current companion animal owners (e.g., increasing their awareness of health implications) are unlikely to succeed due to psychological

¹⁰ Ibid.p.14

¹¹ Ibid. p.15

¹² Ibid.

¹³ PACKER RMA (2021) *Flat-Faced Fandom: Why Do People Love Brachycephalic Dogs and Keep Coming Back for More?* In: Health and Welfare of Brachycephalic Breeds: A Guide for Veterinary Professionals (Eds: Packer RMA and O'Neill DG). CRC Press (Taylor & Francis Group)

¹⁴ THE KENNEL CLUB. 2022. *Breed registration statistics* [Online]. The Kennel Club Limited. Available: <https://www.thekennelclub.org.uk/media-centre/breed-registration-statistics/>

¹⁵ O'NEILL, D. G., PEGRAM, C., CROCKER, P., BRODBELT, D. C., CHURCH, D. B. & PACKER, R. M. A. 2020. Unravelling the health status of brachycephalic dogs in the UK using multivariable analysis. *Scientific Reports*, 10, 17251; PACKER, R. & O'NEILL, D. (eds.) 2021. *Health and welfare of brachycephalic (flat-faced) companion animals: a complete guide for veterinary and animal professionals*, Boca Raton: CRC Press.

¹⁶ <https://vetpolicy.uk/2020/07/09/higher-insurance-premiums-revealed-for-popular-brachycephalic-breeds/>

¹⁷ Publishable data is limited and insufficient to provide a basis for conclusion but anecdotal evidence suggests this is a real risk.

¹⁸ PACKER RMA; O'NEILL DG; FLETCHER F; FARNWORTH M (2020) Come for the looks, stay for the personality? A mixed methods investigation of reacquisition and owner recommendation of Bulldogs, French Bulldogs and Pugs. *PLOS ONE* 15(8): e0237276

factors that maintain an ongoing desire to own extreme breeds, even in the presence of severe disease burdens.¹⁹

16. At the same time, interventions must seek to limit undesirable consequences such as the abandonment or relinquishment of dogs, particularly in light of the large number of dogs with extreme conformation in the UK at present. Where dogs with extreme conformation have already been acquired, law and policy should reinforce obligations to address their health and welfare challenges as far as reasonably possible.
17. In our view, a reasonable step is to make the legal obligations involved in owning a dog with extreme conformation clearer and better understood. The statutory Code of Practice should emphasise the importance of choosing a dog which possesses the physical traits of innate health and place robust and well-publicised obligations on owners of dogs with extreme conformation.
18. The statutory COP on the welfare of dogs should be updated to illustrate the features of innate health that a dog should possess and highlight where extreme conformation gives rise to health and welfare risks. Use could be made of infographics similar to those published by the UK Brachycephalic Working Group identifying features of innate health.²⁰ These include the ability to breathe easily, blink fully and bend the spine to enable cleaning of genitals and anus, plus other features necessary for species-specific communication, such as having a tail that can wag.
19. The Animal Welfare Act 2006 makes it an offence to cause ‘unnecessary suffering’,²¹ It also places a duty on the ‘person responsible’ to ensure that an animal’s needs are met including their need to ‘exhibit normal behaviour patterns’²² and be protected from ‘pain, injury, suffering and disease’.²³
20. The COP should make clear that meeting these legal obligations in respect of a dog with extreme conformation is likely to involve a higher burden of cost, time and skill than with a dog of more moderate conformation. It could outline some of the steps needed to mitigate the health and welfare risks and avoid liability under ss.4 and 9, whilst acknowledging that this may not be possible with some highly exaggerated conformations. This would provide a clear sense of the legal duties involved in owning a dog with extreme conformation. It would also highlight the demands of ownership for prospective owners, whilst showing what to look for in a dog to reduce the challenges for dog and owner.

¹⁹ Kenny, D. D., Freemantle, R., Jeffery, A., & Tivers, M. S. (2022). Impact of an educational intervention on public perception of brachycephalic obstructive airway syndrome in brachycephalic dogs. *Veterinary Record*, 190(11)

²⁰ UKBWG, Innate Health available at: <http://www.ukbwg.org.uk/wp-content/uploads/2022/05/220512-BWG-Innate-Health.pdf>; UKBWG, National Plan – Our Shared Human Responsibilities available at: <http://www.ukbwg.org.uk/wp-content/uploads/2023/03/BWG-National-Plan-Our-shared-human-responsibilities-Infographic-230308.pdf>

²¹ s.4

²² s.9(2)(c)

²³ s.9(2)(e)

21. There is an option to develop this further and indicate that by choosing a dog which does not meet the innate health and welfare indicators, there is a presumption of failure to satisfy the legal obligations of ownership.
22. A revised COP should also provide more guidance for owners who are thinking of breeding to encourage breeding only from dogs with more moderate conformation. In our view, the guidance should clearly discourage breeding from any dog who does not conform to the basic requirement of innate health. We would also advocate the development of a fitness to breed certification system.
23. **We recommend an expanded COP on the Welfare of Dogs to provide more detailed guidance on the responsibilities involved with choosing, owning and breeding from a dog with extreme conformation.**

CURRENT PREVENTATIVE MEASURES

Is the current regulatory and legal framework to both support the welfare and prevent the abuse of companion animals fit for purpose? Do the available penalties – and the probability of prosecution – act as a sufficient deterrent?

24. In our view the current regulatory and legal framework is not capable of preventing the large numbers of dogs from suffering as a result of their extreme conformation. In this section we focus on the **breeding** or **production** of dogs.

Animal Welfare Act 2006

25. Our main concern is that **the AWA is not being used to protect dogs from conformation-related suffering**. The use of the AWA is significant because it has the potential to cover all dogs, whereas the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 (LAIAR) only covers licensed breeders in England and thus only some of the puppies born in England.²⁴
26. In our view, the central problem is **lack of clarity regarding the scope of the AWA 2006**.
27. It is possible that, by deliberately breeding puppies with extreme conformation, a breeder could be liable for causing ‘unnecessary suffering’ to an animal²⁵ or failing to take reasonable steps to meet the needs of an animal for which a person is responsible, which includes ensuring they can ‘exhibit normal behaviour’ and protecting them from ‘pain, suffering, injury or disease.’²⁶
28. DEFRA has indicated that an offence could be committed under the AWA 2006 where a breeder ‘knowingly selects and breeds animals with genetics leading to extreme conformations that cause pain, suffering or distress’.²⁷

²⁴ Dog Breeding Reform Group (DBRG) Policy Position Paper on the Animal Welfare Act 2006 and the protection of offspring (undated), 3.3.10 and CFSG/DBRG, Guidance on Dog Conformation (2020), 20

²⁵ s.4

²⁶ s. 9. For an infographic of what this should include see: <http://www.ukbwg.org.uk/wp-content/uploads/2023/03/BWG-National-Plan-Our-shared-human-responsibilities-Infographic-230308.pdf>

²⁷ Secretary of State for the Environment, Food and Rural Affairs, George Eustice, 6.11. 2017

29. Nevertheless, we are not aware of any prosecution brought under the Act on this basis and no clear guidance as to the nature of the potential offence is available. The existing statutory COP on the Welfare of Dogs provides very little guidance on breeding. Without a clear basis for liability, a case for prosecution is unlikely to be established.
30. Establishing the existence of a breeding offence under the AWA is difficult given contemporaneous indications that Parliament's intention was not to cover progeny²⁸ and expert legal opinion that it does not do so.²⁹ Notably, the Act excludes animals in foetal or embryonic form from its coverage.³⁰ This may be seen to break the chain of causation between the breeding decision and the suffering of the offspring, as well as making the moment at which the offence is committed difficult to establish.
31. **We suggest urgent action is needed to clarify whether a) the AWA covers 'progeny' and b), if so, how the offence of 'knowingly breeding a dog with conformational or genetic defects' is made out.** In other words, what acts or omissions comprise the physical act and what state of mind is required, for the commission of the offence.
32. If the AWA 2006 does apply to offspring, then a statutory COP can be developed under s.14, in conjunction with stakeholders to ensure that breeders comply with their obligations under ss.4 and 9 and assist future prosecutions. If the AWA does not apply to offspring, then a new provision must be developed urgently to ensure the protection of these sections is extended to offspring.
33. The only way to establish the scope of the Act is to obtain the verdict of the court as to whether Parliament's intention was to cover offspring. As such, there are **two ways forward**. The **first** option is for a case to be brought under ss. 4 and/or 9 as soon as possible. The answer then leads to the next steps outlined below. This option has the advantage of obtaining clarity more quickly but may lead to years of a lacuna before a new provision is enacted.
34. The **second** option is for DEFRA to issue a statutory COP pursuant to s.14 of the AWA on the basis that the Act does cover offspring. This would need to be coupled with a commitment to increased monitoring and enforcement. A prosecution could then be brought in due course, which would test the application of the AWA to offspring. The benefits of this option are the development and publication of a COP more quickly, which may bring behaviour change with it, regardless of the validity of the legal basis for the obligations. If the Act was found not to extend to offspring, the COP would be useful in shaping a proposed new provision.

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

²⁸ The Explanatory Notes to the Animal Welfare Act 2006 states: '63. Section 12 enables the Secretary of State and the National Assembly for Wales to make regulations to promote the welfare of animals for which a person is responsible, or the progeny of such animals...Including the progeny of animals in this regulation-making power enables regulations to be *introduced* governing animal breeding that protect the offspring as well as the parent animal.' (Emphasis added).

²⁹ Dog Breeding Reform Group (DBRG) Policy Position Paper on the Animal Welfare Act 2006 and the protection of offspring (undated), 3.1.2 -3.1.7; M. Radford, 'Can irresponsible breeders be made criminally liable?' (Letter) Vet Record (2017)

³⁰ s.1(2)

Schedule 6 para 6, 5

35. This provision states that: *‘No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health, that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.’*
36. All licensees in England must meet the minimum standards for Sch. 6, 6(5) set out in the DEFRA guidance. This includes taking ‘all reasonable steps’ only to breed from dogs that are in ‘good physical and genetic health’ and ‘fit for function.’³¹ The latter explicitly includes being able to ‘see, breathe normally’, be ‘physically fit’ and be ‘able to exercise freely’.³²
37. In our view, Sch. 6(6)5 could be used more effectively to encourage breeding of dogs with more moderate conformation, who are able to enjoy healthy lives and reproduce naturally. It should not merely prohibit breeders from using dogs with exceptionally exaggerated features or visible ill-health. It should clearly apply to all dogs, not just KC registered breeds.

Data

38. Monitoring and enforcement data on the use of Sch. 6, 6(5) by local authority inspectors appears limited. The 2022 DEFRA survey of local authorities for the current PIR did not contain a question focused on Sch. 6, 6(5). There does not appear to be any FOI disclosure on the use of this provision. FOI requests were sent by this group on 24.3.23 to 11 local authorities³³ asking for information on the extent to which the provision is being used, with results expected end of April 2023.

Statutory wording

39. We suggest **use of the term ‘conformation’** rather than ‘phenotype’. ‘Conformation’ is more easily understood by the public and more commonly used by breeders to refer to observable physical traits. The term phenotype can be taken to cover both the apparent physical but also behavioural characteristics of dogs. This would bring LAIAR into line with the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 Sch, 6, 8(5).
40. We suggest **introducing ‘behaviour’** to the list of factors covered by the provision, as in Sch 6, 8(5) of the Scotland regulations.

The minimum standards

41. In our view, the standards a breeder of dogs is currently required to meet in England are too low.³⁴ We suggest the **Minimum standards be raised at least to the level of the mandatory**

³¹ DEFRA, ‘The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Guidance notes for conditions for breeding dogs (updated 2020), 31

³² Ibid.

³³ These local authorities have been chosen as having the highest number of breeder licences according to DEFRA’s FOI data at April 2021 (<https://www.gov.uk/government/publications/animal-welfare-licensing-of-activities-involving-animals-regulations-2018-foi202124637>)

³⁴ We are not suggesting that the regime in the devolved regions is perfect but are confining our comments to England.

Higher Standards, in line with the minimum standards under Sch 6, 8(5) of the Scotland regulations.

42. In addition we suggest:

- **obtaining veterinary advice be a mandatory requirement** of satisfying the inspector that robust procedures for high-risk dogs are in place unless the breeder shows exceptional understanding of how to mitigate the risks.
- **no bitch be kept or used for breeding if there is a reasonable expectation that a caesarean will be needed.**

The guidance

43. In our view, the scope of the obligation is unclear. Lack of clear guidelines is likely to reduce compliance and enforcement. It also makes educating the public about the duty very difficult.

44. We suggest the **introduction of indicative guidelines on when a harmful outcome could 'reasonably be expected to result'** from mating. These should be set in consultation with veterinary and welfare scientists to produce an evidence-based risk assessment for use when breeding from dogs with extreme conformation. Such guidance should employ the precautionary principle to ensure that any risks to welfare are addressed, even where evidence that a harm will result from breeding is incomplete or is disputed.

45. Reference to indicative traits associated with high risk of negative conformation-related health and welfare impacts could be used. The indicators of innate health as identified by the UK Brachycephalic Working Group,³⁵ again provide an example here.

46. The guidance should be further reviewed as evidence becomes available of outcomes in jurisdictions such as the Netherlands, Finland and Norway with more advanced legal frameworks than England.³⁶

47. We suggest the **duty to take 'all reasonable steps' to avoid harm be explained more fully in the guidance.** Ideally, the guidance would make clear that breeders of high-risk breeds need to take the greatest care. The guidance should make explicit references to the high-risk breeds (e.g. KC Category 3 and 2) but also note the application to non-breeds with extreme conformation.

48. The guidance should adopt similar wording to the Scottish equivalent and require breeders of high-risk dogs to show they implement '...robust selection and health screening procedures

³⁵ UKBWG, Innate Health available at: <http://www.ukbwg.org.uk/wp-content/uploads/2022/05/220512-BWG-Innate-Health.pdf>

³⁶ M. van Hagen, 'Breeding Short-Muzzled Dogs: Criteria for the Enforcement of Article 3.4 of the Animal Keepers Decree (Besluit Houders can dieren) – Breeding Companion Animals' (2019) : https://www.uu.nl/sites/default/files/eng_breeding_short-muzzled_dogs_in_the_netherlands_expertisecentre_genetics_of_companionanimals_2019_translation_from_dutch.pdf; see Finnish Food Authority, 'Improving the implementation of animal welfare legislation in animal breeding', 2020 Ch. 9.2; s.25 Norwegian Animal Welfare Act 2009

and that these are sufficient to minimise the risk of extreme conformations in any offspring produced.³⁷

49. In our view, **health screening is not a panacea and should not be accepted by itself as demonstrating a robust selection procedure.** It therefore cannot be used in place of careful selection of dogs with more moderate traits. However, where screening is available *and truly effective* at reducing an aspect of risk it should be a required minimum standard.
50. In our view, the current 'health testing' in place by groups such as the British Veterinary Association and the Kennel Club are not truly health tests but are simply disorder tests, i.e. they do not assess health per se but just assess for evidence of one or more individual disorders. In many cases, these disorder tests are poorly predictive even of the disorder they are meant to be assessing. In addition, the disorders they assess are often not even among the top health issues in these relevant breeds - many of these tests were introduced more because the tests existed rather than that the tests were shown to offer any real longer term health gains for the breed.
51. **We propose an urgent review of all current health testing in dogs and that newer approaches should be sought towards health testing** given the limited and perhaps even negative gains from the past 50 years of health testing.
52. We note the use in the Scottish guidance of a **presumption that the standard of care will be not met in certain cases.**³⁸ We propose consideration should be given to whether a similar presumption could be applied in England where the licensee selects for extreme physical traits and/or breeds those breeds at highest risk of conformation-related disorders.
53. We propose introducing the term 'extreme conformation' which describes physical phenotype that has diverged so far from the typical canine conformation that this new conformation is now associated with high risks of current or potential negative health and welfare. The presumption would be that the licensee had not met the standard of care and this would be rebuttable only where they are able to satisfy the inspector that they have taken sufficient steps to mitigate the likelihood of a harmful outcome. This would highlight the welfare concerns associated with certain breeds or traits and may assist enforcement.
54. We suggest that the **guidance that dogs kept for breeding are 'fit for function' be explicitly defined by reference to dogs with species-average conformation and species-specific needs.** If the reference standard is set by reference to the average dog of that breed or type rather than by reference to the average member of the dog species, then the provision is self-limiting and can never truly move the breed towards real health. The requirement that breeding dogs be able to see and breathe 'normally' and exercise 'freely' will have greater positive welfare impact if they are judged by reference to the sight, respiratory function and exercise tolerance of other members of the species with average conformation than against others of the same

³⁷ The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 Guidance for Local Authorities, 77

³⁸ So-called 'teacup' dogs, Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 Guidance for Local Authorities, 78

extreme breed, where impairment may be normalised and thus thresholds for normality lowered.³⁹

55. There is evidence that these requirements are not being interpreted sufficiently robustly and impairment is being normalised within the regulations. As noted above,⁴⁰ the further impaired respiratory function suffered by brachycephalic bitches during pregnancy and birth, coupled with the likelihood of caesarean section does not currently appear to render breeding from such dogs a breach of licence conditions under Sch. 6(6)5.
56. 'Fit for function' should be explicitly extended to cover other evidence-based dog health requirements, including the ability to reproduce naturally. Reference could be made to an indicative list such as UK Brachycephalic Working Group, 'Innate health in dogs - Some fundamental attributes typically expected for groups of young adult dogs with good health, welfare and temperament'.⁴¹ The interests of dogs should clearly take priority over human aesthetic or lifestyle preferences in assessing whether a particular conformation satisfies the 'fit for function' requirement.
57. **We recommend raising the mandatory standards that a licensed breeder has to meet for Sch. 6(6)5 and producing more detailed guidance.**

Schedule 6, para 6(3)

58. We would like to see **Sch 6, 6 expanded substantially to prohibit harmful breeding practices that are being promoted by fertility clinics and low welfare breeders**, namely:
 - a. Prohibit mating of dogs who can be expected to require a caesarean;
 - b. Prohibit further mating of dogs who have had one C-section due to dystocia;
 - c. Prohibit mating of dogs via an assisted breeding procedure, such as artificial insemination, to overcome a dog's inability to mate or whelp without human assistance;
 - d. We would like the maximum number of litters a female dog may have to be reduced to four;
 - e. A definition of mating should be provided that includes artificial methods, e.g. artificial insemination.
 - f. As per the recommendation in Welfare in Pet Trade, Responsible Dog Breeding Guidelines (2020), a limit should be placed on the number of litters for which any one male can be responsible to address the so-called 'popular sire problem'.

Wider application of LAIAR to all breeding activity

³⁹ PACKER RMA; HENDRICKS A; BURN CC (2012) Do dog owners recognise clinical signs related to a conformational inherited disorder that is 'normal for the breed'? A potential constraint to improving canine welfare. *Animal Welfare* 21(S1): 81-93; PACKER RMA; O'NEILL DG; FLETCHER F; FARNWORTH MJ (2019) Great expectations, inconvenient truths, and the paradoxes of the dog-owner relationship for owners of brachycephalic dogs. *PLoS ONE*. 14 (7) : e0219918

⁴⁰ Para. 10

⁴¹ UK BWG, 2022, available at: <http://www.ukbwg.org.uk/wp-content/uploads/2022/05/220512-BWG-Innate-health-in-dog-populations.pdf>

59. In our view, the **coverage of the regulations is too narrow**. The activity of breeding dogs in Sch. 1 does not fully cover those who participate in other aspects of the process of dog breeding. This has facilitated the apparent growth in 1) businesses that keep only male dogs for breeding (and appear to make their money through the collection and shipping of canine semen for both domestic and international use) and 2) the use of co-ownership arrangements whereby dogs and/or the profits from breeding are shared between more than one party. These models appear to be being used to avoid regulation by breeders who are using - and contributing to the production of – dogs with extreme conformation.
60. We suggest there is a need for a **future-proof threshold able to capture all forms of dog breeding activity**. Further analysis of options is needed but the threshold must cover the keeping and use of adult dogs in breeding.
61. Calls for the business test to be scrapped in favour of a standalone litter threshold (as in Scotland) should therefore be resisted. However, we would prefer the litter test be reduced to anyone who has more than one litter per year.

Will the Animal Welfare (Kept Animals) Bill (as currently drafted) take a significant step to tackling poor pet welfare and abuse, including those issues stated above?

62. The Animal Welfare (Kept Animals) Bill as currently drafted does not significantly improve the position of dogs with extreme conformation. Measures to address puppy smuggling in ss.45 and 46 may have some positive impacts on the welfare of some dogs. Raising the age at which puppies can be imported to six months, may reduce the attractiveness of this avenue of procurement for purchasers. Restricting heavily pregnant dams from being brought into the country should benefit these dogs and their puppies, some of which may be breeds with extreme conformation. These are positive steps but much more is needed.

What additional measures should the Government take to stop bad practices, improve overall domestic pet welfare, and assist those involved in supporting domestic pet welfare?

63. In our view, the key additional step is to ensure effective monitoring and enforcement of animal welfare legislation.⁴² This includes greater clarity as regarding to who is responsible for enforcement action, as well as enhanced support for those organisations to enable higher recruitment and better training of staff.

⁴² APGAW, Improving the Enforcement of Animal Welfare Law (2022)