

WHAT IS LUCY'S LAW?

WHY BAN THIRD PARTY SALES OF DOGS?

FACTS & FAQs

Lucy's Law promotes an immediate ban on all commercial third party sales of dogs. "Commercial" means sales as part of a business, for profit. Third parties sellers are dealers; people who did not breed the dogs and who operate as "middlemen" between the breeders and the buying public.

Lucy's Law was launched in December 2017 at a reception hosted by vet and campaigner, Marc Abraham, of PupAid, and supported by APDAWG, the All Party Parliamentary Group for dog welfare, chaired by MP Lisa Cameron. Lucy's Law has been championed by the Daily Mirror, and has received significant attention and support, from MPs across all parties, from the press and in social media.

<http://www.mirror.co.uk/news/uk-news/watch-champions-lucys-law-set-11661996>

Who was Lucy?

Lucy was a King Charles Spaniel; a victim of the puppy farm system who had been used for breeding for many years with no regard for her health or welfare. Fortunately she was rescued and adopted by Lisa Garner in 2013. Lucy became the symbol and mascot of anti-puppy farm campaigning. She died in December 2016, and Lucy's Law is named in her honour.



What is the problem with commercial third party sales?

The sale of puppies through commercial third party dealers both sustains and is dependent upon the existence of “puppy farms”, where puppies are bred for maximum profit and with minimal regard for animal welfare. Although very few high street pet shops sell puppies these days, the third party trade remains significant with dealers operating from a diverse array of premises including private homes and puppy superstores. Some commercial dog breeders are also selling bought in puppies alongside those they have bred on site. As many as 80,000 puppies may be sold by licensed third party sellers each year.

What are the animal welfare issues?

This activity can seriously harm animal welfare, from the trauma of transportation, the increased risk of exposure to disease, behavioural problems resulting from premature separation from the mother and lack of appropriate socialisation. Puppies may be born with debilitating inherited diseases and are at a high risk of catching life threatening canine diseases, such as parvo virus. These are problems that can last for a dog’s lifetime, or can bring its life to an early end. Poor hygiene standards throughout the chain frequently mean that puppies may also carry infections, which can be transmissible to humans. The puppy market is very lucrative which means there are big financial incentives for breeders and sellers to minimise costs in order to maximise profits. Due to the number of “links” in the chain, it is difficult to determine where a specific problem has originated and this means that breeders and sellers can continue to reap the benefits of selling sick puppies with almost no likelihood of repercussion.

<http://www.mirror.co.uk/news/uk-news/heres-desperately-sick-puppy-nothing-11729500>

What about puppy smuggling?

Puppies imported into the UK for commercial re-sale can only legally be sold if the seller holds a pet shop licence. Banning the sale of puppies by third party sellers would remove the legal market for imported puppies – therefore making illegal puppy

smuggling easier to detect as there would be no reason for anyone to import large numbers of puppies into the UK. Puppies sold commercially in the UK should be bred in conditions regulated to UK standards of animal welfare.

Who would be affected by a ban?

A ban on commercial third party sales would amount to a legal requirement that only licensed dog breeders would be able to sell puppies in the course of a business. It would not impact on non-commercial activities including rehoming puppies through dog charities and sanctuaries as they are not done for profit. Nothing would change there.

What does the law say currently?

Currently the law (Pet Animals Act 1951) requires commercial third party sellers to be licensed as a “pet shop”, irrespective of the type of trading premises. Licensing conditions and standards of regulation vary tremendously between local authorities.

How would a ban on third party sales end puppy farming?

A ban is the essential first step towards ending the practice of farming dogs for profit with little or no regard for their welfare or their fitness as family companions. Breeders selling directly to the final owner can be held accountable for problems that may develop, but will have a financial incentive for improving standards as they will not have to share profits with middlemen dealers.

Buyers will be able to assess the breeding establishment and public scrutiny will assist in identifying potential welfare issues.

A ban on third party selling will probably not entirely eradicate puppy farming but it is an effective strategy to dramatically reduce the scale of the problem and compel breeders to raise standards.

Developments in Westminster

In November 2016 the Environment, Food and Rural Affairs (EFRA) sub-committee published a report into the welfare of domestic pets, which included a recommendation to ban third party sales of puppies as the committee recognised that *“Responsible breeders would never sell through a pet shop licence holder. The process of selling through a third party seller has an unavoidable negative impact upon the welfare of puppies.”*

<https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/117/11702.htm>

The Government rejected the recommendation, referring to lack of clarity over enforcement and stating it supported “robust licensing” as an alternative solution. However the Government also reiterated the importance of prospective buyers seeing puppies interacting with their mother which seems to conflict with continuing permission for commercial third party dealers to sell puppies, where the mother is not present. The Government is apparently prepared to legitimise an activity which does not match its own best practice recommendations.

<https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/1003/100302.htm>

Licensing Third Party Sales?

Instead of a ban on these third party sales, the Government, at the moment, prefers the idea of continuing to licensing them. This means that anyone in the business of selling pet dogs would require a licence, as is currently the case.

Licensing is based upon the assumption that animal welfare needs can be met and that the regime will be able to prevent harm from occurring. There is considerable scientific and field evidence to indicate that this is not so. Stress, increased risk of disease, poor breeding practises and irresponsible selling tactics are all associated with this method of selling.

Licensing regimes are familiar to us in a number of ways. Places that sell alcohol are licensed. Taxis, guns and betting shops are licensed. Licences are administered by the

local Council, and work on the basis that people who are entitled to conduct the particular activity can apply for a licence which the Council can grant or refuse, based on certain criteria and conditions. If the conditions are not met, the licence can be revoked. If people conduct the licensed activity without getting a licence, they can be punished. Licensing systems only work if they are enforced. Officers from the local Council need to know who has a licence and who doesn't. They need to be able to catch people in the act, if they are to enforce against those who are abusing the licensing system. This usually relies on "whistle-blowers" – members of the public who report problems to the Council. The public will usually be reporting something that is going wrong: sales of alcohol to underage children, or a badly driven taxi, for example. When the Council investigates, they can take action through the licensing system. It is not easy to see how this would apply to puppy sales. Council officers are already overstretched, and the chances of them finding out about private puppy sales for themselves, and checking whether they were legitimate is slim.

Why is a ban different?

A ban works differently to a licence. An example of an outright ban is in relation to smoking. Smoking indoors was banned in places like pubs, hotels and workplaces in 2007. It was very noticeable, and very easy to enforce, because no one is allowed to do it – you can't be licensed to smoke in these places, so if smoking is observed, it is a clear infringement of the law and can be dealt with accordingly. A ban on third party puppy sales would be similarly identifiable and enforceable. Commercial sellers are dependent upon advertising and attracting prospective buyers also means they will remain visible to enforcement agencies.

Arguments against the Ban?

The Government has argued that there are good reasons to prefer the licensing system to an outright ban. One argument is that a ban would increase unlicensed breeding and would send puppy sales "underground". This is not clear. There is no obvious reason why breeders would suddenly stop getting their breeding licences, just because they were not allowed to sell through third parties anymore. The lack of opportunity to pass

puppies to a third party seller does not by any means make it more or less likely that a breeder would obtain their own requisite licence. A responsible breeder will do so: a responsible breeder almost certainly would not be interested in passing puppies to a third party in the first place.

As for going underground, the buying public are surely not interested in a black market for puppies. People might try to source illegal products like drugs or weapons through the Dark Web or other illegitimate sources, but puppies are a different prospect. The vast majority of the public would prefer to buy a healthy, happy dog and have no interest in trying deliberately to source one that is being sold illegally. Puppy dealers need a public interface with their market – usually through the internet. They need to advertise openly, and so “going underground” would make life very difficult for them. Introducing a licensing system does not make the sales themselves more easily detectable, but only increases the expectation and burden upon the licensing authority to enforce against them. Irresponsible third party sellers will not bother to get licences, because the only real incentives to do so are either moral compunction, (and those who sell puppies in this way at the expense of the animals’ welfare are likely inherently to lack it), or fear of detection, which is low. This leaves a situation whereby a minority of third party sellers obtain licences to sell puppies, and the rest do not, but the transgressors are almost impossible to identify and bring to justice. By contrast, a ban on third party sales might see the same transgressors selling “underground”, but with a far greater opportunity to detect them when they do so, and enforce against them.

What happens next?

Lucy’s Law is the shorthand for an immediate ban on commercial third party sales. So what happens next? The ban would have to be inserted into law by some means.

The Government is currently consulting on an update to animal licensing regulations generally. The proposed Animal Activities Licensing Regulations would operate under the umbrella of the Animal Welfare Act 2006. These regulations are being considered for 2018. The Government at this time is legislating on the basis of a licensing regime for third party puppy sales, not a ban. Lucy’s Law could go into the Regulations if the Government agreed, but it is not in there at present.

<https://www.gov.uk/government/news/government-proposals-on-puppy-welfare>

On 22 December, DEFRA announced it is “developing proposals to crack down on puppies being reared in unhealthy circumstances by unscrupulous breeders who have a total disregard for their welfare.” Plans under consideration include:

- Ensuring that licensed dog breeders must show puppies alongside their mother before a sale is made.
- Tightening regulations so that puppy sales are completed in the presence of the new owner – preventing online sales where prospective buyers have not seen the animal first.
- Insisting licensed dog breeders can only sell puppies they have bred themselves.
- Regulating adverts, including on the internet, by ensuring licensed sellers of all pets, including puppies, include the seller’s licence number, country of origin and country of residence of the pet in any advert for sale.

Has the Government already announced Lucy’s Law, then?

Some people thought that this was an announcement of “Lucy’s Law”, but it wasn’t, as the sale of puppies by licensed third party traders would still be legal. This public announcement was not a reaction to the Lucy’s Law campaign therefore, and has not changed the Government’s direction at all. However it is significant because for the first time the Government has recognised the importance of buyers seeing puppies with their mother and preventing licensed dog breeders from selling puppies other than those they have bred. If these measures are necessary to protect the welfare of puppies sold by licensed breeders, how can the same regulations enable the sale of puppies from commercial third party sellers where these requirements for protection are absent?

What happens next?

The Government remains to be persuaded that Lucy's Law and the immediate third party ban is the best approach for controlling puppy farms and sales of puppies, and it remains for those who believe in Lucy's Law to continue to make the case.

On 12 December 2017, Chair of APDAWG, Dr Lisa Cameron MP put down an Early Day Motion (EDM) in Parliament in support of Lucy's Law, calling for an immediate ban on the sale of puppies by pet shops and other third-party commercial dealers. EDMs are formal motions submitted for debate in the House of Commons. They are not always debated, but they allow MPs to draw attention to a particular issue. Other MPs can register their support by signing the motion, and constituents can highlight their concern about the issue by requesting their MP to sign. This is another action that campaigners can take, in writing to their MP and asking them to support Dr Lisa Cameron's Early Day Motion for Lucy's Law

<http://www.parliament.uk/edm/2017-19/695>

The campaigning continues, and you can follow the developments on social media.

#Lucyslaw

Sarah Clover

Sarah is a barrister at Kings Chambers. She is one of the leading barristers in the country in Licensing and sat as the Specialist Adviser to the House of Lords Select Committee on the Licensing Act 2003. She is on the Board of the Institute of Licensing. She is a member of the UK Centre for Animal Law, and a member of APDAWG. All views expressed are her own.

www.sarahclover.co.uk

Copyright Sarah Clover



With grateful thanks to Julia Carr of Canine Action UK and Marc Abraham,
PupAid, APDAWG – campaigners for Lucy’s Law
#Lucyslaw