



Department of
Primary Industries

Consultation outcomes report

Licensing and regulation of cat and dog breeders

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Published by the NSW Department of Primary Industries

Consultation outcomes report: Licensing and regulation of cat and dog breeders

First published March 2022

More information

DPI Policy & Industry Insights

www.dpi.nsw.gov.au

RDOC22/19070

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Introduction

In November 2021, the NSW Government released the NSW DPI Consultation Paper: Licensing and regulation of cat and dog breeders (**Consultation Paper**). The Consultation Paper sought public feedback on developing a licensing scheme for dog breeding in NSW, and on other issues relating to companion animals breeding.

Consultation was open from 16 November 2021 to 31 December 2021 and the public could provide written submissions by email or post.

During the consultation period, 164 submissions were received. Approximately 12% of submissions were made on behalf of organisations – ranging from breed clubs through to industry peak bodies and advocacy organisations. The remaining 88% of submissions were from individuals – including breeders and interested community members.

About this consultation outcomes report

The Consultation Paper sought feedback on four questions:

1. Do you have any comments on the principles for designing a licensing scheme?
2. At what threshold should a cat or dog breeder be considered an Exempt Breeder, meaning they are not required to hold a licence or comply with the Breeding Code?
3. At what threshold should a dog breeder be considered a Large Breeder, meaning they must hold a licence and comply with the Breeding Code?
4. Do you think that working dog breeders should also be considered Exempt Breeders, meaning they are not required to hold a licence or comply with the Breeding Code?

The submissions received took a mixed approach to responding to these questions. Some respondents provided specific answers for each question, while others provided an overview of their preferred regulatory model. Some submissions highlighted particular concerns with breeding practices in general, and others provided feedback on specific details that could be included in the licensing scheme. To ensure all feedback is appropriately captured, this Consultation Outcomes Report is structured around key feedback themes, rather than the four discussion questions contained in the Consultation Paper. This is broken into three parts:

Part 1 – General feedback	Feedback relating to issues with companion animals breeding generally, that does not specifically relate to the licensing scheme or regulatory requirements for breeders
Part 2 – Licensing and oversight	Feedback relating to the design of the licensing scheme itself – such as the scope and structure of the scheme
Part 3 – Welfare requirements	Feedback relating to the requirements that breeders should have to meet when conducting breeding to ensure the welfare of animals Note: Stakeholders suggested different models to apply these requirements – some recommending that they be attached to the licence in addition to the Breeding Code, while others suggested this should occur by updating the Breeding Code.

Part 1 – General feedback

General feedback

Most submissions provided general feedback on the issues covered in the Consultation Paper that did not neatly align to a particular discussion question or theme. This included many submissions that strongly emphasised their opposition to puppy factories and/or advocated for stronger rules and penalties around companion animals breeding. This also included several responses calling for a longer consultation period. Some of the other common issues raised are briefly summarised below.

Enforcement

Some respondents made comments relating to enforcement activity in relation to companion animals breeding. These comments included recommendations of which agencies should undertake enforcement of a licensing scheme – some supportive of continued enforcement by the approved charitable organisations (RSPCA NSW and Animal Welfare League NSW), others expressing concerns with those arrangements and suggesting alternative approaches.

Some respondents suggested that enforcement was the main issue – that the current regulatory framework is sufficient to prevent puppy factories but is not effectively enforced. These respondents reasoned that the desired outcomes could be achieved by shifting enforcement focus to better identify non-compliance with pet registration, desexing and advertising rules or providing more funding for the Puppy Factory Taskforce, rather than introducing a new licensing scheme. Some also highlighted that the focus of enforcement agencies should shift away from breeders who are members of breeding organisations, instead focusing on those who are not.

Some comments suggested that the licensing scheme would not be able to be effectively enforced due to resourcing constraints on the enforcement agencies or a lack of powers to take effective compliance action. Conversely, some responses noted concerns with the current approach to enforcement – expressing the view that powers to undertake unannounced audits are not appropriate when many smaller breeders operate from their residence, and that inspections should be arranged in advance unless there are reports of an offence or are authorised by a warrant.

Unintended consequences of licensing

Some respondents expressed that they did not believe a licensing scheme was necessary – or would not achieve the desired outcomes.

Some responses emphasised that the problem doesn't sit with puppy factories alone, highlighting that there are also smaller breeders who fail to appropriately care for their animals (often referred to as 'backyard breeders') – meaning that welfare issues aren't limited to larger breeders only.

Some respondents raised that licensing would not help to address the problem as only those who are currently doing the right thing would obtain a licence – whereas those who currently choose to operate outside the rules and avoid detection would not enter the system just because a licence is introduced. Some of these comments also expressed concerns that the

cost burden associated with licensing could force smaller compliant breeders to stop breeding or result in price increases – both of which could encourage breeders to ‘go underground.’

Interactions with existing requirements

Several respondents highlighted concerns with the way that the NSW Pet Registry currently operates – including concerns that not all animals were being properly microchipped or registered, or that improved enforcement is needed to ensure that the breeder is listed in microchip and registration details. Some respondents suggested that the system should be updated to improve traceability – for example by including the microchip number of a dog’s parents on their registration.

Some respondents suggested that an alternative approach to licensing would be to retrofit the NSW Pet Registry to address these issues and make the voluntary Breeder Identification Numbers generated from that system into a mandatory requirement.

Some respondents raised concerns that identifying numbers that must be included when advertising identification requirements could be falsified – leading to consumers believing that they were purchasing from a reputable breeder when, in fact, they were not. This linked to other responses expressing concerns that some breeders may falsely claim to be a member of a breeding organisation, as well as responses highlighting the problem of online pet scams.

Education and other programs

Many respondents emphasised the importance of improved consumer education – suggesting that there should be campaigns to improve understanding of companion animals breeding and help prospective purchasers to identify problem breeders. Some comments on education also extended to supporting responsible pet ownership to reduce the risk of animals ending up in shelters and helping breeders to understand their obligations under any new licensing scheme. Some comments highlighted the importance of these educational programs being accessible to all – for example, highlighting the need to ensure that they are accessible to people from culturally and linguistically diverse backgrounds.

Some respondents recommended that the NSW Government either make it mandatory to desex animals before they are sold or rehomed or offer subsidised desexing programs to minimise accidental litters.

Finally, some respondents called for increased funding to shelters and rehoming organisations – highlighting that these organisations bear the costs of poor breeding practices through the number of animals coming into their care.

Other

Some other issues raised in general comments included:

- banning the sale of cats and dogs through pet shops, unless they are sourced from rescue organisations
- banning, or strengthening regulation of, online sales of dogs and cats
- establishing a maximum price for puppies or kittens, to reduce the profits that can be made by puppy factory operators

- limiting the number of breeders allowed to obtain a licence, placing quotas on the numbers of animals that can be produced, or temporarily pausing all breeding to reduce the number of animals in shelters
- highlighting the need for improvements relating to planning legislation – to better consider animal welfare in decision-making and to better consider the amenity impacts posed by breeding facilities.

Licensing principles

Some responses provided specific comments in response to the set of licensing principles contained in the Consultation Paper. Comments were generally supportive of the licensing principles and emphasised that welfare should be paramount in the design of a licensing scheme.

Many comments also suggested additional principles, including:

- enforceability
- consistency
- transparency
- traceability
- accountability
- education
- avoiding overregulation of responsible breeders
- avoiding duplication of existing laws
- recognising self-regulating breeder organisation
- ensuring regular review and evaluation.

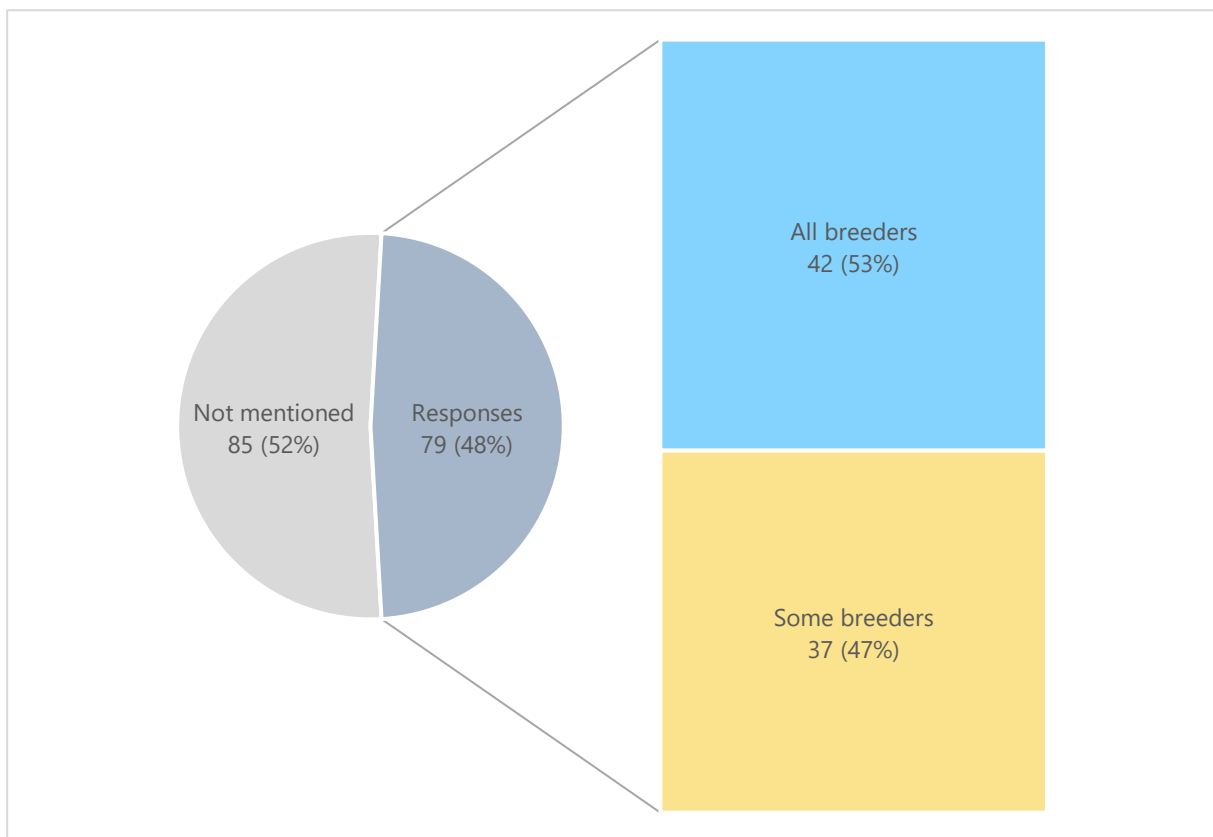
Part 2 – Licensing and oversight

Theme 1: Who should require a licence?

The Consultation Paper sought specific feedback in relation to who should be required to obtain a licence and, if there were to be a licensing threshold, how that should be measured. The responses to these two questions are summarised below.

Licence some breeders or all breeders?

Views were mixed on who should be required to obtain a licence. Responses were split on whether all breeders should have to obtain a licence, or only some breeders should have to obtain a licence (i.e. that there should be some form of licensing threshold):



Of the respondents who commented that all breeders should require a licence, two specifically indicated that this should be achieved by licencing anyone who owns an undesexed dog, regardless of whether or not they intend to breed.

Consideration of breeding organisation membership

28 responses expressed the view that members of companion animals breeding organisations did not need to be subject to licencing.

Some respondents who expressed this view suggested that this should only apply for smaller or hobby breeders who are members of organisations, and that larger or commercial breeders who are members of organisations should still require a licence. Views on what this threshold should be were varied.

These responses often highlighted that breeders who are members of such organisations are ‘traceable,’ already pay membership fees and comply with the organisational Codes of Ethics in addition to legislative requirements.

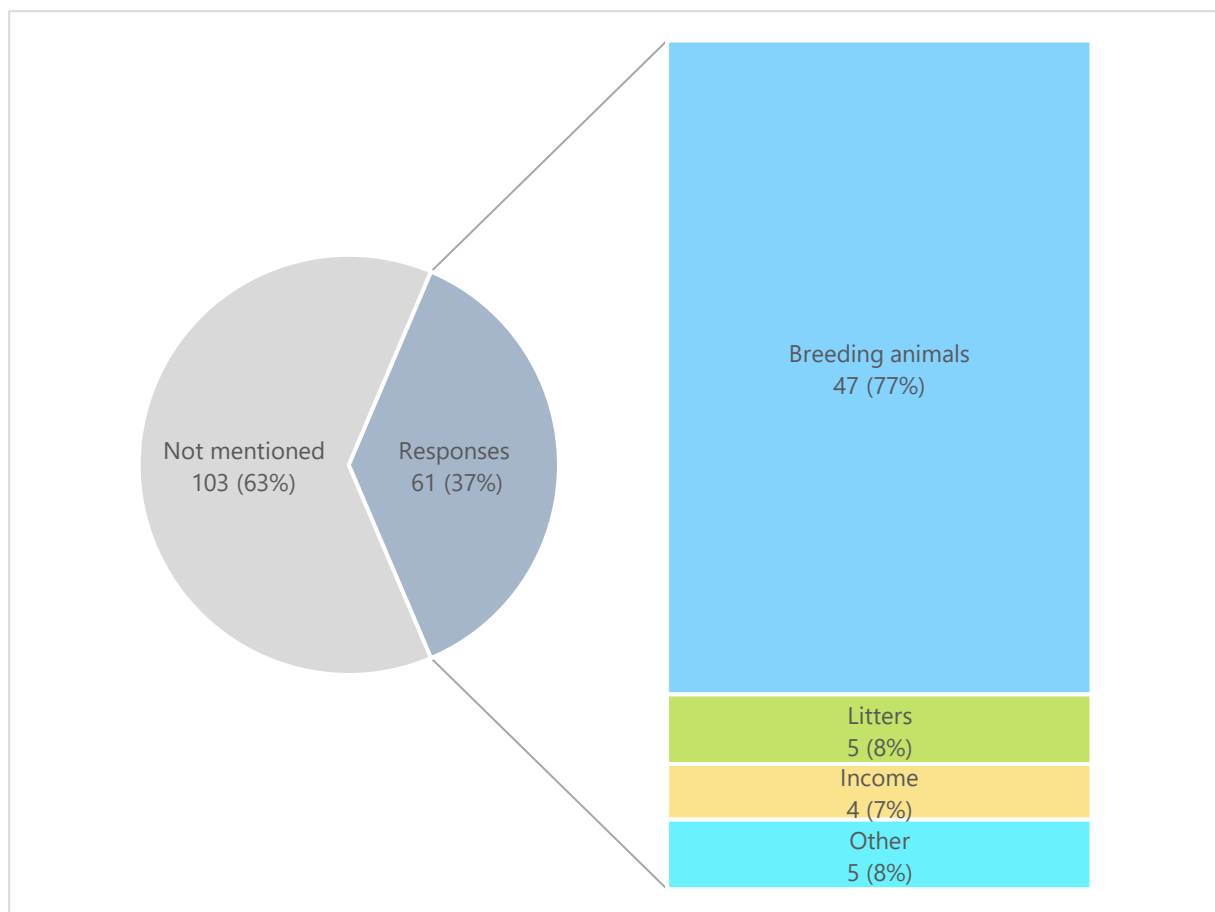
Some of these responses went further, suggesting that a broader co-regulatory approach should be developed where breeding organisations can partner with the NSW Government – with different models for how this could work. This included suggestions that:

- membership of a breeding organisation should be mandatory for breeders,
- breeding organisations could take on an enforcement role in relation to their members
- there could be improved flow of information between breeding organisations and the NSW Government to help identify problem breeders.

How should a breeder’s size be calculated?

Where respondents made comments relating to licensing thresholds, they used a range of methods to delineate between breeders of different sizes (for example, what makes a small/hobby breeder compared to what makes a large/commercial breeder).

Most respondents indicated that size should be based on the number of breeding animals, however others suggested that litter numbers, level of income or other methods should be used:



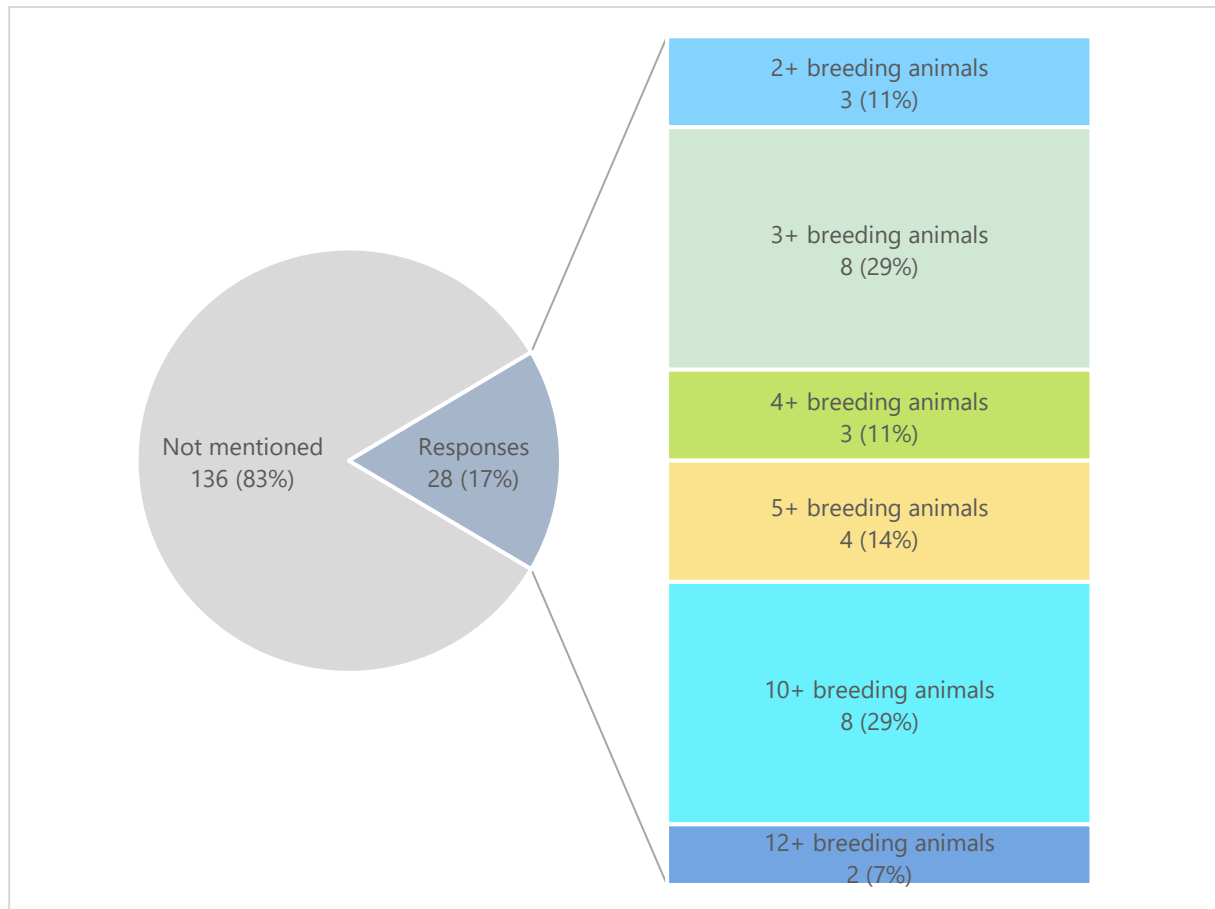
The ‘Other’ category includes responses that suggested other quantitative options (e.g. facility size, staff levels) and responses suggesting methods not based on numbers (e.g. the reason the breeder breeds).

Defining a breeding animal

In the Consultation Paper, an undesexed female animal was described as a breeding animal if it was over 6 months of age. Some respondents made comment on this, suggesting that 12 months would be more appropriate, as some hereditary testing for suitability to breed cannot occur until the animal is 12 months of age.

What should the licencing threshold be?

Of the respondents who commented that there should be a licencing threshold (e.g. only large/commercial breeders should need a licence), there was a wide variety of responses as to what that licencing threshold should be:



Other matters raised in comments

Looking to models from other jurisdictions

Some respondents provided comments that the best approach would be to adopt a model from another jurisdiction – some suggesting that NSW should look to Victoria’s legislative model, and others suggesting that the Australian Capital Territory’s approach was the best option. Additionally, one respondent each recommended looking at Queensland’s model and Western Australia’s model, respectively.

However, some respondents highlighted concerns with the approach taken in Victoria, expressing the view that it had resulted in unintended consequences. This included

comments that the cost of complying has resulted in some welfare-focused breeders to cease breeding, leaving a vacuum to be filled by 'underground' puppy factories or smaller breeders that don't meet welfare standards and seek to avoid scrutiny.

Placing a cap on the maximum number of breeding animals

Comments from 16 respondents indicated they believed there should be a legislated maximum on the number of breeding animals owned by one breeder or held at a single breeding establishment.

Just under half of these responses recommended that this 'hard cap' should be set at 10 breeding animals – which would align with the approach taken in Victoria.

Conversely, a few respondents specifically recommended against a hard cap, for example:

- suggesting that caps would be best determined on a case-by-case basis to consider what size of operation would be appropriate given the facilities, capabilities, and location
- raising that there may be unintended consequences to a hard cap, as forcing larger breeders who achieve good welfare outcomes to scale down their operations may leave a supply vacuum that could be exploited by underground operators.

Theme 2: How should a licensing scheme operate?

While the scope of the Consultation Paper did not specifically seek feedback on the details of how the licensing scheme could look in practice, some submissions included comments on what a licence should look like. The main themes covered in these comments are briefly outlined below.

Cost and administration

Some respondents focused on how the licencing scheme should be paid for or administered, for example:

- costs should scale with the size of the breeder (e.g. by applying a base fee with additional fees on a per-breeding animal basis – although some respondents noted that this may not be equitable as litter sizes vary by breed)
- licencing scheme should be cost-recovered (e.g. by applying a levy to breeding licences, or through re-inspection fees if some breeders require follow-up inspections due to non-compliance)
- fees should be discounted or waived entirely for members of breeding organisations, as these members already pay membership fees and fees relating to pet registration – these responses also highlighted that membership of these organisations provides welfare benefits as members are required to comply with the organisation's own Codes of Ethics (noting this is different to the Breeding Code, which is mandatory and enforceable under POCTAA), so an incentive to encourage membership would be appropriate.

Traceability and consumer information

Some respondents made comments around how licensing should be used to improve traceability, for example:

- including the breeder's information and the mother's microchip number on pet registration and microchipping forms
- integrating any breeder licensing scheme into existing advertising identification requirements or replacing the existing advertising identification requirements with provisions based on similar 'source number' requirements included in Victoria's legislation.

Some respondents focused on the importance of developing programs and mechanisms to encourage responsible pet ownership, for example:

- recommending the development of subsidised, or free, desexing programs
- providing clear information to consumers – both before becoming a pet owner and at the point of purchase.

Enforcement and auditing

Some respondents provided comments that emphasised that any licensing scheme should be appropriately enforced and audited, including developing a regular auditing program to ensure compliance with the requirements of the licensing scheme. Many of these comments expressed views on the structure and process of enforcement and auditing, for example:

- advocating for regular, periodic audits (potentially linked to licence renewals, with the duration of licences based on the audit results, or potentially undertaken by veterinary practitioners)
- recommending unannounced spot audits to ensure ongoing compliance
- suggesting that the licensing scheme could allow for third-party auditing, where breeding organisations could employ their own authorised officers to undertake audits in relation to their members.

Pre-approval considerations

Some respondents highlighted the importance of the licensing scheme involving steps to check that a person is suitable to hold a breeding licence before it is issued. For example:

- suggesting that a person should not be permitted to obtain a licence if they have previously been found guilty of an animal welfare offence – either in NSW or another jurisdiction
- including an upfront inspection of the breeding facilities to ensure they are compliant with the Breeding Code and/or including an upfront inspection of the breeding animals by a veterinarian to ensure their welfare
- putting in place a process to ensure a person has the skills and competencies to breed in a way that protects the welfare of the animals.

Welfare requirements

Some respondents recommended that there should be welfare requirements linked to the licensing scheme – these comments are addressed in **Part 3** below. This ensures these comments are considered alongside the existing welfare requirements established by the Breeding Code.

Part 3 – Welfare requirements

Theme 3: What requirements should breeders have to meet?

As with **Theme 2** above, the scope of the Consultation Paper did not specifically seek feedback on the welfare requirements that breeders should have to meet.

Some respondents who made comments around welfare requirements further explained how they felt they should be implemented. Some felt that the welfare requirements should form part of the licensing scheme itself (e.g. as licence conditions), while others expressed that this should be achieved by updating the current Breeding Code to avoid duplication and confusion.

The summary of responses below focuses on the most common welfare requirements raised by respondents but does not specifically focus on the means of implementing them.

Litter restrictions and breeding ages

Some respondents emphasised that there should be restrictions on the frequency of breeding. Of these respondents, some did not specify what that frequency should be. Those responses that did were varied – ranging from 12 to 18 months.

Some respondents made comments that there should be a maximum lifetime number of litters for animals. Again, some didn't specify what that maximum should be, whereas those that did varied widely – ranging from a maximum of 2 to maximum of 5 lifetime litters.

Some respondents commented that there should be restrictions on the minimum and/or maximum breeding age of breeding animals. When specific numbers were included, the suggested ages were similarly varied.

Some respondents also highlighted the need for specific provisions relating to retirement from breeding – for example, mandatory desexing or rehoming when an animal is no longer being used for breeding.

Suitability of the current Breeding Code

Some respondents chose to make comments that specifically related to the current Breeding Code, for example:

- suggesting that the current Breeding Code does not appropriately delineate between hobby breeders and commercial breeders, as some requirements are not relevant or are excessive in a hobby breeding context (e.g. record keeping requirements)
- calling for an update to the Breeding Code to better reflect community expectations
- feedback that the current Breeding Code does not appropriately consider how the welfare requirements of different breeds vary, and should include breed-specific provisions
- emphasising that the Breeding Code requires a greater focus on ensuring that animals in breeding facilities are appropriately socialised to ensure their welfare and suitability as pets.

However, some other respondents specifically indicated in their comments that they believed the current Breeding Code was sufficient and fit-for-purpose.

Veterinary oversight and genetic testing

Some responses highlighted the need for additional veterinary oversight of breeding – for example:

- requiring periodic veterinary checks
- receiving veterinary advice before and after each litter.

Some comments also emphasised the importance of genetic testing and screening for hereditary diseases, for example:

- making genetic testing mandatory
- making it specifically illegal to breed from a dog with a heritable defect or other health problems.

Other suggestions

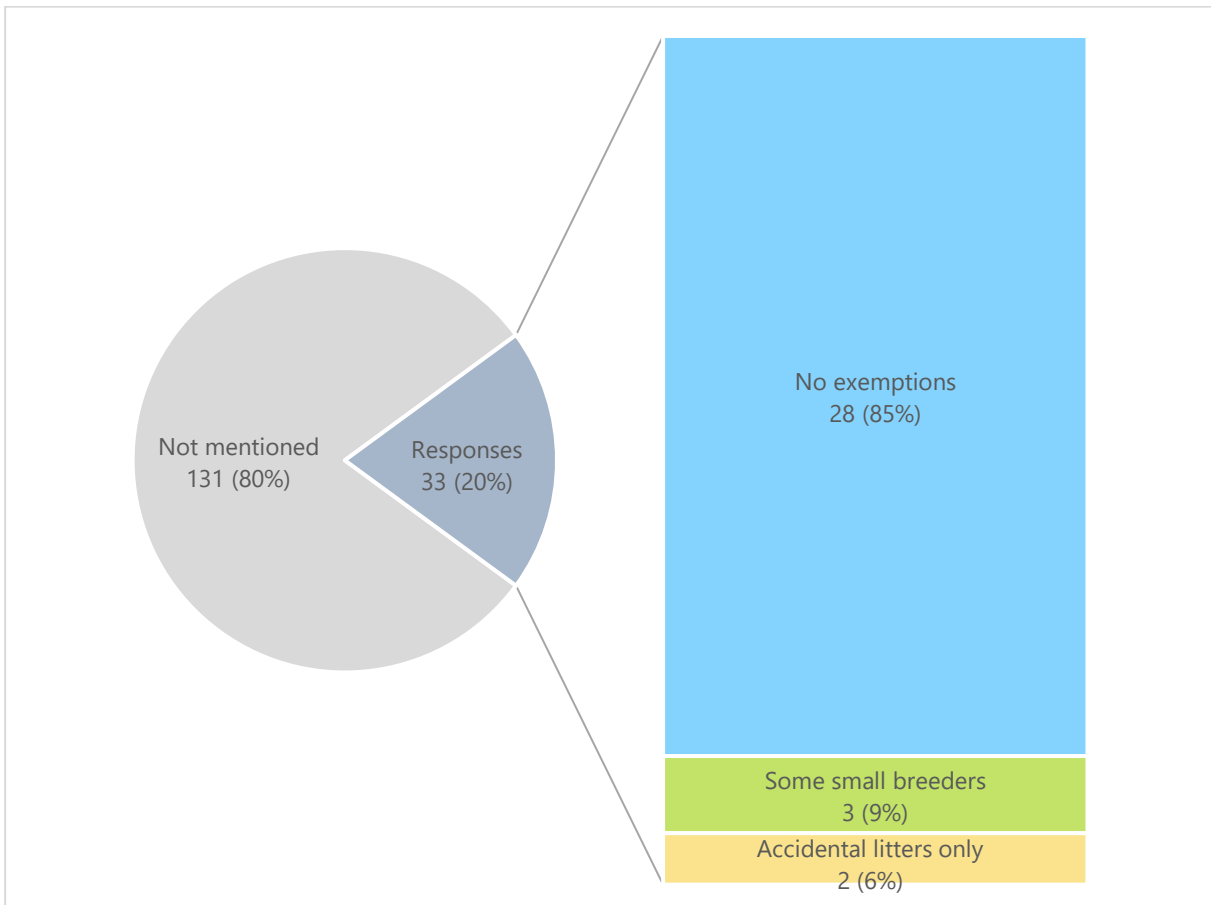
Some other comments relating to the welfare requirements that breeders should have to meet included:

- mandating a minimum staff ratio – although suggestions on what that ratio should be varied widely
- making improvements to the adoption or purchase process – e.g. requiring desexing, vaccinations and worming prior to sale, providing a mandatory returns process, providing consumer information etc.
- including mandatory reporting provisions – e.g. notifying the licensing authority of each litter or providing regular reports
- introducing provisions to regulate guardianship arrangements – e.g. a maximum number of breeding animals that a single guardian can have
- requiring breeders to become members of breeding organisations (or at least follow a breeding organisation's Code of Ethics)
- requiring breeders to develop business plans, to be reviewed and approved as part of their licensing application
- developing specific provisions to prevent inbreeding or hoarding
- establishing a clear process to review the welfare requirements and update them if needed.

Some respondents also highlighted in their responses that taking a 'tiered' or 'modular' approach to a revised Breeding Code may help to ensure that the Breeding Code is applicable and relevant to all breeders. This idea is explored more in **Theme 5** below.

Theme 4: Should anyone be exempt from some or all of those requirements?

The Consultation Paper sought specific feedback on whether any additional breeders should be exempted from the application of the Breeding Code. This question responded to concerns raised by some stakeholders regarding the applicability of the Breeding Code to smaller breeders and concerns around the appropriateness of being able to undertake proactive compliance audits of smaller breeders (which are linked to the Breeding Code):

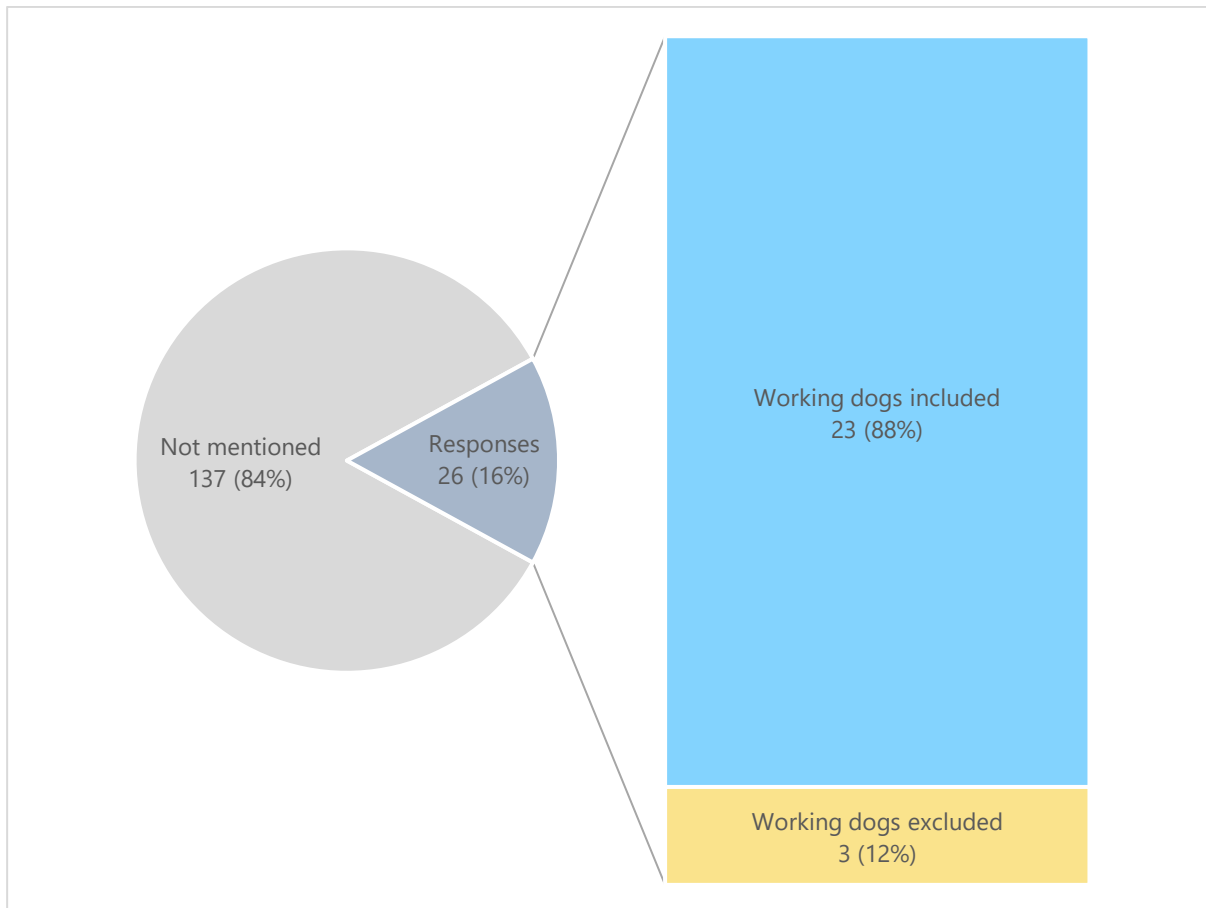


The most common reasons given for not supporting any exemptions included that:

- welfare requirements of animals do not change based on the nature or scale of breeding
- poor welfare outcomes can occur in smaller breeding establishments as well as larger breeding establishments.

Theme 5: How should the regulatory scheme apply to working dogs?

The Consultation Paper sought specific feedback on how the regulatory scheme should apply to working dogs – namely, whether working dog breeders should be included in any new regulatory arrangements:



Many of these respondents emphasised that the basic welfare requirements for dogs are the same, regardless of whether they are being bred for companion animals or working purposes.

Some respondents emphasised that the line between working dog and companion animal was often blurry, as dogs not suited to life as a working dog can instead be rehomed as pets. Other respondents noted that 'working dog' is given a specific definition under the *Companion Animals Act 1998* – meaning "a dog used primarily for the purpose of droving, tending, working or protecting stock" and including a dog being trained for that purpose.

Specific or modular Breeding Codes

Feedback from working dog stakeholder groups was that they do not want to be exempt from oversight, but instead want a separate and standalone Code for working dogs. In the view of these respondents, this would ensure that there are fit for purpose rules in place to protect the welfare of working dogs, which consider the particular circumstances of working dogs.

Another option raised was to revise the current Breeding Code to take a more modular approach – which could help to ensure that the requirements of the Breeding Code are

relevant to all breeders while also recognising the different risks and challenges posed by different forms or scales of breeding. Under this approach, the Breeding Code could include a set of baseline welfare requirements that apply to all breeders – irrespective of whether they are small or large, hobby or commercial, working or companion. The Breeding Code could then include additional, tailored requirements that apply to breeders in different contexts – for example, including specific provisions that only apply to larger breeders or working dog breeders.