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## **Public Audit and Post-legislative Scrutiny Committee Comataidh Sgrùdadh Poblach agus Iar-reachdail**

# **Post-legislative Scrutiny: Control of Dogs (Scotland) Act 2010**

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# Public Audit and Post-legislative Scrutiny Committee

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# Executive Summary

1. The Public Audit and Post-legislative Scrutiny Committee undertook post-legislative scrutiny to assess the effectiveness of the Control of Dogs (Scotland) Act 2010. The Committee's main conclusions and recommendations are set out below:

2. **A lack of available and consistent data, which has been exacerbated by the failure to establish a Scottish Dog Control Database, has prevented the Committee from accurately determining the effectiveness of the Control of Dogs (Scotland) Act 2010.**

3. **However, the evidence that the Committee has received from a range of witnesses, including victims of dogs attacks, suggests that there is still an unacceptably high prevalence of dog attacks in Scotland and that numbers have not reduced since the provisions of the 2010 Act came into force. Certain evidence points to an increase in dog attacks.<sup>i</sup> Given the volume of such attacks and that the impact on victims, particularly on children, can be life changing, the Committee considers it to be nothing less than a national crisis.**

4. **The Committee considers that had the 2010 Act been effective in achieving its objective of ensuring that dogs which are out of control are brought and kept under control, there should be a consequential reduction in prosecutions under the 1991 Act and in the numbers of individuals requiring hospital treatment following dog attacks. The figures available indicate that this is not the case.**

5. **In reviewing the 2010 Act, it became clear from the evidence provided to the Committee that concerns around out of control and dangerous dogs arose, not only because of the ineffectiveness of the 2010 Act, but also due to weaknesses in all dog control law. The Committee believes that current dog control law is not fit for its purpose and calls on the Scottish Government to undertake a comprehensive review of all dog control legislation as a matter of urgency. The report identifies a range of issues that should be addressed as part of that review.**

6. **However, the Committee believes that action needs to be taken now to tackle dog attacks. Therefore, the Committee has identified actions that can be undertaken in the interim to improve the implementation of the 2010 Act and, where appropriate, other dog control legislation.**

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<sup>i</sup> Natalie Crawford, Radio Clyde's *Lead the Way Campaign* (written and oral evidence)

7. The Committee believes that one of the key reasons hampering the effectiveness of the 2010 Act is the absence of the Scottish Dog Control Notice Database, which Scottish Ministers have had the power to establish since the Act came into force in 2011, and have not yet done so.

8. The Committee emphasises that, when implementing legislation, the Scottish Government should make no distinction between Scottish Government initiated legislation and Members' Bills.

9. The Committee considers that in order to accurately measure the effectiveness of the 2010 Act, and other dog control legislation, there needs to be improved baseline data. In particular, General Practitioners, hospitals, local authorities and Police Scotland should be required to record and collect consistent data on reported incidences of out of control dogs and attacks by dogs on both humans and animals. This data should be collected regularly at a local level and published on a local authority area basis by the Scottish Government, to ensure that the data on the incidences of out of control dogs and dog attacks can be specifically linked to the number of Dog Control Notices (DCNs) that have been issued and the resources available to each local authority. The Committee recommends that the Scottish Government put this into effect without delay.

## Awareness

10. The Committee recognises that the purpose of the 2010 Act was to provide an important tool to prevent dog attacks from occurring. However, its success is dependent on members of the public being aware of the Act and how it can be used. The Committee notes the Scottish Government's indication that it would be willing to undertake an awareness raising programme. However, it considers that such an exercise is long overdue and should be undertaken as a matter of urgency. The awareness raising programme must include material specifically directed at children.

11. The evidence clearly demonstrates that some local authorities and police officers are not aware of or understand their respective responsibilities under the relevant legislation, nor do they co-ordinate their actions in respect of out of control dogs. The Committee recommends that the Scottish Government review the current Control of Dogs Joint Protocol<sup>ii</sup> to ensure that it is relevant and clear. It should also take steps to ensure that the Joint Protocol is understood and publicised by local authorities and the police to ensure that the appropriate staff within these bodies are aware of their respective responsibilities.



12. The Committee notes the commitment of Police Scotland to make internal recommendations to ensure that police officers throughout Scotland have sufficient knowledge to respond to dog attacks effectively. The Committee considers that this should be done as a matter of urgency and the subsequent recommendations published. The Committee recommends that Police Scotland and the Scottish Government monitor the implementation of the recommendations on an ongoing basis.

13. The Committee notes that the Joint Protocol document states that the use of DCNs may be appropriate in relation to cases originally considered under the 1991 Act, but where a lack of evidence exists to support a prosecution. The evidence that the Committee has received suggests that this is not consistently applied throughout Scotland, resulting in no sanctions being made in some cases against the owners of dogs who pose a risk to the safety of members of the public and other animals. The Committee calls on the Scottish Government to give urgent consideration as to how this issue can be addressed to ensure that a consistent approach is applied throughout Scotland.

## Resources

14. The Committee recognises that appointing an insufficient number of dog wardens has negatively impacted on local authorities' ability to implement the 2010 Act and the effectiveness of the Act in reducing the number of out of control dogs. The Committee also recognises that it is important that dog wardens are trained not only in the relevant legislation, but also in dog behaviour. Therefore, the Scottish Government should obtain the following data from each local authority without delay: the number of authorised officers that have been appointed under section 1(6) of the Control of Dogs (Scotland) Act 2010, whether the role is stand alone or has been incorporated into other job roles and the training that has been provided to authorised officers. The data collected by the Scottish Government should be assessed as part of its review to determine the minimum number of dog wardens that should be appointed in each local authority area and their training requirements. The data collected should be regularly updated and closely monitored by the Scottish Government.

15. The Committee considers that DCNs should not be used as an alternative to the powers of seizure under the 1991 Act. The Committee believes that where the procurator fiscal has determined that legal proceedings should be taken against the owner due to an individual being seriously injured, then the dog should be seized until the case has been heard. The Committee understands that such a change may require an amendment to

**the current law and recommends that this issue is considered as part of the Scottish Government's review.**

- 16. The Committee was concerned to learn that, while local authorities may apply to the Sheriff under the 2010 Act for the destruction of a dog when they believe that serving a DCN would be inappropriate, there is no provision in place to allow them to seize the dog pending the matter being heard by the Sheriff. The Scottish Government's review should consider how to remove this loophole.**

#### **Data protection implications of sharing information with complainants**

- 17. The Committee recognises that local authorities are often reliant on victims of attacks and members of the public reporting breaches of DCNs. The Committee shares the frustrations expressed by both local authorities and members of the public on the lack of information that can be disclosed when a DCN has been issued. The Committee also notes the inconsistency of approach in how some local authorities interpret their data protection responsibilities around the sharing of information in relation to DCNs.**

- 18. The Committee considers that victims of dog attacks should be entitled to know the outcome of the action that has been taken against the owner of the dog by the local authority. The Committee recommends that the Scottish Government's review should consider how best to address concerns around the inability of local authorities to share information. The Committee believes that, whatever dog control regime is put in place as a consequence of the Scottish Government's review, its effectiveness should not be impeded by data protection concerns.**

#### **Relocation of dog owners**

- 19. Based on the evidence that the Committee has received, it is clear that a database containing information on dog control activity would be a valuable tool in improving the effectiveness of the Act. The Committee therefore considers that the failure of Scottish Ministers to use the powers given to them under the 2010 Act to establish a Scottish Dog Control Database is unacceptable and must be urgently rectified.**

- 20. The Committee recommends that the database includes information such as the details of complaints that have been investigated and warnings that have been issued as well as information on owners who relocate within Scotland and on dogs which move between owners in different areas. The**

information held in the database should be accessible by all local authorities and Police Scotland.

### Offence of obstruction

21. The Committee notes the evidence received from local authorities pointing to the difficulties that their officers have sometimes experienced in enforcing the 2010 Act and calling for an offence of obstruction to be added to the Act. The Committee recommends that the Scottish Government considers introducing such a provision as part of its review.

### Fixed penalties for minor breaches of Dog Control Notices

22. The Committee notes the evidence from witnesses which suggests that only the most serious of breaches of DCNs appear to be reported to the Procurator Fiscal. The Committee also notes that, as a consequence, a number of local authorities have called for the 2010 Act to be amended to make provision for fixed penalty notices to be available to local authorities in the event of a breach of a DCN. The Committee recognises that this could provide an effective remedy for tackling minor breaches of DCNs. The Committee recommends that, when considering the provisions of the 2010 Act as part of its review, the Scottish Government should also consider whether fixed penalty notices should be introduced to enforce minor breaches of DCNs.

### Designated areas in public parks

23. The Committee recommends that local authorities consider using their by-law powers to create secure play areas for children in public parks from which dogs are prohibited. The Committee further recommends that local authorities should use their by-law making powers to create designated enclosed areas in public parks to provide places where dogs can be off lead and places where all dogs must be on a lead. The use of by-laws in this way is currently best practice. However, the Committee considers that it should become standard practice.

### Reasonable apprehension "the one free bite rule"

24. The Committee understands that in order for case to be successfully prosecuted under the 1991 Act, it is necessary to prove that there was "reasonable apprehension" that the dog would bite someone. This has led to a perception that a "one free bite" rule exists. The Committee considers that it is unacceptable that a severe attack by a dog on an individual might go unpunished because of the absence of any prior bad behaviour by the dog. The Committee also believes that the severity of the attack and the

**injuries sustained should be prioritised over the requirement for reasonable apprehension. Therefore, the Committee considers that the Scottish Government's review should consider alternatives to the requirement for "reasonable apprehension" as provided for in the 1991 Act.**

## **Licensing schemes**

- 25. The Committee notes the outcome of the Scottish Government's 2013 consultation on the introduction of a licensing scheme for dog owners. It further notes the range of views expressed by witnesses on the advantages and disadvantages of such a scheme. The Scottish Government's review should consider the introduction of a licensing scheme for dog owners and, as part of that review, consider dog licensing schemes in other jurisdictions such as Ireland and Sweden.**

## **Regulation of dog walkers**

- 26. The Committee agrees that those providing dog walking and dog care services are responsible for ensuring that the dogs in their care do not become out of control and/or dangerous. The Committee recommends that the Scottish Government's review should consider others who, in addition to the owner, could be deemed legally responsible for ensuring that dogs in their care are not out of control or dangerous.**

## **Consolidation of dog control law**

- 27. The Committee agrees with witnesses that consolidation of dog control law could improve clarity for the public, local authorities and the police on the handling of out of control and dangerous dogs. The Committee considers that, irrespective of the policy outcomes of the Scottish Government's review, a modern consolidated Act of the Scottish Parliament on dog control law is required.**

## **Public health**

- 28. The Committee recommends that as part of its review, the Scottish Government assesses the scale of the public health impact of dog bites, and the associated cost implications, to determine if a multi-agency public health approach to tackling dog control issues is required.**

## **Conclusions**

29. **The Committee considers that, from the evidence it has received and the data available, the Control of Dogs (Scotland) Act 2010 has had limited effect in preventing or reducing the number of dog attacks in Scotland.**
30. **The Committee considers that current dog control law is not fit for purpose and recommends that the Scottish Government undertakes a comprehensive review of all dog control legislation without delay, with a view to introducing modernised, fit for purpose, consolidated dog control legislation. The Committee has identified areas that it considers should be included in the Scottish Government's review of dog control law.**
31. **In the interim, the Committee has made recommendations to improve the implementation of the 2010 Act.**

# Introduction

32. Following a debate in the Chamber in May 2018, the Public Audit and Post-legislative Scrutiny Committee (the Committee) agreed to undertake post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010 (the 2010 Act) <sup>1</sup> to review its effectiveness in supplementing the law dealing with dangerous dogs by providing measures to address dogs that are out of control before they become dangerous. <sup>2</sup> This report summarises the evidence that the Committee received and sets out its conclusions, findings and recommendations.

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# Background and approach to scrutiny

## About the Control of Dogs (Scotland) Act 2010

33. The 2010 Act was introduced in the Scottish Parliament in the form of a Member's Bill by Christine Grahame MSP on 22 June 2009. The Act was passed by the Parliament on 22 April 2010 and came into force in February 2011.
34. The 2010 Act aimed to modernise the law on the control of dogs in Scotland, by tackling irresponsible dog ownership and shifting the focus of the law from 'breed' to 'deed'.<sup>2</sup> The Act created an administrative regime intended to influence the behaviour of dog owners and those in charge of dogs. Local authorities were given powers to issue Dog Control Notices (DCNs) on the owner, or person in charge of a dog, which they had failed to keep under control.
35. Under the 2010 Act, a dog is deemed to be "out of control" if:
  - It is not being kept under control effectively and consistently by the proper person (generally the owner of the dog but it may be the person who has parental responsibilities in relation to an owner under 16 or any person who appears to have day-to-day charge of the dog); and
  - Its behaviour gives rise to alarm, or apprehensiveness, on the part of any individual, and that individual's alarm or apprehensiveness is, in all circumstances, reasonable. That apprehensiveness may relate to the individual's own safety, the safety of another person, or the safety of an animal other than the dog in question.
36. Both elements of this test must be met for an officer authorised by the local authority to be able to serve a DCN. It is possible to serve a DCN even where a dog attack has not actually taken place. What matters is that the two-part test is met.<sup>3</sup>
37. The 2010 Act was intended to supplement existing law on dangerous dogs, for example the provisions of the Dangerous Dogs Act 1991 (the 1991 Act).<sup>4</sup> The 1991 Act was introduced in response to a number of high-profile attacks and places strict controls on four types of dogs which are considered particularly dangerous. Responsibility for enforcement of the 1991 Act lies mainly with the police, although local authority officers can and do provide support and assistance in certain circumstances.
38. Section 3 of the 1991 Act deals with threatening behaviour or attacks by any type of dog. It provides that anyone allowing a dog to be dangerously out of control in a public place, or a private place, where it is not permitted to be is guilty of an offence. Since DCNs are not restricted to cases where an attack has taken place, their use may be considered appropriate where a case was originally considered under section 3 of the 1991 Act<sup>4</sup> but where a lack of evidence exists to support a prosecution.

## Chamber Debate

39. On 8 May 2018, <sup>5</sup> the Chamber debated Motion S5M-10404 in the name of Alex Neil, which raised concerns that recent figures suggested that the number of dog attacks was rising and questioning the effectiveness of the 2010 Act. The motion for debate stated—

” That the Parliament expresses its concern at figures obtained by a recent Clyde News investigation, which suggest that, between January and June 2017, 205 children were taken to A&E due to dog bites; understands that the number of people receiving treatment for such bites in Scotland has risen from 1,939 in 2015 to 2,027 in 2016 and that, in the first six months of 2017, 1,057 children and adults in the NHS Greater Glasgow and Clyde area went to hospital; considers these figures to be very worrying, and notes calls for a post-legislative review of the Control of Dogs (Scotland) Act 2010, including the degree to which the Act is being effectively enforced by local authorities.

40. Following the debate, the then Minister for Community Safety and Legal Affairs wrote to all local authorities seeking information on their use of the powers in the 2010 Act. The Minister shared the responses received from local authorities with the Committee. <sup>6</sup>

## Call for Evidence

41. On 28 June 2018, <sup>7</sup> the Committee agreed to undertake post-legislative scrutiny of the 2010 Act. The Committee subsequently launched its call for evidence <sup>8</sup> which ran from 3 July to 5 October 2018.

42. The call for evidence sought views on the following points:

- The effectiveness of the Act in reducing the number of out of control dogs / dog attacks in Scotland;
- How well you think local authorities are carrying out their duties under the Act;
- What challenges you feel local authorities face in carrying out their duties under the Act;
- If there are any weaknesses in the Act or any specific changes you would like to see;
- Any other issues relating to the Act you wish to bring to the attention of the Committee.

43. The Committee received a total of 49 written submissions <sup>9</sup> from a range of organisations and individuals.



## Public engagement meetings

44. To help gain further insight into the public's view of the effectiveness of the 2010 Act, the Committee held three public engagement meetings<sup>10</sup> between December 2018 and January 2019 in Airdrie, Dalkeith and Dundee. The Committee met with individuals from each of these local communities who had lived experience of out of control dogs.

## Evidence sessions

45. The Committee took oral evidence from six panels of witnesses, including Ash Denham, Minister for Community Safety (the Minister). The evidence sessions took place on the following dates:
- 21 February 2019,<sup>11</sup> two round table evidence sessions with parents whose children had been attacked by dogs, medical practitioners, campaigners and representatives of organisations with an interest in dog control issues.
  - 7 March 2019,<sup>12</sup> representatives of local authorities, the Crown Office and Procurator Fiscal Service (COPFS) and Police Scotland.
  - 21 March 2019,<sup>13</sup> Christine Grahame MSP, who was the Member in Charge of the Bill and Ash Denham, the Minister for Community Safety.
46. The Committee wishes to thank all witnesses for their evidence and particularly to those witnesses who shared their own personal experiences of out of control and dangerous dogs, both at the Committee's public engagement meetings and in oral and written evidence.

# Post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010

47. The Policy Memorandum accompanying the original Bill indicates that the Bill was designed to identify out of control dogs early on and to enable steps to be taken to change the dog's behaviour before they become dangerous and potentially causing harm to people and other animals. As such, a measure of its effectiveness is the extent to which it has prevented, and therefore reduced the number of dog attacks.
48. Veronica Lynch, who has campaigned for changes to dog control legislation since her 11-year-old daughter Kellie was killed by two rottweilers in 1989, told the Committee that, in her view, dog control legislation remains predominantly reactive. She said—

” We have been working with a reactive method for a long time and, 30 years on from Kellie's death, we are still getting the same headlines. Nothing has changed. Something has to be done. It is okay to sit around talking about it, but we really need to see some action.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Veronica Lynch, contrib. 92<sup>14</sup>

49. The evidence that the Committee received in written form and during the public engagement meetings and subsequent oral evidence sessions suggested that dog attacks continue to occur on a regular basis and that the impact of such attacks is often devastating.

## Impact of dog attacks

50. The Committee heard first-hand of the impact of dog attacks at its public engagement sessions. In one incident, the person required initial hospital treatment, followed by two further four and nine-day hospital admissions to treat their injuries and an infection contracted from the dog bites. In another incident, an individual who was injured when their dog was attacked in the street, required hospital treatment. In both cases passers-by had to intervene and use force to help stop the attacks.
51. The Committee also heard of an incident where a therapy dog was attacked by an out of control dog and both the owner and the therapy dog were injured in the attack. The person has been left with permanent scarring to their leg. <sup>15</sup>
52. In his oral evidence to the Committee, Dave Joyce, National Health, Safety and Environment Officer from the Communication Workers Union told the stories of two postal workers who had recently been attacked by dogs while at work. Mr Joyce described their facial and limb injuries as 'life changing' to the extent that it was unclear whether they will be able to continue in their roles as postal workers. <sup>16</sup>
53. Some of the most disturbing accounts that the Committee heard during its oral evidence and public engagement sessions were those of dog attacks on children. In

particular, Veronica Lynch described the circumstances that led to the fatal dog attack on her daughter Kellie. She told the Committee—

” The owner stupidly allowed his daughter and my daughter to take out two massive Rottweilers with a combined weight of something like 19 stone. Kellie weighed something like 4.5 stone, so she did not stand a chance.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Veronica Lynch, contrib. 21<sup>17</sup>

54. Dr Judy Evans, a consultant plastic surgeon from the Royal College of Surgeons in Edinburgh described the kind of injuries that children were likely to suffer as a consequence of dog attacks. She said—

” Children are generally smaller than adults and their faces are nearer to the ground, so the percentage of children who get injured makes the situation seem less important than it really is, because facial injuries are so difficult to hide. A greater percentage of dog bite injuries are facial injuries if someone is not, say, 6ft tall; taller people are more likely to have a hand or leg injury, although I do not want to minimise those injuries.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Evans, contrib. 38<sup>18</sup>

55. Claire Booth, whose 6-year-old son was attacked and seriously injured by two dogs in 2015, told the Committee of how one of the two dogs who attacked him knocked him over and covered his whole body. Her son required emergency surgery to reattach his ear; he also received bites to his hip and elbow and had teeth marks embedded in his forehead. He suffered “cuts and grazes all over his body as a result of the dogs dragging him about the ground”. <sup>11</sup>

56. Jim Ferguson, an Amenity Services Officer from Argyll and Bute Council, told the Committee of an incident involving a child, which had occurred at a local festival in 2018—

” a chap took his dog on to the stage. There was loud music and people were dancing, and the dog disfigured a five-year-old girl.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Jim Ferguson, contrib. 98<sup>19</sup>

57. Lisa Grady, whose 10-year-old daughter was attacked and seriously injured by two rottweilers in 2010, told the Committee that her daughter has been left with considerable scarring on her face, neck and leg. She will also require further surgery on some of her scars which are becoming more visible as she gets older. <sup>11</sup>

58. Dr Evans explained to the Committee that—

” Children who still have to grow have worse scars, because their tissues are actively growing, which means that their scar tissue is actively growing, too. Children will get worse scars, even with the best plastic surgery. That is a huge problem for the child concerned.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Evans, contrib. 23<sup>20</sup>

## Psychological impact on victims

59. Witnesses also described how the physical injuries sustained in dog attacks were almost always accompanied by psychological harm.
60. Lesley Morrison, a GP in the Borders, described the impact a dog attack can have on a victim's life "...and the extent of the psychological scars they can be left with. Despite professional psychological help they can often continue to suffer from anxiety around dogs." <sup>21</sup>
61. Lisa Grady told the Committee how her daughter had been affected psychologically after she was attacked. She explained that her daughter—
- ” suffers from anxiety quite a lot. Basically, she turned into a recluse after the dog attack.... She is still suffering now, physically and mentally
- Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Lisa Grady, contrib. 28<sup>22</sup>
62. Lisa Grady went on to tell the Committee that nine years after the attack her daughter had only started to “come out her shell again” in the last 6 months. <sup>11</sup>
63. Speaking of the psychological impact on her 6-year-old son, Claire Booth told the Committee that—
- ” There has been a traumatic effect on his entire childhood: he does not want to go to places where he should be striving to go as a little boy.
- Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Claire Booth, contrib. 19<sup>23</sup>
64. The written submission from Natalie Crawford from Radio Clyde's Lead the Way Campaign contained a quote from the mother of a 6-year-old who had been bitten by a dog and dragged across a park and into the path of a car. The mother explains that he now has bad anxiety and is seeing a psychologist. <sup>24</sup>
65. Victim Support Scotland's written submission comments that—
- ” One staff member reported supporting a child who needed surgery after being badly attacked in a public place and the long-lasting impact on the individual who now fears public spaces and has an increased distrust in animals. <sup>25</sup>

## Impact on the wider family

66. Witnesses also described how the impact of dog attacks could extend to other members of the family. Victim Support commented that—
- ” All staff and volunteers involved in support of this nature relay that the effect on families has been traumatic. <sup>25</sup>
67. Dr Judy Evans, from the Royal College of Surgeons Edinburgh, told the Committee that in her view—

” For every child who comes into the plastic surgeon's with a dog bite injury—or any other injury—there will be not just one patient; there will be at least five. There will be parents, and perhaps grandparents, too. The dog might not have been running wild. It might have been at home, where the grandparents were caring for it. The dog might never previously have bitten anybody. Such terrible situations affect the inter-family dynamics, and the effect continues for the rest of the child's life and the rest of the family's life. I would say that a dog bite is very rarely a minor injury, even if it is not life threatening.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Evans, contrib. 23<sup>20</sup>

68. Veronica Lynch spoke of how the trauma of the attack on his sister Kellie, had affected her now adult son when he himself was recently attacked by a dog. Mrs Lynch told the Committee that—

” Because of what had happened to his sister, he refused point blank to report the attack—he could not face going through any more trauma. His is another attack that was not reported, simply because of the psychological damage that he had suffered in losing his sister.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Veronica Lynch, contrib. 48<sup>26</sup>

69. Claire Booth also spoke of the impact the attack on her son has had on the whole family, including his younger siblings—

” The trauma for my family is on-going. Ryan has been left with a disfigurement. He will have to undergo another three operations to remove cartilage from his sternum, attach it to his ear and rebuild his ear with a skin graft. Those will be three separate operations in Edinburgh; we live in Bishopton, so it is a bit of an upheaval for us.... It has affected our younger children, who were not there at the time but now have a huge fear of dogs. It has affected me, too: I had a lot of time off work, I was diagnosed with post-traumatic stress disorder and had to go through cognitive behavioural therapy.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Claire Booth, contrib. 19<sup>23</sup>

## Attacks on pets and other animals

70. The intention of the Act was also to help prevent dog attacks on other animals. Witnesses described the impact on owners when family pets had been attacked or killed by out of control dogs.

71. In her written evidence to the Committee, Vikki Fullarton described an incident where her mother's dog was attacked and killed by two other dogs in a residential street. She said—

” This was no dog fight – a tiny white fluffy handbag dog minding its own business vs two out of control Alsatians...two Alsatians with no recall (the owner repeatedly tried to call them back as they ran at speed towards mum).<sup>27</sup>

72. The Committee also heard of an incident of a dog escaping from a garden and attacking a dog being walked passed on a lead. In another incident, the Committee heard of a small dog, which was on a lead, being attacked by a large dog which was also on a lead. In this case, the large dog was too powerful for its owner and they were unable to stop the attack.<sup>28</sup>
73. Witnesses who were sheep farmers reported an incident of sheep being attacked on a monthly basis as a result of dogs being allowed to run off the lead in an adjacent field. The behaviour of one out of control dog led to the deaths of 13 lambs.
74. The Committee also received evidence<sup>29</sup> of an incident where the actions of an irresponsible dog owner led to their dog colliding with a person who was running on a cycle path. While the dog did not attack the person, the force of the impact resulted in life changing injuries to the individual, which required surgery and six months off work.
75. Subsequent to its oral evidence sessions, media reports recorded further incidents of dog attacks in Scotland.<sup>30 31</sup>

## Effectiveness of the 2010 Act in preventing dog attacks

76. The evidence received from witnesses described above suggests that, despite the provisions of the Act, there continues to be serious dog attacks across Scotland. The Committee also received data from a range of sources which supports the view that such attacks are still occurring in significant numbers and may even be increasing.
77. For example, in her written submission, Natalie Crawford from Radio Clyde's Lead the Way Campaign highlighted that in NHS Greater Glasgow and Clyde 1,057 people had sought help at accident and emergency departments for injuries caused by dog bites between January and June 2017. The average number of people attending Accident and Emergency Departments following a dog attack, per year, in the area covered by NHS Greater Glasgow and Clyde for 2014 to 2016 was shown to be 2,005.<sup>32</sup>
78. Later, in oral evidence Natalie Crawford provided updated figures for the three NHS Boards in Radio Clyde's broadcast area. She stated that—

” Last year, in NHS Greater Glasgow and Clyde, 1,417 people—255 of whom were children—presented at accident and emergency departments with injuries related to dog attacks. The figure for NHS Lanarkshire was 912, and it was 439 for NHS Ayrshire and Arran. Last year's figures for NHS Lanarkshire and NHS Ayrshire and Arran were at a four-year high.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Natalie Crawford, contrib. 17<sup>33</sup>

79. In his evidence to the Committee, Dr Alasdair Corfield, a consultant in emergency medicine from the Royal College of Emergency Medicine, was asked for his perspective on the number of dog attacks which were treated by accident and emergency departments in hospitals each year. He told the Committee that—

” My reflection is that that happens probably 5,000 times a year in Scotland, so there are about 5,000 individual stories every year like those that we heard this morning. They might not be of the same severity, but they are all significant.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Corfield, contrib. 31<sup>34</sup>

80. However, Dr Corfield went on to emphasise that this figure was likely to be an underestimate on the basis that some victims would not attend accident and emergency departments following a dog bite, particularly when the injury was not severe.

81. The Committee received written evidence <sup>35</sup> calling for the “introduction of a structured reporting process between health care providers and LAs to enable DCNs to be issued where appropriate”. Further written evidence <sup>36</sup> suggested the lack of a requirement for health care professionals officials to report injuries resulting from dog attacks could lead to owners “thinking that the matter could be kept private”. The Committee explored this point with medical professionals during oral evidence. <sup>11</sup>

82. Dr Judy Evans a consultant plastic surgeon from the Royal College of Surgeons in Edinburgh told the Committee that—

” Our primary responsibility is patient confidentiality. I have numerous experiences of the relatives of the child in question not wanting the police to get involved, because the incident involved the family dog. We cannot go against their wishes.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Evans, contrib. 61<sup>37</sup>

83. The evidence from the Communication Workers Union (UK) <sup>38</sup> indicated that there continued to be a high number of dog attacks on postal workers. Its written evidence stated that, since 2010, 2,500 postal workers had been attacked by dogs. In similar terms, the written submission from Royal Mail Group states—

” In 2017/18 there were 211 dog attacks recorded on our staff in Scotland. Since 2012/13, there have been 1619 attacks in Scottish postcode areas. <sup>39</sup>

84. In addition to the figures in relation to hospital admissions, the Committee also explored the available data concerning dog attacks within the criminal justice sector. As noted above, the purpose of 2010 Act was intended to be preventative and act as a tool to tackle out of control dogs before they became dangerous and attacked individuals or livestock. As such, it would arguably follow that, if the 2010 Act had been effective, there would be a commensurate reduction in the number of prosecutions under the 1991 Act.

85. Figures <sup>40</sup> provided to the Committee by the Crown Office and Procurator Fiscal Service (COPFS) indicated that the number of charges alleging a contravention of



section 3(1) of the 1991 Act for the following years was apparently decreasing (see below). In absence of further data, therefore, this might suggest that DCNs under the 2010 Act are being used as an alternative to proceeding with prosecutions under the 1991 Act.

Year	No of charges under s3(1) DDA 1991
2016-17	457
2017-18	385
2018-31 Jan 19	332

86. However, crucially, the statistical information <sup>41</sup> on the use of the 1991 Act indicates that the number of prosecutions under the 1991 Act over the last eight years (and since the 2010 Act came into force) has remained almost static with the exception of 2016/17.

Year	No of prosecutions under the DDA 1991
2010-11	86
2011-12	96
2012-13	97
2013-14	86
2014-15	94
2015-16	78
2016-17	64
2017-18	82

87. The figures from the COPFS further suggest that, despite a reduction in the number of charges being reported to the Procurator Fiscal under the 1991 Act, the figures equate to at least one dog attack in Scotland every day.

88. Scottish Land and Estates written submission <sup>42</sup> stated that in its view, specifically in relation to livestock, the increasing number of out of control dogs and dog attacks had highlighted that the Act had not been effective in bringing about more responsible dog ownership. Similarly, the National Farmers Union Scotland (NFUS) stated in its written submission that—

” NFUS considers that the number of livestock worrying instances remain far too high and does not consider that the Act has been effective in reducing the number of out-of-control dogs. <sup>43</sup>

89. The available statistical information appears to support this view. The Dogs (Protection of Livestock) Act 1953 (“the 1953 Act”) makes it an offence for the owner of a dog to worry livestock on agricultural land. Enforcement of the 1953 Act is the responsibility of Police Scotland and local authorities may issue a DCN as an interim measure to keep the dog under control until the matter can be heard by the Courts. Data provided by the Scottish Government in response to a Parliamentary Question <sup>44</sup> indicates that the number of offences recorded under the 1953 Act had risen from 115 in 2008/9 to 170 in 2017/18.

90. As part of the Committee's post-legislative scrutiny, the Parliament's Outreach Education Team discussed the topic of out of control dogs with pupils in eight primary schools during December 2018 and January 2019. <sup>45</sup> This exercise revealed that, of the 269 children who participated, 181 (67%) of them reported having experienced an out of control dog. 60 of those pupils indicated that they had changed their route to avoid the dog in question and 19 of them reported that they had stopped attending their planned activity because of the dog's behaviour.



91. Given the evidence that it received, the Committee sought the Minister's views on what appears to be an increasing problem with out of control dogs in Scotland. The Minister replied—

” Although I note the evidence that was given to the committee about a potential increase in the number of dog bite cases that hospitals are dealing with, we do not have a set of year-on-year figures. Therefore, it is impossible for us to tell whether the problem has increased. Unfortunately, the evidence does not show a clear picture.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 83<sup>46</sup>

92. The Minister went on to add—

” However, the Government and I, on a personal level, believe that one dog bite is one too many. We should all encourage owners to manage their dogs responsibly. We want dogs to be under control at all times, and not to be out of control in any manner in any community.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 83<sup>46</sup>

93. **A lack of available and consistent data, which has been exacerbated by the failure to establish a Scottish Dog Control Database, has prevented the Committee from accurately determining the effectiveness of the Control of Dogs (Scotland) Act 2010.**

94. **However, the evidence that the Committee has received from a range of witnesses, including victims of dogs attacks, suggests that there is still an unacceptably high prevalence of dog attacks in Scotland and that numbers have not reduced since the provisions of the 2010 Act came into force. Certain evidence <sup>iii</sup> points to an increase in dog attacks. Given the volume of such attacks and that the impact on victims, particularly on children, can be life changing, the Committee considers it to be nothing less than a national crisis.**

95. **The Committee considers that had the 2010 Act been effective in achieving its objective of ensuring that dogs which are out of control are brought and kept under control, there should be a consequential reduction in prosecutions under the 1991 Act and in the numbers of individuals requiring hospital treatment following dog attacks. The figures available indicate that this is not the case.**

96. **In reviewing the 2010 Act, it became clear from the evidence provided to the Committee that concerns around out of control and dangerous dogs arose**

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<sup>iii</sup> Natalie Crawford, Radio Clyde's *Lead the Way Campaign* (written and oral evidence)

not only because of the ineffectiveness of the 2010 Act, but also due to weaknesses in all dog control law. The Committee believes that current dog control law is not fit for its purpose and calls on the Scottish Government to undertake a comprehensive review of all dog control legislation as a matter of urgency. The report identifies a range of issues that should be addressed as part of that review.

97. However, the Committee believes that action needs to be taken now to tackle dog attacks. Therefore, the Committee has identified actions that can be undertaken in the interim to improve the implementation of the 2010 Act and, where appropriate, other dog control legislation.

98. The Committee considers that in order to accurately measure the effectiveness of the 2010 Act, and other dog control legislation, there needs to be improved baseline data. In particular, General Practitioners, hospitals, local authorities and Police Scotland should be required to record and collect consistent data on reported incidences of out of control dogs and attacks by dogs on both humans and animals. This data should be collected regularly at a local level and published on a local authority area basis by the Scottish Government, to ensure that the data on the incidences of out of control dogs and dog attacks can be specifically linked to the number of Dog Control Notices (DCNs) that have been issued and the resources available to each local authority. The Committee recommends that the Scottish Government put this into effect without delay.

## Challenges to the effectiveness of the 2010 Act

99. The data collected by the Scottish Government indicates that the number of DCNs issued in Scotland has increased year-on-year from 92 in 2011/12 to 339 in 2017/18.<sup>47</sup> However, across local authorities the picture is mixed. For example, since the 2010 Act came into force, Renfrewshire Council has issued 110 DCNs, while East Renfrewshire Council has issued two – both in the last year. In the same time period, Comhairle nan Eilan Siar has issued a total of 16 DCNs, while the City of Glasgow Council has issued three.
100. The Committee sought to explore the barriers preventing the 2010 Act from being fully effective in bringing and keeping dogs under control. The evidence received from witnesses suggested that the barriers to the effectiveness of the 2010 Act fell under three broad themes. These are—
- awareness and understanding of the Act and its provisions;
  - local authority resources; and
  - enforcement issues.

101. Each of these themes is explored below.

## Awareness

### Public awareness of the Act

102. During her oral evidence, Christine Grahame MSP highlighted a lack of public awareness of the 2010 Act as impacting negatively on its effectiveness. She said—

” Many people do not even know that the 2010 act exists.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP), contrib. 6<sup>48</sup>

103. Nevertheless, the evidence that the Committee received suggests a mixed picture in terms of public awareness. For example, in its written submission Aberdeenshire Council stated that—

” In general, the Act has been effective in helping to respond effectively to an increasingly problematic area of work. However, the number of cases reported has risen dramatically as public awareness of the legislation has risen. <sup>49</sup>

104. Falkirk Council also reported an increase in the reporting of incidents of out of control dogs and linked this to public awareness of the Act. Its written submission stated that—

” Statistically, until 2017 there was a continued increase in the reporting of incidents. The public appear to be aware of the alternative to reporting to the Police. <sup>50</sup>

105. South Ayrshire Council also noted an increase in complaints being reported, but were unable to confirm if this was due to public awareness. Its written submission stated that—

” Over the last few years, the number of complaints made to us has shown an increase but whether this is due to increased publicity around the Act and interest driven by social media is unknown. <sup>51</sup>

### Awareness of provisions of the Act

106. Some witnesses suggested that there was a lack of awareness among both members of the public and local authorities as to how the Act could be used. Natalie Crawford from Radio Clyde's Lead the Way Campaign told the Committee that—

” The real issue is that the 2010 act is not being enforced properly by local authorities—either they are not aware of their responsibilities or they are not taking them seriously enough.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Natalie Crawford, contrib. 65<sup>52</sup>

107. In her evidence to the Committee, Alison Robertson, a Dog Warden from the National Dog Warden Association Scotland (NDWAS) explained how the 2010 Act could be used to take preventative action. She said—

” The 2010 act makes it clear that the dog does not have to have bitten someone. The officer must be satisfied that the dog has been out of control and has caused fear and alarm, and that fear and alarm were reasonable reactions in the circumstances. If the dog in question was known to be a problem and was out of control, a dog control notice could have been served on the owner. A dog does not have to have bitten anyone for the 2010 act to apply.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Alison Robertson, contrib. 175<sup>53</sup>

108. Similarly, Jim Ferguson, an Amenity Services Officer from Argyll and Bute Council, explained to the Committee how the 2010 Act could be used to prevent initial dog attacks—

” The 2010 act was ideal, because it flagged up to us those situations in which irresponsible dog ownership had the potential to cause harm and we could step in to coach, train, or otherwise support the dog owner. Some dog owners who do not cope very well with their dog are glad to see us.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Jim Ferguson, contrib. 88<sup>54</sup>

109. However, other local authorities suggested that, in practice, the local authority only tended to get involved once an incident had occurred. Bill Gilchrist, Environmental Health Team leader from East Ayrshire Council, told the Committee that—

” We get reports from the police and the public about incidents where a dog has been aggressive or challenging towards another dog or person, placing people in a state of fear or alarm. We would want to step in at that point and, as has been said, try to change the dog’s behaviour and provide training and advice to the owners. It is in everybody’s best interest to get the local authority involved through the legislation at an early stage rather than as a result of an incident. However, I concur with Linda Gray [Glasgow City Council] that, in the vast majority of cases, we get involved as a result of an incident being reported to us.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist, contrib. 91<sup>55</sup>

110. Alistair Lee, Senior Environmental Health Officer from North Lanarkshire Council, was of a similar view. He said—

” We get involved after an incident has occurred. It might not be a major incident—it might be a minor incident that allows us to step in to mitigate the situation and prevent a possible future major incident and attack. However, the legislation is by its nature reactive.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Alastair Lee, contrib. 92<sup>56</sup>

111. Dundee City Council was clear in its view that the 2010 Act could not prevent an initial attack from occurring. Its submission stated that—

- ” The Control of Dogs (Scotland) Act 2010 cannot prevent an initial dog attack from occurring. It gives local authorities a means to seek prevention of a further attack by that dog through the service of a Dog Control Notice.<sup>57</sup>

## Confusion between the 2010 Act and 1991 Act

112. A recurring theme relayed to the Committee throughout its evidence taking was the confusion and uncertainty around the respective roles of local authorities and the police. During the public engagement meetings, participants expressed frustration and a lack of confidence in those responsible for enforcement of the law and keeping communities safe from out of control dogs.

113. In his written submission, David Littlewood, a victim of a dog attack, highlighted issues around his experience of a dog attack and how it was dealt with. He commented that—

” My encounter with ‘officialdom’ left me feeling that neither the Council nor the Police were clear about their roles, responsibilities or powers.<sup>58</sup>

114. While Christine Grahame MSP commented that—

” I see from the committee’s evidence that people find it difficult to know, between the police and councils, who is responsible for what.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP), contrib. 6<sup>48</sup>

115. Concern around the lack of clarity regarding the roles and responsibilities of local authorities and Police Scotland was raised by Natalie Crawford, who stated that—

” The second point is on the confusion about who is responsible for controlling dogs. The police seem to think that it is the local authorities and the local authorities seem to think that it is the police. That is a common theme throughout all the cases that I have dealt with in the course of the lead the way campaign.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Natalie Crawford, contrib. 29<sup>59</sup>

116. West Lothian Council’s written submission suggested that the overlap between the two pieces of legislation gave rise to operational confusion for those responsible for implementing and enforcing dog control legislation.<sup>60</sup>

117. The Committee learned that the Scottish Government had previously worked with stakeholders to address the issues around roles and responsibilities and a non-statutory Control of Dogs Joint Protocol document (the Joint Protocol) was circulated to relevant organisations in May 2016. The document sets out a shared understanding of roles and responsibilities.<sup>61</sup>

118. The Committee received further evidence, however, that despite the existence of the Joint Protocol, difficulties around the clarity of roles and responsibilities still

existed. In its written submission, South Lanarkshire Council referred to the Joint Protocol document and stated that—

” It has been South Lanarkshire Council's experience that Police Scotland does not always follow the protocol and have on occasion asked Environmental Health to lead on incidents where a person has been bitten by a dog. <sup>62</sup>

119. This view was shared by National Dog Warden Association Scotland (NDWAS) which stated that—

” Despite the Control of dogs Protocols being produced by the Scottish Government they have failed to ensure that serious cases are fully and inclusively dealt with by Police Scotland and more recently there has been an increase in cases involving bites to a person where the police have referred them direct to the council or have told the public that they would not deal with a serious case and advise them to report concerns to the council. <sup>63</sup>

120. While Bill Gilchrist from East Ayrshire Council told the Committee that—

” In East Ayrshire, we have found that beat cops—for want of a better expression—are less aware of the existence and content of the protocol. When there has been debate over which authority is responsible, we have provided local police officers with copies of it.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist, contrib. 52<sup>64</sup>

121. The experience of local authority witnesses was confirmed by that of police witnesses. In its written submission, Police Scotland reported that, when gathering information to include in its response to the call for evidence, several of its Divisions indicated that there was confusion amongst officers regarding the correct legislation to use, including if incidents should be dealt with by them or referred to the local authority dog warden. <sup>65</sup>

122. Similarly, Chief Superintendent Alan Murray told the Committee that—

” It is fair to say that there is inconsistent knowledge across the country, which is reflected in the investigations that we have carried out prior to coming out here today.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Alan Murray, contrib. 271<sup>66</sup>

123. Chief Superintendent Alan Murray concluded that—

” We are reviewing our procedures on matters that are relevant to dogs. When that review has been completed, it will be incumbent on the force to ensure that the information is disseminated and reinforced. Certainly, following the committee's meetings, my recommendation would be that we need to ensure that, across the country, cops who are called to deal with dog attacks have sufficient knowledge.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Alan Murray, contrib. 273<sup>67</sup>

124. The Committee sought the views of the Minister on awareness of the Act and its provisions. The Minister responded that—



” From the evidence that the committee has taken, I think that there is a good level of awareness, but perhaps people are not quite clear about the difference between the 2010 act and the 1991 act. Some of the evidence shows that there can be a little confusion about the two acts, which is possibly natural because there is an overlap between them.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 167<sup>68</sup>

125. The Minister indicated that the Scottish Government would be willing to consider undertaking an awareness raising programme around the 2010 Act. <sup>69</sup>

126. **The Committee recognises that the purpose of the 2010 Act was to provide an important tool to prevent dog attacks from occurring. However, its success is dependent on members of the public being aware of the Act and how it can be used. The Committee notes the Scottish Government's indication that it would be willing to undertake an awareness raising programme. However, it considers that such an exercise is long overdue and should be undertaken as a matter of urgency. The awareness raising programme must include material specifically directed at children.**

127. **The evidence clearly demonstrates that some local authorities and police officers are not aware of or understand their respective responsibilities under the relevant legislation, nor do they co-ordinate their actions in respect of out of control dogs. The Committee recommends that the Scottish Government review the current Control of Dogs Joint Protocol to ensure that it is relevant and clear. It should also take steps to ensure that the Joint Protocol is understood and publicised by local authorities and the police to ensure that the appropriate staff within these bodies are aware of their respective responsibilities.**

128. **The Committee notes the commitment of Police Scotland to make internal recommendations to ensure that police officers throughout Scotland have sufficient knowledge to respond to dog attacks effectively. The Committee considers that this should be done as a matter of urgency and the subsequent recommendations published. The Committee recommends that Police Scotland and the Scottish Government monitor the implementation of the recommendations on an ongoing basis.**

## Confusion between enforcement bodies

129. The Committee was concerned to receive evidence indicating that the lack of a legal mechanism and co-operation between enforcement bodies sometimes led to no action being taken in serious cases. West Lothian Council's written submission stated that—

” Where a case is investigated by Police Scotland under the Dangerous Dogs Act, but cannot or won't be pursued to a report to the Procurator Fiscal, there is no default mechanism within the legislation to ensure that the matter is passed to the local authority to follow the matter up with a view to service of a Dog Control Notice. This can result in no action being taken in some more serious cases. This however is not suggesting that responsibility is passed to the local authority in all circumstances. There is a clear need to review the legal process of Police Scotland and the Procurator Fiscal taking forward serious dog attack cases.<sup>60</sup>

130. Similarly, Renfrewshire Council's written submission stated that—

” At present, many local authorities will not pursue a case where the dog has punctured the skin of a victim. These types of instances are put to the police to consider a case under dangerous dogs. On occasion however, a reported police case can be dropped due to insufficient evidence and therefore no further action is taken – in these circumstances greater consideration should be given to referring cases back from the Police to the Local Authority for action under the Control of Dogs Act to be considered. In Renfrewshire we have tried to implement this by taking on cases that the police have been unable to pursue and subsequently have issued a Dog Control Notice. This appears to be a useful approach - but is not consistently applied across all local authority areas.<sup>70</sup>

131. **The Committee notes that the Joint Protocol document states that the use of DCNs may be appropriate in relation to cases originally considered under the 1991 Act, but where a lack of evidence exists to support a prosecution. The evidence that the Committee has received suggests that this is not consistently applied throughout Scotland, resulting in no sanctions being made in some cases against the owners of dogs who pose a risk to the safety of members of the public and other animals. The Committee calls on the Scottish Government to give urgent consideration as to how this issue can be addressed to ensure that a consistent approach is applied throughout Scotland.**

## Resources

132. The second of the key themes impacting on the effectiveness of the Act falls under the broad heading of resources.

### Number of dog wardens

133. Section 1(6) of the 2010 Acts requires that an authorised officer is appointed for the purposes of the Act and places a requirement on local authorities to authorise at least one such officer.<sup>71</sup> In its written submission,<sup>72</sup> Fife Council stated that its Dog Control Officers have made full use of the powers contained within the 2010 Act



and have issued over 311 DCNs since the Act came into force. It stated that in 2017, it issued 55 DCNs and 90 warning letters to dog owners.

134. In oral evidence on 7 March, Kay Watson from Fife Council confirmed that, while the number of dog control officers had reduced from six to two, the two full time officers were dedicated dog control officers. She said—

” All that we deal with is dog complaints, which allows us to fully investigate every complaint that comes in and gives us the time to monitor and to patrol areas for dangerous and out of control dogs.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Kay Watson, contrib. 46<sup>73</sup>

135. However, for the most part, witnesses indicated that there were insufficient dog wardens. For example, at the public engagement meetings, while participants praised the efforts of local authority dog wardens, there was a recognition that a lack of dog wardens made it difficult for those in post to be able to carry out the role effectively.

136. Claire Booth, whose 6-year old son was attacked by two dogs, commented in her written submission that—

” I feel the control notice is worthless due to the lack of dog wardens to issue them and most importantly, follow them up. <sup>74</sup>

137. In its written submission, the NDWAS said—

” No one could have predicted the level of complaints which have arisen since the introduction of the Control of Dogs (Scotland) Act 2010. The workload of many of our members is overwhelming them. Few if any extra officers have been employed throughout Scotland to deal with these cases, they have just been added onto existing workloads. Investigation of a complaint of an out of control dog is very time consuming, all parties need to be spoken to, statements taken, decision made on appropriate action, a return visit must be made to the dog owner to serve a Dog Control Notice (if appropriate) once it has been prepared. These visits require two members of staff for corroboration. As most dog wardens are lone workers another member of staff must be taken off their duties to assist. <sup>63</sup>

138. The Committee heard that dog wardens are under pressure to keep up with their workload which, in turn, has impacted on the monitoring of DCN's. The NDWAS said that—

” ...in practice this equates to waiting on reports from neighbours and other dog owners of any new problems. <sup>63</sup>

139. The written submission from the Animal Behaviour Clinic stated that—

” Many local authorities do not have adequate resources or knowledge to investigate, issue a DCN or monitor compliance, with some local authorities not having a single full-time authorised officer. Therefore, many reported cases are being ignored with offenders continuing to allow their dogs to be out of control.

<sup>75</sup>

140. While Aberdeen City Council commented that—

” There is a specific challenge in meeting the terms of monitoring a control notice after it has been served, this is not something which is realistic in terms of resource availability.<sup>76</sup>

## Specialist knowledge of dog wardens

141. Witnesses also told the Committee that some of those appointed as authorised officers did not have the required skills for the job. The NDWAS stated that it believed that local authorities have largely ignored section 1(7) of the 2010 Act which states that—

” In appointing any person to be such an officer a local authority are to satisfy themselves that the person is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs.<sup>1</sup>

142. The NDWAS's written submission<sup>63</sup> indicated that some local authorities have given the role of authorised officer to staff who were already dealing with stray dogs in their role as dog warden. However, others have authorised environmental health officers, community wardens or pest control officers to undertake this role, many of whom have little or no experience of dealing with dogs.

143. In a similar vein, the SSPCA stated in its written submission that—

” There can be as many wardens as we like but, if they do not know about dogs' behaviour and how dog owners should behave, the system will not be successful. We cannot put the role on the end of someone else's job title.<sup>35</sup>

144. In its written submission, Falkirk Council stated that—

” Responsibility for the Act was added to Falkirk Councils Community Safety Team as they had investigatory experience, but they didn't have dog behaviour/handling knowledge or experience.<sup>50</sup>

145. Linda Gray, Assistant Manager Public Health, from Glasgow City Council, agreed that dog control is a specialist role. She told the Committee—

” From my perspective, dog control is a very specialist role. I do not think that it is one that could just be picked up by any enforcement officer. The legislation says that the person who performs the role must be “skilled in the control of dogs” and able to pass on the right kind of advice and information to others. Not everyone would have those skills, at the outset. Even with the resources that we have, I would prefer that there be a dedicated role for the work, rather than it being tagged on to, say, environmental health work in the public health realm. If more funding was available, we could have a dedicated resource.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Linda Gray, contrib. 41<sup>77</sup>

146. Christine Grahame MSP agreed that officers needed to have appropriate training. She said—

” There needs to be professional training. I have even heard of a dog warden who was frightened of dogs, which is just ridiculous. If we had training of dog wardens, such that they knew what they were doing—I exempt the two dog wardens I know from that comment—along with some funding and publicity, that could take us a fair way before we needed to change the legislation.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Christine Grahame, contrib. 17<sup>78</sup>

147. South Lanarkshire Council commented in its written statement that it had provided training for staff but that it was ‘aware that other local authorities may not have provided training for their enforcement staff’. <sup>62</sup>

148. Argyll and Bute Council made a similar point. It stated that—

” I believe that we have people who have the appropriate skills and training, but I do not believe that that is consistent across the country.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Jim Ferguson, contrib. 129<sup>79</sup>

149. The NDWAS’s written submission <sup>63</sup> pointed out that enforcing the 2010 Act also required authorised officers to become skilled in investigation, including statement taking and recording details, which many officers have never done before.

150. Both NDWAS <sup>63</sup> and Argyll and Bute Council <sup>80</sup> emphasised the benefits of having a recognised qualification, such as an SVQ to provide “uniformity and standardisation” across Scotland.

151. When asked whether, in her view, all dog wardens in Scotland were adequately trained, the Minister responded as follows—

” I do not think that the Government has data on the training that the wardens have undertaken.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 177<sup>81</sup>

152. The Committee notes that the statutory guidance <sup>82</sup> on the 2010 Act, provided by the Scottish Government, includes a section highlighting appropriate training courses for dog wardens, including those at SQA level.

## Lack of funding

153. The Committee recognises that the number and skills of dog wardens is directly linked to the issue of funding and this theme was raised by a number of witnesses. For example, the British Veterinary Association Scottish Branch and the British Small Animals Veterinary Association (BVSAB) <sup>83</sup> indicated that, due to a lack of resources—

” ...we have yet to see the Act achieve its intended impact of promoting responsible dog ownership, reducing dog attacks and increasing public safety.

154. Linda Gray, Assistant Manager Public Health from Glasgow City Council, said—

” I also think that there are insufficient resources across the country to deal with problematic dogs

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Linda Gray, contrib. 39<sup>84</sup>

155. South Ayrshire Council states in its written submission that one of the main challenges it faces is a "lack of resources to deal with the increasing workload".<sup>85</sup>

156. Similarly, West Lothian Council's written submission stated—

” The Act was and remains unfunded and therefore provision of a suitable level of service is problematic amidst other duties on local authorities.<sup>60</sup>

157. While the SSPCA emphasised that—

” For the Control of Dogs (Scotland) Act 2010 to work and be appropriately enforced, local authorities would require a ring-fenced budget, with full-time, properly trained staff to carry out this function.<sup>35</sup>

158. **The Committee recognises that appointing an insufficient number of dog wardens has negatively impacted on local authorities' ability to implement the 2010 Act and the effectiveness of the Act in reducing the number of out of control dogs. The Committee also recognises that it is important that dog wardens are trained not only in the relevant legislation, but also in dog behaviour. Therefore, the Scottish Government should obtain the following data from each local authority without delay: the number of authorised officers that have been appointed under section 1(6) of the Control of Dogs (Scotland) Act 2010, whether the role is stand alone or has been incorporated into other job roles and the training that has been provided to authorised officers.**

159. **The data collected by the Scottish Government should be assessed as part of its review to determine the minimum number of dog wardens that should be appointed in each local authority area and their training requirements. The data collected should be regularly updated and closely monitored by the Scottish Government.**

## Seizure and destruction of dogs

160. The Committee understands that section 5 of the 1991 Act makes provision for a constable or an officer authorised by a local authority to seize any dog within the boundaries of the 1991 Act.<sup>4</sup> However, the Committee received evidence<sup>86</sup> suggesting that on many occasions the dog will not be seized as long as a DCN is in place, and that local authorities “regularly receive requests from the Procurator Fiscal service to serve a DCN on dogs whose owners await prosecution under the DDA” (the 1991 Act). The Scottish Government Guidance on the 2010 Act states

that “unless localised agreements are in place between the local authority and the police, the cost of keeping the dog will rest with the organisation that seized the dog”.

161. The SSPCA <sup>35</sup> estimate that the average cost for kennelling a dog which has been seized is £13.50 per day or £4928 per year.
162. Where a local authority believes that a dog is out of control and dangerous to the extent that it would be inappropriate to serve a DCN and that the dog should be put to sleep, it may make an application to the Sheriff under the 2010 Act for its destruction. The Committee received written evidence highlighting that during this process there is no ability to seize the dog pending the matter being heard by the Sheriff. West Lothian Council explained that “this means that a dog which is so out of control that it warrants destruction remains in a position to create further problems.” <sup>60</sup>

**163. The Committee considers that DCNs should not be used as an alternative to the powers of seizure under the 1991 Act. The Committee believes that where the procurator fiscal has determined that legal proceedings should be taken against the owner due to an individual being seriously injured, then the dog should be seized until the case has been heard. The Committee understands that such a change may require an amendment to the current law and recommends that this issue is considered as part of the Scottish Government’s review.**

**164. The Committee was concerned to learn that, while local authorities may apply to the Sheriff under the 2010 Act for the destruction of a dog when they believe that serving a DCN would be inappropriate, there is no provision in place to allow them to seize the dog pending the matter being heard by the Sheriff. The Scottish Government’s review should consider how to remove this loophole.**

## Enforcement issues

165. A number of witnesses expressed concerns that, even where a DCN was in force, there were sometimes issues around its enforcement. This has also impacted on the Act’s effectiveness.

## Data protection implications of sharing information with complainants

166. In their evidence to the Committee, local authorities emphasised their reliance on neighbours and other dog owners to report breaches of DCNs. For example, Aberdeen City Council explained that—

” Often it is relied upon for members of the public to report the dog continuing to be allowed to act in an out of control manner to allow a breach [of a DCN] to be identified.<sup>76</sup>

167. However, during the public engagement meetings, participants told the Committee that there was continuing frustration about the inability of local authorities to share information about DCNs, even to the victim of the attack which had triggered the notice.

168. The Committee heard that, in one case, a family pet had been killed by a neighbour’s dog. The owner of the pet that had been killed was aware that a DCN had been issued but had not been informed about the sanctions contained in the DCN. The owner was subsequently advised that the sanctions could not be disclosed to them. The pet’s owner continued to see the dog on a daily basis, often with no visible restrictions in place, which left the owner wondering whether a DCN had actually been issued and, if so, whether it was being adhered to.

169. In its written submission to the call for evidence, West Lothian Council agreed that complainants were often disappointed by “the inability of the local authority to discuss whether a Dog Control Notice has been served and, if so, what measures it imposed. This difficulty arises from the lack of any power or duty on local authority to make information on Dog Control Notices, or their existence, public.”<sup>60</sup>

170. In its written submission, Highland Council commented that—

” The dog control legislation allows for a control notice to be served on the dog owner, but this information cannot be shared with victims who regularly ask for updates and expect to know ‘that justice has been done’.<sup>87</sup>

171. The Committee heard from the NDWAS that guidance provided to local authorities indicated that information on DCNs should not be disclosed to the public due to concerns that doing so would breach data protection requirements. Alison Robertson from the NDWAS told the Committee that—

” The confidentiality is in place because the Scottish Government advised us that, as the 2010 act is civil law and a dog control notice is a civil measure, data protection prevents us from saying that a notice is in place, because there has not been a criminal conviction.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Alison Robertson, contrib. 129<sup>88</sup>

172. In its written submission to the call for evidence, Renfrewshire Council said—

” At present the outcome of a Dog Control Notice is not publicised. Should the notice command the owner to always muzzle the dog for public safety reasons the Council cannot, at present let the public know. Its strength depends on the authorised officer making an observation and periodically visiting the area. If the notice was a public document, the public, could report the owner for not adhering to the notice. This would act to provide reassurance to the public that appropriate action had been taken as well as a further deterrent for dog owners.<sup>70</sup>



173. The Committee was concerned by this evidence and wrote to the Information Commissioner seeking her views on the issue that witnesses had raised and, in particular, asking whether information around DCNs could be shared by local authorities in the interests of public safety. In response, the Information Commissioner confirmed<sup>89</sup> that it was for local authorities to determine if they have the power to disclose the conditions of a Dog Control Notice to the public.
174. The Committee explored this issue further during its oral evidence sessions with local authorities and heard that throughout Scotland there were different approaches to disclosing information about DCNs.
175. For example, Bill Gilchrist from East Ayrshire Council explained that—

” We always provide the complainant with a list of the conditions that are attached to a dog control notice. The issue arises when you identify the recipient of the notice to the complainant—we would not do that. However, we would say that, in relation to an attack on their dog on such and such a day at such and such a time, a dog control notice had been imposed, and we would set out the conditions.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist, contrib. 165<sup>90</sup>

176. By contrast, Jim Ferguson from Argyll and Bute Council, responded that—

” We cannot say anything. We cannot pass that information to the complainant.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Jim Ferguson, contrib. 170<sup>91</sup>

177. Linda Gray from Glasgow City Council explained the approach taken by her local authority. She said—

” We would share with the person the fact that we were investigating the incident about which they had passed on information. We would go through the potential outcomes of that, which would include a dog control notice, and explain to them the things that would be considered in the notice. However, we would not say that we had issued a notice to a particular person. We could say to them, “We’re investigating your complaint and we’ll take whatever action is appropriate, given what the investigation brings out.”

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Linda Gray, contrib. 186<sup>92</sup>

178. Linda Gray went on to add that—

” I agree that it is not a very satisfactory outcome for someone who has been subject to an attack or whose dog has been attacked. It is not ideal, but I feel that we are very limited in the information that we can share.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Linda Gray, contrib. 186<sup>92</sup>

179. Christine Grahame MSP confirmed that, in her view, it was important that members of the public were able to report breaches of DCNs. She told the Committee that—

- ” It seems to me that the 2010 act is self-policing. The public report instances where they think that a dog is out of control, and a dog control notice is issued. There may be only one or two dog wardens for the whole of the Borders, for instance, and they cannot always be there to see whether the owner has breached the dog control notice. The notice is policed by the public.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Christine Grahame, contrib. 107<sup>93</sup>

180. The Committee raised this issue with the Minister. In response, the Minister indicated that—

- ” The 2010 act itself does not prohibit details of a dog control notice being shared with third parties, but there is an interplay with other legislation.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 91<sup>94</sup>

181. The Minister agreed to look at the statutory guidance for the 2010 Act to see whether issues around data protection could be covered in more detail to reflect the different approaches that were being taken by local authorities.

182. **The Committee recognises that local authorities are often reliant on victims of attacks and members of the public reporting breaches of DCNs. The Committee shares the frustrations expressed by both local authorities and members of the public on the lack of information that can be disclosed when a DCN has been issued. The Committee also notes the inconsistency of approach in how some local authorities interpret their data protection responsibilities around the sharing of information in relation to DCNs.**

183. **The Committee notes the Scottish Government’s commitment to review the statutory guidance on the Control of Dogs (Scotland) Act 2010 with a view to providing more detailed information about the interplay between data protection law and the 2010 Act and believes this should be undertaken as a matter of urgency.**

184. **The Committee considers that victims of dog attacks should be entitled to know the outcome of the action that has been taken against the owner of the dog by the local authority. The Committee recommends that the Scottish Government’s review should consider how best to address concerns around the inability of local authorities to share information. The Committee believes that, whatever dog control regime is put in place as a consequence of the Scottish Government’s review, its effectiveness should not be impeded by data protection concerns.**



## Relocation of dog owners

185. A further issue raised in evidence relating to enforcement of DCNs concerned the movement by dog owners from one local authority area to another. For example, during the public engagement meetings, the Committee heard that owners of dogs who are subject to a DCN sometimes relocate to a different local authority area or rehome the dog to someone living in another local authority area.

186. Natalie Crawford from Radio Clyde's Lead the Way Campaign expanded on this point in her oral evidence. She said that—

” The problem is that dog control notices are issued by the local authority, but if somebody moves outwith the local authority area, there is no central system and no process for passing on the notice to the new area. In fact, there is no way for a dog control warden even to know that a person subject to such an order has moved.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Natalie Crawford, contrib. 80<sup>95</sup>

187. Section 8 of the 2010 Act gives Ministers the power to establish a Scottish Dog Control Database, following consultation with local authorities and other stakeholders. The explanatory notes <sup>71</sup> accompanying the Bill explain that the database would hold information from all local authorities relating to DCNs in Scotland. Section 8 provides that information contained within the database can be shared, not only across local authorities, but also with the police and Scottish Ministers.

188. The Committee heard that the Scottish Ministers had not exercised the power under section 8, however, and that no database had been established. A number of witnesses commented on this missed opportunity.

189. Highland Council stated in its written submission that “a national database would save time and speed up control cases, especially for dogs that have control notices in place that have then been dealt with by the police under the Dangerous Dogs Act, with immediate access to a history in support of any serious cases.” <sup>87</sup>

190. While the NDWAS stated that—

” The failure to set up a database was a big miss. We cannot speak to another local authority unless we know where the dog owner has gone. If I issue a dog control notice in Aberdeenshire, it will be effective only within the boundary of Aberdeenshire. If the owner moved into Aberdeen city—we cross the boundary all the time—the notice would not be effective there... It would be helpful if the notices were effective throughout Scotland or, indeed, Britain. That would help with control, because it would mean that, even if the owner moved and did not notify us, the notice would still be in effect. Breaching a notice is a criminal offence for which the owner can be reported.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Alison Robertson, contrib. 105<sup>96</sup>

191. Kay Watson from Fife Council told the Committee that—

” I think that a national database is the only way forward. As things stand, if someone makes us aware that they are moving outwith Fife to another region, we would contact the dog warden in that area to make them aware that the person is moving there. However, if the person does not tell us, we will have no idea where they are, so we are completely unable to follow up the matter. If there is another offence involving the dog, the whole process has to start again at the beginning with a first offence.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Kay Watson, contrib. 68<sup>97</sup>

192. Witnesses also pointed to the other uses to which a database could be applied. Alistair Lee, from North Lanarkshire Council, explained that—

” The dog wardens get involved in investigations and will give verbal advice and written warnings, which will not be caught by the figures.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Alastair Lee, contrib. 148<sup>98</sup>

193. Christine Grahame MSP agreed that such advice and warnings should also be captured on the database. She told the Committee —

” As I said, Tam [Dog Warden] will go out and speak to dog owners in Midlothian. That is not a dog control notice; it is neither formal nor written, but it is recorded. I would like that information to be put on the database, too, so that, if a dog owner had received a warning in one place—even if it was just a word or two from the dog warden—and the police had been informed, that warning would follow them if they moved somewhere else. Because the dog’s owner could change, the ownership of the dog would have to be tracked, not just the initial owner, so that the notice would follow the dog.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Christine Grahame, contrib. 28<sup>99</sup>

194. Other witnesses described how the database could be used to improve action taken under section 3 of the 1991 Act. In its written submission, West Lothian Council stated that—

” Part of the effectiveness of the act lies in activity under the act being available as evidence to show ‘pre-apprehension’ in Dangerous Dogs Act cases taken by Police Scotland. However, this requires close liaison between local authority, officers of Police Scotland and the Crown Office Procurator Fiscal Service. <sup>60</sup>

195. Sergeant John McKeag from Police Scotland agreed. He said—

” It could be a great form of evidence. If we are building a case under the 1991 act, we could use that register to demonstrate proof that a dog has been the subject of a dog control notice or that warning letters have been issued.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, John McKeag, contrib. 283<sup>100</sup>

196. A further benefit of a national dog control database suggested to the Committee, by the BVSAB, was that it could be used to gather data on dog attacks to help

understand dog aggression, irresponsible ownership and to inform preventative strategies.<sup>83</sup>

197. In her evidence to the Committee, the Minister indicated that the Scottish Government plans to consult on the establishment of a Scottish National Dog Control database later this year.<sup>101</sup>

198. **Based on the evidence that the Committee has received, it is clear that a database containing information on dog control activity would be a valuable tool in improving the effectiveness of the Act. The Committee therefore considers that the failure of Scottish Ministers to use the powers given to them under the 2010 Act to establish a Scottish Dog Control Database is unacceptable and must be urgently rectified.**

199. **The Committee believes that one of the key reasons hampering the effectiveness of the 2010 Act is the absence of the Scottish Dog Control Notice Database, which Scottish Ministers have had the power to establish since the Act came into force in 2011, and have not yet done so.**

200. **The Committee emphasises that when implementing legislation, the Scottish Government should make no distinction between Scottish Government initiated legislation and Members' Bills.**

201. **The Committee recommends that the database includes information such as the details of complaints that have been investigated and warnings that have been issued as well as information on owners who relocate within Scotland and on dogs which move between owners in different areas. The information held in the database should be accessible by all local authorities and Police Scotland.**

## Amendments to the 2010 Act

202. In its call for evidence, the Committee asked for views on any weaknesses in the 2010 Act or specific changes that stakeholders would like to see. The three main improvements that were suggested were—
- Extending the meaning of the “person in charge”;
  - creating an offence of obstruction; and
  - introducing a fixed penalty scheme for breaches of DCNs.
203. Each of these proposals is considered below.

## Extending the meaning of the "person in charge".

204. The explanatory notes accompanying section 1 states that—

” The notice is served on the “proper person”. Subsection (5) provides that the “proper person” if over the age of 16 is the owner of the dog. Where it is not clear who the owner is or it would be unreasonable to serve the notice on the owner, it would be the person who appears to have day to day charge of the dog. If under the age of 16, it is the person who has parental responsibilities for that person). This enables the authorised officer to serve the notice on a person who appears to be in charge of the dog where, for example, the owner is in prison or serving overseas for long periods.”

Subsection (2) makes it clear that the proper person is responsible for the dog being kept under control at all times, even if they are not personally present.<sup>71</sup>

205. At a public engagement meeting, the Committee heard of an incident where a local authority had indicated to a complainant that it was unable to take any action against an out of control dog because the person who was with the dog at the time of the incident disputed that they were the owner.

206. As a consequence, during the oral evidence sessions, the Committee sought views on whether both the owner and the person in charge of the dog at the time of the offence should be subject to enforcement action in certain circumstances.

207. Bill Gilchrist from East Ayrshire Council responded that—

” I think that that would be valuable. As has been highlighted in some of the written submissions, there are professional dog walkers who might be walking five or six animals at a time. They must have some measure of responsibility for the dogs’ behaviour when they are under their control—or rather not under their control.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist, contrib. 86<sup>102</sup>

208. The issue of professional dog walkers walking with multiple dogs was raised in written evidence. The submission from the Friends of Braid Hills reported witnessing professional dog walkers with up to 8 to 10 dogs at one time, many of which were not on a lead. The submission indicated that, in such cases, it was impossible for the dog walkers to ensure that all dogs were kept under control.

**209. The Committee has received limited evidence in support of extending the meaning of “proper person” to cover both the person in charge of the dog at the time of the incident as well as the owner of the dog. However, the Committee recognises the merit of such an approach. The Committee therefore recommends that, as part of its review, the Scottish Government considers extending the definition of “proper person” as provided for in the Act.**

## Offence of obstruction

210. In her written submission, Laura MacLeod,<sup>86</sup> an individual, told the Committee that where a dog owner co-operates with a local authority issuing a DCN the process is relatively straightforward. However, if the owner decides not to co-operate with the dog warden, the local authority has no powers to make them do so. Similarly, in its written submission to the call for evidence, Argyll and Bute Council<sup>103</sup> describes dealing with dog owners who refuse to recognise the authority of Dog Wardens.
211. During one of the public engagement meetings, the Committee heard that, in one case, a local authority dog warden was hindered in their attempt to investigate an out of control dog as the owner would not answer the door or respond to telephone calls or letters.<sup>104</sup>
212. Linda Gray from City of Glasgow Council told the Committee about a similar incident. She said—

” We were told that the person had moved away, and those present would not give us any details. We have no power to force people to provide such information.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Linda Gray, contrib. 196<sup>105</sup>

213. In their written submissions, several local authorities, including South Ayrshire Council<sup>51</sup> and City of Glasgow Council<sup>106</sup> suggested that the Act should be amended to include an offence of obstructing a local authority dog warden carrying out their duties under the Act.
214. Highland Council’s written submission identified deliberate avoidance and obstruction as a challenge in carrying out its duties. It stated that—
- ” A dog owner may choose to obstruct the serving process, provide inaccurate names, address etc. may choose to refuse entry to an address, refuse to talk about the dog involved, mislead the investigating officer with regards the owner, refuse to make the dog available to check the microchip or fail to identify the dog involved if they have more than one of the same breed etc. Adding the offence of obstruction would deter a lot of this.<sup>87</sup>

- 215. The Committee notes the evidence received from local authorities pointing to the difficulties that their officers have sometimes experienced in enforcing the 2010 Act and calling for an offence of obstruction to be added to the Act. The Committee recommends that the Scottish Government considers introducing such a provision as part of its review.**

## Fixed penalties for minor breaches of DCNs and other sanctions

216. A number of witnesses discussed the difficulties in enforcing DCNs once they have been issued. Where a DCN is breached, an offence has been committed and the only route provided for in the 2010 Act is a report to the Procurator Fiscal.

217. In their written submissions, some local authorities pointed out that often only major breaches are reported to the COPFS due to the time taken to prepare the required reports. As a result, a number of local authorities, such as Aberdeen City Council,<sup>76</sup> called for fixed penalty notices to be issued for minor breaches of DCNs.

218. Dumfries and Galloway Council explained the difficulties around dealing with breaches of DCNs. It stated, in its written submission, that—

” If a breach is reported to the procurator fiscal it can take considerable time to progress to court; in the meantime the non-compliant dog-owner can continue to flout the DCN causing a breakdown in the public’s confidence in the DCN system. A simpler way to penalise breaches would be appropriate and more likely to be successful against those owners who ignore a DCN. The ability to seize the dog when a notice is breached, apply a fixed penalty notice and recover any costs would encourage compliance. The breach could still progress to a criminal case if it were serious or repeated.<sup>107</sup>

219. West Lothian Council similarly commented, in its written submission, that—

” There is no formal enforcement alternative to a full report to the Procurator Fiscal. Given the work involved and the relatively low priority given to cases by the Crown Office Procurator Fiscal Service, only the most serious cases are reported. This leaves no effective enforcement measure for the lower severity cases or more technical failures to comply with Dog Control Notices...The availability of Fixed Penalty Notices would assist enforcement.<sup>60</sup>

220. When asked by the Committee if the ability to issue fixed penalty notices for breaches of DCNs would be helpful, Bill Gilchrist, from East Ayrshire Council, replied that—

” I think that a fixed-penalty notice should be an option but not the only option available to us. Depending on the circumstances of the breach of the dog control notice, the option should be available for a local authority to refer the matter to the fiscal, particularly if there is an injury to a person or an animal. However, if we are talking about a minor breach of a notice—for example, failing to have the dog muzzled on a particular occasion or a lack of secure fencing around the garden, so that the dog can escape—a fixed-penalty notice would provide a much more effective remedy than a referral to the fiscal, which may not go anywhere.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist, contrib.  
200<sup>108</sup>

221. Police Scotland’s written submission<sup>65</sup> to the call for evidence also suggested that fixed penalty notices could be used in instances where no injury has occurred as a result of the breach of the DCN.

222. In his oral evidence, Chief Superintendent Alan Murray from Police Scotland agreed that an offence of obstruction would be a useful addition to the 2010 Act. He stated that—



- ” If a notice is issued and the person who the notice applies to does not comply with the notice or the spirit of the notice, there has to be some kind of sanction or mechanism for making sure that they do. Again, in principle, I think that I would support such an offence.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Alan Murray, contrib. 333<sup>109</sup>

223. Christine Grahame MSP appeared to agree. She said—

- ” The court process is heavy handed and time consuming in some cases. For a minor breach, what you suggest would not be a problem as long as we also had the other penalties involving changing the behaviour of the animal, perhaps as a first resort.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Christine Grahame, contrib. 46<sup>110</sup>

224. The Committee sought a response from the Minister on the proposal to use fixed penalty notices for minor breaches of DCNs. The Minister agreed that the use of fixed penalty notices in other areas had been successful in changing people's behaviour and indicated that the Scottish Government would be open to exploring their use in relation to breaches of DCNs.

225. NFUS also highlighted the need to consider alternatives to financial sanctions. It stated that—

- ” Our view is that the people who allow their dogs to worry livestock do not have the money to pay the fines anyway. The 2010 act seems to make provision only for fines, not for anything like community payback orders. The sanctions need to reflect the social issues so that it is not possible for people to wriggle out of them. When we talk about sanctions, we must bear in mind that these guys do not care if their dog is removed—they will just go and get another one, because it is easy to do so. Imposing heftier fines would send a clear message, but we must ensure that other sanctions are also in place.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Gemma Cooper, contrib. 110<sup>111</sup>

**226. The Committee notes the evidence from witnesses which suggests that only the most serious of breaches of DCNs appear to be reported to the Procurator Fiscal. The Committee also notes that, as a consequence, a number of local authorities have called for the 2010 Act to be amended to make provision for fixed penalty notices to be available to local authorities in the event of a breach of a DCN. The Committee recognises that this could provide an effective remedy for tackling minor breaches of DCNs. The Committee recommends that, when considering the provisions of the 2010 Act as part of its review, the Scottish Government should also consider whether fixed penalty notices should be introduced to enforce minor breaches of DCNs.**



227. **The Committee further notes the request from the National Farmers Union of Scotland for alternative non-financial sanctions, for example community pay back orders, to be available for breaching DCNs and recommends that the Scottish Government also considers this as part of its review.**

DRAFT

## Wider dog control issues

228. The continuing high prevalence of dog attacks suggests that there is a need to consider other mechanisms for tackling out of control dogs. Witnesses suggested additional action that could be taken to strengthen the existing dog control framework.

### Dogs on leads at all times

229. Several witnesses of severe dog attacks considered that the only way of preventing such attacks in the future was to require dogs to be kept on leads in public places. Veronica Lynch told the Committee that—

” The way to stop attacks is to require all dogs to be on a lead in public places, so that we can see at a glance if the law is being broken.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Veronica Lynch, contrib. 73<sup>112</sup>

230. This was also supported by Claire Booth, who stated that—

” I would like to see dogs being kept on leads in all public places—it happens in other countries, so why not here?

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Claire Booth, contrib. 19<sup>23</sup>

231. In supplementary written evidence, the Scottish Kennel Club responded to this proposal. It stated that—

” These suggestions largely came from the parents of children devastatingly mauled by pet dogs and the fact that these views are held as a result is entirely understandable. However, dogs require off lead exercise. Dog owners are legally required to provide a Duty of Care to their pet. The advice provided to dog owners in the Dog Code is that this should involve off lead exercise. Insufficient exercise can not only cause obesity and other types of illness, but also frustration which can lead to aggression. As was noted elsewhere in the evidence session “quite a lot of (small) dogs are confined, get frustrated, and then attack”. <sup>113</sup>

232. The Committee heard similar views at its public engagement meetings <sup>114</sup> and a number of participants suggested that making it compulsory for a dog to be on a lead at all times “may just add to behavioural problems.”

233. The statutory guidance <sup>115</sup> on the 2010 Act draws attention to the local authorities’ by-law making powers, which can be used to address a specific problem. For example, if there is an area where dogs are often a nuisance, the local authority has the power to make appropriate by-laws. This could include requiring dogs to be kept on leads in particular segregated areas or banning dogs from places such as children’s playgrounds.

234. **A number of witnesses considered that the only solution to prevent dog attacks is to require dogs to be on leads in public places at all times. However, other witnesses expressed the view that dogs require exercise and that being on a lead at all times could cause an increase in behavioural issues, including aggression, in dogs. The Committee recommends that the Scottish Government considers these issues as part of its review and, in particular, the ways in which separate and secure areas in public parks can be provided for children.**

235. **In the interim, the Committee recommends that local authorities consider using their by-law powers to create secure play areas for children in public parks from which dogs are prohibited. The Committee further recommends that local authorities should use their by-law making powers to create designated enclosed areas in public parks to provide places where dogs can be off lead and places where all dogs must be on a lead. The use of by-laws in this way is currently best practice. However, the Committee considers that it should become standard practice.**

## Education

236. During the oral evidence sessions, the Committee sought information from local authorities about the preventative work that they undertook to help reduce the number of dog attacks. Local authorities described a range of activities including: holding public roadshows to carry out microchipping and help make dog owners aware of their responsibilities; school visits to educate children on how to behave around dogs and what to do if a dog approaches; and working alongside animal charities to try to reach as many dog owners as possible.

237. However, Kay Watson from Fife Council concluded that—

” The downside of that is that the people who tend to go to these events are normally already responsible dog owners. I am open to any suggestions about targeting the group of irresponsible dog owners who are the biggest issue but, as of yet, we have not found anything that is successful.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Kay Watson, contrib. 102<sup>116</sup>

238. The BVASB expressed its support for animal welfare to be introduced into the national curriculum, with part of this focussing on responsible ownership and the safe interaction between people and dogs.<sup>83</sup> Similar views were expressed at the public engagement meetings; in particular, it was suggested that educating school pupils on safety around dogs and responsible dog ownership could feed back into the home and indirectly educate parents, in addition to educating the next generation of dog owners.<sup>15</sup>

## "One free bite rule"- reasonable apprehension

239. A number of witnesses commented on the “one free bite rule” which they argued was applied by COPFS when considering whether to prosecute under section 3 of the 1991 Act. At one of the public engagement meetings, Members were told of a case where three adults had witnessed two dogs attack and injure a child. The COPFS had reportedly advised that it could only act to order the destruction of one of the dogs as the other dog had “no recorded previous bite record”.<sup>83</sup>

240. This view appeared to be confirmed in the written submission from Police Scotland, which stated that—

” Another division had previously held a meeting with COPFS and the Local Authority on the matter of Dangerous Dogs and Dog Control Notices whereby the outcome of the meeting for overall service delivery and public protection provision was not as robust as police would have preferred. The PF explained they could not prosecute a one-off dog bite and felt most cases should be dealt with using the Control of Dogs legislation (the Act).<sup>65</sup>

241. In the subsequent oral evidence sessions, Dave Joyce from the Communications Workers Union told the Committee—

” We have spoken on many occasions about the one free bite rule that is applied in Scotland, and the issue came up again earlier in the meeting. That is not reflected in any legislation, legal guidance or sentencing advice that is applied by the Crown Office and Procurator Fiscal Service or the police.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dave Joyce, contrib. 106<sup>117</sup>

242. Dr Alasdair Corfield from the Royal College of Emergency Medicine queried how “one free bite rule” is applied. He said—

” I am pretty sure, although it is difficult to get figures on this, that there are a number of people who never come to an emergency department following a dog bite, particularly for bites of lower acuity, which makes me wonder about the one free bite rule. How do you judge when a bite is a bite? Is it a bite that requires medical attention or is it any bite?

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Corfield, contrib. 31<sup>34</sup>

243. The Committee explored the “one free bite rule” with representatives from COPFS. Fraser Gibson, a Procurator Fiscal, explained that—

” There is no such rule in law or in our guidance. In any prosecution under the 1991 act, we have to comply with the statutory enactment, which states what is required to constitute the offence, and we have to prove that by corroborated evidence.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Fraser Gibson (Crown Office and Procurator Fiscal Service), contrib. 218<sup>118</sup>

244. Fraser Gibson further explained—

” If we are talking about a bite, it is whether there was reasonable apprehension that the dog would injure any person. We generally need to look backwards to see whether there is evidence of a dog’s prior behaviour that might have given rise to concern.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Fraser Gibson, contrib. 245<sup>119</sup>

245. Chief Superintendent Alan Murray, of Police Scotland, also shared his understanding of the ‘one free bite rule’ with the Committee. He said—

” My understanding is that, in simple terms, if the person who was in charge of the dog had a pretty fair idea that the dog was out of control and could bite someone, or if there were circumstances that could give rise to that fear, that could result in a competent charge.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Alan Murray, contrib. 253<sup>120</sup>

246. In her evidence to the Committee, the Minister acknowledged that there is a perception that a “one free bite rule” exists. The Minister added that she would welcome the Committee’s view on whether the law required to be changed in this area.

247. **The Committee understands that in order for a case to be successfully prosecuted under the 1991 Act, it is necessary to prove that there was “reasonable apprehension” that the dog would bite someone. This has led to a perception that a “one free bite” rule exists. The Committee considers that it is unacceptable that a severe attack by a dog on an individual might go unpunished because of the absence of any prior bad behaviour by the dog. The Committee also believes that the severity of the attack and the injuries sustained should be prioritised over the requirement for reasonable apprehension. Therefore, the Committee considers that the Scottish Government’s review should consider alternatives to the requirement for “reasonable apprehension” as provided for in the 1991 Act.**

## Licensing schemes

248. During its evidence sessions, the Committee explored the option of reintroducing a licensing scheme for dog owners. A range of views were expressed about such a scheme, including that—

- the scheme should be per dog and not per person;
- there should be some sort of awareness test requirement;
- any licensing scheme should be self-funding;
- any proceeds should be ring fenced; and

- a licence should be issued before a person could get a dog.

249. Local authorities were a little more circumspect in their response to such a proposal. Bill Gilchrist, from East Ayrshire Council, commented that—

” A licensing system would be effective if it were to be coupled with compulsory microchipping of dogs. Prior to a licence being issued, the applicant would be required to demonstrate that the dog had been microchipped, and to provide to the local authority a copy of the number and details of the database on which the information is stored.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist (East Ayrshire Council), contrib. 4<sup>121</sup>

250. However, when asked if a licensing system should contain a process to determine whether a person was fit and proper to hold the licence, Bill Gilchrist added that—

” In a practical sense, that would present quite a few difficulties. The number of dog licence applications that a local authority would receive would put a heavy burden on its resources for administration, and for ensuring that training to make people fit and proper for dog ownership was adequate and was done by a recognised body that was, in the opinion of the local authority, competent to deliver that training.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Bill Gilchrist, contrib. 10<sup>122</sup>

251. Kay Watson from Fife Council responded as follows—

” I think that there would be quite a high risk that, as has been said, responsible dog owners would be the first to sign up for the scheme and apply for a licence, while the irresponsible dog owners, whom we want to focus on, will just ignore it. It would be up to us to identify the irresponsible dog owners and to take action to enforce the dog licence scheme. However, we would need to have the powers to do that. Again, that would require a huge resource, because of the manual labour in trying to identify those dog owners.

Source: Public Audit and Post-legislative Scrutiny Committee 07 March 2019, Kay Watson, contrib. 31<sup>123</sup>

252. In supplementary written evidence, the Scottish Kennel Club responded specifically to the proposal for a licensing scheme. It stated that—

” This assumes 100% compliance and no costs in implementing and maintaining the licensing system. However, it is our view that irresponsible dog owners are unlikely to apply for a licence, this is supported by licensing numbers in both Northern Ireland and the Republic of Ireland, with compliance rates well under 50%. <sup>113</sup>

253. The Committee is aware that the Scottish Government consulted on the proposal for the introduction of a licensing scheme in 2013. The outcome of that consultation was that 46% of respondents were against the introduction of such a scheme. <sup>124</sup>

254. In her evidence to the Committee, the Minister referred to the “mixed picture” response to the Scottish Government’s 2013 consultation. The Minister agreed with the view that—

- ” Any licensing scheme faces the possibility that responsible dog owners will sign up, but irresponsible dog owners—who are the ones that we are looking to clamp down on—may not sign up.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 163<sup>125</sup>

255. The Minister went on to add—

- ” We will certainly look at it and I am interested in the committee’s views on it.

Licensing would be a considerable undertaking for local authorities, so we need to look at a number of issues before the Government could say that it was looking to reintroduce a scheme.

Source: Public Audit and Post-legislative Scrutiny Committee 21 March 2019, Ash Denham, contrib. 163<sup>125</sup>

256. **The Committee notes the outcome of the Scottish Government's 2013 consultation on the introduction of a licensing scheme for dog owners. It further notes the range of views expressed by witnesses on the advantages and disadvantages of such a scheme. The Scottish Government's review should consider the introduction of a licensing scheme for dog owners and, as part of that review, consider dog licensing schemes in other jurisdictions such as Ireland and Sweden.**

## Regulation of dog walkers/ minders

257. A number of witnesses called for professional dog walkers to be regulated. During the public engagement meetings, the Committee heard about dog walkers in charge of large numbers of dogs. In one incident, a horse rider had been unseated and left unconscious when a dog walker suddenly appeared with 17 dogs off lead.

258. The written submission from Friends of Braid Hills stated that—

- ” On a near daily basis I am now witnessing professional dog walkers, walking up to 8 or 10 dogs at a time... there is a dog walker who regularly takes 14 dogs around. Depending on the individual dog walker there may be half this number of dogs on the lead & half the dogs not on the lead. <sup>126</sup>

259. **The Committee agrees that those providing dog walking and dog care services are responsible for ensuring that the dogs in their care do not become out of control and/or dangerous. The Committee recommends that the Scottish Government's review should consider others who, in addition to the owner, could be deemed legally responsible for ensuring that dogs in their care are not out of control or dangerous.**



## Proposals for Members' Bills and new Scottish Government legislation

260. The Committee is aware that there are currently a number of proposals for Member's Bills <sup>127</sup> which relate to dog control and animal health and welfare issues, along with consultation work being undertaken by the Scottish Government. Further information on each of the proposals is set out below.
- Proposed Protection of Livestock (Scotland) Bill: this proposal seeks to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying.
  - Proposed Responsible Breeding and Ownership of Dogs (Scotland) Bill: this proposal seeks to improve the health and wellbeing of dogs throughout their lives by strengthening the regulation of the activity of breeding and selling or transferring of puppies and by establishing a more responsible and informed approach to acquiring and owning a puppy or dog.
261. The proposal by Jeremy Balfour MSP for a Bill to improve local authority pet shop licensing powers has fallen as a result of the Scottish Government indicating its intent to legislate in the area. The Scottish Government has also recently undertaken a consultation on strengthening animal welfare legislation in relation to animal cruelty offences which includes attacks on service animals.
262. The Committee is also aware that the Scottish Government is consulting on proposed amendments to the Animal Health and Welfare (Scotland) Act 2006 to increase maximum penalties for animal cruelty offences and make arrangements for animals that have been taken into the care of animal welfare organisations.

## Consolidation of all dog control legislation

263. A number of witnesses suggested that, given the confusion that exists between the 2010 Act and the 1991 Act, all dog control legislation should be consolidated. In its written submission, West Lothian Council suggests that—
- ” consideration should be given to consolidating all dog control legislation into a single legislative vehicle, to improve clarity on processes, responsibility for regulation and to ensure cases requiring intervention do not fall between the police and the local authority. <sup>60</sup>
264. This was echoed by Police Scotland in its written submission, which proposed—
- ” Unifying the legislation; Dangerous Dogs Act 1991, Sec 49 Civic Government (Scotland) Act 1982<sup>iv</sup> and the Control of Dogs (Act) 2010. It would be helpful if there was one Act which simplified all the legislation. <sup>65</sup>

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iv Section 49 of the Civic Government (Scotland) Act 1982 gives the Police powers to deal with 'dangerous and annoying creatures' in public places.

265. **The Committee agrees with witnesses that consolidation of dog control law could improve clarity for the public, local authorities and the police on the handling of out of control and dangerous dogs. The Committee considers that, irrespective of the policy outcomes of the Scottish Government's review, a modern consolidated Act of the Scottish Parliament on dog control law is required.**

## Additional areas for consideration

266. Additionally, the Committee has identified some further areas, on which it did not receive detailed evidence, but which it considers would benefit from inclusion in the Scottish Government's review. The Committee agreed to list these below—

*Using existing laws around the breeding, sale and importation of dogs can be used to support dog control law*

- Enforcing regulations on licenses to breed to help tackle illegal breeding
- Enforcing regulations on the importation of dogs
- Limits on the number of dogs per household

*Ways in which third party organisations could support dog control law*

- Consideration of statutory roles for third party organisations

*Using existing microchipping laws to support dog control law*

- Strengthen enforcement around microchipping
- Increased penalties for not microchipping

*Increased fines for convictions*

*Lifetime bans on dog ownership*

- To be considered following conviction of a dog related offence

*Sanctions for stray dogs.*

- To encourage owners to take steps to prevent dogs straying and to help ensure a responsible person is in a charge of the dog at all times

*Muzzling*

- Consideration of muzzling for larger / stronger breeds

*Statutory body for dog training*

- To provide for and oversee compulsory training for owners

*Dog control at public events*

- Review how local authorities provide permission for public events to include aspects around dog control

*Stronger enforcement of dog-on-dog attacks*

- Review this to take into account the severity of dog-on-dog attacks when determining the action to be taken against owners

*Support and compensation to victims of dog attacks*

- This should include emotional and practical support
- This should include the payment of compensation

*Regulation of dog walkers*

## A public health issue?

267. As noted above, during the Committee's evidence taking there was a general recognition that local authorities and the police should be working together to tackle dog control. However, some witnesses suggested that a broader holistic approach was required. Written evidence from West Lothian Council stated that there was "often a correlation between out of control dogs and owners who have chaotic lifestyles or may be engaged in anti-social behaviour".<sup>60</sup>

268. While the Scottish Kennel Club commented that—

” At present there is little incentive to gather data relating to dog biting incidents since the focus of the legislation is solely on prosecution and incidents of dog aggression are categorised on a purely numerical basis instead of being considered a public health issue on which doctors or health care workers could provide advice.”<sup>128</sup>

269. In his oral evidence to the Committee, Dr Alasdair Corfield from the Royal College of Emergency Medicine agreed that dog attacks were a public health issue. He told the Committee—

” From the emergency medicine point of view, dog bites cause a part of our workload, although perhaps compared with some major health problems, they are not a major part. However, every time that it happens, it is a significant event, because it is not a pleasant thing to deal with or treat, particularly when children are involved. As with many of the problems that attend our emergency departments, it is a public health issue and requires a co-ordinated approach.

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Dr Corfield, contrib.  
31<sup>34</sup>

270. Other witnesses pointed to the costs to the NHS of dog attacks. For example, a report by the RSPCA estimated that in the United Kingdom in 2008/09, the cost of admissions to hospital due to dog bites was £3,885,650.<sup>129</sup>

271. In her evidence to the Committee, Claire Booth described the initial surgery that her son had required following an attack by an out of control dog and explained that he still requires three further surgeries to rebuild his ear. She also described her own diagnosis of post traumatic stress disorder and the therapy that she had required following the incident. She said—

” All of that treatment is funded by the NHS. Why should that strain have to be put on the NHS because of one irresponsible person who should not have owned those dogs?

Source: Public Audit and Post-legislative Scrutiny Committee 21 February 2019, Claire Booth, contrib.  
19<sup>23</sup>

272. In its written submission, the BVSAB stated that—

” Dog bite incidents and aggression in dogs should be recognised as complex public health issues that require a ‘One Health’ collaborative, cross-organisational approach. In some cases, aggression in dogs may be indicative of wider issues within a household or their use as status or weapon dogs and dogs may need to be removed from a household or its owner in order to safeguard the owner’s health and safety. Social services, local authorities and police forces and welfare organisations need to work collaboratively to identify early animal health and welfare risk factors, as well as wider human health and social care issues. Appropriate knowledge exchange and training, as well as clear channels of communication and reporting between social services, local authorities and police forces and welfare organisations would be useful to ensure the early identification of both animal and human health and welfare risk factors.<sup>83</sup>

**273. The Committee recommends that as part of its review, the Scottish Government assesses the scale of the public health impact of dog bites, and the associated cost implications, to determine if a multi-agency public health approach to tackling dog control issues is required.**

## Conclusions

274. The Committee considers that, from the evidence it has received and the data available, the Control of Dogs (Scotland) Act 2010 has had limited effect in preventing or reducing the number of dog attacks in Scotland.
275. The Committee considers that current dog control law is not fit for purpose and recommends that the Scottish Government undertakes a comprehensive review of all dog control legislation without delay, with a view to introducing modernised, fit for purpose, consolidated dog control legislation. The Committee has identified areas that it considers should be included in the Scottish Government's review of dog control law.
276. In the interim, the Committee has made recommendations to improve the implementation of the 2010 Act.

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