

To: COMMUNITIES, HOUSING AND PLANNING POLICY BOARD

On: 21 AUGUST 2018

Report by: DIRECTOR OF COMMUNITIES, HOUSING AND PLANNING SERVICES

Heading: CONTROL OF DOGS (SCOTLAND) ACT 2010 – CALL FOR EVIDENCE

1. SUMMARY

- 1.1 At its meeting on 28 June 2018, the Scottish Parliament Public Audit and Post-Legislative Scrutiny Committee agreed to undertake post-legislative scrutiny on the Control of Dogs (Scotland) Act 2010.
- 1.2 The aim of the Control of Dogs (Scotland) Act 2010 is to ensure that dogs which are out of control are brought and kept under control by tackling irresponsible dog ownership and by shifting the focus from “breed” to “deed”.
- 1.3 The Control of Dogs (Scotland) Act 2010 makes provision for local authorities to impose measures on an owner, or person in charge of a dog, who fails to keep their dog under control. The Public Audit and Post-Legislative Scrutiny Committee is seeking to review the effectiveness of the Act in meeting its objective “...to ensure that dogs which are out of control are brought and kept under control in Scotland”. The consultation is seeking to determine a number of issues:
 - The effectiveness of the Act in reducing the number of out of control dogs/ dog attacks in Scotland;
 - How well local authorities are carrying out their duties under the Act;
 - What challenges local authorities face in carrying out their duties under the Act;
 - If there are any weaknesses in the Act or any specific changes that should be considered;
 - Any other issues relating to the Act that should be brought to the attention of the Committee.

- 1.4 The call for evidence was issued to all local authorities on 3 July 2018 with a closing date of 5 October 2018.
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2. RECOMMENDATIONS

- 2.1 It is recommended that the Communities, Housing and Planning Policy Board:
- (i) notes the call for evidence on the Control of Dogs (Scotland) Act 2010; and
 - (ii) approve the Council's response to the Call for Evidence as detailed in Appendix 1 to this report.
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3. BACKGROUND

- 3.1 The Control of Dogs (Scotland) Act 2010 came into force on 26 February 2011. It is intended to highlight the responsibility of dog owners by identifying dogs that are out of control and put measures in place to require owners to change a dog's behaviour before the dog becomes dangerous.
- 3.2 In Renfrewshire, the main responsibility for responding to complaints and undertaking enforcement under the Control of Dogs (Scotland) Act 2010 is held by Communities, Housing and Planning Services. Renfrewshire Council has 2 Animal Wardens that undertake these duties as part of their core role within the Renfrewshire Wardens Service.
- 3.3 Since the introduction of the Control of Dogs (Scotland) Act 2010, in February 2011, Renfrewshire Council has issued over 100 dog control notices.
- 3.4 There is no firm evidence to confirm whether the issue of out of control dogs is getting better or worse. Complaints rise when it is brought into focus by the press or when someone is attacked and then tail off again. In the years following the introduction of the Control of Dogs (Scotland) Act 2010, there was a greater awareness and profile in the media which resulted in a higher number of reports. Beyond this however, complaints have remained relatively consistent over the years as the table below highlights, covering the number of dog control notices issued and the number of overall complaints or requests for service received each year. The figures for 2018 are year to date.

Year	DCNs	Complaints
2012	6	78
2013	27	107
2014	24	160
2015	14	152
2016	16	188
2017	9	140
2018	9	85

- 3.5 Overall the proposed Council response attached as Appendix 1 is supportive of the Control of Dogs (Scotland) Act 2010 and highlights that it has had a useful impact in allowing the Council to take action in circumstances where a dog has not been under the full control of the owner, but where it would be difficult to evidence that the dog was dangerous. The response highlights that there are some challenges that the Council faces in responding to complaints and taking enforcement action in relation to the Control of Dogs. The Council response does make some suggestions about how the legislation or the associated guidance might be improved to assist local authorities in implementing the legislation in a consistent and joined up manner.
- 3.6 The response suggests that the Public Audit and Post-Legislative Scrutiny Committee should consider the following areas that might strengthen the existing legislation and guidance:
- Making it a specific offence for a dog owner not to give their details to an authorised officer acting in relation to this legislation.
 - Publicising the measures taken through a Dog Control Notice to reassure the public and act as a further deterrent.
 - Issuing guidance to pass failed Dangerous Dogs Act prosecutions to local authorities for them to consider action under the Control of Dogs legislation.
 - Putting in place measures that would require dog owners with a Dog Control Notice to register this with their new local authority when they move, to close a gap that exists where dogs move to other local authorities.

Implications of the Report

1. **Financial** – None
2. **HR & Organisational Development** – None
3. **Community Planning** – Renfrewshire is safe – by monitoring and ensuring that dogs are kept under control, Renfrewshire's communities will be safe from out of control dogs.
4. **Legal** - None
5. **Property/Assets** - None
6. **Information Technology** - None

7. Equality & Human Rights

- (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website

8. Health & Safety – None

9. Procurement – None

10. Risk – None

11. Privacy Impact – None

12. Cosla Policy Position – None

List of Background Papers

- (a) Background Paper 1 – Food Law Code of Practice (Scotland)

The foregoing background papers will be retained within Communities, Housing and Planning Services for inspection by the public for the prescribed period of four years from the date of the meeting. The contact officer within the service is the Communities and Regulatory Manager.

MC/OR
25 July 2018

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SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE

DATA PROTECTION FORM

Name:	Chris Dalrymple
Date:	
Organisation: (if required)	Renfrewshire Council
Topic of submission:	Control of Dogs Act

☐ I have read and understood the privacy notice about submitting evidence to a Committee.

☐ I am happy for my name, or that of my organisation, to be on the submission, for it to be published on the Scottish Parliament website, mentioned in any Committee report and form part of the public record.

☐ I would like to be added to the contact list to receive updates from the Committee on this and other pieces of work. I understand I can unsubscribe at any time.

Non-standard submissions

Occasionally, the Committee may agree to accept submissions in a non-standard format. Tick the box below if you would like someone from the clerking team to get in touch with you about submitting anonymously or confidentially (not for publication). It is for the Committee to take the final decision on whether you can submit in this way.

☐ I would like to request that my submission be processed in a non-standard way.

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

CONTROL OF DOGS (SCOTLAND) ACT 2010 CALL FOR EVIDENCE

SUBMISSION FROM RENFREWSHIRE COUNCIL

Please do not add any organisation logos

Please insert your response below

• The effectiveness of the Act in reducing the number of out of control dogs/ dog attacks in Scotland;

It is difficult to provide clear statistical evidence to determine what the position would have been if this Act had not been implemented.

However the Act has been effective in closing a gap that previously existed in the legislative framework. In Renfrewshire many of the cases referred are from the Police who have reached the 'end' stage of their investigations into dangerous dogs. Very few dog on dog attacks would ever be considered under the Dangerous Dogs Act unless there was a history of serious and repeated behaviour. The legislation also appears to act as an effective deterrent and to promote responsibility amongst the majority of dog owners – especially where it is applied as one of a number of potential enforcement responses to promote responsible dog ownership.

• How well you think local authorities are carrying out their duties under the Act;

In Renfrewshire the Council has 2 officers that work as Animal Wardens and have primary responsibility for taking enforcement action in relation to this legislation. The issue of control of dogs, and responsible dog ownership are of significance to the local community and associated issues including dog fouling and welfare issues and regularly raised and addressed across all communities.

Most local authorities have control over housing stock where the resident must seek permission to have a dog. Locally, in Renfrewshire partnership working and the development of Responsible Dog Owner pledges have been supported by Housing Managers and Officers who are willing to revoke permission should the tenant refuse to engage.

Effective enforcement also relies on good partnership working with Police Scotland at a Divisional level. Maintaining close working with the Police and pursuing cases under the most appropriate legislation (either Dangerous Dogs Act or Control of Dogs Act) ensures a more complete and effective response to promoting and supporting responsible dog ownership in the area.

• What challenges you feel local authorities face in carrying out their duties under the Act;

At present the Act does not compel an individual to give the Animal Warden/ Council Officer their details when they are enforcing this legislation. This can lead to challenges in identifying and pursuing individuals that are possibly in contravention of the Control of Dogs Act.

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.

• If there are any weaknesses in the Act or any specific changes you would like to see;

The issues raised in relation to the question above should be considered.

Consideration should be given to compelling an individual to give the Animal Warden/ Council Officer their details when they are enforcing this legislation. This has been particularly effective in other Acts where there is a specific offence of not giving details, such as section 8B of the Environmental Protection Act.

Consideration should be given to publicising the outcome of a Dog Control Notice. This would help support the experience of enforcement officers, that legislation which is 'self-policing' is more effective. Legislation, such as the smoking ban (Smoking, Health & Social Care Act (Scotland) 2005) the individual is offered a fine in Section 2 but Section 1 has greater sanction for allowing the Act of smoking to occur in the first instance. Again, Section 7 of this Act makes it an offence not to provide details to an authorised officer (without reasonable cause). With wider general awareness of the Dog Control Notice amongst the general public and of its terms, ongoing enforcement and compliance would be more effective.

• Any other issues relating to the Act you wish to bring to the attention of the Committee.

It would be beneficial for the committee to consider providing additional guidance around ensuring a consistent approach across Scotland about where the Control of Dogs Act ends and where the Dangerous Dogs Act begins. 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.

Another area where a Scotland wide approach might be beneficial would be to ensure that where a dog owner moves to another local authority they be required to notify the new authority area of the Dog Control Notice for them to consider the circumstances and if relevant reissue a Dog Control Notice based on the previous case. In many cases this has not happened and subsequently dogs become difficult to trace.