

Consultation Title	Improving the Operational Effectiveness of the Control of Dogs (Scotland) Act 2010
Date	15 January 2020
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Scottish Land & Estates is the voice of rural businesses throughout Scotland. We are a membership-based organisation representing a wide range of rural businesses, including farmers, foresters, tourism operators, housing providers, leisure companies, and renewable energy providers.

We are pleased to have the opportunity to respond to this consultation, which is timely, and which should be considered in the wider context of related work such as in relation to livestock worrying and discussions around that.

1. Do you think an obstruction offence should be added into the 2010 Act?

Yes. The lack of an obstruction offence may discourage an irresponsible dog owner to engage with the authorised officer and also makes it difficult to deal with deliberate attempts to mislead. The inclusion of an obstruction offence in the 2010 Act would encourage co-operation and communication from dog owners. This would allow for better investigation with information and access hopefully more forthcoming. There is already regulation providing for obstruction notices in terms of environmental health etc and this could similarly be carried over to dog control.

Out-of-control dogs and irresponsible dog ownership is a problem for the safety of communities and the public. In rural communities, dog worrying and attacks on livestock can cause extreme emotional distress and financial loss. The increasing number of out of control dogs and dog attacks on livestock highlights that the 2010 Act has not been as effective as it could be in bringing about more responsible dog ownership.

2. Do you think a national dog control notice database should be established?

Yes. The Government should enact the provision in the 2010 Act to establish a centralised dog control notice database. The establishment of a national database would allow consistent monitoring and the ability to accurately assess the effectiveness of the Control of Dogs (Scotland) Act 2010. It would mean a much quicker process than at present and make enforcement more effective. The absence of consistent data hinders the evaluation of how effective dog control notices have been. Data collection would also allow evidencing of the extent of the issue. Understanding the extent of the problem will allow the creation of more evidence-based policy.

3. Do you consider that dog control notices can be capable of being enforced across Scotland under the 2010 Act?

The fact that this question is being asked suggests to us that the wording should be clearer. Effective and consistent enforcement throughout Scotland is fundamental to addressing issues associated with out-of-control dogs. It would be sensible to encourage consistency in enforcement across local authority areas and we would support this. It will be important that local authorities are sufficiently resourced and trained.

4. Do you think the 2010 Act should be amended to make clearer that dog control notices can be enforced outwith the local authority area they were imposed in?

Yes. Clarity within the legislation would be beneficial to all. Providing clarity to the public, local authorities and the police on the handling of out-of-control dogs, and irresponsible dog owners is sensible. The fact that the 2010 Act does not provide strong clarity may hinder enforcement. Section 4(3) does place a clear duty on local authorities to co-operate when undertaking their statutory duties, but anything to aid clarity would be useful. However, if a national database is established, this would also assist as mentioned above.

5. (for local authorities only) – Does your local authority seek to enforce dog control notices issued in a different local authority area?

N/A.

6. Do you think the 2010 Act should be amended so that it contains clear authority for a dog to be seized by the local authority pending the court's consideration of a destruction order in relation to the dog?

Yes, so long as the seized dog is not destroyed until after the court has assessed the case. If there is a risk to the safety of the public or any livestock from a potentially dangerous dog, it would be sensible to seize the dog in the interim period.

7. Do you think the 2010 Act should be amended to make clearer what powers exist for local authorities to share information about dog control notices?

Yes. The 2010 Act should be clear in what data sharing powers exist to ensure consistency across local authority areas. Obviously, this requires to be considered in terms of existing data protection legislation in order that there is no conflict.

8. Do you think the 2010 Act should be amended to empower local authorities to be able to issue a fixed penalty notice in respect of breaches of a dog control notice?

Yes. The 2010 Act should enable local authorities to issue a fixed penalty notice where there is a breach of a dog control notice where the officer issuing the notice is suitably competent and qualified to issue such a notice. A fixed penalty notice is appropriate for minor and technical breaches. The implementation of a fixed penalty notice for non-compliance should discourage irresponsible dog owners from breaching a dog control notice, and in doing so will be keeping their dog under closer control. It also shortens the current process of a report having to be prepared for submission to the Procurator Fiscal with the consequent time that involves.

9. How best could awareness be raised in local authority areas as to their powers under the 2010 Act?

The success of the proposed amendments to the legislation, and the existing legislation, will be dependent on members of the public being aware of the Act and how it could be used. Awareness raising campaigns through social media, local press, veterinary practices, pet shops, education within schools could help disseminate this information more widely throughout local authority areas. A combination of different channels would also be more effective than choosing one.

Education and training would also be required for relevant local authority staff and Police Scotland to ensure their ability to effectively implement the Act and to keep communities safe from out of control

dogs. Appropriate training should also ensure that the application of the existing powers is consistent across Scotland.

The Scottish Government should ensure that local authorities and police officers are fully equipped with the correct information to deal with dog attacks and irresponsible dog owners effectively.

However, there are some costs attached to this “awareness raising” which need to be borne in mind.

10. Do you think the statutory guidance for the 2010 Act should be updated?

Yes. It makes sense that the guidance be updated to reflect any experience of use of the legislation and any lessons learnt regarding best practice.

11. Do you think that the statutory guidance in relation to information sharing should be added to the statutory guidance?

Yes. If a person has reported an out of control dog to their local authority, they should be advised of the outcome of their report. This should be reflected in the statutory guidance.

12. Do you think the protocol should be updated?

The protocol is useful to help clarify responsibilities between the Dangerous Dogs Act 1991 and the 2010 Act. We are not aware of any significant content that requires revision but there may be benefit in reviewing the protocol if the statutory guidance is to be reviewed. Potentially, there could also be awareness raising around the protocol too. We feel that local authorities are best placed to comment on its operation in practice. It should be remembered that while the protocol sets out general responsibilities, it does stress the circumstances of each case has to be considered.