The Scottish SPCA welcomes The Public Audit and Post-legislative Scrutiny Committee post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010.

Scotland currently operates under both the Dangerous Dogs Act 1991 and the Control of Dogs (Scotland) Act 2010. This latter piece of legislation was introduced to ‘close the gaps’ of the Dangerous Dogs Act, however this has fallen woefully short due to the increased demands on Local Authorities and a lack of investment in local authority staff and training. This has been further highlighted by the ‘Take the Lead’ campaign run by Radio Clyde.

The Control of Dogs Act is theoretically meant to provide a preventative measure, enforced by local authorities, allowing them to impose any reasonable demands on any owner, of any breed of dog that is considered out of control in both public and private places. These demands can include neutering, muzzling, proper training, ensuring the dog is under physical control at all times and any other reasonable demand short of humane destruction which can only be ordered by a court.

In theory this process could prevent the majority of dog incidents every year, which alone would save the National Health Service a massive amount of money. However, in practice The Control of Dogs (Scotland) Act 2010 is not really effective as it is not robustly enforced. The Act is operated by the 32 Scottish local authorities, all of which have different criteria and priorities. Little or no training has been given to local authority staff that have been tasked to carry out this function and there have been several incidents where the enforcer could not even properly identify the breed of dog or recognise simple dog behavioural traits.

Additionally, both pieces of legislation have a detrimental effect on public spending. The incorrect seizure of animals coupled with the cost of kennelling the dogs (approximately £12-£15 per day plus any additional veterinary needs) whilst awaiting court proceedings is a huge drain on public spending.

Furthermore, for those dogs incorrectly seized, the long-term impact of being in a kennel environment for a substantial time in some circumstances in excess of a year, (awaiting a court resolution) results in a serious animal welfare concern.

The Scottish SPCA seriously recommends abolishing breed specific legislation and replacing it with workable legislation that protects the public and responsible dog owners. The vast majority of serious attacks that have occurred can be traced back to irresponsible dog ownership involving a wide number of breeds. 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.

Any new legislation must include greater penalties for the irresponsible owners i.e. anyone who is convicted for their dog injuring another person or animal should automatically be banned from owning a dog.
The Scottish SPCA will continue to support Police Scotland and Local Authorities and we hope that any new legislation that is introduced will be fit for purpose and can be appropriately enforced.
The Scottish SPCA has contributed to the Environment Food and Rural Affairs committee’s inquiry into the effectiveness of the Dangerous Dogs Act 1991. Scotland currently operates under this act and the Control of Dogs (Scotland) Act 2010. Whilst the control of the legislation is a matter reserved to Westminster, any changes to it would also apply to Scotland.

The flaws of the Dangerous Dogs Act 1991

The Society has been opposed to the Dangerous Dogs Act 1991 since its conception. We believe the Act is fundamentally flawed and was rushed through parliament following a series of high profile incidents at the time.

It is clear that the act was written by people who were not experts on dog physiology and behaviour and this has led to a number of issues since its introduction. The number of reported dog attacks has risen over this period highlighting the ineffectiveness of the legislation.

The legislation as it stands

Currently, Section 1 of the legislation concentrates on three breeds of dog; the Japanese Tosa, the Fila Brasileiro and the Dogo Argentino. It also includes the ‘type’ of dog commonly known as the Pit Bull Terrier.

When the legislation was drafted, the Pit Bull was classed as a ‘type of dog’ due to the lack of a recognised breed standard in the UK. This means that due to improper identification there has been a large number of wrongly seized dogs throughout the UK. In order to remove the mass seizure of innocent animals a closer look at the legislation’s reliance on ‘breed’ and ‘type’ is required.

Section 1 of the current legislation is written in a way that means owning one of the named breeds/type is illegal in its own right, and no other factors, such as whether the dog is aggressive or not, are taken into consideration. An owner of any of the listed dogs would automatically and unfairly be found guilty of an offence regardless of whether or not their animal posed a threat.

The Scottish SPCA firmly believe that no dog can be classed as dangerous due to its breed or type specification. Indeed, there have been incidents involving toy and terrier breed dogs which resulted in lifelong facial disfigurements for children.

Section 3 of the Act also throws up a number of issues. This part of the legislation deals with dogs that are deemed dangerously out of control in a public place. This section is not breed specific but fails to cover any incidents that occur on private property. Many of the serious and fatal attacks over the past years have happened within private areas, falling outside the scope of this legislation.

Retrospective legislation like Section 3 means that an incident needs to occur before action can be taken. Sadly, this means that a number of attacks could have been avoided if more robust legislation was in place.
The situation in Scotland

Scotland currently operates under both the Dangerous Dogs Act 1991 and the Control of Dogs (Scotland) Act 2010.

This latter piece of legislation was introduced to ‘close the gaps’ of the Dangerous Dogs Act, however it has fallen woefully short due to the increased demands on local authorities and a lack of investment in local authority staff and training.

The Control of Dogs Act is theoretically meant to provide a preventative measure, enforced by local authorities, allowing them to impose any reasonable demands on any owner, of any breed of dog that is considered out of control in both public and private places. These demands can include neutering, muzzling and proper training.

Unfortunately, in practice this Act isn’t effective as it is not robustly enforced. The Act is operated by the 32 Scottish local authorities all of which have different criteria for their responsibilities. Little to no training has been provided to the staff tasked with enforcing this legislation.

Additionally, both pieces of legislation have a detrimental effect on public spending. The incorrect seizure of animals coupled with the cost of kennelling the dogs (approximately £12 - £15 per day plus any additional veterinary needs) whilst awaiting court proceedings is a huge drain on public spending.

Furthermore, for those dogs incorrectly seized, the long-term impact of living in a kennelled environment for a substantial time whilst awaiting a court resolution (in some circumstances in excess of a year) can result in serious animal welfare concerns.

What does the Scottish SPCA propose?

The Scottish SPCA strongly recommends that amended legislation focuses on the deed of the dog, not the breed.

The vast majority of serious attacks that have occurred can be traced back to irresponsible dog ownership involving a wide number of breeds.

For a UK wide equivalent of 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. Without this, innocent dogs will suffer as a result of poorly designed legislation and attacks on humans will continue to rise without the implementation of preventative measures.

The Scottish SPCA absolutely agrees that members of the public must be protected from aggressive dogs, but the legislation should deal with the deed and not the breed of the dog, with a greater legal emphasis on irresponsible dog ownership.

For more information, or to discuss the content of this briefing, please contact Scottish SPCA Chief Superintendent Mike Flynn on 03000 999 999 or email mike.flynn@scottishspca.org

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