Q1 The effectiveness of the Act in reducing the number of out of control dogs/dog attacks in Scotland.

The original intention behind the Act was to provide intervention before dogs became dangerous. Prior to the introduction of the Act there was no action possible until the dog had caused injury to a person. Most of the cases we deal with are when a dog is involved in an altercation with another dog; these could be broken down into further categories:

- Serious; one or more dogs receive serious injury requiring veterinary treatment.
- Minor; one or more dogs receive minor or no injury requiring veterinary check.
- Concern; a dog behaves aggressively towards another dog but there is no contact.
- Unreasonable; Neighbour disputes and disagreements between dog owners.
- Serious, other animal; where a dog or dogs caused serious injury to a domestic pet other than a dog, for example killing a domestic cat or other animal.

Since 2010 the scope has evolved to being used for minor attacks on persons where there is no previous history of this type of behaviour or where the Police are unable to prosecute for a variety of reasons. It has also become common for either the Police or the Procurator Fiscal to request the serving of a Dog Control Notice where court action is being taken and there are concerns that the dog may attack again in the interim before the case is heard.

Other cases involve bites or attempted bites on Adults and children; these can be categorised also as follows:

- Serious, long term risk; one or more dogs have been able to bite a person puncturing skin and may result in long term injury, mark or mental trauma.
- Serious; one or more dogs have been able to bite a person not puncturing skin but causes bruising and or mental trauma.
- Alarm; where a dog or dogs behaved in an aggressive manner as to cause fear and alarm and may have attempted to bite a person.

In dealing with dog control cases since 2010 our members have seen a year on year increase in cases being reported for different reasons including;
1. The public have become aware of the legislation and have reported incidents that previously would have gone unreported. Before 2010 there was no recording of dogs being “out of control” other than ones dealt with by police under the Dangerous Dogs Act. Nobody knew what the number of incidents involving dogs being “out of control” were as no legislation was in place requiring council involvement and no records kept anywhere.

2. 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.

3. Any breach might be considered a failure with control measures but due to the justice system/protocols/police it takes all too long for a case to go before the court, by which time further incidents may happen involving the same dog and owner. Prior to this legislation there was no option open to Police other than hope there were no other attacks before the case was heard, or to seize the dog and keep it in kennels at great expense. A DCN served in serious cases until the case is heard, can and should, prevent further injuries in the interim. If the DCN is intentionally breached this can be reported to the court and goes to illustrate the owner’s inability or unwillingness to comply with a muzzling regime thus adding weight to the case and assisting the Sherriff at the point of sentencing.

Not all complaints or reported incidents result in the serving of a Dog Control Notice.

Where the incident is minor and there is no previous history, dog owners may be given advice or a written warning. In most cases this intervention has helped prevent the same dog and owner from being involved in any further incident.

Often dog owners are extremely shocked and upset at their dog’s behaviour and take taken immediate steps to ensure there are no further incidents/attacks. These dogs rarely attack again.

This is not always the case and if a DCN is in place and is subsequently breached it would not be uncommon for additional breaches to occur involving the same owner with the same dog or attacks to occur involving another dog they own.
Q2 How well you think local authorities are carrying out their duties under the Act:

Local authorities under the legislation must have at least one person authorised to investigate and deal with dog control complaints.

Section 1(7) Of the Act states- 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.

This requirement has largely been ignored by Local Authorities.

This role has been allotted by some LA’s to staff who were already dealing with stray dogs as a dog warden. Other LA’s have Authorised Environmental Health Officers, Community Wardens or Pest Control Officers, many of whom have little or no experience of dealing with dogs.

Enforcing the Control of Dogs Scotland act 2010 has required the Authorised Officers to become skilled in investigation including statement taking and recording details, – duties which many had not undertaken before.

As an organisation we at NDWAS have held seminars and training days covering statement writing, court procedures, dog behaviour etc as Local Authorities have not provided that training. When such courses are available elsewhere, Dog Control Officers are rarely allocated places as other Council Staff are given priority.

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.

Long distances are often involved in carrying out visits, it may be necessary to visit several times before the dog owner is at home- particularly if they do not respond to calling cards.
Q3 What challenges you feel local authorities face in carrying out their duties under the Act:

As mentioned above, the workload had increased immensely, no extra funding was made available and no extra staff taken on. It was stated that there would be no additional financial burden on Local authorities because of this legislation. That was incorrect, the man hours taken, and additional fuel costs have put a major strain on departmental budgets.

Individual Officers are under pressure the whole time trying to keep up with the workload, unfortunately less serious complaints such as fouling and barking dogs and are not being effectively investigated as there are not enough hours in the working week. Our members take pride in their work and find it disheartening when they cannot provide a good all-round service.

Although there is a requirement for onward monitoring of Dog Control Notices, in practice this equates to waiting on reports from neighbours and other dog owners of any new problems.

A small proportion of dog owners whose dog has been out of control either, couldn’t care less or try to put the blame elsewhere. This is particularly true in cases where the dog owner is involved in other types of crime e.g. Drugs and they have the dog as a Status Dog/Deterrent. There is no requirement within the Act for them to provide their details when asked by the Authorised Officer. It is possible to serve a Dog Control Notice without the dog owner’s Date of Birth, however, if a breach occurs these details are required for the Crime Report.

Many dog-on-dog attacks happen at popular dog walking areas, often the only detail the complainer can provide is a description of a vehicle and a Registration number.

There is no provision in this legislation to allow the investigating officer to request owner details from DVLA. This is an anomaly as there is such provision in the Dog Fouling Scotland Act 2003.

We encounter many challenges including, deliberate avoidance and obstruction. 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.

When the Control of Dogs Scotland Act 2010 was introduced the Scottish Parliament provided guidance notes to accompany the legislation. This includes a referral to the creation of a national database for all dog control cases. This would have been beneficial to
all enforcement agencies. The national database has not been created which can make it difficult for both Police Scotland and Local Authorities to check previous histories, information which is necessary to determine what action is appropriate in the circumstances. Police Scotland routinely check if a dog, address or person is known to us for dog control complaints. Recently with the introduction of GDPR regulations both parties require written requests for information where previously a phone call sufficed. This has added to the work involved and causes further delays in taking appropriate action.

In cases where dogs have been passed on to people outside the local authority area, we have to try to locate their address- again GDPR has made it more difficult. We then must try to find out who is the Authorised Officer there and inform them that a dog and/or owner with a control history is now in their area.

A National Database would simplify this

A national database would save time and speed up control cases, especially for dogs with control notices in place who re-offend and are subsequently dealt with by Police Scotland under the DDA. They could have immediate access to a history in support of any serious cases.

There remains no recognised qualification for authorised staff to obtain and no national register of approved dog behaviourist and trainers. This makes referring dog owners to seek training to help bring dogs under control difficult, in addition some dog trainers do not want to the responsibility of retraining a dog in case it relapses and they are then involved or held responsible.

The dog control legislation allows for a control notice to be served on the dog owner or person with responsibility for its day to day care but this information cannot be shared with victims who regularly ask for updates and expect to know “that justice has been done”, this is problematic as it can look as if no action has been taken sometimes leading to uncomplimentary press articles.

**Q4 If there are any weaknesses in the Act or any specific changes you would like to see**

Amend the section requiring dogs to be chipped within 14 days as the appeal system gives 21 days for appeal AND the chipping legislation makes this requirement possibly out of date. Perhaps give 28 days or 14 days to prove chip registration details for phone/address etc. are up to date.

Add the option to issue a fixed penalty for minor breaches of a control notice

Look at “monitoring” where breaches of control orders is a criminal offence and require police to prosecute all cases of breaches of control notices as this is a criminal offence and police Scotland are better equipped to ensure this is done effectively.
There is a requirement to notify the local authority if an owner changes their name or address, there is however, no requirement to notify that the dog has been rehomed/passed on. This should be remedied.

Q5 Any other issues relating to the Act you wish to bring to the attention of the Committee.

Since the amalgamation of Scotland’s Regional Police Forces into Police Scotland there has been a shift in the way dog control complaints are dealt with by them. Members of the public calling 101 are regularly referred to the Local Authority regardless of the severity of the attack.

Local Police Officers who carry out investigations and submit a Crime Report are finding that the internal Reports unit decides there is “No Crime” and refers the case to the local authority. This is frustrating for all concerned- particularly in cases where the attack has been serious. We would like all valid reports to be forwarded to the Procurator Fiscal for a decision on whether to take the case forward or not.

Individual Police Officers struggle to deal effectively with dangerous dogs and are being discouraged from following the agreed protocol and being advised to refer all dog issues to local authorities, we do not have the level of resources available to Police Scotland.

It is often the case that the dog involved in an attack, particularly where it is dog on dog belongs to a multiple dog household. There is often a problem identifying which of the dogs was the aggressor and therefore which dog to serve the DCN on.