

POST-LEGISLATIVE SCRUTINY - CONTROL OF DOGS (SCOTLAND) ACT 2010**SUMMARY OF EVIDENCE RECEIVED BY THE PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE****Background**

The Committee issued a call for evidence to inform its work on post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010. The call for evidence asked for submissions dealing with the five issues outlined below:

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

The Committee received 47 responses.

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

Overall: there appears to be little consensus on whether the Act has reduced the number of out of control dogs/ dog attacks in Scotland. Some say there have been an increase in reports, but that may be due to greater awareness of the Act by the public.

As Glasgow Council point out the implementation of the Act is “Very varied across local authority areas with no real consistency in how the function is carried out”

The following submissions argued that the Act IS working –

- Police Scotland state “There is a varied picture across Scotland however most areas have seen a clear reduction in the number of “out of control” dogs or dog attacks since the legislation was introduced.”

- Stirling Council said “We have found the legislation to be effective in reducing the number of repeat complaints about individuals”
- West Lothian Council states that “Officers perceive that the number of serious incidents has decreased.”
- “It remains the view of Battersea that the Act has put in place an effective framework that makes the most of enforcement bodies’ time and resources; which Battersea and other charities have publicly commended to other Governments.”

The following selected submissions argued that the Act IS NOT working –

- Tom Tennant submits a long report on the failures of the Act. He states that “The effectiveness of the Dog Control Act is in the hands of councils. Unfortunately, there is no government oversight and no analysis of what is happening. These failures mean the Act can fall into disrepute through inaction, as with Glasgow City Council.”
- After an investigation on dog attacks, Radio Clyde state “the current dog control legislation is not working. Hundreds of children are visiting hospitals every year with attack injuries, local authorities are not employing the staff to enforce it and as a result, the dog control notices, which the legislation was designed to impose, are not being used.”
- BVA and BSAVA “the Control of Dogs (Scotland) Act is not being effectively or consistently enforced and is at present unable to achieve its intended impact on dog control and irresponsible ownership.”
- Post Office Group states that “In our experience, the Control of Dogs (Scotland) Act 2010, in conjunction with the Dangerous Dogs Act 1991 (henceforth CODS and DDA), has been largely ineffective in addressing the problem of out of control dogs and irresponsible ownership.”

The following selected submissions argued that there has been an increase in reporting of dog attacks, which may be due to increased public awareness of the process, rather than an increase in dog attacks themselves.

- Highland Council state “In dealing with dog control cases since 2010 I have not seen a reduction in cases being reported to myself and colleagues, in fact I would suggest that each year we have seen more cases being referred to us”.
- East Ayrshire Council states “... it would seem that overall complaints are increasing. This may be due to a number of factors, including greater public awareness of the existence of the legislation.”
- Aberdeenshire Council say that “...the number of cases reported has risen dramatically as public awareness of the legislation has risen.”
- National Dog Warden Association Scotland has said “since 2010 our members have seen a year on year increase in cases being reported “

2. How well you think local authorities are carrying out their duties under the Act?

Overall –Some submissions state that local authorities are fulfilling their duties. Others say they are not. There is much discussion under this question about the costs local authorities bear in implementing the legislation. This is covered under question 3 below.

- Police Scotland state “The consensus across Police Scotland is that most local authorities are fulfilling their duties under “the Act” which invariably saves police time and money in bringing offenders to Court.”

The following submissions argued that local authorities are not fulfilling their duties

- SSPCA state “...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.”
- NFU Scotland does not consider that all local authorities are carrying out their duties under the Act.
- BVA and BSAVA “we understand that Glasgow City Council has only issued 6 Dog Control Notices between 2011-2016, despite being the most populated local authority area in Scotland.”

3. What challenges you feel local authorities face in carrying out their duties under the Act.

Overall: the most commonly mentioned challenge is the lack of funding and resources. Other challenges mentioned are lack of experienced or competent staff; a poor relationship with the police or police referring cases to councils; confusion between police and local authority.

The following submissions discuss the funding and resource challenge -

- Highland Council discuss the cost of dog control, and that cuts to staff numbers and services is a problem. They also say that dog control cases are stressful to deal with.
- South Ayrshire Council state “we are finding that the workload to effectively enforce the Act is beginning to have a detrimental effect on other work areas”
- SSPCA state “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.”
- National Dog Warden Association Scotland state that “The workload of many of our members is overwhelming them.”
- Laura MacLeod states “No financial assistance was provided to Local Authorities from the Scottish Government to enforce the legislation and many Local Authorities

are under huge financial pressures, sadly dog control is one of the first areas to be cut as it is not seen as high priority.”

The following submissions discuss other challenges -

- Animal Behaviour Clinic states “There appears to be some confusion between Local Authorities and the Police over which parts of dog legislation each is responsible for.”
- David Littlewood Talks about concerns being bounced between the police and the local authority.... “neither the Council nor the Police were clear about their roles, responsibilities or powers.”
- West Lothian Council say that whilst there is a specific legal duty within the act for local authorities to co-operate with Police Scotland, this is not reciprocated.
- Falkirk Council state “In terms of Police Scotland, we are fast becoming a ‘dumping ground’ for all manner of dog attacks including bites on people. It appears to be due to the lack of support for both Police and Councils from the PF and issues with Dangerous Dog legislation.”
- East Ayrshire Council states that some control measures cannot easily be checked. Eg use of a muzzle.
- West Lothian Council state that “Some ‘proper persons’ served with a dog control notice see the solution as getting rid of the dog concerned, often rapidly acquiring another. Local Authorities have no powers routinely available to stop this.”
- Aberdeenshire Council state “GDPR regulations can impede investigations when information is required from Police Scotland. Previously personal details, addresses etc, were readily available however this is not now the case.”

4. Are there any weaknesses in the Act or any specific changes you would like to see?

Overall – a number of weakness and changes have been identified including the need for fixed penalty notices; a national database; an offence of “obstruction”; a revision of the chipping provisions. Suggested changes are put in bold below.

West Lothian Council highlight a fundamental flaw in the legislation – that the focus is “on controlling a dog and not on the owner or responsible person.”

- Highland Council say “Adding the **offence of obstruction** would deter a lot of ...” deliberate avoidance and obstruction, serving a control notice.
- “South Lanarkshire Council would suggest that the **lack of a national database** is a challenge that Scottish Government should give consideration to providing. A national database would assist in tracking dogs which move from one local authority area to another.”

- “It is the view of East Ayrshire Council that a **Fixed Penalty Notice regime** for breach of Dog Control Notices would be beneficial and reduce the administrative burden on the courts system.”
- NDWAS say “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.”
- Laura Macleod says “Make it a requirement under the Act **to inform the Local Authority if a person re-homes the dog to another owner**, make it that they must advise the Local Authority of the name and address of that new owner.”
- Police Scotland said “Several divisions suggested there could be **greater information sharing** and collaboration between local policing divisions and local authority dog wardens.”

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

A number of other issues were raised in the submissions –

- West Lothian Council said 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 local authority.
- Animal Behaviour Clinic said “the problem of professional dog walkers having a pack of out of control dogs in local parks has neither been monitored nor adequately addressed. Often these dog walkers may have 6-10 dogs off lead and are ineffective in controlling the dogs’ behaviour towards the public.”
- Mike Haseler said “I think it should also be necessary for owners to have third party insurance, so that those injured by dogs have an easy way to claim - and perhaps as importantly, so that there is a clear financial incentive to avoid the worst offending breeds.”
- After extensive investigation, Tom Tennant argues that new legislation is required relating to the licensing for owners of listed breeds of dogs.

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