

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 18 November 2009

Session 3

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

30th Meeting 2009, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Mary Mulligan (Linlithgow) (Lab)

*Jim Tolson (Dunfermline West) (LD)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

Margaret Curran (Glasgow Baillieston) (Lab)

Alison McInnes (North East Scotland) (LD)

Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Eric Ferguson (National Dog Warden Association)

Mike Flynn (Scottish Society for the Prevention of Cruelty to Animals)

Dennis Hearsum (National Dog Warden Association)

George Leslie (Canine Concern Scotland Trust)

Albert Oswald (Dundee City Council)

David Robertson (Aberdeenshire Council)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Communities Committee

Wednesday 18 November 2009

[THE CONVENER opened the meeting at 10:00]

Control of Dogs (Scotland) Bill: Stage 1

The Convener (Duncan McNeil): Good morning and welcome to the Local Government and Communities Committee's 30th meeting in 2009. As usual, I ask committee members and the public to turn off all mobile phones and BlackBerry's.

Agenda item 1 is oral evidence on the Control of Dogs (Scotland) Bill. I welcome our first panel of witnesses, who are Albert Oswald, head of Dundee City Council's environmental health and trading standards department; David Robertson, environmental health officer with Aberdeenshire Council; and from the National Dog Warden Association, Eric Ferguson, regional chair, and Dennis Hearsum, dog control and welfare co-ordinator. You may make brief opening statements, although that could take a while, or we can go directly to questions. What do you prefer? I see that you want to go directly to questions. If any issues are not covered by questions, you can raise them at the end of the session. Is that satisfactory? You agree—great stuff.

Jim Tolson (Dunfermline West) (LD): Good morning, gentlemen. Thank you for coming to the meeting. The bill will change significantly how we control dogs and the nuisance that they cause in some circumstances, which are probably few—I am sure that most owners look after and treat their dogs well and are responsible with them. Implementing dog control notices could have a significant cost, particularly if the number of queries to local authorities and the National Dog Warden Association is much higher than is estimated in the financial memorandum. Is the assumption about costs in the financial memorandum reasonable?

Albert Oswald (Dundee City Council): I can speak only for Dundee City Council. We have had a fair bit of experience in dog control over the years. We have studied the bill and think that the costs can be absorbed. We do much of the work that is involved at the moment. Issuing and monitoring the expected number of dog control notices will not involve much more than we already do. The costs as described are fairly accurate.

Eric Ferguson (National Dog Warden Association): I agree.

David Robertson (Aberdeenshire Council): Much of the cost could probably be absorbed, but issuing dog control notices and monitoring the situation before and after could lead to additional overtime working, which would have costs.

Jim Tolson: So your authorities and the association feel that the notices would have no significant cost implications.

The other issue in which I am interested—

The Convener: I think that the other gentleman on the panel wants to reply to your first question on costs.

Dennis Hearsum (National Dog Warden Association): I agree that costs could be absorbed in some places, but some councils have only one dog warden. Members have been given the costs of somebody issuing a fixed-penalty notice when they see a person out on the street and hand them a notice, which is perhaps 10 minutes' work. However, the provisions will not involve just 10 minutes' work. If a council is called to issue a dog control notice, two people will have to go, because witness corroboration will be needed. Statements might have to be taken, and about 15 minutes to half an hour will be needed to take each statement. The person concerned must then be interviewed to see whether he agrees or disagrees with what has been said and whether he has any witnesses.

Issuing a dog control notice will take much longer than 10 minutes. A minimum of an hour will be required, assuming that the place we need to go to is close by. Some of the places that we will have to travel to are an hour and a half away, which will increase costs significantly. I do not think that the costs of the bill can be absorbed—extra work will be involved.

Jim Tolson: That is interesting, as it brings me to my second question. With all due respect to the local authority members of the panel who represent cities, I am interested to hear about the implications of the bill, in both cost and time, for rural areas. Mr Hearsum may have dealt with that point. I am concerned that the bill will have different implications for different local authorities.

Eric Ferguson: I am the one-man band for Clackmannanshire that Dennis Hearsum mentioned. If I am doing one thing, I cannot be doing another. Any additional duties would restrict my normal activities. There would be an additional cost on the admin side. Our run-of-the-mill work is pretty straightforward and basic—we are on the streets dealing with dog fouling, stray dogs, dog fights and fights between people. The bill involves something different—it is another level altogether.

Jim Tolson: Your comments are helpful. How many dog wardens do the local authority representatives present have in their areas? In some areas, especially more rural areas, there is only one.

David Robertson: In Aberdeenshire we have three, who are based roughly 30 miles apart.

Jim Tolson: So you spread them through the area.

David Robertson: That is right. If they have to work together, that is a problem.

Eric Ferguson: Many years ago, a figure that was commonly juggled about was one dog warden per 50,000 people. I do not know what people think about that nowadays. What would happen if we applied it to Aberdeenshire's population?

David Robertson: We would probably need about eight dog wardens.

Eric Ferguson: That is going back the way. I am sorry.

Albert Oswald: Dundee City Council has three control officers, formerly known as dog wardens. Dundee is relatively small in area, but the number of control officers equates to the figure that Eric Ferguson gave—one for every 50,000 people. With modern technology such as mobile phones, they can readily call the police or their colleagues for assistance and back-up. When serving fixed-penalty notices at the moment and dealing with many of the issues to which the bill relates, we have found that three control officers are adequate. There is work for three.

Jim Tolson: I understand that three are adequate for the work that you have at the moment, but, as has been outlined, it could take a minimum of an hour for two of your three officers to be brought together, to take statements and to travel back and forth. Would that not be a significant burden on the service?

Albert Oswald: No, we would be able to take it on board. Not many dog control notices would be served in Dundee. Part of the job that our control officers are doing at the moment is promoting responsible dog ownership by getting out to the people who have problem dogs and giving them advice or removing their dogs to more suitable locations. The bill would give them an added lever to promote responsible dog ownership. It would not impact to a great extent on the work that our control officers are doing—they could absorb it.

Bob Doris (Glasgow) (SNP): My question relates to costs and to the point that we are discussing; later I may ask about another issue. The bill will give additional powers, as well as additional duties. You have talked about the increased activities that you will have to carry out

and the time that that will take. Eric Ferguson mentioned that one of dog wardens' responsibilities is dealing with dog fouling. What do you do currently if there is only one dog warden in a local authority area? I am not sure how the bill will overstretch your service—when an authorised person decides to impose an enforcement order on the owner of a dog, can that not be pre-planned? If there is an emergency situation in which a dog is out of control, will there not be an immediate response from the police or others? We are talking about pre-planned action by local authorities. How do you cope currently and what will be the additional duties? I am a bit confused about the extent of the additional burden.

Dennis Hearsum: The additional burden that will be laid on us is that, when anybody calls in about a dangerous dog or a dog that is out of control, unless it is running about on the street and can be treated as a stray, we will have to investigate. Currently, we automatically fire complaints about dangerous dogs straight to the police. That will not happen in the future, because once people know that local authorities can do something about an unruly dog, a perceived unruly dog or a dog that they perceive as causing them apprehension, the complaints will come flooding in.

The police have more things on their mind and dealing with dogs will be low on their list of priorities, so I am afraid that local authority dog wardens will be expected to do something—they will be accountable and will have to do something. We might get every crank under the sun complaining about their neighbours, perhaps because they have had a stairheid row, the kids have been fighting or there has been other noise. If they cannot get anywhere on those issues, they might use the dog as a lever against their neighbour. All complaints will have to be investigated properly, so a lot of time will be spent on that.

Bob Doris: That is a good point, but my point is that we do not anticipate an immediate response as soon as a complaint comes in.

I have a follow-up question. Your point is well made that neighbours might use the fact that there is a dog as a weapon in disputes. Is there a role for social landlords, rather than local authorities, in providing the service? In huge swathes of Scotland, there are social landlords who are not the council. In neighbourhood disputes, are social landlords not well placed to take on part of the responsibilities that local authorities currently have?

Dennis Hearsum: They could be but, when it comes down to it, the social landlords call us if dogs are involved. If there is an allegation that a dog is dangerous, they do not want to go in

themselves because they might have no knowledge of or liking for dogs and they might be afraid of them. In that case, they want the appropriate authority to come with them. We do that often, even with people from our housing departments. We also go out with the police to deal with dangerous dog complaints because, believe it or not, probably 98 per cent of policemen are frightened of dogs—very few are prepared to take on a dog.

Bob Doris: This is a bit hotch-potch, but I have another question that goes off at a slight tangent. In written evidence, Shetland Islands Council has said that the bill will affect deprived communities more than other communities. I am not sure what the point is. I am not sure how many large housing schemes there are in the Shetland Islands. Perhaps the point is that, in deprived communities in urban areas, a powerful dog is a status symbol. I am keen for local authorities to have more powers to work with housing associations to evict tenants who use unruly dogs to bully their neighbours. I know that we are talking about resources, but would some of the powers be welcome if they can be enforced properly?

Dennis Hearsum: That would be very difficult to enforce. At the moment, it is difficult to evict people for not paying their rent. It would be almost impossible to evict someone for having an unruly dog—it would be impossible to get it past the courts.

Bob Doris: I was thinking more that an individual could be banned from owning a dog and that therefore they would not be allowed a dog in their social rented property. Could local authorities and housing associations begin to use the bill as part of the bigger picture in dealing with antisocial behaviour?

10:15

Eric Ferguson: Are you talking about banning an owner from getting another dog?

Bob Doris: Does not that power already exist?

Eric Ferguson: Yes, but the difficulty is that people say, “The dog doesn’t belong to me; it belongs to my wife” and so on. There are many ways round such a ban. When we get to the thin end of the wedge—the people who do not conform—we really have to scratch our heads, because some people have a totally different way of looking at things. It is quite tough to nail things down.

Bob Doris: Perhaps the powers in the bill could be extended to include a definition of “responsible person”—

Eric Ferguson: The responsible person could be licensed, as opposed to the dog. That has been suggested in the past.

Bob Doris: We might need to broaden the definition of “responsible person” to include anyone who could be in charge of a dog, rather than a single individual, so that the tenant could still be held responsible if the dog was with their wife, son, daughter or so on.

The Convener: It is useful enough to hear opinions on how the definitions might be extended, but we must deal with the bill.

The Association of Chief Police Officers in Scotland said in its submission that the police in Scotland deal with between 4,000 and 5,000 stray dogs every year. According to ACPOS, the cost of dealing with dogs is about £12,000 a year for Tayside Police, £15,000 a year for Lothian and Borders Police and £50,000 a year for Strathclyde Police. Would the bill shift responsibility and costs away from the police and on to local authorities?

Eric Ferguson: Definitely—the more responsibilities that we have, the more the costs will be; it is as simple as that. However, my findings are that the overall number of stray dog incidents has gone down.

The Convener: It might have done, but the figures on stray dogs that I read out represent the evidence that we have. When people report stray dogs, is it because they think that they are causing concern or are dangerous?

Dennis Hearsum: A stray dog might be running about in the street and causing traffic problems, or it might be making people apprehensive. Nine times out of 10, the dogs that the police deal with are probably not particularly dangerous and are not strays; someone just comes along and hands in a dog. Dog control services throughout the country deal with the majority of stray dogs.

Tayside Police said that it dealt with “approximately 691” dogs. Last year we uplifted 60 dogs from Tayside Police, and we have uplifted about that number from the force in previous years. That leaves 630 dogs in the other two areas that the force covers. I do not know where those dogs are coming from. We lifted only 70 or so in the Perth western division area, so where are the other dogs coming from?

The Convener: You are not suggesting that the police figures—

Dennis Hearsum: No, but there are different ways of getting figures—

The Convener: Some police forces said that they did not keep records, but Lothian and Borders Police claimed that it dealt with 1,330 dogs—I presume that the force keeps some sort of record

and is not making up the figures. We are thinking about owners' responsibilities. I presume that those dogs are being picked up as strays after being seen in an area for a few hours, days or whatever. Those dogs are not under control, are they?

Eric Ferguson: No, but they have been dealt with differently. A dog that is unaccompanied in a place of public resort is classed as a stray and is removed from the street—

The Convener: Will the police continue to deal with those situations, or will there be a shift?

Dennis Hearsum: I think that the police are trying to get that shift. It is plain from the submissions that the police are trying to use the Dog Control (Scotland) Bill—or will use another bill that will come up shortly—to remove the responsibility for stray dogs from the police and place it on local authorities. If that were to happen, I assure you that the costs to local authorities would soar, as we currently do not provide 24-hour cover or out-of-hours working.

The Convener: Why is that?

Dennis Hearsum: Because we do not have the facilities or the funds to do so.

The Convener: Why was the dog warden system set up to operate from 9 to 5, rather than at the weekends when dogs are out being walked?

Dennis Hearsum: Because most authorities have arrangements in place with the police to specify that the police will deal with out-of-hours work.

The Convener: Do the local authority witnesses feel that there is potential for the responsibility and costs for dealing with stray dogs and dangerous dogs to be shifted on to local authorities, as has been described?

Albert Oswald: The situation that I will describe is unique to Dundee. As the committee can see from our written submission, around 20 years ago dog wardens were bringing in something like 1,800 dogs in any given year, and the police were bringing in approximately a sixth of that number. Last year, the police brought in more dogs than the dog wardens did; those dogs were picked up after 5 o'clock, at weekends or on public holidays.

That demonstrates that animal control officers in local authorities have cleaned up the stray dog situation by promoting responsible dog ownership. A number of dogs that are included in that percentage have been handed in: people have been persuaded to surrender them so that they can be relocated to a more appropriate home. Those figures provide some background to the situation.

In Dundee, as has been pointed out, the police currently provide out-of-hours cover. At one point, our kennels had to be demolished prior to being rebuilt. During that time, there were no council kennels and the police were absolutely run off their feet. They just could not cope, and there was nowhere for them to put the dogs.

However, there is no doubt that if responsibility were to be transferred wholly to local authorities, it is unlikely that there would be funding for a call-out service for animal control officers or dog wardens. We can see from the figures that a lot of dogs are picked up at night and on the weekends, and there is currently no call-out service in operation.

David Robertson: Up in Aberdeenshire, we, too, work with the police with regard to 24-hour cover for stray dogs. We provide manned police stations with kennelling facilities as part of our partnership working. If that duty were to be removed from the police, it would pose big problems for us.

The Convener: I return to Bob Doris's question about the bigger picture in relation to antisocial behaviour. It might be possible to share budgets with others who may have an interest in such areas. Has there been any discussion about devolving the budgets—or part of the budgets—of Tayside Police, for example, to help transfer some of the responsibility to the local authority, if it were to take on some of the work? If the responsibility were to be taken away from the police, would there be a budget flow to help with that transition?

David Robertson: There has been no discussion on that.

Albert Oswald: There has been no discussion to date about extra funding, but I expect that if the transfer were to happen, we in the local authority would have to go cap in hand to the police to ask for more money to deal with the issue. The public call out the police when they cannot get the local authority officer. We have an arrangement in Dundee in which the police already pay the council a substantial amount of money—£10,000—on an annual basis to look after the dog control interests and the kennelling of dogs in the central division in the city.

The Convener: So there is already a flow of police funds to the council to take care of that?

Albert Oswald: Yes.

Alasdair Allan (Western Isles) (SNP): The bill focuses on the deed rather than the breed of the dog. Is that an adequate approach to dealing with the problems that exist? There are still perceptions—certainly anecdotally—about some breeds of dogs and their connections to potentially criminal owners.

Dennis Hearsum: All breeds have the potential to be dangerous. There are probably just as many bites by Jack Russells as there are by larger dogs; the only difference is that the larger dogs probably do more damage when they bite. There is not one breed that is not potentially dangerous. I include Labradors in that; everyone thinks that they are nice, gentle dogs and they are anything but—if you get them in the wrong situation, they will bite you just the same.

There are certain breeds that are not on the list that I might like to see on the list, but enforcement would be almost impossible. More and more large breeds are coming in these days, such as Boerboels and Canary dogs, which are far more dangerous than any of those that are on the index at the moment. They are far bigger and capable of doing a lot more damage. At the end of the day, it has to be about what the dog does. Many big dogs get a bad name just walking down the street.

I have had German shepherds for a lot of my life. When I walked down the street with my dog some people would cross the road, but I used to take that dog into schools and have him surrounded by 200 kids and nothing ever went wrong. Different people have different perceptions. The main focus should be on what the dog does, not on what it is.

Albert Oswald: I agree that deed not breed makes a lot of sense.

Alasdair Allan: I raise the subject because the bill tries to define “deed” by using terms such as “reasonable ... alarm ... or apprehensiveness”. Are the terms that the bill uses to describe the things that dogs do adequately tightly drawn or defined?

Eric Ferguson: Just the other day, I had a conversation with a lady who complained that she had been in a park and seen a person who did not have their dog on a lead while they were locking their car. The dog was a German shepherd, which had gone from the car and through the park gate, and waited for its owner. I listened carefully to the lady’s description of the situation, and that is exactly how it was. I told her that, in law, the owner was all right. She said, “But it was an Alsatian.”

Later, I found out that two weeks previously, that lady had been in a wood and been frightened by another Alsatian, so she now has a thing about Alsatis. I should have said German shepherd rather than Alsatian—as a German shepherd owner, I ought to get the name right. As Dennis Hearsum said, it is about people’s perceptions. Breeds such as Akitas and Boerboels are scary dogs; they are big and people do not realise what they were bred for. It is scary.

Alasdair Allan: When the bill refers to dogs causing alarm and apprehensiveness, does that almost invite the kind of situation that you describe? Are the definitions too widely drawn?

Eric Ferguson: It depends on the person who is in the situation. We have to listen carefully to the situation; a person has the right to be frightened. However, some people walk along the road with a great big dog as a fashion statement, and they expect other people to clear the pavement for them. That is a problem.

My concern is that some people will never train their dogs because they have an attitude problem. You will have difficulty changing that. Only the good and responsible owners come along to dog clubs. They want to learn. We have to worry about the people who do not want to learn.

Alasdair Allan: My final point is about how action is taken and evidence is corroborated in these situations; someone touched on that already. I come from the Western Isles, and I appreciate that it is an extreme example, but the local authority area is roughly the length of Wales and I do not think that we have any dog wardens. It is not clear to me how evidence can be corroborated when there is a shortage of dog wardens. How would that work in the different local authorities?

Dennis Hearsum: Quite simply, I do not think that it would. If there is no one to deal with or investigate the situation, and there is no corroboration, the problem cannot be dealt with.

Eric Ferguson: Every local authority has to have a dog control officer of some sort, so the Western Isles will have someone who deals with picking up stray dogs.

Alasdair Allan: But will people have to be brought together to corroborate evidence? Will two people have to be there?

Eric Ferguson: Yes.

Dennis Hearsum: Yes.

10:30

Albert Oswald: I can speak only for my local authority, but there would be enough officers out there. Such visits are often not quick reactions but are planned, so a radio or mobile phone would be used to call up another authorised officer in the vicinity. There are a number of environmental health officers who can readily be contacted and can meet up for the half hour, or however long it takes, to provide corroboration and support. That happens already, as can be seen from a breakdown of the complaints submitted.

Patricia Ferguson (Glasgow Maryhill) (Lab): I will take you back to the issue of the authorised

person. Is it the National Dog Warden Association's contention that, if the bill is passed, the responsibility that the police currently have, or the role that they play if they do not have responsibility, will devolve to the authorised person, and that, in so far as the police are concerned, the out-of-hours service that we have heard about will not happen, because it will be the responsibility of the authorised person? Is that how you see it working?

Dennis Hearsum: Yes.

Eric Ferguson: The answer is yes. The role will come our way—there is nothing surer than that. Our colleagues down south are a stage ahead of us and they see it that way. The reality is that council services are not provided 24 hours a day, and for us to provide that level of service will cost a lot of money.

An ex-police officer worked in the office with us—he was an inspector and he sat quite close to me—and he said, “I wouldn't send two or three cops out to that job that you've just been to, because that address is known.” You have to take into account an awful lot of different things, including health and safety. We talk about dangerous dogs, but we do not think about the dog as dangerous—it is just a dog.

I think that it will all come our way. I might sound a wee bit big headed, but over the years dog wardens have been a victim of their own success and have been getting more and more duties. I think that we need to call time and say, “We need a wee bit of help here and a wee bit of an increase in resources and manpower for us to function with this legislation.”

Patricia Ferguson: That is interesting in respect of the financial implications of the bill. In your role as authorised officer, if you need corroboration to take further action, will you ask the police to provide it? In such circumstances, will the police give the situation the priority that it deserves?

Eric Ferguson: We will not know until we try that but, speaking personally, in Clackmannanshire we work out of the same office as environmental health officers, so we can call on the services of colleagues. We also have an environmental warden—Stevie could come out with us to provide corroboration. He is also an ex-police officer; it is handy to have that experience to call on.

Patricia Ferguson: So depending on the local authority set-up, a range of people might be able to assist with corroboration.

Eric Ferguson: Yes, as far as Clackmannanshire is concerned.

Dennis Hearsum: There are people who might be able to assist, but whether they will want to do

it is a different matter. It comes back to whether they are comfortable with handling dogs.

Patricia Ferguson: I was thinking that they would provide corroboration rather than work with you with the dog, if you see what I mean. They would corroborate that the incident or behaviour took place.

Dennis Hearsum: But the dog is there when you confront the owner, and the situation can take on a different complexion, because if the owner gets excited or upset, there is a fair chance that the dog will also get excited or upset. If you are au fait with dogs, comfortable with them and know what they can do, it can be a pretty uncomfortable situation, so it can certainly be uncomfortable for a lot of people who are not used to dogs.

Patricia Ferguson: I can understand that.

Are the dog wardens comfortable with the definition of the phrase “out of control”? I like dogs, know a wee bit about them and have been around them quite a bit. It strikes me that my idea of an out-of-control dog might be slightly different from that of a colleague. Is there enough substance in the bill to give dog wardens comfort under the law about the situations that they can become involved in?

Eric Ferguson: I mentioned a lady who was concerned about Alsations. Once we have listened to people, we investigate, as Dennis Hearsum said. That lady was spoken to over the phone, and it was possible to establish the real situation. She was not too pleased that I did not tell her what she wanted to hear, but I assured her after I had listened carefully. She got a wee bit of a fright because of her previous experience, but she was not hurt. She said, “I'm awful glad that I spoke to you.” She spoke to somebody who took 10 minutes to listen and discuss the matter with her. Susing out the level of the problem is part of the service.

Patricia Ferguson: With the definition of “out of control”, would you act in the same way with such a call or would you have to think about responding in a different way? Is there enough in the bill to make you comfortable?

Eric Ferguson: Funnily enough, with the bill in mind, I have dealt with calls with a slightly different mindset. Indeed, I said to somebody that if his behaviour continued, he would receive a dog control notice in the future. He did not have a fence in his back garden, but he let his dog out into it. He thought that that was fine, but the dog ran around the front and chased school kids. The matter was sorted after a wee bit of discussion. Perhaps the threat of receiving a dog control notice would be quite good.

Patricia Ferguson: The bill deals with dogs that are out of control in private places and preventing them from becoming dangerous there. It strikes me that it would be difficult to ask authorised officers to become involved in that, because it would involve accessing and intervening in a private place, and the dog's potential to become dangerous would then have to be interpreted. It seems that we would be asking a lot of authorised officers in that context.

Eric Ferguson: You really need to work with the police if you want to gain access in dangerous situations. Six months or so ago, we went into a private situation and removed 36 or 38 dogs, the largest of which was a St Bernard. There were 11 Rottweilers. We did not have a clue about what we would find, but we got all the dogs out, and they were transported from the site. The owner was not at all happy, and the people there were quite hard—I will put it that way. Things kicked off a couple of times when the police decided to go away and come back again, but, heigh-ho, that is all in a day's work. We must work with the police, who are there to look after our safety. We are members of the public as well. That is how I see things. Does that answer your question?

Patricia Ferguson: It does in one respect. In situations in which there are a huge number of dogs of various breeds, the potential for trouble is obvious, but how would you know from a dog's behaviour in private that it could become more than out of control and be dangerous?

Eric Ferguson: You have to read situations quickly or you get it wrong. However, you learn to read the situation very quickly with years of experience. We have techniques to keep ourselves safe, and we train other people, such as housing staff, to keep themselves safe. It is about assessing risks all the time.

Patricia Ferguson: That is helpful. Thank you very much.

Albert Oswald: We rely on local intelligence. For example, social workers, housing departments and housing associations give us information. However, omitting from the bill the power to deal with dogs on private property would be wrong and would not provide proper closure. That is not to say that the power would be used regularly, but there should be an opportunity to use it. The point is well made that, obviously, we would rely on the police in certain situations, as we do at the moment, to ensure officers' health and safety.

Patricia Ferguson: I am not suggesting that we delete the provision; I am seeking clarification about whether the definition is tight enough so that everyone clearly understands their responsibilities.

Dennis Hearsom: We must make it clear that, when we are talking about private areas, we are

not talking about preventing a dog from doing its job, for example when someone illegally enters someone else's private property, either to do someone harm or to steal their property. Although, at the end of the day, it will be a judgment call for the authorised officer who investigates the circumstances, it should be made perfectly clear that a dog that bites someone who is burgling a house should not be subject to the provision. If someone is in someone else's property with the intent to commit robbery or, even worse, assault, the dog should be allowed to do its job.

Patricia Ferguson: I am at the end of my questions, convener, but I suspect that that answer opens up a whole other discussion.

John Wilson (Central Scotland) (SNP): What difference will the bill make to the situation under the current legislation?

Eric Ferguson: It will be a handy tool in the box and will enable action to be taken at a much lower level. It is when the situation gets a wee bit more spread out and complex that I start to worry. At the outset, we will be able to address some minor problems by having a wee chat with the person and using the new legislation as a lever to make them aware of the situation. That is a big plus.

Albert Oswald: I agree. Much of the work that I mentioned earlier is already done in Dundee, and the legislation will give us an extra tool to deal with what is basically antisocial behaviour involving dogs.

John Wilson: We talked about the number of strays that are picked up every year. How many of them could be viewed as dangerous dogs, in terms of the bill?

Mr Ferguson, you gave a good example of someone whose heightened apprehension about being around dogs was created by a situation that they found themselves in with an Alsatian—or, as you correctly pointed out, a German shepherd. You took the time to speak to that person, who was concerned about a dog that came out of a car and sat at the entrance to a park. It was a well-controlled and disciplined dog whose owner had clearly done some work with it. However, how could you deal with the thousands of complaints that could come from people who, because of alarm that was caused to them by a previous incident, feel that no dog should come within 50yd of them? How will the bill resolve that situation?

Eric Ferguson: I do not think that the bill will answer any prayers. When the dangerous dogs legislation was first introduced, my biggest concern was the fact that, if someone had a phobia about dogs, the legislation would not cure it. Nothing would. I have worked with youngsters with terrible phobias of dogs, who would not even get out of a car if there was a dog outside. One kid

that I managed to get out of the car held on to a lamppost, and we could not prise him off it. It took me about two and a half hours, but eventually he was able to walk with the dog on a lead, with me between him and the dog.

The point is that when we are dealing with people, we can read the situation. The issue goes back to the investigation of the complaint. We have to consider the evidence. We deal with neighbour disputes all the time and, I hope, we read the situation to discover what the reality is.

10:45

Dennis Hearsum: That is one reason why we say in our submission that people who are properly experienced and know the job are needed, not just to deal with the animals but to deal with the human beings. They must try to understand where people are coming from, why they are doing certain things and why their dogs are doing certain things.

It is important to have experienced officers who can pass on their experience to new officers. People cannot get that experience by taking a 13 or 14-week course. For a start, they might not be able to work with a sufficient number of dangerous dogs to maintain their knowledge. They must work in all the different types of situations all the time. Every situation is different, and people gain experience only by being put into them. Unfortunately, health and safety sometimes goes out the window a wee bit, as some people are more gung-ho than others. Staff tend to get bitten when they do not have enough experience or have not been bitten for the first time. It can take a long time for people to be bitten for the first time, but, by God, once they have been, they are careful to avoid being bitten a second time.

We really need to have experienced staff. It is no good taking someone who does not do this work for a living, as it cannot be instilled in them by a 13-week course—it takes much longer than that.

John Wilson: The point has been made that dogs react differently in different circumstances, and that we must understand fully the circumstances of a dog's behaviour, because every dog is individual. Reference has been made to the current list of dangerous or proscribed dogs in Britain, but the example of Jack Russell terriers biting people was given. I remember relatives having a west Highland terrier that was a terror to people who went near the house; we knew that before we went.

When you get a complaint about a dog acting dangerously towards an individual, how do you determine whether the dog is acting in that way only because of how that individual treated it in the

past? Dogs have memories—they remember people who were kind to them and people who were bad to them. How do you deal with situations in which someone complains that there is a dangerous dog in a household but the dog acts dangerously only towards the individual concerned?

Eric Ferguson: As I said, we assess the situation by investigating the evidence that comes before us, speaking to the individuals involved and looking at the dog. We must examine the big picture before we can have any idea about how to deal with the situation. We will not issue dog control notices willy-nilly. There will be an investigation and a verbal warning will be issued, if required. Visits will be recorded. We must be fair and ensure that cases are investigated and assessed properly.

Albert Oswald: That is correct. In finding a balance, we are reliant on the experience of the officers who investigate complaints.

John Wilson: I understand that local authorities take action to investigate complaints at present. Why will the bill lead to an increase in the cost of delivering that service?

Eric Ferguson: Once a notice has been served, we will have a series of duties. We will have to check that it is being enforced and that there are no further problems, and we might need to assess the dog. Complaints are on-going. We do not just write a ticket and go away. There is an awful lot of work to do. Even if we advise the person to go to dog training classes, we will have to go back and see whether the classes are working.

John Wilson: So the only difference from what currently happens is that the fixed penalty will be issued.

Dennis Hearsum: It is not a fixed-penalty notice; it is a dog control notice.

John Wilson: Sorry—a dog control notice.

Eric Ferguson: Sorry—that was my fault.

John Wilson: That will be the only difference and it will lead to the additional costs that various local authorities and others are claiming.

Eric Ferguson: We all promote responsible ownership.

Dennis Hearsum: The officer will move into a chain of evidence and corroboration. If they issue a dog control notice, they will need to have it very firmly fixed in their head, because a person can go to court and contest a notice. If that happens, the officer and their witness will be in court, too. I know that many people will contest notices. Some will do it out of the belief that the notice should not have been served; others will do it out of sheer bloody-mindedness. That is when the costs will

start to mount up. If officers are sitting about waiting for a court case to come up to give evidence, that will cost more money. That will be on top of the administration costs; for example, there will have to be statements, which will have to be typed up and put in a format that can be presented to the court. The case will be a criminal record case, so a Scottish Criminal Record Office number will have to be obtained from the local police. All sorts of things are involved—it is not just a 10-minute job. That work will not be absorbed by councils. It cannot be, because councils do not have enough money for that kind of thing at present.

The fixed-penalty notice for dog fouling is completely different. No parallel can be drawn between the two notices, although an investigation has to be carried out. I reiterate that, when people know that local authorities can issue dog control notices, a lot more work will come through the door.

Albert Oswald: As I said, in the environmental health and trading standards department we have dealt with smoking prohibition, night-time noise under part 5 of the Antisocial Behaviour etc (Scotland) Act 2004 and dog fouling. In those cases, the number of appeals and court cases is small in comparison with the work that is involved to resolve the issues.

The Convener: The financial memorandum that accompanies the bill suggests that there will be no more than 1,144 control notices, which we are told works out at about 36 notices per annum per local authority. Do you take issue with that? You say that the conclusion might be a court process and that everything will become more formal, which suggests that much of what you do now is informal.

Dennis Hearsum: The fixed-penalty notice for dog fouling is a civil penalty.

The Convener: Leaving that aside, if you have a complaint from neighbour A that a dog is going mad and has attacked their child and you go there, is that not written up already? Do you not keep a report or file for future reference in case the dog does it again?

Dennis Hearsum: If it is a dangerous dog or a biting incident, it is passed to the police. We do not deal with that.

The Convener: Yes, but I am talking about prior to that, if there is a neighbourhood dispute and a dog is in somebody's garden and is threatening their child. Is none of that recorded?

Dennis Hearsum: It is recorded, but not in the same formal manner that it would be if we were progressing a witness statement for the purposes of the court. We will write down that we spoke to a

guy about his dog and told him not to do it again. There will not be anything like the same investigation.

The Convener: Surely there could be a pro forma for that low level, on which it could be stated that you visited a particular house and spoke to Mr Smith, the owner, and so on. A pro forma with tick boxes could be the first stage. Obviously, the second stage would be more serious because it would follow a second incident—perhaps the dog escaped and ended up down at the school, for example—and there could be a pro forma for that. It should not be beyond the wit of local authorities to do that.

Eric Ferguson: We have a complaints form that is used for every complaint that we get. The form is written up, our actions are recorded and the form goes into the system. If the name and address come up again, the system can show that, for example, the person has had two special uplifts or two complaints about their dogs, and the problem is followed through. The system is not that informal.

The Convener: I am trying to establish where additional work will have to be done. I accept that, if control notices are to be issued, there will be more work because additional people will have to be there and statements will have to be taken, and so on. The financial memorandum estimates that there will be 36 dog control notices per year per local authority. I accept that there will be additional work from the point at which the dog control notice is issued—going through the procedure and possibly following it up in the courts—but why will there be additional work before all that starts, particularly if pro formas are in place? I am just trying to assess where there is additional work.

Dennis Hearsum: The initial point of a complaint is when someone phones up about an allegedly dangerous dog that is biting, or whatever, and we phone the police. We write the incident down and write it off because it has gone straight to the police.

Eric Ferguson: That is for a biting dog.

Dennis Hearsum: Yes, or for a dog that is dangerously out of control. We would go out to deal with a stray dog ourselves.

The Convener: Under the bill, such an incident would not go directly to the police. The dog wardens would have to deal with it.

Dennis Hearsum: Yes, that is what it would mean.

The Convener: That is what you believe it would mean.

Dennis Hearsum: Yes.

Albert Oswald: The committee probably has a paper that shows some statistics for Dundee. In Dundee, the local authority deals with such complaints during normal office hours of 8 o'clock to 5 o'clock. Last year, we dealt with 105 complaints about aggressive dogs. Just as has been described, the complaints were put through using a pro forma and followed through to their conclusion. When the officers who are at the sharp end read the draft bill, their reaction was, "We are doing this anyway."

However, I must stress that that is not the picture throughout the country. It is the picture in Dundee, but I am sure that it is different in other local authorities.

David Robertson: We do not record complaints that come in to us. The police deal with that. The public should phone the police.

Mary Mulligan (Linlithgow) (Lab): Mr Oswald, might the 105 complaints that Dundee City Council dealt with last year now be subject to court proceedings?

Albert Oswald: I cannot recall. Perhaps one went as far as a court case. I do not have that information to hand, but I know that at least one of them went to the sheriff court.

Mary Mulligan: Under the bill, is there a possibility that more cases will go to court?

Albert Oswald: It is possible. If the legislation had been in place, some of those cases could well have been the subject of dog control notices but, of those, a smaller percentage would have been likely to proceed further. That is our experience of similar legislation in other environmental health areas.

Mary Mulligan: I suppose that the concern is that that is when the work starts to tot up, along with the added pressures and costs.

11:00

Albert Oswald: The point has been well made that the police operate a 24-hour service, unlike local authority dog wardens, so weekends and evenings are an issue. It is clear from the figures for Dundee that the police bring in more dogs than the wardens do—there are incidents at the weekend. There is no doubt that giving councils the responsibility for picking up dogs at the weekend will create a significant financial burden.

Mary Mulligan: The figures that you provided were helpful, and it is clear that Dundee City Council has a comprehensive system and is tackling some of the issues. However, you said that you think that the bill is necessary. What will the bill add? Is there anything else that we could include in it?

Albert Oswald: At the risk of using a pun, the bill will add a bit more bite to the current legislation. That is what the officers who are at the sharp end are looking for. We want an approach that resolves problems and does not allow them to drift.

Mary Mulligan: Do the other witnesses agree?

David Robertson: Yes.

Eric Ferguson: Yes.

Dennis Hearsum: Yes.

Mary Mulligan: That is helpful.

Mr Ferguson and Mr Hearsum said that 10 or 14 weeks' training is not the end of the matter and that much of what dog wardens do is down to experience. When there are only one or two wardens in an authority, it is clear that people must gain experience and learn on the job. What training is provided? If the bill were passed, would further training be needed, particularly given the role of authorised officers?

Eric Ferguson: I have been Scottish regional chair for the NDWA for 20 years, during which time we have run various training seminars, some of which were practical and some of which related to legislation. We use patrol dogs. I have a fond memory of one session in which a certain very small dog warden from Dundee went up in the air and landed in her padded suit; she was sitting giggling and the dog was about to take her head off—luckily it was on a line. When we do sharp-end training, we have to get the padded suits on and go for it.

I ran a session for our housing department a couple of weeks ago. My colleague and I are involved in schutzhund, which is a German sport that is pretty tough. The housing department staff thoroughly enjoyed wearing the padded suit and getting some experience. Housing officers have to go into houses, so the training was a confidence-building exercise for them. The association has run such training over the years and I intend it to carry on doing so. New people in the job usually come to me through the association and we arrange something or other. That is the live, practical training; of course, we must all be up to speed with the legislation, too. We have to study and learn the hard way, I suppose.

Mary Mulligan: Is any extra practical training required as a result of the bill, or should there just be more of the same?

Eric Ferguson: This is a bigger scheme of things altogether. We are talking about animal behaviour and how we know whether a dog is being aggressive or just boisterous. As Dennis Hearsum said, a person cannot learn those skills from a three-month course.

The type of people who come into the job are doggy people anyway—or they should be. I think that I get my funny ways from my grandfather, who was a great Clydesdale horse man. He could get horses to do things just by coaxing them, and I think that I fell heir to some of that. People have to have a background that involves working with animals or a great interest in animals if they are to be able to read situations.

Dennis Hearsum: An owner who has been served with a dog control notice might be asked to go to training classes. However, if their dog has been proven to be dangerous to the extent that training is needed, finding a trainer who will take it on is a problem. Initially, people and their dogs might have to be sent for individual training, which is costly—initial training sessions cost about £40 an hour. That must be done before the dogs can be taken anywhere near a dog training class.

Mary Mulligan: Who pays for that training?

Dennis Hearsum: According to the bill, the owner pays, but I am a wee bit concerned that some people might be unable to afford that cost. They might be able to buy a muzzle for about a tenner, and a lead can be bought for under a tenner, but costs mount up. There is the cost of microchipping, for example. Okay—it can be done relatively cheaply. If dog wardens are trained to do that, it will probably be even cheaper, because microchips can be bought for about £3-odd if they are bought in bulk. However, a vet charges 30 quid to put in a microchip. If we start to add training costs—some dog trainers charge a lot more than 40 quid for an individual training session—the question is whether people can pay. My experience is that, in many situations, the people who have dogs that are out of control are those who can least afford to pay for that training.

Eric Ferguson: I will enlarge on dog training. Many years ago, my council encouraged me to run dog training classes. About 2,500 dogs have been involved in the council's dog club. Last night, I got home at 11 o'clock from the dog club. We had about 40 dogs in the hall where we meet, at £3 each. If owners have more than one dog, so be it. They can be there from half past 7 to 10 o'clock, so that is value for money. However, not all councils run a club, although they encourage training. As long as we receive enough money to pay for the hall and to cover the running of the club, that is how it is. That is my hobby and my job at the same time, but it is difficult for every council to have such a club.

Mary Mulligan: How many local authorities provide such a service?

Eric Ferguson: I think that perhaps three authorities do that.

Mary Mulligan: Do the local authority witnesses agree?

Albert Oswald: I have no information on that.

Mary Mulligan: That is fine.

David Robertson: We provide dog training classes only in one part of our area—our council covers a very big area.

Eric Ferguson: I am one of the dog wardens who are interested in dog training. As I said, that is because it is my hobby. Schutzhund—protection training—is a hobby. I spend every Saturday and Sunday training, I do my dog clubs during the week and I am involved in an agility team. My life is dog, dog, dog—it is really sad, is it not?

Mary Mulligan: It is not sad at all.

David McLetchie (Edinburgh Pentlands) (Con): Good morning, gentlemen. Will you give me a handle on how many dogs are destroyed every year in Scotland as a result of court orders under the existing legislation?

Eric Ferguson: The number is very few, but I do not have it to hand.

David McLetchie: Is the number 10 or 20? Is that the scale?

David Robertson: I can talk only about Aberdeenshire, where fewer than five dogs are destroyed every year.

David McLetchie: Fewer than five.

Eric Ferguson: Under the dangerous dogs legislation?

David Robertson: I am talking about strays—

David McLetchie: I will go on to talk about strays.

David Robertson: I do not know about the other figures.

David McLetchie: For perspective, will you contrast the number of dogs that are destroyed as a result of court orders under the existing legislation with the number of dogs that are picked up as strays and destroyed because they cannot be rehomed?

Eric Ferguson: I can give last year's figures. I took in only 120 stray dogs, two of which were destroyed. One was older than all of us put together and the other was downright vicious. The numbers have reduced considerably this year—I am on dog number 59 so far and not much is left of the year. There has been a fair old drop in the number of dogs that we take in.

I am sorry, but I do not have figures on dangerous dogs. The last time that I dealt with such a situation was two or three years ago, when

I had to take a dog from a guy's house. The dog was removed into care until a final court hearing, after which the dog was destroyed. That is not a common occurrence.

David McLetchie: Under what is proposed, a court order will still be required before a dog is destroyed. Can one therefore expect there to be any change in the numbers?

Eric Ferguson: As I said earlier, I see the bill as a preventive measure that will stop dogs being put down. It will nail the situation long before the cases go to court. Given the numbers that I am aware of, the situation is not a concern to me.

Albert Oswald: We do not have figures for how many dogs are destroyed as a result of court orders, but I think that the figure is quite low—perhaps two dozen a year. That is a purely speculative figure, based on my experience of the local authorities around Dundee.

Eric Ferguson is right to say that the number of dogs that are destroyed has dropped dramatically over the years. In my area, that is due to the council's energetic policies to promote responsible dog ownership and to reduce the number of strays through spaying and neutering campaigns. As you can see from the figures that we submitted, at one point we were destroying 1,000 dogs a year. Last year, we destroyed 12, and they were aged dogs, chronically ill dogs or dogs that would be deemed unrehomable, if there were such a term.

David McLetchie: There is a public perception that lots of dogs are being picked up, put in vans, taken away to centres and destroyed within a week if a home cannot be found for them. You are saying that that is simply not true.

Eric Ferguson: That perception still exists. People have been watching Walt Disney.

Albert Oswald: That is history.

David McLetchie: That is history. You are saying that very few dogs are destroyed in Scotland because they are dangerous or because they are strays.

Eric Ferguson: We are quite proud of the figures that are available.

David McLetchie: You should be.

Eric Ferguson: I have "animal welfare officer" written on the side of my van. That is quite a pleasant title—much nicer than a lot of the titles that I have been called in my 30 years on the job—but I am happy to stick with "dog man". However, even with that sort of title on the van, I still get people coming up and saying, "How long will it be before you put that one down?" That is just what the public are like.

A wee tot who was walking along with his dad came over to me and asked, "Are you the dog catcher?" That kid must have been told to say that by the parent. The term "dog catcher" has gone out of fashion, however. I think that it is accepted now that we are dog people.

David McLetchie: I would like to ask about the 1991 act, which was an example of the sort of "breed not deed" legislation that has been criticised in the consultation on this bill, which tries to take a different approach. It identified four breeds, but I understand that only one of them—the pit bull—was prevalent in the United Kingdom. Under that act, if a pit bull was to be saved from immediate destruction, it had to go on an index of exempted dogs. How many pit bulls in Scotland ended up on that index back in 1991?

Dennis Hearsom: From personal experience, I can say that there were only four in Perth.

Eric Ferguson: There were very few. In Clackmannan, there were only two. The chap who owned them knew that he could not control them so, eventually, of his own free will, he took them to a vet to have them put to sleep. They were pretty tough dogs. One was okay, but the other was a real villain.

The only concern at that time was to do with people who had Staffordshire bull terriers that, overnight, became pit bull terriers. I got about 20 calls in one week to go and identify which breed people's dogs were. Those people were really concerned. Some innocent dog owners have gone through unhappy times. However, we got the situation sorted out.

David McLetchie: Basically, the objective of the 1991 act was that the pit bull terrier should, effectively, die out in Britain. Has that happened?

Eric Ferguson: There should be no pit bull terriers left, but they are still here.

11:15

Dennis Hearsom: It is very difficult to define what a pit bull is. A dog could be a pit bull type, which can be anything. If you breed a Staffordshire bull terrier with a Labrador, it will look to many people like a pit bull terrier. If a mastiff is running about the streets and mating with anything with four legs, the chances are that the resulting dogs will look like pit bull terriers. It is almost impossible to identify a pit bull terrier.

We are proud of reducing the number of dogs that are put down, but we are now seeing an increase in other types of dogs. You will not find those dogs on the index of exempted dogs, but they are downright dangerous and becoming more prevalent.

We have an awful lot of Staffordshire bull terriers in Perth and Kinross, and the majority, by and large, are fine and we have no problems with them. However, when a breed starts to become very popular, people start breeding dogs for the money, and they are not concerned about what they are breeding. That is when we begin to see problems with temperament and physical characteristics—those are the things that cause problems for us. People are breeding dogs with other dogs to produce dogs that are a lot bigger, but still have the same nasty characteristics, or they are breeding two dogs with nasty characteristics to get an even nastier dog. That is where the problem lies.

The equipment that we have to use is very expensive. If we do not want our people to be bitten, they will need a suit that costs £850. In addition, poles and other items are needed. It is the different types of breeds that people are creating that give me cause for concern. I hope that the bill will deal with those people before their dogs become too dangerous, so we can try to persuade them that their dogs should be neutered.

Neutering is another cost. Everyone assumes that only male dogs need to be neutered, but that is not the case. If a bitch is mated with a dog that is extremely nasty, it can produce seven extremely nasty dogs, so the bitches may have to be neutered. One of our concerns about the costs is that neutering a dog might cost £100, but it costs at least double that amount to neuter a bitch.

The Convener: I see that there are no further questions. Gentlemen, I thank you for your attendance this morning and for your evidence, which is appreciated.

I suspend the meeting briefly to allow the members of the second witness panel to take their seats.

11:18

Meeting suspended.

11:19

On resuming—

The Convener: I welcome the second panel of witnesses: Mike Flynn, chief superintendent of the Scottish Society for the Prevention of Cruelty to Animals; and George Leslie, chairperson of Canine Concern Scotland Trust. I offer you the opportunity to make a brief statement before we move to questions.

Mike Flynn (Scottish Society for the Prevention of Cruelty to Animals): We welcome any legislation that is practical and can solve the problem of irresponsible dog owners, which I hope

is what the bill is intended to do. In the region of 9,000 dogs go through our centres every year. I have been in the job for 23 years and was the owner of a legal pit bull in Mr McLetchie's constituency; if you have ever seen a picture of a tan pit bull in *The Scotsman*, that was my dog. I have wide experience of dealing with issues ranging from dog fighting to dog abandonment. We welcome any measure to address the issue of irresponsible owners.

George Leslie (Canine Concern Scotland Trust): I thank the committee for inviting us to give evidence today; it was good of you to do so. I agree with Mike Flynn that the bill can only be an improvement on the Dangerous Dogs Act 1991, which has failed to work. The 1991 act was written by tabloid journalists, rather than parliamentarians.

I have provided the committee with a written submission detailing the points on which we have reservations about the bill. I emphasise that those reservations do not mean that we are against the bill—I am totally in favour of it, but I want to see whether it can be improved. I would like to add three small points, which are set out in a written supplementary memorandum that I can give to committee members after the meeting.

In the second reservation in my written submission, I refer to the statement in the bill that a dog

“irrespective of its behaviour, its size and power”

can have a control notice slapped on it if its behaviour creates alarm and apprehensiveness. I understand the reason for the provision—often people have dog phobias and are frightened of large dogs. However, with 50 years' experience as a vet, I assure you that I am never bitten by large dogs. I get bitten by collies, spaniels and terriers but not by Rottweilers, Dobermanns or German shepherds. As you would expect, I take more care when dealing with big dogs.

The policy memorandum states clearly:

“a dog which is large and powerful and which might otherwise cause alarm or apprehensiveness but is kept under control is not out of control.”

However, the bill does not say that and merely uses the phrase “irrespective of its behaviour”. That is an anomaly that the committee could correct.

My third reservation in my written submission concerns the provision that defines a dog that is out of control as one that gives rise to reasonable alarm or reasonable apprehensiveness. Those are vague phrases. State by state, America has been moving rapidly away from breed-specific legislation towards deed-specific legislation on dangerous dogs, but no state has such a vague definition of a dangerous dog. In the District of

Columbia, it is defined as

"a dog that, in a menacing manner, approaches ... any person or domestic animal as if to attack".

In the state of Florida, it is defined in legislation as a dog that

"Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack".

I understand the preventive nature of the bill, which seeks to get in early, but if we make the definition of a dangerous dog as vague as a dog that gives reasonable alarm or reasonable apprehensiveness, we will create a minefield for sheriffs and, possibly, a situation in which lawyers will thoroughly enjoy going to court to argue matters out.

The last point that I want to make in my opening statement relates to the fifth reservation that I included in my written submission. The bill may amend the 1991 act to extend control of dogs to dogs that are out of control in a private area. This issue has been gone into in some detail in the US; in Rhode Island, for example, a dog cannot be declared vicious or dangerous if it injures someone who is deliberately trespassing on the owner's private property, teasing or abusing the dog, or assaulting another person or committing a crime. It would be useful to incorporate in the bill something along those lines.

The Convener: Mr Flynn, I am intrigued by your comment that you would support anything that was practicable. Do you have any reservations about other provisions in the bill that you feel are not practicable?

Mike Flynn: I take to heart comments by some dog wardens and dog control officers that we might need a lot more enforcement than appears in the bill. We are involved only with welfare, but there is a crossover between dog duty control and welfare in, for example, cases in which people have poisoned or kicked the living daylight out of dogs that they thought were aggressive. Last year, we reported to the procurator fiscal 160-odd cases of welfare offences, which involved a tremendous amount of work in gathering statements from veterinarians, witnesses and so on. It might not be as simple as issuing a notice and hoping that the problem goes away.

Jim Tolson: With the previous panel, Mary Mulligan touched on an interesting concern raised in Mr Leslie's written submission about authorised officers going into private homes. I do not want to get into the whole issue of authorised officers at the moment, but I wonder whether Mr Leslie can give us a bit more detail about that concern.

George Leslie: I would have thought that the bill should state that its provisions apply in private as

well as public property, but for reasons that I do not understand there has been a decision to amend the Dangerous Dogs Act 1991 instead. I believe that, as a result, local dog control officers will not be able to serve a control notice on an owner whose dog is acting out of control on private property. I think that a provision to state that they could would be a useful addition. For example, many people allow their dogs to roam their front gardens, where they can be a threat not only to postmen but to children whose ball might bounce into the garden, and it would be useful for officers to be able to go straight up to an owner and say, "Your dog might be on your property, but it is still out of control."

Jim Tolson: I think that you will find that members around the table are sympathetic to your concern. It is certainly an important consideration for all sorts of people, from postmen to politicians, who have to enter private property and put their fingers through letterboxes.

Could the bill contain a provision to allow an authorised person to put that very point to an owner either in their home or within the confines of their property, or would other legislation and further powers be required? Indeed, would it require police officers to obtain a warrant to enter the property?

George Leslie: A dog control officer who sought to gain admission to a private house would need a warrant from the court. However, I suggest that, if the phrase "in any place (whether or not a public place)" were inserted after "out of control" in section 1(1)(a), dog control officers could approach people whose dogs are apparently out of control on their own property.

Jim Tolson: We have heard anecdotal evidence and, indeed, have seen the television reports of dogs being the culprit in attacks in the home, some of which, unfortunately, have led to fatalities among young children. Do you have any statistics on that? Is the incidence of such attacks greater in homes and private property than in public places such as streets and parks?

George Leslie: I do not have any accurate evidence on that, but my feeling is that the bulk of serious problems arise on public property. I accept the principle behind the bill to extend control officers' powers and allow them to work on private property because, as you have pointed out, dogs have attacked family members in their own homes. Such dogs are simply out of control.

Jim Tolson: Moving sideways to Mr Flynn, I ask the same question. Do many of the animal welfare issues that you have to deal with happen on private property or do they arise more in the public sphere?

11:30

Mike Flynn: The majority of serious stuff—albeit not the most serious stuff—tends to take place in public places, for instance when a dog is not under control and chases another dog. The most common type of bite happens when a person's dog is attacked, and they are bitten in trying to save their dog. That is where the Dangerous Dogs Act 1991 comes in.

As far as private premises are concerned, we carry out a service for fostering agencies. If a potential fosterer wishes to foster a child, we are called in to assess the person and the dog to judge whether there is a risk—social work departments have to keep themselves straight.

The problem with private places being exempt from the provisions of the 1991 act is that, if there is a serious incident in a private dwelling, the police cannot seize the dog. Even the police would welcome a change in that regard.

With genuine owners whose dog turns and attacks for no reason, such cases tend not to end up in court, as the owner themselves will have the dog put down if they think that the incident was totally out of character and unprovoked. Although many of the cases that were discussed earlier will end up in court, at an appeal and so on, the majority of people, who have not at all expected the genuine attack that has taken place, will take the dog to the vet themselves to have it put down, as they cannot explain what has happened.

Jim Tolson: That was helpful—thank you.

Alasdair Allan: Previous witnesses have mentioned instances of dogs doing their job, for instance by guarding the home in the event of somebody breaking in. Does the bill adequately cover such situations? Two further scenarios that come to mind are tourists annoying a sheepdog that is doing its job and children taunting guide dogs. Does the proposed legislation adequately cover those situations without having unintended consequences?

Mike Flynn: In a private house, legislation should only extend to any injury that is sustained by a person with a lawful right to be there. The case of an intruder breaking in is a totally different scenario. On many occasions, perfectly good, stable dogs will act in a totally different way, for example if somebody is being forceful in a house, as the dog will be protecting the property or its owner.

If the situation is dealt with properly, and all the circumstances are looked into—for example if somebody pokes a guide dog in the eye, and the guide dog protects itself—common sense should prevail.

George Leslie: I was speaking earlier about the American legislation, and I referred to the law from the state of Rhode Island. It says that a dog cannot be declared vicious or dangerous if it injures somebody who is deliberately trespassing on the owner's property, teasing or abusing the dog, or assaulting another person. Bearing those circumstances in mind, we should have something in the bill that spells that out more clearly than happens in the bill as drafted.

Returning to something that Mike Flynn was saying earlier, I, too, believe that the Dangerous Dogs Act 1991 should apply in private property, and the bill before us should allow dog control officers to take action when dogs have been known to be out of control on private property.

Alasdair Allan: I am thinking of different situations, and I am sorry to come up with a Western Isles example again. At times, working dogs such as sheepdogs will be on public roads. I would not say that sheepdogs are trained to nip the legs of sheep, but they do, and they will do that if anyone comes near while they are working. Do we risk bringing about unintended consequences? Might we envisage situations in which tourists complain that they have been nipped on the heels by a sheepdog that is just going about its work?

George Leslie: If a shepherd, farmer or crofter has his dog on the public highway, he has to respect the law of the land. If the law of the land says that his dog is not supposed to attack or nip somebody's ankles, he must keep it under greater control while it is on the public highway. However, if a person walks off the public highway and goes on to ground where sheep are grazing, the dog has a perfect right to do its job, and there should be protection for it.

Alasdair Allan: There is another side of the equation when it comes to dogs doing their jobs. As we mentioned in our discussion with the previous panel, some owners—in a small number of cases—apparently view the job of the dog as being explicitly connected to criminality. How do you feel about officers such as yourselves being asked by the bill to intervene in dangerous situations? By “dangerous”, I am referring not to the dogs but to the owners.

Mike Flynn: We deal with that anyway. For example, we deal with dog fighting. There was a dog fight three weeks ago at the back of Duddingston, and it has been dealt with and reported to the procurator fiscal. We also provide a service for utility companies whose staff enter houses under warrant if the electricity meter is to be cut off or whatever. Because of considerations for their health and safety, they are not allowed to go in by themselves, so we are named on the

warrant to control the dogs. We deal with such situations anyway.

The Convener: Further to the criminality issue, we have heard this morning about a lot of things that give cause for concern. The number of stray dogs that the police deal with—although the number is falling—is at least an indicator of levels of neglect. According to our briefing paper, the number of dog attacks has increased by 160 per cent in an eight-year period. It has also been outlined to us that the responsibilities that come with owning a dog can include taking the dog to a dog club to get it trained, having the dog neutered and paying for the cost of veterinary bills. Is it too easy to own a dog?

Mike Flynn: It is far too easy and far too accessible. On behalf of local authorities, we deal with stray dogs around Glasgow, and our biggest problem is that we cannot move for Staffordshire bull terriers. Those dogs are bred left, right and centre and sold for £20, £30, £40 or £50, mainly to young males who want an aggressive-looking dog. However, 90 per cent of the time, Staffordshire bull terriers are not aggressive so, because they do not provide the right status symbol, they get chucked for something else. As a member of the previous panel said, the pit bull terrier can be a dangerous dog—there are plenty of those dogs going about, especially in Paisley—but some breeds that are coming in now could cause serious trouble if they get into the wrong hands.

George Leslie: I obviously do not deal with the same field as Mike Flynn does because the highly aggressive dogs that are brought to me to be put down are usually those that, out of character, have suddenly attacked someone in the person's home. When the dog is brought to us, we first attempt methods of controlling the dog's behaviour but we sometimes need to euthanise it.

On the business of how easy it is to own a dog, I would not want a return of the dog licence but I would certainly welcome a bill that required people to have a licence before they own a dog. The licence should be not for the dog but for the owner. That would help to weed out some of those who get dogs very casually.

The Convener: From my constituency, I have seen people with problems who have experienced great benefit from owning a dog. I have some personal experience of that: I know someone who had problems but whose life was changed in many respects by owning a dog because it put structure into it and provided many other benefits. However, I have also had, as a result of dog attacks, constituency casework in which people have been concerned about dog owners who clearly do not look after their dog but are given state support for having that dog, for example through their veterinary bills being paid and an element of their

benefit going to support the dog. We know that that happens.

Are there any procedures to assess whether people would benefit from owning a dog and whether they would be good people for that dog, as opposed to the talk of the community? We are supporting such people through the state.

Mike Flynn: There is nothing in place formally, but any rehoming centre, such as those that are run by the SSPCA or the Dogs Trust or those that deal with stray dogs taken in by local authorities, should assess the person that a dog goes to. The issue can often come down to financial means: if people say that they will not pay a £50 rehoming charge, what will happen when the dog needs to attend a vet either because it needs to get its booster for £35 or because it is hit by a car, which might involve costs of hundreds of pounds? The financial aspect always needs to be considered.

As has been rightly pointed out, certain people will use a dog for their own purposes. A walk along Princes Street will show that every second person who is begging there has a dog. It is a known fact that one dog down there has five owners. The dog works on shifts and, when one person goes off his shift, the dog goes back with another person because it will attract more money. There is nothing to stop those people doing that as long as the dog is maintained in a physically good condition.

The Convener: That is an interesting issue.

Patricia Ferguson: Good morning. I understand the reason why the bill concentrates on deed not breed—I am a signatory to the bill, so I support its general aims. However, given the comment that Mr Flynn made and comments that were made earlier, are there any breeds that we should consider to be so aggressive by nature and personality trait, perhaps in combination with their power, size and bulk, that they should not be—for lack of a closer definition—family pets?

Mike Flynn: I am probably the wrong person to answer that question, as I owned a pit bull terrier for 12 years that was never trained. A pit bull terrier is not born a fighting dog; it must still be trained for that purpose. If it is trained for that purpose, it will be one of the safest types of dog around people, as it has been trained to fight dogs, not to hit people.

The problem is with owners who do not know the characteristics of the breed. Breeds such as the big canario, which is a mastiff from the Canary Islands, are coming in now. Such breeds are beautiful, but they become very dominant in the wrong hands. There are owners who are frightened of their own dogs because those dogs are more dominant than them. I do not think that the canario should be banned for the simple

reason that if a dog is bred and raised properly, it should pose no more danger than a dog from any other breed. People need to know the breed that they are taking on.

George Leslie: When people were trying to ban pit bull terriers and the index of exempted dogs was brought in, my practice had to deal with 14 American pit bull terriers, all of which had to be tattooed, microchipped and eventually neutered. In almost every case, we were able to tattoo the terrier in their groin without using any sedation—the dog simply rolled on its back with its legs up in the air while it was being tattooed. I never met one such dog that was aggressive, but they exist. The trouble with pit bulls, as with many of the bigger breeds, is that if they are out of control, they are difficult to bring back under control because of their pure strength and because their pain threshold is so high that they cannot be easily stopped. They are a potential danger, but, as Mike Flynn said, they are not a danger if they are in the right hands and if there is responsible ownership, which we are all trying to work towards. The bill will help us greatly in trying to get preventive measures in early on to encourage responsible ownership.

Patricia Ferguson: I suppose that that is an argument in support of the point that you made about people being required to be registered.

George Leslie: It is a good idea.

Patricia Ferguson: I have a slight concern about dogs that are meant to protect homes against intruders. I think that an individual member of the public who acted to protect their home against an intruder would have to satisfy the court that they had adopted a reasonable approach—a reasonableness test could be applied to their actions. Obviously, that would be much more difficult to do if a dog was involved. There is a difference between a dog apprehending an intruder, isolating them in one location, preventing them from moving and nipping them, and a dog inflicting more severe injury on an intruder. I am conscious that such a test would be difficult to enforce with a dog. Have you had any thoughts about that? Should that issue colour our judgment as we consider the relevant part of the bill?

Mike Flynn: We constantly stress to people that they must keep their animal secure. Dogs are often put in their owner's private garden, but if that garden is not secure, the dog will chase people whom it sees as a problem. The last non-pit-bull dangerous dog to be put down in the care of the society was a bull-mastiff, which stayed in a house with a collie. The owner had not restrained the dog before she opened the door, and it ran out and hit a child—it did not bite the child; it caught the child. It was deemed to be dangerous and there was an

order for it to be destroyed. That would never have happened if the lady had kept it under control.

The courts should consider a case in which someone breaks into a lock-fast, secure place to be different from a case in which a door was left open and somebody inadvertently walked in.

George Leslie: I wrote to Alex Neil and then to Christine Grahame to say that it would be a good idea to incorporate into the bill the provision that a front garden, or the part of a garden that is adjacent to a public highway, must be made secure if a dog is to be left in it. That has not been done, but it might still be considered. There is a great deal to be said for that approach. I also believe that it should be law that people with a dog in their house or garden should have a post box outside their gate so that postmen and political leafleters, for example, can drop things off outside the gate without having to walk past a Rottweiler, for example, to get to the door. Something along those lines has to be thought about. However, I do not want the bill to be too complicated. It is a good bill. I have suggested two or three small amendments to it, which I hope members will consider, but I want it to be enacted.

11:45

The Convener: One benefit to someone who has a loud dog is that we do not go in, so the household does not get any political leaflets.

Patricia Ferguson: I might be an exception to that as I usually do not mind, although I must admit that there are some dogs that I would not approach.

I thank both the witnesses for answering my questions. I add that I know of one property where there is a notice on the gate that indicates how fast the Rottweiler can get to the gate and challenges anyone who wants to come in to be quicker than that—I do not think that that is acceptable.

George Leslie: I have a small point about breeds of dog. I mentioned that I have never been bitten by a Rottweiler although I have been working as a vet for nearly 50 years. The dogs that are most often out of control are very small dogs—west Highland terriers, collies, spaniels and so on, which are often quite mad. Their owners think that they are small and are not dangerous and they tolerate their misbehaviour. Those are the dogs that, more often than not, inflict quite severe bites. The most severe bites often come from a terrier rather than a Rottweiler. A Rottweiler has a small mouth and very small teeth, although it is a big dog, whereas a Scottie has jaws that would break a bone—if it is out of control, it is quite dangerous. We have to be careful about how we decide which breeds are dangerous. My idea of which breeds

are dangerous would probably be entirely different from the public perception of which might be dangerous. I get bitten by small dogs. This scar on my wrist is from a bite by a small terrier dog. I was working on the dog as a vet, and it was in some pain. Although that was inexcusable, the owner could not control the dog.

Mike Flynn: As one of the local authority representatives said, it is important that the bill gives local authorities some bite. In nine out of 10 of the stories of incidents involving dogs that we read about in the paper, someone will be quoted as saying, "It was an accident waiting to happen. I've reported that dog. It was chasing other dogs and all of a sudden a child got in the way. It was going for a dog, but the child got it." The bill is aimed at people who own such dogs—everybody in a local community knows that they should keep away from that guy and his dog. One such dog—a white Alsatian—stays round the corner from me. It is an expert at slipping its lead and when it does so, it attacks the first dog that goes past it. The owner has been warned four or five times by the police, but he thinks that as long as he pays the vet's bill for the other dog, no one will care. Sooner or later, a kid is going to get in the way of that Alsatian when it is going for another dog.

The Convener: We are all sharing anecdotes in response to Patricia Ferguson's original question. In the olden days when children played in the street there was often a sheepdog. There was one next door to me, which was called, predictably, Shep. It displayed all the instincts of a sheepdog, although it did not live on a farm—I did not live next door to a farm. When we played football in the street it went round us, as a sheepdog would, and nipped us all; it was born, rather than trained, that way. Are you saying that that behaviour has to be trained out of dogs? How did that dog have all those instincts and characteristics other than through genes?

Mike Flynn: Border collies are unique, and their use as general purpose dogs should be banned. You never get a problem with a working collie, because that is what they were bred and designed for—they run for 20 hours a day. Shep was mimicking the behaviour of a sheepdog as a result of pure boredom. There is nothing worse than seeing in a high-rise flat a collie that gets out five minutes a day when it literally runs the wall of death—that is not what they were designed for.

The Convener: So are the big Japanese dogs that were bred to hunt bears all right?

Mike Flynn: In certain areas of Glasgow, they would probably be fine.

The Convener: I will let my Glasgow colleagues respond to that.

Mike Flynn: I come back to what I said previously. People should take on the type of dog that suits their lifestyle, and they should know what that dog has been developed for in the first place. All terriers are there to flush and kill little things; that is what they do and why they harry about all the time. You can get a hell of a bite from a terrier. If you know the breed that you are going for, you can suit your lifestyle to it. We get a lot of trouble with retired greyhounds. People think that all greyhounds kill cats, which is not true, or that they have to run them 26 hours a day. In fact, retired greyhounds are among the laziest things ever. If you have a fire and a settee, you will never get near your fire or your settee. Take them out for five or 10 minutes and they are as happy as Larry. People do not know the breeds that they go for.

The Convener: It comes back to perceptions of certain dogs and the principle of deed not breed, although the breed can have an influence on behaviour.

Mike Flynn: Yes, it can—if someone takes a dog into the wrong circumstances, because of their lifestyle.

The Convener: You might have heard the evidence that we heard earlier on the financial memorandum and the costs for local authorities—you will certainly have read some of the evidence on that. The financial memorandum states that 1,100 or so dog control orders will be issued per year. That will incur a cost. The court proceedings might require follow-up and there will be training costs. Do you have a comment on the evidence that we heard about the practicalities and how much the bill will cost?

Mike Flynn: As I said, we deal with the welfare issues. I know how much it costs us just to prepare reports for the fiscal. The financial memorandum says that preparing a report for the court will take two hours, but it will take far longer than that just to get the witness statements and everything else ready. Not many local authorities are geared up for that. You had witnesses from what are probably four of the most proactive councils in Scotland, but not all councils are like that. The witnesses expressed reservations, but other local authorities will have many more reservations. The issue comes down to finance.

George Leslie: I do not have the bank of experience that Mike Flynn has on the issue, but I agree with him that many local authorities will just appoint somebody who has almost no experience with dogs. There is a need to consider establishing a standard for dog control officers, perhaps through subordinate legislation under the bill.

The dog wardens who gave evidence talked about dog training. There are a large number of good dog training clubs in Scotland, although

there are one or two bad ones. We encourage the good clubs. Our organisation is keen to promote education on dog ownership for young children. We start with young children in primary school to get them used to how to work with dogs. We also encourage organisations to move into dog training. In my practice, we encourage all owners to go to dog training clubs. They are not as expensive as was suggested, although there is an expense. It is an important role for the dog control officers, the SSPCA and me to try to get people who have dogs to consider training.

The Convener: We heard earlier that the problem with neutering and dog training is cost. Will an order or pressure to do those equate to a death sentence? Some people do not have enough money to pay £20 an hour for training. We have heard about people who do not look after their dogs properly. Those dogs need training and possibly neutering. What is the consequence of that? What will those people do when they are faced with having to neuter or train a dog or bitch at a cost? Will they decide that that is too much hassle and that it is easier to get the dog put down? How much does it cost to get a dog put down?

Mike Flynn: That costs in the region of £70 to £120 but, in reality, such dogs would probably end up on the street as a stray. Initially, the idea was that every dog would have to be microchipped. We fully support that, because last year we had 168 cases, but we could probably report 500 a year if every dog that we picked up could be traced back to its last owner. Since the introduction of the Animal Health and Welfare (Scotland) Act 2006, the strays that are found in Glasgow are no longer just strays—they require serious veterinary treatment. People think of the cost and then the dog is away, and we can never trace those people.

George Leslie: Irresponsible dog owners will always be difficult, because for people with an irresponsible lifestyle having a dog multiplies the problem. I emphasise that, in Glasgow, where my practice is, I have many clients who come from a fairly non-affluent background but who can find the money. My practice talks to them and arranges payments by instalments to cover procedures such as neutering or microchipping. The microchipping in our practice costs considerably less than the amount that was mentioned earlier—we do it for about £15 or £17. Various other units exist that can do microchipping at an even lower price. It is much easier if there is bulk buying of microchips, but I cannot do that, so I cannot get those price cuts. However, we do our best to keep the microchipping price low and to meet many of our poorer clients to ensure that they can pay by instalments to get dogs neutered. Many other vets do the same.

The Convener: We need preventive measures such as neutering, or training, which costs more than neutering if we consider the hourly rates.

I am sure that Bob Doris will defend Glasgow's reputation.

Bob Doris: On the Japanese dogs that hunt bears, the problem might be that in Glasgow it is the bears who own the dogs, which hunt everyone else.

When I was growing up our family dog was a German shepherd bitch. She was an absolute delight and a big softie. We bred her and there were always puppies about the house, which was fantastic—the sheep's head and tripe in a fridge out in the back yard were not so good.

Let us get back to the idea of deed not breed and the responsibility of owners. Are there some people who should never own dogs?

Mike Flynn: Yes. A good thing about the bill is that someone who is found guilty of breaching a dog control notice can be banned from keeping a dog if they are deemed to be such a person. When we take up a cruelty case we are not interested in whether the person will be fined or put in jail; we are concerned that they should get a lifetime ban, so that they can never be cruel again.

We have talked about the type of person who wants an aggressive dog such as the Japanese Akita as a status symbol. If we just take such a person's dog away but do not ban him from keeping dogs, we know that another breeder will come along and he will get himself another Akita or a German shepherd. If you treat a shepherd badly it can be as bad as any dog. I have had a shepherd in the past and it was a beautiful dog, but it is possible to encourage any dog from certain breeds to be aggressive. I agree that there are people out there who, if they are found guilty, should be deemed by the court unfit to keep a dog.

George Leslie: I agree.

Bob Doris: That is a strength of the bill. It would generate not an owners register but a register of disqualified individuals, if local authorities used it proactively and efficiently.

Mike Flynn: Yes, if the provisions on the Scottish dog control database were implemented. Currently, if we take someone through the fiscal service and they are banned, that information is not held centrally. Only we and the court that passed the sentence know that the individual has been banned. There are no Home Office statistics on offences such as animal cruelty; someone must come to us or go to individual local authorities and courts to find out what has happened.

George Leslie: Apart from providing for a database of banned people, I hope that the bill will lead to the establishment of a database that shows not just who has been served with dog control notices but how notices are followed up. There might be problems with the expense of doing that, given local authorities' economic situation, but we should try to follow up control notices, to ensure that they have been successful. We need to know that people have taken more control of their animal and that its behaviour has improved.

Bob Doris: You both made interesting points. At the very least, a register of people who should not own dogs would develop over time at local authority level. That would be a positive development. The register would be the converse of an owners register.

Of course, someone might say that the person who owns the dog is their husband, wife, son or daughter, or a friend who stays in their flat. Would it be desirable to extend the bill to ensure that no dog can reside in a property in which a person who is disqualified from owning a dog lives?

Mike Flynn: There would probably be an issue to do with the human rights of the wife or whoever. What we currently suggest to the courts is that rather than ban someone from ownership they ban them from ownership and custody. That means that if we go to a flat where there is a dog and find that a disqualified person is the only person there, the person has custody and is in breach of the order, even if the dog belongs to his wife. If he is caught with the dog in the car, or is out with the dog on a lead, he has custody and is breaking the terms of his ban. Courts are implementing that approach.

Bob Doris: Is that the current situation?

Mike Flynn: Yes.

Bob Doris: Okay. Human rights are a great thing, but they come with responsibilities. Some people try to flout the law by finding below-the-radar ways to continue to behave irresponsibly. Is there any way of ensuring that there can be no dog ownership in a disqualified person's place of residence? A family dog is potentially dangerous if there is a person in the household who has been disqualified from ownership.

George Leslie: If there is a dog in the house of a person who has been banned from ownership, I would have thought that that would be a suitable case for a dog control officer to look into, to see whether the dog was properly under control. Dog control officers should be able to go to a private property and say, "We think that your dog is not under proper control, because there is someone in the house who has been banned from owning a dog."

12:00

David McLetchie: Mr Flynn, you said that you were recently involved in breaking up an illegal dog fight. Will you expand on that? How prevalent is dog fighting in Scotland? How involved are you in detecting and tracking the practice?

Mike Flynn: Scotland has the grim record of having the biggest-ever capture of a dog fight in Europe. That took place in 1991 in Kennoway in Fife, where 31 people from all over Britain and from various organisations were arrested.

Dog fighting goes on and is very secretive. One of the dogs that we seized was probably never seen being walked in daylight, because it had many scars. It would never have appeared at a veterinary surgery.

It is rare to catch a dog fight, as with the wildlife crime of badger baiting, which has shot through the roof in the past year—we have had 12 cases. All the same people tend to be involved. No one who is involved in dog fighting is a model citizen who just happens to like a bit of dog fighting—all those people are involved in the criminal fraternity.

I cannot give you accurate numbers on dog fighting. We tend to find dumped or abandoned dogs that it is obvious to vets have been involved in a protracted dog fight, as opposed to what happens when two German shepherds meet—after a quick snap, one dog always runs away. Vets can tell from the injuries whether a dog has been involved in an organised dog fight. We see more dogs in that state, but we can never trace the perpetrators. Catching the people in Edinburgh a couple of weeks ago was a stroke of good luck.

David McLetchie: How many prosecutions for dog fighting are there a year? Was the prosecution this year a one-off or have others taken place?

Mike Flynn: The previous prosecution was in 2004. The new Animal Health and Welfare (Scotland) Act 2006 talks about keeping a dog for the purpose of fighting. If a vet confirms that the injuries of a dog that is found are obviously from protracted fighting and not just a little scrap, a person can be charged with keeping the dog for the purpose of fighting. That is a big improvement on the previous legislation.

In the early 2000s, there were quite a few prosecutions for failure to provide veterinary treatment, when it was obvious that a dog had been involved in a fight but the locus could not be found—we got those involved for failure to provide veterinary treatment. Such dogs are usually found in places such as garden sheds and garages.

The Convener: Members have no more questions, so I thank the gentlemen for their evidence.

Subordinate Legislation

Glasgow City Council Area and North Lanarkshire Council Area (Cardowan by Stepps) Boundaries Amendment Order 2009 (SSI 2009/368)

The Convener: We move to item 3, which was deferred from last week. Members previously agreed to take the item in private.

12:03

Meeting continued in private until 13:11.

12:02

The Convener: Agenda item 2 is consideration of a negative instrument. Do members agree that they wish to make no recommendation to Parliament in relation to the order?

Members *indicated agreement.*

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