

## **Criminal Justice Committee**

**10th Meeting, 2021 (Session 6), Wednesday  
10 November 2021**

### **Control of Dogs**

#### **Note by the clerk**

### **Introduction**

1. On 4 October, the Convener wrote to the Minister for Community Safety on the issue of the control of dogs and government plans for revision on existing legislation. The Minister has now replied to the Committee (see **Annex**). The letter sets out plans for new Scottish Government legislation (SSI) in respect of control of dogs policy.
2. The clerks understand that the relevant SSI will be considered by the Delegated Powers and Law Reform Committee and then the Local Government, Housing and Planning Committee in the coming weeks.

### **Action/recommendation**

3. **Members are invited to consider the response and discuss what, if any, further action is required or whether they wish to note the contents of the letter.**

**Clerks to the Committee  
November 2021**

**ANNEX**

Dear Convener

**Re: Control of dogs**

Thank you for your letter of 4 October 2021 regarding the work undertaken by the Public Audit and Post-legislative Scrutiny (PAPLS) Committee during the last session of Parliament in relation to post legislative scrutiny of the Control of Dogs (Scotland) Act 2010 (“the 2010 Act”).

The Criminal Justice Committee is now seeking an update on the timetable for any legislative plans the Scottish Government has to address issues identified during the PAPLS Committee post-legislative scrutiny that fall within the criminal justice remit.

I am pleased to say that new Scottish Government legislation has been laid in respect of control of dogs policy. This is a statutory instrument that will, if approved by Parliament, provide for the establishment of a control of dogs database relating to the dog control notice regime in the Control of Dogs (Scotland) Act 2010. I look forward to answering any questions the Committee had in respect of this important new tool in helping local authorities fulfil their statutory responsibilities under the 2010 Act.

More generally and as Committee members may be aware, relevant legislation in relation to dangerous dogs and dog control covers both criminal law and civil law. The Dangerous Dogs Act 1991 (“the 1991 Act”), provides for criminal law measures for dog owners and persons in charge of dogs which can be applied when a dog is ‘dangerously out of control’. Meanwhile the 2010 Act provides for the civil regime which gives local authorities powers to impose a dog control notice (DCN) on dog owners who allow their dogs to be ‘out of control’. The PAPLS Committee report generally focussed on the civil law regime contained in the 2010 Act, but the committee’s wide ranging report and recommendations did cover aspects of dog control legislation which currently fall under criminal law.

It may be helpful however if I provide the Committee with a brief overview of the work undertaken by the Scottish Government since the publication of the PAPLS Committee report.

The Scottish Government welcomed the PAPLS Committee report and committed to take a range of actions. I also appeared before the PAPLS Committee in March 2019, August 2020 and February 2021 to discuss the Scottish Government response to the report.

Out of the 21 recommendations in the report that required some form of action, 6 have been delivered, 14 are in progress and 1 is a longer-term recommendation which will be considered once reforms to the dog control system are in place.

Many of the report recommendations related to operational practice which is delivered independently of the Scottish Government by local authorities and Police Scotland. The Scottish Government established and leads a working group involving local authorities, Police Scotland, COSLA and other key stakeholders including a

victim's voice, to progress work designed to improve the delivery of operational practices.

The Scottish Government wants to see a more consistent and more effective approach taken to use the powers that exist in keeping communities safe. Establishment of the working group led by the Scottish Government and with local authorities and Police Scotland as members is critical in developing improved approaches to dog control.

Work carried out by this group that may be of most interest to the Committee includes a refresh of the 2010 Act statutory guidance, and a review of the control of dogs Joint Protocol agreement between Police Scotland and Local Authorities.

While the 2010 Act is primarily a civil regime, section 5 of the 2010 Act makes it a criminal offence to fail to comply with a DCN. The statutory guidance, which is designed to enhance understanding of the 2010 Act and assist local authorities and authorised officers, contains further information about the penalties that a person can face.

Meanwhile the Joint Protocol sets out how Police Scotland will deal with offences under the 1991 Act, and how local authority dog wardens will deal with civil measures, namely the 2010 Act. The intention of the Joint Protocol is to aid local authorities and Police Scotland with the decision making process when considering how best to deal with complaints relating to irresponsible dog ownership within our communities.

While I would stress that the Joint Protocol is not a Scottish Government document, my officials on the working group have been instrumental in ensuring that it has been updated and approved for use by both Police Scotland and COSLA.

As Committee members will be aware, the PAPLS Committee report called for a national DCN database to be established. As noted above, there is new legislation introduced to establish such a database.

Where a person subject to a DCN moves from one local authority to another, a national database will be a valuable tool in helping enforce that notice. The Scottish Government is also funding the establishment of the database to be operated by the Improvement Service as well as underpinning the costs for the first two years of operation. This shows the commitment of the Scottish Government to assist enforcement agencies in delivering fully Parliament's intent with the 2010 Act regime.

Committee members may also be interested to know that the Scottish Government undertook an awareness raising campaign to promote responsible dog ownership, in partnership with the Scottish Society for the Prevention of Cruelty to Animals, in March 2021. The digital campaign was re-run on Facebook, Twitter and Instagram last month. We also intend to conduct a further re-run later this year to promote the importance of responsible dog ownership in our communities.

With regard to the specific issue of what legislative plans the Scottish Government has to address issues identified by the PAPLS Committee that fall within the criminal justice remit, your letter makes reference to the two consultations undertaken by the

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Scottish Government in relation to improving the operational effectiveness of the 2010 Act and on wider dog control issues.

The first consultation, published in September 2019, focussed on practical measures to improve the operational effectiveness of the 2010 Act. In response to the consultation on the 2010 Act there was strong support for new enforcement powers. An analysis of the responses received to that consultation was published in June 2020.

The second consultation on wider dog control law will be of interest to the Committee. This consultation, which ran between 5 February 2021 and 30 April 2021, looked at the offence provisions contained within the 1991 Act.

The consultation primarily sought views on the operation of the criminal offence of a dog being dangerously out of control, as contained in the 1991 Act. It also sought views as to whether consideration could be given to consolidation of relevant legislation. An analysis of the responses received to this consultation was published in July.

The views offered in response to both consultations are helping to shape and inform Scottish Government policy development decisions.

With that in mind, the Committee will wish to be aware that the Scottish Government has committed to reviewing the 1991 Act with a view to legislation within this Parliamentary session. The First Minister announced in the 'Programme for Government' that the Scottish Government will review the 1991 Act to help to inform future policy and legislative changes to tackle irresponsible dog ownership.

While a decision on the timing of any potential future Bill will be taken by Cabinet in the context of setting the content of future legislative programmes, set out in the Programme for Government, in the normal way, it is expected there will be a Bill on control of dogs policy within this session of Parliament.

I trust that the information contained in this letter is helpful to the Committee.

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