**Steps to Improve the Operational Effectiveness of the Control of Dogs (Scotland) Act 2010 – consultation analysis**

**Introduction**

This analysis relates to a consultation undertaken in relation to the Control of Dogs (Scotland) Act 2010 (“the 2010 Act”).

This legislation was a Members’ Bill brought forward by Christine Grahame MSP which gave powers to local authorities to help control dogs within communities.  In particular, powers were granted to local authorities to be able to impose dog control notices (DCNs) on dog owners who allowed their dogs to be out of control.  A DCN contains a number of conditions aimed at requiring dog owners to take more responsibility for their dogs. In February 2011, the 2010 Act came into force.

The regime introduced by the 2010 Act was intended to be preventative in that its aim was to help identify out of control dogs before they became dangerous so that the behaviour of the dog and the dog owner can be encouraged to change to help avoid future dog attacks occurring.

The use of this legislation has come under scrutiny since it was introduced.  As local authorities have become more used to using their powers under the 2010 Act, a number of issues have been raised about the operation of the legislation and this consultation looked at how the operational enforcement of the 2010 Act may be improved.

The areas covered within the consultation were all raised over a period of time as being potential areas where changes may help local authorities and, where relevant, other enforcement agencies in helping keep communities safe from out of control dogs.

The views offered in response to this consultation will inform decisions about next steps to be made by the Scottish Government.

**Overview**

The consultation ran between 27 September 2019 and 31 January 2020.

336 responses were received to the consultation. All responses to the consultation where permission was received have been published.

Of those 336 responses, 289 responses (86%) were from individuals and 47 (14%) responses were from organisations. 19 out of Scotland’s 32 local authorities provided views. Other organisations responding included the Law Society, Police Scotland, National Dog Warden Association of Scotland, Scottish SPCA, the Kennel Club and a number of community councils.

The consultation contained 12 questions. 11 out of the 12 questions were quantitative in nature, though these questions also allowed for reasons to given for the answer provided. One question (question 9) was not quantitative in nature and instead sought information about how awareness might be raised in respect of dog control within local authorities. A summary of views offered is included in this analysis in respect of question 9.

Thank you to all those who took the time and effort to interact with this consultation exercise.

**Analysis question by question**

*Question 1 - Do you think an obstruction offence should be added into the 2010 Act?*

316 respondents offered a specific view on this question.

283 respondents were supportive and 33 were opposed. From the remaining 20 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

All 19 local authorities who provided views on this question supported a new obstruction offence.

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| **Question 1 - Do you think an obstruction offence should be added into the 2010 Act?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 283 | 84% | 90% |
| Disagree | 33 | 10% | 10% |
| No view offered on specific question | 20 | 6% | N/A |

*Question 2: Do you think a national dog control notice database should be established?*

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315 respondents offered a specific view on this question.

279 respondents were supportive and 36 were opposed. From the remaining 21 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

All 19 local authorities who provided views on this question supported the establishment of a national dog control notice database. A number of issues were raised by local authorities including that all local authorities have different IT systems, who would be responsible for maintaining and running an operational databased used by local authorities and who would have access to the information held on a database.

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| **Question 2: Do you think a national dog control notice database should be established?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 279 | 83% | 89% |
| Disagree | 36 | 11% | 11% |
| No view offered on specific question | 21 | 6% | N/A |

*Question 3: Do you consider that dog control notices can be capable of being enforced across Scotland under the 2010 Act?*

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251 respondents offered a specific view on this question.

140 respondents agreed and 33 disagreed. From the remaining 85 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent agreed or disagreed with the proposition.

There were differing views offered by the 19 local authorities who responded to this question. Some suggested the current law did permit enforcement across Scotland while others disagreed and suggested the wording of the relevant provisions in the 2010 Act should be adjusted.

The question was intended to seek views on whether the law permitted enforcement across Scotland, but it is likely that some respondents including local authorities interpreted the question as being whether dog control notices were being enforced across Scotland (which is what question 5 is seeking information about) rather than whether dog control notices were capable of being enforced across Scotland.

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| **Question 3: Do you consider that dog control notices can be capable of being enforced across Scotland under the 2010 Act?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 140 | 42% | 56% |
| Disagree | 111 | 33% | 44% |
| No view offered on specific question | 85 | 25% | N/A |

*Question 4: Do you think the 2010 Act should be amended to make clearer that dog control notices can be enforced outwith the local authority area they were imposed in?*

319 respondents offered a specific view on this question.

298 respondents were supportive and 21 were opposed. From the remaining 17 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

Nearly all of the 19 local authorities who responded on this question supported changes to be made to the 2010 Act. Some that supported changes did suggest the law did permit such national enforcement so changes to the law would be to make this clearer rather than provide for such powers. One local authority considered no changes should be undertaken (as they considered the law was clear in this regard).

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| **Question 4: Do you think the 2010 Act should be amended to make clearer that dog control notices can be enforced outwith the local authority area they were imposed in?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 298 | 89% | 93% |
| Disagree | 21 | 6% | 7% |
| No view offered on specific question | 17 | 5% | N/A |

*Question 5: (for local authorities only) – Does your local authority seek to enforce dog control notices issued in a different local authority area?*

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This question was only for local authorities. 19 local authorities responded to the consultation and all offered views on this question.

9 local authorities did seek to enforce dog control notices issued in a different local authority while 10 local authorities did not. However, even in those local authority areas where attempts would be made to enforce outwith their authority area, a common theme was the lack of information that would be available as it was suggested local authorities either would not know if a dog owner with an animal subject to a dog control notice had moved to a new area or if they did know, they would not always pass this information on to the relevant new authority.

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| **Question 5: (for local authorities only) – Does your local authority seek to enforce dog control notices issued in a different local authority area?**Top of Form |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Yes | 9 | 47% | 47% |
| No | 10 | 53% | 53% |
| No view offered on specific question | 0 | 0 | 0 |

*Question 6: Do you think the 2010 Act should be amended so that it contains clear authority for a dog to be seized by the local authority pending the court’s consideration of a destruction order in relation to the dog?*

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307 respondents offered a specific view on this question.

257 respondents were supportive and 50 were opposed. From the remaining 29 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

From the 18 local authorities who offered a view on this question, 10 local authorities were either fully supportive or offered qualified support for the proposal. Of the remaining 8, some were opposed while others did not offer a specific view on the question but the comments offered suggested a scepticism in relation to the proposal.

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| **Question 6: Do you think the 2010 Act should be amended so that it contains clear authority for a dog to be seized by the local authority pending the court’s consideration of a destruction order in relation to the dog?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 257 | 76% | 84% |
| Disagree | 50 | 15% | 16% |
| No view offered on specific question | 29 | 8% | N/A |

*Question 7: Do you think the 2010 Act should be amended to make clearer what powers exist for local authorities to share information about dog control notices?*

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312 respondents offered a specific view on this question.

283 respondents were supportive and 29 were opposed. From the remaining 24 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

A range of views were offered from the 19 local authorities who responded to this question. Some supported the approach taken by East Ayrshire Council where the person who makes a dog control report is advised if the outcomes is that a dog is subject to certain conditions as a result of a dog control notice. A number of others considered the 2010 Act needed to be made clearer, though some felt the current laws were adequate and instead a more consistent operational approach was needed which could be facilitated by changes to the guidance for the 2010 Act.

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| **Question 7: Do you think the 2010 Act should be amended to make clearer what powers exist for local authorities to share information about dog control notices?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 283 | 84% | 91% |
| Disagree | 29 | 9% | 9% |
| No view offered on specific question | 24 | 7% | N/A |

*Question 8: Do you think the 2010 Act should be amended to empower local authorities to be able to issue a fixed penalty notice in respect of breaches of a dog control notice?*

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317 respondents offered a specific view on this question.

285 respondents were supportive and 32 were opposed. From the remaining 19 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

Almost all of the 19 local authorities who responded to this question supported the introduction of powers to deal with minor breaches of dog control notices through a fixed penalty notice system.

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| **Question 8: Do you think the 2010 Act should be amended to empower local authorities to be able to issue a fixed penalty notice in respect of breaches of a dog control notice?**Top of Form |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 285 | 85% | 90% |
| Disagree | 32 | 9% | 10% |
| No view offered on specific question | 19 | 6% | N/A |

*Question 9: How best could awareness be raised in local authority areas as to their powers under the 2010 Act?*

A wide range of suggestions were made. These included:

* Local newspapers;
* Social media;
* Local authority websites;
* Leaflets delivered to households, in veterinary offices, in pet shops;
* A centralised Scotland-wide website with all relevant links for local areas;
* Community council communication channels;
* National and local TV and radio stations;
* Neighbourhood Watch Groups;
* On-the-ground through more dog wardens being visible in communities;
* Notices in public parks and other areas where dog walking takes place;
* Education in schools;
* Poster campaigns on billboards.

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*Question 10: Do you think the statutory guidance for the 2010 Act should be updated?*

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224 respondents offered a specific view on this question.

203 respondents were supportive and 21 were opposed. From the remaining 109 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

All 17 local authorities who responded to this question supported updating the statutory guidance. Many considered this would be needed as changes to the 2010 Act were made, though in addition many felt the guidance should be refreshed even if the 2010 Act were not to be updated.

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| **Question 10: Do you think the statutory guidance for the 2010 Act should be updated?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 203 | 61% | 91% |
| Disagree | 21 | 7% | 9% |
| No view offered on specific question | 109 | 32% | N/A |

*Question 11: Do you think that the statutory guidance in relation to information sharing should be added to the statutory guidance?*

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216 respondents offered a specific view on this question.

193 respondents were supportive and 23 were opposed. From the remaining 120 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

Almost all of the 16 local authorities who offered views on this question considered the guidance should be updated to include material in relation to data protection.

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| **Question 11: Do you think that the statutory guidance in relation to information sharing should be added to the statutory guidance?**Top of Form |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 193 | 57% | 89% |
| Disagree | 23 | 7% | 11% |
| No view offered on specific question | 120 | 36% | N/A |

*Question 12: Do you think the protocol should be updated?*

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176 respondents offered a specific view on this question.

143 respondents were supportive and 33 were opposed. From the remaining 160 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

Of the 17 local authorities who offered views on this question, many felt the existing protocol was adequate and that the main concern was that the protocol was not being adhered to consistently across Scotland. Some local authorities felt there needed to be greater consistency of application by Police Scotland of the protocol. Some local authorities did consider the protocol could be updated, but any updates had to be followed by clear communication and application by relevant enforcement bodies.

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| **Question 12: Do you think the protocol should be updated?** |
| Response | Total | Percent of all | Percent of those who offered a specific view |
| Agree | 143 | 43% | 89% |
| Disagree | 33 | 10% | 11% |
| No view offered on specific question | 160 | 47% | N/A |