

~~Appendix 1:~~ Consultation on proposals for changes to dog control legislation:  
~~consultation~~-response form

Please use this form for submitting your responses and comments. If you are completing an electronic version of this form, it should be saved in Word format and emailed to: [joel.loughridge@dardni.gov.uk](mailto:joel.loughridge@dardni.gov.uk).

Alternatively you can post a hard copy of the completed form to: Joel Loughridge, Dog Control Bill Team, Department of Agriculture and Rural Development, Room 933, Dundonald House, Belfast BT4 3SB.

The closing date is: **1 February 2010**

## Your details:

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## Consultation Questions

### Compulsory micro-chipping

Q.1: Do you agree that micro-chipping should be made a compulsory condition of a dog licence?

The Council has previously expressed the view that the micro-chipping of dogs should be a compulsory element of the licensing regime. Micro-chipping would involve a one-off payment and would provide identification that cannot be lost, including information on a dog's medical history and neutering. These improvements to information held can also facilitate the reuniting of a lost animal with its owner.

The Council therefore agrees that micro-chipping should be a mandatory condition of licensing. It should be made clear by DARD, however, that the cost for micro-chipping should be borne by the owner of the dog who would have to produce evidence that the dog had been micro-chipped before the Council could issue the licence.

Any data bases of micro-chipped dogs are currently held by the private sector with Councils being permitted access only when the consent of the owners is given. Within a licensing scheme, however, DARD would either need to manage, or regulate management of, a statutory data base.

### Early intervention

Q.2: Do you agree that councils should be able to impose conditions on the licences of individual dogs in order to intervene early to control problem behaviour?

The Council would recommend that significant thought needs to be given to how conditions such as these would be applied in an objective way and how readily they could be enforced. For example, in 2008-2009 Belfast City Council's Dog Warden Service received over 2,000 complaints about straying and seized over 1,000 stray dogs. Seeking therefore to specify dog control measures for individual animals based on incidents of straying or indeed 'dog behaviour' would make enforcement difficult and would be resource intensive. Also, reliance on the views of dog wardens, and possibly members of the public, with regard to 'dog behaviour', would be subjective and could lead to significant discrepancies between district council areas. Therefore such conditions should only be applied in very defined situations based on robust guidance. The Council would be particularly supportive of measures to promote positive behaviours such as encouraging and enforcing dog and handler training.

Concerns about public safety could be more easily addressed if there was a requirement in the legislation that all dogs must be kept under control in public places with a specific offence of owning or being in charge of a dog that is dangerously out of control. In this case there would need to be guidance as to what 'kept under control' means and also exemptions for areas such as parks should the local authority wish to designate specific sections of the park or time slots for dogs exercising whilst off leads. If this addition was made, then the Council believes that existing dog control legislation, including bye-laws and anti-social behaviour powers, combined with the anticipated powers under the proposed Clean Neighbourhoods legislation for designating dog control orders, would provide a comprehensive range of options to permit dog wardens to intervene early, in the majority of cases, to control dog behaviour.

Q.3: Do you agree with the range of licence conditions to control behaviour specified in chapter 4 of the consultation paper? Are there controls which should be removed or added?

The range of licence conditions generally address potential problems associated with irresponsible dog ownership, however, as per the Council's response to Question 2, these could be difficult to enforce within the council's current dog control capacity / resource. For example, ensuring compliance with the re-homing of a dog or monitoring that a particular dog is kept on a leash would present considerable regulatory challenges for the Council's dog wardens.

### **Options for the licence fee**

Q.4: Do you support the preferred option ii (an inflationary increase in the licence to £12.50 with protection for vulnerable groups)? If not, what would you propose?

The fee for a dog licence should provide a meaningful contribution to the administrative costs involved and should reflect the obligations owners have to the principle of responsible dog ownership.

The Council would support increasing the licence fee to £12.50 in line with inflation but would recommend that provision is made to allow the Minister to make further future discretionary increases in line with inflation in a streamlined way.

The Council would also favour protection for vulnerable groups, as suggested, however this should not be at the expense of encouraging people to own more than one dog. The proposal for those aged 65 and over to a £5 licence fee for any additional dog could encourage some people to try and circumvent the provisions. For example, someone could claim ownership of a dog which is actually owned by a non-vulnerable friend or a family member. Therefore, whilst the Council would agree with a free dog licence for people aged 65 and over and a £5 licence fee for people on state benefits, it would suggest that ownership of any additional dog should be subject to the full licence fee of £12.50 (except where block licences apply).

Q.5: Do you agree that the cost of a block licence should increase in line with inflation to £32? If not, what would you propose?

As with the standard licence fee the Council would agree that the cost of the block licence should increase in line with inflation to £32.

### **Exemption of prohibited dogs**

Q.6: Do you agree that councils should have the power to exempt a dog of a banned type where they are satisfied it is not a risk, thus avoiding the need for court proceedings?

The underlying principle of streamlining the legislation in order to limit the stress on seized dogs and to help reduce kennelling costs is welcomed by the Council. However, the Council is concerned that the review does not seek to rationalise the legislation by repealing those parts of the Dangerous Dogs Order which legislate to prescribe dogs by reference to breed or breed type rather than by the danger to the public. The overwhelming majority of dog attacks reported to Belfast City Council is from legitimate breeds and the Council believes that any dog that displays aggression towards people, regardless of the dog's type or breed, should be subject to appropriate control measures.

Prescribing specific breeds of dog as dangerous and then empowering District Councils to exempt individual animals would place a huge responsibility on individual dog wardens and could potentially convey a degree of liability on

the Council if someone, or their dog, was subsequently attacked by an exempted dog.

### **The level of penalties for offences under the 1983 Order**

Q.7: Do you agree that fines under the 1983 Order should be increased in line with the standard scale?

The Council agrees that penalties under the Dogs (NI) Order 1983 should be determined according to the standard scale of the Fines and Penalties (NI) Order 1984.

### **Fixed penalties**

Q.8: Do you agree that all fixed penalties under the 1983 Order and the new Dog Control Bill should be set at £50? If not, what alternative do you propose?

The Council agrees that the fixed penalty for not having a licence or for allowing a dog to stray should be increased to reflect the seriousness of these offences. The current £10 fixed penalty for straying is an insufficient deterrent and may actually discourage responsible dog ownership as the fixed penalty for dog fouling under the Litter Order, when a dog has to be accompanied by its owner, is £50. The Council therefore supports the rationalisation of the fixed penalty under the 1983 Order and the new Dog Control Bill to £50.

### **Payment of fixed penalties directly to councils**

Q.9: Do you agree that payments of fixed penalties should be made to councils to help enforce dog control legislation rather than to the courts?

The statutory obligation to enforce the dog control legislation along with the public's expectations of what can be achieved requires the Council to direct significant resources to addressing the issue of dog control.

The Council currently retains payment from fixed penalties for dog fouling and this should be supplemented with income from fixed penalties for other dog related offences. The Council however believes that effective enforcement is best delivered in association with promotional activities and awareness raising initiatives. The Council would therefore propose that income should be directed at the objective of increasing responsible dog ownership but with individual councils being free to direct their resources in the most effective way in order to achieve this specific objective.

## **New offences**

Q.10: Do you agree that it should be an offence to allow a dog to attack another dog?

The Council recognises that many dog on dog attacks can cause distress to the owners and injury to a family pet. The Council however would caution against legislating to outlaw 'natural animal behaviour' if possible.

Outlawing natural animal behaviour could also act as a deterrent to owners seeking to take their dog to a training class or club to improve dog socialisation by encouraging the dog to interact. Could encourage owners to actively keep their dog away from other dogs, which in turn could reinforce poor socialisation.

There may however be merit in making it an offence for a dog to attack an assistance dog, such as a guide dog, but the implications for dog wardens in seeking to police culpability in relation to one dog fighting with another would be prohibitive. The consultation document suggests that there is currently no redress against the owner of a dog that attacks another dog (paragraph 4.33) however the option of civil action is always available to the injured party. It should also be stressed that, in a civil case, a lesser burden of proof is required than for a prosecution.

Q.11: Do you agree that keeping or being in charge of a dog that attacks and injures a person should be an aggravated offence, whether it happens in a public place or on private property?

The safety of the public, in relation to the control of dogs, is paramount and the Council therefore agrees with the proposal that keeping or being in charge of a dog that attacks or injures a person should be an aggravated offence, whether it happens in a public place or on private property

## **The potential economic impact of these proposals**

Q.12: Do you agree that the analysis of the evidence given in the accompanying partial Regulatory Impact Assessment accurately describes the potential impacts of these proposals?

The Council is concerned that the Regulatory Impact Assessment does not fully recognise the potential impact that the early intervention proposals could have on the ability of the Council's dog wardens to effectively police these for

individual dogs. It would also question the suggestion that there would be savings in legal costs. Similarly, the regulatory impact on the Council in investigating dog on dog attacks could be prohibitive.

Q.13: Are there other potential impacts we may not have anticipated here or in the accompanying partial Regulatory Impact Assessment?

No

### **Potential impact of these proposals on different groups**

Q.14: Do you agree that the analysis of the evidence given in the accompanying Equality Impact Assessment accurately describes the potential impacts of these proposals?

Yes

Q.15: Are there other potential impacts we may not have anticipated in the accompanying Equality Impact Assessment?

No.

Q.16: Do you have any other comments or alternative proposals, or any additional background information?

The underlying principle of Belfast City Council, with regard to dog control, is the concept of responsible dog ownership. This underpins all the work of the Council's Dog Warden Service and is reflected in the Council's response to this consultation.

**The Council therefore is concerned that the consultation does not address all the dog related issues that lie within its area of responsibility. In particular, the problem of dog fouling and the potential enforcement options previously put forward by Belfast City Council, such as having the means to lift and dispose of dog excrement while in charge of a dog in a public place, have not been considered.**

**Thank you for taking time to respond to this consultation**

**Publication of responses**

In line with the Department's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available. The information they contain may also be published in a summary of responses.

If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

You should also be aware that there might be circumstances in which we will be required to communicate information to third parties on request, in order to comply with our obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.