

No. 014/2021

11 January 2021

Our Ref: P18/21

**To: All Branches**

Dear Colleagues,

**Control of Dogs (Scotland) Act 2010: Scottish Government Justice Directorate - Guidance - Update Published:**

This update is being issued further to LTBs 444/19 dated 22 July 2019, 553/19 dated 24 September 2019 and 568/19 dated 30 September 2019 which should be read in conjunction with this update LTB.

In 2019, the Scottish Government's Public Audit and Post-legislative Scrutiny Committee undertook post-legislative scrutiny to assess the effectiveness of the Control of Dogs (Scotland) Act 2010. The Committee's main conclusions and recommendations strongly supported the written and oral evidence given during televised evidence sessions - given by the CWU National Health, Safety & Environment Officer on behalf of the Union during the inquiry.

The Scottish Government's Public Audit and Post-legislative Scrutiny Committee concluded that:

- The Control of Dogs (Scotland) Act 2010 has had limited effect in preventing or reducing the number of dog attacks in Scotland.
- The current dog control law is not fit for purpose.
- The Scottish Government undertakes a comprehensive review of all dog control legislation without delay, with a view to introducing modernised, fit for purpose, consolidated dog control legislation.
- In the interim, the Scottish Government should improve the implementation of the 2010 Act.
- 31 Recommendations were made in the Inquiry Report.

Following the Inquiry, the CWU National Health, Safety & Environment Officer met the Scottish Government Minister Ash Denham (Minister for Community Safety) and has subsequently had a number of meetings/discussions with Jim Wilson Scottish Government Justice Directorate/ Head of Communities and Public Services to discuss dog control. Both Ash Denham and Jim Wilson reiterated and emphasised that the Scottish Government is committed to responsible dog ownership to help keep communities safe.

The 2010 Act came into force on 26 February 2011, and statutory guidance was issued ahead of implementation of the legislation. The Guidance is provided in accordance with the duty

upon the Scottish Ministers under section 12(1) of the Control of Dogs (Scotland) Act 2010 to issue guidance to local authorities in relation to the exercise of their functions and the functions of authorised officers under the 2010 Act.

The key purpose of the 2010 Act was to promote more responsible ownership of dogs and ensure that dogs which are out of control are brought and kept under control in Scotland. The focus of the legislation continues to be on the "deed not the breed" approach in tackling irresponsible dog ownership.

The Scottish Government considers that as local authorities have had nearly a decade of experience of use in their 2010 Act powers, it is an appropriate time to issue updated guidance that reflects experience and practical use of the legislation. This updated guidance therefore includes examples of best practice of local authorities' use of their powers.

The guidance has been prepared with the assistance and input of the Scottish Government led dog control and dangerous dogs working group, whose members include Police Scotland, REHIS, Society of Chief Environmental Officers, SCSN, National Dog Warden Association and COSLA (Convention of Scottish Local Authorities).

**The new updated guidance will be kept under review and should there be any dog control legislative changes during the next parliamentary term, (which continues to be under consideration), the statutory guidance will be subject to further review and update.**

**Scenario 7 in the guidance** makes reference to scenarios where public and private sector workers require access to private property in the course of their duties such as postal workers who deliver mail and BT workers and others and sets out the circumstances whereby overly protective and territorial aggressive behaviour towards the worker by a dog can result in an authorised officer (local authority) serving a 'Dog Control Notice (DCN)' under section 1 of the 2010 Act. Dog owners must take responsibility to ensure that workers who deliver a vital service for their communities are not subjected to having to deal with threatening or aggressive dogs when undertaking their duties on private property. Dependant on the severity of the incident, e.g., which includes serious, threatening and aggressive behaviour by a dog which is dangerously out of control, and in all cases of physical attack and injury sustained by a dog bite/attack, this must be reported to the Police who will investigate the matter under the provisions of the Dangerous Dogs Act 1991.

**A Dog Control Notice (DCN)** - is a notice issued by a local authority authorised officer (e.g., a Dog Warden) as a preventative measure, issued to a dog owner whose dog has been found to be aggressive, threatening and not under control. The DCN outlines the measures the owner must take to make sure the dog is controlled in a manner which ensures the safety of others and poses no threat, thereby preventing further incidents and preventing attacks. This could include a requirement to place the dog in secure premises, erect or repair fencing, keeping it inside, keeping the dog on a lead, muzzling the dog, attending and completing suitable training course etc. Failure to comply with a DCN is an offence and can incur a fine of up to £1,000 and the owner can be disqualified from owning/keeping dogs. (As stated above – in cases where a dog is dangerously out of control and injury is sustained by a dog bite/dog attack, the matter is proper to the Police who will investigate the matter under the provisions of the Dangerous Dogs Act 1991).

Further updates will be reported to Branches if and when developments take place.

**Attachment:** Scottish Government - Updated Guidance on the Control of Dogs (Scotland) Act 2010 (December 2020)

Yours sincerely



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**National Health, Safety & Environment Officer**