

# ***Communication Workers Union***

**House of Lords Briefing**

**Dangerous Dogs Briefing Anti-Social Behaviour, Crime and Policing Bill -**

**Part 7, Sections 98 and 99 (*Version 2*)**



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# **Communication Workers Union**



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## 1. Introduction

The CWU has been actively engaged in campaigning, lobbying and discussions with all governments of the UK since 2007/2008 and having secured changes to Dangerous Dogs Legislation in Scotland and Northern Ireland through our campaign, we are keen to see England and Wales follow the Scottish and Northern Ireland lead by introducing new Dangerous Dogs Legislation at the earliest opportunity.

## 2. CWU 'Bite-Back' Campaign

The Communication Workers Union (CWU) represents the largest number of Dog Attack victims in the UK and as such is the Number 1 stakeholder from a victims perspective. The CWU 'Bite-Back' Campaign was launched in 2007/8 after 6,500 Postal Workers were attacked that year and 2 nearly killed. The 'Bite-Back' Campaign is the central reason why strengthened Dangerous Dogs Legislation is being introduced across the UK. The Main campaign objectives are:-

- To get the Law extended to apply everywhere including private land.
- The introduction of preventative measure - 'Dog Control Notices'
- Compulsory Microchipping
- Tougher Sentences
- Appropriate Victim Compensation - Compulsory Third Party Liability Insurance
- Raise Public Awareness
- Encourage responsible dog ownership, Improved training and socialisation.

## 3. Part 7, Sections 98 and 99 of the Bill

These clauses extend the law to private property, include attacks on guide dogs, allows courts to assess the character of the dog owner in determining if a dog is a danger, extend Police powers and flexibility on dog seizures, introduce some changes on keepership rules (and compulsory microchipping will be introduced by 2016 under the Animal Welfare Act.) **This is all Welcomed by CWU. However the Bill needs to go further.**

## 4. Missed Opportunity - No Consolidation

Essentially Part 7 of the Anti-Social Behaviour, Crime and Policing Bill ("Dangerous Dogs" Section) is a missed opportunity to consolidate the myriad of dog control legislation into one specific Dog Control Bill which in our opinion would have been the most straight forward route to achieve the government's intentions and a more effective deployment of the new legislation. It is universally recognised that the Dangerous Dogs Act (DDA) has not adequately achieved its primary objective of protecting the public from dangerous dogs. There is little doubt that the DDA needs to be repealed and replaced with new legislation which will consolidate existing dog laws into a single piece of legislation. Around a dozen pieces of Legislation deal with aspects of Dog Control. There is much confusion amongst enforcers on how, when and which should be used and as a result it's not used as it should be and has been totally ineffective. The opportunity to address this unhelpful situation has not been taken. Instead further amendments are being made to Legislation already having been amended several time previously and this may perpetuate the problems in effective prosecution and enforcement. (E.g. The Dogs Act 1871, Guard Dogs Act 1975, The Dangerous Dogs Act 1989, The Dangerous Dogs Act 1991, Control of Dogs Order 1992, The Dangerous Dogs (Amendment) Act 1997). The government has added that certain aspects will be dealt with under secondary legislation, adding even more complexity to the 'piecemeal approach'.

## 5. Statistics

19 People have been killed in Dog Attacks in the UK, 12 Children and 7 Adults, 16 since 2005. (See list at Appendix 1). Fatal attacks are increasing and happening more frequently. 2 this year already. 250,000 people are attacked by dogs every year in the UK. 5,000 Postal Workers are attacked every year. The cost to the NHS and Taxpayer of Dog Attacks is £9.5 Million a year (RSPCA). This demonstrates the growing and 'out of control' problem of dangerous dogs in the UK - or perhaps more accurately - the problem of irresponsible dog owners. **See Appendix 1 for the list of those killed by dogs in the UK.**

## 6. Breed Specific Legislation

CWU is opposed to breed specific legislation. As the organisation representing the largest collective number of Dog Attack victims, our members get attacked by every breed and sundry. Legislation should focus on 'Deed Not Breed' and on irresponsible owners. We do not agree with the EFRA committee's suggestion that the Secretary

of State should have the power to add more breeds to the Dangerous Dogs Act (1991) list of banned breeds. The Secretary of State already has the power to increase the numbers of breeds should he/she wish to do so. We believe Section 1 should be removed at a given point in the future in line with the input of the Association of Chief Police Officers and Police Federation..

### **7. Extension to Private Property**

The extension to private property is welcomed as it is unacceptable that legitimate visitors to private homes should have no protection under the law against dangerous and out of control dogs and that irresponsible, reckless and negligent owners are not held accountable and are immune from criminal prosecution. 23,000 Postal Workers have been attacked and injured by dogs in the last 5 years, 12 are attacked every day. 2 were nearly killed, many have had fingers bitten off whilst delivering the mail through letterboxes and thousands are so disabled physically and psychologically by terrifying dog attacks, they have been unable to continue as Postal Delivery Workers. 70% of those attacks are on Private Property and the owners get off 'scot-free' because the Law doesn't apply on private property. CWU accepts the need for householders to defend themselves against intruders and Trespassers with criminal intent in their home and property. However this must not excuse owners from a duty of care towards visitors and Workers, E.g. Postal Workers visiting, delivering Letters and Parcels to or into private premises, houses, flats or business and commercial premises, either delivering Letters through Letterboxes or whilst delivering packets and parcels and collecting a signature from the householder as well as other workers who work within the home e.g. BT Engineers, Local Authority Workers, Utilities Workers, Meter Readers, Nurses and Care Workers etc.

### **8. DCN -v- CPN (Dog Control Notice -v- Community Protection Notice)**

The CWU has strongly supported and consistently called for a new 'proactive' dimension to the dog control system and for the introduction of Dog Control Notices as an effective, preventative measure for tackling dogs which are not being properly controlled by their Owners and Keepers, highlighting the potential for a dog to indulge in behaviour that may later prove to be a danger and lead to attacks on people. These Notices can then force owners to take action to prevent further lack of control of their dogs in either public or private places. CWU and all Stakeholder Organisations plus the EFRA Select Committee have criticised the absence of specific Dog Control Notices (DCNs) in the UK Government's proposals. Government Ministers have argued that the new Community Protection Notices (CPNs), introduced under the new so called 'flexible-tools package' of Anti-Social Behaviour Orders will be as effective if not more effective than the Dog Control Notices (DCNs) introduced in Scotland and Northern Ireland. However we are yet to be convinced that 'Generic' CPNs will fulfil the same crucially important purpose as Dog Control Notices (DCNs).

- A 'Specific' Dog Control Notice (DCN) would be more effective in helping to establish the control measure tool and raise the profile and awareness amongst the target audience.
- More Dog Owners are likely to take notice of a clearly recognisable 'Dog' Control Notice and seek specific advice and information.
- A DCN will also impress upon enforcers, the need to ensure expertise amongst those authorised to issue the Notices.
- A Dog Control Notice (DCN) would be less bureaucratic and less costly to implement than a Community Protection Notice (CPN) and
- A DCN would not require a 'written warning' to be issued prior to the Notice being served on the irresponsible dog owner and would take effect quicker.

### **9. Dog Control Notices - Community Protection Notices - Rules & Guidance**

The following points need to be addressed by the UK Government when drawing up the rules and guidance for new Dog Control Notices/Community Protection Notices:-

- There must be no requirement for Enforcement Officers to have issued a 'written warning' to a Dog Owner before a Dog Control Notice/Community Protection Notice (DCN/CPN) can be issued.
- There must be no "one free bite rule" (also known as the "one bite rule" or "first bite rule)," whereby no action is taken on the first occasion before issuing a Dog Control Notice/Community Protection Notice or prosecuting a dog owner on the subsequent occasion. (See paragraph 10).
- Issuing a Dog Control Notice/Community Protection Notice must be simple and not resource intensive. The Enforcement Officer should simply be able to write out a Dog Control Notice/Community Protection Notice on a duplicate Pro-Former pad or print out from a hand-held computer and issue it and for it to take immediate effect.

- A Dog Control Notice/Community Protection Notice must be available to be issued by both Police Officers and Local Authority Dog Wardens or other appointed, authorised Officials 24/7. This would be advantageous in comparison to Scotland and Northern Ireland where restricting Dog Control Notices to Local Authorities has been a disadvantage due to (a) Lack of Resources, (b) Inconsistent Enforcement between Local Authorities and (c) Dog Warden Services only operating limited hours e.g. 9am - 5pm.
- There must be no requirement for a 'Court Order' to be issued by a Magistrate or Judge in order to be able to serve a Dog Control Notice/Community Protection Notice on a Dog Owner.
- The issuing a Dog Control Notice/Community Protection Notice on a Dog Owner must not require the consent or authorisation of a Senior Officer in the Police or Local Authority.
- A Dog Control Notice/Community Protection Notice must be able to be issued instantly if required to bring a dog under control.
- A Dog Control Notice/Community Protection Notice must be able to be issued on a dog that is out of control or has been out of control as it may have been calmed down between the time of the incident and the arrival of the enforcing Officer.
- The Dog Control Notice/Community Protection Notice must be placed on the Owner/Keeper and not on the Dog and therefore the Owner/Keeper cannot remove their Dog Control Notice/Community Protection Notice requirements simply by transferring or getting rid of the Dog as they can with DCNs in Scotland for example which has been highlighted as a 'loophole' by Enforcing Officers.
- Transferring or getting rid of the dog without notifying the Enforcing Authority must be treated as a breach of the Dog Control Notice/Community Protection Notice. The R v Sandhu ruling has confirmed that it is permissible for there to be a 'Keeper' separate to an 'Owner'. It is important therefore that the Owner does not simply move the dog to a 'Keeper' without permission to do so, or move the dog from a 'Keeper' to another 'Keeper' etc.
- Failure to comply with a Dog Control Notice/Community Protection Notice or breach of a Dog Control Notice/Community Protection Notice must both be a Criminal Offence and lead to Prosecution and Fine.
- A Dog Control Notice/Community Protection Notice must be able to contain the same menu of requirements as can be contained in a Dog Control Notice as provided for in Scottish and Northern Ireland Legislation.
- The issuing of a Dog Control Notice/Community Protection Notice must not be based on Police and Local Authority enforcement resources and there must be a requirement for Police and Local Authorities to provide an enforcement service and trained Enforcing Officers to be able to issue the Notices as a "Law not Enforced is No Law At All".
- For minor offences in relation to a Dog Control Notice/Community Protection Notice breaches - £100 Fixed Penalty Notices should be available to enforcers.
- Any owner served with a Dog Control Notice/Community Protection Notice must be imposed with the following minimum requirements:- (a) Have the dog microchipped (if not already done) (b) Obtain third party liability insurance. (c) The dog will not be allowed to leave the owner's property without a leash and muzzle.

#### **10. "One Bite Free Rule" (also known as the "one bite rule" or "first bite rule),"**

There must be no "one free bite rule" (also known as the "one bite rule" or "first bite rule)," in respect of issuing Dog Control (Community Protection) Notice or prosecuting a dog owner. These are different names for a legal doctrine from English common law that determines whether the owner of a domestic animal (such as a dog) can be held legally liable for injuries caused by that animal. Under this rule or doctrine, a dog's owner is held accountable and liable for injuries the dog causes only if it can be proved that the owner knew or had reason to know that the dog was likely to attack, bite and cause injury. So only those owners where there is evidence or record of the dog trying to bite someone previously (a history that the dog is dangerous), will the owner or keeper be held to account and liable if the dog later bites. Therefore the Bill must state that this doctrine doesn't apply in any case where the dog causes injury — either bites or causes injury by knocking a person down etc. Therefore in summary there should be no need for an Enforcement Officer or Court to prove:

- The pet had the propensity to bite;
- The property owner or pet owner had knowledge of that propensity; and
- The victim did not provoke the animal.

#### **11. Sentencing**

In January 2012 Leading veterinary charity, the PDSA published their "Animal Wellbeing (PAW) Report" revealing a shock statistic that over one million dogs are displaying aggressive behaviour towards people and pets on a weekly basis which includes growling, snarling, and biting. It concluded that Dog owners need to do more to stop

dogs from becoming aggressive. The report also confirmed that the public feel the current dangerous dogs laws are not as effective as they could be, with the research also revealing that an overwhelming 87% of people believe pet owners should face tougher penalties if their dog attacks another person or animal.

In August 2012 the Sentencing Council issued the first ever Dangerous Dog Offences Definitive Guideline. This came about as a result of the CWU 'Bite-Back' campaign when it was pointed out to the UK Government that sentencing guidelines regarding Dangerous Dogs Offences had never been issued

The Sentencing Council guideline will help ensure that Judges make best use of their currently available powers to deal with irresponsible dog owners who put the public at risk, punishing them and banning them from keeping dogs. Genuinely dangerous dogs can be put down and compensation orders paid to victims by offenders. However, the Courts are seeing more and more serious, aggravated dangerous dog offences coming before them, including an increasing number of offences where a Dog Attack has resulted in serious injuries and even death. Irresponsible dog owners who put the public, children, Postal workers, Telecom workers and other workers at risk must be prosecuted and then sentenced appropriately with a penalty that fits the crime. In our view therefore sentences need to be significantly increased in order to become an effective deterrent.

The CWU has found an unacceptable leniency applied to Dangerous Dogs cases in general and inconsistency which is equally a problem needing to be addressed. The Sentencing guidelines on dangerous dog offences will certainly help address the problem of gross inconsistency and provide much needed clarity in assessing individual cases. However for the Dangerous Dogs Act 1991, Section 3 Offences of an 'Owner or person in charge of a dog dangerously out of control, injuring a person', the maximum penalty on conviction is 2 years imprisonment and or an unlimited fine, or both. Where no injury occurs the maximum penalty is 6 months imprisonment and or a £5,000 fine, or both. It is our view that these penalties do not adequately reflect the seriousness of the offences.

Current sentencing arrangements do not match the serious nature of offences. 19 people have been killed in dog attacks in the UK - 16 of them since 2005 which indicates a very worrying upward trend in such fatal attacks. A quarter of a million people are bitten by dogs in the UK every year, yet the maximum prison sentence is just two years and a £5,000 Fine.

Only one person has ever been imprisoned for a dog attack on a postal worker when the Postman was nearly killed but the sentence was just four and a half months, nowhere the maximum 2 years sentence available to the Judge.

As the number of dog attacks and number of fatalities continues to grow - sentencing must get tougher to deal with irresponsible, negligent dog owners.

If the government is serious about tackling the problem of irresponsible dog ownership then we must see tougher sentencing, better enforcement and greater consistency in sentencing. At the moment people are being handed vastly different sentences for very similar crimes, with one person receiving a 18 Months suspended prison sentence while another walks away with just a £100 fine for similar offences.

Current arrangements are simply not good enough and the punishments do not fit the crimes. The CWU has been campaigning for tougher sentences for many years. The CWU Supports an increase in the maximum sentences available for offences committed under Section 3 of the Dangerous Dogs Act 1991 where a dog has caused injury to a person (increase to 5 years imprisonment Maximum) or death of a person (increase to 14 years imprisonment Maximum). The CWU also supports the introduction of a new offence of causing injury or the death of an assistance dog/guide dog along with a maximum penalty of 3 years imprisonment.

We welcome the Minister's recent announcement regarding proposals to increase sentences for Dangerous Dogs Offence, the proposals being in line with the CWU's views and submission to the Defra consultation. Current penalties stand at two years' imprisonment and/or an unlimited fine for aggravated offences but the changes announced today will see the penalties increased to;

- 14 years' imprisonment if a person dies as a result of a dog attack,
- 5 years' imprisonment if a person is injured by a dog attack, and
- 3 years' imprisonment if an assistance dog either dies or is injured by a dog attack

**Note: In relation to Assistance Dogs/Guide Dogs: In addition to the new Maximum sentence of 3 years for injury or death of an Assistance Dog/Guide Dog, the CWU believes that the offending dog owner should be liable, as provided in USA and Canadian Law for any damage done to such guide dogs, and such liability shall include any costs incurred by such blind, deaf or mobility-impaired person or Charity e.g. the Guide Dogs Association for the veterinary care, rehabilitation or replacement of the injured guide dog.**

**The CWU's strongly held view is that a new increased Sentences should be part of a new innovative, remedial sentencing regime which should be introduced as follows:-**

- **Injury or Death of a Guide Dog** - Maximum Penalty 3 years prison and/or unlimited fine, plus automatic disqualification from Dog ownership, plus compensation for cost for veterinary care, rehabilitation or cost of a replacement guide dog/assistance dog.
- **Injury to a Person** - Maximum Penalty 5 years prison and/or unlimited fine, plus automatic disqualification from Dog ownership, plus compensation for personal injury, plus cost for NHS Treatment.
- **Death of a Person** - Maximum Penalty 14 years prison and/or unlimited fine, plus automatic life disqualification from Dog ownership plus compensation to family of deceased, plus any cost for NHS Treatment plus funeral costs.
- **Destruction and disqualification orders** - All dog owners convicted of a Dangerous Dogs Offence should face an automatic Dog Ownership Ban ranging from 10 years to life in aggravated offences where injury or death occurs. The resumption of Dog Ownership following a ban should be conditional, requiring the person to undergo specified Dog Ownership Training and monitoring and that they obtain a Certificate of Third Party Liability Insurance for their Dogs. Any breach of a Dog Ownership ban should face Custodial Sentence of up to a Maximum of 5 Years and or fine. Currently the Penalty for breaching a Dangerous Dogs Act Section 4 (1) (b) Dog Ownership Disqualification Order is a Level 5 Fine, Maximum £5000. The existing sanction is dealt with in the Dangerous Dogs Act Section 4 (8) (a). The same penalties should apply with regards failures to comply with a Destruction Order. Sections 4 (1) (a) and 4 (4) (a) and 4 (8) (b) all refer.

**Case Study:** Convicted killer-dog owner Urfan Ahmed who was banned from keeping dogs in 2010 after one of his pets mauled his 18 months-old niece Zumer Ahmed to death in Crawley, Surrey, ignored the ban and was caught with Dogs in his possession a year after his conviction and ban. He was fined just £500 for breaching the Dog ownership Ban court order after police found five dogs at his Crawley address in 2011, just a year after the Ban was imposed. Ahmed was later to be prosecuted and convicted for having another Dog designated as bred for fighting.

**Summary: The CWU believes that Maximum sentences for Dangerous Dogs Offences should increase to:-**

- **5 years for Aggravated Dangerous Dogs Offences involving injury.**
- **14 years for Dog Attack Offence cases involving death.**
- **3 years for a new offence involving injury or death of an Assistance/Guide Dog.**

## **12. Insurance & Compensation**

CWU has long supported the introduction of Compulsory third-party liability Insurance as a legal requirement for all Dogs owners, for very good reasons. Mandatory dog Insurance would offer protection for Owners should their dogs cause accident or injury and there would be recompense available for victims. However the government has repeatedly rejected the idea despite the situation faced by dog attack victims in cases where the owner is both uninsured and has no ability to pay compensation of any kind. That situation was worsened when the government ended Criminal Injuries Compensation Scheme (CICS) payments for dog attack victims (other than cases where the dog was purposely set upon the victim) so removing the 'Fund Of Last Resort' to a number of victims including Postal Workers. There is now a risk that the situation could worsen further. Presently many dog owners do have some form of Insurance, either specialist third party liability dog insurance or a Home Insurance policy which includes third party liability insurance for dog related incidents. This cover will indemnify the Policy holder in cases where their dog attacks and injures someone. However the Insurance Industry are now making a number of negative sounds in relation to the proposed changes to Section 3 of the Dangerous Dogs Act 1991 and the extension of the Law to cover Private Property. The Association of British Insurers (ABI) and some Dog and Home Insurers are saying that once dog attacks on Private Property become a 'Crime' they will no longer pay out compensation to victims. The Government needs to urgently engage in discussions with the Insurance Industry to resolve this matter.

*This latest development aside, the Government has consistently defended its position on not supporting compulsory dog insurance and on cutting CICS payment to dog attack victims on the grounds that victims can obtain Criminal Compensation Orders. Firstly not all Owners are prosecuted following an attack by their dog and in those cases no Criminal Compensation Order would be made. Secondly Criminal Compensation Orders are based on "the ability to Pay" as opposed to the level of pain, injury, suffering, disability and losses sustained by the victim. Linking Criminal Compensation Orders to the ability to pay as such means that in many cases these payments are invariably a small sum, a pittance that goes nowhere near matching the appropriate level of damages merited.*

*If the Insurance Industry are taking the position that they will not indemnify their Policy holders once Section 3 of the Dangerous Dogs Act 1991 is extended to Private property and any attacks become a "Criminal Offence" then it will make it far more difficult for victims to obtain compensation.*

*Opponents of compulsory Insurance for Dogs have described the idea as a "Stealth Tax" or "Tax on Dogs" which according to those criticising the proposals would penalise responsible dog owners forcing them to pay out high Insurance premiums, making dog ownership out of reach for many. Sadly this 'myth' that has been created and perpetuated by the media, has distracted attention away from a very important issue. The CWU believes that third-party insurance is affordable and necessary for dog owners and that it will be a very effective means of addressing serious issues in relation of engendering responsible ownership as well as ensuring protection for dog attack victims (who are being forgotten in this argument). Compulsory third party liability insurance is a sensible precaution to protect both human and animal victims of dog attacks. Many household insurance policies will include this as long as the dog is in the insured person's control at the time. There is also the Dogs Trust membership scheme where for just £25 a year (or £12.50 if you're over 60), membership of the UK's largest dog welfare charity includes 3rd party insurance for your dog with cover up to £1,000,000 per claim if your dog causes damage or injury to another person, their property or pets.*

*The fact is that many dog owners are uninsured or untraced when Dog Attacks occur and injury results. In such cases, Dog attack victims with serious injuries have no civil remedy for Personal Injury compensation. The UK has long been a nation of animal-lovers who are happy to spend large amounts of money on their perfect pet. According to Sainsbury's Pet Insurance the lifetime average cost of owning a dog is around £16,000 and this is increasing by around 5 per cent a year. Halifax Insurance reported that Britons had spent £2.6bn buying cats and dogs in the five years 2002 - 2007. Churchill Insurance stated that depending on size and breeds, in terms of amount of food required and susceptibility to ailments that necessitate treatment, the lifetime cost of dog ownership ranged from £18,000 to £33,000. Therefore £25 per year for Third Party Insurance cover or £12.50 if over 60 years old is very small amount to pay. Certainly less than one week's food provisions for the dog. The Government and Parliament must consider this issue as there are 10 Million Dogs in the UK and having considered the points in opposition to the proposals the CWU remains strongly in favour of compulsory third party liability insurance.*

*Along with the need to introduce compulsory Third Party Insurance cover for all dogs, there is an urgent need for an insurance fund of last resort to be established similar to the Motor Insurance Bureau (MIB) scheme in order to ensure that victims of Dog attacks in cases of uninsured or untraced owners can obtain compensation. This would ameliorate the current injustice and show clear compassion for victims and protect the rights of those badly injured by dogs. Under this scheme, as with the MIB Scheme, it would be compulsory for all UK insurers to be signatories to the agreement. The Scheme would meet the liability to pay compensation for claims for personal injury for Dog Attacks where owners are uninsured or untraced.*

*In the state of Illinois, in the United States of America, a type of Dog Control Notice is used. The law stipulate that any aggressive or 'dangerous dogs' identified, are registered and the owner is served with an order that the dog must be microchipped and covered by the owner's third party liability insurance. No dog classified as such is allowed to leave the owner's property without a leash and muzzle, and any owner shall 'maintain the animal in such a manner as to prevent its coming in contact with any person not residing with the owner'. A similar arrangement could be introduced in the UK whereby any owner served with a Dog Control Notice must obtain third party liability insurance cover for the dog concerned. This would greatly assist with dog control and protect the public.*

**CWU remains strongly in favour of compulsory third party liability insurance.**



### **13. EFRA Parliamentary Select Committee**

The EFRA Parliamentary Select Committee of MPs supported the objectives of the CWU "Bite-Back" Campaign and other Stakeholders and were critical of the Government. The Government have so far rejected some of the EFRA Select Committee criticisms and recommendations including DCNs. The EFRA Select Committee Report states that the EFRA Committee expects the Government to put down appropriate amendments during passage of the Bill to reflect the recommendations in their report. Does the Government now accept this ?

### **14. Police and Local Authority Guidance - New Guidance -v- New Legislation**

The development of Police and Local Authority Guidance is crucial. CWU and other key stakeholders must be involved in the shaping of new guidance on Community Protection Orders for Dog Control. Without clear guidance from the Home Office or DEFRA, there will be no standard approach to enforcement of dog related legislation for the benefit of animal welfare and public safety. However, CWU would caution on an over-reliance on guidance as this hasn't worked in the past. Existing guidance from Defra, the Home Office and the Association of Chief Police Officers on Dangerous Dogs is not well known and not paid much attention. This must change. A Dog's behaviour is largely the result of the rearing and training provided by the owner. The problems caused by dangerous dogs will never be solved until dog owners are made fully accountable in law and appreciate that they are responsible for the actions of their animals. The existing legislation does not achieve this and it is crystal clear to the CWU that simply issuing and relying too much on new guidance alone will not succeed. The Defra guidance issued in April 2009 to assist police and local authorities in dealing with dangerous dog incidents along with Home Office Circulars Guidance and Association of Chief Police Officers Guidance has all been largely ignored or overlooked. Whilst helpful in explaining the current laws it did not improve its enforcement, moreover the guidance simply demonstrated the current laws deficiencies. Any new Guidance must be closely associated with the new Law and proper, effective enforcement.

### **15. Training and Socialisation**

CWU has advocated from the very start of its 'Bite-Back' Campaign that education and enforcement are the best ways to promote responsible dog ownership in society. Training and socialisation of dogs and owners in the implementation of the new law and Anti-Social Behaviour tools is crucially important as is the development of a uniform approach to Local Authority and Police Enforcement. To demonstrate that Education on animal welfare is something the government sees as a priority, central coordination and government support is required. To begin to make the necessary social improvements the education of dog owners needs to begin at an early age. Support must be given for Education programmes provided by the voluntary sector and Animal Charities..

### **16. Dog Warden Service Resources**

There is a lack of will to enforce legislation amongst Local Authorities and a lack of financial will to adequately resource Dog Warden Services and in the face of the substantial cuts since 2010. Many Dog Warden Services have already been decimated by Local Authorities. Whenever savings have been needed the Dog Warden Service is an easy target although it is one of only two statutory roles in a Local Authority. Why does Government not fund Dog Wardens who are legally mandated by legislation to control dogs?

It is vital that dog warden and enforcement services are properly resourced by local authorities. Defra must remove from its guidance the qualification that local authorities must provide an out-of-hours dog warden service only **'where practicable'**. This has created a situation where in some areas, Local Authorities no longer provide an out of hours service, stating that it was not 'practicable' to provide any kind of services beyond the normal office hours. Some provide no real Service at all! The Government has not included in its legislation support for dog warden services, which are statutory services in the local area. The Service should be properly funded and the funding 'Ring-Fenced'. Whilst the Environmental Protection Act (1990) places statutory responsibilities on Local Authorities to have an officer who deals with stray dogs, in practice the services provided by Local Authorities in this regard is inconsistent.

In many Local Authorities there is a culture of passing on responsibility, whether it be a Local Authority advising a dog owner that the Police are the correct authority to deal with an incident and vice versa. CWU has experienced situations where the Local Authority and Police 'passed the buck' between each other 'ping-pong' style until the possibility of taking action against the owner was "timed-out". What needs to be addressed is who deals with what in regard to prosecuting dog related offences. Many Police and Local Authorities have "Memoranda of Understanding" (MOUs) in place to deal with dog related issues. Unfortunately not everyone who is involved on both Local Authority and Police sides will necessarily know what to do. This may simply be down to a lack of information, training, instruction or dissemination both internally and between both Enforcing Authorities.

There needs to be clearer instruction on which authority deals with what level of incidents. Low level incidents by Local Authorities and more serious incidents by the Police is the accepted norm where it works. The introduction of "Fixed Penalty Notices" could assist for low level incidents. ACPO guidance was followed by many Local Authorities and Police forces but this guidance has been rescinded and needs updating.

Some Local Authorities have excellent Dog Warden Services that are properly funded, others have an officer who may only deal with dogs as a secondary, part time role, due to having a primary non-dog role. Some Local Authorities just do not enforce dog control legislation at all. There used to be lots of fit for purpose Dog Warden Services between the years 1990-2010 but due to the current economic climate and big cuts from 2010, many Local Authorities now have no Dog Warden Service at all and in some areas there is nothing but a collection service for stray dogs. Therefore the vital combination of equally important education and enforcement in the promotion of responsible dog ownership has been lost as a result of this loss of Dog Warden Services.

CWU believes that an effective, well resourced Dog Warden Service should be provided by all Local Authorities and that urgent attention should be given by Government to achieve this.

### **17. One Point of Contact in Government**

There also needs to be one point of contact in Government to provide continuity, leadership and guidance for dog and animal related legislation.

### **18. Dog Behaviour Contracts**

The Local Government Association has on its website best practice notes for Dog Behaviour Contracts (DBC) created by Local Government Officers from Eastleigh Borough Council in Hampshire which is now across Hampshire by other Local Authorities to control dog behaviour where there is a risk to the safety of the public. These Dog Behaviour Contracts are also used by Hampshire Constabulary and can be signed by the dog owner and the Police or Local Authority or by all three parties. This should be used as an example of best practice partnership working with these Contracts being developed as a National Standard to support proactive dog control. Further information on DBC's can be found at:

[http://www.local.gov.uk/web/guest/regulatory-services-and-licensing/-/journal\\_content/56/10171/3711072/ARTICLE-TEMPLATE](http://www.local.gov.uk/web/guest/regulatory-services-and-licensing/-/journal_content/56/10171/3711072/ARTICLE-TEMPLATE)

### **19. Community Engagement Initiatives - Increased Support**

Limited funding (£20k) has been offered to some 'Community Engagement Initiatives', but Defra needs to make a long-term commitment to these initiatives. Local Authorities do not have any statutory responsibilities to undertake educational work in the community, and often it can be at the goodwill of the Local Authority to (a) undertake these initiatives themselves or (b) work in partnership with a voluntary organisation, like Dogs Trust, RSPCA, Battersea Dogs Home, Blue Cross etc. In combination with an effective legal framework you need a targeted and effective education and engagement programme otherwise less can be achieved in preventing serious incidents. Dog owners, the wider public, service providers, and enforcement bodies need good quality and up to date information on responsibilities in Law, how to control a dog, how to stay safe around dogs, in particular about dog behaviour, health and welfare. A number of the animal welfare organisations already provide such information but this needs a coordinated approach and central government is best placed to achieve this. Education should start from pre-school age to ensure those most at risk are taught basic safety and it should be part of the National Curriculum to ensure relevant information is provided as part of this.

### **20. Abolition of DCOs**

Public Spaces Protection Orders will replace Dog Control Orders (DCOs). Many Local Authorities found DCOs useful as a prevention tool, and CWU supports the current powers to restrict owners from visiting certain locations with their dogs providing that the orders are consulted upon appropriately, used proportionately and enforced consistently and effectively. CWU is concerned about the proposed replacement of DCOs with PSPOs, as the new orders are not dog specific. Government must ensure that the PSPOs work as effectively as DCOs and that Guidance is developed to make greater use of these Orders.

The CWU would support the retention of DCOs.

### **21. National Dog Awareness Week**

Government should introduce a National Dog Awareness week. With a dog population of 9 Million and rising there is a need to raise awareness responsible dog ownership and the new dog control and microchipping legal requirements in order to prevent the escalation of the number of dog attacks, strays and unwanted dogs.

## **22. Compulsory Microchipping**

This should be introduced before 2016, particularly for those dogs whose owners are served with a Dog Control (Community Protection) Notice or are prosecuted for a Dog Control Offence.

## **22. Wales**

Defra and Home Office have delayed the introduction of new Dangerous Dogs Laws in Wales - pressurising the Welsh Government to suspend the Control of Dogs (Wales) Bill:-

- The Welsh Government's input been taken into account.
- The Welsh government must retain the option of introducing the Welsh bill if Wales is unable to agree the way forward with Westminster and
- Wales must have the agreement of the Home Office and Defra for regulation-making powers for Wales to allow Wales to shape the legislation to meet Welsh objectives and at the same time achieve wider aims..

## **Dave Joyce**

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**November 2013**



## **Appendix 1**

### **Those Killed in Dog Attacks in the UK - Total 20**

#### **Children Killed (13):-**

05.11.13 Lexi Branson (F), 4 years - Bulldog

26.03.13 Jade Lomas-Anderson (F), 14 years, Wigan - 2 Bull Mastiffs and 2 Staffordshire Bull Terriers.

20.11.12 Harry Harper (M), 8 days, Ketley - Jack Russell

17.04.10 Zumer Ahmed (F), 18-months, Crawley - American Bulldog

30.11.09 John-Paul Massey (M), 4 years, Liverpool - Pit Bull Terrier type

07.02.09 Jaden Mack (M), 3 months, South Wales - Staffordshire Bull Terrier & Jack Russell

28.12.07 Archie-Lee Hirst (M), 1 year, Wakefield - Rottweiler

01.01.07 Ellie Lawrenson (F), 5 years, St Hellens - Pit Bull Terrier type

23.09.06 Cadey-Lee Deacon (F), 5 months, Leicester - 2 Rottweilers

11.07.05 Liam Eames (M) 1 year, Leeds - American bulldog

22.11.93 Dean Parker (M) 7 years, Middlesbrough, Mastiff Cross

00.11.91 David Parry (M) 9 years, Leighton Buzzard - Great Dane, Alsatian and Lakeland Terrier

20.12.89 Kelly Lynch (F) 11 years, Scotland - 2 Rottweilers

#### **Adults killed (7):-**

25.05.13 Clifford Clarke (M), 79, Clubmoor, Liverpool - Bull Mastiff/Bandog Cross

30.10.12 Gloria Knowles, 71, Morden, London -2 French Mastiffs, American bulldogs, Alapaha, Mongrel.

23.01.12 Leslie Trotman (M), 83, Brentford, London - Pit Bull Terrier

23.12.10 Barbara Williams (F), 52, Wallington, Surrey - Neapolitan Mastiff

01.05.09 Andrew Walker (M), 21, Blackpool - 2 Alsatisans

20.01.09 Stephen Hudspeth (M) 33, Bishop Auckland - Staffordshire Bull Terrier

27.01.08 James Redhill (M), 78, Plaistow, London - Rottweiler

# Dangerous Dogs – Bite Back

