



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

Dogs (Amendment) Bill

2 November 2010

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Stephen Moutray (Chairperson)
Mr Roy Beggs (Deputy Chairperson)
Mr Trevor Clarke
Mr Willie Clarke
Mr Pat Doherty
Mr Simpson Gibson
Mr William Irwin
Mr Francie Molloy
Mr George Savage

Witnesses:

Ms Colette McMaster)
Mr Martin Mooney)
Mr John Terrington)

Department of Agriculture and Rural Development

The Chairperson (Mr Moutray):

I call to the table Colette McMaster, John Terrington and Martin Mooney from the Department of Agriculture and Rural Development (DARD).

Mr Beggs:

I declare an interest as a councillor on Carrickfergus Borough Council.

Mr W Clarke:

I am a member of Down District Council.

Mr Molloy:

I am a member of Dungannon and South Tyrone Borough Council.

The Chairperson:

I am a member of Craigavon Borough Council.

Good morning, you are all very welcome. I remind members that the date for completion of Committee Stage is 29 November. It is intended that detailed clause-by-clause scrutiny will take place at the next meeting to allow time for the draft report to be considered and laid before the Assembly before the closing date. It is therefore imperative that the Committee agrees as many of the matters relating to the Bill as possible.

This morning we will go through the clauses that have caused some concern. We will start with clause 2 and microchipping. Papers have been tabled for members this morning in relation to this.

Ms Colette McMaster (Department of Agriculture and Rural Development):

We provided some information on clause 2 to the Committee yesterday evening. The Committee raised the question of what contribution compulsory microchipping would make, and we have explained that the compulsory microchipping of dogs will enable the permanent identification of all dogs, because it will become an integral part of licensing a dog. Taken together with the other measures and improvements that are being proposed in the Bill — the stiffer fixed penalties and the improved resources for dog warden services — it will mean that careless and irresponsible owners are more likely to be identified, penalised and deterred from non-compliance.

The question was asked as to why microchipping needed to be made compulsory rather than

left as a voluntary thing that dog owners could choose to do. Indeed, a number of dog owners have voluntarily chosen to microchip their dogs, and promotional campaigns by charities have helped to increase the number of dogs that have been microchipped. However, of the 3,500 dogs that were destroyed here in 2008, more than 2,000 were stray dogs that had to be put down because their owners could not be identified. Voluntary action will help to increase the identification of dogs up to a certain level, but voluntary action will not ensure that all dogs can be identified by a microchip. Therefore, the proposal is to introduce compulsory microchipping for all dogs so that they can be easily identified and returned to their owners if they stray. That, in turn, will reduce the burden on the dog warden services and the number of dogs that have to be kept in pounds and, ultimately, destroyed because they have not been identified.

Mr Beggs:

As I understand it, about 30% of dogs are not currently licensed — their owners have decided not to pay for the annual licence. What makes you think that those owners will pay to have their dogs electronically chipped and then buy a licence? Is it not more likely that those people will remain outside the system and that you will simply have added a duplicate method of identifying dogs without having solved the problem of stray dogs?

Ms McMaster:

Over the years, we have seen an increase in the number of licensed dogs. That trend has been seen since the Dogs (Northern Ireland) Order 1983 introduced the licensing system. Over the past 10 years, the number of licences issued here has risen by nearly 40%. That trend is increasing, and there is no reason why that should not continue to be the case. As this is rolled out, increasing numbers of dogs will be licensed, and then microchipped as part of that. If stray dogs are to be rehomed, they will be microchipped and then licensed as they are rehomed. That increasingly brings dogs into the system.

If you are talking about a potential cost that might put people off, we are aware that if people go to a veterinary practice to have their dog microchipped, there is a cost. However, it does not have to be done by a veterinary practice; it can be done by a competent person, so the cost of microchipping a dog is quite low. Therefore, we do not believe that the cost is what will put people off getting their dogs microchipped. Also, a number of charities provide it as a free

service.

Mr Beggs:

You have not really answered my core question. What makes you think that the owners of the 30% of dogs that are currently unlicensed will voluntarily microchip them and identify themselves for an annual licence fee?

Ms McMaster:

Part of the system is to improve the dog warden services and to include more deterrents so that people will voluntarily want to do that. There will be the added cost of the penalty for not having a dog licensed. It is £1,000.

Mr John Terrington (Department of Agriculture and Rural Development):

The fixed penalty rises to £50. It is currently only up to £25, so there is an additional deterrent. Non-compliance with any legislation, particularly any licensing, comes down to the level of enforcement, the deterrents and the detection of offences. We are of the view that the Bill improves those three things. I have said in evidence before that councils here do the enforcing, and I think that that is why we have had the increase in the number of dogs licensed over recent years. However, the Bill provides them with better resources to do that more and improves deterrence through the penalty system.

Ms McMaster:

We have a licensing system that we have seen more and more people come into, and that may well continue, but we are looking at ways of improving the overall system and the overall level of dog control. There are benefits to microchipping; it means that a dog can be individually identified, so it is easier to trace the dog and its owner. Combined with that, we are seeking to improve the overall system and improve dog control overall, so we see the system having benefits.

Mr Beggs:

I can see that many responsible dog owners will want to microchip their dogs just to ensure that they will get them back again should they go astray. However, have you considered an incentive

method, whereby there would be a slight reduction in the licence fee if a dog is microchipped? That would be a positive, incentivised way of doing it. Also, you could make microchipping compulsory for commercial dog breeders — people who have multiple dogs and who are actively breeding dogs — so that those who are making money from dogs and can afford the extra costs would pick up those costs. Those who are getting dogs for the first time would be more likely to have one that is microchipped, without putting an additional burden on existing dog owners.

Mr Terrington:

There are two or three points. If microchipping was made compulsory for breeders, there would be a requirement for a breeder to microchip a dog or ensure that it is microchipped before it is sold on. Currently, breeders are required to ensure that a dog is licensed before they sell it. From speaking to representatives of dog breeders, I know that they adhere to that and will continue to do so. So the first thing is yes, making it compulsory for breeders is something that could be done as a way of getting this out there.

Secondly, your suggestion about providing incentives was certainly looked at, and it is a move away from where we ended up, which was to make it compulsory. For there to be an incentive, the reduction would have to be significant, and any rise in the number of microchipped dogs would have a negative impact on councils' income streams. The other side of that is that, for a long time, a number of organisations have offered it for free, but take-up has not been particularly widespread, so there is nothing to say that a reduced rate would allow it to happen either.

Mr Beggs:

I remain unconvinced that the 30% of people who do not even have a licence are suddenly going to voluntarily pay an annual fee and get their dog microchipped.

Mr Terrington:

It is also worth pointing out that our initial analysis — we are talking about the past 24 hours — of the survey of homes suggests that the figure is not as bad and that perhaps 55% of dogs are licensed and compliant, rather than the 33% that you mentioned. Nevertheless, that still leaves a number of unlicensed dogs.

Mr Beggs:

What percentage of dogs are unlicensed?

Mr Terrington:

45%.

Mr Beggs:

I thought that it was only 30%, but you say that it is 45%. What makes you think that those dog owners will voluntarily chip their dogs and pay an annual licence fee?

Mr Terrington:

We do not think that they will do it voluntarily, which is why it is compulsory. The idea is that not doing it will be an offence. If any licensing regime, be it TV licensing or anything else, is not enforced, as a rule people will not comply, so improving the enforcers' weaponry and tools is a key part. Also, if those campaigns have been working at all, there will be dogs that are currently microchipped but not necessarily licensed. There is also your point about breeders, so, in that way, it will become the norm rather than the exception.

Ms McMaster:

Microchipping a dog incurs a one-off cost. Yes, there is an annual licence fee, but the cost of microchipping a dog is incurred only once in its lifetime.

Mr Beggs:

You say that it is a one-off cost, but if a dog turns up without having been chipped, you then have to find out whose dog it is, and searching the database will incur an additional cost.

Mr Terrington:

The Committee will have heard evidence from the microchipping action group that that is not the case. It does not cost anything for a dog warden to lift the phone or, indeed, to go online to identify a dog that has been scanned.

The Chairperson:

If I am picking you up right, you are saying that 45% of dogs in Northern Ireland are unlicensed.

Mr Terrington:

Based on the first analysis of figures that we have got through in the past 24 hours, that seems to be the case.

The Chairperson:

If it is the case, do you know who the owners are? What action has been taken to address the situation? It has not happened overnight.

Mr Terrington:

We do not know, and it is not for us to know. The councils enforce it, so it is up to them to know. If they identify an unlicensed dog, they have a number of tools in their armoury, including fixed penalties.

The Chairperson:

Therefore, if you bring forth compulsory microchipping, you will not have information as to who the owners of the dogs are.

Mr Terrington:

A number of people are done for not having a licence, which suggests that there are already ways to identify owners. There are dogs that are microchipped now, so their owners have been identified, although they are not licensed. It is a matter of making that gap smaller. Inevitably, some people will not comply, so their dogs will not be returned and action cannot be taken. Consequently, their dogs will run the risk of being destroyed or rehomed, although, at the point of rehoming, a dog will be licensed and microchipped, bringing more and more dogs into the system.

The Chairperson:

But you indicated that 2,500 stray dogs are put down each year because their owners cannot be identified. How is that going to improve?

Mr Terrington:

The situation is improved if some of those dogs are microchipped.

The Chairperson:

The World Society for the Protection of Animals commissioned a report which stated that 70% of EU countries with compulsory regulations saw no reduction in the number of strays.

Mr Terrington:

I may be wrong, but I think that the report refers to compulsory registration. Although each of those may have also had an associated identification system, be that a collar tag, microchipping or perhaps even tattooing, those compulsory registrations are the same as our licensing system.

One key conclusion that I read into that particular paper, which was written by welfare specialists in each responding country, was that the biggest problem was the lack of enforcement. There is no sense in asking someone to register a dog if you do not then follow up and ask them for their licence details and so on. As I said, our councils have shown that that is something that they actively do through the number of people who have been done for not having a licence as well as through the increase in licensing over the past number of years.

The Chairperson:

Do you accept that there is a lack of enforcement in Northern Ireland at the moment?

Mr Terrington:

No. I think the figures show that the councils, which are responsible for this, are enforcing it. That is evident through the number of fixed penalties that have been issued for non-compliance and the increase in the number of licences issued. We do not think that there are any more dogs, yet more licences are being issued. However, the Bill provides councils with better weaponry and deterrents to further help them in that enforcement.

Mr Molloy:

To return to the issue of strays, you said that there were 2,500 strays, and 2,000 of those were put down. Is that right?

Ms McMaster:

I think that the figure that I mentioned was that 3,500 dogs were destroyed in 2008.

Mr Molloy:

There seems to be a difference of 500 between the two figures. They were obviously rehomed or something.

Mr Terrington:

There are a number of things there. A lot of dogs may be rehomed because they are handed in to the council or the Dogs Trust or other people, which would not be part of that. The figures on strays — they are already counted as strays and, at that point, whatever happens to them, whether they are put down or rehomed, they are still being counted as strays, so any dogs, for example, that are rehomed here or elsewhere have already been identified as strays and handed in to or seized by the council. The council has then failed to find them homes or return them to their owners. Two things can happen to the dog; it is either put down or rehomed.

Mr Molloy:

Can you explain why some charities said that they were importing dogs from Donegal and from the South to fulfil a market in England, if we are still putting down 2,500 or 3,000 dogs here?

Mr Terrington:

The evidence from the Dogs Trust explained how we would have understood it. They take dogs from here and rehome them in England. They have a centre in the South from where they take dogs and rehome them, and that is done with the help of other organisations such as Assisi. There are too many dogs with no homes here, and there is more scope to rehome them in England.

Mr Molloy:

That still does not account for why they import more dogs. If there are so many strays in this country, why would you import more to export them to England?

Mr Martin Mooney (Department of Agriculture and Rural Development):

I think the figures are getting a bit muddled. The number of strays put down here is just over

1,300. A number of dogs are recorded as unwanted; those are dogs that people surrender to the dog warden. They can include very elderly dogs, sick dogs —

Mr Terrington:

Or indeed the owner may be elderly and cannot keep the dog.

Mr Molloy:

Well, which do you put down: the owner or the dog?

Mr Mooney:

The headline figure of dogs destroyed does not read directly across to the fact that a council has lifted a stray and not rehomed it.

Mr Molloy:

Is the reality not that you have not got a clue as to the number of stray dogs, but it is handy to pick up figures and throw them out in an alarmist fashion?

Mr Mooney:

We have the most —

Mr Molloy:

Tell me the number of stray dogs.

Mr Terrington:

Do you mean stray dogs picked up this year or last year? The point is —

Mr Molloy:

No, tell me the figure.

Mr Mooney:

In 2009, 6,745 stray dogs were impounded by councils; 1,300 of those ended up being put down.

Mr Molloy:

Where do you get the figure of 2,500?

Mr Mooney:

That is the number of dogs destroyed; that includes unwanted dogs.

Mr Molloy:

So, the alarmist thing about all these strays being put down is not that they are strays at all, but that people want to end the dogs' life in that situation.

Mr Terrington:

It is a combination of both —

Mr Molloy:

You did not say that.

Mr Terrington:

There are still —

Mr Molloy:

No, we were talking about microchipping stray dogs, and you muddied the waters with a number of dogs that were put down that were not strays at all.

Ms McMaster:

A number of those dogs that were put down were strays —

Mr Molloy:

A number of them might have been, but that was not what we asked for. We were talking about microchipping, and how it would stop stray dogs.

Ms McMaster:

The point that we are making is that those dogs were put down because they were strays and

could not be traced back to their owners. If dogs were microchipped, it would reduce the number of dogs that have to be put down because they cannot be identified.

Mr Molloy:

The figures do not qualify that. The Department needs to be very careful with the evidence that it gives so that it is not alarming the public about the number of strays, and it needs to ensure that its figures are accurate, because, to date, they have not been.

Mr Terrington:

The councils supply us with the figures that we provide. The unique thing about the 1983 Order is that it requires them to provide those figures. On a number of occasions, we have quoted the number of strays and unwanted dogs that have been put down, but our latest correspondence talks about the number of stray dogs alone that have been put down: 1,300.

Mr Molloy:

It is important that we get an actual figure from you regarding the number of stray dogs that have been put down.

With regard to the responsibility of councils, you say that there will be no extra burden on them. They have no responsibility for microchipping, but they are going to have some sort of device to enable them to detect microchips. Are you saying that councils will go around the country scanning dogs to see whether they have been microchipped, or are you saying that they will only microchip stray dogs?

Mr Terrington:

This is what they do now. All councils are kitted out with the technology to scan dogs, but they will only scan a dog if the owner is unidentifiable, that is, if the dog is straying or if some other offence is being committed. That is how it happens now, and nothing will change because it is compulsory.

Mr Molloy:

I am trying to find out how the microchip will reduce the number of stray dogs.

Mr Terrington:

Our latest response to the Committee says that microchipping provides a disincentive for people if a dog can be identified, but it is only one part of what the Bill does. Microchipping will try to stop unidentified dogs, be they strays or abandoned, from being put down or from somebody not being able to be held accountable for having let that dog stray. The other parts of the Bill that are helped by microchipping are things that address straying. Colette mentioned some of those things: the control conditions that stop a dog from straying repeatedly; stiffer penalties; a better enforcement regime; and a small change in the wording of the 1983 Order which councils asked us to consider, which would remove the requirement to see the dog straying. Other evidence can be used to prove that the dog had strayed and, therefore, enforcement action can be taken.

Mr Molloy:

As a councillor in Dungannon, I can say that you may be getting recommendations from council officials, but that is different from getting recommendations from councils. Every time you say that a council asks you to do this, that or the other, you need to clarify whether you are talking about council officials or councils. I know that that is not an issue.

You said that both systems are needed because identification systems do not help to fund the dog warden system. Should we not just call this a dog tax, or a warden tax? It is not about identification of dogs and it is not about stray dogs, it is about how you collect money to pay for the warden system. If you wanted to, you could have one system, and enough information could be provided on the licence or the tag so that the dog could be traced. In fact, as far as I understand it, that information is already there in the present tag. That happens. Therefore, one or other system would do both, but you want both simply because it is a means of financing the dog warden system.

Mr Terrington:

There are a couple of things there. The Department consulted on the provisions at the end of last year, and the comments from a range of stakeholders, including councils, have been taken on board in the Bill. I think that 25 of the 26 councils responded, and all those councils had their responses ratified by the appropriate council committee or the full council.

The 1983 Order introduced a requirement for councils to have dog wardens. In doing so, it raised the level of the licence fee and directed that licence fee to the councils in order to fund dog warden services. So, yes, that is what it does.

Mr Molloy:

You say that no additional resources will be required by councils, but why then are councils telling us that they will need an increase in rates in order to work the system? In fact, all the council officials who appeared before the Committee — we have not yet talked to any councils — indicated that an increase in resources would be required.

Mr Terrington:

I genuinely believe that the concerns that you raise are about the Welfare of Animals Bill in the sense that the licence fee does provides them with resources. There is a suggestion to increase that resource, which all the councils have accepted, and some have called for a higher increase.

Mr Molloy:

Excuse me, but I am not talking about any other Bill whatsoever; I am talking about the Bill here and the response that you gave that no additional resources would be required.

Mr Terrington:

I do not believe that they are.

Mr Molloy:

Well, the councils are saying that they are.

The Chairperson:

Is it not the case that you said that council officials required an increase of £25 to make it viable?

Mr Terrington:

We looked at and consulted on a range of options. It is accepted that some councils called for a higher level. The Committee will be aware that, when a higher level was discussed earlier, there were some concerns, particularly about the risk that introducing too great an increase might have

a negative impact on compliance rates. For that reason, the £12.50 fee was put out to consultation, and, yes, there are still some councils that say that the fee should be higher.

Mr Mooney:

Different councils have different costs for their dog warden services. If all the costs of that service were met by the licence fee alone, in Belfast, for example, we would be looking at a licence fee of around £60. There are other council areas in which a fee of £12.50 or £15 would probably cover their costs. I think that the £25 fee that some council officials suggested seems to be a rough average of what they think would be needed to cover the costs.

The Chairperson:

You have just confirmed what Mr Molloy has said.

Ms McMaster:

There are two issues; the fee and the level of the fee. The licence fee is £5 and has not been increased for years and years. It has not gone anywhere near to covering the cost of the dog warden services, and everybody acknowledged that. What we have proposed is an increase in the fee in line with inflation so that it goes further towards covering the cost of dog warden services. It is not that the £12.50 fee will cover the full cost of the services, but it will double the income from the licence fee and will, therefore, contribute a lot more towards the cost of the services.

The Chairperson:

I accept what you say, but there will still be a shortfall and councils are going to need resources.

Ms McMaster:

Yes, and different councils will have different needs, so there will be additional resources, but some of the money that is currently being taken from ratepayers will be freed up to go towards the cost of dog warden services.

Mr Molloy:

How can you tell this Committee that no additional resources are required when, first, you proposed £50 straight off, which this Committee rightly rejected completely and, secondly, other

councils have said that they would need a fee of £25 to cover costs? Whether we go by your figures or these figures, either way, there will be a shortfall. So, additional resources will be required and the ratepayers in every council area will have to pay for them.

Ms McMaster:

The point about no additional resources being required is specifically related to the point about running a system that includes compulsory microchipping. The point that I am making is that introducing compulsory microchipping will not be an additional resource burden on councils.

Mr Molloy:

But it is. We have proved that it is.

Ms McMaster:

No, we do not see the compulsory microchipping element of it as being an additional resource burden on councils.

Mr Molloy:

But in relation to the duplication of having both licensing and microchipping, every group that we have had here has said that there is no need for the double system. England, Scotland and Wales do not have a licence fee of that particular nature. If you bring in microchipping, they have enough information there to do it, but it comes back to your point about needing to fund the warden system. The issue here is around the double identification and the claim that no additional resources are required.

Ms McMaster:

For that particular element. The reason for that is that dog wardens largely already have microchip scanners, because a number of dogs are microchipped already. Dog wardens are scanning dogs and if they have a microchip, that makes it easier for the dog warden to return that dog to its owner. The councils already largely have the scanning equipment. There is not an additional —

Mr Molloy:

Chairman, perhaps the best way of rectifying this is to ask the Department to come back to us and say that it has an indication from the 26 councils that they will not require any further resources to implement this.

Ms McMaster:

The microchipping element of it?

Mr Molloy:

The entire licensing process. I cannot separate the two things.

Mr Mooney:

The Bill does not include any new resource requirements. Does the licence fee raise what councils need to fulfil their duties under the 1983 Order? No, it does not. It never has done. That is why we are proposing an increase. However, the Bill imposes no new statutory duties on councils.

Mr Molloy:

But the dual system is being continued in order to finance the warden system.

Mr Mooney:

The licensing system is being continued.

Mr Molloy:

Yes, and the onus on councils to identify and deal with stray dogs is going to put an increased responsibility on them and increase the demand on resources.

Mr Mooney:

They already have that statutory responsibility under the 1983 Order.

Ms McMaster:

If all dogs are microchipped, that will ease the burden on the dog warden services.

Mr Molloy:

But they will not be.

Ms McMaster:

That is the aim of this.

Mr Molloy:

Oh aye, but we know that they will not be.

Ms McMaster:

As more and more dogs are microchipped, that will reduce the amount of time that dog wardens have to spend tracking down the owners of stray dogs, as well as reducing the cost of keeping stray dogs in pounds and the cost of destruction. That is its purpose and its aim; ultimately, it will help to reduce those costs and the burden.

Mr Molloy:

Chairperson, can the Department provide the information?

The Chairperson:

Is it possible that you can provide the information that Mr Molloy has requested?

Mr Terrington:

We need clarity on what we are being asked for. We accept that the licence fee does not cover all the costs. We seek to provide a balance between dog owners bearing the costs, because without dogs there would not be an issue, and what ratepayers get out of having stray dogs and other issues dealt with, and that is why the licence fee has been set where it is. I am quite happy to say that in any of our consultations the majority of councils have said that they would seek a higher licence fee, but, again, it is a matter of finding the balance.

Mr W Clarke:

Under this new legislation, is it compulsory for dog breeders to microchip a pup before they sell it?

Mr Terrington:

It is currently a requirement that anyone breeding or selling a dog must ensure that it is totally compliant; ie, that there is a licence. If microchipping is made a requirement of the licence, the answer is yes, microchipping will become a requirement for breeders, or anybody selling a dog. Breeders will have to show information such as who they sold their dog to.

Mr W Clarke:

I just wanted that clarified. My second point is that you need to simplify the system if you want to cut the number of strays. The last thing that you should do is make it more difficult to comply. Francie talked about microchipping, licensing and duplication.

I am a firm believer that once you pay your licence fee, microchipping should automatically be included. We have to get a one-stop shop. Once you come to get your dog licence, at that point of contact you arrange a suitable time to get your dog microchipped. Either the councils train their officers to do that, or they bring in one of those charities that will do it for nothing. It has to be done at that point. That is just my opinion.

Mr Terrington:

That is clearly a way to roll it out. There is nothing in the Bill to stop a council from doing that at the point of licensing. If they are going to supplement it, that is money off the top of their licence income, or —

Mr W Clarke:

But it does not cost anything. We are being told that all these charities will do it for nothing, so there will not be a cost.

Mr Terrington:

It can be done for nothing, or it can be done at cost price — £3 or £4.

Mr W Clarke:

All I am trying to do is to guarantee that responsible dog owners are not punished again with another tax. Fair enough, I agree that the warden service needs to be paid for, but I am not going to sit on a Committee and allow dog owners then to pay another £10 or £15 on top of the licence fee. I am not going to stand by and let that happen. It needs to be in the legislation that when you go to the council to licence your dog, the microchipping element is included in that fee. Either they give you a voucher for microchipping that you give to one of the charities, or the council does it in-house. That would simplify the whole system, that it is one system.

Mr Terrington:

The initial problem is that that works in only one year when the dog is first licensed. It may be complicated, and I do not know if it is possible or how it could be done with regard to the legislation. You would be basically setting the licence fee one year, and then increasing it or reducing it.

Mr W Clarke:

The dog is microchipped in the first year.

Mr Terrington:

But your fee next year is at what?

Mr W Clarke:

It is still the same.

Mr Terrington:

At the higher level, or the lower level?

Mr W Clarke:

It will not be at a higher level. There will be one licence fee per year, and that is it. Your dog gets microchipped when you bring it to get licensed in the first year, and that is it done.

Ms McMaster:

The issue from the council's or dog warden's point of view may then be the practicality of providing that service, or ensuring that the vouchers can be provided.

Mr Terrington:

You also have a number of people who have already —

Mr W Clarke:

You go to the front desk of the council, and say: "Listen, I want a microchip, and I want to licence my dog." They say: "Yes, that's fine. Arrange an appointment with such and such." In that system, once you are coming to get your dog licence, the council can do the microchipping because there are so many coming on the one day to get their dog licence. The process then is: you get a dog licence, get your dog microchipped, and then go home.

Mr Mooney:

Generally, that is a sensible idea, but it is something that councils may well choose to do as part of the roll-out of this over whatever period until the legislation comes into force. That would allow councils to have a campaign, along with those organisations that provide microchipping at cost price or for free in order to roll it out. A number of people who have already microchipped their dogs will not get as much out of their licence in year one as others in terms of —

Mr W Clarke:

So be it; it is done. There is not much you can do about that. If councils have an option to opt out of the service, they may opt out and say: "Listen, we will let them get on with it somewhere else." It may cost someone £20 or £25 to get their dog microchipped. You are encouraging people not to comply, not even to get their dog licensed or microchipped. You have to simplify the system and not punish responsible dog owners.

Mr Mooney:

I think that John said it —

Mr W Clarke:

But that needs to be in the legislation.

Mr Mooney:

I am not sure that a piece of primary legislation is the place to set out what, to all intents and purposes, seems like an approach to the roll-out or the implementation of something. Certainly, we have been talking to the people involved in microchipping and the dog warden services about how this would roll out if it ever came to pass. There is absolutely nothing here to stop such a system being put in place.

Mr W Clarke:

I do not want to labour the issue, like a dog with a bone, but there is an inclination for councils to not do that and leave it up to the dog owner to get the dog microchipped. People will then make a good business out of that, and there will be job creation. They will maybe charge people £20. That may happen, and then we will be left with the responsible dog owner on a low wage who is trying to comply. I have been told that a person can be trained to carry out the microchipping process in one hour. There should be an onus on all dog wardens to be able to do that.

Mr Terrington:

If compulsory microchipping is introduced we will continue to explore with councils how to roll it out. We have already started that, but obviously we can only go so far until we know whether that or any other aspects of the Bill go forward. We will continue to work with councils on rolling it out. There is at least one council that comes to mind that does this; when people go to get their licence they are given a docket to allow them to get their dog chipped. They say that it works and has had a positive impact in that council area. It is something that councils can do, and some of them are already doing it. We will certainly look at how that could be rolled out in various ways over a period of time.

Mr W Clarke:

Can we have more detail on that example and see whether it can be included in this clause?

The Chairperson:

Will you provide us with the details of the council that does it?

Ms McMaster:

Certainly. In terms of where it goes in the legislation, if it is agreed in the primary legislation that compulsory microchipping be introduced, subordinate legislation will be brought forward to provide the detail of what that means — what is meant by microchipping and how it will function. There will be a further phase of discussion about the more detailed implementation.

Mr W Clarke:

Perhaps the Minister could say that that is an option that she is looking at.

Mr Mooney:

As opposed to the primary legislation, the secondary legislation expressly deals with the powers of the dog warden in relation to microchipping. Rather than using primary legislation to put a statutory requirement on councils to do something, the secondary legislation would allow us to empower councils to do something, as opposed to making it a requirement that they have to.

Mr Savage:

No matter what we do here, it has to be got right. I think Colette summed it up fairly well 20 minutes ago. The number of stray dogs is just not on. If stray dogs are caught and microchipped, wardens should be able to trace them back to an owner. I said it last week, and I make no bones about saying it again. Once it comes into the lambing season — it happens every year, and it does not get any better — if those stray dogs are chipped it will be possible to trace them back to the owner. That is the only way you are going to stop this. People talk about responsible dog owners. If a person is allowed to keep a dog they will have to have it chipped, so that there is a means of identification of it and it can be traced.

It has to be got right, and there is a big onus on this Committee, the Department and the councils. I am glad to see that there will be no extra costs, because if we can get it streamlined there is an opportunity to do something and bring it into line with modern technology. There is a wee thing that you can get, and if you see a dog you can put it on it and it will tell you who owns

it; it should come up on a wee screen. I understand there are wee mobile ones; I saw one of them. It has to be got right. There are a lot of things coming back and, since the last time you were here, Colette, there has been a lot of sound information. You are not too far away from getting it right.

The Chairperson:

OK. I do not detect a question there, so we will move to Willie Irwin.

Mr Irwin:

We are told that one of the main reasons to have compulsory microchipping is to cut the number of stray dogs. I think that there is a possibility that it will help in some way, but my concern is that almost half of dogs — 45% — are currently not licensed, and the licence is only £5. If we increase the cost of a licence to whatever and make microchipping compulsory, responsible dog owners will adhere to that and pay the licence fee and microchip the dog. However, I very much doubt that the 45% of dogs currently unlicensed are going to be licensed and microchipped. Whether it is compulsory or not, how do you police it? It may be OK in theory, but in practice, unless there are some clear, heavy penalties for not doing it, I think that many of those people will just continue as they were and not licence or microchip the dog.

Mr Mooney:

Yes, the penalty will be a maximum fine of £1,000. The aim of the Bill is to increase the fixed penalties available; to increase the level and allow councils to keep that income, because they cannot currently do so. That in itself will increase the deterrent and improve the resources available to the enforcer. I think that that is the crux of what the Bill is trying to do.

Mr Irwin:

I know what it is trying to do.

Mr Terrington:

The other thing is that, as we have said, a number of people every year are prosecuted or handed fixed penalties for not having a licence.

Mr Irwin:

That is a very small number.

Mr Mooney:

There are 600 or 700 fixed penalties issued each year for not having a licence.

Mr Irwin:

How many dogs are unlicensed?

Mr Mooney:

Approximately 80,000, we think. It is hard to get robust statistics.

Mr Terrington:

But the issue is that that does happen. In each of those cases, the dog will be required to be microchipped the next time around, so you increase the compliance as you go forward, coupled with the increased resource and the increased deterrent. As you said, deterrent is a key point.

Mr Irwin:

I have no doubt about that. In theory, it sounds good, but in practice I have doubts. It will take some time.

Mr Terrington:

There is recognition that these things take time. People will realise that there are higher fines and that enforcement is there.

Mr Irwin:

It is still quite difficult to prove. If have seen situations where there was an accident involving a dog, and a car was damaged. They go to the man who owns the dog, and he says "I don't own the dog."

Mr Terrington:

If the dog was microchipped, it would be identified.

Mr Irwin:

I understand that fully.

Mr Terrington:

The last comment that the Dogs Trust made to us in past conversations is that we cannot make it any worse. If we start to identify more and more dogs, then that gap between the number of dogs that are unidentifiable in times like that or times when they have been seized as strays to be put down is narrowed.

Mr Mooney:

It might be worth saying that it is not just about those owners and dogs where a formal penalty has been imposed who will come into contact with dog warden services for lacking a licence. The wardens issue a couple of thousand written warnings a year to people for not having a licence. If those dogs were not microchipped, they would be sucked into that system as well.

Mr Molloy:

Did you say that there would be a £1,000 fine for not having a licence?

Mr Mooney:

Yes.

Mr Molloy:

Are we talking about draconian laws here? A thousand pounds for not having a licence for a dog?

Mr Mooney:

That has been the law since —

Mr Molloy:

Aye, but, you know, what are the possibilities of that being implemented, to start off with?

Mr Mooney:

No one has ever been —

Mr Molloy:

No, no one has ever actually been. We find that animals that are very valuable can be involved in an accident in the road, finish up with no ear tags and end up in the river or some other place. I think we will see a lot more dogs in the same situation. Your legislation will not have advanced the process one iota.

Ms McMaster:

With regard to incentives, concessions are being offered on the licence fee, pegging the level of the fee at £5 for older people or for those on income-related benefits. That is an incentive to encourage people to microchip their dogs.

Mr Terrington:

It is also worth saying that the fixed penalties seem to be in line with other areas. Licensing penalties tend to be about £1,000. Therefore, it is in line with environmental issues, litter and things like that. It sits in there because it relates to other similar matters.

Mr Molloy:

It is meaningless in the first place, so it does not make any difference. It just looks good.

Mr Beggs:

Mention was made of the fees in the primary legislation. Why are fee levels included in primary legislation? I was formerly on the Environment Committee, and one of the issues that arose there was of someone, after a large number of years, deciding that they had to increase their fees. Instead of having a relatively small inflationary increase annually or every couple of years, there was a huge jump in planning fees. Why are you putting figures in primary legislation? Will you have to bring more primary legislation to adjust those figures in 10 years' time?

Mr Terrington:

The 1983 Order set a fee, because there was a need to see what that was and have it discussed at

an early stage, and it is there now. That primary legislation allows for the Assembly to raise those fees, with the agreement of the Department of Finance and Personnel and the like. That could be done. Given that we are having a bigger conversation about microchipping, control conditions and various other things, we thought that it was important to move forward and to not just increase that last year by subordinate legislation, but to include it on the Bill, because it is already there. However, we will not have to bring primary legislation back again in order to increase it. The Bill allows for that to happen through subordinate legislation.

Mr T Clarke:

I apologise for being late, in case someone has already asked this. In relation to microchipping, your response to the need for a central database is that it is unnecessary and the licensing and identification functions are already provided in the existing regions. Do you accept that the current arrangements are not necessarily satisfactory, and that may be one of the reasons why some councils who have commented on the issue of microchipping have been put off?

Mr Terrington:

The straight answer is that we think that the database is working. The Committee will have heard evidence from others that the database works: it is a single point of contact, it carries the information that is needed, and it is out there. To replace that with something else at the taxpayers' expense is not the right way forward.

Mr T Clarke:

Your response to that is probably in defence of the Department. However, it is the councils that have managed dog licensing for a number of years, and while I am sometimes critical of what councils do, I would have thought that they should have more expertise than departmental officials in how that system works. If they have said that the system is going to be difficult for them to interpret and to get the information from, surely the Department will roll out a centralised system to a central council in Northern Ireland.

Mr Mooney:

We are talking about two separate things: the licensing system, which they administer now, and microchipping.

Mr T Clarke:

That is not here as a requirement.

Mr Mooney:

We have heard from council officials that problems crop up when trying to identify a dog on the microchip database. We have then heard from the Dogs Trust that those problems are mistakes.

Mr T Clarke:

That is because the Dogs Trust runs its own system.

Mr Mooney:

We have also heard it from other people.

Mr T Clarke:

Do you not accept that one centralised system for councils in Northern Ireland would be better than various systems where they can get easy access to the information? Part of the reason for this is to make dogs easier to identify. Surely we should go the whole hog to make them easier to identify, as opposed to making it convoluted and more difficult.

Ms McMaster:

The systems that are currently used include a number of commercial databases in the UK and other EU countries. They operate EU-wide in terms of the EU pet movement controls. The same databases are accessed to retrieve information about microchip details of dogs across the EU. There is a single portal where you can carry out a search across the range of databases. There is no need to try several various databases to find the information on a particular dog; as I understand it, there is a single portal that can be used to search, and that is EU-wide.

Mr T Clarke:

Where is the councils' confusion coming from?

Mr Mooney:

It could be as simple as the fact that some people are not as familiar with the current state of the

system as others. A council like Omagh, which John was talking about earlier, has been over the moon about microchipping and has been microchipping dogs itself for years now. Some think the system is brilliant and others think there are glitches in it, but we are persuaded by the stakeholders' submissions that the system will work much better that way.

Mr Terrington:

It is worthy of comment that technical issues were raised in responses to our consultation, including the Committee's response. The Bill and the subordinate legislation that Martin referred to seek to address some of that in relation to the powers of a council, what information should be held on the database and things like that. No council said that microchipping does not help to identify dogs. There will be some occasions on which the owner is not traceable —

Mr T Clarke:

Some of them did not say that it would help identify them and did not say that it would not help identify them. They identified difficulties with the system. That is one of the issues that have arisen during this inquiry. There is a problem, so surely we should fix the problem, and that will make the dogs easier to identify. Then you might actually tick a box, as opposed to leaving a box blank.

Mr Terrington:

Although we have given reasons why a central one is not necessary, there is a concern that some of the issues that they are raising — if they are issues — could be issues with any database, such as whether the information is up to date. We do not think that those are issues for the current databases, so we do not think there is any need to try to address them by setting up another system somewhere else at a cost.

Mr Savage:

Would it not be better, simpler and handier for everybody to state that if a person wants to keep a dog, they have to have it licensed and chipped? End of story.

Mr Terrington:

That is what the Bill proposes.

Mr Savage:

I think that is what has to be done. We have to face the reality.

Mr Terrington:

In Wales, for example, they are looking at consulting on new minimum standards for breeding rules, including a specific requirement that breeders must microchip dogs. The systems that they are saying that those microchips should adhere to are the existing systems; ditto the control conditions proposals. The Control of Dogs (Scotland) Act 2010 requires links to the systems that are already out there. As Colette said, the system worked for rabies control through the introduction of pet passports across Europe. They are tried and tested; this is not new. Greyhound legislation in England also links to microchips and existing databases.

The Chairperson:

We have debated the issue extensively, but, probably against my better judgement, I will give Mr Molloy one quick comment.

Mr Molloy:

It is important that this Committee listens. I have listened to Mr Savage's replies to a number of different things this morning. It is important that members sitting here listen to what is being said by all the different parties. The councils have said that there will be an additional cost to ratepayers in their areas. There is this idea that automatically chipping and licensing everything will solve the problem. We know that it does not solve the problem at the moment, because the licensing system has been there for a number of years, it has not licensed every dog in the country. What is actually going to change? We talked about microchipping in Wales, which does not have a licensing system, so you are saying that you do not have to have both systems; you can have one or the other. It is grand for people to come here saying that they will do everything to protect the farmers and that that will solve everybody else's problems. The same thing applies to farming; we know rightly that various people do not comply with all the regulations.

Mr T Clarke:

I do not want to get into an argument with other members. In principle, I support microchipping,

and I believe that licensing has not worked because dog tags are easy to remove. Therefore, to a degree, I agree with George. The only problem I have is that if we proceed with microchipping, we will still need to do something to encourage councils and to make the system easier to manage. If councils are still concerned about the system, the Department needs to do something to address that and to make the system more readable.

Mr Terrington:

I am absolutely content to say that we have worked with councils, and we will continue to work with them if the legislation is enacted. It would be entirely wrong to bring anything forward without us continuing in that role.

Mr Mooney:

The very good work that we do is their reassurance.

The Chairperson:

Are you content, therefore, to make the clause dormant until appropriate processes and procedures are developed to allow the functional operation of microchipping?

Mr Terrington:

The Bill provides for a commencement date, so it can be commenced. We will certainly go back to the Minister, because that or any clause can be held back and commenced using a commencement note.

Mr Molloy:

On commencement, is it not also possible to start microchipping all new pups? The lifespan of a dog is limited, and a number of them have already been microchipped, so would it not be sensible for breeders to microchip all new dogs? Therefore, as part of a natural process, it would take a few years to implement, which means that existing dog owners would not have to do it.

The Chairperson:

We will ask the Department to explore that.

Mr Beggs:

Omagh District Council was mentioned. I appreciate that I have been on the Committee for only a few weeks, but if that is the one area in Northern Ireland in which a licensing system operates and dogs with which the council comes into contact are automatically microchipped, presumably with owners' permission, it is important that we hear evidence from that council. Has it given evidence to the Committee? Rather than hearing third-hand via the Department, if that council is saying that microchipping has had a significant effect on the number of stray dogs in the area, I would like to hear that information directly from it. Have we had that evidence?

The Committee Clerk:

I would need to check.

Mr Beggs:

If not, can we seek evidence directly?

Mr Terrington:

We provided the Committee with copies of all our consultation responses, including the one from Omagh District Council, so the Committee should have something to that effect.

Mr Molloy:

If the Department was to provide us with the number of stray dogs in each council area, we would know how effective the system is in Omagh compared to other areas.

The Chairperson:

Now that we have heard the Department's thoughts on the matter, are members content with the clause as it stands, or do you wish to see it amended, and if so, how?

Mr W Clarke:

I just want clarification on the one-stop shop and on whether microchipping will be included in the licence fee. All that would be under the Omagh stuff. I do not want to be hoodwinked and, later on, people are charged £20 to have their dog microchipped.

The Chairperson:

Are members content to wait for that information? I remind you that we are up against it.

Mr Molloy:

There are two bits of information. I would not be happy with a dual system of licensing and microchipping, and the evidence that we have heard from a number of organisations suggests that there is no need for a dual system. Let us just call the other a tax, rather than putting it in as regards licence fees and microchipping.

Mr T Clarke:

If we go with microchipping, which is the most difficult form of identification to remove, should the tag not be an identifiable thing that comes free with it? When you get your dog microchipped, a tag would be a visible way for people in the area to see that it is licensed, as opposed to charging separately for it. That way you have the technology in the dog, which will not be as easy to remove, and the identifying mark for the wider public to say: “Well, his or her dog is not licensed because it has not got a tag”, and they can raise their concerns with a warden to have that dog checked.

Mr Terrington:

The two systems are not the same. One is about registration; it is a licence to own a dog. The other is about identification. The 1983 Order recognises that registration in itself does not identify a dog’s owner, and it then requires that dog owners maintain the tag. Some councils made the point in consultation that having a tag and a microchip is duplication, because they are two bits of identification. Others would say that that is a useful thing, because people —

Mr T Clarke:

But it is not the same. A microchip is not identification if you cannot see it.

Mr Terrington:

Absolutely. The requirement for tags in dogs legislation is in the subordinate legislation. One requirement for licensing is a dog tag. Nothing in the Bill changes that. Some councils said that if microchipping came forward, they would save a small amount of money in not having to issue

tags. Others say that the tags are a useful visual. We support that, and there is no suggestion of changing that. The tag and the microchip would sit side by side if the Bill was to go forward.

The Chairperson:

OK, we will stop it there. Will the Department bring the information required for next week? I remind members that we have to make a decision on this clause next week. We move now to clause 3. Members expressed a view at the last meeting that they wished to see the specific legislation removed from the 1983 Order.

The Minister, we are led to believe, does not propose to bring forward an amendment that would legalise pit bulls, and she has made clear her determination to protect the vulnerable, particularly children, from dog attacks that may lead to serious injury or death, based on evidence that such dogs have a high pain threshold and a jaw structure developed specifically for fighting. Does the Department want to add to that?

Ms McMaster:

The Minister is not minded to change the ban on pit bulls, and the Bill proposes to maintain that ban on the type of dogs that are bred for fighting. In the Bill, the Minister also wants to extend the controls on dogs that have problem behaviour or could be dangerous. That is the new system of control conditions that is proposed in the Bill. That system will apply to any dog, of whatever breed, whose behaviour has shown that it poses a risk to the public. The Bill proposes to retain the ban on pit bull-type dogs, plus it introduces a system of control conditions that will apply to dogs of any breed.

Mr Molloy:

Again, that is contrary to the evidence that we have heard from vets, breeders and various organisations. It is a false thing; it does not protect the vulnerable. It actually makes people more vulnerable, because they think that because a dog is not licensed and is walking about, it is a safe dog, whereas in reality, as we have heard, any dog can be a dangerous dog. It is the individual dog, not the particular breed. That is an illusion that people are living under. The fact is that pit bulls are named, yet courts, councils and various bodies cannot identify what pit bulls are.

That then involves additional costs for councils, which have to pay for the impounding of those dogs while the decision is made, and that could, as we heard, cost up to £10,000. Why should councils have to deal with legislation that is not clear? There is no clear identification of what make or breed a pit bull is.

If we have the deed of the dog and the dog actually put down where it is a dangerous dog, that is a more efficient way of dealing with the issue and more protection to the vulnerable than simply naming a breed of dog. It may be good PR and more popular to name pit bulls, and that falls into the line of just responding to people's worst fears, but it does not deal with reality.

Mr T Clarke:

I tend to agree. I declare an interest as a member of Antrim Borough Council who has been involved in a very lengthy court case over the definition of a "dangerous dog" or a "pit bull-type" dog. There are thugs running the streets with Rottweilers and all other sorts of dogs that are equally as dangerous as pit bulls. Although I think that we need to get something in here that protects the public from dangerous dogs, labelling just one type of dog will not fill the gap. As a local councillor, Chairperson, you know the difficulty that many councils have had in that regard. There was mention of kennelling dogs, and there is a so-called expert that is brought over from London to try to say that a dog is not a pit bull-type dog and so on. There is no definitive definition. If this legislation goes through, councils will be in no safer a position than they were in before it started. Many of us had hoped that the Bill would offer protection to the wider public and would help councils by providing a definition of a "dangerous dog". This here is not that.

The Chairperson:

What about a dog such as a Great Dane? It has greater bulk than other dogs and could knock a person down.

Ms McMaster:

As I said at the start, the Bill is proposing to introduce a series of control conditions that can apply to any breed of dog. If a Great Dane jumps on someone and knocks them down, specific control conditions can be applied to that dog's licence with which the owner must comply. That applies to any breed of dog. Over and above the current ban on pit bull-type dogs, a system of

control conditions will be introduced that will apply to dogs of any breed that are threatening or that present a risk to the public.

Mr W Clarke:

There are two sides to the argument, and they are both justified. Four breeds are currently banned, and I understand where the Minister is coming from; we have to protect the vulnerable and children, who could lose their lives if attacked by a dog of one of those breeds. However, within each breed, there are good dogs. The problem is that there are bad owners. Is it possible to put automatic control conditions on those breeds, be it with children or out in public? Is it possible to look at that as a compromise position on which to move forward?

Mr Terrington:

The answer at the moment is no. An offence would have to be committed under the control conditions; for example, the dog would have to attack or snap at somebody. Placing control conditions on a dog that has not done anything and has not committed an offence would be difficult in terms of human rights.

Mr W Clarke:

But you have already said that you are banning them, and that presents difficulties for human rights.

Mr Terrington:

That has been tested in the European Court of Human Rights and is fine.

Mr W Clarke:

Put a muzzle on them.

Mr Terrington:

There would have to be a ban in the first place. The current legislation allows for that, and there is some tidying-up of that in the Bill. It is actually an unexempted pit bull terrier. There is a process through which a dog can be exempted from destruction if certain strict criteria are met and the court is happy that that particular dog does not pose a risk. There is something in there

already.

Mr W Clarke:

Just to clarify for myself: at the moment, four breeds are banned, and you are saying that it is not possible for the new legislation to say that, instead of banning those breeds, control conditions should be placed on them. You are saying that that is not possible?

Ms McMaster:

We are saying that, if there is a ban —

Mr W Clarke:

I am saying that we should lift the ban and put control conditions on those breeds.

Mr Terrington:

It remains as breed-specific legislation, but that does not mean that those dogs are necessarily put down. However, if the court process and the exemption process are gone through, that would not necessarily be the outcome anyway. It is also —

Mr W Clarke:

But they would not be banned; there would be no court process. I am saying that you should put conditions on those four breeds of dogs.

Ms McMaster:

That would be treating those types of dogs differently from any other breed of dogs.

Mr W Clarke:

You are doing that anyway, by banning them.

Ms McMaster:

For the other dogs that may present a risk to the public, we are saying that a dog must have demonstrated threatening behaviour before it has those control conditions imposed on it. You are saying that the four breeds that are currently banned could have the ban lifted and certain control

conditions automatically imposed on them. That would still be making a difference between those four breeds and the range of other dogs that would have to demonstrate threatening behaviour before having control conditions placed on them.

Mr W Clarke:

That is a more sensible approach. As others have said, all dogs are capable of biting, but the four breeds have been identified as more dangerous; if they attack, they will kill. That is where we are coming from. I am looking at a halfway house where people can enjoy pit bulls that have never caused a problem. Responsible dog owners should be allowed to do that. They would accept having to put muzzles on their dogs and not allowing them to play with young children. That type of condition is sensible. To say that you cannot put that in the legislation is a bit strange.

Mr Beggs:

I agree that control for any type of dog that misbehaves or threatens others is important. However, I also agree with the Minister that if there are certain breeds that are of higher risk, it is appropriate that the public be made aware of those risks. A ban or possible restriction on their movement in public — muzzling et cetera — is appropriate. From what I have heard to date, I am content with the Minister's proposals.

Mr Gibson:

I go along with those views. There are dogs that have greater potential to do damage than others. That is a fact. They have the capacity to do greater damage than others, and that has to be recognised.

I welcome what we have heard today. Having said that, basing it on the deed — waiting until the dog has demonstrated its capacity to do something before restrictions are placed on it — I suppose that there is no easy way around that. There are dogs that have the potential, the capacity, the build and the bone structure, which was referred to earlier, to do great damage. We have to be very mindful of that. Putting restrictions on those dogs leaves us with the problem of policing them. I welcome the comments that I have heard this morning and concur with the Deputy Chairperson.

Mr Savage:

I agree with Roy and Simpson. People have to be made aware. There are pit bulls and Rottweilers. I regularly meet a girl who has six big Rottweilers; she has them well trained and well under control, three in each hand. If anything happened to one of those dogs, the rest of them would go off the handle just like that. They scare me, and I am not easily scared. There has to be some legislation. The Minister is not too far away in what she has said in her statement.

Mr T Clarke:

That is why I do not disagree entirely. My only problem is that we are still talking about specific breeds. It might be a useful exercise for the Department to bring us pictures of what they believe pit bull-type terriers to be and send them to some behavioural experts and ask them what type of dogs are in the pictures. You will find that we are in the same scenario and do not know what those dogs are, because they do not have a specific breed.

This all sounds good in an ideal world, with the people out there all love and fair, declaring that their dog is a pit bull and that they will take all those measures. However, we are not in an ideal world, and the people who have these dogs have them for the wrong reasons, for fighting and everything else. We will still be in the same position, and councils will be in the same difficulty, because there is nothing to identify one breed from another when it is expert against expert.

It would be useful for the Department to get us some pictures. We could send them to some of these so-called experts who have come to represent those dangerous dogs against councils, to see whether we can get a consensus on what types of dogs we are talking about.

The Chairperson:

You talked about an ideal world, Mr Clarke. Unfortunately, we do not live in an ideal world, and time constraints are against us. Is the Committee content —

Mr T Clarke:

Chairman, hold on. Time constraints might be against us, but does that mean that we rush on to get the wrong piece of legislation, as opposed to taking a wee bit longer and getting the right

piece of legislation?

The Chairperson:

Absolutely not. I was going to suggest that the Committee Clerk do some work and bring us back more information next week, especially about the suggestion that Mr Clarke made earlier. Are members content that we do that?

Mr Molloy:

Of the four breeds that are named, the pit bull is the one that mostly comes to mind. But see this emotive language in the responses, particularly talk about children suffering dog attacks that may lead to serious injury or death? A corgi could do the same with a child. This idea of just naming certain dogs, and those are the only dogs that actually do that, is rubbish.

We have seen terriers, and all sorts of wee dogs. In fact, some of the smallest dogs are the worst at biting the heels of people. We are talking about reality here. If we want to come out with legislation that does protect, we will come up with it. However, if want just to rush this legislation through, we will finish up with legislation that is unworkable, and unworkable for councils.

The Department wants the legislation through, and will not care what way it is done. It will just leave it to the councils to implement. That is where the problem lies. There needs to be an admission from the Department that Rottweilers and all sorts of dogs have the capacity, in the right circumstances, to injure anyone, and have a jaw structure and all the rest of it that is strong enough to cause serious injury to anyone. So, we need to have a wee bit of reality and not give people a false sense that the country is safe simply because you ban pit bulls and another couple of types of dogs, and none of those dogs are knocking about. What are the four breeds listed?

Mr Mooney:

The Japanese Tosa, the Fila Brasileiro, the Dogo Argentino and the pit bull terrier.

Mr T Clarke:

Where does the Rottweiler fit in?

Ms McMaster:

The Rottweiler is not a banned breed.

Mr T Clarke:

No, it is not a banned breed, but in relation to dangerous dogs?

Ms McMaster:

Clause 8 is the clause that —

Mr T Clarke:

Yes, after it has attacked somebody.

Mr Terrington:

To be fair, an attack is defined in the 1983 Order as the apprehension of an attack. So, literally any dog that snaps at somebody, even on a leash, could, theoretically, breach the legislation, and could therefore have a control condition on it. Other control conditions are for if it strays, or for other offences under the Bill. The control conditions are known in some media circles as the doggy ASBO. It is in the Control of Dogs (Scotland) Act 2010 and a private Member's Bill in England as a way to deal with the deed, recognising that all dogs can have that extra level of protection, aside from whether there is a prohibition on particular breeds.

Mr Molloy:

We all know that those who want to breed dogs for fighting can do so. Various cross-breeds will fight. We cannot rule it all out. You label and name some dogs in the legislation. Next week, someone else will breed a different dog.

The Chairperson:

OK. Are members content that the Committee Clerk does some more work on that and brings it back to us next week?

Members indicated assent.

The Chairperson:

Clause 4 is about fees. We had considerable discussion this morning about fees. Are we content that we leave that one and move on to clause 5?

Mr Beggs:

I want to clarify 4(3):

“The appropriate fee is £5 in the case of —

“a licence issued to a person over the age of 65, other than a licence falling within paragraph (2)(a)”.

Do we not need an additional comment to state that that applies to a license issued to a person over 65 and kept by that person? Is there a danger that family members may get all of their dogs licensed through an older relative to save money, rather than appropriately licensing dogs according to who looks after them? They might not even be kept in that person’s house.

Mr Terrington:

It says “kept by that person”, which covers that.

Mr Beggs:

Where does it say “kept by that person”?

Mr Mooney:

The 1983 Order itself states that councils should issue licences:

“for dogs kept by persons resident in their districts.”

You have to be the keeper of the dog.

Mr Beggs:

But that is not referred to in the Bill. Does it need to be referred to?

Mr Terrington:

The Bill will just amend the 1983 Order, so anything already in that Order will stay in place.

The Chairperson:

We are doing some extra work on clause 5, which deals with breed-specific legislation. If members are content we will leave that and move on to clause 6, which deals with setting on or

urging a dog to attack.

Ms McMaster:

The Committee had asked if the Department would make this clause subject to affirmative resolution rather than negative resolution. That was the first point that was raised by the Committee. I can confirm that the Department will bring forward a draft amendment to make that subject to the draft affirmative control procedures. That was one element that we just wanted to confirm. That is the approach that we use in relation to affirmative —

The Chairperson:

Are you prepared to bring the text of that to the next meeting?

Ms McMaster:

We will certainly provide that.

Mr Gibson:

In relation to setting a dog on another person, I presume that that does not prohibit me from protecting my property at 1.00 am if someone gains illegal entry and I have an Alsatian.

Mr Mooney:

There is a specific defence of trespassing in the 1983 Order.

Mr T Clarke:

Does it allow for that?

Mr Terrington:

It acts as a defence. It includes setting on or allowing a dog to attack. The Bill will not change anything in relation to a dog attack on another person or a dog attacking or worrying livestock.

Mr Gibson:

If, at 1.00 am, I felt it necessary to set the dog on and encourage it after someone had broken into my property, would I be within my rights to do that?

Mr Mooney:

There is a defence in the 1983 Order where the “victim” is trespassing.

Mr Terrington:

It is certainly a defence if your dog attacks; that may be different from setting on. There are two bits, and perhaps we need clarity. There are two bits in the Bill about setting on a dog and being the owner of a dog that has attacked. Without doubt, the trespass defence would cover you in relation to the second one. If someone is on your property and your dog attacks them, there is no offence committed.

Mr Gibson:

What about the setting on bit?

Mr Mooney:

I do not think that there is an explicit defence if you actually set your dog on a trespasser. That is different.

Mr Terrington:

You can probably recognise the subtle differences between the two separate offences, as the Bill does.

Mr T Clarke:

So the clause is referring to setting on or urging a dog to attack?

Mr Terrington:

There are two clauses — clauses 6 and 7. Clause 6 relates to setting on or urging a dog to attack. The 1983 Order sets out two offences: setting on or urging a dog to attack — that is split into people and livestock — and a lesser or separate offence of being the owner of a dog that attacks or worries. It is a control issue, as opposed to being about setting your dog on someone. The clause that we are referring to extends the offences of setting on and of owning a dog that attacks to other dogs, because there is no offence at the moment for a dog that attacks another dog. The new clause simply takes the offences of attacking or worrying people or livestock and adds to that

attacks on other dogs.

Mr Beggs:

I want you to specifically highlight the defence, because I want to be reassured that a pensioner who lives alone and has a dog for company and security will not be prosecuted for using their dog to ensure that an intruder leaves their premises. Where is the defence?

Mr Mooney:

It is article 29(3) of the 1983 Order.

Mr Beggs:

Does that not just refer to livestock issues?

Mr Terrington:

No:

“Except where a person causes a dog to attack some other person or to worry livestock, he shall not be guilty of an offence under this Article by reason of anything done by the dog if at the material time that other person or the livestock are trespassing”.

Mr Beggs:

I am looking at the wrong part.

Mr Terrington:

That is already in the 1983 Order, and we do not propose to change that. The only difference is that, as well as attacking people and worrying livestock, we will bring in attacks on another dog, and then the same things all fall out after that, such as trespass and the offences and requirements, because it is just building on what is already here.

The Chairperson:

I will ask the Clerk to read the paragraph for the benefit of members.

The Committee Clerk:

Subject to clause 7, article 29(3) will state:

“Except where a person causes a dog to attack some other person or another dog or to worry livestock, he shall not be guilty of an offence under this Article by reason of anything done by the dog if at the material time that other person, that other dog or the livestock are trespassing on land occupied by that person and the dog is kept by, or in the charge of, the occupier of that land or in the charge of a person authorised by him to remove that other person, that other dog or the livestock from the land.”

Mr Beggs:

Thank you.

The Chairperson:

Does the Department want to speak to any other issues in relation to the clause?

Ms McMaster:

When we were last with the Committee, members had asked that the clause be extended to other companion animals beyond dogs. It could be extended, but we would like to seek clarity from the Committee that it would like to have that extended.

Mr Molloy:

What are we talking about?

Mr Terrington:

We are talking about the offence of setting a dog onto another animal, except for livestock, which is already covered under the worrying provisions of the 1983 Order.

The Chairperson:

Are members content?

Ms McMaster:

Are we talking about companion animals generally?

Mr Terrington:

I think something that would avoid wild animals in definition is what we —

Mr T Clarke:

“Domestic pets” would cover it.

Mr Terrington:

That would be the sort of definition that could come forward.

The Committee Clerk:

There was concern that the current definition or restriction would not have taken in other companion pets, such as cats, for example. Members expressed a desire to see it extended to include other companion pets. The Department is now suggesting that that might be possible if members are content.

The Chairperson:

Are members content?

Members indicated assent.

Ms McMaster:

We can bring forward text in that regard.

The Chairperson:

We will await that next week. Thank you.

We will now move to clause 8, which relates to control conditions on dog licences. If we can ask the Department to come in —

Mr Terrington:

Just to go back, there is a second clause related to that: clause 7. Although the Committee passed over that last week, I will go back to it for clarity. Rather than dealing with setting on, clause 7 is about owning a dog that attacks another dog, which parallels the owning of a dog that attacks a person or owning a dog that worries livestock, separate from the act of setting a dog. We want to get the view of the Committee on whether that extension to companion animals should apply to

clause 7 as well, or just clause 6. If it is about the control of the dog by the owner, it seems to be a possible route.

The Chairperson:

That seems logical.

Mr Molloy:

Is that workable? If a dog goes after a cat, as it will, how realistic is it that someone can be prosecuted?

Mr Mooney:

It is the same as with sheep. You could prosecute on the same kind of evidential basis.

Mr Terrington:

It is also worth saying that, when we consulted on the measure, there were concerns about the subjectivity of the enforcer in cases where a dog attacks another dog. The Bill has taken account of that and requires that the dogs must be owned by different people, so you cannot have dogs squaring up in-house, and that actual injury is caused. That could be extended to the cat analogy; injury would have to be caused, which would start the evidence trail. It is not just chasing, and the cat running up a tree. That is a move from what was consulted on to recognise the potential for subjectivity. As Martin said, the evidence is the same as what you would gather if a sheep or a person had been attacked, although a person can give evidence.

Mr Molloy:

Will further legislation be required to cover incitement by cartoonists making ‘Tom and Jerry’ films, and things like that, in the future?

The Chairperson:

That is not within the scope of this Bill, so we will leave it there.

Mr Beggs:

I support making it an offence to set a dog to attack another companion animal. I have no

difficulty there. However, if a dog chases a cat of its own volition and there is a scrap that results in injury to the cat, will the dog have to be put down? There is a certain amount of instinct in cats and dogs, as we know from 'Tom and Jerry'. You could be pushing too far there. How can anybody stop a dog chasing a cat? Will a dog be put down for chasing a cat? Is that what we are talking about?

Mr Terrington:

There are two points. Even if a dog attacks a person, it is not necessarily put down, so one cannot assume that a dog that attacks a cat will be put down.

Mr Mooney:

The dog would not be put down. That is not available.

Mr Beggs:

But you could not own it.

Mr Terrington:

You could take somebody through the courts for an offence, but the council could put on some of the control conditions to bring the dog under control — the relationship between the dog and its owner. The problem is not that the owner allowed his or her dog to run up a tree; it is that they are not controlling the dog to the point where it caused injury to another animal.

Mr Beggs:

Would this have to be in a public place, as opposed to a cat coming into somebody's back yard?

Mr Mooney:

The trespasser defence that we have just discussed would apply in those cases.

Mr Molloy:

So, the cat would be trespassing.

Mr Beggs:

I am a little bit nervous that we are taking legislation too far here.

Mr T Clarke:

Is the issue not about the control of the dog? If the dog is under your control, there should not be an issue. The only way that a dog can attack is if it is roaming by itself.

Mr Beggs:

You have to keep it under control in public places.

The Chairperson:

Are members content that clause 7 be dealt with in the same way as clause 6?

Members indicated assent.

The Chairperson:

Clause 8 deals with control conditions on dog licences.

Ms McMaster:

As we discussed earlier, this clause introduces new powers for dog wardens to impose control conditions on problem dogs, whatever their breed. That will be a way for dog wardens to deal with dogs that show dangerous or threatening behaviour or that present a risk to the public. The intention is that the dog warden can impose specific conditions on the licence for that particular dog. The clause spells out those available conditions and the appeal mechanisms.

The Committee asked the Department to consider what guidance could be made available to enforcement officers and to make it available as soon as possible. The Department can confirm that we are already engaged with dog warden service representatives in discussing the sort of guidance that will be needed across the whole range of the Bill's provisions, and the intention is that guidance will be agreed before the provisions of the Bill are commenced.

The Chairperson:

Are members content to agree the clause?

Ms McMaster:

The Committee asked for an additional condition to be considered in respect of education and training courses to be provided. The Department has looked at that, and we can bring forward an amendment to the Bill to include a requirement that a dog and its owner undergo a suitable course of training.

The Chairperson:

Are members content to agree the clause?

Members indicated assent.

The Chairperson:

Clause 9 is about breed-specific legislation, so we will have to come back to that. Clause 14 relates to the amount of a fixed penalty.

Ms McMaster:

The Bill proposes an increase in fixed penalties under the 1983 Order to £50. The Committee asked the Department to look at applying the same provisions as in the Clean Neighbourhoods and Environment Bill. In effect, that means that it will provide for a maximum £75 fixed penalty, with reductions for early payments and scope for councils to set different levels of penalties, within limits set by the Department. In effect, that is what the Clean Neighbourhoods and Environment Bill proposes. Therefore, it is something that we could do, and we want to seek clarity from the Committee that it wants a parallel with the fixed penalties proposed in the Clean Neighbourhoods and Environment Bill.

Mr Savage:

I know a person who had a dog. He was addicted to alcohol and confined to his house.

The Chairperson:

Is this relevant to the clause, Mr Savage?

Mr Savage:

It is very relevant to it. He had to go into hospital, and the big Alsatian was left in the house. There was a whole discussion about what would happen to the dog. In a case like that, does the Department have the power to put that dog down?

Ms McMaster:

This is somebody who is seeking to make arrangements for the care of his dog?

Mr Savage:

The dog was very quiet, but if you interfered with it, it would save his life, but it would not let anyone intervene between him and the dog. What happens in a case like that? The man then had to go into care.

Mr Terrington:

Is the concern for the welfare of the dog?

Mr Savage:

Yes.

Mr Terrington:

It would not fall under this legislation.

Mr Savage:

I am only asking for a point of information. I do not want be awkward.

Mr Terrington:

It is about welfare legislation, so I am not sure that we are the best people to answer. If a dog has, in effect, been abandoned, and the owner has not collected it after five or 10 days, it could be put down. Things like that must be taken on a case-by-case basis to see whether something might be

done to keep the dog until the owner is able to pick it up. It is not really a dog control issue.

Mr Savage:

But when the five days are up, and the person gets out of —

Mr Terrington:

The only time that that would have an impact would be if the dog was abandoned. You do not seem to be talking about an abandoned dog.

The Chairperson:

Mr Savage, we are straying from the point. If you talk to some of the animal charities, they may be able to help you. At the moment, we are on fixed penalties. Are members content with clause 14?

Mr Molloy:

Do you mean the £50?

Mr T Clarke:

It is £75.

Mr Molloy:

The penalty should be fixed at £50. Variations and discounts only complicate the system for councils. Surely there should be a fixed penalty, and that is it.

The Chairperson:

It was the councils that asked for this.

Mr Molloy:

Some council officials might have asked for it.

The Chairperson:

So we do not have agreement on that?

Mr T Clarke:

If we want to stick it at £75 and stay at £75 without any variation, it would keep the two in line. That is what the Committee wanted in relation to the Clean Neighbourhoods and Environment Bill. If they want, in their legislation, powers to reduce that, that is fine, but we just want to stick at £75.

The Chairperson:

The idea at the start was to bring it in line with the Clean Neighbourhoods and Environment Bill.

Mr T Clarke:

It is: £75.

The Committee Clerk:

As far as I am aware, there is scope in the Clean Neighbourhoods and Environment Bill to apply a reduction for quick payment.

Mr Beggs:

I came from the Environment Committee, and my memory is that it was setting a maximum fixed penalty, and there was then discretion left to the councils. The councils can set it at £75 for both or £50 for both. I am content with £75.

The Chairperson:

Are members content with £75?

Mr Terrington:

Does that include scope for early payment and scope for councils to set their own?

Mr T Clarke:

It is the maximum amount.

The Chairperson:

It is in line with the Clean Neighbourhoods and Environment Bill.

Mr Molloy:

The briefing paper actually says:

“provides for an increase in fixed penalties under the Dogs Order to £50”.

Mr Terrington:

That is what the Bill says, but we would be happy to bring forward an amendment in line with the Clean Neighbourhoods and Environment Bill, which specifies a fixed penalty of £75 with the option of discounts for early payment.

Mr T Clarke:

The Committee requested that it be aligned with the Clean Neighbourhoods and Environment Bill.

Mr Terrington:

We are happy to do that.

The Chairperson:

Are members content?

Members indicated assent.

The Chairperson:

Mr Clarke has requested that we go back to clause 4.

Mr W Clarke:

With regard to fees, instead of having to come back next week, it is the point to include an option to offer lifetime licences in the legislation. Will you bring back a final decision next week? Are you going to include it or not?

Mr Terrington:

We have discussed that option in detail, and you have heard evidence from a couple of people who were concerned about the loss of the annual income stream, so, at this stage, there is no

proposal to put that in the Bill.

Mr W Clarke:

Did the Committee take a vote on that? What is the best way to proceed? Perhaps I could talk to the matter first.

The Chairperson:

We are waiting for more information, so it will be next week.

Mr T Clarke:

If the Bill stands as it is currently drafted, will councils not have the power to make that decision themselves?

Mr Mooney:

No. The 1983 Order states that the licence is annual.

The Chairperson:

OK.

Mr T Clarke:

The reason why the councils do not want to do this is because they believe that it might affect revenue streams. Surely there is a wording that would satisfy the other member so that councils could. Then it would be up to each council to decide whether it would affect the revenue stream. If the council decides to do it, it is up to the council to do it or not. If the wording was changed to allow them to do it, it would be up to individual councils to decide whether they want to offer lifetime licences, as opposed to our dictating that they cannot. We would be giving councils the opportunity to decide whether they want to do it or not. It should be up to them, because it would be their revenue streams and not the Assembly's that would be affected.

Mr Molloy:

Surely they will be getting the money up front.

Mr T Clarke:

The dog might never live a lifetime.

Mr Terrington:

If they get it up front they can only use it in that year, which means that the year after they do not have any licence fee for that dog. There are other issues, such as whether it is the lifetime of the person or the lifetime of the dog, and a concern that only some people can afford to pay it up front. We also like the idea of an annual application for a licence, which reminds people to make sure their information is up to date, including their microchip information.

The Chairperson:

OK, thank you. We are still deliberating on the issue of licences and fees, and we will come back to that. That ends the clause-by-clause consideration of the Dogs (Amendment) Bill. I thank the witnesses who have attended this morning. I inform members and the Department that formal clause-by-clause scrutiny of the Bill will be undertaken at the next meeting, scheduled for 9 November. Thank you all for your attendance.