

# **Consultation on proposals for changes to dog control legislation**

**Department of Agriculture and Rural Development**

**23 November 2009**

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## **Minister's Foreword**

In November 2007, following a number of high profile dog attacks and concerns that existing legislation governing the control of dogs has not had the desired effect, I announced a wide-ranging review of all aspects of dog control here.

As part of that review, I met and considered submissions from a broad range of stakeholders including the PSNI, Councils and welfare groups including the USPCA, the Kennel Club and the Dogs Trust, as well as dog breeders, elected representatives and interested individuals.

My review highlighted the serious problem we have with attacks by dogs on people. In 2008 there were 795 dog attacks and this figure has remained at 700 or more since 2000. These can be very serious incidents – I think of the attack on a 75 year old lady and her dog by two Rottweiler dogs in Ebor Street in South Belfast in July 2009 and the attack in 2007 on a young girl at a holiday park near Dervock in County Antrim. There is a real risk that a child or vulnerable adult could be killed in this type of serious attack and I am determined to do everything I can to prevent that happening and to avoid the risk of severe injury or disfigurement.

We also continue to have an unacceptable number of straying dogs. While the number of dogs impounded by councils has fallen by 30 per cent over the last decade, the number remains much too high. Around 7,930 dogs were impounded by local councils in 2008 and the number of stray dogs per head of the population is higher here than in the south of Ireland, England, Scotland, or Wales.

To address these problems, I propose to extend the existing legislation and introduce enhanced dog control measures that will:

- support responsible dog ownership through compulsory micro-chipping and a more robust and effective dog licensing regime;
- focus on prevention through earlier intervention to reduce the number of dog attacks on people;
- make it an offence to allow a dog to attack another dog; and
- increase penalties for offences.

During my review, councils suggested that the dog licence fee, which has not changed since 1983, should be increased to better reflect the cost of the dog warden services they provide. I agree that the licence fee should be increased to meet a greater proportion of the costs of the dog warden service but that there should also be incentives for responsible dog owners and protection for the elderly and those on benefits. My preferred proposal for the licence fee does this.

This consultation document sets out my proposals in more detail and invites your suggestions and comments. This consultation provides an important opportunity to improve dog control and I would urge you to consider the issues and proposals carefully and give us your views.

**Michelle Gildernew MP MLA**  
**Minister for Agriculture and Rural Development**  
**November 2009**

## Réamhrá ón Aire

I Mí na Samhna 2007, i ndiaidh roinnt ionsaithe d'ardphróifíl ó mhadraí agus imní ann nach raibh an reachtaíocht a mhair le smachtú madraí a rialú ag dul i bhfeidhm mar is ceart, d'fhógair mé athbhreithniú fadtréimhseach ar gach gné de rialú madraí anseo.

Mar chuid den athbhreithniú sin, bhuail mé le roinnt geallsealbhóirí go ndearna mé mo mhachnamh ar aighneachtaí uathu, lenar áiríodh an SPTÉ, Comhairlí agus grúpaí leasa lenar áiríodh an USPCA, Cumann na mBothán agus Iontaobhas na Madraí, chomh maith le tógálaithe madraí, ionadaithe atá roghnaithe agus daoine aonair a bhfuil spéis acu ann.

Léirigh m'athbhreithniú an fhadhb mhór atá againn maidir le hionsaithe madraí ar dhaoine. Sa bhliain 2008 bhí 795 ionsaí ó mhadraí ann agus d'fhan an figiúr seo thart ar 7000 nó a thuilleadh ó 2000. Is féidir leis na heachtraí seo a bheith iontach tromchúiseach go deo - smaoiním ar an ionsaí ar sheanbhean 75 bliain d'aois agus ar a madra ag dhá rótaidhléir ar Shráid Ebor i nDeisceart Bhéal Feirste i mí Iúil 2009 agus ar an ionsaí sa bhliain 2007 ar chailín óg ag páirc saoire gar don Dearbhóg i gContae Aontroma. Tá baol mór ann go marófar leanbh nó duine fásta atá i mbaol mar gheall ar an chineál seo ionsaithe thromchúisigh agus tá mé meáite ar gach rud agus is féidir liom a dhéanamh ionas nach dtarlóidh sé seo agus nach mbeidh riosca dianghortaithe ná máchaile ann.

Go fóill beag tá líon do-ghlactha againn de mhadraí fánacha. Cé gur tháinig laghdú ar líon na madraí ar ghaibhnigh comhairlí iad le 30 faoin chéad le deich mbliana anuas, tá an líon ró-ard go fóill. Ghaibhnigh comhairlí áitiúla thart ar 7,400 madra fánacha sa bhliain 2008 agus tá líon na madraí fánacha in aghaidh an chinn sa phobal níos airde anseo ná i nDeisceart na hÉireann, i Sasana, in Albain ná sa Bhreatain Bheag.

Le dul i ngleic leis na fadhbanna seo, molaim go gcuirfimis leis an reachtaíocht atá ann faoi láthair agus bearta méadaithe chun madraí a rialú a thabhairt isteach a:

- thacóidh le húinéireacht fhreagrach madraí trí mhicrishiú riachtanach agus le córas níos láidre agus níos éifeachtaí maidir le ceadúnú madraí.
- dhíreoidh ar chosc trí idirghabháil níos luaithe chun líon na n-ionsaithe ó mhadraí ar dhaoine a laghdú;
- a dhéanfaidh mar chion é má dhéanann madra amháin ionsaí ar mhadra eile; agus
- a mhéadóidh pionóis mar gheall ar choireanna.

Le linn an athbhreithnithe, mhol comhairlí gur chóir go méadófaí an táille ar cheadúnas madraí, nár athraíodh ón bhliain 1983, ionas go léireodh sé ar bhealach níos fearr costas na seirbhísí maorachta madraí a sholáthraíonn siad. Aontaím gur chóir táille an cheadúnais a ardú le cion níos airde de na costais na seirbhíse maorachta madraí a chomhlíonadh ach gur chóir go mbeadh dreasachtaí ann le haghaidh úinéirí madraí agus cosaint ann le haghaidh daoine scothaosta agus iad siúd a fhaigheann sochair. Is amhlaidh go ndéanann mo thogha molta é seo.

Leagtar amach sa cháipéis chomhairliúcháin seo mo chuid moltaí ar bhealach níos mionsonraithe agus fáiltíonn sé roimh do chuid moltaí agus barúlacha. Soláthraíonn an comhairliúchán seo deis thábhachtach le rialú madraí a fheabhsú agus mholfaínn duit machnamh a dhéanamh ar na ceisteanna agus ar na moltaí agus do chuid barúlacha a thabhairt dúinn.

**MICHELLE GILDERNEW MP CTR**

**Aire Talmhaíochta agus Forbartha Tuaithe**

**Samhain 2009**

## **Innins frae tha Minnystèr**

Eftè a wheen o by-ordnar daeins whaur doags haes set tae fowk, an tent fur tha wye tha laas tae tha fore thenoo adae wi tha owerance o doags haesnae haed tha ootcum we wur leukkin, in November o 2007 Ah pit oot wurd o a throch-gaun scance o aa maittèrs effeirin til tha owerance o doags hereawa.

Fur pairt o that scance, Ah foregaitert wi a hale clattèr o yins leukkin tha gate o't, an cast ower thair inpittins, takkin in tha PSNI, Cooncils an curns fur tha tent o doags, takkin in tha USPCA, tha Kennel Club an tha Doags Trust, forbye yins rairin doags, lectit forespaikers an bodies thair lane 'at leuks tha gate o tha maittèr.

Ma scance brocht oot tha sair pall we hae wi doags settin tae fowk. In 2008 the' wur 795 doags at ganshed, an tha soum o daeins tha like o this haes hel at 700 or mair frae 2000. Thae daeins can be unco sair – Ah mine o tha ganshin o a 75 yeir auld guidwife an her doag wi twa Rottweiler doags in Ebor Raa in Sooth Bilfawst in Julie o 2009, an tha ganshin o a weelass in 2007 at a leesure pairk nixt Dervock in tha Coontie o Antrim. Ye wudnae wunnèr gin a wean or waik fu-grou'd bodie wus kilt deid in a sair ganchin tha like o this, an Ah'm gaein hale-heidit tae dae aa Ah'm fit tae dae furtae kep thon fae cumin about an tae jeuk tha likelie o an unco mishanter or marguillyin.

Forbye, we hae ower monie lowse doags yit. Tha mair tha nummer o doags steekit in wi tha cooncils haes gan doon 30 in ilka hunnèr ower tha ten yeir gane, tha soume o thaim's ooty al hans yit. About 7,400 doags wus steekit in wi tha locyal cooncils in 2008, an tha nummer o lowse doags fur ilka yin o oor resydentèrs is mair hereawa nor in tha sooth o Airlan, Inglan, Scoatlan or Wales.

Furtae yokk til thae palls, Ah'm ettlin at eikin til tha laas tae tha fore thenoo an at inbrìngin fairit laas fur tha owerance o doags at's fit tae:

- uphaud richt gates o awnin doags throch garrin fowk inpit a lectric chip in thaim an wi mair reengin an feckfu owerance o tha doag leeshins;
- ettle at keppin skaith throch reddin shuiner furtae brīng doon tha nummer o doags settin tae fowk;
- mak it agin tha laa tae lat a doag set tae anither doag; an
- eik tae tha wytes fur brakkin tha laa.

Throch ma scance, cooncils mintit 'at tha doag leeshins chairge, at haesnae chynged frae 19 an 83, shud be eikit tae furtae mak it mair shuitit tae tha coast o tha doag keppers wark it sillers. Ah compluther wi tha eikin o tha leeshins chairge furtae siller a bīgger feck o tha coasts o tha doag keppers wark, but forbye thar shud be repetes fur yins 'at guides thairsels weel in awnin doags an hap fur tha eildit an yins oan fennin frae tha govermint. Tha mintin Ah'd rether hae fur tha leeshins chairge daes this.

This rede o apen discoorse pits forrit ma mintins wi mair wittins an leuks yer ain mintins an thochts. This apen discoorse gies ye a bīg inlat tae fair tha owerance o doags an Ah'm fur threapin at ye tae cast ower thae maittèrs an mintins eident-like an gie us yer takins.

**MICHELLE GILDERNEW MP MLS**

**Minnystèr o Fairms an Kintrie Fordèrin**

**November 2009**

# **Consultation on proposals for changes to dog control legislation**



# **1 What is this consultation about and who is carrying it out?**

- 1.1 The purpose of this consultation is to seek views on proposals for changes to the legislation governing dogs and dog control issues here.

## **The Minister's review of dog control legislation**

- 1.2 In November 2007, following a number of high profile dog attacks and growing concern that at least some of the legislation governing the control of dogs may not have been as effective as intended, the Agriculture Minister, Michelle Gildernew MP MLA, announced a review of the legislation and its enforcement. This was a wide ranging review that looked at all aspects of dog control.
- 1.3 During the review a range of issues were identified. The main issues were the need to support more responsible dog ownership, to promote micro-chipping, to have a more prevention-driven approach to dog control through earlier intervention, to address the issue of attacks by dogs on other dogs, to allow councils to charge a more realistic dog licence fee and to have tougher penalties for irresponsible dog owners.
- 1.4 The proposals outlined in this consultation document attempt to address those issues.

## **Areas outside the scope of this consultation**

- 1.5 This consultation does not cover dog fighting, dog breeding or dog fouling. Dog fighting is an offence under the Welfare of Animals (NI) Act 1972, and the proposed new Welfare of Animals Bill being brought forward by the Department will strengthen the powers available to deal with those engaged in this criminal activity. Dog breeding establishments are currently regulated under the Dogs Order (NI) 1983. The new Welfare of Animals Bill will enhance the standards required to protect and improve the welfare of dogs in breeding establishments. Dog fouling is an offence under the Litter (NI) Order 1994.

### **What will the Department do with the consultation responses?**

- 1.6 The Department will fully consider your responses to this consultation and take them into account in making any changes to the laws on dog control here.

### **What is the deadline for comments?**

- 1.7 Comments should be received by 1 February 2010.

### **What comments are requested?**

- 1.8 This consultation document asks a number of specific questions. These relate to the proposals for changes to legislation and to the potential impact of the proposals on different groups of people or on business here.
- 1.9 The questions appear throughout the body of the document but are also collected in a separate Appendix (Appendix 1) in a form that you can use to respond to us either by e-mail or by post.
- 1.10 It would be helpful if you would make clear the capacity in which you are responding – for example, as an officer or representative of an organisation, or as a private individual. If you are responding on behalf of any organisation, it would help if you explained the nature of your organisation.
- 1.11 Please feel free to answer all the questions or only those that are relevant to you or your organisation. You may also include any background information you wish in support of your answers or suggest alternative proposals for actions on the dog control issues identified here.

1.12 If you do have alternative proposals, it will help us to consider them if you also supply us with any background information on which they are based.

1.13 The consultation is accompanied by a partial Regulatory Impact Assessment (RIA). This sets out a preliminary assessment of the costs and benefits of the proposals. Views on the impact assessment and its underlying assumptions are also welcomed.

### **Confidentiality**

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

1.15 If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should also be aware that there might be circumstances in which we will be required to communicate information to third parties on request, in order to comply with our obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

## 2 The current legislation

### What does the current legislation say?

2.1 The control of dogs is currently governed by the Dogs (NI) Order 1983. This is called 'the 1983 Order' in the rest of this document. The 1983 Order allows councils to license dogs and to deal with dogs that stray, worry livestock or attack people. The 1983 Order sets the dog licence fee at £5 and allows the Department to change the licence fee and to increase the fee for unsterilized dogs. The level of the licence fee has not been reviewed since 1983.

2.2 Under the 1983 Order it is an offence for any person to keep a dog without a licence authorising him or her to keep that dog. Licences are issued by councils for dogs kept by people aged 16 or over who live in that council area and are not disqualified from keeping animals under the Welfare of Animals (NI) Act 1972. As a condition of the licence, a dog must wear collar tags identifying the dog and its owner.

2.3 Dog licences are renewable on an annual basis but are not currently required for:

- a puppy, if it is kept by the person who owns or keeps the bitch that gave it birth;
- a guide dog;
- a dog for sale in a licensed pet shop;
- a dog kept by a person who holds a block licence under the 1983 Order; or
- a police dog.

2.4 The 1983 Order also provides for a 'block licence' which covers premises where more than three dogs are kept, if:

- at least one of them is an unsterilized bitch kept for breeding;
- at least three are registered pedigree dogs; or

- at least three of them are used as guard dogs elsewhere, and the premises are registered as guard dog kennels.
- 2.5 The 1983 Order also provides for the registration by councils of guard dog kennels and breeding establishments.
- 2.6 Under the 1983 Order, the keeper or person in charge of a dog is guilty of an offence if the dog attacks a person or worries livestock. It is also an offence to set a dog on, or to urge a dog to attack, a person or livestock.
- 2.7 The Dangerous Dogs (NI) Order 1991 ('the 1991 Order') amended the 1983 Order to designate certain types of dogs that it is an offence to possess – the pit bull terrier and the Japanese Tosa. The 1991 Order was later amended to also ban the Dogo Argentino and the Fila Brasileiro.
- 2.8 The 1991 Order makes it an offence to breed, sell, offer for sale or make a gift of a dog of a banned type and allows council dog wardens to seize any dog that appears to be a dog of a banned type and apply to a court for an order authorising its destruction. It also allows council dog wardens to seize any dog, of whatever breed or type, which appears to present a serious danger to the public.
- 2.9 The Dogs Compensation and Exemption Schemes Order (NI) 1991 provided for exemptions for individual dogs of a banned type to be granted by a court if the dog was not considered to be a danger and if certain strict conditions were met. This exemption was available for only a limited time after the introduction of the Dangerous Dogs (NI) Order 1991.
- 2.10 The Dogs (Amendment) Act (NI) 2001 removed that time limit and allowed the owner of a dog that is the subject of a court destruction order to apply for an exemption from destruction.

2.11 Councils are responsible for enforcing all aspects of dog control legislation here, including the legislation on dangerous dogs. Council dog wardens enforce the rules on dog licensing, collect stray and unwanted dogs and provide dog pound facilities, investigate reports of dog attacks and livestock worrying and deal with dogs of a type banned under the 1991 Order (such as pit bulls). Dog wardens also have an important advisory role in helping dog owners to look after their dogs responsibly and stay within the law.

### 3 Need for changes to the legislation

3.1 The Minister's review has identified a number of ongoing issues which may require changes to the 1983 Order and related pieces of legislation.

#### Straying

3.2 The number of dogs licensed has increased steadily over the past ten years, while there has been a fall in the numbers of strays impounded by councils here, from 11,532 in 1999 to 7,930 in 2008 – a drop of over 30 per cent. The number of unwanted dogs collected by councils has also fallen substantially.

3.3 The information supplied by councils on licensing, strays and unwanted dogs is set out in Table 1.

**Table 1: Licensed, unwanted & stray dogs 1999 – 2008**

Year	Licences issued	Unwanted dogs collected	Strays Impounded
1999	85,478	3,948	11,532
2000	81,512	4,027	10,154
2001	80,734	3,689	9,150
2002	89,664	2,990	8,635
2003	91,115	2,532	9,163
2004	94,909	2,519	9,145
2005	95,367	2,680	8,918
2006	102,991	3,108	8,842
2007	106,287	3,488	8,767
2008	114,208	2,889	7,930

3.4 However, as Table 2 demonstrates, we still have the highest number of strays impounded per head of population of any part of these islands – 470 strays for every 100,000 people here. This is significantly higher than in Wales, more than twice the level in the south, and three times higher than in England or Scotland.

**Table 2: Stray dogs by population figures**

<b>Region</b>	<b>2008 Estimated no. of strays collected</b>	<b>Population</b>	<b>Strays per 100,000 population</b>
north of Ireland	7,930	1,686,448	470
south of Ireland	7,942	4,459,300	170
England	67,048	49,138,831	137
Scotland	7,565	5,062,011	149
Wales	9,674	2,903,085	333

**Table 3: Stray and unwanted dogs destroyed**

<b>Region</b>	<b>Dogs destroyed 2008</b>	<b>No. Per 100,000 population</b>
south of Ireland	10,069	226
north of Ireland	3,486	207
England	2,131	4
Scotland	97	2
Wales	269	9

The figures in Table 2 and 3 are drawn from local authorities here and in the south. Figures for England, Scotland and Wales are those published by the Dogs Trust.

- 3.5 An unacceptably high number of stray and unwanted dogs are destroyed here and more, relative to our population, than in, England, Scotland and Wales though fewer the south of Ireland (see Table 3).

### **Attacks on people**

- 3.6 There is a continuing problem with attacks by dogs on people. Over the last ten years, the number of dog attacks on people here has remained fairly constant, averaging around 745 each year (Table 4.)

**Table 4: Attacks on people and livestock 1999 – 2008**

	<b>Attacks on livestock</b>	<b>Attacks on people</b>
<b>1999</b>	387	666
<b>2000</b>	320	741
<b>2001</b>	308	730
<b>2002</b>	296	732
<b>2003</b>	363	697
<b>2004</b>	312	783
<b>2005</b>	264	772
<b>2006</b>	294	764
<b>2007</b>	330	774
<b>2008</b>	406	795

3.7 The number of admissions to hospital with a diagnosis of 'struck or bitten by a dog' has also remained fairly constant at around 60, as illustrated in Table 5.

**Table 5: Hospital admissions by age**

	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>
16 and Under	35	28	28
17 and Over	29	23	31
<b>Total</b>	<b>64</b>	<b>51</b>	<b>59</b>

3.8 These figures suggest that children of 16 and under are significantly more likely than adults to be admitted to hospital because of dog attacks, as they make up around 25 per cent of the population here but account for more than half of all admissions.

### **Attacks on livestock**

3.9 One of the main aims of dog control legislation in the past has been the need to reduce the incidence of dogs attacking or worrying livestock. However, the 1983 Order appears to have had limited effect. Figures for 1999 - 2008 show no clear trend, although 2008 saw many more incidents than previous years as illustrated in Table 4.

3.10 In 2007, 330 incidents were investigated by council dog wardens here, while in 2008 the figure rose to 406, the highest level in almost 10 years.

As a single ‘incident’ may cover injury to multiple animals or the miscarriage by pregnant animals not otherwise injured, the cost to farmers can be very high.

### **Attacks on other dogs**

3.11 Dog attacks on people and livestock are offences under the 1983 Order but attacks on other dogs are not. Consequently, no information on attacks on other dogs is collected. However, a number of incidents in recent years have highlighted the severe impact that dog attacks on other dogs can have.

### **Enforcement costs**

3.12 Councils are responsible for enforcing all aspects of dog control legislation here. However, the costs of enforcement of dog legislation through the dog warden system are far in excess of councils’ income from dog licensing. The data available from a sample of councils in Table 6 illustrates this.

**Table 6: Enforcement costs and licence fee income (2007 - 2008)**

<b>Council</b>	<b>Licence income (£s)</b>	<b>Dog control costs (£s)</b>	<b>Licence income as % of costs</b>
Antrim	15,672	73,830	21
Armagh	16,000	112,837	14
Belfast	56,142	682,586	8
Ballymena	37,067	101,061	37
Fermanagh	20,000	84,791	24
Ballymoney	13,600	106,000	13

3.13 The 1983 Order provides for fixed penalties for a number of offences, allowing council dog wardens to deal with minor infractions without prosecution. Offences which may attract a fixed penalty include keeping a dog without a licence, allowing a dog to stray and failing to have a dog correctly identified on its collar.

3.14 Under the 1983 Order, payment of a fixed penalty is made to the courts and not to councils, and so fixed penalties do not contribute to meeting the costs of dog warden services.

### **Enforcement of the Dangerous Dogs (NI) Order 1991**

3.15 Under the 1983 Order, as amended by the 1991 Order, council dog wardens are obliged to seize any dog they identify as a dog of a banned type. They then apply to a court for an order authorising its destruction.

3.16 The Dogs (Amendment) Act (NI) 2001 allows an owner of a dog prohibited under the 1991 Order (such as a pit bull), which is the subject of a court destruction order, to apply for an exemption from destruction.

3.17 The legal process, coupled with disputes in court over whether a dog is or is not a dog of a banned type, can lead to lengthy and expensive court cases. The kennelling of dogs for prolonged periods as a result can also have a significant impact on the welfare of the animal.

## 4 Proposals for change

### Compulsory micro-chipping

- 4.1 Many of those who contributed to the Minister's review felt strongly that making micro-chipping compulsory would support and encourage responsible ownership by permitting ready identification of dogs and therefore helping to address a range of issues including the problem of straying, worrying of livestock, impounding of strays and destruction of unclaimed and abandoned dogs.
- 4.2 It is therefore proposed to make micro-chipping a condition of the issue of a dog licence.

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

### Early intervention

- 4.3 The Minister's review identified a need for some means of early intervention where there is evidence of problems with a dog's behaviour, or with the ability of an owner to control a dog, before such problems result in serious incidents such as attacks on people or livestock.
- 4.4 Organisations including the Kennel Club argue that where a dog has been involved in a major incident, there have often been earlier control problems. If dog wardens had powers to deal with problems at an earlier stage, more serious incidents might have been prevented. Early intervention could also reduce repeat offending.
- 4.5 It is therefore proposed to change the law to allow dog wardens to address problems with the control or behaviour of a dog by attaching conditions to that dog's licence. This would build on the existing

licensing arrangements to allow earlier intervention by dog wardens without the need to put new administrative structures in place.

4.6 The types of behaviour that might give early warning of more serious control problems and therefore justify the imposition of conditions on the dog licence could include:

- aggressive or intimidating behaviour towards people or other dogs; and
- incidents of straying.

4.7 The conditions applied would provide protection for the public and seek to bring the behaviour of the dog under control. These conditions could include requiring that the dog:

- be muzzled in public;
- be kept on a leash in public;
- be kept in a secure location;
- be neutered;
- be re-homed.

4.8 The dog and its owner could also be required to undergo a course of training.

4.9 These controls would not replace the existing court-ordered penalties for breaches of dog control legislation but would allow councils to intervene, where problems become apparent, before any breach occurs.

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

**Question 3: Do you agree with the range of licence conditions to control behaviour specified in this section? Are there controls which should be removed or added?**

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

4.10 The annual fee for a standard dog licence has remained at £5 since 1983.

4.11 The Minister's review identified three main options for the dog licence fee:

- i. the licence fee could remain as it is (£5);
- ii. the licence fee could rise in line with inflation;
- iii. the licence fee could be increased so that it covers more of the cost to councils of the dog warden systems.

4.12 Option (i), which involves leaving the licensing system as it is, will not address the issues identified in the Minister's review. At £5, the licence fee does not encourage responsible dog ownership and does not cover the costs of dealing with strays and other important aspects of the dog warden service. The current system also lacks any incentive to neuter dogs, a key element of responsible dog ownership.

4.13 The preferred option, option (ii), is to increase the licence fee in line with inflation. This would mean that the cost of a standard licence would be £12.50. To mitigate the impact of this rise, a dog licence for those aged 65 and over would be free for the first dog and pegged at the current fee of £5 for each additional dog. Concessions would also be offered to those on certain means tested benefits and to the owners of neutered dogs, as an incentive to responsible dog ownership.

4.14 Consideration has been given to the scope under option (iii) for an increase in the licence fee to around £25, with the same concessionary rates as option (ii). This option would enable councils to recover more of the costs of the dog warden service they provide. However, many stakeholders have suggested that a higher fee could lead to an increase in abandoned and destroyed dogs.

4.15 Therefore, under the preferred option:

- those aged 65 and over will be entitled to a free dog licence for one dog, with the licence pegged at £5 for any additional dogs;
- the cost of a dog licence to those on means tested benefits will be pegged at £5;
- the cost of a dog licence to owners whose dog is neutered will also be pegged at £5;
- the full cost dog licence fee will increase in line with inflation to £12.50.

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

4.16 Like the level of the standard licence fee, the block licence has not been reviewed since 1983. As with the preferred option on the cost of the standard licence fee, it is proposed to increase the block licence in line with inflation from £12.50 to £32.

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

### **Exemption of prohibited dogs**

4.17 As explained in chapter 2, The Dogs (Amendment) Act (NI) 2001 allows an owner of a dog prohibited under the 1991 Order (such as a pit bull) which is the subject of a court destruction order, to apply for an exemption from destruction. Such an exemption can be granted by a court if the dog is not considered to be a danger and if certain strict conditions are met – including that the dog will be:

- neutered;
- insured;
- kept in a secure place; and
- kept muzzled and leashed when in public.

4.18 The prolonged nature of the court proceedings required before an exemption can be granted may result in a dog spending a lengthy period in a dog pound which may harm the dog concerned and put a sizeable cost burden on ratepayers.

4.19 It is proposed to address these welfare and enforcement issues by streamlining the current arrangements through a change in the law to permit councils to exempt dogs of a banned type (where they are satisfied that the dog's behaviour gives no cause for concern), using the licensing system to impose the strict conditions outlined above on the dog and its owner. This would avoid lengthy court cases.

4.20 However, where a council considers that a dog of a banned type is a risk the option to seek a destruction order through the courts would remain as it is at present.

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

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

- 4.21 The proposals for new legislation should reduce the number of offences being committed. However, there remains a need to ensure that penalties for licensing, straying and other control offences such as attacking people or livestock are robust enough to deter irresponsible dog owners.
- 4.22 The 1983 Order specifies the penalties for a number of licensing and control offences. The level of these penalties has not changed since 1983. The Dangerous Dogs (NI) Order 1991 created new offences, with fines on conviction expressed by reference to the standard scale established by the Fines and Penalties (NI) Order 1984.
- 4.23 Fines set at levels on the standard scale were increased by the Criminal Justice (NI) Order 1994. This means that fines for some dog control offences have an upper limit of £5,000, while those set by the 1983 Order but not linked to the standard scale remain at the 1983 maximum level of £50 or £200.
- 4.24 For consistency, it is proposed to address this discrepancy by setting all fines by reference to the standard scale of the Fines and Penalties (NI) Order 1984. This will increase key penalties to a more appropriate level, improve the deterrent effect of those penalties and simplify the enforcement framework available to council dog wardens.
- 4.25 Under these proposals, fines on summary conviction for the offences of failing to display a registration certificate at a guard dog kennel or refusing to give a name or obstructing or delaying an officer would rise

from £50 to £500. Other licensing and control offences under the original 1983 Order would rise from £200 to £1,000.

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

### **Fixed penalties**

- 4.26 Fixed penalties provide enforcement agencies with an effective and visible way of responding to low-level offences. In the absence of such fixed penalties, regulators must rely heavily on prosecution as a means of enforcement. This can lead to a ‘compliance gap’, where such enforcement is costly and time consuming.
- 4.27 The 1983 Order provides for fixed penalties for a number of offences – for instance, failing to have a licence or allowing a dog to stray. During the Minister’s review, council officials suggested that the current levels of fixed penalties were too low. For example, the fixed penalty for keeping a dog without a licence is currently £25.
- 4.28 It is therefore proposed to re-set all fixed penalties to £50. This is in line with penalties issued under the Department of Environment’s Litter (NI) Order 1994, which is also enforced by councils and covers litter and dog fouling. This will increase the level of fixed penalties for most of the offences that are punishable without prosecution under current dog control legislation. This change would further simplify the enforcement work of council dog wardens, provide a greater deterrent to irresponsible dog owners and improve the transparency of the enforcement regime.
- 4.29 It is also proposed to provide for £50 fixed penalties for certain new offences introduced by a new Dog Control Bill, such as failure to observe any control conditions attached to a dog licence by a dog warden.

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

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

- 4.30 Under the 1983 Order, payment of a fixed penalty is made to the courts and not to councils. In the case of the Litter (NI) Order 1994, fixed penalties for litter and dog fouling offences are collected and used by councils themselves for the purposes of enforcing litter and fouling regulations.
- 4.31 Submissions from some councils during the Minister's review called for similar powers under dog control legislation which could be used to support the work of dog wardens. It is therefore proposed to change the legislation so that receipts from fixed penalties would be collected by councils rather than by the courts and could only be used for the purposes of enforcing dog control legislation.

**Question 11: Do you agree that payments of fixed penalties should be made to councils to help enforce dog control legislation rather than to the courts?**

### **New offences**

- 4.32 The ability to intervene early with aggressive behaviour will be an important element in reducing attacks. It is therefore proposed to make a new offence of failing to meet any control conditions attached to a dog licence.
- 4.33 Under the 1983 Order no action can be taken to deal with attacks by dogs on other dogs, even if the attack demonstrates aggression. The frustration felt in circumstances where there is no redress against the

owner of a dog that attacks another dog only adds to the fear and grief caused by injury to, or loss of, a family pet.

4.34 Of particular concern would be an attack on a dog working as a guide dog for a person with a visual impairment or as any other kind of assistance dog.

4.35 It is therefore proposed to introduce two new offences:

- allowing a dog to attack another dog; and
- setting a dog on another dog.

4.36 Proposed levels of penalties for these new offences are set out in Table 7 below.

**Table 7: New offences and penalties**

<b>Offence</b>	<b>Proposed new level of fine</b>	<b>Fixed Penalty available?</b>	<b>Proposed new fixed penalty</b>
Failure to meet any control conditions attached to a dog licence	£1,000 (equivalent to Level 3 on the standard scale)	Yes	£50
Allowing a dog to attack another dog	£1,000 (equivalent to Level 3 on the standard scale)	No	N/A
Setting a dog on another dog	£2,500 (equivalent to Level 4 on the standard scale)	No	N/A

4.37 Under this proposal, an attack on any dog could carry a maximum penalty of £1,000 for allowing such an attack to happen and £2,500 for setting a dog on another dog.

**Question 12: Do you agree that it should be an offence to allow a dog to attack another dog?**

4.38 It is also proposed to review the existing ‘aggravated offence’ of being the keeper of a dog that attacks and injures a person in a public place. Under the 1983 Order if an attack – even a serious one – takes place in

a private place, such as a dog's own home, the maximum penalty is six months imprisonment and/or a statutory maximum fine. If a similar attack happened in a public place (the 'aggravated offence') imprisonment could be for a term of up to two years.

4.39 However, many of the recent high profile dog attacks on children have taken place in the dog's home. It is therefore proposed to amend this provision so that an attack which causes injury, wherever it happens, could be considered an aggravated offence and attract the higher level of penalty.

**Question 13: Do you agree that keeping or being in charge of a dog that attacks and injures a person should be an aggravated offence, whether it happens in a public place or on private property?**

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

- 5.1 A partial regulatory impact assessment (RIA) has been drawn up in line with guidance issued by DETI, and considers the potential economic impact of the options for changes to dog control legislation that were identified by the Minister's Review.
- 5.2 The various options identified in the Minister's review were evaluated in the light of the available evidence to ensure that the most effective options could be identified.
- 5.3 This evaluation is set out in the partial Regulatory Impact Assessment that accompanies this consultation document as Appendix 2.

**Question 14: Do you agree that the analysis of the evidence given in the accompanying partial Regulatory Impact Assessment accurately describes the potential impacts of these proposals?**

**Question 15: Are there other potential impacts we may not have anticipated here or in the accompanying partial Regulatory Impact Assessment?**

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

- 6.1 These proposals aim to strike an appropriate balance between promoting responsible dog ownership and ensuring access for all to the companionship and sense of security that dog ownership can provide.
- 6.2 Section 75 of the NI Act 1998 requires the Department of Agriculture and Rural Development to have due regard to the promotion of equality of opportunity –
- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - between men and women generally;
  - between persons with a disability and persons without; and
  - between persons with dependants and persons without.
- 6.3 In addition, without prejudice to the above obligation, public authorities must also, in carrying out their functions, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. Specifically, the Department is required to:
- assess whether there are differences in the way a policy impacts upon statutory equality categories described above; and
  - identify where there are means to better promote the equality of opportunity and good relations.
- 6.4 These issues are addressed in the draft Equality Impact Assessment attached to this document as Appendix 2.

**Question 16: Do you agree that the analysis of the evidence given in the accompanying Equality Impact Assessment accurately describes the potential impacts of these proposals?**

**Question 17: Are there other potential impacts we may not have anticipated in the accompanying Equality Impact Assessment?**

## 7 How to respond to this consultation

7.1 Appendix 1 restates the consultation questions asked in previous chapters in a form you can use to respond to us. You may also use the blank page at the end of that form to add any other comments you may have on the issues discussed here.

7.2 You can respond to this consultation, or request hard copies, by writing to:

Joel Loughridge  
The Dog Control Bill Team  
Animal Health and Welfare Policy Division  
Department of Agriculture and Rural Development  
Room 933 Dundonald House  
Upper Newtownards Road  
Belfast  
BT4 3SB

7.3 Alternatively, you may wish to read the consultation documents online and respond by e-mail to [joel.loughridge@dardni.gov.uk](mailto:joel.loughridge@dardni.gov.uk).

7.4 The deadline for responses to this consultation is 1 February 2010.