



Northern Ireland  
Assembly

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**COMMITTEE FOR  
AGRICULTURE AND  
RURAL DEVELOPMENT**

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**OFFICIAL REPORT**  
(Hansard)

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**Dogs (Amendment) Bill**

19 October 2010

**NORTHERN IRELAND ASSEMBLY**

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RURAL DEVELOPMENT**

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**Members present for all or part of the proceedings:**

The Deputy Chairperson (Mr Beggs)  
Mr P J Bradley  
Mr Simpson Gibson  
Mr William Irwin  
Mr Francie Molloy  
Mr Stephen Moutray  
Mr George Savage

**Witnesses:**

Ms Colette McMaster )  
Mr Martin Mooney ) Department of Agriculture and Rural Development  
Mr John Terrington )

**The Deputy Chairperson (Mr Beggs):**

We move to our initial clause-by-clause consideration of the Dogs (Amendment) Bill. The aim is to seek agreement in respect of clauses on which, at this stage, the Committee is not minded to seek further amendment, so that we can focus on clauses that we believe may need to be amended. We are joined by departmental officials Colette McMaster, John Terrington and Martin Mooney.

I understand that clause 1 has not been contentious. It has not been queried by members or consultees. Do members agree to accept the wording of the clause and not seek further discussion at this point?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 1 will be set aside until the Committee undertakes formal clause-by-clause scrutiny of the Bill.

Clause 2, which deals with microchipping, introduces a requirement that a dog be implanted with a microchip before any licence or transfer certificate is issued. It empowers the Department of Agriculture and Rural Development to make subordinate legislation for regulating a system of compulsory microchipping. There has been significant debate on that issue and, even earlier this morning, further discussion took place on the matter.

It is evident that a substantial amount of work remains to be carried out on the matter, most of which will be introduced through subordinate legislation. You may wish to explore the expected timings and bringing of subordinate legislation to the Committee. Members may wish to suggest that the Department explores making the clause dormant until such time as appropriate processes and procedures are developed to allow the functional operation of microchipping. We received evidence from councils on that matter. That reminds me to declare an interest as a local government councillor.

**Mr Molloy:**

I declare an interest as a local councillor. There are two issues, one of which is compulsory microchipping. We have heard various evidence that, although people see the benefits of microchipping, they do not see the need for it to be compulsory. The second issue that there is a question mark over is the linking of microchipping to licences. I do not think that the Department has the authority to legislate for local government. That might have happened as part of the review of public administration (RPA) legislation. There are question marks over putting an onus on local government to link in with the data and the necessary protection, and, as such, we need to get more active reports back from local government on how that would work.

**The Deputy Chairperson:**

Does the Department wish to respond?

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

As we heard earlier in the evidence from the Dogs Trust, a significant number of people have chosen to microchip their dogs voluntarily, and there are benefits in doing that. It is easier to trace a lost or stolen dog and return it to its owner if it is microchipped. The benefits will be extended if they are applied to and are required for all dogs in Northern Ireland.

We have outlined that the microchipping system and the licensing system have two different functions. The microchipping system is to identify an individual dog. Tied with licensing, which is a registration system here, that strengthens the system overall, because it provides an individual identification for each dog that is licensed. It makes it easier for those dogs to be returned to their owners if they are lost or stolen. In that manner, it will help to reduce the numbers of strays that are unidentified and have to be homed in council pounds and which, potentially, will have to be destroyed by councils. Therefore, it will help to free up resources to improve dog warden services.

As we have outlined previously, the licence is part of a registration system, and it also allows councils to draw income that helps to support their services.

Under the new Bill, we propose that the licensing system will be the framework to which we attach control conditions on individual dogs if their behaviour is or becomes problematic. Together, the two functions provide a strong control.

**Mr Molloy:**

Councils will have to buy into microchipping and the database. Is there no way that the Department of Agriculture and Rural Development (DARD) could use its system for microchipping? Microchipping of sheep is to be introduced. Surely one system could cover all animals? What authority has DARD to delegate or impose on local government a microchipping system?

**Ms McMaster:**

The member asks about the DARD system, which is the Animal and Public Health Information System (APHIS). APHIS was designed for a specific purpose, and it is maintained by DARD to

ensure traceability of livestock and so on. There are already databases run by commercial companies. To adapt APHIS, or to develop an equivalent system in government, will duplicate the cost of systems that are already running. Such a system would be funded by the taxpayer. It would be extremely expensive to bring the database system within government and create a new database when there are already databases that carry out that function. Those databases are used as part of the EU pet travel scheme to monitor pet movements and passport controls throughout EU member states. Therefore the EU Commission is satisfied that it can use them as a part of that scheme.

You asked about DARD's authority to put the onus on district councils to link with databases. I will ask John to comment on that. It is something we have considered in bringing the Bill to this Stage and drafting it. We took advice and found that we had the authority to exercise those powers in the Bill.

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

As to the Department legislating for councils, the Dogs (Northern Ireland) Order 1983 does that, and it has been on the statute, and this is an amendment to it. The Department is not without power to do that.

We argue that microchipping has no bureaucratic impact on councils. Councils are not required to do the microchipping or store information beyond that which they store already on the licence. The only addition is that, when a licence is applied for, councils must now put on the microchip numbers. When a dog comes to the attention of a dog warden, more often than not, the warden will scan in case the dog is chipped. There is the requirement that wardens scan, but they will do so only if a dog has strayed or is attacked or if they have been unable to identify an owner. Wardens may have up to five days to do that if the dog is in a pound. After that, if no owner is found, the dog can be put down or sold on. The Committee heard about that this morning in previous evidence. So there is no additional bureaucracy for councils as a result of the addition of microchipping if it is linked to existing databases and extant providers.

**Mr Molloy:**

That is completely contrary to the evidence that we have heard from various councils. They said that it would have a major impact. The big question is who will pay for it. Extra staff will be

required, and the reading mechanism, the data and the linkage will all have to be paid for. There will be duplication in licensing and microchipping systems. The local government representatives who appeared here, representing both NILGA and local councils, seemed to say that a lot of legislation was needed for it, and it would generate a lot of extra work, which local government would have to tackle and for which no extra resources have been identified because no one else will pay for it.

**Mr Terrington:**

The Bill provides for an increase in the licence fee, so there are additional resources in the Bill. We have spoken to enforcers in the field. Our understanding is that most of them routinely scan a dog during its five days in the pound. That dog will have come to their attention simply because it does not have an owner. Somebody is looking after it in the pound and waiting for it to be collected and returned to its owner. There is plenty of time during that period to do the scanning. Identification requires one phone call, or, as we heard in evidence today, a visit online. To do that during the five days that the dog is in the pound does not seem too onerous.

**Mr Savage:**

I talked earlier about the microchipping of dogs and traceability. As I said last week, sheep will be starting to lamb in another month or six weeks' time. Every year, dogs go after sheep and kill lambs. The devastation that those dogs leave behind is unbelievable. I did not want to hold things up last week by saying this, but dogs can always get up in gangs. I knew of one gang — call it what you like — which was led by a wee Jack Russell. He was agitating and standing back, and the other dogs were doing all the damage. We talk about the cost, but the costs incurred when those dogs go onto the farm and worry sheep, for instance, is insurmountable. That needs to be nipped in the bud. I am all for the compulsory chipping of dogs, because it provides a traceability system. If any of those dogs are caught, they will be traced back to their owners. There is no getting away from it; we have to face this head on.

The witness who was here for the previous session said that the dog is not a farm animal. I know that it is not, but it is on the farm. The farm dog will not attack sheep, but the dogs that are not reared on farms are the big problem. I would love to see chipping being made compulsory to get around that. It might take a lock of pounds to do it at the start, but if people want to keep a dog, they will have to pay for it one way or the other. They will have to face those responsibilities. Once you own anything, the responsibility that goes with that comes back to the

owner.

**The Deputy Chairperson:**

A variety of views has been expressed in our written and oral evidence and among members. Do members agree that we need to have further consideration of this clause among ourselves and that we cannot say to the Department that there is unanimity at this stage? Are members content to set it aside?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 3 deals with the licensing of dangerous dogs. I note that officials from eight local councils have indicated that that matter should be left to the courts. Furthermore, a number of responses stated that the breed-specific legislation was failing and that the offences should arise out of the deed, not the breed. What are members' views on that issue? Are you content with the present drafting?

**Mr Molloy:**

First, the present situation is not working. Secondly, we have heard evidence several times that it is the individual dog that is the problem, not the breed; it can be any breed. Therefore, the legislation should not label one particular breed but should have a fairer definition. My concern is how dog wardens would be in a position to decide that. Again, the responsibility to make those decisions is coming back to councils.

**The Deputy Chairperson:**

Are members content that the Department should amend the clause to make it apply to deed not breed, as was suggested in the evidence given to us by several witnesses?

**Ms McMaster:**

Do you want us to shed some light on that? We would, hopefully, be able to provide further clarity for members, and are happy to do that.

**Mr Terrington:**

Three clauses refer to breed-specific legislation and the breeds of dog that come under the pit bull

legislation. Substantively, the Bill does not do a lot with that and maintains the ban. However, the current legislation allows, under certain circumstances, a dog of a prohibited breed to be exempted by the courts if it is agreed that that dog will be kept under certain specific controls. There is a catch-22, which does not allow a council to license a dog that has been exempted, or, in some people's view, to issue a licence for such a dog, because it is prohibited. Clause 3 says that, if a prohibited dog has been exempted, and if the court is content with that, it can be licensed. Two other clauses relate to that, and there is the major issue of the 1991 amendment to the Dogs Order, which specifically banned pit bulls and other types of dog.

**Mr Molloy:**

The Department cannot find an exemption clause for working dogs, but it was very easy to find an exemption based on certain decisions that the court may make in relation to a breed that legislation says is dangerous. We have heard evidence from vets and people working in the sector that there is no such breed as a pit bull terrier and that its description varies. We have been given the description of an American bull terrier, which does not match that of the pit bull type dogs here. Various dogs have been bred in different ways for fighting. The indications seem to be that perhaps any dog can be bred as a fighting dog. Banning pit bulls and continuing to have that provision in article 25A maintains the position without giving any more protection to owners of dogs of a similar shape, size or description to what is described as a pit bull but which are not fighting dogs.

**Ms McMaster:**

In the existing legislation there was a problem with the operation of article 25A. During the consultation last year, the Department proposed shifting the onus for exempting dogs of a banned type to councils. That was not welcomed. Therefore, further to the responses to the consultation, clause 3 was proposed. Rather than shifting the onus to councils, the Bill leaves it to the courts to issue what are called contingent destruction notices if a court is satisfied that a dog could be safely kept under exemption conditions. Clause 3 makes it clear that, if the courts have exempted a dog, it can and must be licensed. It enables dogs to be licensed if they have been exempted by the courts.

**Mr Molloy:**

How many dog owners will have to go to court to exempt one or two dogs? We have heard how many dogs will have to have their tails docked to help a small number of working dogs, but we

are going to have situations where some owners will have to go to court, which is a very expensive and lengthy process. I have heard of dogs being kept for six months in quarantine before a decision is made. The Justice Minister said yesterday that the courts are overwhelmed by the amount of work that they have to do on serious cases. Yet, owners of dogs that are not dangerous will have to go to court, and a judge, who may not even know anything about dogs, will have to decide which dog is dangerous and which is not, without any evidence except that which is presented to him or her.

I think it is an unruly and unnecessary clause to put in without dealing with the issue of what is a dangerous dog. From evidence that the Committee has heard, there is no description of a dangerous dog, but different breeds may be dangerous. Where a dangerous dog is identified, the owner should go to court instead of all owners having to go to court to clear their names.

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

In the past five years, there have been fewer than 50 successful prosecutions of pit bull owners. I do not have the figures to hand, but there are not many unsuccessful prosecutions.

**The Deputy Chairperson:**

If I am right in interpreting the amendment, instead of saying that a dog has to be put down, the court will allow restrictions to be put on the dog, and the owner could still be allowed to keep the dog under tight supervision and restrictions which would protect the public. The Committee needs to have a wider debate about whether we wish to have an amendment to change the focus of the legislation.

**Mr Terrington:**

I apologise for interrupting, but there are probably two issues there. The first issue is an amendment that would remove a prohibition on dogs that are said to be dangerous under current legislation because they were originally and specifically bred for fighting. The second issue is about extending legislation to dogs that have exhibited dangerous or bad control behaviour. The Bill does that separately as well through the control conditions. Therefore, it is not necessarily replacing one with the other. The Bill already has that. In fact, under the current legislation, a dog that has bitten can go through the same kind of court process. Evidence has to be brought for the courts to make decisions on whether that dog or owner has committed an offence and whether that dog needs to be put down or to have controls put on it. The Bill, as drafted, does not

change the breed-specific legislation (BSL) aspects of the current 1991 amendment, which is a ban, but it looks at the deeds of all dogs and says that councils can put on control conditions similar to the conditions under which prohibited dogs could be kept via an existing exemption. There are two bits to that, and the legislation is dealing with one of those bits elsewhere. Breed-specific legislation as it currently stands, with or without amendments to that process, is perhaps a slightly different issue.

**Mr Gibson:**

For clarification, in respect of breeds of dogs that are specified under article 25A, can the owner of one of those breeds take the matter to court, and can the court decide on an exemption for that particular dog?

**Mr Terrington:**

No. It is an offence to own that dog, and if it comes to the attention of the council, the council takes the matter to court to either have the dog put down or to prosecute the owner for breeding, owning, keeping or selling a dog of that type. The legislation then is split as to where there is no prosecution being taken, the dog can be exempted if the owner can prove that they can meet the exemption requirements. The current legislation says that if there is a prosecution, there may be difficulties at the end of that process as to whether the dog can be exempted. Clause 9 empowers the court to allow for that exemption after prosecution. Therefore, basically, it makes the two systems the same. The council can either bring a prosecution or seek a destruction order from the court or the magistrate. Thereafter, the exemption process begins.

**Mr Molloy:**

Is this about issuing a licence for a dog that is banned? You are saying that it is illegal for a person to have such a dog in the first place.

**Mr Terrington:**

It is.

**Mr Molloy:**

How would a council issue a licence for a banned dog?

**Ms McMaster:**

Clause 3 provides the power for a licence to be issued if a court has given an exemption to that dog.

**Mr Molloy:**

Does the matter have to go to court first?

**Ms McMaster:**

Yes.

**Mr Mooney:**

It is illegal to own an unexempted pit bull.

**Mr Molloy:**

If an owner obtains a council licence for such a dog, does the council take any responsibility for that dog?

**Mr Terrington:**

The court has said that that dog is exempted.

**Mr Molloy:**

That goes back to the point that I made earlier. The owner of the dog has to go to court to obtain an exemption.

**Mr Terrington:**

It is the council that has to bring the prosecution or seek the destruction of the dog because it believes that the dog is a pit bull. That is what happens.

**Mr Molloy:**

That is what I was saying earlier. In some instances, it can cost local government £10,000 to take such cases to court. The council ends up having to pay for the dog to be kept in quarantine for that time. Local government can end up with a very big bill for the cases that it takes on, without any clawback. The increase in the licence fee would not cover that cost by any means. I do not think that local government would want to take that on, nor should the Assembly introduce

legislation that would impose conditions on the councils until there is a clear definition of what is a dangerous dog, not just what constitutes a banned breed.

**The Deputy Chairperson:**

It is clear that members need to debate the issue further. Are members content that, having given the issue an airing, we cannot just let it go through the process, we will have to look at it in more detail and that we should move on to clause 4?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 4 deals with fees. I suspect that, given the discussion that has been going on, we may be in a similar situation. What are members' views on the fees issues? Are members content to go through those, or do we need to have further consideration? It is proposed to raise the fee from £5 to £12.50, with exemptions for senior citizens and those on income support. Reductions are also available for licences for dogs that have been neutered or spayed.

**Mr Molloy:**

I have a question about the group licence for dog breeders. Is there a fee for that? Is that the block licence costing £32?

**Mr Terrington:**

Yes.

**Mr Molloy:**

Does that qualify a number of dogs?

**Mr Terrington:**

The Dogs (Northern Ireland) Order 1983 allows for two licences; a single licence and a block licence. The block licence, in effect, provides a reduction for a large number of dogs for particular reasons, including boarding and breeding. The Dogs Order, which this Bill proposes to amend, contains a separate requirement to register a breeding establishment with the council, but with no licence fee. The block licence, then, is a "by-ball" reduction and covers a number of dogs as opposed to a registration fee for breeding. That is one of the reasons why breeding

regulations are to be taken forward under welfare legislation, because it would allow for a licence fee for the purposes of registering a breeding establishment. The licence fee issues will have to be discussed and consulted on.

It is likely that the requirement to have a block licence would be removed from those people, because they would be licensed to breed dogs through the welfare legislation. They currently pay £12.50 and that will be raised to £32.00. At some stage, breeders will be exempt from that, because, under welfare rules, they will be required to pay a licence fee for registering as a breeding establishment.

**Mr Molloy:**

I would like to see what that will be. We are saying that there will be some sort of an exemption or a licence for breeders sometime in the future; that is fair enough. Mr Irwin raised the issue of the dog organisations for hunting dogs, for instance, which have a large number of dogs. They said that some sort of categorisation of those was required so that they would not have to licence every individual beagle or hound. I see that Mr Irwin has arrived at the meeting; he is just in time. What is the situation with the beagle clubs and hunting clubs that have 20 or 30 dogs in their care? Will they have a block licence?

**Mr Terrington:**

The 1983 Order provides for those people to have a block licence. There is no proposal to change that. However, there is a proposal to change the rules for breeding dogs through the welfare legislation, because the minimum requirements that are set out in the Dogs Order (Northern Ireland) 1983 do not allow for a lot of the welfare conditions. We have concerns about breeding through breeding establishments. That is why it would move somewhere. At the same time, it is likely that there will be a fee structure for licensing and registering those establishments, but the block licence would remain. There is no proposal to change that, apart from the breeders, which would move.

**Mr Molloy:**

Is there a limit on the number of dogs that the likes of a kennel club, hunting club or beagle club can have?

**Mr Terrington:**

The legislation says that you must have at least three dogs, one of which is registered with the Hunt Association of Northern Ireland, for example. Nothing changes in the Bill.

**Mr Molloy:**

Is there a maximum?

**Mr Terrington:**

No.

**The Deputy Chairperson:**

We have been given evidence that the licensing systems and the fees associated with it in Northern Ireland have not contributed to reducing stray dogs or the euthanization of dogs. Has the Department considered alternative funding arrangements, which might enable the fees issued to be addressed in a different manner? I have a particular concern that a requirement to have compulsory electronic identification will be another cost to the responsible dog owner who is already paying for a licence and that owners that we really want to target will not get their dogs electronically tagged, and that concern has come across in our evidence. Are we chasing the same people twice with two different fees and, therefore, not addressing the target audience?

**Ms McMaster:**

The licensing system here was established under the 1983 Order. Although we have high numbers of strays and higher rates than elsewhere, as has been acknowledged, the number of stray dogs has fallen since then. That is due to the new dog control system, which was introduced in the 1991 amendment to the Dogs Order, and that was based around the licensing system that we have in place. That licensing system has led to the improvements. The number of dogs being licensed has increased. It has risen by over 30% since 1999. The number of stray dogs that have been impounded has fallen by more than 30% in the same period, so we have seen signs that it has brought improvements. It has funded the dog warden services, which means that the services are able to enforce the dog control system on their resources. Since the fee has not been increased since 1983, we recognise that it is not going anywhere near to covering the full cost of the dog warden services, which is what it was about. The dog warden service is there and is operating well across councils.

**The Deputy Chairperson:**

In the evidence that we received earlier from the Dogs Trust there was mention of areas in which it has targeted the issue of stray dogs by knocking on doors and offering individual dog owners identification at no cost. That has been a significant method of improving the level of strays. At the same time, the Dogs Trust has arranged for neutering. However, if a licence were associated with those services, I suspect that very few such owners would wish to be identified. Therefore, that type of scheme cannot be successful in Northern Ireland, because nobody in that situation would voluntarily give their details so that they could be chased for a licence fee.

**Ms McMaster:**

We believe that a microchipping system attached to licensing, as part of a single system, would bring more and more people into the system. There has already been an increase in the number of dog owners licensing their dogs. Microchipping individual dogs that are straying, before they are returned to their owners, would bring more people into the system.

The other point, as was mentioned by the witness from the Dogs Trust, is that it is important to take a carrot and stick approach. A licensing system with concessions on fees for neutering would make the system more attractive to people if they neuter their dogs, which, in turn, would help to reduce the overall number of strays.

**The Deputy Chairperson:**

Superficially, I am attracted to what you are saying. However, when I look at the number of people who are not buying the existing £5 licence, I wonder why they would come forward and go for the more expensive licence, even if there was a discount? Why would that be attractive to them?

**Mr Terrington:**

One of the issues around dog licensing — indeed any licensing system — is enforcement. Unlike some other countries in which there may be a licence or registration system, councils here enforce measures by taking a number of cases every year against people with unlicensed dogs and, therefore, bring more and more people into the system, evidence shows, as your question implies, that there are people here who do not license their dogs. We have no idea how many people that may be.

There are a couple of issues in that. First, there has been an increase in licensing, with more and more people being brought into the system. After someone comes to the attention of the council, their dog is licensed. Secondly, there is the issue of block licences. Currently, we have no idea of the number of dogs that do not have individual licences, but are part of a block licence. Over and above the number of dogs that we know are licensed, which is around 120,000 and rising every year, a lot of dogs are probably under block licences. Therefore, those dogs are licensed, albeit not individually. The requirement for microchipping would make it much easier to know how many dogs there are and at what level licensing is adhered to.

On the subject of enforcement, more resources would be available through the licensing system to help with that. Also, the stick would be higher fixed penalties, which would provide a disincentive to people who might try to evade the licence fee. There are a number of interconnected issues.

**Mr Molloy:**

Banbridge council, to give an example, said that compulsory microchipping would do nothing to address the fundamental problem of unlicensed dogs and irresponsible owners. Even if we have licences and microchipping, how will that change the present situation? Is enforcement the only measure that will make things happen differently?

**Mr Terrington:**

Enforcement is one key issue. It is worth stating that, before 1983, when legislation set up a system of dog wardens, the problems were worse here. Those problems have been improved by dog wardens, which are partly resourced through the licence fee. However, there are other issues. When it becomes illegal to sell a dog that has not been microchipped, more dogs will be microchipped. That would be a requirement on breeders. The more dogs that are microchipped, the more likely it is that the owners of problem dogs can be identified and dealt with.

Identification can be improved. We hear that the required tag sometimes falls off. The risk is that dogs that are licensed and well looked-after but escape become unidentifiable if they lose their collar. We also hear that people just remove the collar when they abandon the dog. You cannot do that if the dog is microchipped. A number of dogs in Northern Ireland have been microchipped through campaigns, and their owners registered. If that becomes compulsory, any dog that is rehomed or sold on will have to be microchipped by councils, the Dogs Trust or

others.

**Mr Molloy:**

Yet we are told that there is no licence system in England, Scotland or Wales. Is that right?

**Mr Terrington:**

There is not.

**Mr Molloy:**

Yet they have fewer strays than us. In fact, they are importing our strays. We heard this morning that 1,000 dogs are going from here to England and Scotland. How do they have more control yet do not have compulsory microchipping and no licence system? We have voluntary microchipping and a licence system, yet you say that that is reducing the numbers here.

**Ms McMaster:**

Our licensing system has reduced the numbers. Importantly, it also part-funds dog warden services. You can see improving trends across district councils in the number of strays or dogs being destroyed. There is an effective operation out there. The licensing system that was in place in GB did not raise sufficient income to cover the cost.

**Mr Terrington:**

Actually, it did not raise any income. The fee was sent to the Exchequer and was never linked to a dog warden service. So there was no real push for anybody to collect that fee — it was 37p in 1982. There was no statutory requirement to have dog wardens, and there is still no such statutory requirement in England, Scotland or Wales, as there is under the Dogs Order.

**Mr Molloy:**

I am sure that they know as well as you how to introduce draconian measures to make that happen. Why did they not increase the fee to make sure that it paid for dog wardens, and why did they not have compulsory licensing?

**Mr Terrington:**

I could go over the history but, as far as we understand, there was always an intention to do that, but they never did. However, that is an aside; there must have been reasons why they decided not

to.

We did and continue to have, to some degree, different problems in Northern Ireland. A Home Office report in the 1970s suggested that we had more of a casual and multiple relationship with dogs. Our rural background meant that people had more dogs. Evidence this morning referred to a process of just breeding a couple of dogs, and then passing them on. In the mid-1970s, therefore, it was identified that there was a bigger problem here. That report suggested ways of dealing with the situation across the UK. The 1983 legislation was established because the problems were worse here.

**The Deputy Chairperson:**

I want to pick up on a point that Mr Molloy was pursuing, which was the issue of there being more strays here. Ms McMaster spoke about the licence scheme now bringing the numbers down. To what extent did you examine whether the neutering scheme, which the Dogs Trust and others run, is improving the problem, rather than the licensing scheme? The Dogs Trust is suggesting further ways to improve the situation. What evidence have you to say that your licensing scheme and the enforcement has been the success that you are claiming?

**Mr Terrington:**

When the legislation became law in 1983, long before neutering schemes by the Kennel Club and others, the number of unidentified, abandoned or stray dogs that were put down was far higher than it is now. In the following two years, when councils were empowered and required to have wardens and pounds, and had an income stream for that, the numbers dropped immediately.

We recognise that neutering may have a role to play, a part of which concerns adopting a different attitude to breeding, as was stated in that 1970s Home Office report. We probably still have a different attitude. We may not neuter a dog so that we have a few pups to give or to sell to friends or relatives. There is a feeling that there is a different social approach in England, which is why fewer dogs are born and sold internally, and that is why they are taking some dogs that are unwanted here. However, neutering can play a role. That is what the licence fee is structured to address.

**Mr Irwin:**

I apologise for not being here earlier; I was in the Assembly Chamber. I declare an interest as a

member of Armagh City and District Council. My point ties in with Banbridge District Council's concerns. Local councils must enforce regulations and are concerned about the cost and time involved in undertaking professional identification of prohibited breeds, but the Bill offers no new proposals to address practical matters surrounding enforcement. In essence, both councils are saying the same thing.

**Mr Terrington:**

I presume that we are again talking about the dangerous breed clauses. We have discussed that, and I think that the Committee members will discuss it again among themselves.

**The Deputy Chairperson:**

We are on clause 4 at the moment.

**Mr Irwin:**

Sorry.

**Mr Terrington:**

It is worth saying that we put out for consultation a proposal to seek to try to reduce the time spent in court. Whether proved guilty or otherwise, an individual has a right to a defence. That is something that we cannot legislate for. A ban of any sort is likely to lead to enforcement issues and concerns around the enforcement of that ban. The Minister is not convinced of the case to lift the ban on those breeds of dogs. We tried to find a way to streamline the process, but there was very little support for that in councils, and they, as the enforcers, are particularly concerned about that process. The proposal was there to address concerns raised by councils in previous discussions with the Department.

**The Deputy Chairperson:**

Are members content to give further consideration to clause 4? There is not yet clarity on the issue.

**Mr Molloy:**

May we leave it to the Department to come back with a proposal for one system or the other, either licensing or microchipping, rather than seek both? Will the Department at least give us feedback on such an approach?

**The Deputy Chairperson:**

Are members content that the Committee writes to the Department to indicate our views when we get into the details of the provision?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 5 concerns contingent destruction orders where there is no prosecution. To a certain extent, we have discussed that issue. Are members content to return to it later?

**Mr Molloy:**

We will have to, Chairman. The two issues are linked, because dangerous dogs are banned under article 25 of the Order but the view out there, even among vets, is that deed not breed defines dangerous. We need clarification around that whole issue.

**The Deputy Chairperson:**

On that basis, are members content to move on?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 6: "Setting on or urging dog to attack". Clause 6 has been generally well received by stakeholders, although I understand that the Examiner of Statutory Rules recommended that the Committee should make article 28(3)(b), as introduced by clause 6, subject to affirmative resolution rather than negative resolution. Has the Department any comment on that?

**Mr Terrington:**

We responded on that matter in a letter to the Committee Clerk. If the Committee wishes to table that amendment, and related amendments on affirmative resolution, the Minister is content.

**The Deputy Chairperson:**

As there any other issues on clause 6 that members want to discuss? I invite the Committee Clerk to speak about the clause.

**The Committee Clerk:**

Thank you, Deputy Chairperson. Members will see in their tabled papers that one of the queries sent to the Department was about extending the restriction in respect of attacks on people, livestock or other dogs. The Department indicated that the Minister was open to re-examining that issue.

**Ms McMaster:**

Yes, if that was something that the Committee wanted to see.

**Mr Molloy:**

The issue was raised this morning about dogs attacking cats and other animals. Very often, dogs are the main attackers of cats, and cats have suffered over the years. We are dealing with two different animals and I do not know what can be done about it. However, in cases where someone urges a dog to attack another animal, there must be some sort of control. The poor aul cat has suffered for years.

**The Deputy Chairperson:**

We may be asking too much if we are trying to stop dogs attacking cats. However, the issue of someone urging a dog to attack a cat is different. The Committee will refer clause 6 for further consideration and return to the Department with a clear view.

Clause 7 deals with attacks by dogs on a person or another dog. No serious concerns were raised about that clause by any stakeholder or consultee. Are members content to set that clause aside until the Committee's formal clause-by-clause scrutiny of the Bill?

**Mr Molloy:**

The interpretation of that clause was that it was meant to stop dogs fighting, but that is not specific within it. Does the clause apply when someone urges a dog to attack another dog in a field, rather than dog fights?

**Mr Terrington:**

Dog fighting is currently covered under the Welfare of Animals Act (Northern Ireland) 1972 and is also being taken forward under the Welfare of Animals Bill. There is no sense that clause 7

will create an overlap. Dog fighting is an organised thing and the fines and penalties for it are much higher under the animal welfare legislation than under the provisions in clause 7 or those in clause 6 that deal with setting or urging a dog to attack.

**Mr Molloy:**

I raised the issue last week of someone who has one or more dogs, but a dog warden can do nothing because all the dogs are licensed. That seems to give dog owners a bye ball and allow them to do whatever they want. Dogs may not be urged to attack another dog, but may do so on their own and attack a guide dog, which is not a fighting dog and will not fight back. That could happen on a public road, but in any situation in which a number of dogs were let out and a guide dog was attacked, what can a dog warden do or what does this legislation seek to stop or impose?

**Mr Terrington:**

There are two aspects. It depends on the scenario, but it sounds as though the dog that you are speaking about has strayed. There are offences in respect of dogs straying or worrying while licensed, and things can be done. However, there is no specific offence of that dog attacking — not just being set on — a guide dog or any other dog, and clause 7 corrects that by making it an offence when a dog attacks and injures a dog that is owned by someone else.

**Mr Molloy:**

At least there will be some comeback in those situations. Dogs that are not greyhounds or dangerous dogs do not need to have muzzles on when they are on public roads. Do they need to have leads on them at all times?

**Mr Terrington:**

No.

**Mr Molloy:**

So the licence still does not prevent those types of things from happening. In that situation, if the owner is there, and there are two or more dogs and another dog is attacked, just because dogs fight, there is still nothing new, except that the dog owner is held responsible. If the guide dog is injured or dead, that does not make a lot of difference.

**Mr Terrington:**

Offences are put into legislation not just to catch guilty people but as a disincentive to someone to commit an offence. Making an offence of a dog attacking another dog and injuring it is, in itself, a disincentive to the owner to allow the dog to do that. Thereafter, under the new legislation, the person could be fined up to £2,500 if prosecuted. That is currently not the case, although one can take a loss-of-property case, but that is a civil matter.

**Mr Molloy:**

Would it not be possible under legislation to insist that a dog be on a leash, particularly on a public road?

**Mr Terrington:**

Prior to the consultation, there was a media belief that that would be the case, but it is not. There has not really been a big call for it. There are those who say that it would stop some natural play, and so on. Under the existing legislation, councils have the power under by-laws to do that in certain places such as parks. What the Bill will do is enable the council, if a dog has shown some cause for concern — the “deed” element that you mentioned — to require that the dog owner keep the dog leashed. That is not for everybody, but it can require a dog that has shown some control problems to be leashed or muzzled, depending on the case.

**Ms McMaster:**

That will be part of the new control conditions proposed in the Bill. It is a control condition that could be applied to a particular dog if it exhibited problem behaviour.

**The Deputy Chairperson:**

We have had a fair airing of this clause. Do we wish further consideration to be given to it, or are we content to set it aside until the formal clause-by-clause consideration?

**Mr Molloy:**

I think that it has been covered.

**The Deputy Chairperson:**

Are members content to set it aside until our formal scrutiny?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 8 deals with control conditions on dog licences. There has been concern that the clause places a significant responsibility on local council enforcement officers, most of whom have called on the Department to issue detailed guidance. We may therefore wish to seek assurance from the Department that such guidance be made available and agreed with enforcement officers and councils as soon as possible. Is that something that you can take back to the Minister?

**Mr Terrington:**

Absolutely. Departmental officials have been speaking to council officials responsible for enforcing the dog licences throughout the process; we started the conversation specifically on the guidance back in June. They would be the best people to write a lot of the guidance. They know what the issues are in the field, and so on. We have no difficulty that that is something that the Minister wants us to do before the legislation is commenced.

**The Deputy Chairperson:**

OK. There have also been calls for education and training courses to be included as control conditions. Evidence indicates that such courses have a significant impact in reducing repeated incidents of animals straying and the associated welfare issues. Do members want to consider the possibility of amending article 30B as introduced by clause 8 to include education and training courses as a control condition? Do we wish to further consider that matter as a Committee before formal scrutiny?

*Members indicated assent.*

**Ms McMaster:**

Do you want us to take that back? It is something that we have also given some thought to.

**Mr Terrington:**

It was mentioned during the debate at Second Stage, and the Minister said that she would be happy enough. There were reasons why it was not included in the original consultation. However, if the Committee wishes to suggest that as an amendment, the Minister is content for something to be done along those lines.

**The Deputy Chairperson:**

Do members wish to formally give that feedback to the Minister?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 9 relates to breed-specific legislation, which impacts on clauses 3 and 5. Members previously agreed that further discussion was required on that matter. Is that clear at this stage, and will we set that aside?

*Members indicated assent.*

**The Deputy Chairperson:**

I am not aware of any issues being raised on clauses 10 to 13. During the feedback, there seemed to be satisfaction with the clauses. Are Members content to accept that position until the formal procedure at a later stage?

*Members indicated assent.*

**The Deputy Chairperson:**

Clause 14 relates to the amount of the fixed penalty.

**The Committee Clerk:**

Following last week's presentation with local council officials, the Committee sent a query to the Department about the possibility of looking at the fixed penalty fee being set at £75, with a reduction to £50 for prompt payment. The Department has come back and suggested that the Minister is amenable to looking at that again, if Members are content.

**Mr Molloy:**

Although that figure came from the councils, we raised the point that the council representatives were not made up of councillors but public servants working in the councils and, therefore, they did not necessarily represent elected members. There was nothing to indicate that the idea of a fixed penalty of £75 had ever been discussed in council. I know that it has not been discussed in

my council, and I have reservations and concerns that there would be an automatic £75 fixed penalty.

**The Committee Clerk:**

I believe that it is not a case of setting the fee at £75; it is the concept or the principle that a higher fee could be set, similar to that in the Clean Neighbourhoods and Environment Bill. It is setting a fee at £75, with the option for that to be reduced to £50 for prompt payment. The Department is not, at this stage, saying that it will set the fee at £75. It is open for negotiation, if members are content to do that. Obviously, full council ratification of fees for fixed penalties would have to be taken, and the Department would have to pursue that.

**The Deputy Chairperson:**

Do members wish to give that matter further consideration prior to formal scrutiny?

*Members indicated assent.*

**The Deputy Chairperson:**

No issues were raised on clauses 15 to 18. They deal with the more technical aspects of approving the commencement, the short title, etc.

**Mr Molloy:**

I have already queried the increased burden, and the legislation being transferred to local government without the subsequent legislation or resources going with it. That was one of the points raised by local government officers last week. Under RPA, any transfer of functions should be resourced properly. It is not a matter of simply handing the issue to local government to enforce without giving it the proper resources. I do not necessarily mean that the ratepayers will have to fund all the resources through increased fees or licences; rather, it should be resourced from the Department. How will it discharge its responsibilities in relation to that?

**Ms McMaster:**

This is not about transferring new responsibilities to district councils.

**Mr Molloy:**

Is it about increasing responsibilities?

**Ms McMaster:**

Yes. It is about adding to the powers that councils already have. The purpose of the dog licence fee is to provide income to cover the cost of dog warden services. The ultimate intention is that the dog licence fee will achieve cost recovery. That fee ought to be reviewed to ensure —

**Mr Molloy:**

I understand all that. However, my point is that the Department of Agriculture and Rural Development has responsibility for transferring those powers to local government when, in fact, that should be the Department of the Environment's responsibility. If all those issues had been dealt with under the RPA, there would have been different legislation.

**The Deputy Chairperson:**

Are members content for the Committee to take some legal advice on the matter? I suspect that the matter has gone through the Executive. However, we will take advice to find out whether there are any issues with it.

*Members indicated assent.*

**The Deputy Chairperson:**

On that basis, will we come back to that series of clauses?

**The Committee Clerk:**

Yes. The Committee office will obviously relay, as best it can, members' views on the deferred clauses and seek responses at the next meeting, which is scheduled for 2 November.

**Mr P J Bradley:**

Was clause 4 deferred?

**The Deputy Chairperson:**

Yes.

**Mr Gibson:**

I just want to mention a point that George Savage raised earlier about his experience of sheep

worrying. I too have been on the receiving end of that for several years. It is a horrible experience to see a sheep ripped to bits or traumatised by dogs. Has the Committee, at any point, considered making that a specific offence? Sheep worrying is a constant problem. Every year, it crops up here and there across the Province. Is that dealt with in other legislation?

**Mr Mooney:**

It is covered in the Dogs (Northern Ireland) Order 1983.

**The Deputy Chairperson:**

We have come to the end of this session. The meeting is adjourned until 1.30 pm, when we will resume with the rest of the agenda. I thank the departmental officials for their attendance.