

# **CONTROL OF DOGS – PROTOCOL DETAILING THE RESPONSIBILITIES OF DIFFERENT BODIES IN DEALING WITH IRRESPONSIBLE DOG OWNERSHIP**

## **Introduction**

This protocol is intended to aid local authorities and Police Scotland with the decision making process when considering how best to deal with complaints relating to irresponsible dog ownership within our communities. It has been developed by local authorities, Police Scotland, the National Dog Warden Association, Society of Chief Officers of Environmental Health in Scotland and the Crown Office and Procurator Fiscal Service. The protocol is split into the following areas:

- Overview of legislation
- Where responsibility for dealing with different types of control of dog incidents may fall
- Role of the Crown Office and Procurator Fiscal Service
- Key contacts

The content of this protocol does not hold statutory status and should be read as offering guidance to those dealing with irresponsible dog ownership. Decisions in any given case about how best to deal with a situation should always be made on the specific facts and circumstances arising.

*Revised: September 2021*

## Overview of legislation

The following summarises the most relevant legislation that covers irresponsible dog ownership e.g. where a dog is out of control, where a dog is dangerously out of control, where a dog is stray etc. It is not intended to be a list of all legislation that may be potentially relevant to any given situation and guidance from within your own organisation on what may be relevant should always be considered in any given case you may be dealing with.

### Dangerous Dogs Act 1991

The Dangerous Dogs Act 1991 ("the 1991 Act") contains a number of provisions relating to dangerous dogs. As this is criminal legislation it is for Police Scotland to investigate, however, at times local authority officers can provide support and assistance. As an example, this assistance may simply take the form of sharing information with Police Scotland as to a dog's previous known behaviour, which may contribute to establishing the required threshold of evidence for police to proceed with a prosecution.

The principal areas of interest are Section 1 (banned breeds), Section 3 (dogs dangerously out of control) and Section 5 (seizure powers).

Section 1 of the 1991 Act makes it a criminal offence to own the following types of dog - the Pit Bull Terrier, the Japanese Tosa, the Dogo Argentino and the Fila Brasileiro.

Following the passing of the Dangerous Dogs (Amendment) Act 1997, it continues to be the case that it is a criminal offence to own one of these types of dogs, but following a conviction, the court has discretion in sentencing so that a dog of this type is not always required to be destroyed where an owner was found to have kept a dog in breach of the legislation (though this does remain as an option for the court). As well as sentencing the owner of the dog up to 6 months imprisonment and/or a fine not exceeding £5000, the court can, as an alternative to ordering the destruction of the dog, place the dog on the Index of the Exempted Dogs. Only courts can direct that a dog can be placed on the Index of Exempted Dogs.

If placed on the Index by the court, a dog is required to be kept in compliance with the strict requirements of the 1991 Act which means the owner has:

- To obtain a certificate to enable them to retain such a dog;
- To have the dog neutered or spayed;
- To ensure the dog is permanently identified with a tattoo and microchip(electronic transponder);
- To maintain insurance against their dog injuring third parties;
- To keep the dog muzzled, on a lead in public places (public places are defined in the 1991 Act as any street, road or other place (whether or not enclosed) to which the public have or are permitted to have access whether for payment or otherwise and includes two or more separate dwellings); and
- To ensure the dog is not left in charge of a person under the age of 16.

The Index of Exempted Dogs, is managed by the UK Government's Department for Environment, Food and Rural Affairs (DEFRA). DEFRA can provide further guidance in relation to this on 07000 783651 or 07721 036354.

It is for a police or local authority dog expert to judge (normally a vet) whether the dog is a prohibited type and whether it is (or could be) a danger to the public. If an expert believes it to be a banned breed, police consideration should be given as to whether or not a dog that is considered to be a banned type could be safely retained by its owner until court proceedings, therefore saving police costs and concerns over the dog's welfare whilst in custody.

When determining whether the dog fits the profile of a banned breed i.e. it is of the 'type'; the officer/vet should use the DEFRA template for comparison.

Section 3(1) of the 1991 Act (as amended by the Control of Dogs (Scotland) Act 2010) provides for the criminal offence for anyone in charge of any type of dog to allow it to be dangerously out of control in *any* place (whether or not a public place).

The 1991 Act contains provisions whereby a dog can be regarded as being dangerously out of control if there are grounds for reasonable apprehension that it will injure a person, whether or not it actually does so. Interpretation and application of the law is always for the courts, but it is understood that what this means is that a dog could be considered dangerously out of control even if it does not actually injure anyone. Therefore, if a person believes that there are reasonable grounds to suspect that the dog could injure them then charges can be considered.

Any injury is actually an aggravation of the substantive offence. An injury, no matter how severe, should not be the single determining factor in establishing whether the circumstances amount to an offence under Section 3 Dangerous Dogs Act 1991.

In the case of [McLaughlin v PF Paisley](#) [2014] HCJAC 98, 2014 SLT 961, the Appeal Court ruled that in order to determine whether there was reasonable apprehension that the dog would injure someone, a court is entitled to consider the whole circumstances of the case and not simply the owner's apprehension. The significant factors in the circumstances of this case which the court held were sufficient to establish a reasonable apprehension were as follows:

- The size and strength of the dog;
- The dog's propensities;
- The dog's refusal to obey his owner's commands on the day;
- The apprehension engendered by the dog; and
- The nature and length of the attack upon the complainer.

A dog does not need to act aggressively to be deemed dangerously out of control. A large, boisterous dog which is running in an exuberant manner and not under the control of the person in charge of the dog or responding to commands, could knock a vulnerable person, such as a small child or elderly person over causing injury.

Consideration must always be given to the full circumstances of each incident in order to provide a proportionate response.

In the case of [Tierney V Valentine SCCR 1994 \(SCCR 697\)](#), it is shown that even though two children were bitten multiple times by a dog, the Appeal Court determined that this was not an offence in terms of Section 3 of the Dangerous Dogs Act 1991 as reasonable apprehension had not been established.

The circumstances were that a Boxer dog entered a children's playpark whilst not on a lead, circled two children whilst barking, bit child A on the foot, then Child B, then Child A again. Child A tried to run away and was bitten again on the arm. At this point the appellant intervened and placed the dog on a lead. On Appeal, it was found that as this was a single incident with no appreciable interval, there was no stage at it which it could be said that there were grounds for reasonable apprehension that the dog would injure any person before it was all over and the dog was put on a lead. Accordingly, the essential basis for a finding of guilt on this charge was not present

Evidence of specific previous incidents e.g. a dog viewed to be out of control by an authorised officer, resulting in a warning or service of a Dog Control Notice under the 2010 Act, is important in the context of being able to demonstrate reasonable apprehension for the 'dangerously out of control' criminal offence.

As stated above, an aggravated offence is where a person is injured or killed through a dog being dangerously out of control or the attack is on an assistance dog. For an aggravated offence, a person found guilty may face imprisonment of up to 2 years and/or an unlimited fine.

A non-aggravated offence may result in a custodial sentence of up to 6 months and a fine of up to £5000.

In addition to these penalties for aggravated and non-aggravated offences, the court may also disqualify the offender from having custody of a dog for any period as it thinks fit.

Section 5(1) of the 1991 Act gives power to any constable or authorised local authority officer to seize any dog they believe to be prohibited and/or a dog which appears to them to be dangerously out of control when it is in a **public place**. If the dog is not in a public place, a police officer can apply to the court for a warrant to enter premises for the purpose of seizing the dog.

### Control of Dogs (Scotland) Act 2010

The Control of Dogs (Scotland) Act 2010 ("the 2010 Act") introduced the Dog Control Notice (DCN) regime, which contains measures to emphasise the importance to dog owners of taking responsibility for the actions of their dogs. The policy focus of the 2010 Act concentrates on the "deed not the breed" approach in tackling irresponsible dog ownership.

The DCN regime makes it possible for local authority appointed officers to serve a DCN on keepers of dogs that are deemed to be out of control. Under the 2010 Act, a dog is deemed to be “out of control” if:

- It is not being kept under control effectively and consistently (by whatever means) by the proper person (generally the proper person is the owner of the dog) that is in charge of the dog, and
- Its behaviour gives rise to alarm, or apprehensiveness on the part of any individual, and the individual’s alarm or apprehensiveness is, in all circumstances, reasonable- apprehensiveness may be as to (any or all) the individuals own safety, the safety of another person, or the safety of an animal other than the dog in question.

In order for a DCN to be issued, both parts of the out of control test must be met. There is no restriction on imposing a DCN if a dog attack has actually taken place. What matters is that the two-part test is met. While the policy presentation of the 2010 Act has often been in the context of the DCN regime being about trying to prevent attacks from taking place, the law itself does not restrict imposition of a DCN to only where attacks have not taken place. Given the discussion about the ‘dangerously out of control’ offence in the 1991 Act above, it can be the case that imposition of a DCN may be appropriate for cases originally considered under the 1991 Act but where a lack of evidence exists to support a prosecution.

In order for the DCN to be valid and in force, the legislation does not require that the service of the DCN needs to be corroborated as the serving of a DCN is a civil matter. However, in order for the Crown Office and Procurator Fiscal Service to prosecute for a breach of a DCN in terms of section 5(1) of the 2010 Act, prosecutors will require corroborated evidence to show that the DCN was served on the proper person.

It is up to authorised officers to consider the most appropriate way of ensuring corroborated evidence is available for the service of a DCN on the proper person.

As a general guide, service should be effected by two people. The preferred method for most local authorities appears to be personal service with a witness. It is felt that personal service with a witness provides authorised officers with an opportunity to discuss the contents of the DCN as well as ensuring that service could be corroborated in the event of a breach of DCN. Recorded Delivery Royal Mail or ‘Signed For’ receipt are other options if no second person is available, though there may be better evidential value in two people being able to confirm and corroborate that a DCN was issued to the proper person.

A DCN will generally specify control measures that have to be followed, such as keeping the dog on a lead in a place to which the public has access, specified in the notice, if the authorised officer considers that to be appropriate. Once a DCN is in place, the local authority must supervise the enforcement of the conditions and if a dog owner does not take the required steps to comply with the condition, then a criminal offence is deemed to have been committed and the keeper of the dog can be prosecuted.

Where a breach of a DCN occurs, a criminal offence has been committed and it can be reported to the Crown Office and Procurator Fiscal Service (COPFS) for consideration to be given as to whether a prosecution or other non-court action is appropriate. If it transpires that an offence has been committed, they are liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

Following a conviction the court may also make an order to disqualify a person from owning, or keeping a dog for any period as the courts think fit. In cases where the court has decided that the dog is dangerous, it may make an order for the dog's destruction. The court may discharge the DCN and impose a requirement that the proper person should be subject to a further DCN.

In circumstances where the dog is out of control and dangerous and serving a DCN (or a further DCN) would be inappropriate, section 9 of the 2010 Act enables local authorities to apply, by summary application, to a sheriff for destruction of the dog.

If the summary application is granted by a sheriff and an order for the dog's destruction is made, the court may also make an order to disqualify the dog's owner from owning, or keeping a dog for any period of time as the sheriff thinks fit. Where the court decides not to grant the application for the dog's destruction, it can remit the case to the local authority for a DCN or a further DCN to be served.

Separately, the court may also make an order for a dog's destruction under section 5 of the 2010 Act where the terms of a DCN have been breached and the court considers that the dog is dangerous.

Further detailed guidance on the operation of the 2010 Act can be found in the Scottish Government guidance at:

<http://www.scotland.gov.uk/Resource/Doc/254430/0114020.pdf>

## **Where responsibility for dealing with different types of control of dog reports may fall**

### *Out of control dogs including dangerous dogs*

If an incident is ongoing and a dog is presenting as an immediate danger to the public, the police have responsibility in attending.

Depending upon the circumstances of the incident, police may request for the specialist skills of the Local Authority appointed 'authorised officer', often referred to as the Local Authority Dog Warden (LADW) to attend for additional support, however it is acknowledged that this specialist resource may not be available due to the incident being outwith LADW working hours, distance from locus, or other lack of availability.

Where the incident is not ongoing, and there is no immediate danger, the best agency to deal with the incident is not always immediately apparent.

In general terms, Police Scotland will deal with offences under the Dangerous Dogs Act 1991, and LADWs will deal with civil measures, namely the Control of Dogs (Scotland) Act 2010.

Court determinations of the Dangerous Dogs Act 1991 mean that a high threshold of evidence is required to prove all the essential elements of the offence are present, including 'reasonable apprehension', as detailed within Page 3 of this protocol.

Therefore, what may initially appear to be an offence of a dog dangerously out of control; biting someone and causing injury may ultimately not satisfy all the essential elements of the offence and no crime may be recorded. In these circumstances the police should liaise with the LADW to discuss the incident; establish if any further relevant information is known regarding the dog or owner, and where an insufficiency of evidence still exists, there may be agreement that the incident is more competently dealt with by a DCN.

Similarly, a LADW may respond to a report of a dog whose behaviour gives rise to alarm or apprehension and it is subsequently established that a prosecution under the 1991 Act may be more appropriate, and the incident is passed to the police to progress.

As such, without knowing the full circumstances of the incident, including an understanding of the dog's history (i.e., whether its propensity for causing danger is out of character or a known trait), then an understanding should be taken that any guide or list suggesting which agency is best placed to deal with a particular type of dog related incident will have limited usefulness.

When incidents are passed between Police Scotland and Local Authority staff there must be a requirement for information to be shared in full. Police Scotland's

Information Assurance team have approved the sharing of this information to Local Authorities when the issuance of a DCN is being considered, and therefore police officers can be confident in following this approval and sharing information.

Due to differing work patterns between police officers and Local Authority staff, it is of utmost importance that appropriate contact details are exchanged, in order that enquiries can be progressed whilst a police officer may be, for example, on nightshift, rest days or otherwise unavailable. This will ensure a collaborative approach can be maintained to progress matters and enhance public safety.

Police Scotland is obliged to record and investigate crime in an ethical and consistent standard, and the rules which govern this are detailed with the [Scottish Crime Recording Standard](#) (SCRS). The Scottish crime recording standard and counting rules are overseen, approved, maintained and developed by the Scottish crime recording board, which is chaired by Scottish Government Justice Analytical Services.

SCRS details that before Police Scotland records an offence under Section 3, Dangerous Dogs Act 1991, officers should consider whether they have a sufficiency of evidence to establish both the following factors;

i) That the accused is the owner of the dog (or person in charge at material time);  
and

- They should be cautioned, detained and questioned to provide clear evidence of the ownership of the dog, how the incident arose, what steps they had taken to prevent attacks and whether the dog had ever bitten or been aggressive towards anyone in the past.

ii) That there was a **reasonable apprehension** that the dog would injure someone.

- Case law requires that police should be able to either (a) lead evidence from other parties (such as neighbours of the accused or people who have previously reported the dog for similar offences) who can speak to the dog being aggressive, barking, jumping up or biting; or (b) by showing that the current incident went on for a sufficient amount of time that parties witnessing it may have formed the impression that the dog was going to injure someone, yet the accused did not take action.

Therefore police officers should always speak to neighbours and other potential witnesses about the demeanour of the dog and try to establish whether the dog has ever been aggressive in the past and check police systems and liaise with LADW for this information.

Without the sufficiency of evidence to establish both the above factors, the offence is not complete, and Police Scotland will not record the incident as a crime. Other than sharing details of their enquires with the LADW and updating the complainer/victim to this effect, police involvement in the incident will cease.

The Scottish Crime Recording Standard, when referencing the Control of Dogs (Scotland) Act 2010, states that 'Police should investigate in the first instance if a person is bitten by a dog.'

However SCRS also provides an example in the preceding page of its Crime Recording Rules:

"A dog which is tied up on a short lead outside a shop bites a person walking past the shop."

*'Since a person has been bitten this should be investigated by Police in the first instance to determine whether there was a reasonable apprehension that the dog would injure someone. This will include obtaining evidence from other parties who may be able to speak to the dog previously being aggressive, barking, jumping up or biting. If no such apprehension exists no crime should be recorded but the enquiry officer should report the circumstances to the Local Authority for their consideration under Control of Dogs (Scotland) Act 2010.'*

Therefore it must be seen that whilst police should carry out initial investigations into any reports of persons being bitten by dogs (to establish if the circumstances meet the threshold of an offence under Dangerous Dogs Act 1991), then on many occasions it will be competent to refer the incident to the Local Authority.

The above two pages detail the complexities of providing some form of definitive list demonstrating which agency should deal with any given incident. Every single incident will have its unique characteristics and will require to be assessed on its own merits by the agency receiving the report, whether that is Police Scotland or a Local Authority.

Despite this, there is a desire amongst each of the agencies subscribing to this Joint Protocol to delineate roles and responsibilities in responding to reports of dangerous or out of control dogs, in order to provide guidance and clarity to front line police officers and local authority dog wardens as to their responsibilities.

The most effective form of safeguarding is when public agencies work in collaboration, share information and take a proportionate response to mitigate against risks to the safety of our communities. Police Officers and LADWs must have confidence in sharing information and working together to improve local outcomes.

**Police Scotland will tend to deal with incidents which give rise to;**

- Immediate risk of injury in an ongoing incident;
- Any bite/puncture or other significant physical injury on a person\*;
- Multiple attempted bites\*;
- Any serious injury caused to an animal\*\*;
- Attack carried out with particular aggression, frenzy or may require urgent action to prevent any potential repeat;

- A dog acting dangerously out of control in any place where no contact has been made with a person or other animal, but there is reasonable apprehension that the dog will injure / may have injured a person or assistance dog;
- Incidents affecting assistance dogs

\* after initial investigations it may be appropriate to reassign the incident to LADW if the circumstances do not amount to a crime, or there is an insufficiency of evidence to consider a criminal prosecution. SCRS states if someone sustains a dog bite or similar injury, police must conduct initial enquiry even if it appears the incident will ultimately be reassigned to the Local Authority.

\*\* The DDA 1991 cannot be used for attacks against most animals, and officers may consider using the Dogs (Protection of Livestock) Act 1953 if appropriate.

**Local Authorities will tend to deal with incidents which give rise to;**

- Supporting police in ongoing incident during LADW hours when available, and if appropriate, i.e. their specialist dog behavioural skills could bring safer and swifter resolution to incident;
- Contact with a person but no significant injury;
- Apprehension of a dog's behaviour;
- Minor dog attacks on another animal including those that result in minor injuries (excluding assistance dogs);
- Cases which do not have the evidence to proceed under the 1991 Act (provided reasonable effort has been made to investigate it under the 1991 Act); or
- Cases reported by the police under the 1991 Act or the 1953 Act, but where the dog has not been seized (a DCN could be considered for public or livestock safety pending the outcome of any criminal court proceedings).

Following the initial investigation undertaken by either Police Scotland or a local authority (depending on how an incident has been reported), it may be considered that given the particular facts and circumstances of the incident, responsibility for investigating should be reassigned. In such situations, information should be passed to a local authority by Police Scotland or vice versa where appropriate. Nothing in this guidance should be seen as prescriptive as it relates to who may have responsibility for initially considering dog control reports.

Notwithstanding the above, it should be stressed that assessing the vulnerability of any victim and/or witnesses present is important in considering how to allocate responsibility. Case by case consideration is always essential in applying the general principles.

## Role of the Crown Office and Procurator Fiscal Service

As well as considering reports from Police Scotland relating to criminal offences under, for example, the 1991 Act, the Crown Office and Procurator Fiscal Service (COPFS) has a role in considering when breaches of a DCN may have occurred under the 2010 Act.

The 2010 Act places a duty on local authorities to enforce and monitor the effectiveness of the DCN regime. The 2010 Act requires ongoing monitoring of DCNs to assess whether the steps specified are effective in bringing the dog under control. When a breach of a DCN occurs, a criminal offence has been committed and it can be reported to the COPFS for consideration to be given as to whether a prosecution or other non-court action is appropriate.

Reports of breaches should be sent to COPFS within 28 days of the breach occurring. This timescale is important because if a complaint initiating a prosecution is not served on the accused within 6 months of the breach having taken place, the COPFS cannot proceed with a prosecution. Early submission of breach reports is helpful therefore, especially where further evidence may be required prior to a complaint being served.

A report to COPFS reporting a breach of a DCN should contain the following;

- Details of at least two sources that a DCN was served on the accused in respect of a particular dog.
- Details of where, and when that DCN was served on the accused
- Details of all the conditions contained in the DCN
- Details of at least two sources of how, including when and where, the accused breached a particular condition or conditions of the DCN.
- Details of at least two sources that can identify the accused and particular dog as having breached the condition

Corroborated evidence is required for the service of the DCN on the proper person and for the breach of the DCN by the proper person. If all of this information is not present in the Report submitted, COPFS will not be able to raise any criminal proceedings until it is provided.

Authorised officers will need to fill in the Draft Charge , adding relevant info to the boxed variables:

*“You [ACCNAME:TYPE ACCUSED NAME] being a proper person within the meaning of the after mentioned Act and having been made subject to a dog control notice on [DATE:TYPE EFFECTIVE DATE OF DOG CONTROL NOTICE] at [ADDRESS:TYPE WHERE NOTICE SERVED] and being subject to the condition inter alia [DETAILS:TYPE NARRATIVE OF CONDITION] did on [OFFDATE:TYPE OFFENCE DATE] at [LOCUS:TYPE LOCUS] fail to comply with said condition in that [DETAILS:TYPE DETAILS]; CONTRARY to the Control of Dogs (Scotland) Act 2010, Section 5(1)”*

In terms of productions, the COPFS will need a copy of the DCN that was served on the accused and this should be submitted with the Report. Other useful productions would be photographs of the dog, especially if the accused owns more than one dog, and copies of any correspondence sent to the person by the authorised officer advising/warning of steps they should be taking.

A copy of the DCN certified a copy under Schedule 8 of the Criminal Procedure (Scotland) Act 1995 will be required if the case requires to be fully prepared for trial and will be requested by the prosecutor. The form which requires to be filled in by a person who can certify that the copy is such is attached at Annex B.

A style execution of service is attached at Annex C.

General information on reporting to COPFS can be found at;

[http://www.copfs.gov.uk/images/Documents/Prosecution\\_Policy\\_Guidance/Guidelines\\_and\\_Policy/Specialist%20Reporting%20Agencies%20-%20Reports%20to%20the%20Procurator%20Fiscal%20-%20A%20Guide%20for%20Specialist%20Reporting%20Agencies%20-%207th%20edition%202006.PDF](http://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Guidelines_and_Policy/Specialist%20Reporting%20Agencies%20-%20Reports%20to%20the%20Procurator%20Fiscal%20-%20A%20Guide%20for%20Specialist%20Reporting%20Agencies%20-%207th%20edition%202006.PDF)

<http://www.scotland.gov.uk/Resource/Doc/254431/0096640.pdf>

## ANNEX A - Key contacts

### Local Authority Dog Wardens / Environmental Health

NB. Whilst many of the telephone numbers will take you directly through to the Dog Warden / Environmental Health teams, some of the numbers relate to the main council customer service team, where you will have to request to be transferred to the Dog Warden.

Local Authority	E-mail address / Web Portal	Telephone *
Aberdeen City Council	<a href="mailto:poll@aberdeencity.gov.uk">poll@aberdeencity.gov.uk</a>	03000 200 292 Option 4
Aberdeenshire Council	<a href="mailto:dog.warden@aberdeenshire.gov.uk">dog.warden@aberdeenshire.gov.uk</a>	03456 081208
Angus Council	<a href="http://www.angus.gov.uk">www.angus.gov.uk</a> - Online Form	ACCESSLine 03452 777 778
Argyle & Bute Council	<a href="mailto:Tom.Murphy@argyll-bute.gov.uk">Tom.Murphy@argyll-bute.gov.uk</a>	01456 605514
City of Edinburgh Council	<a href="mailto:streetenforcement@edinburgh.gov.uk">streetenforcement@edinburgh.gov.uk</a>	0131 608 1100
Clackmannanshire Council	<a href="mailto:ehhealth@clacks.gov.uk">ehhealth@clacks.gov.uk</a>	01259 450000
Comhairle nan Eilean Siar / Western Isles Council	<a href="mailto:eh@cne-siar.gov.uk">eh@cne-siar.gov.uk</a>	01851 822694
Dumfries and Galloway Council	<a href="mailto:david.stainthorpe@dumgal.gov.uk">david.stainthorpe@dumgal.gov.uk</a>	01387 245995
Dundee City Council	<a href="mailto:animal.control@dundeecity.gov.uk">animal.control@dundeecity.gov.uk</a>	01382 436285
East Ayrshire Council	<a href="mailto:environmentalhealth@east-ayrshire.gov.uk">environmentalhealth@east-ayrshire.gov.uk</a>	01563 576790
East Dunbartonshire Council	<a href="mailto:antisocialbehaviour@eastdunbarton.gov.uk">antisocialbehaviour@eastdunbarton.gov.uk</a>	0300 123 4510
East Lothian Council	<a href="mailto:chowman@eastlothian.gov.uk">chowman@eastlothian.gov.uk</a> or <a href="mailto:jpeoples@eastlothian.gov.uk">jpeoples@eastlothian.gov.uk</a>	01875 827827
East Renfrewshire Council	<a href="mailto:customerservices@eastrenfrewshire.gov.uk">customerservices@eastrenfrewshire.gov.uk</a>	0141 577 3001
Falkirk Council	<a href="mailto:contact.centre@falkirk.gov.uk">contact.centre@falkirk.gov.uk</a>	01324 506070
Fife Council	<a href="mailto:safercommunities.officers@fife.gov.uk">safercommunities.officers@fife.gov.uk</a>	03451 550022
Glasgow City Council	<a href="http://www.glasgow.gov.uk">www.glasgow.gov.uk</a> - Online Form	0141 287 2000

Highland Council	<a href="mailto:envhealth@highland.gov.uk">envhealth@highland.gov.uk</a>	01349 886603
Inverclyde Council	<a href="https://www.inverclyde.gov.uk/council-and-government/contact-us">https://www.inverclyde.gov.uk/council-and-government/contact-us</a> <a href="mailto:public.protection@inverclyde.gov.uk">public.protection@inverclyde.gov.uk</a>	01475 717171
Midlothian Council	<a href="mailto:environmentalhealth@midlothian.gov.uk">environmentalhealth@midlothian.gov.uk</a>	0131 561 5284
Moray Council	<a href="mailto:environmentalhealth@moray.gov.uk">environmentalhealth@moray.gov.uk</a>	01343 544411
North Ayrshire Council	<a href="mailto:environmentalhealth@north-ayrshire.gov.uk">environmentalhealth@north-ayrshire.gov.uk</a>	01294 324339
North Lanarkshire Council		01698 403110
Orkney Islands Council	<a href="mailto:trading-standards@orkney.gov.uk">trading-standards@orkney.gov.uk</a> or Online Form	01856 873535
Perth and Kinross Council	<a href="mailto:dogcontrol@pkc.gov.uk">dogcontrol@pkc.gov.uk</a>	01738 476476
Renfrewshire Council	<a href="mailto:wardens.es@renfrewshire.gov.uk">wardens.es@renfrewshire.gov.uk</a>	0300 300 0380 (Option 1)
Scottish Borders Council	<a href="mailto:PLACEhealth@scotborders.gov.uk">PLACEhealth@scotborders.gov.uk</a>	0300 100 1800
Shetland Islands Council	<a href="mailto:ehadmin@shetland.gov.uk">ehadmin@shetland.gov.uk</a>	01595 745250
South Ayrshire Council	<a href="mailto:environmental.health@south-ayrshire.gov.uk">environmental.health@south-ayrshire.gov.uk</a>	0300 123 0900 01292 618222
South Lanarkshire Council	<a href="mailto:customer.services@southlanarkshire.gov.uk">customer.services@southlanarkshire.gov.uk</a>	0303 123 1015
Stirling Council	<a href="http://www.stirling.gov.uk">www.stirling.gov.uk</a> - Online Form	01786 404040
West Dunbartonshire Council	<a href="mailto:environmental.health@west-dunbarton.gov.uk">environmental.health@west-dunbarton.gov.uk</a>	01389 737000
West Lothian Council	<a href="mailto:environmentalhealth@westlothian.gov.uk">environmentalhealth@westlothian.gov.uk</a>	01506 280000

## Police Scotland

To request the assistance of police in a live incident, please use the recognised 101 or 999 telephone numbers to report an offence as detailed in the following page.

Any queries relating to Police Scotland's contribution to this Joint Protocol should be directed to the following e-mail address. Please note **that this e-mail address is not for reporting incidents** and is only monitored during regular office hours;  
[LocalPolicingProgramme@scotland.pnn.police.uk](mailto:LocalPolicingProgramme@scotland.pnn.police.uk)

## **How the Public may wish to contact Local Authority Dog Warden or Police Scotland;**

Many Local Authorities clearly display the contact details of their Local Authority Dog Wardens (LADWs) on their website in easily located menus and it is recommended that all Local Authorities adopt this good practice so that communities can readily access their LADW when required.

For non-emergencies and general enquiries, Police Scotland can be contacted on 101. Deaf, deafened, hard of hearing or speech-impaired callers can contact Police Scotland via TextRelay on 1 800 1 101. Again, for non-emergencies, an online submission may be made by either completing a form on the 'Contact Us' page of the Police Scotland website, or by e-mailing [contactus@scotland.pnn.police.uk](mailto:contactus@scotland.pnn.police.uk) .

The 999 Emergency Number can be used if (i) There is a risk of personal injury or loss of life, (ii) A crime is in progress, or (iii) Someone suspected of a crime is nearby.

Deaf, deafened, hard of hearing or speech-impaired callers using a Textphone (minicom) should dial 18000 in an emergency.

## **National Dog Warden Association (Scotland)**

[admin@ndwascotland.co.uk](mailto:admin@ndwascotland.co.uk)

Website; [www.ndwascotland.co.uk](http://www.ndwascotland.co.uk)

## **How Local Authority Dog Warden (LADW) may wish to contact police to report a new incident;**

Unless a LADW has already got contact details for a local officer or team, then when first reporting an incident to the police it is recommended that the 101 or Contact Us services are used as described above.

**How LADW may wish to make further contact with police when progressing an incident.** (this would be used **AFTER** initial contact has already been made between LADW and Police.)

Due to differing work patterns between police officers and Local Authority staff, it is of utmost importance that appropriate contact details are exchanged, in order that enquiries can be progressed whilst a police officer may be, for example, on nightshift, rest days or otherwise unavailable. This will ensure a collaborative approach can be maintained to progress matters and enhance public safety.

## **ANNEX B**

### **CERTIFICATION OF DOG CONTROL NOTICE**

Form 26.1-A.5

Certified copy - by person in possession and control of a copy

CERTIFICATE IN TERMS OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995,  
SECTION 279 AND SCHEDULE 8

#### **CERTIFICATE OF AUTHENTICATION**

I, [insert name, address and where appropriate, title of office held, or other designation], being the person in possession and control of a copy of the original of the copy document [CHOICE: on which this certificate is endorsed / to which this certificate is attached] hereby certify that it is a true copy of the copy of the original which is in my possession and control.

Date: Signed:

[insert details of the copy document to which this certificate relates]

**ANNEX C**

**FORM** I \_\_\_\_\_ can confirm that Dog Control Notice (**INSERT DCN no**) was signed and dated and placed into the envelope in the presence of (name of witness).

**Form of execution of service of Dog Control Notice under The Control of Dogs (Scotland) Act 2010.**

EXECUTION OF SERVICE ON Dog Owner / Proper Person

I, \_\_\_\_\_ *an Animal Welfare Officer an authorised officer under The Control of Dogs (Scotland) Act 2010* on (**date**) duly served a Dog Control Notice on (**name**) of (**address**). This was witnessed by my colleague. The Dog Control Notice was served by the following means:

Hand delivered to known address	
Served on the proper person	

Signed Authorised Officer  
Witness

I (**INSERT NAME OF DOG OWNER**) agree receipt of Dog Control Notice (**INSET NOTICE NO**) on (**INSERT DATE**) at ..... I agree that I was given the opportunity to have the Dog Control Notice explained to me by the authorised officers.

Signed

Authorised Officer

Witness

## Annex D

The following information is contained in Defra's, Dangerous Dogs Law, Guidance for Enforcers.

### Identifying Pit Bull Terrier (PBT) types

The following information is aimed to provide a starting point for identifying Pit Bull Terrier (PBT) types. It should not be seen as an exhaustive list of characteristics and further expert advice and guidance must be sought at an early stage.

There are no photographs provided to assist with this as these animals can look very different yet have a substantial number of characteristics present and be considered a PBT.

If you cannot obtain advice from your local DLO and need assistance in identifying an alleged section 1 dog you may contact the Status Dogs Unit at the Metropolitan Police at [statusdogs@met.police.uk](mailto:statusdogs@met.police.uk).

The standard used to identify a PBT is set out in the American Dog Breeders Association standard of conformation as published in the Pit Bull Gazette, vol 1, issue 3 1977 – please refer to this for the full description and also relevant cases as this is only a brief overview. Although the law does not require a suspected PBT to fit the description perfectly, it does require there to be a substantial number of characteristics present so that it can be considered 'more' PBT than any other type of dog.

- When first viewing the dog it should appear square from the side, and its height to the top of its shoulders should be the same distance as from the front of its shoulder to the rear point of its hip.
- Its height to weight ratio should be in proportion.
- Its coat should be short and bristled, (single coated).
- Its head should appear to be wedge shaped when viewed from the side and top but rounded when viewed from the front. The head should be around 2/3 width of shoulders and 25 per cent wider at cheeks than at the base of the skull (this is due to the cheek muscles).
- The distance from the back of the head to between the eyes should be about equal to the distance from between the eyes to the tip of its nose.
- The dog should have a good depth from the top of head to bottom of jaw and a straight box-like muzzle.
- Its eyes should be small and deep-set, triangular when viewed from the side and elliptical from front.

- Its shoulders should be wider than the rib cage at the eighth rib.
- Its elbows should be flat with its front legs running parallel to the spine.
- Its forelegs should be heavy and solid and nearly twice the thickness of the hind legs just below the hock.
- The rib cage should be deep and spring straight out from the spine, it should be elliptical in cross section tapering at the bottom and not 'barrel' chested.
- It should have a tail that hangs down like an old fashioned 'pump handle' to around the hock.
- It should have a broad hip that allows good attachment of muscles in the hindquarters and hind legs.
- Its knee joint should be in the upper third of the dog's rear leg, and the bones below that should appear light, fine and springy.
- Overall the dog should have an athletic appearance, the standard makes no mention of ears, colour, height, or weight.

## Annex E

### Further Dog Legislation

#### Dogs Act 1906 and Environmental Protection Act 1990

Where a dog is unaccompanied in a public place (a public place being defined as any place to which the public has access) the dog is treated as a stray under section 3 of the Dogs Act 1906 (“the 1906 Act”) or sections 149 or 150 of the Environmental Protection Act 1990 (“the 1990 Act”).

Section 3 of the 1906 Act empowers the police to seize and detain a stray dog, where necessary, and to recover the associated costs from the owner. Section 4 of the 1906 Act requires the police to receive a stray dog delivered to a Police Station by a member of the public and in such circumstances, to deal with that stray as if it had been seized under section 3.

Section 149 of the 1990 Act operates alongside the 1906 Act and provides local authorities with broadly similar powers to seize, hold and dispose and to recover the associated costs from the owner as contained in the 1906 Act. Section 150 of the 1990 Act provides that anyone finding a stray dog can either return it to its owner or take it to the local authority. It also allows the finder to keep the dog, once reported, for not less than one month, and to become the owner of the dog if it is not claimed after two months.

In practice these two pieces of legislation mean that generally local authorities will pick up any stray dog during normal working hours, thereafter out with these hours or on public holidays, responsibility for stray dogs tends to lie with Police Scotland. However Police Scotland has no duty to collect stray dogs, simply to accept those brought to a police station.

#### Civic Government (Scotland) Act 1982

Section 49(1) of the Civic Government (Scotland) Act 1982 (“the 1982 Act”) makes it a criminal offence for any person to allow any creature, including a dog, to cause injury or danger to any other person who is in a public place or to give that person reasonable cause for alarm or annoyance. Any person convicted for such an offence is liable to a fine not exceeding £500. Given these are criminal offences, it is for Police Scotland in the first instance to investigate complaints.

Section 49(2) of the 1982 Act permits any person to apply for a civil court order in relation to annoyance caused by an animal kept in the vicinity of where the person resides. This provision can be relevant on occasion in cases where a dog barks excessively to the annoyance of neighbours.

If the court grants the order, such steps as deemed necessary by the court that the person keeping the animal should take to bring the annoyance to an end can be included in the order. The complainant would also be advised of the terms of the order and if these are not complied with, subsequent complaints about failure to

comply with the order would then require to be made to the Police. If the Police can substantiate that the conditions in the order are not being complied with, they can then make a report to the Procurator Fiscal with a view to the Court taking action against the owner of the creature for failure to comply with the order.

Breach of such an order by the person in charge of the animal is a criminal offence and the person can be fined up to £1000 upon conviction.

#### *The Control of Dogs Order (1992/901)*

The Control of Dogs Order 1992 is enforced by local authorities (this is specified in the Order) and states that the owner of a dog or the person in charge of a dog that is not wearing a collar which provides the details of the owner in a public place shall be guilty of an offence and be subject to maximum penalty of a fine up to £5000 upon conviction.

#### *Antisocial Behaviour etc. (Scotland) Act 2004*

The Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”) contains provisions relating to noise nuisance which can be relied upon in cases of excessive noise created by dogs. The Act gives local authorities the power to issue warning notices and makes provisions for a fixed penalty of £100 to be issued where a warning notice is not complied with.

#### *Local Government (Scotland) Act 1973 - local authority bye-laws*

Local authorities can consider bye-law making powers to address a specific problem under section 201 of the Local Government (Scotland) Act 1973 (“the 1973 Act”). For example, if there is an area where dogs are often a nuisance, the matter can be raised for consideration by the council who have powers to make appropriate bye-laws (i.e. to keep dogs on leads in particular areas or to ban dogs from such places such as children’s playgrounds). Bye-laws made under the 1973 Act are subject to confirmation by the Scottish Ministers.

#### *Land Reform (Scotland) Act 2003 – Outdoor Access Codes*

Under the Land Reform (Scotland) Act 2003 (LRSA) local authorities and national park authorities play the lead role in managing outdoor access, for example by putting up signage.

The LRSA ensures everyone has statutory access rights to most of Scotland’s outdoors, if these rights are exercised responsibly, with respect for people’s privacy, safety and livelihoods, and for Scotland’s environment. Equally, land managers have to manage their land and water responsibly in relation to access rights. The **Scottish Outdoor Access Code** provides detailed guidance on these responsibilities.

Guidance for those walking dogs is summarised at “*Part 5 – A Practical Guide to Access Rights and Responsibilities*”. Members of the public are required to keep their dogs under control by following rules such as, not taking dogs into fields where there are lambs, calves or other young animals and keeping dogs on a short lead or

under close control in areas such as moorland, forests, grassland, loch shores and the seashore during the bird breeding season.

Land managers are requested to ensure that they do not allow guard dogs or working dogs to alarm people, especially close to paths and tracks.

Further detail is provided at sections 3.30, 3.32, 3.53, 3.54, 3.55, 3.56 and 4.9 of the SOAC which is available at

<http://www.snh.org.uk/pdfs/publications/access/full%20code.pdf>

Scottish Natural Heritage have made publicity materials available to the public including a leaflet explaining the SOAC for dog owners [http://www.outdooraccess-scotland.com/sites/default/files//docs/dog\\_owners\\_leaflet.pdf](http://www.outdooraccess-scotland.com/sites/default/files//docs/dog_owners_leaflet.pdf)

### *The Dogs (Protection of Livestock) Act 1953*

The Dogs (Protection of Livestock) Act 1953 (“the 1953 Act”) is designed to punish the owner of any dog worrying livestock on agricultural land and is enforced by Police Scotland. The term ‘livestock’ covers sheep, cattle, goats, swine, horses and poultry, while ‘agricultural land’ covers land used as arable, meadow or grazing land or for the purposes of poultry farming pig farming, market gardens allotments, nursery grounds or orchards.

For this piece of legislation to be used, the dogs must be found attacking or chasing livestock or at large, that is not on a lead or under close control, in a field or enclosure containing livestock. An offence is punishable by a fine on the owner or keeper of the dog of up to £1000.

### *Animal Health and Welfare (Scotland) Act 2006*

The Animal Health and Welfare (Scotland) Act 2006 (“the 2006 Act”) provides for the welfare of animals controlled by individuals on a permanent or temporary basis and is enforced by Scottish Ministers or Local Authority appointed inspectors and/or Police Scotland. The Scottish Ministers currently use the provisions in Section 49 of the 2006 Act to authorise SSPCA staff as animal welfare inspectors.

The 2006 Act enables inspectors and/or Police Scotland to do the following:

Without a warrant:

- enter non-domestic premises, for the purpose of taking possession of a suffering animal or destroying an animal, if it is believed that immediate entry is appropriate in the interests of the animal;
- enter non-domestic premises, to search for and seize any evidence (including animals) as evidence in relation to a “relevant offence”, if they believe that any delay caused by seeking a warrant would frustrate the purpose of that search;
- enter and inspect any non-domestic premises, for the purpose of ascertaining whether or not an offence under Part 2 of the 2006 Act has been committed.

With a warrant:

- enter any premises, for the purpose of taking possession of a suffering animal or destroying an animal (where appropriate),
- enter any premises, to search for and seize any animal or other thing as evidence in relation to a “relevant offence” under Part 2 of the 2006 Act.

A “relevant offence” is one that relates to unnecessary suffering, mutilation, cruel operations, administration of poisons, animal fights, ensuring the welfare of animals that you are responsible for, abandonment and breaching a disqualification order. Part 2 offences include all “relevant offences” and those relating to breaches of care notices or regulations (made in relation to the welfare, activities involving certain animals or the keeping of certain animals), sale of animals to children and the offering of animals as prizes.

Section 32 of the 2006 Act contains provisions to enable an inspector and/or Police Scotland to take possession of an animal which appears to be suffering. Possession may also be taken of any dependent offspring.

Where possession is taken of an animal an inspector or Police Constable can

- a) remove the animal, or arrange for it to be removed, to a place of safety,
- b) Care for the animal, or arrange for it to be cared for
  - i. At the place where it was found
  - ii. At such other place as the inspector or constable considers appropriate.

Where an animal has been taken possession of and an owner will not relinquish ownership willingly, an application can be made to the court in terms of section 33 of the Act, requesting that an animal be given up to a specified person. Such an order may be sought by any person other than the owner, appearing to have sufficient concern for the animal.

Section 34 of the Animal Health and Welfare (Scotland) Act 2006 allows a court to make a “Disposal Order” in relation to animals seized under section 32. A Disposal Order can be for the sale of the animal and the money raised can be used to offset any expenses incurred in connection with the Order or in taking possession of the animal.