POLICY NOTE

THE SCOTTISH DOG CONTROL DATABASE ORDER 2021

SSI 2021/458

The above order was made in exercise of the powers conferred by sections 8(1) and 17(1)(b) of the Control of Dogs (Scotland) Act 2010 ("the 2010 Act") and all other powers enabling the Scottish Ministers to do so. The instrument is subject to affirmative procedure.

To establish a national dog control notice (DCN) database which will aid enforcement of the DCN regime by relevant agencies. The "Scottish dog control database" is to hold information from all local authorities relating to DCNs served in Scotland.

Policy Objectives

The 2010 Act introduced the DCN regime. Local authority 'authorised officers', commonly referred to as dog wardens, are able to issue a DCN on a dog owner who allows their dog to be out of control. The DCN is a civil notice which can contain a number of conditions. Such as muzzling the dog whenever it is in a public place, and keeping the dog on a lead in a public place. It is possible for the DCN to include any condition which the authorised officer considers will assist in bringing or keeping the dog under control. Breach of a DCN is a criminal offence.

To help ensure that a consistent approach is taken by local authorities when issuing notices, 'The Control of Dogs (Scotland) Act 2010 (Prescribed Form of Notice) Order 2011' prescribes the form for the DCN which can be served under the 2010 Act.

Under the 2010 Act each local authority has a statutory responsibility to monitor the effectiveness of every DCN they have issued. At present each local authority has their own internal records for every DCN they have issued for monitoring and enforcement purposes.

Section 8 of the 2010 Act provides an enabling power for the Scottish Ministers to make an Order to establish a "Scottish dog control database":

This is now being done in response to concerns that have been raised about difficulties that occur when a person who has been issued with a DCN moves from one local authority area to another which can make enforcement problematic. The Scottish Government is using the enabling power at section 8 of the 2010 Act to establish such a database.

The national database will bring together the records of all local authorities into a centralised database, that is accessible by local authorities and Police Scotland. This will enable DCN data to be made available in a consistent way and will be a valuable tool to improve the effectiveness of the 2010 Act. The database will be a valuable tool for local authorities in helping to enforce DCNs where a person subject to a DCN moves to another local authority area. Local authorities may also use it for enforcement of their DCNs within their area to replace existing systems. It will also support police enforcement through the ability to access

the database when undertaking enforcement duties when tackling dog control/ dangerous dog incidents in communities.

The Improvement Service will manage the database. The Improvement Service was established in 2005 as the national improvement organisation for Local Government in Scotland. The Improvement Service was set up to deliver improvement support that would help councils to provide effective community leadership, strong local governance and deliver high quality, efficient local services.

The order restricts access to the database to only those with reason to require access to the information held for the purposes of the 2010 Act. This is local authorities and Police Scotland (constables and civilian staff), plus those working for the Improvement Service.

Information held on the database requires to be updated where developments occur in relation to a DCN e.g. a term of a DCN is adjusted or a DCN is discharged. Information requires to be removed on any discharged DCN after 2 years (unless the discharge was under section 3 when the information must be removed as soon as practicable after discharge). This period will allow enforcement agencies access to information about the discharged DCN for a time-limited period to aid any further activity in respect of DCNs with the owner of a dog previously subject to a DCN. After 2 years, the information requires to be deleted.

Article 4 lists information to be contained in the database relating to a DCN. The types of information listed – such as the name, date of birth and address of the person in charge of the dog subject to a DCN - is relevant information for the purposes of enforcing and monitoring the DCN regime.

Consultation

To comply with the requirements of section 8(1) of the 2010 Act, a public consultation has taken place. Between September 2019 and January 2020 the Scottish Government consulted on possible changes to the 2010 Act. The consultation 'Steps to Improve the Operational Effectiveness of the Control of Dogs (Scotland) Act 2010' included a specific question seeking views on establishing a national database. The consultation responses showed strong support for a national DCN database.

Question 2 of the consultation asked: 'Do you think a national dog control notice database should be established?'

315 respondents offered a specific view on this question. 279 respondents were supportive and 36 were opposed. From the remaining 21 respondents to the consultation, either no view at all was offered or views were offered which either were not relevant to this question or it cannot be ascertained from those views whether the respondent supported or opposed the proposition.

All 19 local authorities who provided views on this question supported the establishment of a national dog control notice database.

An analysis of the consultation responses was published on 29 June 2020.

In addition to the general consultation above, the Scottish Government has also consulted specifically with members of the Scottish Government led Dog Control and Dangerous Dogs Working Group on the operational detail of the national database. Members of the working group include Police Scotland, local authorities, The Royal Environmental Health Institute of Scotland (REHIS), Society of Chief Environmental Officers, COSLA, and other key stakeholders including a victim's voice - representing survivors of dog attacks.

Impact Assessments

As the database will contain personal data, a data protection impact assessment (DPIA) for legislation was carried out by the Scottish Government.

The Scottish Government engaged with the Information Commissioner's Office (ICO) about the database prior to starting work on the order. As per Article 36(4) of the UK General Data Protection Regulation, the Scottish Government has also consulted with the ICO when preparing this order. The ICO are content with this policy. Further engagement with the ICO is planned to help assist the Improvement Service and local authorities establish data sharing agreements as 'joint controllers' of the database.

The Scottish Government has considered the impact of the regulations on particular groups of people (whatever their age, race, gender, sexual orientation, religion or whether they are disabled or not). There is no evidence to suggest that any of the equality strands will be affected by the introduction of a national DCN database.

Financial Effects

The Minister for Community Safety confirms that no BRIA is necessary as the instrument has no financial effects on business.

Scottish Government
Justice Directorate

October 2021