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Orestaken

~~CC/NO~~

Prime Minister (2)

2 MARSHAM STREET  
LONDON SW1P 3EB

~~CC/BI~~

01-212 3434

My ref:

Your ref:

2 July 1984

To note that Mr Jenkin proposes to make an outline statement on dogs on Wednesday. I will put the draft consultation paper in your weekend box, with advice.

Dear Lord President

*done*  
*2/7*

DOG LICENSING

H Committee decided last year (H(83)16th Meeting) that the present arrangements for dog licensing should be abolished and that local authorities should be given discretionary powers to set up dog registration schemes and to set a licence fee (subject to a prescribed maximum) adequate to cover the costs of registration and dog control measures. I was invited to work out details and prepare a consultation paper.

We are now faced with a debate on DOE's Estimates on 4 July, arising from a report of the Environment Select Committee, which is likely to focus on the provision for meeting the Post Office's costs of collecting dog and game licences. As you will recall, these costs far outstrip the revenue (which in any case accrues to local authorities). The deficit was the subject of a PAC report in late 1982, and there will undoubtedly be criticism of our failure to remedy this situation.

In the circumstances I think that we should indicate in the debate the general shape of our proposals and announce the intention to publish a consultation paper. Unless I hear to the contrary from you or other colleagues by close tomorrow (Tuesday) I will assume that you are content. I am sorry to give so little notice.

I attach a draft of a consultation paper and would be grateful for comments as soon as possible.

The Prime Minister has asked to see the consultation paper before it is issued. I am therefore copying this letter to the Prime Minister as well as to the members of H Committee, the Secretary of State for Trade and Industry (in view of his responsibility for the Post Office), the Chief Whip and Sir Robert Armstrong.

*Yours sincerely*  
*[Signature]*  
for PATRICK JENKIN



## DOGS: DRAFT CONSULTATION PAPER

## INTRODUCTION

1. Dogs are a major source of comfort and companionship to millions of families, adding significantly to human happiness. Ownership of a dog can often teach children how to be kind to animals and so enhance their understanding of the animal world as a whole. The companionship of a dog does much to relieve loneliness among the elderly and housebound. It is not surprising that any proposals that touch on the subject of dogs or dog ownership are likely to arouse strong feelings.
2. However, dog ownership also creates problems in society. The great majority of dog owners are responsible, exercising proper care for, and control of, their pets. But there are some who treat dog ownership too casually and who do not exercise the care and control that are needed. There is growing concern about problems caused by dogs, for example because of strays or the fouling of footpaths or public spaces. These problems appear to be increasing and there are many people who believe that stronger control measures are needed. Any such controls should be seen not only as a means of reducing problems affecting the public but as a means of reducing cruelty to dogs. Dogs that are neglected and ill-treated are likely to be those that cause the greatest difficulties; stray dogs, for example, are often neglected, hungry and miserable animals. Firmer controls could in time do much to reduce avoidable cruelty to dogs.



3. Recognition of the need to consider these issues goes back some years. In 1974 the then Government appointed the Working Party on Dogs with the following terms of reference:

To examine the law, custom and practice relating to the control of dogs, including licensing arrangements and the problem of strays; and to make recommendations.

The Working Party reported\* in 1976. Its main recommendations were that the annual licence fee of 37½p, unchanged since 1878, should be increased to £5, and that, in Great Britain, responsibility for strays should be transferred from the police to local authorities, who should consider setting up discretionary dog warden services.

4. None of the Working Party's recommendations have been implemented. Successive Governments have felt unable to accord the time needed to deal with the complex and contentious issues involved. The need to tackle the problem has become more urgent because, in recent years, and as a consequence of inflation, the costs of dog licensing have exceeded the revenue. The Committee of Public Accounts reported<sup>#</sup> critically on this in 1982.

\* Department of the Environment: Report of the Working Party on Dogs (HMSO, 1076).

# First Report from the Committee of Public Accounts Session 1982/83 (HC99).



COMMITTEE OF PUBLIC ACCOUNTS REPORT ON DOGS LICENSING

5. The Committee noted that payments to the Post Office for fee collection in England and Wales, borne on a Department of the Environment Vote, amounted to some £10m in the financial years 1977/78 to 1981/82, compared with revenue of under £5M, which accrued directly to local authorities. More recent figures are now available; in 1982/83 payments were £3.7m and revenue £0.9m and in 1983/84 payments were £3.8m and estimated revenue £0.9m. There are additional costs (eg in maintaining registers) which fall on local authorities.

6. The Committee also noted that broadly similar arrangements obtained in Scotland. The main difference is that the income from the fees is set against the payments to the Post Office, with the result that no payments are now made to the local authorities. The difference between income from fees and the cost of collection led to a deficit of £177,500 in 1982/83 and £186,350 in 1983/84.

7. The Committee recognised that difficult and controversial issues of policy were involved: their concern was purely with the unacceptable position on the costs of dog licensing. They concluded that the present licensing arrangements served no useful national purpose and recommended that they be suspended temporarily until a policy decision became possible.

8. As the Government pointed out in its response\* to the Committee, however, the present arrangements could be suspended

\* Treasury Minute on the First to Eighth and Tenth to Eleventh Reports from the Committee of Public accounts Session 1982/83 (Cmnd 8995).



only by abolishing them, which would require primary legislation. And since the financial question cannot sensibly be separated from the policy issues, abolition would itself amount to a major decision of policy. In considering the Committee's report therefore, the Government have re-examined the existing arrangements as a whole, taking account of the recommendations of the 1976 Working Party's report. This consultation paper sets out the Government's proposals for future arrangements in Great Britain\* for dog licensing and control.

#### THE PRESENT POSITION

##### Licensing

9. Under the Dog Licences Act 1959 all dogs must be licensed, except for puppies under 6 months, hounds under 12 months never entered in a pack, working sheepdogs, and dogs for the blind. There is no minimum age for a licence holder, and no requirement to hold a licence before owning a dog. Ministers# may vary by order the amount of the fee, the time for payment, the age at which the fee is chargeable and the period for which the licence is to be in force, and may prescribe the form of the licence. Local authorities have a statutory duty to issue dog licences (this is in practice generally done through the Post Office), and to keep a register of licence holders.

\* The problems of dog control in Northern Ireland were recognised by the Working Party as being much more serious than in Great Britain and following wide-ranging consultations new legislation (the Dogs (Northern Ireland) Order 1983 - SI 1983 No.764 (N18)) was made on 18 May 1983. This provides for a dog control scheme operated by district councils, financed partly by an increased licence fee of £5 and partly by a contribution from the district rates. The main provisions of the new Order became operative on 19 December 1983.

# The Minister of Agriculture, Fisheries and Food and the Secretaries of State for Scotland and for Wales.



10. The Working Party estimated in 1976 that there were over 6 million dogs in Great Britain. The number has almost certainly increased since then, though no more recent estimate is available. There is extensive evasion of the requirement for a licence: taking the Working Party's dog population estimate, less than half of the total number of dogs are licensed.

Dog Nuisance

11. The problems associated with dogs include the following:

- large numbers of strays (the Working Party suggested up to one million)
- fouling of public places
- traffic accidents
- worrying of livestock
- attacks on people
- transmission of disease
- noise from barking dogs.

A number of powers are available to deal with these problems. Under the Dogs Act 1906 the power to seize, impound and dispose of strays rests with the police. Local authorities have a range of measures available to them. For example, they may make byelaws prohibiting the fouling by dogs of footways and certain types of grass verges, or banning them from certain enclosed parks and other places of recreation. More than 100 local authorities in England and Wales have set up dog warden schemes under general powers (eg Section 137 of the Local Government Act 1972) to assist in dealing with dog problems and, generally, to promote responsible dog ownership and dog welfare. Some have also acquired, in private legislation, the same powers as the police in respect of strays. Under Road Traffic legislation local authorities may make



orders requiring owners to keep their dogs on leads on certain designated roads in the interests of road safety. Separate legislation provides for the control and welfare of dogs in various situations, for example guard dogs, dangerous dogs, dogs in pet shops and in breeding establishments. The worrying of livestock by dogs on agricultural land is prohibited under the Dogs (Protection of Livestock) Act 1953; subsequent amendments give farmers a defence against civil action for causing death or injury to a dog if they acted for the protection of livestock, provide for the payment of compensation, and make it an offence to allow a dog to be at large in a field or enclosure in which there are sheep unless on a lead or otherwise under close control.

12. In Scotland, the Civic Government (Scotland) Act 1982 provides specific measures to deal with the problem of dog fouling and to allow the appointment of dog wardens by local authorities. It also extends the powers of both the police and dog wardens in Scotland in respect of stray dogs, and provides a defence in civil proceedings on death or injury to dogs which may have been worrying livestock, similar to the protection given to farmers in England and Wales.

13. A list of relevant statutory provisions is at Annex A.

#### PROPOSALS FOR THE FUTURE

14. Dog licensing is a highly contentious<sup>and emotive</sup> issue. There are sharp divisions of opinion between those in favour of a substantially increased licence fee and those in favour of abolishing the licence. The latter argue that<sup>since</sup> the problems created by dogs are<sup>largely</sup> attributable to irresponsible behaviour by a small proportion of owners, it would be unjust to penalise the<sup>great</sup> majority of owners who



exercise proper care for, and control of, their dogs. They also argue that the already high level of evasion of licensing will rise still further if the fee is raised; that evasion is likely to be greatest among those less responsible owners whose dogs cause the main problem; and that the education of dog owners is the only effective way to tackle these problems.

15. There are, however, strong counter arguments. Many responsible bodies that are closely involved with dogs, including local authorities, animal welfare organisations, the Farming Unions and the British Veterinary Association, believe that stronger measures are now needed for dog control. Local authorities in particular have to deal with many of the problems caused by dogs; about one quarter of these authorities already operate dog warden services. These local authorities would view the total abolition of any form of licensing as a significant weakening of their ability to carry out these functions at a time when the problems are increasing. More importantly, abolition would clearly signal a lessening of public concern about dog nuisances and of public commitment to the welfare of dogs. It can be argued that the present high level of evasion reflects indifference to a derisory fee, and that if the fee were to be set at a level sufficient to support sensible control measures the licensing system would command respect and observance. Moreover, more effective control would increase the risk that licence evasion would be detected.

16. The Government have weighed these arguments carefully and have concluded that total abolition of dog licensing would be wrong; the principal aim of policy should be to promote responsible dog ownership and abolition would not serve that end. Given the



financial absurdity criticised by the Committee of Public Accounts, the simplest course would be to increase the licence fee to remove the deficit, otherwise maintaining the existing arrangements; this could be done by Ministerial Order. But dog licensing is not now appropriate to its original purpose of raising general revenue; it can be justified only in the context of improving dog control and welfare. Needs vary widely from one area to another. The Government are therefore unwilling to impose what would amount to a national tax on all dog owners, whether or not there are significant needs in their particular areas.

17. The Government propose that the present national licensing arrangements should be abolished and that new, discretionary powers should be given to district and London borough councils (district and islands councils in Scotland) to make schemes for the registration of dogs in their areas, for which they would be required to levy a fee. Authorities establishing registration schemes would have discretion to prescribe the fee for registration, subject to limits which the Government would prescribe from time to time. The aim would be to assist authorities in exercising a degree of control appropriate to the circumstances in their areas, by enabling them to set fees at levels adequate to finance registration and some part at least of control measures. These new arrangements will require primary legislation.

18. The legislation would provide for registration schemes to include mandatory fee exemptions for guide dogs for the blind, and discretionary exemptions and part exemptions for other categories, such as dogs owned by the elderly: local authorities



would be free to decide on the nature and scope of the discretionary exemptions to be adopted. It is for consideration to what extent authorities establishing schemes should have discretion to decide other basic features of the arrangements or whether these should be prescribed nationally. Examples are: the dog age at which a licence should be required; whether an age limit should be set below which licences should not be issued to persons; and whether an identification system should be used to facilitate checking that a dog has been licensed, and thus aiding enforcement. The Government would, in any case, issue guidance on these and other aspects with the aim of encouraging general conformity of practice.

19.. The legislation would define offences under registration schemes. It would be an offence to keep an unregistered dog in an area where a local authority operates a registration scheme; the place of keeping a dog would thus need to be defined. The legislation would also define the extent of the powers available to local authorities in exercising controls over dog nuisances. The Government propose to adopt as a basis for consultation the recommendation of the Working Party on Dogs on the powers of dog wardens. Where there is a registration scheme, a dog warden would be empowered:

- (i) to obtain information from any person whom he has reasonable cause to believe to be the owner of a dog which is of legitimate concern to him (for example, a dog which is causing a disturbance in his area);
- (ii) to ask for the name and address of any person in charge of a dog which is causing or has caused an offence to be committed; and



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- (iii) to require a dog owner to produce a valid licence on demand.

## Stray Dogs

20. Stray dogs constitute a particularly severe problem in some areas. The Working Party recommended that responsibility for dealing with strays should be transferred from the police to local authorities. The Government agree and propose to transfer to district councils and London boroughs the present responsibility of the police under the Dogs Act 1906 for the seizure, custody and disposal of stray dogs. This would apply to all these councils whether or not they chose to establish a registration scheme. Many district councils in practice already discharge these responsibilities, in cooperation with the police, and some, as already mentioned, have taken powers in private legislation. District councils in Scotland have discretionary powers under the Civic Government (Scotland) Act 1982. (See para 12).

## Financial and Manpower Implications

21. As indicated in paragraph 17 the Government propose that registration when / schemes are introduced, the authority should set the fee subject to a prescribed maximum. It should be a requirement of principle that any scheme should cover its own costs, but beyond that it would be open to authorities to set the fee at such a level that remaining revenue would be wholly used for control and for the prevention of cruelty to dogs. Subject to ensuring that the registration costs are covered by fee income, and to the prescribed maximum fee, it would be for the discretion of local authorities how far dog control measures should be financed from the general rate fund or



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from licence revenue. Under the Government's proposals, local authorities that did not establish registration schemes would still be responsible for dealing with strays and in those cases the associated costs would need to be borne on the rates. The Government accept that some marginal increase in manpower may be involved in these proposals, but given the extent to which local authorities are already active in this area, they do not believe overall that any/increase will be significant.

22. Likely fee levels will be for detailed discussion. [The minimum necessary will depend on various factors but on the basis of the costs of the present system it seems unlikely that a fee of less than about £3 would cover the costs of issuing licences and of registration. A preliminary view is that a maximum in the region of £12 might be appropriate.]

23. Some technical changes will be needed. Under the present arrangements the income which local authorities receive from dog licences counts as tax income, which is deemed not to be part of the General Rate Fund. Authorities cannot therefore net off such income from their rate fund expenditure, and the full cost of their expenditure on dog control measures counts as total expenditure as defined for rate support grant purposes. Under the proposed arrangements, income from any registration scheme will be treated like any other local authority fee or charge, and will therefore be deductible from their rate fund expenditure. As any income from the fee, after deducting the costs of registration, is to be used for control and welfare measures for dogs, the proposals need not



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lead to any net increase in local authority expenditure.

COMMENTS

24. The Government would welcome written comments from organisations and individuals on these proposals. [ In the light of comments received the Department of the Environment, the Welsh Office and the Scottish Development Department will undertake more detailed discussions with the local authority associations and other bodies]. Comments should be sent to [ ] and should arrive not later than [ ].

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## LEGISLATION RELATING TO DOGS

Dog Licences Act 1959 - as amended, requires licences for the keeping of dogs.

Local Government Act 1966 - powers to alter licence fee.

Control of Dogs Order 1950 (made under powers consolidated in the Animal Health Act 1981) - requires dogs to wear identity discs in public places and enables local authorities to make curfew regulations to control dogs.

Dogs (Protection of Livestock) Act 1953 - makes it an offence to allow a dog to worry livestock.

Animals Act 1971 (not applicable to Scotland) - provides the defence in civil proceedings for injuring or killing a dog, of showing that the action was taken for the protection of livestock.

Rabies (Control) Order 1974 - provides for special controls or destruction of animals in infected areas.

Local Government (Scotland) Act 1966 - powers to alter licence fee.

Local Government Act 1972, Public Health Act 1875, Open Spaces Act 1906 - provide powers to make and confirm byelaws.

Dogs Act 1906 - empowers police to seize stray dogs and places duties on police to deal with stray dogs brought in by members of the public.

Dogs Act 1871 - empowers magistrates to order the destruction or control of dogs which have attacked people.

Guard Dogs Act 1975 - lays down requirements for the supervision of guard dogs.

Breeding of Dogs Act 1973 - provides for the inspection and licensing by local authorities of dog-breeding establishments.

Pet Animals Act 1951 - provides for the inspection and licensing by local authorities of pet shops.

Food Hygiene (General) Regulations 1970.

Road Traffic Act 1972.

Animal Health Act 1981.

Wild Life and Countryside Act 1981.

Civic Government (Scotland) Act 1982.



PARLIAMENT : Legislative Prog. Bill.

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