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Treasury Chambers, Parliament Street, SW1P 3AG

Private Secretary to
the Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

15 August 1984

Dear Private Secretary,

Your Secretary of State's letter of 3 August to Lord Whitelaw, covering the draft consultation document on the proposed future dog licensing arrangements asked for comments by 8 August. As I indicated to you on the telephone we are not yet in a position to let you have substantive Treasury comments.

The suggestion that the proposed fee by local authorities would be a charge and not a tax would appear to be a departure from established practice. We are looking into this, and will let you have our considered views as soon as possible. Until the point has been resolved, the consultation document cannot issue.

On the question of the present fee, both Mr Jenkin and Mr Jopling favour rounding to 37p. The Chief Secretary suggested in his letter of 18 July that colleagues might wish to consider other options. However, if Ministers generally are content with 37p the Chief Secretary would not wish to object, and this could be dealt with in the consultation document as Mr Jopling suggests.

I am copying this letter to the Private Secretaries to the Prime Minister, members of H Committee, the Secretary of State for Trade and Industry, the Minister of Agriculture, Fisheries and Food, the Chief Whip and Sir Robert Armstrong.

John Gieve
Paul Gieve
P. JOHN GIEVE
Private Secretary

Parliament: Legislation: H 12

16 AUG 1984

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10 9 8 7 6 5



MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister
CONFIDENTIAL

Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London SW1P 3EB

cc 100
9/8

8 August 1984

DOG LICENSING

Thank you for sending me a copy of your letter of 3 August to Willie Whitelaw, seeking comments on the final draft of your consultation paper.

I note that you share my view that the present licence fee should as far as possible remain unchanged pending final decisions and that this would mean rounding down to 37p. Since we are both agreed on this issue, I can see no reason why matters should not now be brought to an end by the inclusion of a positive statement to that effect in your consultation document. The interim reference in paragraph 32 of the draft is in my view unsatisfactory since it commits the Government to a further statement on the issue. For the reasons set out in my letter of 31 July, I do not consider that such a trivial matter warrants such separate treatment. I am sure you would agree that the only sensible course would be to bring the matter to a close in the consultation document.

I am copying this letter to the Prime Minister, members of H Committee, the Secretary of State for Trade and Industry, the Chief Secretary, the Chief Whip and Sir Robert Armstrong.

MICHAEL JOPLING

Measurement
Legislation p. 12



CCND
B/

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

3 August 1984

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and
3/2

Dear Lord President

DOG LICENSING

I am grateful to you and to our colleagues for the response to my letter of 2 July.

- / I now attach a final draft of the consultation paper, which I hope meets the points which colleagues have made. I note the Lord Chancellor's doubts about these proposals, but they embody the solution preferred by the Home Affairs Committee, and they are advanced here in the context of a genuine exercise in consultation. If consultation reveals substantial dissent, then I shall of course have to invite colleagues to reconsider our position.

I should draw attention in particular to paragraph 26 of the revised draft, which makes an interim reference to the implications for the present licence fee (37½p) of the decision to demonetise the halfpenny. I hope that you and the other recipients of this letter can agree to publication of the paper on this basis. I appreciate the need for a timely decision on the halfpenny, but I do not think that we should let it delay publication of the paper. I must, however, add that, since we are contemplating a future arrangement which would allow local authorities to dispense with a licensing arrangement altogether, I do not believe that we can do other than leave the present fee as nearly as possible where it is until we reach final decisions on the new arrangements. That means rounding to 37p.

Unless I hear to the contrary by close of business on ~~Tuesday~~ ^{Wednesday} 8 August, I will proceed with publication.

I am sending copies of this letter to the Prime Minister, members of H, Norman Tebbit, Michael Jopling, and John Wakeham; and to Sir Robert Armstrong.

Yours sincerely

Armstrong

for PATRICK JENKIN

(agreed by the Secretary of State and signed in his absence)

FINAL DRAFT
CONFIDENTIAL

DOG LICENSING: FUTURE ARRANGEMENTS IN GREAT BRITAIN

CONSULTATION PAPER

INTRODUCTION

1. The dog licensing regime in Great Britain is now absurd. The licence fee of 37½p has remained unchanged since 1878. In England and Wales the fee provides revenue for local authorities of about £900,000; the Department of the Environment pays the Post Office about £3,800,000 for the costs of issuing licences. (There is a comparable deficit in Scotland, but the detailed arrangements differ). Local authorities can make by-laws about dogs and employ dog wardens; the police have the duty of dealing with strays; probably less than half of all dogs are licensed.
2. The Public Accounts Committee in 1982 rightly criticised Governments for continuing with such a regime; the Select Committee on the Environment in 1984 accused the Government of lacking sufficient urgency in dealing with the question.
3. The facts, and the criticisms, are discussed at greater length below. Taken together, they do not allow any Government which values good administration to continue to do nothing. The reason for the decades of avoidance of the problem by all Governments is not far to seek. Any solution is bound to be controversial; everyone has an opinion, many strongly held. The two broad options - total abolition of the licensing system, or its reorganisation with an increased fee - both have passionate adherents.
4. This consultation paper sets out the Government's reasons for suggesting that the right course is to maintain a licensing system with local options about its implementation and (within limits) about the fee.
5. Comments are welcomed and should be sent to either of the addresses in paragraph 32 to arrive by 30 November 1984.

6. Only one option is excluded altogether: that of doing nothing.

THE BACKGROUND

7. Any policy should start from the fact that dogs are a major source of comfort and companionship to millions of families, adding significantly to human happiness. Ownership of a dog can 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, not only, but perhaps especially, 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.

8. 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, children's playgrounds and other 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 suffering by dogs. Dogs that are neglected and ill-treated are likely to be those that cause the greatest difficulties: stray dogs, for example, may sometimes cause danger to the public, but are themselves often hungry and miserable animals. Firmer controls could in time do much to reduce avoidable suffering.

9. 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.

10. None of the Working Party's recommendations have been implemented. Successive Governments have felt unable to grasp the nettle of dealing with the complex and contentious issues involved. The need to do so has become more urgent because, in recent years, and as a consequence of inflation, the costs of dog licensing have far exceeded the revenue raised. The Committee of Public Accounts reported⁺ critically on this in 1982.

COMMITTEE OF PUBLIC ACCOUNTS REPORT ON DOG LICENSING

11. 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 revenue again £0.9m. There are additional costs (eg in maintaining registers) which fall on local authorities.

12. 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.

* Department of the Environment: Report of the Working Party on Dogs (HMSO, 1976)

⁺ First Report from the Committee of Public Accounts, Session 1982/83 (HC99)

13. 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.

14. The Select Committee on the Environment also drew attention to the unsatisfactory situation identified by the Committee of Public Accounts in the course of their scrutiny of the Department of the Environment's Main Estimates 1984-85. They expressed concern in their report* that the Government was not pursuing with sufficient urgency the question how to meet the Committee of Public Accounts' recommendations. The Estimates were debated in the House of Commons on 4 July 1984, and particular attention was drawn to the provision for meeting the Post Office's costs for issuing licences in England and Wales. In responding to the debate, the Parliamentary Under Secretary at the Department of the Environment (Mr William Waldegrave) announced that the Government intended to issue a consultation paper proposing changes to the present system.

15. As the Government pointed out in their response[†] to the Public Accounts Committee, however, the present arrangements could be suspended 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. The Government have therefore 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

* 2nd Report from the Select Committee on the Environment, Session 1983-84 (HC414).

† Treasury Minute on the First to Eight and Tenth to Eleventh Report from the Committee of Public Accounts Session 1982/83 (Cmnd 8995).

arrangements in Great Britain⁺ for dog licensing and control.

THE PRESENT POSITION

Licensing

16. 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.

17. 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 estimates, less than half of the total number of dogs are licensed. The maximum fine for failure to obtain a licence is £50 and there are about 3,000 prosecutions a year.

⁺ 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.

Dog Nuisance

18. 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 bylaws 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. The Control of Dogs Order 1930 requires all dogs to have a collar and address tag. The penalty for failure to comply is imprisonment or a fine of up to £2,000, but there are very few prosecutions.

19. 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.

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

PROPOSALS FOR THE FUTURE

21. Dog licensing is a highly contentious and emotive issue. The Government realise that no proposals are likely to command universal support; there are sharp divisions of opinion. The most fundamental of these is between those in favour of a substantially increased licence fee and those in favour of abolishing the licence. The latter argue that, since the problems created by dogs are largely attributable to irresponsible behaviour by a small proportion of owners, it would be unjust to penalise the great majority of owners who exercise proper care for, and control of, their dogs. They point out that there is no licensing requirement for other domestic animals, which can also cause nuisance. They also argue that the already high level of evasion of licensing will rise still further if the fee is increased, and that the only effective way to tackle the problems associated with dogs is through the education of dog owners.

22. There are, however, strong counter arguments. Many responsible bodies that are closely involved with dogs support the continuance of a licensing requirement. These include the main local authority associations, the Institution of Environmental Health Officers, the Farming Unions, the British Veterinary Association, the Joint Advisory Committee on Pets in Society, the League for the Introduction of Canine Control, the National Canine Defence League, the Royal Society for the Prevention of Cruelty to Animals, and the Royal Veterinary College. They see the licensing system as an aid to responsible dog ownership and to dog control, and argue that even a substantially increased fee would not be significant in relation to the costs of feeding and caring for a dog. Local authorities in

particular have to deal with the many of the problems caused by dogs; about one quarter already choose to 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 their functions at a time when the problems are increasing. More importantly, such abolition would clearly signal a lessening of public concern about dog nuisance and of public commitment to the welfare of dogs. As to evasion, it is argued that more effective control would increase the risk that it would be detected.

23. 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 they do not believe that abolition would best serve that end. In the words of the National Farmers Union: "Choosing abolition would be to throw away the means of financing proper dog control, throw away the obvious way of tracing the owner of a stray, throw away the potential deterrent to casual purchases, throw away, indeed, all hope of improvement in dog control in the future."

24. 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. The question of revenue is, however, only one factor and needs to be considered with others such as 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.

25. 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 island councils in Scotland) to make schemes for the registration of dogs kept 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 would require primary legislation. This 'local option' scheme is not unlike that in existence in a number of other countries (such as the Federal Republic of Germany and New Zealand). As in any other area of policy where local discretion is involved, there are obvious potential problems derived from lack of national uniformity; but in the sense that local requirements can be fitted to local needs, this lack of uniformity is itself a source of strength.

26. The legislation envisaged by the Government 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.

27. 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 operated 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 nuisance. 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 keeper, 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
- (iii) to require a dog keeper to produce a valid licence on demand.

The Government also propose that authorities should continue to be empowered to make bylaws or adopt regulations to help with dog control.

Stray Dogs

28. 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 13).

Financial and Manpower Implications

29. As indicated in paragraph 19 the Government propose that when registration schemes are introduced, the authority should set the fee subject to a prescribed maximum. Under any such scheme, each authority would have formal responsibility for issuing licences and collecting the fees; the authority would have power to employ agents (including the Post Office) for this purpose - bearing in mind the

current statutory requirement* that people should be able to obtain licences near their homes - and would be responsible for meeting the cost of any such agency service. 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 dog welfare and control measures. 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 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 that any overall increase will be significant.

30. Appropriate fee levels would need to be settled in the light of consultation. The minimum necessary would 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 £10 might be appropriate; the Government envisage a statutory power to vary the maximum from time to time as circumstances required.

31. Some technical changes would 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 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 would be treated like any other local authority fee or charge, and would therefore be deductible from their rate fund expenditure. As any income from the

* Dog Licences Act 1959, S.7(2)

fee, after deducting the costs of registration, would be used for control and welfare measures for dogs, the proposals need not lead to any net increase in local authority expenditure.

INTERIM ARRANGEMENTS

32. Pending a final decision, and, if appropriate, legislation, on the issues raised in this paper, the Government are considering what action is necessary to deal with the consequences for the present system of the demonetisation of the halfpenny. An announcement will be made in due course.

COMMENTS

33. 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 by 30 November 1984, to:

AN Division
Department of the Environment
Room B357, Romney House
43 Marsham Street
London SW1P 3PY

or, in Scotland, to:

Scottish Development Department
Room 4/95
New St Andrew's House
Edinburgh EH1 3SZ

LEGISLATION RELATING TO DOGS

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

Local Government Act 1966 - powers to alter licence fee.

Control of Dogs Order 1930 (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.

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