RSPCA Cymru is delighted to respond to the above consultation by the Welsh Government. As the main enforcer of animal welfare legislation in Wales, the RSPCA has always retained a key interest in all such issues surrounding the welfare of dogs and indeed has spearheaded the campaign for changes to legislation to better protect the nation’s pets and increase responsible ownership. That campaign has been active for a number of years and so we were particularly pleased to see the Government in Wales issue these proposals – further developing its road map for dogs – following the 2011 referendum and the necessary transfer of powers.

The RSPCA has recently released a Dog Welfare Indicators report\(^1\) which we hope will provide additional information useful to the development of this bill. We receive a call from 1 in 50 of the public in Wales each year, many of which will involve dog issues. In 2011 we saw a 55% increase in dogs being abandoned and a 39% increase in convictions under the Animal Welfare Act compared to 2010. Perhaps in more heartening news, in our recent poll 84% of the public in Wales support proposals to legislate on dangerous dogs and irresponsible owners\(^2\).

The following pages contain both our answers to the questions posed in the consultation document and also supplementary issues and questions which we have identified. As a member of the Welsh Government’s three working groups on the development of the bill, we are fully engaged in working with the Government and all stakeholders to resolve practical issues presented by this draft bill. The following pages should be read from that perspective and should not be interpreted that the RSPCA does not support the general intentions of the proposed bill – indeed we warmly welcome this policy and legislative initiative.

In general we would have preferred to see a consolidation bill for ease of use by enforcers and we are also concerned about the consistency of enforcement, education and training across the 22 local authorities, although we understand the practical decisions behind empowering local authorities. We believe it will be especially important that the bill is linked to the introduction of mandatory microchipping and also an annual compulsory dog registration scheme (a measure supported by 82% of the public in Wales\(^2\)), but even more paramount to the success of this initiative is a strong programme of education and public awareness-raising, especially directed towards families and children; legislation alone is incapable of preventing many of the attacks that happen each year. Research has shown that children are more at risk of getting bitten than adults\(^3\) and people are more likely to be bitten in the family setting at home\(^4\).

---

\(^1\) [www.politicalanimal.org.uk/wales/companion](http://www.politicalanimal.org.uk/wales/companion)

\(^2\) YouGov plc Poll. Total sample size was 1,015 Welsh adults. Fieldwork was undertaken between 19-21 September 2012. The survey was carried out online. The figures have been weighted and are representative of all Welsh adults (aged 18+).


Section 1 - Overview

- s1.5.b extends the law to cover private property which is something the RSPCA welcomes and supports, however we question whether there is a need to have some limitations (i.e. exceptions or defences) placed on this extension. As it is drafted it is possible an offence is committed should for instance one pet dog attack another in their owner's house. The following defences were constructed for the draft bill\(^5\) we developed with key stakeholders:-

1. It shall be a defence under sections [?] or [?] under this Act to prove that the dog was being used for a lawful purpose by a constable or a person in the service of the Crown.

2. It shall be a defence for a person charged with an offence under sections 4 or 5 under this Act to prove that the dog was being used for a lawful purpose for protecting a person, or premises and that the conduct was reasonable in all the circumstances.

3. In proceedings for any offence under this Act or failure to comply with the conditions set out in a control order, if the proceedings are against a person who is the owner of the dog, but was not at the material time in charge of the dog, it shall be a defence for the accused to prove that the dog was at the material time in the charge of a person whom he or she reasonably believed to be a fit and proper person to be in charge of it.

- Re s1.5.c we support substantial sentencing for the offences under the Act, however in legislation it is not usual to see parity between the offences of attacking a protected animal and attacking a human. It may be that for an attack on an assistance animal - due to the effects on a human – it is arguably a relevant factor in sentencing. Whilst the RSPCA is keen to see tougher sentences for animal abuse, the current proposal is perhaps at odds with the Animal Welfare Act (2006). As it is currently drafted it becomes perhaps more important to address the issue of possible 'defences' and exemptions (as above) and also, for instance, in a burglary situation.

Section 2 – Circumstances in which a dog control notice may be served

2. This section makes provision for an Authorised Person to serve a DCN on behalf of a local authority if the three conditions set out in this section are satisfied.

3. The Authorised Person must make an assessment as to whether: (1) there has been a failure to keep the dog under consistent and effective control (2) the dog’s behaviour has on at least one occasion caused someone to feel apprehension about his or her own safety or about the safety of someone else or a “protected animal” and (3) it is reasonable for the person affected to feel apprehension (the “three stage test”). The Authorised Person in considering whether to serve a DCN must have regard to the Welsh Government’s Code of Practice for the Welfare of Dogs.

4. People react differently to dogs and this section allows flexibility in the assessment process for the Authorised Person to look at all the circumstances of the case.

5. This section deals with the possibility of a person fearing for the safety of not only another person, but also the safety of a protected animal. Protected animals are defined in the Animal Welfare Act 2006 as an animal which is commonly domesticated in the British Islands, or is under the control of man whether on a permanent or temporary basis, or is not living in a wild state. For example, this might include a wild animal that is not normally protected but is under the control of man. An

---

\(^5\) RSPCA produced in association with ACPO, the CIEH, the NDWA and Police Federation
assistance dog will of course be a protected animal for this purpose, so a DCN may be served if there is apprehension that a dog which is out of control will attack an assistance dog.

**Question 1 (Section 2):**

Do you agree with the three stage test set out in paragraph 3 above. If not, why not?

- Firstly it is, in the RSPCA’s view, of utmost importance that those individuals - referred to as an ‘authorised person’ - who can serve a DCN, are competent in understanding dog behaviour, from both a dog-welfare and a public safety perspective as well as some elements of human behaviour and being able to gain reliable information from complainants. The competencies or standards of training/experience these individuals should have directly relates to the requirements they make of dogs and owners in terms of whether they are a) appropriate, b) achieve the desired outcome (humanely) and c) do not have a negative impact on the animal or situation. The training of such persons should therefore be addressed before the 3 part test can be assessed for its merits.

  s2.2 and onwards there are references to whether a dog is kept under ‘consistent and effective control’. Although this will be a matter of fact for the court, we question how it can be demonstrated. For instance could it be interpreted that a dog is only under ‘consistent’ control if on a lead or if it always returns immediately to its owner when called? Similarly, effective control might result in the use of inhumane methods of control and aversive training methods which can compromise dog welfare^6^. We feel that this terminology could be setting the standard too high for an average dog owner and similarly the expectations of the general public whom this bill is partly intended to protect. Unrealistic standards for dog owners could potentially lead to an increase in abandonments or relinquishment of dogs by owners who feel unable to comply with such requirements. In the RSPCA’s joint^7^ draft bill the language agreed was ‘under sufficient control’ and whether it ‘required greater control’, which could provide greater discretion. We would suggest that this is used along with a form of wording more closely associated with the Animal Welfare Act (2006) such as, “The first condition is that it appears to the Authorised Person, at a time when the dog and the responsible person are in [area/Wales], that he/she has not taken such steps as are reasonable in all the circumstances to ensure that the dog is kept under sufficient control and requires greater control.”

- s2.3 uses ‘has’ in reference to causing apprehension and thus in the past tense in terms of the dog’s behaviour, however the incident could be in progress at the time of discovery, we would therefore recommend “…its behaviour has, or is causing on at least one occasion…”. This would mean that the offence could be applied more effectively and with greater ease to different circumstances – for instance, reasonable steps in a person’s back garden will be different to those in a park, on a busy street, etc. Introducing the ‘reasonable man’ test perhaps sets the standard to a more realistic level.

**Section 3 - Individuals on whom a dog control notice may be served**

6. A DCN is to be served on the person who is responsible for a dog, or, if that person is aged under 16, on a person with parental responsibility for him or her. The person responsible for the dog may be, but will not always be, the dog’s owner.

---

^6^ www.dogwelfreecampaign.org.uk  
^7^ RSPCA produced in association with ACPO, the CIEH, the NDWA and Police Federation
The Welsh Government has proposed introducing legislation requiring dogs to be micro-chipped, and their owners to be registered on a micro-chip database. This accords with the Road Map on Dog Welfare.

It is possible that the Bill, when introduced in 2013, may refer to the micro-chipping requirement. However, since there is currently no statutory requirement to micro-chip dogs, the Bill as currently drafted does not refer to micro-chipping.

Once a system of micro-chipping is in force, the person shown on the micro-chip register as being a dog's owner will generally be the appropriate recipient of a DCN. But even with a system of micro-chipping, there will inevitably be circumstances where a dog is not micro-chipped, or where the current owner of a dog is not recorded on the micro-chip register, or where for some reason a DCN needs to be served on someone other than the person shown on the micro-chipping register as being the dog's owner. In these cases the person responsible for the dog, or the person with parental responsibility (as set out above) will be the correct recipient.

Question 2 (Section 3):
Do you agree with the categories of individuals on whom a DCN might be served. If not, why not?

- The RSPCA would suggest that the bill would be served better by utilising the ‘responsibility’ clauses contained within s3 of the Animal Welfare Act (2006).
- We believe it may be necessary to serve a DCN on the person with day-to-day charge of the dog (if different), particularly where there is a requirement for training where there may also be a need for permission of the owner for the responsible person to take the dog along for training.
- The terminology “appears” to have ‘...day to day charge...’ is unfamiliar legal language and we would normally expect to see reference to categories of a person “responsible” for a dog whether on a temporary or permanent basis’ etc as used in the Animal Welfare Act 2006. Is there precedent for this new language and has it been properly tested?

Section 4 - Service of subsequent dog control notice

A person cannot be subject to more than one DCN in respect of the same dog. This is because the requirements of different DCNs might clash. So this section prevents more than one DCN being served on a person in respect of a dog, on behalf of the same local authority. It is possible though, that a local authority may not know if another authority has already served an earlier DCN on a person in respect of a dog. This section also therefore provides that if a second DCN is served on a person on whom a DCN has already been served, but on behalf of a different authority, that second DCN has no effect.

- Re s4.2 we understand the rationale to limit the number of DCNs (to one that can be placed on an individual and their dog) by a local authority, but it should still be noted however that this could have an undesired impact on communities. It is entirely possible that the individual and dog could visit and cause problems in a neighbouring local authority area but will be immune from any new DCN. Whilst DCNs are likely to include requirements which prevent this e.g. prohibiting dogs from all public places, doing so could impact detrimentally on the dog’s ability to toilet, exercise...
and interact with other dogs. We suggest that limitations of such requirements are considered so that welfare is not adversely affected. See response to Question 5 for further information.

- This system of ensuring only one DCN is active at any one time on an individual is of course predicated on the introduction and upkeep of a database and tracking system. Any such system would benefit from taking account of any existing statutory (local authority) or voluntary (RSPCA) notices under the Animal Welfare Act (2006), Dog Control Orders (local authority) and any outstanding animal welfare convictions (local authority, RSPCA, Police), if the welfare of the dog is to be best served.

Section 5 – Requirement to maintain consistent and effective control over the dog

11. A DCN must include certain compulsory requirements and may also include optional requirements. This section sets out the first of the compulsory requirements which must be included in every DCN served by an Authorised Person

12. The first compulsory requirements is that the DCN must require that the dog is kept under consistent and effective control at any time when the dog is in Wales.

- Please see other comments on ‘consistent and effective control’ as well as questions about the competency and training of the ‘authorised person’.

Section 6 – Requirement to accompany the dog

13. The second compulsory requirement is that the dog must be accompanied by the person on whom a DCN is served or a “suitable individual” when in any public place. The term “suitable individual” is defined in the section. A suitable individual must be aged 16 or over.

- In s6.3 the reference to the requirement to keep the dog away from – or restrict its access to – a particular place, emphasises the need for the Authorised Persons to have appropriate training and experience. Careful consideration must be given to any detrimental effect on the dog’s welfare – please see our response on sections 7 and 10.

Section 7 – Requirements relating to training

14. The third compulsory requirement relates to training. All DCN recipients will be required to undertake a form of training in order to bring the dog under consistent and effective control. The authorised person will determine the appropriate training in each case and the training will need to be necessary to keep the dog under control or likely to assist in doing so. The training may in particular relate to the welfare of needs of the dog.

15. The required dog training may be undertaken with or without the owner. This requirement reflects the fact that the welfare of the dog and its owner’s ability to effectively and consistently control the dog are fundamental to keeping the dog under control. There may be a time limit by which the training must be completed.

16. Guidance will be issued by the Welsh Ministers on this aspect of the legislation to promote responsible ownership by ensuring that the training needs are tailored to the particular dog and owner.
RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

17. The appropriate training will be within a range from watching a specified DVD to attending dog training and behaviour classes depending upon the facts of each particular case.

**Question 3 (Section 7):**

Should compulsory training be a requirement in a DCN. If so, what types of training should be available to ensure a dog’s welfare needs are met. If not, why not?

- The reason for training as presented in the consultation document appears to be aimed at achieving consistent and effective control of a dog and section 7 suggests that the type of training to attain this will range from watching a specified DVD to attending training and behaviour courses. We have some concerns about the reference to attending training and behaviour classes and the focus of the training being on the dog and these are as follows.

- Achieving effective and consistent control through attending training and behaviour classes or watching DVDs is potentially misleading as not all circumstances for which a Dog Control Notice (DCN) would be served could be addressed this way. For example, undertaking training through attendance and completion of a training course which largely focuses on the training of specific tasks would be relevant in a situation where, for example, a dog is believed to be out of control because it is failing to respond to return to its owner in a public place and needs to learn an effective recall. In other cases, for example, where a dog displays aggression towards unfamiliar people in the home or in a public place, attending and completing a training course or attending a class will not resolve the problem and in some cases could make it worse. For cases such as these it is important to identify the cause of the behaviour problem and for a structured treatment plan to be developed suited to the owner, their dog and personal circumstances; this is the role of a behaviourist.

- It is essential that Authorised Person identifies an appropriate trainer or behaviourist as not all trainers and behaviourists possess the up-to-date knowledge or the skills required to treat people’s animals and neither use methods compatible with modern practice nor animal welfare. Inappropriate or outdated advice or methods may adversely affect welfare and can even make behaviour problems worse in the long term. For example, punitive training methods can increase aggression. Furthermore, some trainers or people who refer to themselves as behaviour experts may be working beyond their knowledge or skill set. For example, whilst some dog trainers will be sufficiently knowledgeable and experienced to provide behavioural advice, this is not generally their area of expertise and so most will lack the necessary skills to do so and can place the dog’s welfare and the health & safety of others at risk by doing so. Likewise, there are practising behaviour experts who lack qualifications and whose methods and techniques are outdated. In order for the Authorised Person to identify an appropriate trainer or behaviourist, it is essential that they themselves must be trained to a sufficient level so that they can be in a position to ‘triage’ appropriately.

- The RSPCA has webpages on both finding a suitable dog trainer and behaviour expert which state the importance of seeking advice from an individual belonging to an organisation with standards
of qualifications and experience in their membership criteria as well as ensuring they only use techniques which protect animal welfare. Behaviour experts accredited by the Association for the Study of Animal Behaviour (ASAB): Certified Clinical Animal Behaviourists (CCAB), are required to hold a qualification to at least degree level, have a minimum of three years experience and must undertake ongoing continued professional development. The Association of Pet Behaviour Counsellors (APBC) represents behaviour experts and members are required to have either a degree and two year’s experience or a postgraduate qualification and one year’s experience. Using such organisations ensures that dogs are being treated in such a way which is compatible with the Welsh Government Codes of Practice.

- The RSPCA also supports the recently established Animal Behaviour and Training Council (ABTC)® which is developing a national register to maintain the details of appropriately qualified animal trainers and therapists. The Council sets, oversees and monitors the standards of professional competence for those working in the field. One of the Council’s aims is to ensure animals are treated in a way which is compatible with modern practice and doesn’t place the animal’s welfare at risk.

- With sufficient and appropriate training, the Authorised Person is in a unique situation to ensure all DCN recipients seek training and/or behaviour advice only from those suitably qualified, knowledgeable, skilled and experienced and therefore play an integral role in protecting dog welfare. In some cases it will be relatively straightforward for the Authorised Person to identify the best person to refer the owner to but in many it is likely to be less so as the underlying motivation for a behaviour may be complex or unclear. In such cases, the RSPCA would suggest referral to a behaviour expert who can then identify the best course of treatment. This may be further referral such as attending a training class or working with a rehabilitation trainer. The RSPCA does have a small number of animal care assistants located within centres working towards a certificate in companion animal behavioural rehabilitation and welfare and as such could implement treatment plans under the guidance of a behaviour expert.

- Where it is clear that dog training is necessary to achieve consistent and effective control the RSPCA would challenge the use of DVDs as it is difficult to see how the Authorised Person could easily determine that the DVD has been watched, understood and implemented. Most existing training courses do include an assessment at the end which would provide better evidence of desired behaviour change in the dog and success is dependent upon the owner’s behaviour in as much as the dog’s i.e. the owner has to train the dog. As a further point, we would be concerned about dog training courses being undertaken without the owner as suggested in section 7 and believe the owner should be involved to ensure they understand how to maintain the training and become both accountable and responsible for it.

- In answer to the question ‘should compulsory training be a requirement in a DCN’, the RSPCA does not believe that training as outlined in the consultation document should be compulsory. However, we do believe that some form of training should be compulsory. As currently

---

8 www.abtcouncil.org.uk
presented, the training outlined in the consultation document appears to be aimed at changing the behaviour of the dog which we believe to be problematic; if a young individual is served a DCN for using their dog to intimidate others, is training of the dog going to prevent future misuse of the dog when fault lies largely at the hands of the owner? The RSPCA firmly believes that training should be targeted at behavioural change in owners so that they become responsible for their dog’s behaviour and welfare and in accordance with the principle of deed not breed. We strongly recommend the development of a mandatory course which aims to educate DCN recipients about responsible dog ownership. The course would need to be developed to cover a range of topics including, but not exhaustive of, dog behaviour and welfare and relevant legislation. Furthermore, it would need to cater for a range of individuals, many of which may be considered hard to reach and because of this we are doubtful that there is already such a course in existence. We would welcome a dialogue with the Welsh Government on the content and delivery of such a course. We believe that it may be possible to deliver it on-line starting with some of our Learning and Development resources that could be adapted and expanded to suit the need. This mandatory training, we believe, could provide a strong animal welfare educational element to this bill.

As an additional point, even if the RSPCA agreed with mandatory training as outlined in the consultation document, we feel it pertinent to question its efficacy particularly considering some of the circumstances for which a DCN is served.

• There may be a problem with the wording of s7.3.b because ‘likely’ doesn’t necessarily mean it will have the right outcome. It is imperative that the outcome of any training, at any level, is measurable and demonstrates a benefit. There is the danger that individuals could attend and ‘pass’ a course but little changes in either their behaviour or their control of the dog. The bill must be equipped to deal with a situation where the training doesn’t work or has little effect. It is also possible that newly acquired training and control methods could only aid the owner’s ability to behave anti-socially with the dog.

18. The training may be at the cost of the recipient of the DCN. For example, the recipient of the DCN may have to buy a dog training DVD or pay to attend a training class.

Section 8 – Requirement to provide information

19. A DCN must require the individual upon whom it is served to provide certain information. This will include any change to his or her name or address.

Section 9 – Power to specify further mandatory requirements

20. This section gives the Welsh Ministers power to specify by order new compulsory requirements which must be included in a DCN. Such an order will be subject to the Assembly negative procedure.

<table>
<thead>
<tr>
<th>Question 4 (Sections 5-8):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you agree that all of the requirements in sections 5 to 8 should be mandatory. If not, why not?</td>
</tr>
</tbody>
</table>
Our comments on this point are covered under Question 3.

s7.6.b provides the ability to require a date by which a DCN must be complied with but there does not appear to be any overall time limit for such a notice. In the extreme, a DCN could be set for the rest of the dog's natural life which could impact on the animal's welfare. It then raises the question as to whether this is the most appropriate approach to dealing with the problem. The basis of early intervention methods is to deal with a problem and resolve it so that it does not happen again in the future, so if something cannot be resolved within a maximum time period of say six months then it isn't early intervention and it can't be working effectively.

Section 10 – Contents of a dog control notice: optional requirements

21. Sections 5 to 8 inclusive set out mandatory DCN requirements. Section 10 sets out what additional optional requirements may also be included in the DCN.

22. A DCN can contain one or more optional requirements, but each optional requirement must support the objective of bringing the dog under control or assisting in doing so. The authorised person will determine which optional requirements to insert into the DCN after making an assessment of the circumstances and requirements that would be appropriate to improve the dog’s behaviour.

23. This section gives examples of the types of requirement that might be imposed. The DCN could specify appropriate types of leads and muzzles, the types of persons who may have charge of the dog (for example, it may not be appropriate for a small child to take charge of a large dog) and the place or places to which the dog may be taken.

Question 5 (Section 10):

We have set out examples of options that a DCN can contain and this list is not exhaustive. Are you content with such an approach? Do you consider that other optional requirements could be included? If so, please provide details.

One of the intentions of this bill is to enhance dog welfare however, there are optional requirements which a DCN might impose which could have the opposite effect and so should be carefully considered. We have outlined our concerns and, where possible, provide suggestions to protect welfare. There are also optional requirements which haven’t been suggested which we believe, in certain circumstances, could achieve greater control and enhance animal welfare, these are discussed at the end of this section.

• Keeping the dog away from particular places or places of a particular kind or places of a description described in the notice AND/OR restricting the dog’s access to particular places or places of a particular kind or places of a description specified in the notice

Prohibiting an owner from walking a dog in certain areas or preventing access may prevent the dog from being exercised at all if no other suitable and accessible places are in the local vicinity. It is therefore important that if this is included as a requirement and its impact is detrimental to welfare that consideration to restricting access for only part of the day, or something similar, is given as well as identifying others areas for exercising the dog or recommending alternative methods for providing additional stimulation.
The RSPCA is also concerned about the potential to routinely ban specific breeds or types from certain public spaces due to an inexperienced/untrained Authorised Person and/or the misconceptions by a community of the potential threat of certain breeds. Not only does this have the potential to impact on the welfare of a number of dogs where there has been no risk identified, it perpetuates unfounded misconceptions on particular types of breeds/dogs and compounds the issue of breed not deed.

- **Keeping the dog on a lead**
  There are a range of circumstances where keeping a dog on a lead might be a requirement of a DCN including where a dog has displayed aggressive behaviour. However, it is possible that keeping a dog on a lead could increase aggression rather than effectively control it. For example, a dog which feels threatened by the approach of another individual, dog or human if off the lead would have the option of retreat or avoidance but this is not possible for dogs kept on leads. They must instead rely on appeasement or aggression, rather than avoidance. Thus being on a lead might actually encourage aggressive behaviour rather than reduce it. In fact, in one study, the occurrence of threat was two times higher between dogs on lead than off lead (Rezac et al. 2011). This increase in threatening behaviour may be for the following reasons: the close proximity of the dog’s owner may increase its confidence in reacting aggressively; the owner may be responding to the approach of the other dog by tensing and inadvertently tightening the lead which may alert their dog to a potential threat; or the dog may feel more vulnerable because it cannot use avoidance (Rezac et al. 2011).

Furthermore, keeping a dog on a lead is likely to impact detrimentally upon its welfare through reducing the range of behaviour a dog is able to or has the choice to perform. Rezac et al. (2011) also found that the occurrence of play between dogs was significantly lower when one or both dogs were on lead than when both dogs were off lead, perhaps because the owners were preventing this or because the dogs felt generally less relaxed on the lead or felt more threatened because for example they cannot use avoidance. Interaction in general was found to be reduced by the use of a lead, therefore off lead walking is recommended to increase the duration and frequency of beneficial social interactions between dogs (Westgarth et al. 2010). A study of large breeds also found that a combination of off-lead exercise and on-lead exercise is protective against hip dysplasia so as well as influencing psychological welfare, indefinite on-lead exercise can also be directly detrimental to health (Krontveit et al. 2012).

- **Keeping the dog muzzled**

---


The RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

The requirement to keep a dog muzzled has the potential to compromise the dogs’ welfare, largely by limiting the ability to interact with other dogs and people. Facial expressions are important visual communication signals, for example a dog that is feeling threatened by the approach of another dog or person may show its teeth either in a threatening fashion (front teeth exposed), or an appeasing fashion (back teeth exposed), both of which are performed in order to make the threatening individual back off and leave the dog alone. Lip lifting and the submissive grin, as these behaviours are respectively known, are clear signals as to the dog’s subjective state and its intentions. However, if these signals are not visible because of a muzzle then the ability of the other individual, whom these signals are aimed at, to read the body language and react accordingly is reduced. In a situation where, for example, a muzzled dog is being harassed by a younger more playful dog, it cannot easily tell the younger dog to retreat thus it may have to suffer the unsolicited attention. Similarly, if a muzzled dog feels threatened by the approach of another individual, dog or human, and that individual does not retreat then the muzzled dog could feel fear yet have limited means to deal with this situation. In both cases the dog’s welfare is compromised as a result of limited communication.

Other people can react badly to muzzles and avoid these dogs, possibly because they think they are dangerous despite the control of the muzzle (Racca and Baudoin, 2009)\(^\text{12}\), and possibly keep their own dogs away, thus reducing the opportunity for social interaction even more. Habituation to wearing a muzzle is very important, especially if the dog will be wearing it repeatedly and/or for long periods of time, otherwise the dog could experience fear, frustration or discomfort. It might also be able to get the muzzle off or injure itself in the process of trying. The type of muzzle that the dog wears will also influence its welfare. A basket muzzle is preferred as it allows the dog to pant, drink and eat - behaviours that might be limited by other types of muzzle and may therefore cause frustration, dehydration or heat stress.

Implementing any of the measures above may be seen to solve the behaviour problem which the DCN has been served to address but they won’t address the underlying cause of the behaviour and if used long-term could adversely affect welfare. Therefore, the RSPCA recommends that the measures outlined above should be considered interim measures which are in place whilst the undesired behaviour is being modified under the guidance of a suitable behaviour expert as outlined in response to question 3.

- **If the dog is male, neutering it**
The RSPCA strongly advocates the neutering of dogs as an important part of responsible ownership but it is unclear as to why only the neutering of males dogs is proposed; we believe it is linked to misconceptions surrounding neutering and aggression. Whilst statistics suggest that entire male dogs are more likely to show aggression than female dogs or neutered males this does not mean that neutering males will prevent aggression. Whether or not neutering

---

will decrease aggression is dependent upon why the dog is aggressive in the first place. Once aggression has been learnt as a successful response to a situation, neutering is unlikely to have an effect. Furthermore, there is also some strong anecdotal evidence which suggests, that in some dogs, neutering can make some forms of aggression worse. As such, neutering to inhibit aggression and thus improve control is likely to be ineffective. However, there are clear health and welfare benefits of neutering for both individuals and the general population and in some cases, neutering will assist in greater control, particularly where male dogs are roaming for sexually related reasons. Therefore, dependent upon the circumstances, we believe the DCN should be able to require neutering, and of either sex.

• **Additional options relating to welfare**
A failure to provide for an animal’s welfare needs can result in undesirable and inappropriate behaviour some of which may result in the service of a control order. For example, a dog may use aggression because its owner’s behaviour makes it feel fearful or anxious or it is frustrated through a lack of opportunities to perform strongly motivated behaviours. Whilst modifying behaviour problems is likely to lead to an overall improvement in welfare, the RSPCA believes that there are additional requirements which relate specifically to the five welfare needs which DCNs could contain. For example, in cases where visitors have felt threatened by a family dog or where a family dog poses risk to a child, as well as seeking and implementing the advice of a behaviour expert, the Authorised Person could also require the owner to provide a place of safety to which the dog can retreat to, protecting not only people but also meeting the need for a suitable environment. The Authorised Person might also include guidance for adults and children when interacting with the dog as well as ensuring the owner isn’t using any aversive techniques to protect the dog from pain and suffering. Although the Animal Welfare Act (2006) provides for improvement notices around the duties of the owner/keeper regarding the animals needs, in order to reduce the need for more than one notice (under separate Acts) to be served on one individual, it may be prudent to include these five needs and the conditions that can be imposed through an improvement notice under this bill. This would also have the benefit of reminding the responsible person of their obligation to both keep the dog under control and provide for its welfare – as the RSPCA believes the two issues are inextricably linked to each other and when done properly ensure responsible dog ownership.

**Section 11 – Local authority power to vary a dog control notice**

24. The local authority can vary an existing DCN, but cannot do so without the consent of the person on whom it was served.

25. If no consent is forthcoming, the local authority may need to discharge the existing DCN and serve a new DCN including the new requirements.

• This section appears to make no provision for a requirement for the Authorised Person or local authority to provide an explanation for the variation. In the interests of openness and transparency it would be more complete if there was a requirement to provide that explanation.
Section 12 – Appeal against a dog control notice

26. Where the person on whom the DCN is served believes (1) that the DCN should not have been served at all (2) that the DCN contains unfair or unreasonable mandatory or optional requirements or (3) that the DCN ought to have been discharged by the local authority, he or she can appeal to the Magistrate’s Court. The court can confirm, vary or discharge the notice. The court can vary or discharge one of more of the optional requirements imposed, but can only vary the mandatory training condition, not discharge it. The order cannot vary or discharge any of the other mandatory requirements.

The DCN should always contain the mandatory requirements specified above and so the court cannot discharge any of the mandatory requirements.

Question 6 (Section 12):
Do you agree that the appropriate mechanism to appeal against a DCN is through a Magistrates Court? If not, why not?

- It is comparable to other legislation however the second ground for appeal that the requirements imposed are “unfair or unreasonable for any reason” is unusually wide.

- It may be prudent for the bill to specify the time limit for an appeal to be lodged.

Section 13 – Suspension of a DCN pending appeal

27. The court may suspend the effect of a DCN pending an appeal by the recipient of the DCN. The court may give directions as to how the dog will be dealt with during any suspension granted and whether the owner should repay expenses incurred in connection with dealing with the dog during the suspension.

Section 14 – Local authority duty to discharge dog control notice

28. A DCN must be discharged where the authority that served it believes that the dog has been brought under control and will continue to remain so.

29. The local authority must also discharge the DCN where it is satisfied that it would be unreasonable to allow the DCN to continue. For example, where the dog referred to in the DCN has died, the local authority must discharge the DCN.

- This section seems to require an element of monitoring in order to make the judgement to discharge and depending on the requirements of the DCN consultation with a behaviour expert or dog trainer may be required. In situations where this wouldn’t be the case, for example, where a dog is prohibited from a particular place, We are keen to hear the views of local authorities on this aspect and whether they believe they have sufficient resources to do this.

Section 15 - Local authority power to discharge dog control notice

30. A local authority also has discretion as to whether to discharge a DCN. The requirement for exercise of this discretion is that the local authority is satisfied that it would be appropriate to
discharge it. The distinction between the duty in section 14 and the power in this section is important to allow for maximum flexibility in considering whether a DCN should be discharged.

Section 16 – Discharge of DCN by the local authority: supplementary

31. Where the local authority discharges a DCN, it must specify in writing to the person upon whom the DCN was served that the notice is discharged and the date from which the discharge has effect.

<table>
<thead>
<tr>
<th>Question 7 (Sections 14-16):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you agree that the provision for a local authority to discharge a DCN is appropriate? If not, why not?</td>
</tr>
</tbody>
</table>

- The provision allows for flexibility as to when a local authority must discharge a DCN and when it has discretion to do so. Guidance might be helpful as to when it is “unreasonable” not to discharge the DCN s14.2 and when it would be “appropriate” to do so as set out at s15 of the draft bill.

- It may also be prudent to include a mechanism for an owner to apply to the local authority for the discharge of the DCN and also a specific time period within which the local authority must review the existence of a DCN.

Section 17 – Failure to comply with a DCN

32. Where a person has failed to comply with a DCN an offence has been committed and he or she can be prosecuted by a local authority (whether or not it was that local authority which served the notice). The penalty is a fine up to a maximum of level 3 (£1,000) on the standard scale. A person cannot be convicted if there is a reasonable excuse for failing to comply with the DCN.

- Is the intention that only the local authority is able to pursue the prosecution? If they have contracted an Authorised Person from outside of the local authority would that Authorised Person be in a position to pursue the prosecution? If not the decision to prosecute is perhaps more susceptible to the local authority’s capacity to fund it.

33. DCNs will be enforceable throughout Wales and not just in the area of the local authority on whose behalf the notice was served. Therefore, a DCN issued by, for example, Welsh local authority “A” can be enforced by Welsh local authority “B”. This might be necessary if for instance the recipient has moved from local authority “A”’s area to local authority “B”’s area, or if for some other reason the dog and its owner are in local authority “B”’s area.

34. A DCN cannot be enforced by a local authority outside Wales.

- The need to provide a limit to territorial extent is clear, however what can, or will, be done where an owner (possibly regularly) commits an offence in Wales and should be subject to a DCN, but they live in England, for instance a holiday home-owner?

<table>
<thead>
<tr>
<th>Question 8 (Section 17):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you agree that failure to comply with a DCN should constitute an offence and be liable to prosecution? If not, why not? Do you agree with the level of the fine?</td>
</tr>
</tbody>
</table>
RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

- It is imperative that the failure to comply with a DCN constitutes an offence in order to provide the deterrent to further unwanted behaviours as well as encourage and improve responsible dog ownership

- We would suggest that someone should be required to comply with ‘all the requirements’ of a DCN not just a requirement (s17.1)

- Other penalties within the legislation have parity with similar offences, for instance within the Animal Welfare Act, however in terms of a breach of a disqualification order under the same Act is punishable on summary conviction with a prison term not exceeding 51 weeks and a fine not exceeding level 5 on the standard scale or both (s32.2) plus the court can also impose a deprivation order where the offence consists of owning an animal in breach of a disqualification.

**Section 18 – Orders that may be made on conviction of an offence under section 17**

35. Where a person has been convicted under section 17, the court may order: (1) the destruction of the dog (where the dog is a danger to public safety or to protected animals) and/or (2) the disqualification of the owner for a specified period. The disqualification can relate to owning, keeping, participating in the keeping of or being in an arrangement where the person is entitled to control or influence the way the dog is kept. This section contains ancillary powers regarding delivery of the dog for destruction and imposition of associated reasonable costs on the convicted person.

<table>
<thead>
<tr>
<th>Question 9 (Section 18):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you agree with the proposed court orders? If not, why not?</td>
</tr>
</tbody>
</table>

- s18.1.a appears, in our opinion, to be a rather draconian approach for what perhaps may be a minor offence. Although s18.2 ensures that the court must be satisfied that the dog is a danger to public safety or to other protected animals, this raises the question as to what DCNs be used for. If the dog has been involved in an incident so serious as to be considered to be a risk to public safety then the owner could, and should, be prosecuted under s3 of the Dangerous Dogs Act 1991 and not this legislation.

- s18.1 makes no provision for the court to require a deprivation order which could be a more appropriate approach rather than destruction.

- s18.3.d does not specify if it is any Authorised Person or the local authority, or both, who the powers – including that of entry – would be conferred upon.

**Section 19 – Disqualification order: suspension pending appeal**

36. Where a disqualification order has been made, the court may suspend this, pending an appeal against: (1) the conviction or (2) the order imposing the disqualification order.

- s19.1 does not appear to allow for an appeal against a sentence, only an appeal against the conviction. However it may be that someone does not wish to appeal their conviction – in that they accept their guilt – but they do wish to appeal the sentence, for instance if a destruction order had been handed down.
37. The disqualification order can also be suspended to enable alternative arrangements to be made for any dogs owned or kept at the date of the disqualification order.

**Section 20 – Disqualification order: seizure of a dog**

38. This section also enables the court to make a seizure order, taking the dog into possession. There is provision for the dog owner to make representations and to appeal the order. Also, the court may order the owner to repay expenses incurred in connection with the carrying out of the order. Where a dog is seized because it is being kept by a disqualified person, but is not owned by him or her, the dog's owner will be heard by the court before the court makes an order for disposal of the dog.

**Section 21 – Discharge of a disqualification order**

39. Where a disqualification order has been made, the person disqualified can apply to the court to discharge the order, but cannot do so for at least one year after the order was made.

40. Where an application to discharge is unsuccessful, a further application cannot be made for at least one year.

**Question 10 (Section 21):**

Do you agree that a period of at least one year should pass before any further application can be made to discharge a disqualification order or where any further application can be made, to discharge an order following an earlier unsuccessful appeal? If not, why not?

- This appears to mirror the provision in s43 of the Animal Welfare Act and is therefore reasonable.

**Section 22 – Failure to comply with a disqualification order**

41. Failure to comply with a disqualification order is an offence with a maximum penalty of a level 3 fine (that is a fine of up to £1,000). A local authority can bring proceedings for failure to comply only where the offence has been committed in its area.

42. The effect of section 22(4) is to apply sub sections 20(2) to (8) where a person is convicted of failure to comply with a disqualification order. This means that where a person fails to comply with a disqualification order, the court may order that any dog owned or kept by him or her is to be seized. Where the dog is actually owned by someone else, the owner of the dog will be given the opportunity to be heard before the court makes an order for disposal.

**Question 11 (section 22):**

A level 3 fine is one where a court may impose a fine of up to a £1,000. Are you content with this approach? If not, why not?

- This level of fine appears to be inconsistent with the Animal Welfare Act (2006) where under s34 a breach of a disqualification order is punishable on summary conviction with a prison term not exceeding 51 weeks, a fine not exceeding level 5 on the standard scale or both plus on conviction the court may exercise other powers i.e. deprivation.
Section 23 – Suspension of orders pending an appeal

43. A court order is suspended until the time for appeal has passed or the appeal has been determined or withdrawn. Where an order is suspended under this section, the court may give directions as to how the dog will be dealt with during the suspension period, including taking the dog into possession.

Section 24 – Court’s power to discharge or vary dog control notice

44. A court may discharge or vary a DCN where a person is prosecuted under section 17 whether or not he or she is convicted. The court can discharge the DCN, or it can (1) vary the mandatory training requirement and/or (2) vary or discharge an optional requirement.

Section 25 – Recording dog control notices

45. A local authority must keep an accurate and up to date record of all DCNs served on its behalf and notify the recipient of the DCN of any changes. The Welsh Ministers may give directions about particular information to be kept by the local authority and the local authority must comply with such directions.

Section 26 – Monitoring dog control notices

46. A local authority must monitor compliance by people living in its area with DCNs served on its behalf in its own area. In addition, where a DCN has been served by Welsh local authority “A”, but the recipient of the DCN is now resident in the area of Welsh local authority “B” and local authority “B” knows both about the DCN and that the recipient is in its area, local authority “B” must monitor compliance with that DCN.

47. There is a duty upon local authorities to co-operate with each other for the purpose of making arrangements under this section.

Section 27 – Establishment and operation of database of dog control notices

48. The Welsh Ministers may themselves, or by arrangement with another person or body, establish and operate a DCN database.

49. The Welsh Ministers will have power to make regulations relating to the establishment and creation of a database in accordance with the Assembly’s negative procedure. The section also confers powers upon the Welsh Ministers to give directions and guidance about the operation of the database.

50. The section sets out in detail the kind of information that could be required in relation to the database.

Question 12 (Section 27):

To enable effective sharing of DCNs between enforcement authorities, is it right that some form of database should be set up?
RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

- The creation of a database and the return of all pertinent information to it, is crucial, in our view to the success of DCNs. Such important information on the status of the animal and its owner is important in protecting the dog’s welfare and should include, where possible, as much relevant information e.g. welfare notices. As the RSPCA is the main enforcer of animal welfare legislation we are of course particularly keen to learn of the Welsh Government’s intentions in terms of inter-agency information access and sharing. It would seem prudent that the database is mindful of the overlap with local authorities and police and therefore contains the details of parallel – and partnership – investigations and prosecutions. It is of course important, given the structure of 22 local authorities in Wales, that they are able to access all the same information on each owner and animal. If an individual and the responding agencies are all to be spared duplicating visits to one household there would appear a need for an agreement on what information is shared and what is returned to the database.

Section 28 – Authorisation to serve dog control notices

51. This section makes provision about the individuals who may be authorised to serve DCNs. An authority may itself authorise individuals to serve DCNs on its behalf. Or it may enter into arrangements with another person for that person to authorise individuals to serve DCNs on the authority’s behalf. In practice, for instance, an authority may enter into arrangements with a local police force under which PCSOs might be authorised to serve DCNs on the authority’s behalf.

52. The Welsh Ministers may be regulations prescribe conditions that are to be satisfied by a person before being authorised to serve DCNs. These conditions could relate to the experience, qualifications or training of the person.

**Question 13 (Section 28):**

*Do you agree with this approach about who will serve DCNs? If not, why not?*

- The RSPCA would like to see it written in to the bill that the Authorised Persons must have regard for animal welfare as failure to do so might detrimentally impact on the intention of the bill to enhance welfare and prevent injury.

- Clearly it may be reasonable and practical for a local authority to ‘outsource’ to a third party the function of serving DCNs, or indeed authorise additional external personnel to supplement its own officers, however, again we must draw attention to the minimum training, experience or competencies we believe will be essential to both act to protect public safely whilst also ensuring the welfare of the dog. It is this latter specialism that few in society may possess the skills to execute – for instance PCSOs are not trained in dog welfare, behaviour or training. If they were to be authorised by the local authority, the RSPCA would like assurances on the minimum training that will be required. It should also be communicated clearly what powers the local authority will have to investigate complaints against a third party Authorised Person, malicious or otherwise.

- Further to this point, we believe there should be parameters laid down for such third parties for the purposes of transparency. For instance such persons or organisations may also wish to provide the dog or behaviour training. Any conflicts of interest need to be addressed in an open fashion.
Internal local authority Authorised Persons are unlikely to personally witness the incident themselves and so there is a question to ask as to whether a DCN could be served on the statement of certain persons e.g. a police officer or an RSPCA Inspector.

The bill offers an opportunity for the statutory enforcers and the RSPCA to work in collaboration, this opportunity should be maximised to provide the best opportunity to tackle dog welfare problems across Wales. It will also be crucial for communicating to the public who to call for the different welfare issues and for a dog dangerously out of control.

Section 29 – Service of dog control notices: supplementary

53. A DCN can be served by personal delivery, post or e-mail. The conditions relating to e-mail service are set out in detail in this section. In particular, the effect of subsection (2) is that a DCN may be served by e-mail only if the individual on whom it is served has agreed to this.

Section 30 – Form and content of dog control notice

54. This section enables the Welsh Ministers by order made in accordance with the Assembly’s negative procedure to specify the form of the DCN and also what information must be included in the DCN. For example, the DCN could contain information about the recipient’s right to appeal against the DCN.

Section 31 – Local authority duty to have regard to guidance

55. In exercising functions under this Act, a local authority must have regard to guidance issued by the Welsh Ministers. For example, the guidance could include provision regarding considerations to be taken into account by the authorised person in imposing optional requirements. There is also a specific requirement for the local authority to have regard to the Welsh Government’s Code of Practice on the Welfare of Dogs which has been issued under the Animal Welfare Act 2006. The effect is that guidance given in the code of practice about dog welfare will feed into decisions made about the service of a DCN and the requirements imposed in a DCN.

Section 32 – Dangerously out of control dogs: Amendments to the Dangerous Dogs Act 1991

56. Section 3 of the 1991 Act provides that the owner of a dog or person in charge of it commits an offence if the dog is dangerously out of control in (1) a public place and (2) in a private place where it is not permitted to be. There is no provision in section 3 of the 1991 Act for an offence to be committed where a dog is dangerously out of control in a private place where it is permitted to be, for example, its own front garden.

57. This has implications for people who need to access private dwelling houses across private land where the dog is permitted to be. For example, the 1991 Act is not engaged where a postal worker passes through a private front garden of a house in order to deliver post.

58. This section therefore addresses these implications by extending the application of the 1991 Act to any place in Wales. That is, the effect of the amendments to the 1991 Act in subsection (2) is that the owner of a dog, or person in charge of it, commits an offence if the dog is dangerously out of control in any place in Wales.
RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

59. This section also (in subsection (6)) amends the 1991 Act to provide that a dog is to be treated as being “dangerously out of control” for the purposes of the 1991 Act, if there is reasonable apprehension that it will attack a protected animal. As the 1991 Act stands, a dog is treated as being dangerously out of control only if there is reasonable apprehension that it will attack a person, so the effect of this change is to widen the scope of the 1991 Act as far as it applies to Wales.

60. Similarly, this section (in subsection (2)) amends section 3 of the 1991 Act with the effect that the owner or person in charge of a dog commits an aggravated offence under that section if the dog actually injures a protected animal. As the 1991 Act stands, an aggravated offence is committed only if a dog actually injures another person, so the effect of the change is to extend the circumstances in which an aggravated offence may be committed. Higher penalties are applicable to an aggravated offence under section 3 of the 1991 Act than to an offence under that section which is not an aggravated offence.

61. “Protected animal” in this context is defined by reference to the Animal Welfare Act 2006. In particular, a rat or fox, for example, will be a protected animal only if it is a pet or otherwise under the control of man. An assistance dog will be a protected animal.

62. Subsection (5) of this section amends the 1991 Act so as to confer power on a constable to seize a dangerously out of control dog in Wales whether or not it is in a public place. This reflects the extension of the offence under section 3 of the 1991 Act to encompass private places in Wales.

63. The amendment made to the 1991 Act by subsection (6)(b) of this section makes it clear that the amendments to the 1991 Act do not encompass a case where a dog is being used for hunting. This reflects restrictions on the legislative competence of the National Assembly under the Government of Wales Act 2006.

**Question 14 (section 32):**

Do you agree with this approach? We would be grateful for your views of extending the 1991 Act to include private places and making it an aggravated offence (with higher penalties) to attack another animal.

- The RSPCA is generally in support of the proposals to amend the Dangerous Dog Act (1991). For communication workers and other visiting personnel there will undoubtedly be an improvement as prosecutions and recompense will be better served. It should be noted however that this amendment is unlikely to prevent all incidents especially those which happen in the family setting although to avoid committing an offence, owners may be more likely to prevent situations where dogs and visitors could meet.

- We would like to see amendments to the DDA go further. Whilst we appreciate not everything is within the purview of the Welsh Government, the RSPCA’s ultimate goal is to achieve repeal of section 1 legislation. In the interim we would like to begin to tackle the widespread misconception of s1 dogs by rehoming those that are suitable and as provided for in our own joint draft bill. We would welcome an open dialogue with the Government on how repeal and rehoming may be achieved in the future, if not with this legislation.

- We believe s32.5 of the bill should read "......if the dog appears to the constable to be or has been dangerously...." so that incidents can be dealt with retrospectively.
RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

Section 33 – Orders and Regulations

64. This section provides that orders and regulations in this Bill are to be be made by statutory instrument and (apart from commencement orders) will be made in accordance with the Assembly’s negative procedure.

Section 34 – Interpretation

65. This section makes it clear that references to a local authority in this Bill are to only Welsh local authorities. This does not include community councils.

Section 35 - Commencement

66. Upon Royal Assent, sections 1 and 33 to 36 inclusive automatically come into force.

67. The remaining provisions of the Bill will only be brought into force by commencement order.

Section 36 – Short Title

68. The short title of the Bill is the “Control of Dogs (Wales) Bill 2013”.

Question 15:

The Welsh Government takes the view that these proposals will lead to greater responsible dog ownership, enhanced animal welfare and provide for better prevention of injury to adults and children. Do you agree? If not, why not?

- The RSPCA is generally in support of the Welsh Government’s view and the principles on which this bill is based. There are changes and clarifications still needed which relate, for example, to Authorised Persons and the compulsory and optional requirements within the notice (see answers to Q3) but, we believe, subject to those being resolved, that these proposals could go a long way to improving responsible dog ownership and as a result the welfare of dogs in Wales. As previously stated better prevention of injury to adults and children is unlikely to be achieved through implementation of this bill alone and is dependent upon a comprehensive, evidence-based and objective package from the Welsh Government to educate dog owners and the wider public.

- We also believe that for the bill to achieve greater responsible dog ownership, enhanced animal welfare and better protection there needs to be the means for monitoring its efficacy. We suggest the establishment of a working group to ensure the measures used to implement the bill remain relevant, effective and reflect evidence-based and current practice. The RSPCA would be supportive of, and willing to contribute to, such a group.

- It is also imperative that mandatory microchipping is introduced for all dogs in Wales before this bill comes into force. Mandatory identification must also be accompanied by a requirement for annual registration in order for any ID system to be effective. Such a database could be combined with the data to be held on all DCNs and be funded through a moderate registration fee and the proceeds from fines. The results of such a system can be expected to reduce the costs on society from dog attacks and stray dogs.
**RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.**

**Question 16:**
The draft Regulatory Impact Assessment (RIA) provides an estimate of the costs and benefits associated with the proposed legislation. Do you agree with the assessment? If not, why not?

- There are problems associated with the types of data used to calculate the costs specified in the RIA however we recognise that they are reasonable estimates in the absence of better information.

**Question 17:**
Do you have any alternative information that would help to inform the final RIA?

- RSPCA Cymru recently released a report into Dog Welfare Indicators, containing many useful facts gathered from RSPCA and all available/open sources. This can be found at www.politicalanimal.org.uk/wales/companion

**Question 18:**
We have asked a number of specific questions in relation to the Bill and the RIA. If you have any related issues which we have not specifically addressed, please use this space to report them or provide comments separately. Please note, this consultation does not relate to dog fouling, rehoming, or kennelling. These matters may be given separate consideration at a later date.

- We would welcome clarity on whether it is proposed that the DCN is issued in respect of the owner, or the dog, or both? Would the DCN transfer to a new owner? What if that new ‘owner’ is the RSPCA or an animal welfare NGO, are we obligated to then tell a new potential owner the dog has/had a DCN notice on it? Would the new owner’s details then need to be entered into the database? Also does a friend or employee walking your dog have an obligation to meet your DCN conditions?

- Also related to the point above, we would welcome clarification on situations such as multi dog households, perhaps with similar breeds, as to how the Authorised Person knows which dog relates to the DCN. This re-emphasises the need for permanent identification.

- Could owners get around the issue of having a DCN on them and their dog, simply by getting rid of that dog and acquiring a new one? It would appear to be a very difficult situation for enforcers to monitor and enforce.

- We are aware that there is a call by some organisations that this bill contains a mandatory requirement for all dog owners to have 3rd party insurance, as an organisation solely concerned with animal welfare, we are not able to respond on this particular point except of course we advocate that all pet owners have comprehensive insurance for the sake of the health and welfare of their pet. If any form of insurance were to become mandatory we would wish to see the welfare of pets protected as well because it forms a key part of responsible pet ownership.

- Although the Welsh Government has been clear in its intention that it will introduce mandatory microchipping for all dogs, we urge that this is introduced without delay and includes the

---

RSPCA Cymru consultation response to the Welsh Government’s Proposals for a draft Control of Dogs (Wales) Bill, February 2013.

essential element of annual registration – please see our detailed response to the consultation in July 2012 which can also be found here:-