

HOUSE OF COMMONS  
ORAL EVIDENCE  
TAKEN BEFORE THE  
ENVIRONMENT, FOOD AND RURAL AFFAIRS COMMITTEE

**DRAFT DANGEROUS DOGS (AMENDMENT) BILL**

WEDNESDAY 24 APRIL 2013

TEMPORARY DEPUTY CHIEF CONSTABLE GARETH PRITCHARD,  
PC KEITH EVANS, RICHARD LEAMAN and ROSEMARY GUILDING  
CLARISSA BALDWIN, GAVIN GRANT, STEVE GOODY and CLAIRE HORTON

Evidence heard in Public

Questions 1-92

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and reported to the House. The transcript has been placed on the internet on the authority of the Committee, and copies have been made available by the Vote Office for the use of Members and others.
2. Any public use of, or reference to, the contents should make clear that neither witnesses nor Members have had the opportunity to correct the record. The transcript is not yet an approved formal record of these proceedings.
3. *Members* who receive this for the purpose of correcting questions addressed by them to witnesses are asked to send corrections to the Committee Assistant.
4. *Prospective witnesses* may receive this in preparation for any written or oral evidence they may in due course give to the Committee.

## Oral Evidence

Taken before the Environment, Food and Rural Affairs Committee

on Wednesday 24 April 2013

Members present:

Miss Anne McIntosh (Chair)  
Richard Drax  
Mrs Mary Glendon  
Sheryll Murray  
Ms Margaret Ritchie

---

**Examination of Witnesses**

*Witnesses:* **Temporary Deputy Chief Constable Gareth Pritchard** and **PC Keith Evans**, Association of Chief Police Officers, **Richard Leaman**, Chief Executive, and **Rosemary Guilding**, Legal Adviser, Guide Dogs Association, gave evidence.

**Q1 Chair:** Good afternoon and welcome, and thank you all very much for participating in this pre-legislative scrutiny. We are not expecting a vote, so there should not be any interruptions. We are not expecting a fire alarm either, so if there is one then we will obviously adjourn with some haste.

May I just set the scene at the outset? We have been invited to undertake pre-legislative scrutiny within a very, very tight timetable, and we are in a position where we are hoping to report next week, but that is assuming that the House is sitting. As it seems likely that the end of this parliamentary session might come as early as this week, we will not be in a position to sit next week, so I am afraid we will not meet that deadline, though obviously we will have something to say. If that is the case, we shall proceed to report on what we have heard from you and from those who have very kindly submitted written evidence, but we are slightly alarmed by the fact that the Government is saying that after 29 April it is the Department's intention to publish the clauses as the Bill. Obviously, that will leave the way open for us, as a Committee, if we wish, to table formal amendments rather than just recommendations. I would also just say at the outset that obviously because this is a one-off evidence session, to all those who have provided written evidence, for which we are most grateful, written evidence has equal weighting with the oral evidence, so their views will be recorded and we will be able to draw on them to make our recommendations.

I would also just invite you in one moment to give your names and positions, but as there are two of you from each organisation, I will ask just one of you to answer each question to enable us to get through. So if I could just start on my left, could you just say who you are and where you are from in turn, for the record, please?

**Rosemary Guilding:** Rosemary Guilding, Legal Adviser at Guide Dogs.

**Richard Leaman:** Richard Leaman, Chief Executive at Guide Dogs, and our mission is to help blind people get out and about.

**Gareth Pritchard:** Gareth Pritchard, Temporary Deputy Chief Constable, North Wales Police, and the ACPO lead on dangerous dogs.

**Keith Evans:** PC Keith Evans, Dog Legislation Officer for West Midlands Police and adviser to ACPO.

**Q2 Chair:** Thank you very much indeed. Now that we have the pre-legislative opportunity, can I invite each of you from each organisation to say whether you believe that the Government has adopted the right approach in terms of the principle of exempting from prosecution someone whose dog attacks a trespasser while protecting their home?

**Gareth Pritchard:** Yes. From an Association of Chief Police Officers position, we have been asking for that for some time, and we are pleased to see that in place. Clearly, the powers in private is really important and, since we last met, clearly we have seen the death of Jade Anderson in Wigan under tragic circumstances, which again occurred in a private dwelling. That is important, but clearly a lot of definition is needed to clarify what we mean by “trespassers” and how we are seeking to ensure that the law is interpreted correctly. There is work required around the definition of the term “dwelling”. There is general agreement that we want people to allow their dogs to protect their property, but in terms of that trespass, what does that mean? Within the draft legislation, the occupant not being present is a concern, because in many cases we would feel that that would put difficulties on the owner of the property or the occupier.

**Q3 Chair:** Can I just ask you to pause there? We are going to look at each of these in turn, if I may. I turn to the assistance dogs, in particular.

**Richard Leaman:** We can save you some time, Chair, because we do not have a particular view on this. Our concern is wider in terms of the dog attacks on disabled people.

**Q4 Chair:** We will come to that, if we may. Particularly from the police point of view, in the Tony Martin case, had the burglar been entering the property and shot in the front, then probably the case would have taken a different direction. Do you think “entering” has a particular meaning in the Clauses before us today? Do you understand “entering” to embrace “leaving” as well?

**Gareth Pritchard:** The position of the occupier is the key one for us. For example, a lot of burglaries would happen in the daytime, and therefore people would leave their dogs in their property, and we feel that the dog would be there as part of their role of protecting the property. Therefore, we would argue that the occupier being there is not that critical and that the burglar or the trespasser is committing a serious offence, and that dog should be allowed to protect and that legal exemption should be there.

**Q5 Chair:** We will come on to that in more depth. Again, without going into too much detail, when I was bitten by what I would describe as a dangerous dog, because it was an Alsatian and had big teeth, I was canvassing for myself for the election. Would I be deemed to be a trespasser?

**Gareth Pritchard:** No. For many postal workers, and people like you, there is an implied—

**Q6 Chair:** A postal worker is delivering a letter that I am expecting to receive. I do not believe it to be true for a minute, but not everybody might say that they wished to receive a Conservative party—

**Gareth Pritchard:** But there is implied access, and the point is that we are seeking to protect the dwelling and that trespass goes further than that implied access.

**Chair:** We are coming on to “dwelling” now.

**Q7 Sheryll Murray:** This is addressed to the Association of Chief Police Officers. What is your understanding of the word “dwelling”? How should it be interpreted?

**Keith Evans:** The word “dwelling” is quite clear in law. It is where a person resides. It is the curtilage of the home. I have discussed this in quite a lot of detail with Defra.

**Q8 Chair:** Can I just stop you there? There is a big debate in planning and all sorts of things about what “curtilage” is, and the very fact that you have used the term—

**Keith Evans:** Curtilage of the building.

**Q9 Chair:** But what about the path?

**Keith Evans:** That is right. With regard to the dwelling, it is the outside of the building itself. If you were living in a car, the vehicle would come under the definition of “dwelling”. A caravan, if you were living in it, comes under the definition of “dwelling”. So it would not include, for example, the car that is parked on the driveway overnight. It would not include the garden shed. I specifically put these points to Defra, and they were of the opinion they did not want the legislation in its current form to cover things like the garden shed.

**Q10 Sheryll Murray:** Could I ask you if you could just expand a little bit? What protection is there or should there be for those whose dogs attack someone on their land or garden as opposed to a trespasser within their home?

**Keith Evans:** The definition of private property is looked at in quite a lot of detail. We have had discussions with Defra for a long time coming up to where we find ourselves now, and it was deemed to be about the intention of the individual, like children playing—a child might go to retrieve his ball from over a fence. That child would be covered by the proposed Bill when he acts as a trespasser without criminal intent. That is why the line is drawn at the back door; the line is drawn at the building line, for want of a better word, because you can have an individual trespassing innocently in a back garden. But when that person then crosses the threshold of somebody’s home, the chance of it being innocent trespass diminishes greatly.

**Q11 Sheryll Murray:** Finally, are you sympathetic to those like the NFU who argue that farm buildings and yards should be included in the definition of “dwelling”, so that the householder could be treated in that way and an exemption could apply?

**Keith Evans:** We are extremely sympathetic. We are aware that there is an increase in crime in rural communities and I would liken farm buildings to the garden shed. I would liken a farm workshop to the self-employed businessman who has all his tools in his vehicle on his drive. There has to be a line drawn as to where the criminal responsibility for a dog attack stops—where there is a defence. If somebody is breaking into a barn or a farm workshop or stealing the battery off a tractor and they are bitten by a sheepdog that is out in the farmyard, there is always going to be the backstop of the test of whether it is in the public interest to prosecute the farmer for allowing his dog to be out and about in his farmyard. So that is a second line of defence for people who have concerns with regard to criminal culpability in that scenario.

**Q12 Richard Drax:** To the ACPO team, if I may, what if the owner is not in the dwelling at the time of the attack itself? Should the householder exemption apply then?

**Gareth Pritchard:** The householder exemption should apply when the householder is not in the dwelling. Daytime burglaries have been mentioned earlier. There are a number of scenarios in which the householder would not be there. We have a situation where a burglary would occur, the householder would come home, find the burglary, be concerned that there is

a burglar in the premises and may release the dog into the premises. So we would want that exemption to exist whether the householder is there or not.

**Q13 Richard Drax:** The rationale for the householder exemption is self-defence. Doesn't the law need to recognise that a dog may well act to defend not only the inhabitants but also the home?

**Gareth Pritchard:** Yes, we agree with that, because that is the common understanding of the dwelling being the home, and that would make it clear what the legislation is and what the householder can rely on in law, yes.

**Q14 Ms Ritchie:** To ACPO again, on the issue of "trespasser", the common law definition of "trespasser" applies to uninvited visitors with innocent intentions, including children. Should the owner of a dog who attacks such a person in their home be exempt from prosecution?

**Keith Evans:** This refers back to the answer I gave a few minutes ago: what is reasonable with regard to the conduct of the trespasser? If a small boy comes in after his ball in the garden, he is innocently trespassing. The chance of that trespass being innocent if that individual then goes on to enter the dwelling is greatly reduced. There was a case some years ago in London where a young child attempted to steal a purse through an open window and was attacked by a dog. Obviously, the legislation as it is now was not in place. So it can occur, but it is trying to find the line as to what is reasonable. Is it reasonable for an individual to innocently wander into a back garden? Yes, it is. These incidents occur. Is it reasonable for somebody to enter a dwelling as a trespasser and be afforded protection? I would say not.

**Q15 Chair:** Just on that point, I am just trying to differentiate an "exemption" from "mitigating circumstances". Do you believe that is clear enough currently?

**Keith Evans:** In the householder case?

**Chair:** Yes.

**Keith Evans:** It is referred to in the Bill. Yes, it is clear in itself. However, as Mr Pritchard just mentioned, we would want that changed, because we feel it should not require the householder to be in the premises at the time. But the householder case itself is well defined within the Bill.

**Q16 Chair:** So you would seek a clarification on the exemption.

**Keith Evans:** We would seek its being amended to include where the householder is not in the dwelling and the dog is contained within the dwelling and bites an individual who enters that dwelling as a trespasser.

**Q17 Chair:** That is helpful. Can I just extend that to look at mitigating circumstances? Again, to ACPO, if I may, is there a need for Ministers to clarify the mitigating circumstances to be applied by the courts?

**Gareth Pritchard:** That mitigation will be considered by the Crown Prosecution Service as well. Advice could be given. Clearly the CPS would look at the public interest test and the evidential test, so I think it is important that any mitigating circumstances are carefully considered before proceedings are taken to court. So any advice on that issue would be welcome, but clearly the history and the background to the situation would be examined by the police in their investigation.

**Q18 Chair:** Just to be absolutely clear, you just said that an innocent trespasser would not allow the exemption. In your view, the exemption would not apply. I just want to be absolutely clear as to the difference between an exemption and a mitigating circumstance.

**Gareth Pritchard:** Part of this is to be clear about where the law stands, and in terms of the clarity on the definition and where the law applies and where it does not, clearly any background or history and any previous history in the situation could be brought to the case and then to the Crown Prosecution Service. So it is about clarity of the law so that everybody understands where they are and what the interpretation of the law is. But clearly, as in any case, any background and history would be considered by the police investigation and the Crown Prosecution Service and, if necessary, by the courts.

**Q19 Chair:** My reading is that the Act currently says that no offence has been committed in those circumstances. Is that a correct understanding?

**Gareth Pritchard:** If there is no offence. If there has been an offence but there is a history, that could be considered.

**Q20 Chair:** It is very helpful that we get the exact terms that you have given us. Thank you for that.

**Gareth Pritchard:** I understand.

**Q21 Sheryll Murray:** Is it correct that officers have the power to seize dogs only at the time that they are out of control and not after an incident, should they have come under control by the time the police arrive?

**Keith Evans:** It can be frustrating and confusing to officers who do not have a lot of experience in this area of legislation as it becomes ever more complex. Section 5(1) of the Dangerous Dogs Act gives officers power of seizure when an animal is, at the time, dangerously out of control. That is, of course, supported post-event with Section 19 of the Police and Criminal Evidence Act; the powers of retention are there in Section 20(2) of the Police and Criminal Evidence Act to retain any evidence for trial as evidence of an offence. We would support there being an amendment to it: "if an animal is, or has been, dangerously out of control". That would clear up a lot of ambiguity with regard to whether there is an immediate power under the Dangerous Dogs Act to seize a dog that could have been just several minutes prior dangerously out of control. But because the individual has managed to get the dog on a lead and stepped back from the incident and the dog calms, then that power of seizure has gone. I liken it to the Firearms Act of 1968, where there was a power to revoke a firearms licence but no power to seize the firearms or ammunition, and that was quickly amended in law. So, yes, an amendment to seize and retain a dog "that is, or has been, dangerously out of control" would be advantageous to enforcement officers.

**Q22 Sheryll Murray:** Is this causing police officers significant problems in their day-to-day management of dog offences? How significant is it?

**Keith Evans:** Officers are routinely having to fall back on Section 19 of PACE powers of seizure. It has been extremely inhibiting in methods of disposal of the dog. There are very useful civil methods under Section 4b of the Dangerous Dogs Act; dogs can be dealt with quite quickly, and are often returned to their owners if they are sociable. However, because this can only be dealt with under Section 5(1) or 5(2) of the Act, it has to be a Section 1 prosecution for any dog to be seized under Section 19 of PACE, criminalising what could be quite a genuine, responsible dog owner.

**Q23 Chair:** Can I just ask if I have understood this correctly? You have suggested an amendment that the clause be changed, so if the householder is not in the dwelling but the dog is contained in the dwelling, then that would be an offence. If I have understood correctly what you have just told us, if a child trespasses into a house, then no offence has been committed even if your amendment was put, so there would be no prosecution.

**Keith Evans:** The householder case is a defence in that, if a person enters or is entering, or the homeowner believes a person has entered or is entering, and they are in the property—this is how it currently stands in the draft—then it is an exception to the law.

**Q24 Chair:** So it is a loophole that could just make a mockery of the Bill, surely.

**Keith Evans:** No. That means that they have not committed the offence should the dog attack. If they leave their dog in their house and they go down to the shops, under the current draft Bill if a burglar breaks into their house and is bitten by their dog—

**Q25 Chair:** What if it is a child? I know we should not mention specifics, but if it was a case like the Jade Anderson case, which of course may yet come to court, technically a teenager, would that be covered?

**Keith Evans:** I do not want to go too—

**Gareth Pritchard:** She was not a trespasser, was she?

**Keith Evans:** She was not a trespasser.

**Gareth Pritchard:** She was invited into the house. That case is being investigated, but there is difficulty in doing a prosecution at the moment and, therefore, if the law was changed, the powers would be private, as would be in a dwelling, and that would ease things.

**Q26 Mrs Glendon:** Is it proportionate to equate injury of an animal, even, say, an assistance dog, with that of a person?

**Gareth Pritchard:** I think it is. When we assess the effect on the individual, circumstances, physical and mental injury, then yes it is proportionate to equate the injury. The court and the Crown Prosecution Service would assess the circumstances and the evidence, but also take a personal impact statement from the victim. That allows the court to understand, even if there has not been significant injury, the effect that that has on the individual and the change in lifestyle that may have caused, which can be significant. So I think it is proportionate. The key word is “proportionate”, and we have to take each case on its circumstance, depending on the circumstances, the evidence that is presented, but also the change in the lifestyle of the person who depends on the assistance dog.

**Richard Leaman:** Absolutely, we would endorse that. Our guide dog owners who have had their dogs attacked report a wide variety of emotional, physical and practical effects of the attack. Many of them do not go out again. Certainly, a lot of dogs have to be retired. It is costing us of the order of £200,000 over the last two years to replace these dogs. The emotional trauma is huge, and many of them report it is like losing their eyes, and you can kind of understand how serious it is for them. So, absolutely, we see it as a very serious, aggravated offence, and therefore we support the changes that are being suggested.

**Q27 Mrs Glendon:** That would be both for the injury to the animal and the effect on the person who is being assisted.

**Richard Leaman:** Yes.

**Gareth Pritchard:** The apprehension and the effect on the lifestyle of that person, but we would take that statement and give that evidence to the CPS and the court.

**Q28 Mrs Glindon:** Do you think it is proportionate to impose penalties where there is merely apprehension that the assistance dog might be injured?

**Gareth Pritchard:** I think it is. We would collect evidence around that and put that to the Crown Prosecution Service, who would put the evidential test and the public interest test to that, but we would investigate it thoroughly, yes.

**Richard Leaman:** We would agree with that and, in fact, the effects of barking and a threatened attack for someone who cannot see are even more severe. They have to hang on to the dog—they cannot let go of it—and so our view is that even the threat of an attack should be taken very, very seriously for all assistance dogs, not just guide dogs.

**Q29 Mrs Glindon:** Should liability be mitigated or, indeed, no offence be deemed to have occurred where the attacking dog is responding to an attack by the assistance dog itself?

**Richard Leaman:** Of course I would say this, but our view is that that is highly unlikely. Dogs that are bred to be assistance dogs are removed from the training cycle very early on if they show any signs of aggression and also if they show any signs of being distracted by other dogs. So the chances of a dog that is trained by an assistance dog accredited organisation attacking another dog are very, very slim. In the unlikely event that it did happen, we do not have a problem with having an amendment to the legislation to cover this particular scenario, but we think the chances of it having to be enforced are very, very slim.

**Gareth Pritchard:** The key would be the definition of the assistance dog, because there are clearly standards that are maintained in the training of those assistance dogs. We may have difficulty if that term is not clearly defined and others seek to use that as a defence, so we would want clarity about what an assistance dog is and what quality of training qualifies it to be termed an assistance dog within this legislation.

**Q30 Mrs Glindon:** You mentioned the definition. I know that the Guide Dogs Association has raised potential issues with the assistance dog definition, since anyone can potentially claim their dog is an assistance dog if it has been trained to assist. What is the evidence that this could lead to people successfully but perhaps erroneously claiming their dog is an assistance dog? Has the definition caused such problems in similar or other contexts?

**Richard Leaman:** We know of a number of examples of people who try to carry off their normal dogs as assistance dogs in order to take it into a restaurant or into a supermarket. It is so bad that we have now issued a pass to all assistance dog owners to show that their dog was trained by an accredited assistance dog organisation that is part of ADUK, as the group is known. Our view is that that particular membership, that particular definition, should be applied to this legislation. I cannot speak for examples within the police and prosecutions but, from our side, plenty of people try to carry off their non-properly accredited dogs as assistance dogs.

**Gareth Pritchard:** Clearly, clarity on that definition would be helpful to us and the CPS, and I think we have a form of words that could be put forward here to assist.

**Richard Leaman:** If it helps the Committee, the regulations in international air travel have defined what an assistance dog is, and that might be a useful reference for this particular piece of legislation. It is a good definition. We use it and it is helpful.

**Q31 Chair:** Do you think there is a need to extend measures not only to assistance dogs but to other dogs or, indeed, other animals, such as livestock and horses, of course, as well?

**Keith Evans:** Yes. We support extending the law to dogs attacking protected animals, causing injury. To keep the issue manageable with regard to enforcement and also clear and unambiguous, it would have to be an attack that causes injury to a protected animal. A dog chasing a cat up a tree happens every day, and the logistics of policing that would be massive. If there are two dogs in the park, one performing an alpha role to appease another, an individual might misinterpret that as one dog acting aggressively. So it would have to be a dog attacking a protected animal and causing injury. This would go a long way towards dealing with incidents of dog attacks on other dogs. We see more dog attacks on cats. There is massive increase of dog attacks on horses recorded by the British Horse Society. It would also be a far more useful tool in supporting farmers who are suffering incidents of dog attacks on livestock. Many farmers feel as though the current legislation is not effective enough. We would share that view, and also there are many animals being farmed now, such as llamas and alpacas, that are not even covered under the Livestock Act of 1953.

**Q32 Chair:** So you would like to see an amendment to the current draft clause.

**Keith Evans:** Yes.

**Richard Leaman:** We probably would not want to comment on this, other than to say that we think an assistance dog is a unique case and deserves protection under the law.

**Q33 Chair:** Is the Dogs Act of 1871 ever used as a legal base by the police in applying to a magistrate's court to control dogs?

**Keith Evans:** It is and we do. Section 2 of the Dogs Act 1871 is an effective tool in placing conditions on a dog that is deemed to be dangerous in any place, and it is used for dog attacks on dogs and dog attacks on other animals. Unfortunately, it does have restrictions. There is no penalty for the owner; the conditions are on the dog. There is no power of seizure or retention, so we cannot reduce the danger to public safety or the danger to other dogs or cats or livestock that are in the vicinity. So although it is a tool that we use, it is very weak due to this transition into what is a very different climate from that it was drafted to deal with.

**Q34 Chair:** You will have seen our recommendations in our report. Do you believe that the 1871 Act should be included in a major, comprehensive, bringing-together Bill, which we thought this was going to be?

**Keith Evans:** If the proposed Bill were to include dog attacks on protected animals, the Bill currently extends the laws of "dangerously out of control" to private property. The 1871 Act could well be repealed.

**Q35 Chair:** Would it cover the points that you have just set out? The new Bill would cover those points.

**Keith Evans:** Yes, if it had the amendments that have been suggested.

**Chair:** Excellent. That is very helpful indeed, thank you. We turn now to whether a dog is a danger to public safety.

**Q36 Richard Drax:** On the draft clause 2, to ACPO, if I may, again, are you satisfied that those making decisions on the temperament of the dog and whether or not the owner or keeper is a fit and proper person will have sufficient understanding of dog behaviour and the impact of the owner on this behaviour?

**Keith Evans:** With regards to the courts' understanding of whether the dog is a danger to public safety or whether the individual is fit and proper, their decision will come from the information that is laid to them. Dog legislation officers will give their opinion with regard to the dog's behaviour and whether it poses a danger to public safety. Independent experts will

offer their opinions to the courts. The courts will hear the person's background, conduct, and any previous convictions. So they are probably best placed to decide whether that person, in possession of that particular dog, poses a danger to public safety.

**Q37 Richard Drax:** Do you agree with the dog welfare charities, which argue that stray dogs should be able to be rehomed and not destroyed, even if they are a banned breed?

**Keith Evans:** The ability to rehome sociable prohibited dogs was included within the Bill that was drafted between the RSPCA, ACPO and the National Dog Warden Association. We are very keen for this to have to be done by way of the courts. Courts would have the final say as to whether a dog posed a danger to public safety and whether the person who put themselves forward as the new owner was a fit and proper person to have such a dog.

**Q38 Richard Drax:** Can I interrupt? You are saying that the courts should be the arbitrator on this and no one else. You are saying they should make the decision whether these dogs should be rehomed and not destroyed.

**Keith Evans:** Yes. The final decision as to whether somebody is a fit and proper person to assume ownership of a dog where currently they cannot should be done by way of an independent body, such as the courts.

**Q39 Richard Drax:** So it should not be automatic that these dogs are put down; they should be given a chance.

**Keith Evans:** Yes.

**Q40 Richard Drax:** But on other occasions not, if the evidence is that that dog is particularly dangerous.

**Keith Evans:** Yes. It could be an extension of, for example, the Section 4b application, which is a civil application, where the evidence is laid before the courts and the courts make a decision as to whether that dog can go on the Index of Exempted Dogs. That process could be extended slightly so that they say, "Yes, that dog goes on the Index of Exempted Dogs and you will now assume ownership of that dog."

**Q41 Chair:** I am so sorry to interrupt, but it would be most helpful to get in writing the exact terms of the amendment that you just mentioned in response to Mr Drax's question. If you could just give us a form of words in writing afterwards, that would be helpful.

**Keith Evans:** Yes.

**Q42 Richard Drax:** Does the clause 2 pay sufficient attention to changes in circumstances, for example new people moving into the owner's home with other dogs?

**Keith Evans:** "Exchanging of keepership" I think is the point.

**Richard Drax:** If that is the jargon, then I will take your word for it.

**Keith Evans:** Yes and we support that. We support that the courts will apply a test of whether an individual who wishes to become the keeper of a prohibited dog is, in fact, a fit and proper person, a responsible person, to be in charge of that dog.

**Q43 Chair:** Just on that last point, if I may, it is about new people moving into the owner's home with other dogs. Do you feel that is sufficiently covered? It could be in-laws moving in with other dogs. They were deemed to be covered.

**Keith Evans:** Which dog is prohibited? The owner's prohibited dog?

**Q44 Chair:** Presumably, they would all be prohibited, or would you take a new view?

**Keith Evans:** Once the dog is on the Index of Exempted Dogs, we are not in a position to review that. The only time we, or the courts, would be in a position to review that under the draft Bill is if there is an exchange of keepership.

**Q45 Chair:** So the key is the exchange of keepership.

**Keith Evans:** Yes, the environment in which the dog is being kept.

**Q46 Chair:** So moving house to a new home would lead to a review.

**Keith Evans:** No, there would not be a review. If there was an exchange of keepership—so, for example, if the dog was owned by an individual who had a tenancy agreement that said they could not keep it, and a keeper came forward and agreed to have the dog in their possession—under the proposed Bill, they would look at the person's character and suitability, but I am not aware that the Bill deals with an individual who owns a dog and is moving home.

**Chair:** Thank you for the clarification.

**Q47 Ms Ritchie:** Again to ACPO, what do your officers tell you about the practical issues of managing a wide range of disparate dog legislation?

**Gareth Pritchard:** It is difficult in terms of so much legislation. If I can split this into two aspects, clearly forces have dog legislation officers who are the experts and clearly have a wide range of knowledge and experience. But many of the cases fall to neighbourhood policing officers, patrol officers, who do not deal with this often, and even in serious cases they are the first ones who will attend the scene, and they do find it difficult. Clearly, sometimes they are not aware of their lack of powers in private, and when they get to the situation, supervisors will advise them. So it is difficult, and clearly some consolidation of the legislation would be extremely helpful to include, in addition, a preventative strategy so we can put prevention first.

**Q48 Ms Ritchie:** Would you like to see that consolidation of legislation into a single piece of legislation to enable all dog control and breeding issues to be set out in one clear piece of legislation, bringing it all together? I think you are saying that.

**Gareth Pritchard:** That would be helpful, and that was the intention with the Dog Control Bill that we were previously involved in with a number of charities—to try to pull that together to make it easily understood by the public, easily carried out by our officers, and easily interpreted by the courts.

**Richard Leaman:** I endorse that view, but also add a sense of urgency about the work. We would love to see a consolidation of the legislation along the lines of the work done by the Law Commission in relation to social care, so a complete look at the whole package. That is going to take time and, as I have reported to this Committee, we see about eight dog attacks a month, and we would rather press on with this and then work to consolidate afterwards. I think a delay to consolidate would be unhelpful.

**Q49 Chair:** ACPO did say earlier that the 1871 Dogs Act could be repealed if the amendments that you have set out were taken on board. Does that mean that there would be no civil powers going forward? Would it all be criminal?

**Keith Evans:** You would have civil powers with regard to placing dogs on the Index of Exempted Dogs. You would have civil powers with regard to deciding whether somebody

is a suitable owner of a prohibited dog, but yes, repealing the 1871 Dogs Act would remove the civil aspect of a dog having the propensity towards being dangerous.

**Q50 Chair:** Is that a good thing, a bad thing or are you indifferent?

**Keith Evans:** With regard to powers to ensure public safety, powers of seizure, and powers of retention pending these cases coming to be heard at court, that is beneficial for public safety, yes.

**Gareth Pritchard:** The Welsh Government are seeking to legislate in this area as well, and I am here to represent England and Wales, the 43 forces. Clearly, that could be difficult in terms of the fragmentation that was mentioned in the question, and it is important. Clearly, as police forces we are not devolved but, in terms of animal welfare, the Welsh Government are seeking to legislate here. Clearly, we are seeking to ensure there is consistency as both Governments are seeking to legislate. I just make that point for noting that that fragmentation is a concern.

**Chair:** That is helpful, thank you.

**Q51 Richard Drax:** Can we just move on now to “deed not breed”? This is on the background. I am just reading that, apparently, the vast majority of witnesses at a previous inquiry did not consider specifying a ban on breeds as effective since there is no direct correlation between the four breeds and the types of dogs involved in most attacks, but it did lead to those dogs becoming status dogs. So the argument from previous witnesses seemed to be that this was having a contrary effect. On that point, just leading on from that, and again to ACPO—and of course if you want to come in, Mr Leaman or Ms Guilding, please do—you told us during our previous inquiry that it might be necessary at some point to consider adding new types of dogs to the list banned under Section 1 of the Dangerous Dogs Act. Do recent attacks indicate that this point has now been reached?

**Keith Evans:** The point I made at the last session of evidence was that, if we are in a position where we feel that we need to retain breed-specific legislation, it would be wrong of us to say that we need to repeal Section 2 of the Dangerous Dogs Act, which gives the Home Secretary the power to place other breeds on the list of prohibited dogs. At the moment the controversial breed is the pit bull type dog, the pit bull terrier. I repeat what I said at the last session: the reason the pit bull terrier is the breed of choice for a wide spectrum of criminal and irresponsible dog owners is not because it is illegal; it is for the same reasons that it is illegal: its ability to reach extreme states of arousal, maintain them for great periods of time, its physical conformation, its complete lack of bite inhibition towards other dogs, and this propensity towards predatory drift. So we have this dog that is a disproportionate danger to public safety. Is there another dog that is in the same position as the pit bull terrier at this time? Is there another breed of dog that is being as abused or misused as this dog? Is there another breed that is physically capable or mentally willing to inflict the same amount of injuries consistently and disproportionately in a disproportionate number of incidents? I would say no, and we would not, at this moment in time, request any other breeds be considered for the list of prohibited dogs.

**Q52 Richard Drax:** If your answer is no, what evidence would be needed to persuade you of the need to add other types?

**Keith Evans:** There would need to be evidence that a specific breed or type of dog was being reported as being disproportionately involved in a number of serious dog attacks. It is weighing up what is the most dangerous breed. Certain small breeds—Jack Russell terriers, cocker spaniels—are notoriously snappy, and people often laugh about the fact that more people are bitten by cocker spaniels or Jack Russells than pit bulls, but the measure of

“dangerous” comes from how often they bite and, when they do bite, the level of injury that they inflict.

**Q53 Richard Drax:** Right, so number of attacks and the aggressiveness or the scale of the attacks is the sort of evidence you are looking for.

**Keith Evans:** Yes,

**Q54 Richard Drax:** Would you support the use of the Dangerous Dogs Act provisions to allow conditions such as muzzling to be imposed on all dogs of a specified type as an alternative to an outright ban?

**Keith Evans:** It would not be helpful to muzzle dogs depending on their type or breed. Again, you would be penalising breeds that were a certain weight, for example. We could use American bulldogs as an example. If we said that any dog that was a certain weight was to be muzzled in public, also falling into that category would be a breed like the Newfoundland, a notoriously placid dog. So until we receive evidence that there is a dog that is disproportionately likely to be involved in these incidents and inflict serious injury, we would not want to go down the road towards compulsory muzzling of specific breeds.

**Richard Leaman:** This is probably the only area where we do not agree with ACPO per se. We were one of your previous witnesses who said we felt that this was more about the owner and that there are a number of dogs—Alsations, German shepherds, for example—who can be incredibly aggressive, have a very powerful bite, can inflict huge damage if trained to do that, but at the same time can be the most caring and loving guide dogs. So our view is that this is about the deed and not the breed, and it is therefore about the owner and less so about the type of dog in particular. So we would not want to see any other dogs added to any list of dangerous dogs. We would much rather see a holistic approach to the four or five separate bits of legislation on this to ensure that dogs are properly identified—microchipped—that the law is enforced—and we know ACPO are working hard on enforcing the law—and that there are sufficiently strong powers of punishment in place and the law brings to justice people who train their dogs to behave like this.

**Q55 Richard Drax:** One last point on this particular issue: would it be sensible then—and I am slightly talking off the top of my head, but just looking at this problem—if it is the deed and not the breed—which I think we are all agreed is the key issue, because some breeds, like Alsations, are perfectly nice with one owner and pretty ghastly with another—that if there is evidence that a particular dog has behaved in a bad way, whatever that may be, then one of the impositions imposed on an owner could be, “If you take your dog out in public, you must muzzle it”?

**Gareth Pritchard:** That needs to be linked to a preventative strategy, whether that is a dog control notice or how that is managed, and what preventative strategy and how those strategies could be aligned to the dog control notice or preventative strategy is something that we would like to see within the Bill. We could tie different tactics—training, different educational issues—to that dog control notice to stop any worsening of the situation.

**Q56 Chair:** Clause 2 of the Dangerous Dogs Act permits muzzling and dogs being kept on a lead. Why do you think those regulations have never been brought forward? We would not need a new law. The legal basis and primary legislation is there in the 1991 Dangerous Dogs Act. Why do you think the regulations have never been brought forward?

**Keith Evans:** It is used regularly by the courts with regard to, obviously, all Section 1 dogs that are exempt from prohibition, on a lead and muzzled in a public place. Quite often,

in the majority of incidents that I am involved with of dogs being dangerously out of control, once the case is finalised at court, the court will impose conditions for the dog to be in a muzzle and/or on a lead. We could extend that to the use of dog control notices as an early preventative strategy, with certain officers—dog legislation officers, dog handlers, local authority dog wardens—having the authority to impose that with the use of a dog control notice for an interim period.

**Q57 Chair:** Just to be clear, we do not need the regulation; you have just said that Section 2 of the 1991 Dangerous Dogs Act is already being used.

**Keith Evans:** That refers to the Home Secretary's powers to place other dogs on the—sorry.

**Q58 Chair:** I understood that it can only be applied if regulations are brought forward, which I understood have never been brought forward.

**Keith Evans:** No, they have not, but the Home Secretary has the power to place another breed or type of dog on the list of banned breeds.

**Q59 Chair:** Do you think, though, that perhaps we are getting too hooked up on breeds, just from what you have said? My personal view is if you were to ban, possibly, Staffordshire dogs—this is not a proposal but a hypothetical question—then those irresponsible dog owners will simply look to another breed that demonstrates the characteristics that you outlined.

**Keith Evans:** Possibly. However, what we can see is that certain irresponsible individuals, with the banning of the pit bull, have not looked to another breed. This gives us a taste of just how unique the pit bull terrier is with regard to its ability to do what it has been bred over hundreds of years to do, which is be the best at killing what is in front of it. That is why no other breed of dog really comes into the same category as the pit bull at this moment in time and, subsequently, we would not condone breed-specific legislation being extended any further at this moment.

**Q60 Chair:** Can I just turn to antisocial behaviour powers? Is it your view, particularly ACPO for this first question, that enforcement officers and the public will be sufficiently aware of how the general antisocial behaviour powers could be used under the draft Bill to target dog-related problems as effectively as the Government hopes?

**Gareth Pritchard:** The new legislation, the new ASB proposals, will need training for officers, training within the Crown Prosecution Service and training for the magistrates. When we had the previous ASB proposals, it took some time and additional training for those to be well understood and balanced out in the courts, and the law was in place some time before a number of benches received that training. In any significant change in legislation, there will be training across the board and an appreciation of how different aspects of legislation can be applied to certain circumstances. So there is a big piece of work there to interpret that and get that understanding clearly actioned across the country.

**Q61 Chair:** That is helpful. To both organisations, have you evidence and have you put evidence to the Government on the advantages of dog control notices over general antisocial behaviour measures to reduce the number and severity of dog attacks?

**Gareth Pritchard:** We have had discussions with the Home Office and Defra over a significant period of time around an effective preventative strategy, so that when information comes to the police or the local authorities, we have the tools to take action before a sinister occurrence. So, yes, we have, and we have talked in detail about dog control notices and

other things, and how we would want that preventative strategy to be well defined and easily understood.

**Richard Leaman:** We have been talking to the Home Office about the same subject. Our current view on the current legislative proposals is that they will fulfil a similar function to dog control notices, and so as long as they are what actually becomes law, combined with all the other legislative changes, we think they will be satisfactory.

**Q62 Chair:** Have you reached a view on what impact dog control notices have had in Scotland?

**Keith Evans:** I have spoken to my colleagues in Scotland and also government advisers: 233 dog control notices were issued in Scotland in the last two years. There were 33 breaches, and they have just had their first prosecution as a result of a breach in the Shetland Isles, of all places. What was a point of note from my colleagues in Scotland was that the Scottish dog control notice is only used by local authority dog wardens. However, what they are finding is most incidents that are being reported, whether they be minor incidents of dogs being out of control or serious incidents of dog attacks, tend to occur late afternoon/evening time, when the dog wardens are not on. The officers I spoke to were very much of the opinion that they would find this tool much more beneficial, much more practical, if it had been opened for the use of police officers as well. We would welcome that, and we propose that dog control notices, should they come to fruition in England and Wales, be available for the use of police officers and dog wardens.

**Q63 Chair:** My understanding is that it obviously requires a huge amount of resource. It is something I personally think would be a useful tool, but have you considered what the resource implications are both for you, as police forces, and also for dog wardens and local authorities?

**Keith Evans:** We would reap the benefits in years to come of the initial outlay of resources that would have to be put into it with regard to training and production of the dog control notices themselves. I think we can all agree that this is an issue that we are dealing with, and we may only see the benefits of this a generation from now. Yes, there will be that initial outlay in training and producing dog control notices, but the amount of incidents that they may prevent, not just six months down the line but five, six or seven years down the line, means they will be beneficial.

**Q64 Chair:** Can I ask ACPO: have you seen any evidence that certain local authorities are seeing the powers to pick up stray dogs as discretionary because the money is not ring-fenced? Is there any evidence, in your view, of that happening in any part of the country?

**Keith Evans:** We are seeing the current legislation being interpreted very differently from local authority to local authority. I discussed with Defra recently one local authority that does not have any out-of-hours facility; that has been withdrawn completely. They just provide a phone number for individuals who find stray dogs to contact them on at nine o'clock the next working day. Defra will be dealing with that individual incident and making further inquiries as to how far-spread that is.

**Q65 Chair:** Do you think this is a possibility—to amend the draft Bill to include fuller guidance on the face of the Bill, rather than in a statutory instrument?

**Keith Evans:** I am not a political beast; I cannot really comment on whether it is more effective in the Bill or in a statutory instrument.

**Q66 Chair:** In our report we suggested powers for stray dogs possibly being transferred back to the police, and that was perhaps not well received by the police. Is there any comment you would like to make on that?

**Gareth Pritchard:** Yes. Having moved that over, we want to focus on the dangerous-dogs element. That is where we see our role and that is where we want to concentrate our resources. Clearly, we have seen another death, and that is the public safety issue that we face. We would want to concentrate on the dangerous-dogs side and leave the local authorities with the stray-dogs issue.

**Q67 Chair:** We did take evidence in the build-up to our initial report on the role of internet sites such as Gumtree, particularly in advertising certain types of dogs that can be used almost as a weapon. What would be the best means of controlling websites such as Gumtree and others?

**Keith Evans:** We have been consulting with PAAG and Defra on raising awareness of these advertisements, and we have been consulting with the people who run the sites themselves. The policy that we would encourage is that any advertisement that is seen to be potentially illegal or selling an illegal dog is brought to the attention of the home force where the advertisement has been placed.

**Chair:** But if it is on the internet—

**Keith Evans:** With some of them, you can see where they are being sold from. If that evidence is not available, then it should be brought to the attention of the force where the advertising company is based, and they can then distribute that and make inquiries with the individual forces. The advertisers themselves are aware that failure to bring down a site that is in breach of the Dangerous Dogs Act may leave them vulnerable to the offence of aiding and abetting such an act, and that is something that is ongoing at the moment.

**Q68 Chair:** You have all been extremely helpful. Mr Leaman, just very briefly.

**Richard Leaman:** If I could go back to one of your previous questions very quickly, we have seen no appreciable drop in the number of dog attacks on assistance dogs in Scotland, and our thought on this is rather in line with ACPO's: this is going to be a long game and there need to be preventative measures. Microchipping should be compulsory in Scotland.

**Chair:** Thank you very much indeed to both organisations and all of you for contributing. We are very grateful indeed for your participation.

### Examination of Witnesses

*Witnesses:* **Clarissa Baldwin**, Chief Executive Officer, Dogs Trust, **Gavin Grant**, Chief Executive, RSPCA, **Steve Goody**, Director of External Affairs, Blue Cross, and **Claire Horton**, Chief Executive, Battersea Dogs and Cats Home, gave evidence.

**Q69 Chair:** Ladies and gentlemen, welcome and good afternoon. Thank you very much indeed for joining us and participating in our inquiry. Could I ask you each, please, to introduce yourselves and say which organisation you are from?

**Claire Horton:** Claire Horton, from Battersea Dogs and Cats Home.

**Clarissa Baldwin:** Clarissa Baldwin, from Dogs Trust.

**Steve Goody:** Steve Goody, Blue Cross.

**Gavin Grant:** Gavin Grant, the RSPCA.

**Q70 Chair:** Thank you. I think you heard the evidence from the last evidence session. I have just one question, if I may, at the beginning. We understand that the incidence of stray dogs is increasing and there may be some local authorities that are not providing out-of-hours service or are just keeping to the statutory limit. Is there any evidence that you are gathering that this is putting more pressure on your organisations?

**Claire Horton:** Battersea, particularly here in the capital, but across the UK, is the largest single site for stray dogs. We have seen an increase in the last few years. We work quite closely with local authorities, but we are very conscious that there are a number of local authorities in the Greater London area that do not take their statutory responsibilities as seriously as they might. Some have no services; some have part-time services; some have no dog wardens; and a number of authorities do nothing more than put a note on their website that refers people straight to us. We do not have a legal responsibility to take these animals, but of course we do.

**Clarissa Baldwin:** At Dogs Trust, we do the annual survey for strays, and I think you will find that it is quite a level playing field now. The numbers have not gone up dramatically. Dogs Trust probably deals with more local authorities than most, because we have 19 rehoming centres around the UK, and we have found that a lot of the local authorities unfortunately do not carry out their duties on a seven-day basis. Quite often we are left to pick up the pieces at the weekend and return the dogs to local authorities on a Monday.

**Steve Goody:** From the Blue Cross perspective, Chair, I echo everything that has been said so far. Our rehoming centres are contacted on a daily basis by members of the public who have picked up a stray dog and have absolutely no idea what to do with it, particularly out-of-hours and at weekends. We recognise that local authorities are being squeezed in terms of resources. However, what is of real concern to us is the fact that services are either being curtailed or cut. Dog wardens are being laid off or contracted services are disappearing and, quite often, the responsibility is passed to a member of a department with little or no background in dog welfare at all. Therefore, the local authorities are as at sea, in many respects, as the welfare agencies that are trying to pick up the pieces.

**Gavin Grant:** It has become a complete postcode lottery as to whether there is adequate provision or not. This is defined, as you know, under the Environmental Protection Act 1990 as the responsibility of local authorities. Their discharging of that responsibility is at best random. It is quite clear that over periods of public holidays, for example, there is a tendency for there to be a message on a telephone line or a statement on a website, and we see spikes at those times at our 24-hour national call centre, which takes in excess of 1.2 million telephone calls from the general public on their concerns about animal welfare and seeking advice. This is an area of real concern. We host an annual conference of dog legislation officers and local authority people.

**Chair:** We are going to have to keep the answers quite short.

**Gavin Grant:** They are clear, Chair, that it is a real concern to them.

**Q71 Chair:** Thank you. Where we all agree, perhaps that is good. Can I turn draft clause 1? Do you believe that it provides the right balance between protecting a responsible householder whose dog attacks a trespasser and the need to be able to prosecute those who allow their dogs to be dangerously out of control?

**Steve Goody:** From the perspective of the Blue Cross, it was encouraging to hear the previous witnesses' evidence. Generally speaking, we are all in the same ballpark and singing from the same song sheet, particularly with regard to the requirement for further definition within the amendment, particularly of "trespasser" and "dwelling". We have got similar concerns with regard to dogs being left home alone and what happens if there is an incident in

terms of the onus of responsibility on the owner. Where we might have a slightly different approach is on the welfare aspect of dogs themselves. We are concerned that the amendment, as it is proposed, might encourage owners to keep dogs constrained within the environment of their house, for example, and restrict the amount of exercise and freedom those dogs might have.

**Q72 Chair:** Can I just ask one of the other organisations to respond to this? What protection is there, or should there be, for those whose dog attacks someone on their land or garden, as opposed to a trespasser within the home?

**Clarissa Baldwin:** The problem is that this Bill is very woolly. It is unclear and very unfair on responsible dog owners. We need some absolute clarity on the word “trespass” and what it does include. We are very nervous that if this goes through, dog owners could well be caught up in criminal activity that they are not intending to do.

**Q73 Chair:** I am not even sure there is a law of trespass in Scotland. I should know that, as a Scottish advocate, but I do not believe there is. Looking at the devolved administrations, I think Scots use the expression “causing alarm or apprehension”. Could I ask each of you this? An offence may be committed not only where a dog causes injury but also where a dog simply frightens someone—for example, a child coming into a garden where the dog is loose. Is there a need to provide additional protections in law for dog owners where there are mitigating circumstances?

**Gavin Grant:** Without question there is. It is an area of very real concern. Dogs do have the habit, if they are not properly socialised and appropriately trained, of jumping up and barking, and people can, therefore, take fright from dogs. I think we are all aware of incidents of that sort. Here is an area where dog control notices could be used in an effective manner.

**Steve Goody:** The Blue Cross would agree with that.

**Clarissa Baldwin:** Agreed.

**Claire Horton:** Agreed.

**Q74 Richard Drax:** Is it proportionate to equate injury of an animal, even if an assistance dog, with that of a person?

**Claire Horton:** I must absolutely support my colleague from the Guide Dogs Association. An assistance dog, to the person who owns it, uses it and works with it every day, is an extension of that person. Without those animals, those people simply do not have the liberty and the freedoms that they should to get about and enjoy normal daily living. It is essential that it is extended.

**Q75 Richard Drax:** Do you all agree on that?

**Clarissa Baldwin:** Yes, with the caveat that you mentioned earlier: the definition of an assistance dog.

**Gavin Grant:** Therefore, they should apply to protected animals as defined by the Animal Welfare Act. Although I quite accept there is a “very slim likelihood”—which I think was the quote—that an assistance dog would attack another animal, we are aware of a case of an assistance dog, duly registered, that did in fact attack a pit bull. The pit bull did not fight back, so that is a rather odd example of this perhaps going rather the wrong way round.

**Q76 Richard Drax:** Is it proportionate to impose penalties where there is merely apprehension that the assistance dog might be injured?

**Steve Goody:** Yes, we would support that.

**Richard Drax:** Again, are you all in agreement?

**Clarissa Baldwin:** With the caveat, yes.

**Q77 Richard Drax:** Some argue there is a need to extend the proposed provision to all dogs, not just assistance dogs, or, indeed, to all protected animals. Why do you consider the current civil remedies to be insufficient to deal with attacks on animals?

**Gavin Grant:** It is the confusion of the status of the law. The 1871 Act was referenced earlier, and Acts have been referenced that exist to protect livestock. There is a lack of clarity here. There is an opportunity here—and I think we would all agree with our colleagues from ACPO on this—to create a consolidated piece of legislation that clarifies these matters once and for all.

**Richard Drax:** There are lots of nodding heads of agreement.

**Clarissa Baldwin:** Very much so.

**Q78 Mrs Glendon:** What feedback have you had about the likely impact on dog welfare of the introduction of general anti-social behaviour measures in place of dog control orders, for example?

**Steve Goody:** The concern that Blue Cross has on that particular issue is that, as we understand it, the measures that are currently in place that support the imposition of dog control orders—for example, the Clean Neighbourhoods and Environment Act—which are clear, understood by the general public, and enforced by local authorities, are due to go. What is intended to replace them within the proposed Home Office Bill is not any of those things. The proposed measures, in terms of, for example, the public space protection orders, are not dog-specific—they are more general—and there is the real potential for well meaning owners to be caught up as a result of any proposed changes in the Anti-Social Behaviour Bill. Therefore, we would like to see the current system of clearly defined, clearly understood and well implemented dog control orders continue.

**Gavin Grant:** If I may, Chair, we will leave with you a copy of the letter that all these organisations plus the British Veterinary Association and the Kennel Club sent to the Minister of State for Crime Prevention, Mr Jeremy Browne, on this very matter. Perhaps I can leave a copy of that with the clerk.

**Chair:** Thank you very much.

**Clarissa Baldwin:** Just additionally on that, we are still waiting for guidance notes from the Home Office on what their intentions are under their Bill. At the moment, we are very unclear about where dog owners stand.

**Q79 Ms Ritchie:** I have a question to each of you on the issue of draft clause 2, regarding whether a dog is a danger to public safety. Does the proposed amendment in clause 2 enable the courts to take a balanced view on what level of threat an individual dog poses to public safety?

**Claire Horton:** I am really uncomfortable with some elements of clause 2. I am concerned particularly in the area talking in terms of *Sandhu*. I am completely comfortable that there has to be a proper understanding of the owner—a fit and proper person. I am comfortable that the temperament of the animal is taken into consideration and that the behaviour to date is taken into consideration. I have concerns about how that may extend into that animal then being able to be rehomed from there, because we certainly are in a position at Battersea where we simply cannot rehome those sorts of animals. An animal that is a Section 1 dog, if it comes into Battersea as a stray, by law is euthanised. The great majority of those animals are actually very nice animals. We have a number of concerns with that particular issue.

**Clarissa Baldwin:** I would certainly agree with Claire on that particular issue. We would like to see a fit and proper person being able to take on a dog, and we think the courts probably have the best intelligence to be able to establish that. What we are concerned about and we would have liked to have seen within this Bill is the chance of bail for some of these dogs, which does not seem to have been raised. We had an understanding that would be in the Bill.

**Steve Goody:** From the Blue Cross perspective, I have a couple of specifics. Firstly, we welcome the proposed extensions, but they do not go far enough. We do not really understand what is meant by the balance of decision between fit and proper person and the characteristics of the dog, the latter of which would have to be evidence based, which would suggest that there needs to be some quite clear guidance to the courts in determining what is a fit and proper person and what contributes towards the characteristics of a particular dog at a particular time. Where there is an opportunity to look at a potential amendment to the draft is under Sections 2(3)(b) and 2(4)(b), which talk to the ability of the courts to “consider other relevant circumstances”. We would just change, quite simply, the word “may” to “must” and make it a requirement for the courts to consider those other relevant circumstances in each case.

**Gavin Grant:** We absolutely echo that. I have a couple of other specific points. We have heard from our colleagues from ACPO, but would seek reassurance within the legislation, that both owners and keepers will be able to have dogs exempted; there is this issue as to an owner’s circumstances changing and the ability to transfer the dog to a keeper—if they are in hospital, for example, or other circumstances where they were detained—and also the requirement for suitable training and competency on those that are making judgment as to the behaviours and temperaments of the dogs concerned.

**Q80 Ms Ritchie:** Just to clarify further, should the clause allow for enforcement agencies to reapply to the court in the event that the owner’s circumstances change—for example, with the introduction of a new person to a household?

**Claire Horton:** I find it difficult, in reality, to understand how that would translate into real life, simply because people’s circumstances change all the time. People move house; new people move in; people move out; new animals arrive. I am not sure how easy or practical it would be to do that every single time, or how resource would be available to do that. I would repeat that the vast majority of the dogs that we see that fall into this category are actually very nice dogs anyway; they do tend to be tarred with this brush of requiring all of this additional oversight.

That said, if I might come back to the point of owner/keeper, from a rescue centre perspective, we are often gifted, unsuspectingly by some owners, dogs that transpire to be Section 1 dogs. We have had evidence from owners that dogs have lived in doggy day-care, gone to crèches and lived with families, but once they are deemed Section 1, we are not, by law, allowed to re-home those animals, so we have to euthanise, which is distressing enough for us, but certainly is for the people who have given them in. An extension on that, however, is that, for an animal we might have the opportunity to transfer out to a keeper, I do not think our liability would end. I am not sure how practical it would be for us to police how those people keep those animals when they take them far and wide.

**Clarissa Baldwin:** We would certainly like to see the opportunity given to people who want to change keepership and ownership, and that the courts do make the decision as to whether they are the fit and proper people to do so. It is unlikely that people would be taken to court if they did not change under the IED if the dog did not pose a threat to society.

**Steve Goody:** We would support transfer of keepership in appropriate circumstances.

**Gavin Grant:** In such circumstances where the domestic situation is changing, the provision for a temporary keeper of the animal while those circumstances are examined more fully might indeed be a reasonable proposition.

**Q81 Richard Drax:** In the light of recent attacks by other breeds not banned under the Act, isn't it time that the list of types is reviewed to include other breeds?

**Steve Goody:** You probably will not be surprised to hear that, certainly from Blue Cross's perspective, we do not agree with that at all.

**Richard Drax:** You do not agree?

**Steve Goody:** We consider that breed-specific legislation does not work, and therefore we would not in any way support the addition of other breeds to the list of currently banned breeds.

**Clarissa Baldwin:** I totally agree.

**Richard Drax:** Do you all agree with that?

**Gavin Grant:** Mr Drax, I was present at the time when this Act was being drafted in the Home Office, and its purpose was to attempt to prevent these animals coming into this country at that time, when there were very few of them here, which it has singularly and severally failed to achieve. As we heard from our colleague from the Guide Dogs Association, any dog is capable of such actions in given circumstances; I suppose the difference is the degree of damage that such an animal inflicts. This is very much about the owner, and that is where legislative focus should be, rather than on the breed of animal.

**Q82 Richard Drax:** I was going to ask what impact extending that list to other types would have on responsible dog owners. The answer to that is you do not want to do it.

**Gavin Grant:** We will see more and more animals being abandoned as a result, and we will find it more and more difficult to re-home them, which is experience we all have.

**Steve Goody:** The other point on that one is that it is likely to drive up the incidence of particular breeds of dog being kept for completely the wrong purposes by sectors of the community.

**Claire Horton:** Referring back to your hypothetical point earlier on, Chair, it is probably worth noting that if you were to extend it to a particular breed, you would not only alienate that entire breed-ownership. You cite as an example a Staffordshire bull terrier. Battersea is renowned for taking in everything that comes to our door, and many of those are bull breeds. We have had 500 Staffordshire bull terriers in this year alone, and we are only at the end of quarter one. People will always find a way round it. People will start cross-breeding. There really is not any good that would come from extending that list.

**Q83 Richard Drax:** The next point is one I raised earlier. I think all four of you were in the room, so this will ring a bell. Would you support the use of the Dangerous Dogs Act provisions to allow conditions such as muzzling to be imposed on all dogs of a specified type as an alternative to an outright ban?

**Gavin Grant:** Our answer to that would be that we do not support the outright ban and we would not support muzzling. There is a grave danger here of dogs becoming demonised in this country and people becoming fearful of dogs. At the time of the 1991 Act, as I was with the RSPCA, I had a rescued cross Staffordshire bull terrier, and I am very well aware of how people's attitudes towards that animal changed in public following the Act, whereas the animal's demeanour did not alter at all from being a delightful and very friendly dog. People misread these signs as to what this might mean, and even the Halti nose attachment to the leash some people now view as meaning that dog is muzzled and therefore dangerous.

**Q84 Richard Drax:** It says “under certain conditions”. If that dog has come to the police’s attention and has gone through the courts, are you still saying it should not be muzzled?

**Gavin Grant:** Within Section 1, that provision is there, and it is a requirement of those dogs that are defined in that way. I do not think any of us would support the extension of that provision to other breeds.

**Clarissa Baldwin:** If we had muzzling under dog control notices, then yes, it would be acceptable.

**Steve Goody:** Just one final point on that one. It is probably worth noting that, under the Clean Neighbourhoods and Environment Act, local authorities have the powers currently—which will go—to ensure a dog is kept on lead etc. as part and parcel of current regulation.

**Q85 Richard Drax:** Does that include muzzling?

**Steve Goody:** I believe it can include muzzling. It is very much dependent on the authority having consulted widely within the local community in terms of what those control measures might look like in the first place, but there is existing provision that potentially could be used but is likely to go as a result.

**Q86 Chair:** I do not understand how you say it might go. Is that because of the consolidation?

**Steve Goody:** Our understanding is that the provision of dog control orders through the Clean Neighbourhoods and Environment Act will cease as a result of the proposals that are currently tabled by the Home Office with regard to their Anti-Social Behaviour Bill.

**Q87 Chair:** I am quite taken by your comment, Clarissa Baldwin, about dogs being kept on a lead, together with a dog control notice. The Dangerous Dogs Act contains these provisions for a reason, but my understanding is that they have never actually been implemented through the necessary regulations. Surely it would not be bad practice, if a dog was found to be regularly out of control and dangerous, irrespective of the breed, that it could be kept on a lead. It just seems normal, responsible dog-owner behaviour to do that if the dog has not been properly trained. Are you saying that the law currently covers that point?

**Clarissa Baldwin:** It can do, but I think it would be better clarified with dog control notices as a preventative measure so that people could be told to keep their dogs on leads or muzzled, go to training classes etc. as the major part of preventative work under the Bill.

**Q88 Chair:** That is something we might need to put to the Minister to get greater clarification, so that is very helpful in itself. Do you believe that what is being proposed, or the current provisions, are tackling puppy farms and the websites that we heard some very useful evidence on in the first session? Do you believe that the current provisions, or what is proposed, are going any way towards controlling puppy farms?

**Clarissa Baldwin:** The Pet Advertising Advisory Group has engaged with the Minister, who is very supportive of the work that they are trying to do on website controls, some of which are openly advertising Section 1 dogs. I know they cannot give us regulations, but we need a little bit more help from Defra to help us to encourage websites to come up to a certain standard, and we have now written the standard.

**Claire Horton:** I do not think it goes anywhere near far enough. Our biggest problem in terms of urban areas is the backstreet breeders: the people who breed multiple animals. We see them all the time. We see bitches thrown out when they have outlived their useful life, having been bred to within an inch of those lives, and we see puppies not wanted. There is a

perception that demand is there that actually is not always. We see dogs interbred and cross-bred. We see little control from local authorities. We need to see much more tackling of that. Equally, as my colleague states, the work that PAAG has been engaged in with the Minister is really about how we tackle the internet-advertising side of it as well.

**Steve Goody:** I have two very brief points on that. While we recognise that regulation is difficult, what Government could provide us with is a statutory code of practice to support best practice as far as internet sales are concerned. They can do that through the current Animal Welfare Act. The other issue from Blue Cross's perspective, in terms of the issue of Internet sales and the breeding and sale of dangerous dogs, is that we are missing a real opportunity here to consolidate dog legislation more generally to provide effective welfare measures for dogs and adequate measures to protect the public. A consolidated dog control Bill, we believe, would absolutely have given us that opportunity.

**Gavin Grant:** As you know, that Bill has been drafted by the welfare organisations in conjunction with our friends at ACPO and with the National Dog Warden Association.

**Q89 Chair:** Have you seen any evidence of multiple litters from private homes where people are seeking to boost their incomes? Is there any evidence on what you are seeing?

**Clarissa Baldwin:** We know it happens, but I am not sure there is any scientific evidence.

**Gavin Grant:** There is a question particularly as to the role of public authority landlords in that regard, many of whom have excellent policies on these matters but fail to enforce provision. As I am sure this Committee is aware, the Welsh Government has examined areas such as greater restrictions in terms of licensing requirements on the number of breeding bitches and the number of litters being produced. There is very clear evidence of abuse here, and it is not to the benefit of the animals that they are being bred.

**Q90 Chair:** Do you agree with the evidence we heard from ACPO that a dog attack on another animal should also be an offence, but only if the animal is injured? Do you agree with that?

**Steve Goody:** This talks to a question of interpretation and the inference that an attack either has or might be about to happen. From our perspective, that should be given equal weight and due consideration.

**Q91 Chair:** Returning for a moment—and reaching a conclusion—to dog control orders and dog control notices, do you believe that this will have large implications in terms of resources for local authorities or the police, if we go down that path?

**Gavin Grant:** Within the Bill that was drafted, the dog control notices were seen as a very important tool in the provision of preventative action, which surely has to be better than curing the problem of irresponsible ownership leading to dog attacks. Indeed, we have evidence of in excess of 93% compliance with advice notices issued by the RSPCA Inspectorate—which are non-statutory notices under the Animal Welfare Act—once people are advised of the actions they ought to take. Certainly, there are a number of local authorities that have gone down this path—I think of Eastleigh in Hampshire in particular—that similarly have seen very good results.

**Q92 Chair:** What assessment have you each made in your organisation of the impact dog control notices could have on reducing the number and the severity of dog attacks?

**Steve Goody:** Based on the evidence of the application of dog control orders by local authorities under the Clean Neighbourhoods and Environment Act, when properly consulted

upon, understood and enforced, there is a real place for dog control orders and/or notices to support the prevention of serious attacks.

**Clarissa Baldwin:** That, in turn, will help to stop the numbers of dogs coming into our centres.

**Claire Horton:** They should apply to private places—so, in the home—as well as externally.

**Gavin Grant:** I share my colleagues' views.

**Chair:** On behalf of the whole Committee, I thank you most warmly for being with us this afternoon and contributing to our inquiry, given the short notice that we had to call this session together.