

INQUIRY INTO DOG ATTACKS ON POSTAL WORKERS

An independent inquiry commissioned by Royal Mail Group Ltd into the prevalence and consequences of attacks by dogs on postal workers in the United Kingdom and led by Sir Gordon Langley

REPORT OF FINDINGS AND RECOMMENDATIONS

November 2012

INTRODUCTION

The Inquiry

In March 2012, the Chairman of Royal Mail Group Limited (RMG), Donald Brydon, announced the launch of an independent inquiry into attacks by dogs on postal workers in the United Kingdom. I agreed to conduct the inquiry and have been greatly assisted in doing so by Robert Allnutt, a solicitor, and formerly General Counsel and Company Secretary of Amersham plc.

Terms of Reference

The terms of reference of the inquiry are:

- To seek to ascertain why so many postal workers are subject to dog attacks when delivering mail
- To consider the background and human consequences of continuing dog attacks on postal workers
- To consider existing relevant laws and regulations and the extent to which they are adequate and enforced
- To make recommendations with a view to achieving a reduction in attacks

Evidence and Information

A list of those organisations and individuals making written submissions to the inquiry appears in the Schedule. In addition, I, together with Mr Allnutt, interviewed Mr Keith Scott, the Group Head of Safety at RMG, and Mr Dave Joyce, National Health, Safety & Environment Officer of the Communication Workers Union (CWU). The CWU has been at the forefront of sustained efforts to address the issues which are the subject of the inquiry.

Visits were also arranged for Mr Allnutt and I to two Royal Mail Centres, the Cardiff North District Office (Cardiff NDO) and the Home Counties North Mail Centre in Hemel Hempstead. The visits were sought to enable us to see the safety systems in operation, to talk to postal workers, including those with management and safety responsibilities, and to attend at a number of delivery points. The visits proved to be both informative and instructive and I would like to record our thanks to all those who accompanied and spoke to us for their interest and the time and attention they gave to our questions and concerns.

I should also record here that the Department for Environment, Food and Rural Affairs (Defra) carried out a consultation on the relevant legislation in March 2010 and contemporaneously with this inquiry was carrying out a further consultation on certain discrete issues said to require further consultation after the first consultation. I have greatly benefited from the submissions made to those consultations which have enabled me not to trouble many interested organisations to repeat their views and submissions directly to me. Indeed the consultation process of Defra has been very thorough and I could not hope to emulate it and am satisfied nothing was to be achieved by attempting to do so.

Despite the focus of this inquiry on postal workers the problem which it addresses goes much wider as many of the submissions make clear.

I now have pleasure in submitting my report to RMG.

Dated _____

Sir Gordon Langley

THE PROBLEM

1. There are many statistics available. Not all are consistent or reliable. But they tell the same story of a serious problem which needs to be addressed vigorously and urgently. Many organisations and authorities with different priorities agree. They have co-operated in seeking to find solutions to the general problem of dog attacks. To mention only a few: Trades Unions, the RSPCA, the Police, the Kennel Club and the National Dog Wardens Association.
2. What is perhaps more remarkable is that there is a general consensus not only that the present law is a mess but also about the principal changes in the law required to begin to make sense of it. I agree. Yet to date, and despite all sorts of governmental expressions of support and goodwill, nothing or at least nothing much has been done.
3. In the year 2011 RMG accident reports recorded 3251 “dog events” involving postal workers. The figure was a reduction on 2010 (3800) and 2009 (4521). Nonetheless it is equivalent to an average of over 10 “events” a day allowing for the fact that postal deliveries are made 6 days a week.
4. RMG delivers to some 28 million addresses in the UK each day except Sunday. It operates some 68,000 walks from over 1550 offices throughout the UK. It employs some 70,000 people who deliver the post. In statistical terms the number of events may seem small in that context but in terms of hard numbers the figures are a matter of real concern. Some 24,000 postal workers on delivery rounds have been attacked by dogs since 2006. In money terms the cost of lost working days of RMG staff has been put at £400,000 a year. The cost in terms of personal trauma is inestimable. Postal workers usually have to face returning to the same premises day after day and there is a strong sense of commitment amongst many of them that they should deliver come what may as they are performing a public service.
5. NHS statistics of dog attacks suggest the number of attacks is rising year on year. More than 6000 members of the public were injured sufficiently seriously in a 12 month period in 2010 and 2011 to require hospital admission. There were some 1200 convictions of people for offences under the Dangerous Dogs Act 1991 (as amended) in 2010 an increase of some 35% over 2009. A firm of solicitors which acts on behalf of persons seeking compensation for more serious cases of such attacks, often referred to them by the CWU, acted in 128 cases in the year from April 2011 and described in a letter to the inquiry a number of incidents of serious injury and trauma suffered by postal workers in that period.
6. This evidence, and other information, suggests strongly that all dogs are potentially dangerous but all dogs of a particular type or breed are not for that reason alone dangerous. The evidence also suggests that there is no particular type of premises which gives rise to a greater risk than any other.
7. The “events” involve a range of gravity from serious attacks causing major wounds, disfigurement and loss of fingers to frightening or worrying incidents. Typical examples are bites on fingers through letter boxes as letters are delivered, attacks by dogs loose on property such as front gardens and driveways and attacks when residents open front doors to meet a postal worker seeking a signature recording delivery or seeking to deliver a package too large for the letter box. The growth in deliveries of items ordered on the internet has greatly increased the number of deliveries which can only be made if someone is present to open the door and receive the package.

8. If delivery is not possible a card is left to notify the occupier. At Hemel Hempstead, which has over 100 postal workers delivering mail every day, some 8000 packages a day are either too large for the letter box or require a signature to record delivery. An average of 450 people come every day to the Centre to pick up their mail.
9. Some 70% of dog attacks on postal workers occur on private property.
10. There have been attacks on members of the public including children and babies which have caused appalling injuries and have understandably hit the headlines with gruesome photographs of the injuries inflicted.
11. There are an estimated 8 to 10 million dogs in the UK. Multiple dog ownership is becoming more common. Dogs arouse emotions, even passions. Most dogs are loved and loyal family pets. Some are working dogs such as sheep dogs, police dogs, and dogs involved in drug and bomb detection and rescues. A few dogs are “trophy” or “status” dogs thought by their owners to provide them with a respect they could not otherwise achieve. A few dogs are bred for fighting.
12. Dogs come in all shapes and sizes ranging from the hardly visible to larger than a fully grown adult. But they exhibit no uniformity of conduct or character. The evidence suggests that it is not possible to predict the likelihood of an attack by reference to circumstances but there are situations in which, not unlike people, any dog may react with aggression for example when surprised or feeling threatened or their territory or space is or they think it is invaded or about to be invaded. It is the latter, invasion of space, which is in a sense part of the job and so risk of the postal worker whether walking over private property to a delivery point, posting mail through a letter box or requiring a signature to record a delivery.
13. There are those who maintain that any dog can be trained not to attack people or to do so only in controlled circumstances such as police dogs. They may be right but few dogs in fact undergo training.
14. It is also probable on the evidence that the problem is one for which those who have charge of a dog which attacks a postman have failed to control the dog because they did not think about it, could not be bothered, could not believe that their dog could ever behave in such a way, or, in rare cases, even encouraged the dog to be aggressive. Indeed responsible dog lovers would always place the blame for attacks on the keeper of the dog not the dog. They too may well be right but when an attack occurs both keeper and dog may rightly be the subject of sanctions.
15. Any law should however take account of possible circumstances in which most people would consider it wrong for the keeper of a dog or a dog to be sanctioned such as where a dog is deliberately goaded or provoked or is acting to protect a person or property from attack or burglary.
16. I have referred to the consultations carried out by Defra in 2010 and 2012. The 2010 consultation commenced in March of that year and was directed to the adequacy of the current legislation to protect the public. The consultation concluded in June 2010. To date it has simply given rise to the second consultation which began in April 2012.
17. On 30th April 2010 the Prime Minister, then Leader of the Conservative Party, wrote to Mr Dave Joyce saying “the present situation” was “unacceptable” and “we need to be doing more to protect vulnerable children and our committed postal workers” adding that:

“We are currently reviewing the 1991 Act and are consulting with stakeholders...and we support extending dangerous dogs law to cover all places including private property...and giving police and councils more powers to tackle the problem of dangerous dogs by the introduction of Dog Control Notices”.

18. To date, however, the situation remains unchanged and just as unacceptable as it was when this letter was written now well over two years ago. The issue is one of public and personal safety and merits urgent attention as such.

THE LAW

19. Both criminal and civil law must be considered. The Dogs Act 1871, however, falls somewhere between the two as will be explained. The sheer number of statutes addressing issues relating to dogs is itself testimony to the piecemeal and unprincipled approach taken over many years to the issues. I propose to address only the more relevant legislation rather than, for example, the legislation relating to specific problems such as attacks at farms or health and quarantine questions. There are of course crimes such as murder, manslaughter and various forms of assault which in extreme cases could be relevant where a dog was used to attack a person. This report is not concerned with such crimes but their existence and application should be noted.

The Dogs Act 1871

20. The Act provides that a complaint may be made to a Magistrates Court that a dog is “dangerous and not kept under proper control”. The complaint must be made within 6 months and may be made by the police, a local authority or an individual. Each complaint costs £200 in court fees. If RMG itself was affected it could make a complaint. The Act makes no provision for criminal sanctions nor for compensation. The sanctions are aimed more at the dog than the owner of the dog and are limited to an order that the owner keep the dog under proper control or that the dog be destroyed.
21. The 1871 Act, unlike later legislation, is not limited to dogs out of control in public places but extends to private places also. It is therefore applicable to postal workers who may be attacked on private property. The Act does enable an order to be made for destruction of a dangerous dog and the 1989 Dangerous Dogs Act introduced further sanctions of disqualification from having custody of a dog and fines (maximum level 3: £1,000) for failure to comply with an order made under the 1871 Act. The 1989 Act also provided for a right of appeal to the Crown Court against an Order made under the 1871 Act.
22. The Act has major limitations. The sanctions are very limited; compensation is not available to anyone injured, and the provisions apply only to the “owner” of the dog. It is the experience of the CWU that both the police and local authorities are reluctant to make complaints under the Act. The CWU never does so. That is hardly surprising in view of these limitations.

The Dangerous Dogs Act 1991

23. The preamble to the Act accurately summarises its contents:

“An Act to prohibit persons from having in their possession or custody dogs belonging to types bred for fighting; to impose restrictions in respect of such dogs pending the coming into force of the prohibition; to enable restrictions to be imposed in relation to other types of dog which present a serious danger to the public; to make further provision for securing that dogs are kept under control; and for connected purposes.”

24. The provisions of the Act aimed at particular “types” of dog, in particular pit bull terrier types, are of limited relevance to postal workers. They have the merit of being self-contained and having sanctions of a maximum of 6 months custody and a fine of £5,000 (level 5) as well as destruction and disqualification orders and so are more readily and purposefully enforceable albeit proof of “type” is not necessarily straightforward. There are reasoned differences of opinion as to whether or not such provisions should be retained in any comprehensive new legislation.
25. It is Section 3 of the Act which has wider application. It applies where a dog is shown to be “dangerously out of control” in a public place or a private place where the dog is not permitted to be. “Dangerously out of control” is defined as any occasion when there are grounds for reasonable apprehension that the dog would injure any person whether or not it actually does so.
26. The Act (sensibly) applies not only to the “owner” of the dog but also “if different” to “the person for the time being in charge of the dog”. The sanctions are a maximum of 6 months custody or a level 3 fine (£1,000) and if the dog injures someone a maximum of 2 years custody or an unlimited fine or both and in each case compensation. The dog can be seized and in a case where injury is caused an order can be made for destruction of the dog and for disqualification of the offender from having custody of a dog for a fixed period.
27. The major and obvious limitation in the 1991 Act is that it has no application to a dog which is dangerous on private property where the dog is permitted to be. It does not apply to the “home” of the dog whether that home is permanent or temporary. And that is where most attacks on postal workers occur.

The Dangerous Dogs Act 1997

28. The major purpose of this Act was to introduce an exemption scheme for dogs of the prohibited types under the 1991 Act. The 1991 Act had, in effect, required such dogs to be destroyed. There were many complaints that this was unjustified in relation to some dogs of the relevant type, especially once “type” had been given a broad application. The Act is therefore of limited relevance to the inquiry.
29. An exemption requires that a court be satisfied that the dog would not constitute a danger to public safety despite the fact that it is of a prohibited type. Statistics show that in 2008 331 dogs were added to the Index of Exempted Dogs. That is some indication that breed is a very uncertain guide to dangerousness.
30. The Act makes provision for various conditions to be attached to orders exempting dogs of the prohibited types from destruction. The conditions which could readily be adapted to be incorporated into further legislation are the rights of appeal, the definitions of muzzling and leashing in Section 7, the requirement for “acceptable Third Party insurance to be in place” and the detail of destruction and disqualification orders (Sections 4 and 4A as amended).

Animal Health Act 1981 (as amended)

31. The Act needs to be read together with the Control of Dogs Order 1992. It is an offence for an owner or person in charge of a dog to allow a dog to be in a public place without wearing a collar or tag bearing the owner's identity and contact details. The Act also requires that information to be kept up to date. The sanction for non-compliance is a maximum fine of £5,000 (level 5). But collars and tags can easily be lost and removed.

The Animal Welfare Act 2006

32. This Act has no direct relevance to the inquiry. It does, however, provide some ironic support for those who suggest that Parliament has shown greater concern for the welfare of dogs than for humans attacked or threatened by dogs. It does contain in its 69 Sections and Schedules provisions defining those who are responsible for animals (Section 3), for disqualification from owning or keeping animals (Section 34) and for other sanctions which, again, could readily and sensibly be adapted for use in further legislation concerning dangerous dogs.

Civil Law

33. In practical terms civil liability of a person in charge of a dog which causes injury will depend on the general law of negligence. There is an exception where the "keeper" of the dog is aware of the dangerous characteristic of the dog which causes the injury. Liability is then strict under Section 2(2) of the Animals Act 1971, save where the dog is kept to protect persons or property and keeping it for that purpose "was not unreasonable". Strict liability is hard to prove. Negligence may well not be easy to prove.
34. Intriguingly, in Ireland, Section 21 of The Control of Dogs Act 1986 provides for strict liability of the owner of a dog for damages for an attack on any person without proof of knowledge of any propensity of the dog to attack or negligence but with an exception where the claimant is a trespasser on the premises where the dog is kept when negligence must be established for a claim to succeed.
35. Civil claims are of course only a source of wasted expenditure unless they both succeed and succeed against a defendant who can pay whatever sum may be awarded either from personal resources or by way of insurance.

Summary

36. In summary, if one ignores prohibited types of dogs and dogs used to commit crimes such as assault, a dog and its owner or the person in charge of it is only open to criminal sanctions under the 1991 Act when the dog is dangerously out of control in a public place or somewhere it should not be. The only relevant legislation when a dog is dangerous and not kept under proper control where it is permitted to be is the 1871 Act (as amended). That Act applies only to dog owners. The sanctions are limited. Enforcement is a problem. Civil law remedies are costly to pursue and, as ever, dependent on finding a defendant with the money to pay.

THE DEFRA CONSULTATIONS

37. The first Defra consultation was conducted from 9 March to 1 June 2010. There were 4250 responses. It revealed very strong support for compulsory microchipping of dogs and, among relevant organisations, for extending Section 3 of the 1991 Act to all places where a dog might be, public or private. The consultation also sought views on the

prohibited dogs provisions of the 1991 Act. The majority of respondents supported repeal.

38. Defra stated that:

“The Government believes that the current framework of measures to tackle anti-social behaviour is confusing, bureaucratic and ineffective and difficult to enforce. We want to move away from an approach based on a separate power to deal with every different problem, instead giving practitioners a handful of flexible powers that can be used to tackle a wide range of issues.”

Strong words. I, and most correspondents, would agree.

But nothing happened.

39. The responses by some two-thirds to one-third supported Dog Control Notices as an effective preventative measure although a small majority did not think they should be extended to private premises. A substantial majority did not think that third party insurance against dog attacks should be compulsory. Views were expressed that only responsible owners would comply with such a requirement and it was not justified by the figures for attacks compared with the total numbers of dogs.

40. The second consultation commenced in April 2012. It was preceded by a Written Ministerial Statement dated 23 April 2012. The Statement included the following:

“I am pleased to announce a package of measures to tackle irresponsible dog ownership...”

41. “Having considered the replies to the (2010) consultation and further consulted the police, local authorities and other organisations who are in the frontline in dealing with irresponsible dog ownership, Government has decided that it would be appropriate to extend existing dangerous dogs law in England to cover all private property. Extending the current law would make it enforceable in homes, private gardens and private land where people and dogs are entitled to be, better protecting the thousands of service workers such as medical staff and postmen whose jobs take them onto private property. However, the proposed extension to the criminal law will not extend to protect trespassers who have entered the property with unlawful intentions”

42. “It is also our intention to introduce regulations under the Animal Welfare Act 2006 on microchipping to promote animal welfare by making it easier for local authorities and rescue centres to quickly re-unite stray dogs with their owners”

43. “Therefore a further consultation is being held to give the public an opportunity to give their views on these proposed legislative changes. In relation to microchipping the options are (i) requiring all dogs to be microchipped on transfer of ownership, (ii) requiring all dogs to be microchipped from a certain date, (iii) implementing a phased-in process...”

44. Responses to the second consultation were to be received by 15 June. They were made public and summarised on the Defra website. The opening words of the Consultation Document under the heading “the purpose of the consultation” were:

“The Government considers that the law on dangerous dogs needs changing to promote more responsible ownership of dogs and to reduce the number of dog attacks”.

45. The second consultation sought views on how compulsory microchipping should be introduced (timing and cost), extending the offence of allowing a dog to be dangerously out of control to private property in cases where the dog was acting in defence of itself or its owner and matters relating to the seizure and kennelling of dogs and fees.
46. The Consultation Document also referred to proposals to “take forward” other projects to encourage responsible dog ownership, training more police officers as dog legislation officers, revising guidance to courts and reforming “anti-social behaviour tools” where dogs are involved. But these further matters were not the subject of consultation.
47. It is difficult to escape the thought that this second consultation was seen at least in part as a way to postpone action on the first. But the papers are comprehensive and sensible. Further, the massive response (some 23,000 responses) demonstrates a real level of concern.

SCOTLAND AND NORTHERN IRELAND

48. Both in Scotland and, more recently, Northern Ireland new legislation has been enacted which is a marked improvement on the law which continues unamended in England. There are strong indications that Wales will do the same as Scotland and Northern Ireland.
49. The Control of Dogs (Scotland) Act 2010 came into force on 26 February 2011. The Act repeals the 1871 and 1969 Acts. It amends the 1991 Act to extend to dogs dangerously out of control in any place whether public or private. The 1871 Act is replaced with a regime of dog control notices which can be issued by local authorities without application to the courts.
50. The Act contains its own definition of those who are responsible for dogs and their behaviour.
51. A dog control notice requires microchipping and may include further requirements for muzzling, leashing, neutering, exclusion from specified places, and attending and completing a course of training in the control of dogs. There are provisions for appeals against dog control notices.
52. Failure to comply with a dog control notice is subject to a fine up to £1,000 (level 3), disqualification from keeping a dog and (where the court considers the dog is dangerous) destruction. There are other sensible provisions such as for a database of dog control notices.
53. Up to 5 March 2012, 92 dog control notices had been issued following over 1100 investigations made by local authorities under the Act.
54. The Dogs (Amendment) Act (Northern Ireland) 2011 also extends the law to dogs on private property. It provides for the compulsory microchipping of dogs and registration of dogs as part of a licensing scheme and gives powers to dog wardens to attach control conditions to a dog licence including muzzling and leashing when in a public place and attendance at training courses. Responsibility for enforcement is again placed on local authorities. The 1871 Act, in contrast to Scotland, is left in place and not repealed. There are also exceptions where the person attacked is trespassing.
55. The significance of this legislation is obvious. Where the will exists sensible changes to the law can readily be drafted and enacted.

THE POLICE

56. In “Guidance for Enforcers” on dangerous dogs law dated March 2009 Defra stated that it was “vital that every police service within the UK” had “a good, robust strategy and policy for dealing with dangerous dogs” and that it was “advisable for every police service to have a trained” Dog Legislation Officer (DLO) which is the case with, it seems, only one exception. But for so long as the law remains as muddled and inadequate as it is, and whatever the good intentions of most police forces, such exhortations are always likely to be more pious than practical.

LOCAL AUTHORITIES

57. Most Local Authorities have Dog Warden Services. Their resources are often limited and stretched. Their performance is said to be variable. Again, the inadequacies of the law as well as resources must be a discouragement to improvement.

ROYAL MAIL GROUP LIMITED (RMG)

The Universal Postal Service Obligation (USP)

58. The statutory and regulatory regime which imposes the USP on RMG is complex and convoluted. But for present purposes, and ignoring some detail, it can be distilled into the following:
- (i) The regulator is Ofcom which monitors performance of the USP;
 - (ii) There must be at least one delivery of letters every Monday to Saturday and of other postal packets every Monday to Friday to every home and premises in the UK;
 - (iii) Certain services requiring proof of delivery must be provided;
 - (iv) There are exceptions to the delivery obligations which include risks to health and safety caused by dangerous dogs;
 - (v) Any suspension of the USP is subject to notification, review and appeal provisions;
 - (vi) Certain alternative delivery points are approved where the customer so wishes or exceptions to the USP apply such as roadside boxes and retention and collection at post offices.

The Walk Risk Assessment Platform (WRAP)

59. RMG has been alive to and concerned about the problem of dangerous dogs for years. But it is only in the last 2 to 3 years that a concerted effort has been made to address it methodically through a system known as WRAP as well as promoting changes in the law. The internal effort has been carried out with the considerable help of the CWU and has resulted in a much more focused and organised approach to the dangers of dogs. It has already contributed to the significant improvement in the number of dog “events” to which I have referred. The level of co-operation between RMG and the CWU is impressive and acknowledged by both.

60. This report need only summarise some of the more important features:
- (i) A walk risk assessment is made for each walk in a form to be completed by each postal worker recording risks associated with the round including dog hazards;
 - (ii) A system exists for bringing to the attention of postal workers rounds where a dog hazard is known to exist;
 - (iii) A number of letters have been drafted which, with escalating degrees of sanction, are sent to delivery points where an aggressive or dangerous dog has been noticed. In a very serious case notification will be given of an immediate suspension of deliveries. More usually the addressee is encouraged to work with RMG to provide a solution which might be to keep the dog confined, to provide grill protection for a letter box, to provide a delivery point (drop box) elsewhere or to collect mail from a post office and most suspensions are resolved often with the help of the local dog warden employed by the local authority;
 - (iv) A posting peg is available to postal workers for use in posting material through letter boxes without exposing the hand. Leaving mail visible from outside a property is not acceptable both because of the risk of theft and a sign that the property is unoccupied.

Cardiff NDO

61. Cardiff NDO is engaged in setting up and testing a structured approach to identifying the risk and location of dog attacks and possible attacks and how to avoid them. The Office has established a systematic approach which includes a dog risk matrix, describes the signs of aggressive behaviour by dogs and the reasons why dogs attack, and establishes a risk index for individual delivery walks which lists and specifies the nature and degree of risk perceived to exist at delivery points on each walk. The matrix is available not only to the regular postal worker but also to those who may be required from time to time to cover the walk in cases of holidays or sickness or the like.
62. There is impressive staff engagement which has revealed how widespread the problem is. 82% of staff reported that they had been attacked by a dog or endured a "near miss". The Office also has a good relationship with the local dog warden which has proved particularly helpful in bringing the problem to the attention of those in charge of dogs and agreeing simple ways to avoid the problem such as shutting the dog in a secure room when the post is delivered. At the time of our visit the statistics showed a very marked improvement in the number of dog events.

Other Proposals

63. RMG has been and still is reluctant to pursue complaints on behalf of individual postal workers in the courts whether under the 1871 Act or otherwise. There are concerns that RMG should only act when its interests are directly engaged and concerns about possible conflicts of interest if the worker might have a claim against RMG itself (which is self-insured). No doubt in some instances such a narrow approach may be appropriate but such statistics as there are suggest the vast majority of claims are made against third parties and only very few against RMG itself and for so long as the law remains unchanged I would urge RMG to consider whether or not the policy should be changed especially in cases where the promotion of the wider interests of postal workers to be kept safe from attacks are, as they may well be, involved. The publicity attached to

proceedings may assist in promoting public understanding and action on the part of Parliament.

64. There would also, I think, be much to be said for a robust approach to dog owners whose dogs have been or appear to be aggressive. It is true that visits and letters notifying the problem may cause offence and there are some suggestions that Ofcom was reluctant to see greater use of them but that is no longer the case and Ofcom has stated clearly in a Statement and Direction dated 23 February 2012 that it “recognises that Royal Mail should not deliver when delivery poses unacceptable health and safety risks to staff”.
65. In any event the problem is serious enough to risk the occasional negative reaction. Moreover any suspension of delivery is subject to a right of appeal with the ultimate appeal to Ofcom and RMG is always ready to discuss solutions with those prepared to engage with them on the issue.
66. In 2011 there were 167 reported suspensions of delivery attributed to dogs (2010: 142).
67. It is right to record that the majority of dog owners react positively and with genuine concern to incidents where their dogs have attacked postal workers. But some do not. And however commendable the wish to perform a public service, it should never be at the expense of a risk to personal safety. Those delivering mail must have the confidence not to deliver and to bring the mail back to the office whenever they perceive such a risk to exist. That includes the no doubt rare but not unknown cases where the presence of a dog in one house (or flat) makes delivering to neighbouring houses (or flats) itself an unacceptable risk.
68. A number of other suggestions have been and are being considered. The use of deterrent sprays is one. But there are doubts about their effectiveness and it would not be practical for all postal workers to carry them or use them in a case of a sudden attack. Protective uniforms have been suggested but when a problem has reached the level where that is considered I think it better not to deliver at all to the relevant address or addresses and a general obligation to wear such clothing would understandably be unpopular. Training of postal workers in how best to deal with dogs which appear to be aggressive or dangerous has also been suggested and might be helpful in some specific cases but I think a few basic written dos and don'ts ought to suffice rather than compulsory courses.
69. There is some largely anecdotal “evidence” that the distinctive reflective jackets worn by postal workers when delivering mail may aggravate some dogs or be recognised by dogs as worn by people who invade their territory. It might provide some explanation for attacks on postal workers in public places as they walk from one delivery point to another. It is important that postal workers are readily identifiable as such and also visible to traffic and I do not think the evidence such as it is justifies any change in uniform.

REFORM

70. The law can play a useful role in educating the public generally as well as those in charge of dogs as to the responsibility which that entails. The present state of the law is however more likely to be a source of contempt and irrelevance. It is also right to recognise that it is often irresponsible owners who are the source of the problem which this inquiry seeks to address and education by legal clarity and realistic sanctions may only have a marginal effect in such cases. But that is not a reason to ignore the effect both of possible provisions seeking to address the risk of attacks before they occur and provisions which enable realistic sanctions to be imposed in cases where that is justified by a failure to exercise proper responsibility for the behaviour of dogs.

71. The history and patent inadequacies of the legislation to which I have referred makes it tempting to say no more to the Government than do what you have already said you will do. If the alternative is further delay there is much to be said for that.
72. There are the examples of the new laws in Scotland and Northern Ireland. In 2009 Lord Redesdale prepared a Private Members Bill which was commendably brief and had the simple target of removing the restriction in Section 3 (1) of the 1991 Act to “a public place” so that the Act would apply to a dog dangerously out of control regardless of whether the dog was in a public or private place. But the Bill did not get the support of the then Government. A draft Dog Control Bill has been developed by ACPO, the RSPCA, the CWU and others which would provide for an extension of the law to private property, for a form of Dog Control Notice, for a dog registration scheme and for easier enforcement. The draft requires and is to receive further development but the proposals are a common theme. The draft would retain the prohibited types of dogs and exemptions in the current legislation albeit the number of attacks by “pit bull terrier types” have increased despite the legislation and other organisations such as the Dogs Trust are opposed in principle to such laws. It has indeed been suggested that the law has served to increase the desirability or status of such dogs in the minds of some owners.

Private Property

73. First and foremost the 1991 Act or any new legislation must be extended to apply to dogs dangerously out of control on private as well as public property. There is universal support for such an extension. The only concern that has been raised is for cases where the dog might be said to be acting so as to protect those in charge of it or their property.
74. Such cases could readily be made the subject of express provision (as in the Animals Act, 1971 and in Northern Ireland and foreshadowed in the second Defra consultation), but if the evidence justified it courts would be unlikely to find that the dog was dangerously out of control and even if they did the circumstances would be bound to influence the level and nature of any sanction imposed.

Owner and Person in Charge of a dog

75. It is important to ensure in any legislation that either or both of the owner and the person in charge of a dog at the time of an attack are potentially liable to sanction.

Deed not Breed

76. There is, as I have said, a reasoned debate about whether or not the provisions of Section 1 of the 1991 Act prohibiting “types” of dog should be retained. The practical effect of the provision is to outlaw pit bull terrier types. In my view the provisions are worth retaining. Despite the difficulties of proving “type” the police welcome the specific nature of the offence and the sanctions attached to it which facilitates prosecution. The exemption provisions also enable sensible restrictions to be imposed in such cases. It may be that if the law was amended as proposed and after it had been in force for some time it had become apparent that it was no longer serving any useful purpose then Section 1 could be repealed.

Dog Control Notices

77. The great advantage of the proposals for Dog Control Notices (DCNs) is that they would enable anticipatory action to be taken in any case where there was a perceived risk of an attack by or menace from a dog or dogs.

78. To be effective DCNs should be available quickly but of course subject to proper notification and appeal provisions. It is also essential that those responsible for the issue and enforcement of DCNs are properly trained. The new legislation in Scotland and Northern Ireland demonstrates that it can readily be done. The Government proposal to make some provision in anti-social behaviour legislation or regulation is both vague and likely to be complex. The Environment, Food and Rural Affairs Committee of the House of Commons is currently holding an inquiry into Dog Control and Welfare and may make more concrete and straightforward proposals.
79. A major benefit of DCNs is the conditions which might be attached to them such as leashing, muzzling, neutering, training, and, compulsory third party insurance (as with exemptions under the 1997 Act) with fines, disqualification and destruction or contingent destruction orders available for breach.

Microchipping

80. There is again almost universal support for compulsory microchipping of all dogs. There is some debate about the timing but a target to achieve 100% microchipping within three years would seem reasonable. All breeders and sellers of dogs should be required to microchip the dogs before transferring ownership of them. The process is much less important than the principle and the detail, including costing, has been addressed in the second Defra consultation.
81. The support is, however, to a large extent premised on microchipping being an issue of dog welfare rather than control of dangerous dogs enabling stray or lost dogs to be reunited with their owners. But any law (criminal or civil) concerned with dangerous dogs is dependent on identification of the person in charge of the dog to whom the provisions of the law apply. Microchipping has a role to play in that objective also. It is true (as with many laws) that the more irresponsible a dog owner is the less likely it may be that the dog would be microchipped whether or not required by law but that is not of itself a reason to reject microchipping and a discrete sanction for failure to obey a legal requirement to do so.
82. Again, there is the current law in Northern Ireland as a precedent. Some local authorities, such as the London Borough of Wandsworth, have made it compulsory as a condition of tenancy or in regulations applying to leaseholders for dog owners to microchip their dogs. Many other countries, including Canada and Australia, also require microchipping. The evidence suggests that a one-off cost in the range of £10 to £30 would be involved with a further cost if the information had to be changed on a change of ownership of the dog. A significant number of the dogs in England (I have seen figures ranging from one-third to 55%) are currently microchipped on a voluntary basis.

Licensing

83. The dog licence was abolished in 1987. At that time it cost 37 pence annually and less than half of dog owners bothered to obtain a licence. It was (and would be) quite expensive to administer and would require any charge to be significant (of the order of £20 or more annually) if the cost was to be covered by it. A licence is still required in Northern Ireland (cost £12.50 a year) and in a number of other countries including the Republic of Ireland.
84. Although a licence is often seen as an alternative to microchipping and it has an unfortunate history, there are those (including many dog owners) who support a licensing system. There are advantages in that conditions can be attached to the grant or renewal of a licence including a condition that the dog be microchipped.

85. Nonetheless I think that licensing would be a step too far in terms of administration and what it would be likely to achieve. Moreover any suggestion of reviving the system might also provide a reason for yet further consultation and delay in reforming the law.

Compensation Orders

86. The making of a compensation order in favour of anyone injured or suffering loss as a result of a dog attack should be considered as a matter of course on any conviction for a dangerous dog offence: see below for the guideline recently published by the Sentencing Council.

Insurance

87. The Association of British Insurers (ABI) has stated that third party liability cover for claims arising from domestic animals (excluding those on the Dangerous Dogs Register) is part of the standard cover in most pet and household insurance policies. In 2008 some 1.7 million dogs were covered by pet insurance and three-quarters of households in the UK had contents insurance most of which would provide such cover.
88. Stand alone cover for third party liability for dog attacks is not a standard policy. The ABI is unenthusiastic and the cost could well be prohibitive even if any insurer was willing to provide it as there is little rational basis on which the risk could be assessed. Even if such cover were compulsory it would be unlikely to be effective in those cases where it would be most important. Insurers would be likely to seek to avoid any policy when the dog had a history of aggression which was not disclosed by the owner to the insurer when taking out the policy and if disclosure was made cover would be unlikely to be available or would be prohibitively expensive.
89. The previous Government rejected compulsory insurance on the basis that it would be difficult to enforce and ignored by just those irresponsible owners where it might do most good.
90. On balance I think compulsory insurance is better left to the individual case as an available condition if a dog of a dangerous type is to be exempted from destruction or as a term of a Dog Control Notice or sanction for an offence involving a dangerous dog.

A Compensation Fund/Criminal Injuries Compensation

91. The concerns of the CWU in particular that those injured or suffering loss as a result of aggressive dogs may well find compensation is irrecoverable from the offender is well founded. There is, however, the limited consolation that the criminal injuries compensation scheme might provide some compensation (it applies where physical injury is caused by violent criminal acts) but the Government announced in January 2012 that it intends to exclude from the scheme injuries resulting from dog attacks unless the dog was deliberately used to cause injury. The Government proposal has yet to be laid before Parliament and no case has been made for it apart from an unreasoned assertion that dog attacks are “outside the core purpose of the scheme” and saving public funds. In the limited circumstances in which a claim for compensation would arise I find the Government proposal difficult to justify and inconsistent with the apparent commitment to give such attacks the attention they require. I think it would better be abandoned.

Training

92. There are well recognised and professional commercial organisations and individuals that provide training for dogs and their owners and indeed for those who might be more than usually exposed to aggressive dogs.
93. I do not think it either practical or sensible to require training of dogs and owners on a general basis but the power to impose an obligation to attend and complete an appropriate course as a condition of a Dog Control Notice (as in Scotland and Northern Ireland) or exemption from a destruction order should be available.
94. Training courses for postal workers generally should also not be compulsory but consideration should be given to any special cases and in particular for those who have some senior responsibility for health and safety. The most common causes of dog aggression are reasonably well recognised: they are protection of territory, fear, and where dogs have been trained to be aggressive.

Sentencing

95. In December 2011 the Sentencing Council published a consultation on a draft guideline for dangerous dog offences. The consultation period closed on 8 March, 2012. In May 2012 the Council published its response to the consultation. The definitive guideline was implemented on 20 August.
96. There is no reason nor point to question the conclusions of the Council on the appropriate range of penalties and the factors to be considered in sentencing for existing offences. What is more important is that they are readily applicable to the extensions and reforms of the law which I and others have proposed.
97. By way of summary, for the more serious cases involving injury caused by dogs and for the less serious offences which do not involve actual injury but fear of injury the guideline has two features which are particularly welcome. First, in both cases a factor increasing the seriousness of the offence is that it was committed against those (such as postal workers) “providing a service to the public”. The second is that in all the more serious cases the court should consider whether or not to make a compensation order and orders disqualifying the owner from having custody of a dog and destruction or contingent destruction orders. Criminal compensation orders can be made up to a maximum of £5,000 and the court takes responsibility for their enforcement.
98. The test for a disqualification order is whether the offender is a fit and proper person to have a dog. Destruction orders must be made unless the court is satisfied that the dog would not constitute a danger to public safety.
99. The Analysis and Research Bulletin of the Sentencing Council dated December 2011 noted that in 2010 sentences for dangerous dogs offences were mainly by way of conditional discharge (33%) and fine (32%) with the average fine being £228. There is of course a considerable range of culpability involved in such offences. The existing legislation in cases of injury sets the maximum of two years custody and an unlimited fine. The Council recommends a range of sentence from a discharge to 18 months’ custody. Where there is no injury the maximum is 6 month custody and a maximum fine of £5,000. The Council recommends a range of sentence from discharge to 6 months’ custody. For possession of a prohibited type of dog the maximum custody and fine are the same, 6 months and £5,000. Those provisions are, I think, adequate.
100. The new guidelines may well result in an increase in the level and nature of sanctions. As the Sentencing Council put it in a statement, the new guideline will mean “more

offenders will face jail sentences, more will get community orders and fewer will receive discharges". That is welcome.

Records

101. I was told of an incident in which a postal worker had suffered a dog attack but it was discovered too late that the dog had been responsible for an earlier attack which had led to a court order. It would appear that neither the police nor the courts have accessible records of dog attacks. There may be good reasons for this of which I am not aware but it would be a useful step in avoiding attacks and ensuring the imposition of appropriate sanctions if there was an accessible data base of addresses and locations at which dogs involved in attacks or the subject of court orders could be identified. Such a data base would no doubt be welcomed by all those open to or the victims of dog attacks and by the police and local authorities themselves.

CONCLUSIONS

First Term of Reference

102. The first object of this inquiry is "to seek to ascertain why so many postal workers are subject to dog attacks when delivering mail".
103. There has been a significant improvement in the number of attacks since RMG developed and implemented WRAP. There is now a much more focused warning system for postal workers and a much better organised procedure for engaging those responsible for dogs in seeking solutions to perceived risks to postal workers from dogs.
104. There remains, however, a level of attack and injury from attack which is unacceptable. The causes are not hard to find. Postal workers are obliged to enter private property to deliver mail and so may be seen by dogs as a threat and invaders of their territory. If those in charge of dogs are unaware of or unconcerned about the risk of attack so that the dog is not properly controlled an attack may occur. Such irresponsibility is usually, but not always, the result of a lack of thought and care rather than deliberate conduct.

Second Term of Reference

105. The second object of this inquiry is "to consider the background and human consequences of continuing dog attacks on postal workers".
106. The major consequence in human terms is of course the injury and trauma to those postal workers who are the victims of attacks. Permanent injury, disfigurement and a fear of dogs are every bit as damaging as the human consequences of criminal attacks or motor or industrial accidents. Concern at returning to work and financial loss both to the individual and to RMG are also significant.
107. The "background" is one of continued failure by Governments to address and rectify the glaring inadequacies of the law. It is all too easy to put the issue to the back of the queue and avoid any perceived sensitivities of the subject.

Third Term of Reference

108. The third object of this inquiry is "to consider the existing relevant laws and regulations and the extent to which they are adequate and enforced".

109. The existing law in England and Wales is, I repeat, a mess and patently inadequate to address what is a serious problem. The exclusion from the 1991 Act of attacks on private property is manifestly unreasonable. The 1871 Act is, to state the obvious, over 140 years old and shows it. The prohibited “type” of dog legislation is a blunt tool to address what is at most a small part of the problem. The lack of any modern provisions for identifying dogs and those responsible for them and for requiring proper control to be exercised over dogs is unacceptable.
110. The necessary improvements in the law are well recognised and almost universally acknowledged. They are the extension of the dangerous dogs legislation to all places where attacks take place or are threatened, to provide by way of dog control notices for making those in charge of dogs face up to the associated responsibilities, and to provide by microchipping a system which would generally enable dogs to be matched with those responsible for them.
111. Inadequate laws and sanctions do not encourage those whose task it is to enforce the law to do so. It is no surprise that enforcement seems to be patchy. The primary requirement is to enact sensible legislation and to address enforcement in that context. Both the police and local authorities recognise the problem. There are of course resource implications which are never easy to address or prioritise especially in the present economic climate. But the problem evidenced by the information that this inquiry has received and read is a serious public safety issue which merits urgent attention as such. Indeed both the Prime Minister and Defra have expressly recognised as much in the statements I have recorded.

Recommendations

112. Lastly it is the object of this inquiry “to make recommendations with a view to achieving a reduction in attacks”.
113. There is no magic bullet. The problem will persist but it can be ameliorated. What is required is a combination of legislative changes, public understanding and continued focus on the part of RMG. I am not sanguine that this report will have any greater impact on the Government than the efforts already made by others but if it contributes at all to the pressure for action it will have achieved something worthwhile. My recommendations are simple and not in any way original:
- (i) To enact legislation (preferably repealing and replacing the 1871, 1991 and 1997 Acts) as soon as practicable which provides for the existing dangerous dog offences to be committed wherever the dog may be. The legislation must make clear that both or either of the owner or the person in charge of the dog at the time of the attack or threat of attack are liable to be charged and may provide for exceptions in the case of a trespasser on the property where the attack occurs;
 - (ii) To retain the prohibited “type” offences at least for the immediate future;
 - (iii) To provide for the compulsory microchipping of all dogs to be achieved over a fixed period of 3 years;
 - (iv) To provide for dog control notices on the lines of those now available in Scotland and Northern Ireland and a public data base of notices issued;
 - (v) To retain the application of the criminal injuries compensation scheme in the case of attacks by dogs;

- (vi) To ensure that both the police and local authorities are properly resourced to enforce the law.

In addition:

- (i) RMG should act robustly in suspending delivery where there is evidence of a perceived risk to the safety of postal workers from a dog or dogs and the matter is not or cannot be quickly resolved by agreement. RMG should also give serious consideration to making a complaint or backing a postal worker to make a complaint under the 1871 Act for so long as the law remains unamended;
- (ii) All interested parties should continue to keep the issue in the public eye and pressure the Government and Defra to act. It would be scandalous and tragic if before anything was done there was another appalling attack on private property or where the dog could not be traced to those responsible for it with the result that no one could be prosecuted and no compensation could be recovered.

SCHEDULE – LIST OF SUBMISSIONS

Organisations

1. Kennel Club
2. RSPCA
3. Dogs Trust
4. IPC Dog Services
5. British Small Animal Veterinary Association
6. Association of Pet Behaviour Counsellors
7. Association of Chief Police Officers
8. Royal Mail
9. National Association of Dog Wardens
10. Blue Cross
11. Battersea Dogs and Cats Home
12. Cooper and Co., Solicitors

Individual submissions

13. Mr Kendal Shepherd BVSc., CCAB, MRCVS
14. Mr Martin Tylee
15. Mr Norman Paterson
16. Mr Michael G Shaw
17. Mr Neville Cast
18. Marie Fox, Professor of Socio-legal Studies, University of Birmingham
19. Mr Steven Carabine