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Group: Communication Workers Union

@CWUnews

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From the office of **Dave Joyce** National Health, Safety & Environment Officer

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To All Members of The Scottish Parliament
The Scottish Parliament Building
Holyrood
Edinburgh
EH99 1SP

Dear Member,

Re: Scotland - Dangerous Dogs Law and Enforcement Failures: Dog Attacks on Postal Workers:

Firstly, on behalf of the Communication Workers Union, I would like to thank the large number of MSPs who responded positively and supportively to our 27 November 2017 letter to the Cabinet Secretary for Justice Michael Matheson MSP.

Motion to the Scottish Parliament Calling For A Post-Legislative Review of the Control of Dogs Scotland Act 2010:

The CWU Very much welcomes the Motion S5M-10404 in the name Alex Neil (MSP), Lodged on 9 February 2018, supported by Jenny Gilruth(SNP), John Mason(SNP), Ash Denham(SNP), Christine Grahame(SNP), Kenneth Gibson(SNP), Clare Haughey(SNP), Clare Adamson(SNP), Richard Lyle(SNP), Graeme Dey(SNP), Ivan McKee(SNP), David Torrance(SNP), Gail Ross(SNP), Neil Findlay(Lab), Alex Rowley(Lab), Jackson Carlaw(Con), to be heard on 8th May 2018, calling for a post-legislative review of the Control of Dogs (Scotland) Act 2010, including the degree to which the Act is being effectively enforced by local authorities.

However, we are disappointed that the Motion did not make reference to Postal Workers and make reference to enforcement by the Police, the Crown Office and Procurator Fiscal Service along with Scottish Courts. We hope nevertheless our issues will be taken on board and that the Motion is carried without opposition and with Cross Party support across the House.

Number of Dog Attacks on Postal Workers In Scotland:

- There are 8,000 Royal Mail Employees and 500 Parcelforce Employees in Scotland.
- 220 Postal Workers were attacked and injured by Dogs in Scotland last year.
- 1,400 Postal Workers have been attacked by dogs in the last 5 years.
- 2,500 Postal Workers have been attacked by dogs since the Control of Dogs (Scotland) Act 2010 came into force.

General Secretary: Dave Ward

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Therefore has the new law been ineffective?

Dog Control Notices (DCNs)

DCNs are simply not used enough by Local Authorities. Firstly, some Local Authorities never use them at all and secondly they are used after a problem has arisen or an attack has occurred which was never the intention.

Police Inconsistencies

A problem we face now is the inconsistencies by the Police in dealing with dog attacks. Trying to get the Police to take this whole issue of dog attacks as seriously as they should do is sometimes difficult. They should take more punitive action through prosecutions than by the issuing of just a 'Community Resolution' order which has become a real problem. It's the Police's job investigating each case to get it to prosecution standard but they seem reluctant to do so in some cases. The Police clearly don't see dog attacks as a priority and appear to have other concerns and priorities so often the Police don't view dog attacks seriously enough which means offenders go unpunished and dog attacks will continue. We come across repeat offenders who were dealt with by the Police issuing a Community Resolution Order or Warnings which doesn't work. Unless we can get 'Top Down' support to deal with the 'Out Of Control' Dangerous Dogs issue and raise public awareness about the absolute need for responsible dog ownership and tough consequences for those who fail and offend, then the problem will continue. A 'Community Resolution' was only ever intended as an alternative way of dealing with less serious crimes. However, there's been "a massive increase" in the number of crimes dealt with just by Community Resolution including serious crimes and now dog attacks which we strongly feel is wrong.

Application of the Law in Scotland:

The biggest problem we face is that the law in Scotland on Dangerous Dogs is applied differently than that in England, Wales and Northern Ireland even though it is based on the same Act (DDA 1991) so it is much more difficult to get a conviction. For example, in Scotland you need to be able to prove that the person in charge of the dog believed it would attack or there existed evidence of bad temperament or the dog had previously attacked someone. Whereas in England, Wales and Northern Ireland, the focus is on the owner taking steps to ensure their dog does not attack anyone. Added to that is the lack of ability to bring a private prosecution in Scotland whereas it's a straightforward process in the rest of the UK. In England, Wales and Northern Ireland, Royal Mail lawyers supported by the CWU have succeeded with around 15 private prosecutions of irresponsible dog owners whose dogs have attacked and injured Postal Workers, in cases where the Police and CPS have failed to prosecute for one reason or another. The Police and Crown Office and Procurator Fiscal Service need to stop hiding behind this unacceptable 'One Free Bite' type rule or doctrine and misjudgements about owner culpability and start taking this issue of dog attacks much more seriously.

It's No Joke!

Sadly the cartoon caricatures and jokes about dogs biting Postmen still prevail and Postal Workers are seen as fair game by the public and even the Police but in reality nothing could be further from the truth as these terrifying attacks result in serious physical and psychological injuries some of which are life changing and full recovery isn't achieved. (Please see enclosed CWU Dog Attack Booklet with 30 example cases and more information on dog attacks on Postal Workers.

Action Now Needed:

The CWU campaign achieved its main objectives by 2014 but the Scottish Government now needs a post implementation review of the Dog Control Laws and their enforcement, focusing on further changes and Government initiatives such as:-

- Revise the law to ensure 'Strict Liability' applies to dog owners in the event of a dog attack and stop the 'One Free Bite' Rule once and for all.
- A Government commitment to better prevention.
- Consistent, tougher enforcement by Police, Crown Office and Procurator Fiscal Service and the courts.
- Increased Police (Dog Legislation Officers) and Local Authority Dog Wardens resources.
- Raising public awareness and Education on the issue of dog attacks and dog control problems.
- Promote better dog ownership, education and training.
- Effective sentencing and consistency from the Courts – using the full range of sentencing powers.
- Increase the use and issue of Dog Control Notices (DCNs) with consistent use to enable early intervention by enforcement officers, to serve on the irresponsible owners of nuisance, aggressive dogs in order to avoid serious incidents and attacks happening.
- DCNs once served should also contain the mandatory minimum requirements of i.e. Third Party Liability Insurance, Microchip, Muzzle & Lead in Public, Owner & Dog Training.
- Enforcement of the Control of Dogs Order 1992 which states that any dog in a public place must wear a collar and tag with the name and address (including postcode) of the owner engraved or written on it, or engraved on a tag. A telephone number is optional. Maximum Fine is £5000.
- Introduce compulsory third party dog insurance which would help provide proper compensation for victims of dog attacks from the owners of the dogs. (The Dogs Trust Membership Scheme provides £1M Third Party Liability Cover for under 50p per week, 25p for over 60's - so it's not expensive).
- Reinstate the Criminal Injuries Compensation Scheme (CICS) payments for dog attack victims (abolished by the UK Government).
- Simplify the legal process enabling Private Prosecutions for Dangerous Dogs Offences.
- Consider the introduction of Dog Licences, similar to Northern Ireland with the money generated from the £12.50p fees ring-fenced for dog control enforcement.
- Those convicted of DDA offences involving injury to face an automatic dog ownership ban, compulsory third party insurance on any dogs owned in future and a mandatory Victim Compensation Order with consistent payment levels.
- A review of the Law to deal with the impact of the Regina v Robinson-Pierre [2013] Appeal Court Judgement which is causing turmoil in the Courts in so much as the offence of allowing a dog to be dangerously out of control contrary to section 3(1) of the Dangerous Dogs Act 1991, was a strict liability offence. However, since this judgement some Courts are now stating that nevertheless the Court requires proof by the prosecution of an act or omission on the part of the defendant (with or without fault) that to some (more than minimal) degree the defendant caused or permitted that prohibited state of affairs to come about.

“One Free Bite” Rule

The Scottish Government and Scottish Enforcers must stop the enforcing authorities and Courts following the "One Free Bite" rule which was never supposed to be adopted. The same 'strict liability' approach must be adopted across the UK.

We seek your support for the Motion S5M-10404 in the name of Alex Neil (MSP) and further, seek your support to ensure that the Law is properly applied so that Postal Workers and others in Scotland and coincidentally other persons delivering to the addresses, e.g. children and the general public are given the protection they deserve because **"a Law not enforced, in no Law at all!"**

I look forward to hearing from you and I am happy to meet you in Edinburgh to discuss this further.

Yours sincerely



Dave Joyce
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CWU National Health Safety and Environment Officer