***Communication Workers Union***

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Lord Taylor of Holbeach

Parliamentary Under Secretary of State

Defra  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

Dear Lord Taylor,

**Dangerous Dogs Legislation Review - CWU "Bite-Back" Campaign:**

It was a pleasure to meet you on 15 November at Defra HQ to discuss Dangerous Dogs.

Further to that meeting and previous correspondence with you and Lord Henley at the Home Office, I write regarding six key areas, following on from our meeting.

1. Private Property.

Firstly I very much welcome your proposal to extend the law to cover private land and property which is urgently needed by Postal Workers of whom around 15 are attacked by dogs and injured in the UK every day, the majority on private land where the irresponsible owners are immune from criminal prosecution.

2. Compulsory Microchipping.

Secondly I also welcome your proposal to introduce compulsory Microchipping for better traceability of owners. Tracing ownership and denial of ownership presents a difficulty following dog attacks in some cases.

3. Sentencing.

Thirdly, I welcome the plans for referral to the Sentencing Advisory Council, the question of appropriate sentencing and punishment in Dog Attack cases, as despite the range of sentences available, the Courts have traditionally treated dog attack offences far to leniently.

Turning now to three other key areas where my organisation and others remain concerned about the solutions you propose.

4. Consolidated Bill.

In relation to the demand of the CWU and all major key stakeholder organisations for a new consolidated bill, you opened the meeting by referring to the deregulation agenda of

government and the wish to avoid adding new legislation. However, we pointed out that far from adding any burden of additional laws, there was an opportunity here to in fact assist that agenda by getting rid of a number of old existing, ineffective laws by introducing a single comprehensive, consolidated, easy to use bill in their place (as had been the case in Scotland and Northern Ireland). For example, some of the Acts that could be repealed as a whole or in part are:-

- [Dangerous Dogs Act 1989](http://www.opsi.gov.uk/ACTS/acts1991/Ukpga_19910065_en_1.htm)

- [Dangerous Dogs Act 1991](http://www.opsi.gov.uk/ACTS/acts1991/Ukpga_19910065_en_1.htm)

- [Dangerous Dogs (Amendment) Act 1997](http://www.opsi.gov.uk/ACTS/acts1991/Ukpga_19910065_en_1.htm)

- Control of Dogs Order 1992

- The Dogs Act 1871

- [Dogs (Protection of Livestock) Act 1953](http://www.defra.gov.uk/animalh/welfare/domestic/dogs.htm)

- Guard Dogs Act 1975

- Animals Act 1971

- Animal Welfare Act 2006

- Clean Neighbourhoods and Environment Act 2005

- Litter (Animal Droppings) Order 1991 of the Environmental Protection Act (1990)

- Town Police Clauses Act 1847 (S28)

- Metropolitan Police Act 1839 (S54)

- Offences Against the Person Act 1861

- Environmental Protection Act 1990

To make it easy for Government a suitable Bill has been prepared by the Association of Chief Police Officers, RSPCA, National Dog Wardens Association with CWU support and has been with Defra, on the table so to speak, for 18 months, having been submitted during the Defra public consultation in 2010. I suggest you refer back to the draft bill.

5. Turning now to the issue of the need for effective preventative measure. None of the organisations present at the meeting on 15th November and other not present, including the enforcers (Association of Chief Police Officers, Police Federation and National Dog Wardens Association) favour or support the proposal of measures under the Home Office review of Anti-Social Behaviour as being either an appropriate, effective or practical solution. Ministers have also been told that the Home Office proposals on the review of anti-social behaviour and ASBO replacements, i.e. Crime and Community Protection orders etc will not deal with the issues that concern workers attacked whilst going about their job. This is not an anti-social behaviour issue its an irresponsible dog owner issue! Neither will the 1861 [Offences Against the Person Act](http://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents)or the 1871 Dog Act deal with the issue. The Police Federation, Association of Chief Police Officers and National Dog Wardens Association, CWU amongst others have repeatedly told Defra and Home Office ministers this. Yet Ministers continue to refer to looking at this ASBO review as a possible solution for Dangerous Dogs! All the key stakeholder organisations favour the introduction of Dog Control Notices (DCNs) as introduced in Scotland and Northern Ireland (See Questions 16 - 22 Defra Consultation on Dangerous Dogs 2010). DCNs would be a simple to use. effective preventative measure for tackling dogs which are not being properly controlled, without the cumbersome and expensive

requirement, under the Anti-Social Behaviour proposals to seek a Court Order from a Magistrate in the first instance. The CWU support giving local authority Dog Wardens and Police Officers powers to serve Dog Control Notices (DCNs). It is important that new Dangerous Dogs legislation introduces a new proactive, preventative dimension to the dog control system. Dog Control Notices (DCNs) or Orders. Dog Control Notices could be used as a preventative measure, highlighting the potential for a dog to indulge in behaviour that may later prove to be a danger or cause injury, forcing owners to take action to prevent further lack of control of their dogs in either public or private places. These would be served on the owners of Dogs showing unprovoked aggression, constantly snarling, bearing their teeth and threatening attack people, attacking other dogs or animals, displaying troublesome, menacing or unruly behaviour, threatening the safety of a person or that of another dog, chased or approached a person or other dog in a menacing fashion, without provocation, as if to attack, the dog has demonstrated a propensity to attack without provocation or otherwise to endanger the safety of human beings or other dogs, the dog has bitten without causing serious injury which would lead to prosecution. Owners in such cases could be served with a DCN and those who fail to comply with Dog Control Notices should face a fine of up to £1,000 (the level of fine set in Scotland and Northern Ireland) and face having their Dog seized and possibly re-homed or destroyed. These new additional measures would give Police, Councils and Courts greater powers to speedily impose new initial controls on the owners of potentially dangerous dogs, through speedily administered Dog Control Notices (DCNs) which would be similar to those notices served by HSE Health and Safety Inspectors or Local Authority Environmental Health Officers, e.g. "Improvement Notices" and "Prohibition Notices". It is important to protect people who have to enter private property. It is particularly important to try and provide safeguards for Postal Workers, other workers and young children who are often the victim of attacks within private property. Dog control notices offer the option of preventative measures without at that stage criminalising the incident, the dog or the owner.

The remedial measures which could be set out in a DCN could be for example:-

- The owner being compelled to keep their dog in a secure place,

- Only adults over 18 years of age can take the dog out in public,

- Dog is kept on a lead at all times,

- Dog is kept muzzled,

- Dog is kept away from public places e.g. parks,

- Dog must be neutered,

- Dog and Owner is compelled to attend a special behavioural training course.

In support of this aspect our RSPCA colleagues have submitted important evidence of the potential effectiveness of DCN. The RSPCA 'Briefing note' on compliance rates with RSPCA non-statutory notices issued under the Animal Welfare Act 2006 (copy attached) provides information and data on the number of non-statutory advice notices issued by RSPCA inspectors under the Animal Welfare Act 2006 (AWA) showing compliance rates of between 93% - 97% between 2007 - 2011.

6. 'Compulsory Third Party Insurance'

One final point is on the question of 'Compulsory Third Party Insurance' for dog owners on which there has been little or no discussion. I discussed this on two occasions with your predecessor Lord Henley who promised to look at the issue. The CWU supports a requirement that all dogs are covered by third-party liability insurance because currently it depends on who the dog owner is which will determine whether or not a seriously injured victim is compensated for personal injuries which can be life changing. CWU believes third party insurance is affordable and necessary for dog owners. It will help engender responsible ownership as well as ensuring personal injury protection for dog attack victims. Many household insurance policies already include this and there are also membership schemes such as the one Dogs Trust offers where for just £20 a year, £10 for over-60's any dog within the household has third party liability insurance of up to a million pounds per claim. Many dog owners are uninsured and Dog attack victims with serious injuries have no civil remedy for Personal Injury compensation. For example the CWU had two members seriously injured in dog attacks, left with similar very serious injuries short and long term. One received over £100,000 compensation because the owners were insured and the other received nothing because the owners were uninsured and had no money or assets. The question is - is this lottery acceptable.? CWU is of the view that this imbalance is not acceptable to victims and shouldn't be acceptable to society as a whole. Along with the need to introduce compulsory Third Party Insurance cover, there is an urgent need for an insurance fund of last resort to be established similar to the Motor Insurance Bureau (MIB) scheme in order to ensure that victims of Dog attacks in cases of uninsured or untraced owners can obtain compensation. This would ameliorate the current injustices and show clear compassion for victims and protect the rights of injured Postal workers and other Utilities workers

and similar employees attacked whilst at work, visiting private and commercial premises. Under this scheme it would be compulsory for all UK insurers to be signatories to the agreement. The scheme would meet the liability to pay compensation for claims for personal injury for Dog Attacks where owners are uninsured or untraced. We would see this enforced via a £100 Fixed Penalty Notice. The fine being reduced to £50 if paid within 21 days. Non-Payment would result in Prosecution with a minimum fine of £200 plus all court and prosecution costs. Maximum fine £1000.

I noted your commitment to make an announcement in February on government proposals which is most welcome. However there is an urgent need for the government to bring forward a government Bill in the Queen’s Speech in 2012 that consolidates and updates the dangerous dogs legislation.

My Regards & Best Wishes

Dave Joyce

National Health, Safety & Environment Officer

CC: David Cameron MP Prime Minister

Nick Clegg MP Deputy Prime Minister

Ed Milliband MP Opposition Leader,

Huw Irranca-Davies MP Shadow Minister for Environment,

Lord Henley Minister of State for Crime Prevention and Anti-Social Behaviour Reduction, Home Office

[Caroline Spellman MP, Defra Secretary of State](http://ww2.defra.gov.uk/corporate/about/who/ministers/spelman/)

Jim Paice MP Minister of State, Defra

Richard Benyon MP Parliamentary Under Secretary