

Appendix A: DEFRA Letter

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Dear Colleague

Re: STRAY DOGS

Following my letters of 16 February and 21 June, I am writing to inform you that an agreement on funding the commencement of Section 68 of the Clean Neighbourhoods and Environment Act has been reached removing responsibility for stray dogs, with the exception of dangerous dogs, from the police and leaving local authorities in England and Wales with sole responsibility for dealing with stray dogs from April 2008.

Currently local authorities typically provide stray dog services during 'office hours' including providing a place to which a stray dog can be taken if found by a member of the public and a collection service where a report of a stray dog is made to the authority. Outside office hours the police have accepted stray dogs brought to them. The police do not normally go out and collect stray dogs that are reported to them, but they are able to do so at their discretion.

Section 68 of the Clean Neighbourhoods and Environment Act will be commenced on 6 April 2008. On commencement, all statutory duties for police in relation to stray dogs will be repealed from existing legislation and local authorities will be solely responsible at all times for all functions on stray dogs. Local authorities' statutory duties on stray dogs are contained at sections 149 and 150 of the Environmental Protection Act 1990, and the Environmental Protection (Stray Dogs) Regulations 1992. Although the police will still be responsible for dealing with dangerous dogs they will no longer collect, or accept stray dogs.

Local authorities in England and Wales will be funded a total of £4 million a year through the Revenue Support Grant. This funding is intended to cover the additional costs of providing an out of hours service for stray dogs. Daytime arrangements remain as they have been, and new funding is not being provided for a daytime service.

As has been the case until now, during office hours, local authorities will be expected to collect dogs that are reported to them and accept any that are brought to them. Outside office hours local authorities will be expected, where practicable, to provide a place to which a stray dog can be taken and accepted into local authority care.

That place does not have to be to a local authority managed kennels; it could be to kennels operated by a commercial or charitable interest.

Local authorities will be expected to provide a cost effective service, which might make use of third party kennels to accept stray dogs, on behalf of the local authority, outside office hours. Many local authorities already make use of third party kennels as the most cost effective provider of kennels and care for stray dogs. We are aware that, some authorities, at their discretion, have already made arrangements in this way for out of hour's stray dogs.

There will be no expectation on local authorities to provide a search and collection service for stray dogs outside office hours. This has not been a service typically offered by the police, and there is no expectation that one should be introduced. The funding in the Revenue Support Grant is not intended to cover an out of hour's collection service.

Government will write nearer the time to remind you of the change. The additional funding provided also covers the administrative costs for local authorities to provide us with information so that we may monitor the out of hours arrangements. We will write with details of information that we will require local authorities to provide but from 6 April 2008, we would expect you to collect information relating to the total number of dogs accepted out of hours, the total number of days that those dogs have been kept in kennels, the number returned to their owners and the number that were rehomed or, by necessity, put down.

Guidance for local authorities and interested parties is attached to this letter, and explains what is expected of local authorities from April 2008.

If, on reading the guidance, you have any queries, please e-mail local.environment@defra.gsi.gov.uk

This letter is being copied to Chief Police Officers in England and Wales.

Yours sincerely

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Stray Dogs Guidance

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Introduction

This guidance covers the expectations of the legal duties that rest with local authorities in England and Wales with respect to stray dogs, including the Environmental Protection Act 1990 (the **1990 Act**) and the Environmental Protection (Stray Dogs) Regulations 1992 (the **1992 Regulations**), the Control of Dogs Order 1992 (the **1992 Order**) and other matters related to the control of dogs.

2. This guidance includes references to animal welfare conditions as set out in section 9 of the Animal Welfare Act 2006 (which imposes a statutory duty of care on all owners and keepers to provide for the welfare needs of their animals — “a duty of care”) and the kenneling standards published by the Chartered Institute of Environmental Health, entitled Model Licence Conditions and Guidance for Dog Boarding Establishments.

3. It is intended that this guidance is considered alongside the legislation. It has been prepared for local authorities, including other persons contracted to work on their behalf, and other organisations or people working in partnership with local authorities in connection with the collection, or detainment of stray dogs.

4. Section 68 of the Clean Neighbourhoods and Environment Act 2005 will be commenced on 6 April 2008. It removes from legislation references to the police seizing stray dogs and the duty to accept any brought to them. In order to inform the public about the arrangements for stray dogs the police are expected to advertise in police stations any information given to them by local authorities such as locations where strays may be taken and any phone numbers for officers or information, with

particular reference to out of office hours contact and the cover provided.

5. This means that from April 2008 local authorities will be solely responsible for discharging stray dog functions. In short, the minimum requirement of the extended duty is that where practicable local authorities provide a place to which dogs can be taken outside normal office hours (referred to in this guidance as an 'acceptance point'). Local authorities are not expected to provide a round-the-clock call out service. It is possible that the public will continue to contact the police in relation to stray dogs. Authorities are therefore strongly recommended to supply their local police stations with relevant details such as phone numbers and addresses of acceptance points, especially those that operate outside office hours. It is strongly advised that posters detailing new provisions should be placed at any collection point no longer used to accept stray dogs in the area, and all other places that are relevant to changes in provision.

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6. The police retain duties with regard to dealing with dangerous dogs and dogs found to be worrying livestock. Authorities and the police should maintain a working relationship so that such issues can be dealt with effectively.

7. An extra £4 million a *year* is included in the revenue support grant to fund the local authority costs of the extended duty in England and Wales.

8. This guidance comprises two parts. Part 1 sets out what is required by authorities, and any third parties (e.g. contractors such as private kennels), when discharging their duty. Part 2 covers ancillary issues including partnership working, training, contracts and other sources of general information.

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Part 1 — Discharging the duty

Responsible body

9. Sections 149 and 150 of the 1990 Act provide the duty for local authorities to collect and detain stray dogs. The local authorities responsible for discharging the functions of the 1990 Act are defined in section 149(11), in relation to England and Wales, as district councils, London Borough Councils, the Common Council of the City of London and the Council of the Isles of Scilly.

Appointment of an officer

10. Under section 149(1), local authorities must appoint an officer for the purpose of discharging their stray dog functions. Whilst these functions can be delegated to other persons under section 149(2), the appointed officer retains overall responsibility for ensuring that the authority's stray dog functions are discharged correctly.

11. Authorities may find it practical to appoint a senior officer under section 149(1), but to delegate the day to day responsibilities to dog wardens or other persons such as a contractor. If responsibility is delegated the officer should ensure they have appropriate training and skills. For the purposes of this guidance, the term "officer" means an officer appointed under section 149(1) or a person to whom functions are delegated under section 149(2).

Seizure of stray dogs

12. There is no statutory definition of a stray dog. However, any dog found in a public place, or private place where it should not be, which appears to be without its owner and not under the control of its owner or a person representing them, may be seized and detained as a stray dog by an appropriate person.

13. Where an officer finds in a public place a dog he believes to be stray, he shall

(where practicable) seize and detain the dog. However if the dog is on land or premises which is not a public place, the officer must first gain the permission of the owner or occupier of the land or premises. Section 149(11) defines “public place” in England and Wales as any highway and any other place to which the public are entitled or permitted to have access.

14. Authorities must publicise the phone numbers of relevant officers so that the public can report stray dogs. Authorities are advised to publicise such phone numbers as widely as possible including on their website and at local police stations.

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15. Authorities are not required to offer a night-time call-out service to seize and detain stray dogs seen or found by the public. However, contact numbers for out of hours cover should be widely publicised to enable ‘finders’ to take a dog to an acceptance point. As a minimum this should include websites, police and *authority* offices and acceptance points (past and present).

16. The responsibility for functions can be delegated to third parties. Authorities are expected to provide the most cost effective service possible.

Identifying the owner

17. The Control of Dogs Order 1992 provides that dogs must wear a collar and tag giving the name and address of the owner when in a public place. In most cases, it is expected that this will enable the owner to be identified with relative ease. Failure to comply with this direction is an offence under Animal Health Act 1981 and such dogs may be seized, even if a person is in charge of such a dog. Moreover, the 1992 Order places a duty on local authorities to enforce the requirement for dogs to wear a collar and tag in a public place. The officer is therefore recommended to keep careful notes of such incidents for evidence in legal cases.

18. Due to the prevalence of permanent identification methods, such as micro-chipping and tattooing, local authorities are advised to be adequately equipped to identify micro-chipped or tattooed dogs and that dogs are scanned at the earliest possible opportunity. Scanners/ readers employed by authorities should be compatible with as wide a range of formats as possible. In respect of tattooed dogs officers can contact the National Dog Tattoo Register for registered owners’ details. It is also advisable that scanners can be accessed by waste management teams and where practicable direction is given on checking dead dogs removed for identification.

Identifying the owners of prohibited type dogs

19. The ownership of four types of dog is prohibited under section 1 of the Dangerous Dogs Act 1991 (as amended 1997). The dogs covered by the ban are of the type known as either: the Pit Bull Terrier, the Japanese Tosa, the Dogo Argentino or the Fila Brasileiro. Such breeds can be difficult to identify and therefore it is recommended that all officers have access to the guidance on identifying these types of dog which can be found at

www.defra.gov.uk/animalh/welfare/domestic/ddopsleaflet.pdf

20. Ownership of the above types of dog is permitted only where the dog is registered on the Index of Exempted Dogs and it is kept in compliance with the requirements of the Index. Exempted dogs have to be neutered, tattooed, and microchipped, and have to be on a lead and muzzled at all

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times when in a public place. Owners also have to maintain insurance against their dogs injuring third parties. It is an offence under the 1991 Act to allow an exempted

dog to stray.

21. Where officers suspect and/or identify a prohibited type of dog which is on the Index (by either a tattoo and/or microchip) they can, if necessary, contact the Index of Exempted Dogs to help identify the owner of the dog. The Index can be contacted on 07000 783651. In addition officers will need to contact the local police force who will want to consider what further actions are necessary against the owner under the Dangerous Dogs Act.

22. Where officers identify a prohibited type of dog which is not on the Index of Exempted Dogs (i.e. is not microchipped and tattooed) they will need to contact the local police force who will want to consider what action is necessary under the Dangerous Dogs Act.

Return of seized dogs to their owners

23. Where officers can identify the dog owner they must, under section 149(4) of the 1990 Act, serve notice on the owner or person whose address is given on the collar. Such a notice must state:

- that the dog has been seized;
- • where it is being kept; and
- that it will be disposed of unless it is claimed within seven clear days after the service of the notice and the full amount liable under subsection 149(5) is paid.

24. Under section 149(5), the authority may charge the owner all expenses incurred during the dog's detention plus a further prescribed amount. The expenses should be calculated as the per day kennel cost plus any costs involved in detaining the dog. Authorities should also include any charges incurred in respect of injured dogs that receive treatment. The additional amount is prescribed in the 1992 Regulations as £25. Any such monies received should be used to discharge ongoing stray dog functions.

25. An authority is within its rights to detain the dog until the owner has paid the full amount.

Accepting strays found by other persons

26. Section 150 provides the duty for any finder of a stray dog to return the dog to its owner (if owner can be identified) or take the dog to the local authority for the area in which the dog was found. The authority must treat such a dog as though it had been seized by an officer under section 149.

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27. Authorities must, where practicable, provide at least one acceptance point to which dogs can be taken round the clock. In practice, authorities may have one acceptance point during normal office hours such as council offices and another in use outside office hours such as third party kennels, or to make use of third party kennels at all times. The authority must publicise as widely as possible, including on its website, the place(s) to which strays can be taken, the hours of operation and the phone number of the reception staff at the place where they may take stray dogs.

28. It is possible that finders of stray dogs may continue, to take them to police stations, where dogs are no longer accepted. The police are not required to take the stray dog and to enable the finder to take the dog to the correct location, officers must therefore ensure that the details of the authority's dog reception centre(s) and hours of operation, and any relevant telephone numbers, are given to every police station in the area of the authority.

Finders that request to keep a stray dog

29. Any person who finds and takes a stray dog to the local authority can request to keep the dog under section 150(2) of the 1990 Act. The Regulations specify that if

the finder requests to keep the dog he must give his name and address to the officer. The officer must make reasonable attempts to contact the owner to give him reasonable opportunity to collect the dog.

30. The Regulations also require the officer to determine whether the finder is a suitable person to keep the dog. The officer must inform the finder verbally and in writing that he is obliged to keep the dog (if unclaimed by the owner) for at least one month and that failure to comply with that obligation is a criminal offence. The maximum penalty on summary conviction is level 2 on the standard scale.

31. The Act does not purport to deal with the civil law on ownership in this context. The Finder has a duty to keep the dog for 28 days after taking possession of it, however they do not become the legal owner of the dog. The officer should make clear to the finder that if a person claiming to be the rightful owner of the dog — and can prove it — requests the return of the dog, then the finder may have to relinquish his custodianship. Disputes over ownership would be subject to the usual civil common law principles governing possession and title. Relinquishment might be required at any time and would not be governed by section 150(3) — the intention of which is simply to prevent a finder abandoning or turning the dog loose to become stray again.

32. An authority is entitled to sell or give a dog to a person or other party if the original owner has not reclaimed the dog. However, the intention is not that

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the recipient (where not the original owner) is charged the prescribed amounts before a dog is released.

Register of detained dogs

33. Under section 149(8) the officer must keep a register of dogs seized or brought to the authority and those in the possession of 'finders'. Details of newly detained dogs should be added to the register at the earliest possible opportunity. Breed Posters and colour charts are a useful guide in identifying dogs. The particulars that must be recorded in the register are prescribed in the Regulations as:

- a brief description of dog, including breed (if known), colour and any distinctive characteristics or markings, tattoos or scars;
- any information contained on collar/tag, or otherwise carried by the dog, this would include micro-chipping;
- date, time and place of the seizure;
- if a notice is served on the owner, details of when/where served.

34. Where the officer disposes of a dog the register must record the date of disposal; method of disposal; the name and address of purchaser and price (if sold), person to whom the dog was gifted or person effecting the destruction. Where the dog is returned to a person claiming to be the owner, the register must record the name and address of that person and the date of return.

35. The register must be made available for inspection by the public free of charge at all reasonable times. Authorities may apply a charge for providing a copy of all or part of the register.

Detention of stray dogs

36. Authorities must make provision to house stray dogs they seize and those brought in by other persons. Authorities will need to ensure that there are appropriate arrangements for receiving and dealing with stray dogs found or reported out of usual officer hours. Also see section on *acceptance of dogs found by others*. This can be done through third-party kennels.

37. Kennel facilities should comply with the standards specified by the Chartered

Institute of Environmental Health. They also need to comply with their general duty of care under the Animal Welfare Act 2006.

38. The authority must detain for seven days any dogs seized or brought to them. The seven day period should commence from either the day of the seizure or the day in which the notice was served under section 149(4); whichever is the later. Under section 149(9) the officer has a duty to

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properly feed and maintain any stray dog in his custody under section 9 of the Animal Welfare Act that specifies that an animals basic welfare needs must be provided for by the carer a that *animal*.

39. Authorities are expected to treat any dogs that are injured or require treatment to keep them alive, unless the costs of doing so are excessive or if the dog's condition is such that it would be more humane to provide euthanasia. In order to minimise costs it is recommended that authorities come to a formal arrangement with local veterinary surgeons. It is recommended to authorities that they consider making contractual provision for such arrangements; these should include details on emergency treatment they will *fund*. Authorities should also agree a protocol with third parties such as dog welfare organisations in respect of treatment of dogs they take charge of; to state explicitly the extent of the veterinary treatments the local authority will fund.

40. An officer may have a dog destroyed before the 7 day period has elapsed if he is of the view that it must be done to avoid suffering. But officers must consult with a veterinary surgeon prior to making such a decision, and the euthanasia should only be effected by a veterinary surgeon except in cases where the animal is in considerable pain or distress where an officer should take action immediately.

Disposal of stray dogs

41. If a stray has not been collected by its owner after seven days, the officer may under section 149(6) dispose of the dog:

- by selling it or giving it to a person who will in his opinion care properly *for* the dog;
- by selling it or giving it to an establishment for the reception of stray dogs; or
- by euthanizing it in a manner to cause as little pain and suffering as possible.

42. No dog may be disposed of for the purposes of vivisection.

43. Euthanasia should only be considered after all other avenues have been explored to save the dog by re-homing. It should be noted that banned breeds cannot be re-homed. Euthanasia must only be effected by a veterinary surgeon and in a manner causing as little pain and suffering to the dog as possible.

44. Where a dog is disposed of under section 149(6)(a) or (b) to a person acting in good faith, officers will need to satisfy themselves of the suitability of such persons or establishments. Under section 149(7) the ownership of

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the dog is vested in the recipient and this provision also protects anyone who has acquired the dog in good faith. It should be noted that this situation is different to that of a finder who elects to keep the dog under section 150(2).

Records Keeping

45. Authorities and their agents are required to keep records of stray dogs as set out at sections 149 and 150 on the 1990 Act, and in the 1992 Regulations. The register shall be available, at all reasonable times, for inspection by the public free of charge. In addition, upon commencement of Section 68 of the Clean Neighbourhood and

Environment Act 2005, Government expects authorities to be able to furnish it with statistics on the total number of dogs accepted out of hours, the total number of days dogs accepted out of hours that have been kept in kennels, the number of those dogs returned to their owner and the number that by necessity were put down.

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Part 2— Ancillary issues

Lost, stolen and abandoned dogs

46. Authorities will be aware of the intrinsic link between lost, stolen and stray dogs, but should note the distinction between reporting lost property and reporting a stray. Whilst the local authority is responsible for strays, the police are responsible for recording reported lost property, including dogs, and also dog theft, which is a criminal offence. Local authority officers will record details of any reported stray dog, but they should also advise owners of lost or stolen dogs to file a report with the police. With respect to abandoned dogs, kennels or welfare organisations should be contacted to see if they could rehome the dog.

Dead dogs

47. In the event that officers find a dead dog they should make every attempt to establish the identity of the dog and its owner and, where appropriate, give the owner the opportunity to collect the dog. If practicable dead dogs should be scanned to identify the owner.

Education

48. Education is a key element in reducing the number of stray dogs and dangerous dogs and protecting the welfare of animals. It is therefore important that officers consider the most effective methods for how they can promote and raise the profile of responsible dog ownership within their area. This may include visits to national/local dog welfare or dog owning organisations, kennels and schools in their area. Officers should publish *any* information on responsible dog ownership on their website.

Neutering

49. Authorities should consider whether there is a need to offer subsidised or free neutering; particularly authorities with high numbers of stray dogs in their area. Many dog welfare organisations, charities and kennels offer free or subsidised neutering, so authorities are advised to contact any such organisations in their area to establish whether they can come to a local agreement.

Microchipping

50. The onus of ensuring dogs are permanently identified is with the owner themselves, but as a tool for reducing the number of strays authorities

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should consider the benefits of offering discounted or free micro-chipping, perhaps in conjunction with local dog kennels or welfare organisations.

Training

51. Authorities are strongly advised to ensure that anyone involved in discharging their stray dog duty is adequately trained to do so. Training should be provided by a reputable and accredited trainer.

Partnership working

52. For authorities with minimum budgets developing a partnership approach with local kennels and welfare organisations will be key to addressing problems with stray dog in the locality, particularly in areas with high numbers of strays. Authorities should seek to develop protocols with any bodies that play a role in dealing with

stray dogs. Authorities should explore the benefits of working with other local authorities in the area; authorities in Hampshire have established such a partnership. Contracts should be reviewed regularly to ensure service delivery is of a consistently high standard and that tendering is competitive.

53. Authorities are expected to provide a cost effective service, which can often be delivered through appropriate use of third-party kennels. Tasks can be delegated to other parties, however it should be noted that overall responsibility rests with the officer appointed at section 149 of the 1990 Act.

54. It is at the discretion of the local authority whether council owned kennels or private councils under contract are used to fulfil this duty, however they are expected to comply with the Chartered Institute of Environmental Health's Standards.

Other sources of general information

About the Animal Health and Welfare from Defra, including the Animal Welfare Act 2007, prohibited animals and the duty of care:

<http://www.defra.gov.uk/animalh/index.htm>

<http://www.defra.gov.uk/animalh/welfare/domestic/ddogsleaflet.pdf>

<http://www.defra.gov.uk/animalh/welfare/actlaffect.htm#2>

Chartered Institute of Environmental Health:

www.cieh.org

Dogs Trust:

www.dogstrust.org

Kennel Club:

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www.the-kennel-dub.org.uk

Royal Society for the Prevention of Cruelty to Animals www.rspca.org

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