



Northern Ireland  
Assembly

Committee for Agriculture, Environment and  
Rural Affairs

# OFFICIAL REPORT (Hansard)

Animal Welfare (Service Animals) Bill:  
Department of Agriculture, Environment and  
Rural Affairs

7 October 2021

# NORTHERN IRELAND ASSEMBLY

## Committee for Agriculture, Environment and Rural Affairs

Animal Welfare (Service Animals) Bill: Department of Agriculture, Environment and Rural Affairs

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**Members present for all or part of the proceedings:**

Mr Declan McAleer (Chairperson)  
Mr Philip McGuigan (Deputy Chairperson)  
Mrs Rosemary Barton  
Mr John Blair  
Mr Harry Harvey  
Mr William Irwin  
Mr Patsy McGlone

**Witnesses:**

Mr Christopher Andrews	Department of Agriculture, Environment and Rural Affairs
Mr Neal Gartland	Department of Agriculture, Environment and Rural Affairs

**The Chairperson (Mr McAleer):** From the Department, I welcome, via StarLeaf, Neal Gartland, director of animal health and welfare policy, and Christopher Andrews, head of the animal identification and welfare branch. I invite the officials to brief the Committee. Members will then want to ask some questions. You are very welcome, Neal and Christopher.

**Mr Neal Gartland (Department of Agriculture, Environment and Rural Affairs):** Good morning, Chair and Committee members. As the Chair mentioned, I am Neal Gartland, and I am the director of the animal health and welfare policy division. I am joined this morning by Christopher Andrews, the head of the welfare policy branch.

In advance of the meeting, Committee members were provided with a paper that sets out the views of the public and stakeholders on the proposal to introduce in Northern Ireland what is commonly referred to as Finn's law. I appreciate the opportunity to provide the Committee with an overview of the consultation findings and an update on the proposed way forward for the policy and legislation.

Members will have received a written briefing that includes details on how the legislation operates in other parts of the UK. Nevertheless, it may be helpful if I begin by saying a little bit about the background to the policy and the proposed legislation.

Finn is the police dog who, in 2016, was unfortunately stabbed while on active duty in England. Under section 4 of the Animal Welfare Act 2006, Finn's attacker could have been prosecuted for causing unnecessary suffering. It is important to state that, at that time, the maximum penalty for that offence in England was a six-month prison sentence. By contrast, Northern Ireland increased the penalties for

inflicting unnecessary suffering on animals in 2013, meaning that a maximum sentence of five years in prison would have been available here.

A common feature of animal welfare legislation across the UK is the need to take into account a range of factors before a court decides whether the suffering is considered unnecessary. Those factors include whether actions taken against the animal were done so for the protection of a person, property or another animal. That provision allows defendants to argue that they are justified in applying force against a service animal that is on active duty in order to defend themselves, thereby rendering the suffering necessary. Indeed, that was one of the considerations that was taken into account in England when the decision was made not to prosecute Finn's attacker under the 2006 Act for causing unnecessary suffering to him. Instead, the Crown Prosecution Service believed that it would be better to pursue charges under criminal damage legislation, which, in essence, treated Finn as a piece of police property.

There was considerable public and political discourse on and discontent with how Finn had been treated, and a high-profile campaign was launched that culminated in the Animal Welfare (Service Animals) Act 2019 in England and Wales. That Act aimed to provide that the defence of someone causing harm to a service animal as they were protecting a person, property or another animal could be disregarded when considering whether the harm was unnecessary. Similar provision was also made in Scotland in the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, which came into force in November 2020.

The campaign to introduce Finn's law in Northern Ireland began in April 2018. At that juncture, the Department made it clear that it was a matter that required a Minister and an Assembly to consider. It could be argued that, in any other circumstances, that piece of legislation would have been made given the widespread support from a range of political parties and that which can be seen from the responses to the most recent public consultation, which I am here to discuss with you this morning.

Following the resumption of devolved government here in January 2020, Alex Easton MLA and Pam Cameron MLA tabled a motion in the Assembly calling for legislation similar to Finn's law to be introduced here. The motion was debated at length and agreed by the Assembly on 10 February 2020, receiving cross-party support. Since taking up post, Minister Poots has made it clear that implementing Finn's law is a priority for this mandate. Consequently, the Department launched a public consultation on 17 June 2021. The consultation proposed that added protection should be given to service animals used by the PSNI, the Northern Ireland Prison Service, the Belfast Harbour Police, the Belfast International Airport Constabulary and the Ministry of Defence Police. As well as that list, the power would apply to a service animal that is under the control of any person who is exercising the powers of a police constable or providing a service under the direction of the police.

I will draw members' attention to the last provision and provide some explanation of what that power would mean. For example, the PSNI does not own search and rescue dogs. Instead, when they are directing a search and rescue operation, the police bring in specialised dogs from external organisations. Creating a power that extends protection to any animal working under the direction of a constable would mean that search and rescue dogs would be afforded the same protections as a police animal when working alongside the PSNI. In order to ensure that critical legal safeguards are maintained, it is proposed that the added protections should be afforded to those service animals only when, as mentioned, they are on active duty; that is, when they are under the control of an officer and being used by that officer in the course of their duties in a reasonable way. The consultation also proposed that the Department should have the power to add to the list of animals that are to be provided with enhanced protection under the proposed legislation. The proposals made by the Department align with the changes that have been introduced in other parts of the UK.

The consultation closed on 11 August, by which time 47 responses had been received from a range of organisations, including the PSNI, the Prison Service, the Search and Rescue Dog Association, a number of welfare organisations and three councils. The majority of the respondents were individual members of the public. Members have been provided with a copy of the consultation responses and a covering letter setting out the key findings. Therefore, I do not propose to go into detail on the findings now; rather, they can be discussed during the question and answer session. However, I am very pleased to say that almost 98% of the respondents were in favour of the proposals in the consultation.

One area where it would be useful to provide some additional information and context is the level of penalties to be imposed for attacking a service animal. The consultation document proposed that the penalties imposed for attacking a police dog should mirror the penalties already available for inflicting unnecessary suffering on any protected animal; that is, an unlimited fine or a custodial sentence of up

to five years. It was quite apparent from the consultation responses that most of the organisations that responded, including the USPCA, the Northern Ireland Companion Animal Welfare Group, the Dogs Trust, the Kennel Club and Focus on Animal Law, supported the current penalties. However, members of the public who responded were in favour of much tougher penalties and sentences. Members will be aware that offences and penalties are not a matter on which DAERA can act alone to make recommendations or set direction; any changes to animal welfare penalties would require further detailed consideration in cooperation and conjunction with the Department of Justice, as well as a separate public consultation. However, the Department is very conscious of the strength of feeling on the matter, as is outlined in the consultation responses. Given the advanced stage of the mandate, we recommended to our Minister that efforts be focused on ensuring that service animals are provided with that added protection as soon as possible. There is the potential that any amendments to the Bill at this stage to deal with additional penalties or any other matter raised by respondents would delay the introduction of the Bill to the Assembly. That would make the timetable for the Bill even more pressurised. Indeed, Chair, the Minister has written to you to indicate his desire to use the accelerated passage procedure for the Bill. In his letter, the Minister sets out his view that the Bill is uncontroversial and proposes simple amendments to the Welfare of Animals Act that mirror the changes that are in place in other parts of the UK, along with the view that there is nothing in the Bill that could be classed as contentious, novel or repercussive. By seeking accelerated passage for the Bill, the Minister hopes to ensure that Finn's law is enacted without delay and within the lifetime of the Assembly.

Some respondents provided a view that the courts rarely apply the maximum sentence available for unnecessary suffering; that is, the full five years. In response to that, the Minister has noted the views of respondents on penalties, and, as a consequence, he has written to the Minister of Justice. In his letter, the Minister highlighted the breadth of penalties currently available to the courts in animal welfare cases and asked Minister Long to consider raising the matter with the Lord Chief Justice, who oversees judicial sentencing guidelines and training for the judiciary.

I hope I have been able to provide the Committee with an overview of the consultation findings and the policy intent of the Animal Welfare (Service Animals) Bill. As I outlined, I have Christopher Andrews with me, who will have a key role in progressing the Bill. We are happy to discuss any points or questions that you may want to raise about the consultation or draft Bill. Thank you very much.

**The Chairperson (Mr McAleer):** Thank you very much for that, Neal.

**Mr Blair:** Thank you, Neal, for presenting, and I thank Christopher for joining us. I am supportive of the Bill and the measures that have been taken by the Minister on the matter. As I shared with colleagues a moment ago, I took the opportunity to visit some police dogs and dog handlers on Tuesday, in my role as a Policing Board member. I am keen to know this, Neal: was direct consultation done with the PSNI on the resource required to do this and how it will be developed through the policing structures across the jurisdiction? If that has not been done at this stage, can it be done so that people are ready to go as much as possible when the legislation comes into place?

**Mr Gartland:** Thank you very much, John. I will bring in Chris in a second. There will not necessarily be any proactive resource required to implement the Bill. This is a reactive aspect. If a service dog is attacked and that is deemed unnecessary — you should bear in mind that that service dog has to be on active duty, in the control of an officer and used in a reasonable way — the Bill adds additional protections for that service animal by which the person cannot claim that the attack was self-defence. Of course, the case would be taken through the PSNI and the Public Prosecution Service (PPS) at that point. There is a resource need at that point should the animal be attacked while on active duty, but, in the meantime — I hope that that does not happen and the Bill will not be needed — it will not create any further resource. The police responded to the consultation; they are supportive of it. We are happy to engage with them on that point, of course.

**Mr Blair:** That is great. Thank you.

**Mr Harvey:** Thank you, Neal and Chris, for coming along. First of all, I am very happy for the Bill to proceed. It is very good. Keep it moving.

What other categories of animal does the Department foresee coming under the protection of the legislation? Have you heard of any others?

**Mr Christopher Andrews (Department of Agriculture, Environment and Rural Affairs):** May I answer that? It is not proposed that we add any more categories of animal at present, but, as Neal

noted, there is pretty broad provision in the Bill to add animals that are under the control of agencies and so on as necessary. That will be done on the basis of evidence supplied to the Department, and it will be done via secondary legislation, which would use the affirmative procedure. Therefore, the Committee would have an oversight role. I am not overly sure of any animals that are left out at the moment. We are aware that our Department uses dogs at ports and airports to deal with, for example, concealed products coming into Northern Ireland, so there will be a provision in the Bill to add those dogs if evidence is ever presented that those dogs have been attacked and need to be protected in the course of their duty.

**Mr Harvey:** It is good to have provisions made. That is all. Thank you.

**The Chairperson (Mr McAleer):** We are supportive of the legislation, but, in situations where a service handler, by accident or design, acts inappropriately and instructs a dog to attack a person, what is in the legislation to protect the victim?

**Mr Andrews:** There is provision under proposed new section 51A(2). It means that the handler has to be shown to be acting reasonably. I will refer to my notes. First, the animal has to be under the control of a relevant officer; it cannot be out of control. That is the first test. Then the animal has to be used by an officer in doing their duty in a way that is reasonable. Those are the two safeguards under proposed new section 51A(2).

**The Chairperson (Mr McAleer):** Who would determine or oversee that?

**Mr Andrews:** It would be up to the prosecuting authority and the PPS to determine whether those tests have been met. If the animal was being used recklessly and was not deemed to be under control or there was reason to believe that the handler was instructing the animal in some sort of malicious fashion, we hope that those tests would not be met, and that would be picked up either by the agency taking the prosecution or the PPS.

**The Chairperson (Mr McAleer):** What legislative protections are in place in the South of Ireland and across the EU?

**Mr Andrews:** In the South of Ireland, there is no similar protection for service dogs. There is, of course, the Animal Health and Welfare Act 2013, which contains a provision about causing unnecessary suffering to protected animals. That is broadly similar to our existing Welfare of Animals Act, so there is provision under that legislation in the South to protect animals, and that carries a five-year sentence and up to a maximum of a €250,000 fine. In the South, it is up to the authorities to try to invoke that broader provision in the Act, whereas we are moving to a very specific provision.

**Mrs Barton:** Many of the dogs, when they are not on duty, live with their owners in a family situation or at their homes. What is the situation if those dogs are maliciously hurt by someone when they are living at the home of the owner?

**Mr Gartland:** Our figures show that there are 64 dogs in the PSNI at present and 44 in the Prison Service, and many of those live at home with handlers. If a dog is maliciously attacked at home while not on active duty and while it is not in the control of the handler and is not being used in a reasonable way on the active duty point, that person could be prosecuted for causing unnecessary suffering under our current animal welfare legislation. It would not apply to this aspect, where they could claim self-defence or could claim that they were engaging with the animal as a way to protect property or another animal. That animal would not be on active duty, so the person could be prosecuted under the normal welfare legislation, and a council would take that forward and proceed with the PPS.

**Mrs Barton:** OK, so it would not apply under the Bill but it would under other legislation for councils. So, there is still protection for the dog.

**Mr Gartland:** Of course.

**Mrs Barton:** Thank you.

**Mr Irwin:** I am broadly supportive of the Bill and have no issue with it. Was there any negativity from the consultees, or were they all mainly supportive of the Bill?

**Mr Andrews:** One individual indicated that they were not content with any of the provisions of the Bill. That individual, in their response, stated quite clearly that they were opposed to animals being used in this way by any agency, so they had a fundamental objection to animals being used as service dogs rather than anything being technically wrong with the Bill. They opposed all the provisions across the board because they do not want animals to be used in those roles.

**Mr Irwin:** That is OK. Thank you.

**The Chairperson (Mr McAleer):** The Bill would also straddle the Justice Department's area of responsibility. Have you had any specific engagement with the Department of Justice?

**Mr Gartland:** Chris, I will let you answer that.

**Mr Andrews:** Yes, there was pre-engagement with the Department of Justice. There was engagement on offences and penalties, and the thrust of the policy was shared with the Minister of Justice prior to the consultation going live. So, there has been good engagement behind the scenes with DOJ officials and on a Minister-to-Minister basis.

**The Chairperson (Mr McAleer):** No other members wish to ask questions. Christopher and Neal, I thank you for taking time out this morning to brief us and to take questions from Committee members. Thank you very much for attending.

**Mr Gartland:** Thank you, Chair, for the opportunity.