

Consultation on additional protection for service animals in Northern Ireland

Summary of responses and Departmental response

October 2021

You can get a copy of this document in other formats, such as:

- Paper copy
- Large print
- Braille
- Other languages

To get a copy of this document in another format contact:

Animal Identification and Welfare Branch

Department of Agriculture, Environment and Rural Affairs

Room 715

Dundonald House

Upper Newtownards Road

Belfast

BT4 3SB

Or alternatively, by:

Email: Animal.Welfare@daera-ni.gov.uk

Contents

Introduction.....	3
Background	5
Key findings.....	6
Responses to Individual Questions	7
Departmental Response and Way Forward.....	18
<u>Appendix A</u> : List of consultation Respondents.....	21

1. Introduction

- 1.1. The Department of Agriculture, Environment and Rural Affairs (the Department) launched a consultation on 17 June 2021 seeking views on its proposals to strengthen the protection provided to service animals in Northern Ireland. It wishes to thank all stakeholders and members of the public who took the time to respond to the consultation.
- 1.2. The consultation closed on 11 August and, by then, a total of 47 responses were received from a range of groups, organisations, charities and individuals. 35 of the responses were from individual members of the public. Six were from animal welfare organisations, charities and a campaign. Responses were also received from the Police Service of Northern Ireland (PSNI), Northern Ireland Prison Service (NIPS) and Search and Rescue Dog Association Ireland North (SARDA). Three local councils also responded to the consultation. A list of those who responded can be found at **Appendix A**.
- 1.3. Every respondent answered each question asked in the consultation. However, they did not all provide comments on the questions. In this document, for data protection reasons, responses from individuals have been treated anonymously while comments from organisations and charities are generally attributed directly to them.
- 1.4. This document is not intended to be a comprehensive report of every view expressed but rather a broad summary of the issues raised by respondents. The document also sets out the Department's intended way forward following its consideration of the responses received.
- 1.5. Five responses to the consultation were received after the closing date. These responses were from the NI Veterinary Association, Mid Ulster District Council, Antrim and Newtownabbey Borough Council, Lisburn and Castlereagh City Council and Mid and East Antrim Borough Council. Given the tight timescales in which to progress legislative changes needed to implement the Department's proposals and ensure that all respondents were treated equally, it was

regrettably not possible for the Department to extend the deadline to consider these responses. Although their comments are not, therefore, included in this document, the late responses received were supportive of the Department's proposals.

2. Background

- 2.1. Service animals in Northern Ireland carry out invaluable work that can take them into very unpredictable and often dangerous situations. They often need to restrain suspects or use their physical presence to support the actions of officers acting in accordance with their duties. Service animals can, therefore, in the course of their daily activities, be victims of violence and cruelty. There is, however, currently no account taken of the role performed by service animals in Northern Ireland under the Welfare of Animals Act (Northern Ireland) 2011 (the 2011 Act). The Department's consultation document set out its proposals to address this position and provide greater legislative protection for service animals here.
- 2.2. Section 4 of the 2011 Act provides that it is an offence to cause unnecessary suffering to any vertebrate animal in Northern Ireland. In deciding whether the suffering caused to an animal is unnecessary, the 2011 Act provides that there are a number of factors which can be considered. Those factors include whether the suffering was caused for the purpose of protecting a person, property or another animal. The Department's main proposal is that whether someone causing harm to a service animal is protecting a person, property or another animal should not be a relevant factor when considering whether or not the harm is unnecessary. This is the current position in other parts of the United Kingdom and, in its consultation document, the Department proposed that service dogs in Northern Ireland should be afforded the same level of protection as their counterparts there.
- 2.3. The Department proposed that the added protection should extend to any service animal used by the PSNI, NIPS, harbour, airport police and Ministry of Defence police as well as by any person exercising the powers of a police constable or providing a service for police purposes. It also proposed that the Department should have the power to add to the animals that are to be provided with enhanced protection.

3. Key Findings

3.1. Overall, the Department's proposals were very favourably received. The key findings from the responses are that:

- almost all of the respondents agreed with the overarching proposal to provide service animals in Northern Ireland with additional protection;
- most respondents agreed that, where a service dog is injured on duty, there should be no requirement to consider whether the conduct that caused the suffering was carried out in order to protect a person, property or another animal;
- a vast majority of respondents agreed with the Department's proposal regarding the animals that should be given additional protection;
- a substantial majority of respondents supported the proposal that the Department should have the power to add to the service animals that are to be given additional protection;
- a significant number of respondents considered the safeguards proposed by the Department to be sufficient while a sizeable minority did not;
- most respondents considered it necessary to increase penalties for causing unnecessary suffering to a service animal.

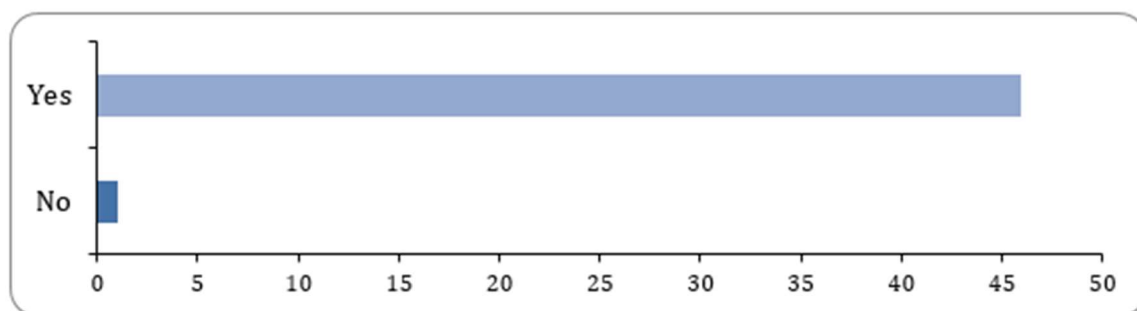
4. Responses to Individual Questions

4.1. Respondents to the consultation were asked to answer six questions. A summary of the responses received to each question is provided below.

Question 1

Do you agree with the proposal to give service animals in Northern Ireland additional protection?

4.2. All but one respondent agreed with the proposal that service animals should be given additional protection.



4.3. Of the 46 respondents that agreed, 39 made additional comments. 12 of these respondents were of the opinion that service animals play such a vital role in serving the community that they should be afforded the same protection as the humans that perform similar roles. A number of respondents noted that service dogs were sentient beings that, as such, should not be treated as inanimate objects but rather protected with effective and humane laws.

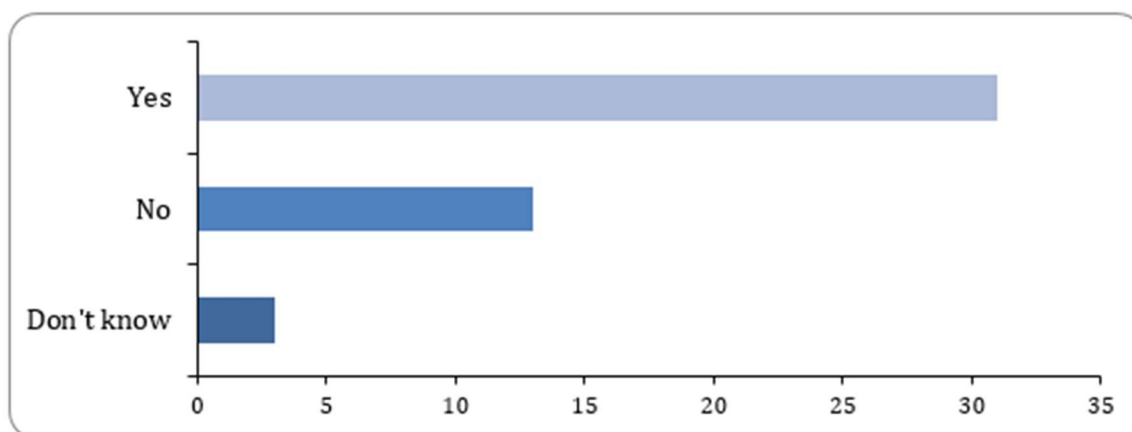
4.4. Some respondents referred to the need of service animals to be further protected due the work they carry out in tackling crime and the dangers with which they are confronted. Some respondents were of the opinion that this additional protection is needed to take account of the pain and injury service animals can endure to protect their handlers and reflect they are often put into situations that are unpredictable and deemed to be too dangerous for humans.

- 4.5. The Ulster Society for the Prevention of Cruelty to Animals (USPCA) noted that the current legislation provides a self defence argument to alleged perpetrators and suggested that this can lead prosecuting authorities to take the path of most likely success in dealing with cases involving injury to service animals i.e. to pursue charges of criminal damage. Another respondent believed that the additional protections would provide a greater deterrent against injuring service animals than currently exists.
- 4.6. Three respondents considered it important that service animals in Northern Ireland be given the same protection as their counterparts elsewhere in the United Kingdom. One of these respondents, the FOAL Group Limited, regarded it as immoral that under current legislation assailants are provided with what it perceives to be a 'statutory defence of fear'.
- 4.7. SARDA noted that its open area dogs frequently assist the PSNI and Northern Ireland Fire and Rescue Service (NIFRS). It welcomed the fact that those animals would have additional protection when carrying out this work. It suggested, however, that the same protection should to be extended to its other specialist trailing dogs as they could, in the future, be involved in the pursuit of fugitives. SARDA recommended that the protections afforded should be confined to the PSNI, NIPS, harbour and airport police dogs and search dogs approved by the PSNI or NIFRS that are on the Department of Justice's (DoJ) Search and Rescue Assets Register. It also suggested that assistance dogs should be included within the scope of the Department's proposals. It did not provide any reasoning for its suggestion.
- 4.8. The individual respondent that did not consider that service animals should be given additional protection completely disagreed with the using dogs for the purpose of restraining people.

Question 2

Do you agree that, where service dogs are injured in the course of active duty, there should be no requirement to consider whether the conduct that caused the suffering was carried out in order to protect a person, property or another animal?

4.9. 31 respondents (66%) agreed that, where a service dog is injured on duty, there should be no requirement to consider if the suffering inflicted on the dog was carried out to protect another person, animal or property. 13 respondents (28%) disagreed with this proposal. Three respondents (6%) indicated that they did not know.



4.10. Of the 31 respondents that agreed, 24 made additional comments. Dogs Trust and Northern Ireland Companion Animal Welfare Group (NICAWG) indicated that the proposal would act as a deterrent to those who considered that they could harm a service animal without repercussion. The Kennel Club considered that it would fully take into account the sentience and unique role of service animals.

4.11. In response to this question, a number of individual respondents referred to the manner in which defendants are currently permitted to cite self-defence when injured by a service dog. One such respondent felt that, if an animal was injured during active duty, it should be given extra protection regardless of whether the alleged offender was defending him or herself. Another respondent was of the

opinion that there was a loophole under existing legislation which could be exploited by defendants and their legal representatives. One respondent considered that self-defence could be claimed by every defendant as an excuse for attacking police dogs. A further respondent considered the defence as a 'get out clause' for those willing to harm service animals. That respondent noted that, by its nature the work of service animals would automatically put people in fear, and argued that alleged perpetrators should not, therefore, be able to rely on this consideration as an excuse for wrongdoing. Two other respondents commented that an alleged suspect could avoid being bitten by a service dog by simply following the instructions of the relevant attending officer.

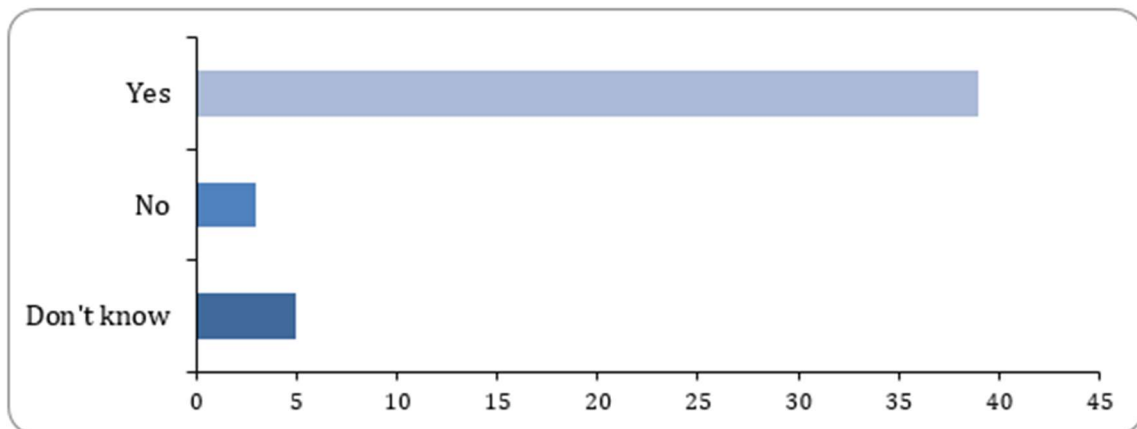
- 4.12. SARDA acknowledged the supportive working relationship that it has with the farming community. It noted, however, that it was conceivable that farmers might fear that service dogs on duty on their land might worry livestock and consider that they have right to kill or injure those dogs. It considered that its dogs should be afforded protection in those circumstances under the proposed law.
- 4.13. Of the 13 respondents who selected 'no' as their answer to this question, 10 made additional comments. All of these responses were from individuals. From the supportive nature of their comments, six of these respondents appear to have misunderstood the question asked.
- 4.14. The remaining four respondents referred to the actions of the animal, handler, or the circumstances involved when indicating their disagreement. One of them felt that there should always be a requirement to consider the conduct of the animal and that, if a service animal loses control and attacks someone unjustly, that person should have the right to defend themselves. Another respondent was of the opinion that there should always be a requirement to consider the conduct and circumstances which led to an injury so as to inform, educate, and prevent the same type of incidents recurring.

4.15. The three respondents who selected 'don't know' as their answer provided additional comments. One of these respondents was Fermanagh and Omagh District Council. It noted its view that it is important that individual cases are considered on their own merits and that animal handlers have a key role in this regard. An individual respondent noted that animals hurt during duty should be commended and the alleged perpetrator should be banned for life from keeping animals. The remaining respondent indicated that they did not understand the question.

Question 3

Do you agree with the Department's proposals regarding the animals that should be given additional protection?

4.16. 39 respondents (83%) indicated that they agreed with the animals in respect of which the Department proposed afford protection. 25 of these respondents made additional comments.



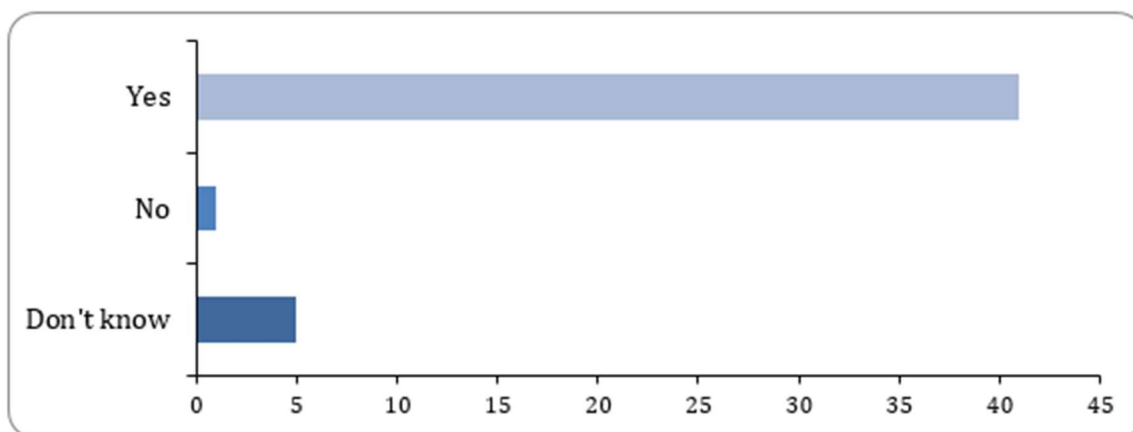
4.17. Eight respondents, which included NIPS, PSNI SARDA and Service Animals Northern Ireland, were of the opinion that service animal should be afforded protection due to the role they play and the situations they face. One respondent commented that the animals require additional protection because they provide vital skills to emergency services.

- 4.18. In answering this question, four respondents compared the position in Northern Ireland with that in the rest of the United Kingdom and expressed the view that service animals here should be afforded the same level of protection. One of these respondents was pleased to note that the Department's proposal provides sufficient flexibility to ensure that all service animals are protected irrespective of species and noted that police horses have been used in Northern Ireland in the past. Service Animals Northern Ireland expressed the view that fire dogs should also be afforded this protection. NICA WG considered that protection should all species of animals used in service.
- 4.19. One respondent felt that, as present-day criminals have more sophisticated weapons at their disposal, service animals should be protected accordingly. Another respondent considered that service animals should be given physical protection.
- 4.20. Fermanagh and Omagh District Council commented that it was important that the actions of service dogs are proportionate and that handlers are held responsible for ensuring that proportionality.
- 4.21. Three individual respondents (6%) disagreed with this question. Two of them believed that the protections should apply to all service animals including search and rescue dogs. The other respondent indicated the view that the proposal would provide too much protection to service animals.
- 4.22. Five respondents indicated that they did not know in response to this question. Only one of them provided an additional comment. That respondent indicated that they didn't not have sufficient knowledge about the matter.

Question 4

Do you agree with the Department's proposal that it should be able to add to the service animals that are to be given additional protection?

4.23. A significant majority of 41 respondents (87%) supported the proposal that the Department should have the power to add to the service animals that are to be given additional protection. One respondent (2%) did not and the remaining five respondents (11%) indicated that they did not know.



4.24. Of the 41 respondents that agreed, 21 made additional comments. Dogs Trust and NICA WG, for example, agreed that the legislation should be flexible enough to provide added protection to any animals that might be deployed in the future. The USPCA also considered it prudent to provide for future eventualities acknowledging that circumstances could change. Likewise, the Kennel Club indicated that it fully supported the Department being able to extend the additional protection to other service animals as and when needed. SARDA agreed with the proposal but noted that any animals added should be approved by the PSNI and included under the DoJ's Search and Rescue Assets Register.

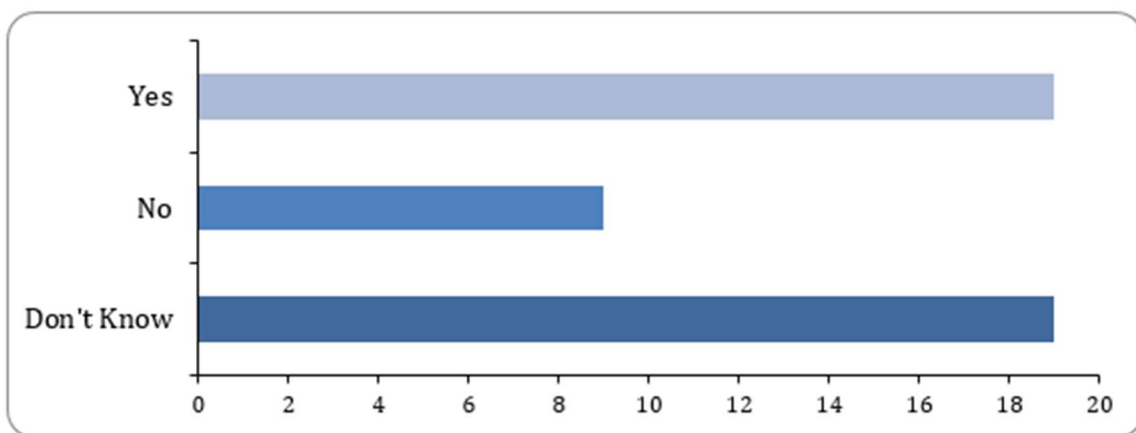
4.25. The one respondent that disagreed made no additional comments. Two of the five respondents who indicated that they did not know noted that there were unclear as to the meaning of the question. Another one of these respondents suggested that there should be a period between implementation of the

proposal and the adding of any further service animals to ensure that the matter is being handled correctly.

Question 5

Do you agree that the safeguards proposed by the Department are sufficient?

4.26. 19 respondents (40.5%) agreed that the safeguards proposed by the Department were sufficient. 9 respondents (19%) did not agree and 19 (40.5%) indicated that they did not know.



4.27. Of the 19 respondents who agreed, 10 provided additional comments. Five of them agreed that the safeguards were sufficient to ensure that the additional protection would only be applicable when service animals are on active duty, under the control of appropriately trained officers and used in a ways that are reasonable. The Kennel Club noted that the proposals would mean that defendants would still have the opportunity to defend themselves lawfully if attacked by a service animal. The FOAL Group Limited considered that, if it could be shown that a bite from a service animal was unlawful, there would still be legal remedies available to a victim, including potential criminal charges against the handler.

4.28. The NIPS and Service Animals Northern Ireland suggested that the additional protection should extend service animals even when they are off duty. In

support of this contention, the NIPS noted that threats had been made against a number of its animals and explained that they live at their handlers' homes where they may be subject to attack.

4.29. The NICAWG and the USPCA recommended that the term 'reasonable' should be defined so as to avoid a perpetrator being able to argue in court that the actions of the service animal were unreasonable.

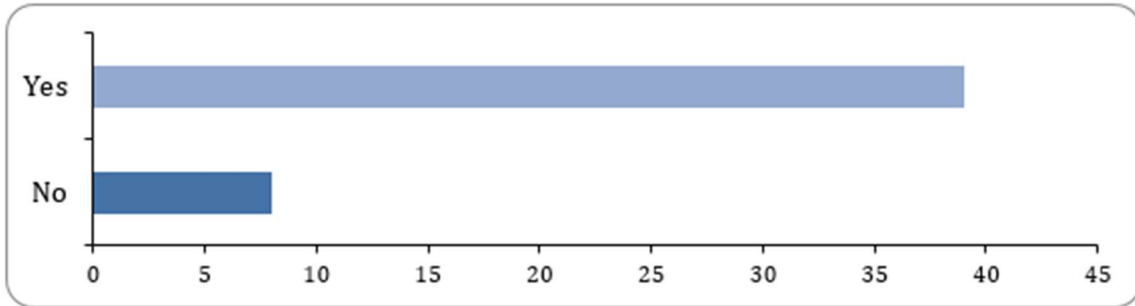
4.30. Of the nine respondents who disagreed the proposed safeguards were sufficient, seven provided additional comments. Six of them indicated that the proposed safeguards did not go far enough. One of these respondents considered that there could never be enough safeguards as service animals are put in danger without being able to consent. The remaining respondent was of the opinion that the proposed safeguards went too far. No reasoning was given for this view.

4.31. Of the 19 respondents that indicated that they did not know if the proposed safeguards were sufficient, 10 provided additional comments. Seven of them indicated that they did not have sufficient knowledge of the safeguards to decide. One of these respondents suggested that the safeguards should be kept under review and that those working with the animals were best placed to determine the level of protection required.

Question 6

Do you consider it necessary to increase the penalties for causing unnecessary suffering to a service animal?

4.32. 39 respondents (83%) considered it necessary to increase penalties for causing unnecessary suffering to a service animal. Eight respondents (17%) did not.



- 4.33. Of the 39 respondents who considered it necessary to increase the available penalties, 30 made additional comments. 6 of them indicated the view that the penalty set for injuring service dogs should be the same as for injuring their human counterparts. The NIPS, for example, noted that its service animals were valued parts of its service and that the penalty available for attacking them should be the same as that available attacking a prison officer.
- 4.34. Four respondents called for the maximum term of imprisonment to be increased from five years as it currently stands. SARDA, for instance, considered this important as it noted that an offender could have his or her sentence reduced on remission for good behaviour. Two other respondents suggested that penalties should be brought into line with those available in other countries such as the United States of America. Service Animals Northern Ireland suggested that maximum penalties of five years imprisonment for causing injury to a service animal and 10 years for causing death to service animal should be introduced with no parole and heavy fines. Another individual respondent expressed the view that the current sentencing guidelines for causing unnecessary suffering to a service animal are woefully lacking and suggested that there should be mandatory imprisonment for many years for injuring a service animal. Another respondent echoed that sentiment in expressing the view that fines were an insufficient sanction and recommended that offenders should be re-educated during their imprisonment for the offence. A different individual respondent suggested that the maximum period of imprisonment should be increased to 10 years while another respondent advocated the introduction of a minimum rather than maximum sentence. There was one

individual respondent that suggested that anyone who hurt a service animal should be banned from keeping a pet for life.

- 4.35. Two respondents emphasised the importance of proportionality in terms of penalties. Fermanagh and Omagh District Council, for example, stated that, where suffering is unnecessary, penalties should be able to be raised and noted that proportionality was important in this regard. An individual respondent commented that penalties should be proportionate to the action involved.
- 4.36. Seven of the eight respondents that did not consider it necessary to increase the penalties for causing unnecessary suffering to a service animal provided comments. This included the Dogs Trust, Kennel Club, NICA WG and USPCA. These respondents considered the real issue to be that the penalties currently available are not being used by the courts to the full extent possible. The USPCA cited a specific case where it considered that the person being prosecuted was not subject to a sufficient penalty. It and NICA WG felt that the current sentence guidelines should be reviewed. One respondent expressed concern that animal welfare officers do not have adequate resources to properly enforce the current legislation.

5. Departmental Response and Way Forward

- 5.1. The Department welcomes the support expressed by the clear majority of respondents for its proposal to give additional protection to service animals in Northern Ireland. It is also pleased to note that most respondents agreed with its proposal that whether someone causing harm to a service animal is protecting a person, property or another animal should not be a relevant factor when considering whether or not the harm is unnecessary. The Department, therefore, intends to take forward amendments to 2011 Act to give effect to these proposals.
- 5.2. A clear majority of respondents also agreed with the Department's proposal in respect of the scope of the animals that should come within the ambit of the proposed added protection. The Department, however, notes the suggestions made that specialist trailing dogs, fire dogs and search and rescue dogs whose pursuits take them over private farm land should come within the scope of the enhanced protection. The Department considers that, under its proposals, these dogs would be given protection if they were providing a service for police purposes. As such, the Department does not consider it necessary to expressly extend the added protection to these dogs.
- 5.3. The Department notes the suggestion that assistance dogs should also come within the scope of its proposals. It acknowledges that assistance dogs provide an invaluable service to vulnerable members of the public. However, unlike service dogs they are not in the control of experienced and trained service personnel. The Department considers that confining the proposed added protection to animals that are under the control of an officer is essential to ensuring that defendants are not deprived of critical legal safeguards. For the same reason, it considers it necessary that the animal should be on active duty at the time it is afforded protection. It notes that the position is the same in other parts of the United Kingdom.
- 5.4. The Department notes the significant number of respondents that agreed with its proposed safeguards and that most of those who were undecided on the

matter indicated that they did not have sufficient information to form a view. It, therefore, intends to include its proposed safeguards within the legislation it intends to bring forward. The same safeguards are in place in the rest of the United Kingdom.

- 5.5. The Department's proposal is that service animals should be afforded added protection only when they are on active duty under the control of an officer and being used in a way that is reasonable. It acknowledges the recommendations of a few respondents that the term 'reasonable' should be defined. The Department does not, however, consider it appropriate to define the term as it is of the view that what is reasonable will depend on the particular circumstances involved. Again, it points out that the term is not defined in the similar legislation that applies in other parts of the United Kingdom.
- 5.6. The Department welcomes the opinion expressed by the vast majority of respondents that it should have powers to add to the service animals to be given protection. It, therefore, intends to make provision which will ensure that it has this power should it consider it necessary to exercise it in the future.
- 5.7. The Department acknowledges the views of the vast majority of respondents that it is necessary to increase the penalties for causing unnecessary suffering to a service animal. Having analysed the additional comments received to the relevant consultation question, it appears to the Department that it is possible that some respondents may not have been aware of the extent of the penalties currently available for animal welfare offences in Northern Ireland. That said, the Department notes that the clear perception amongst respondents is that current penalties are insufficient. Any changes to animal welfare penalties would, however, require further detailed consideration in conjunction with the Department of Justice and a separate public consultation. The Department does not intend to explore the matter further at this juncture but instead focus its efforts on ensuring that service animals are provided with the protection they deserve. Given the strong views expressed by respondents on this issue, the Minister of Agriculture, Environment and Rural Affairs has, however, written to the Minister of Justice to highlight the breadth of penalties currently available to

the courts in animal welfare cases and ask her to raise the matter with the Lord Chief Justice who oversees judicial sentencing guidelines and training for the judiciary.

Way forward

- 5.8. The Department has gained Executive approval to introduce the Bill into the Northern Ireland Assembly as soon as is possible, to ensure that service animals here are afforded the additional protection it has proposed.

LIST OF CONSULTATION RESPONDENTS

ARDS AND NORTH DOWN BOROUGH COUNCIL
ARMAGH CITY, BANBRIDGE AND CRAIGAVON BOROUGH COUNCIL
DOGS TRUST
FERMANAGH AND OMAGH DISTRICT COUNCIL
FOCUS ON ANIMAL LAW (FOAL GROUP)
KENNEL CLUB
NORTHERN IRELAND COMPANION ANIMAL WELFARE GROUP
NORTHERN IRELAND PRISON SERVICE
POLICE SERVICE NORTHERN IRELAND
SEARCH AND RESCUE DOG ASSOCIATION IRELAND NORTH
SERVICE ANIMALS NORTHERN IRELAND
ULSTER SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS
35 INDIVIDUALS