

Environment, Housing and Infrastructure Panel

Record of Meeting

Date: 7th July 2021

Present	Connétable Michael Jackson, Chair Connétable John Le Maistre, Vice-Chair Deputy Steve Luce Deputy Inna Gardiner
Apologies	Deputy Graham Truscott Connétable Sadie Le Sueur-Rennard
Absent	
In attendance	Centenier Michel Bougeard, Vice-chairman, Comité des Chefs De Police Nikita Hall, Committee and Panel Officer Monique Magalhaes, Research and Project Officer
Agenda Matter	Action
<p>Meeting: Comité des Chefs de Police in relation to P.39/2021</p> <p>The Panel met with Centenier Bougeard, Vice-chairman of the Comité des Chefs de Police for a meeting to discuss P.39/2021, Draft Road Traffic (No.68) (Jersey) (Regulations) 202 -. (hereafter referred to as the draft Regulations).</p> <p>It was explained that the current legislation provided an obligation and licensing for certain animals, however, no obligation to keep a cat under control was legally provided for within legislation. The impossibility to control cats was emphasised, considering that cats were able to roam freely.</p> <p>The Panel questioned what the process would involve, under the proposed draft Regulations, should a cat be hit by a motor vehicle. It was explained that if a cat was hit by a motor vehicle and it was identified that the incident had not been reported to the Jersey Society for the Prevention of Cruelty to Animals (JSPCA) and, the person responsible had driven off, the case would involve a Parish Hall Inquiry.</p> <p>However, it was highlighted that reasonable grounds would need to be identified to establish that the driver was aware that they had hit the cat as the Centenier would need to certify that an actual breach of the Law had occurred. It was emphasised that it could be argued that the driver did not know that they had hit the cat and as a result did not stop or report the incident. As a consequence, it may be difficult to prove the driver was aware they had hit the cat and therefore prosecute the driver accordingly under the Law. It was noted that the draft Regulations only provided for incidents between a cat and a motor vehicle and consideration for push bikes had not been made under the draft Regulations.</p> <p>The Panel asked what the process would entail should a Centenier find that pursuing the case was warranted and questioned whether guidelines had been provided as to whether the case would be dealt with at a Parish Hall level or through the Magistrates' Court system. It was explained that guidelines were not available. However, it was assumed that a warranted case would go to the Magistrates Court as the expected</p>	

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finances issued at a Parish Hall level would likely not exceed £200. It was highlighted that a fine of £10,000 (outlined as the maximum penalty under the draft Regulations) was totally disproportionate and not likely to be issued by a Court.

It was noted that, if the individual suspected of hitting the cat did not agree with the case being brought against them, the case would not be dealt with through the Parish Hall system and would be dealt with by the Magistrates' Court. It was noted that, whilst at the Parish Hall the required evidence was less, were a guilty plea to be given. If a guilty plea was not forthcoming and the matter went to Court, detailed irrefutable evidence would be required to prove the case to the Magistrates' Court. Centenier Bougeard noted that all the Centeniers he had discussed the draft Regulations with, believed that the draft Law was inappropriate and could not be adequately policed.

The Panel asked who would be responsible for initiating the investigative process when an individual hit a cat with a motor vehicle. It was explained that for an investigation to commence, it would first need to be decided whether it was proportionate to carry out the investigation and to gather evidence to prove the case.

The Panel emphasised that, in the main, it would be expected that the vast majority of individuals would report hitting a cat if they were aware of the incident and it was the Panel's view that the draft Regulations was endeavouring to encourage people to report incidents so that the owners of the cats could be made aware of the potential location of their cat. The present situation appeared to be that when cats were hit by motor vehicles many owners were not aware that was the case and did not know their cat's whereabouts.

The Panel questioned whether a balance could be achieved so that people would be encouraged to communicate incidents with the JSPCA. It was the Panel's view that if the draft Regulations were not able to be suitably policed then it might not achieve its intended purpose.

The Panel questioned what implication the draft Law would have on the JSPCA and asked whether the JSPCA would be involved in the prosecution process. It was anticipated that the JSPCA would not choose to be involved in the prosecution.

It was the general view of the Comité des Chefs de Police that the draft Regulations contained loopholes, in particular, regarding the reporting of an incident to the JSPCA, as the person would not be required to provide their full details. In addition, the process was questionable as the person reporting the incident would not be able to prove that they had reported the incident in accordance with the Law.

The Panel questioned further what potential policing challenges the draft Regulations might cause. It was explained that the process to obtain evidence would require a lot of time and resourcing. In addition, it was anticipated that the process would not go the full length as it would be challenging to obtain the necessary evidence that would be needed to warrant a case.

The Panel asked for clarity regarding the investigative process. It was explained that when someone reported an incident that involved a motor vehicle hitting a cat that a statement would be taken. It was highlighted that an Officer from the States of Jersey Police would be tasked with interviewing the suspected individual as Officers at the Parish Hall level would not be trained to undertake the interview process. Once the Officer from the SoJP was satisfied that the case warranted further action, it would be transferred to the Criminal Justice Unit and a Parish inquiry would be arranged.

It was highlighted that a more sensible approach would be a public awareness campaign to raise awareness around such incidents and to encourage people to report them. It was emphasised that a behaviour change was necessary so that people reported incidents. It was felt by the Comité that the draft Law was excessive.

The Panel questioned whether making it mandatory to register cats would be a better approach as the JSPCA would then be able to locate the cat's owners. It was emphasised that it would be beneficial to require cats to be microchipped as the cat would then be identifiable and that would satisfy the owners of the cat.

Deputy Gardiner left the meeting at this point

It was discussed that the issue regarding cats being hit by motor vehicles was a challenging and emotive issue to solve. It was noted that owners wanted a means to locate their cats and to know what had happened to them. It was emphasised that the adoption of potentially unworkable legislation would not necessarily solve the issue. It was highlighted that the draft Regulations created uncertainty as it would be deemed a criminal offence if a person reported an incident incorrectly. In addition, the draft Regulations would leave areas open to interpretation, including for the notification process when reporting an incident to the JSPCA. It was explained that the draft Regulations required the person to notify the person who was responsible for caring for the cat or the JSPCA when it was 'safe and reasonably practical' to do so. It was noted, therefore, that the main challenge would be in relation to obtaining the required evidence to prove a case beyond reasonable doubt and that the onus for doing that would be with the SoJP.

The Panel asked what the process involved for reporting a dog that had been hit by a motor vehicle and asked how such an incident was proven. It was explained that the owner of the dog had responsibility under Law for keeping their dog under control. It was highlighted that if the owner of a dog was not able to maintain control of their dog, they would be liable for its actions. In addition, it was easier to identify a dog, as dogs required licensing by Law. Centenier Bougeard noted that he had not been in a situation where a dog had been hit and the incident was not reported.

The Panel considered whether a middle ground could potentially be achieved by bringing legislation forward that would require cats to be microchipped, as owners of cats had little control over their cats and if cats when missing or where hit by motor vehicles they could then be found and identified. However, the Panel highlighted that Jersey had many feral cats as well and that would need to be considered further. Centenier Bougeard highlighted that microchips which were registered outside of Jersey were often not readable in Jersey and therefore those cats would not be identifiable.

The Panel questioned whether a person could issue an insurance claim against a cat owner if the cat were to cause damage to their motor vehicle. It was thought that they would not be able to claim damages as a result of such an incident as legislation did not exist to provide a duty on cat owners to maintain control of their cats (as was provided for dogs and certain other animals).

The Panel thanked Centenier Bougeard for his time and the meeting ended.