

STATES OF JERSEY



DRAFT ROAD TRAFFIC (NO. 68) (JERSEY) REGULATIONS 202- (P.39/2021): COMMENTS

**Presented to the States on 29th September 2021
by the Environment, Housing and Infrastructure Scrutiny Panel**

STATES GREFFE

COMMENTS

Background

In June 2019 the States Assembly unanimously adopted [P.30/2019](#), Cats: Additional Protection When Involved In Road Traffic Accidents, which requested the Ministers for Infrastructure and the Environment to consult on how cats could be given additional protection under either the Road Traffic (Jersey) Law 1956, Highway Code or Animal Welfare (Jersey) Law 2004, in order to ensure that drivers involved in accidents in which cats are injured are required to contact the police.

Subsequently, [P.39/2021](#), the Draft Road Traffic (No. 68) (Jersey) Regulations 202- (hereinafter the ‘draft Regulations’) were lodged on 19th April 2021 by the Minister for Infrastructure and scheduled for debate on 8th June 2021.

During the States debate on the draft Regulations on 8th June 2021, the Principles were unanimously adopted by the States Assembly. However, owing to concerns in relation to the policing of the draft Regulations raised with the Chair of the Environment, Housing and Infrastructure Panel (hereafter the ‘Panel’) shortly before the debate, the Panel requested the proposition be referred to Scrutiny for review under Standing Order 72(5). It was agreed that the Second Reading of the proposition would be debated by the States Assembly in the week commencing 4th October 2021.

If approved, the draft Regulations will implement the decision adopted by P.30/2019 to provide cats additional protection, as outlined in the draft Regulations¹, when involved in road traffic accidents (RTAs).

Panel meetings and hearings

To obtain the views of key stakeholders, the Panel held meetings with the Comité des Chefs de Police² on 7th July 2021 and with the Equal Rights for Cats Action Group³, who were joined by Deputy Jeremy Maçon, on 28th July 2021. In addition, the Panel received submissions from Centenier Wright⁴ on 12th July 2021 and from the JSPCA⁵ on 13th August 2021. The Panel sought further information from the Minister for Infrastructure during a Quarterly Public Hearing⁶ on 6th July 2021. Moreover, the Panel requested advice from the Attorney General.

Amendments lodged

Subsequent to concerns raised by the Panel with regard to the challenges of enforcing an offence under the draft Regulations, on 29th September 2021 the Minister for Infrastructure lodged an [Amendment](#)⁷ to the draft Regulations.

¹ [P.39/2021 - Draft Road Traffic \(No. 68\) \(Jersey\) Regulations 202-](#)

² [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

³ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

⁴ [Submission – Centenier Wright – 12th July 2021](#)

⁵ [Submission – JSPCA – 13th August 2021](#)

⁶ [Transcript – Quarterly Public Hearing – Minister for Infrastructure – 6th July 2021](#)

⁷ [Amendment – Draft Road Traffic \(No 68\) \(Jersey\) Regulations 202 – \(P.39/2021\): Amendment](#)

Policing of the draft Regulations

Concerns raised with the Panel were, in the main, on whether the draft Regulations would be policeable, should they be adopted by the States Assembly. Given that the Regulations would impact on the role of Centeniers, the Panel agreed to investigate their concerns further.

Noting that the Centeniers' concerns were highlighted to the Panel shortly before the debate of the draft Regulations, during the Panel's Public Quarterly Hearing⁸ with the Minister for Infrastructure, the Panel sought to identify whether the Comité des Chefs de Police were consulted by Government on the drafting of the proposed regulations.

The Minister for Infrastructure informed the Panel that the Comité des Chefs de Police had not been directly consulted with, however, that the draft Regulations were issued to the States of Jersey Police (SoJP), to Scrutiny, to the Comité des Connétables and the Jersey Society for the Prevention of Cruelty to Animals (JSPCA). It was explained, as the draft Regulations had been shared with the Comité des Connétables, it had been anticipated that the Comité des Chefs de Police would obtain sight of the documentation via the Department for Justice and Homes Affairs or the Comité des Connétables who would consult with the parishes.⁹

The Panel notes that the Centeniers were concerned about their expected role under the draft Regulations and felt that the proposals were unpoliceable.

During the Panel's meeting with the Vice-chairman of the Comité des Chefs de Police, Centenier Bougeard emphasised that all the Centeniers he had discussed the draft Regulations with believed that the draft Regulations were inappropriate and could not be adequately policed.¹⁰ Centenier Wright, within her submission, raised similar concerns.¹¹ It was also discussed that owners of cats wanted a means to locate their cats and receive closure when their cats went missing, however, concern was raised that the adoption of potentially unworkable legislation would not necessarily solve the underlying emotive issue.¹²

Noting the Centeniers' concerns, during the Public Quarterly Hearing, the Panel sought the view of the Legislative Drafting Team on whether the draft Regulations were policeable.

It was noted that the concern regarding cats being 'free spirits' and difficult to identify had been recognised in the draft Regulations. The Legislative Drafter explained that it had been accepted that the most a driver would be able to do was report that a cat had been hit and inform the JSPCA of where the incident had occurred. It was emphasised that if the JSPCA had the record of the incident that the cat's owner would at least have enough information to form a view as to whether the cat that had been struck may be their cat.¹³

⁸ [Transcript – Quarterly Public Hearing – Minister for Infrastructure – 6th July 2021](#)

⁹ [Transcript – Quarterly Public Hearing – Minister for Infrastructure – 6th July 2021](#)

¹⁰ [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

¹¹ [Submission – Centenier Wright – 12th July 2021](#)

¹² [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

¹³ [Transcript – Quarterly Public Hearing – Minister for Infrastructure – 6th July 2021](#)

The investigative process and obtaining evidence

The Panel sought to understand the practical implications of the draft Regulations in respect of the investigative process that would follow a suspected incident of a motor vehicle hitting a cat to further understand whether the proposed Regulations could be enforced and their intended outcomes achieved.

If a suspected incident went unreported

Considering the role of the Centeniers under the Regulation, during the meeting with the Comité des Chefs de Police¹⁴, the Panel questioned what the investigative process would involve.

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 JSPCA and the person responsible had driven off, the case would involve a Parish Hall Inquiry. 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. Concern was raised 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. Consequently, it may be difficult to prove the driver was aware they had hit the cat and therefore prosecute the driver accordingly under the Law.

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, considering the outlined maximum penalty was a fine of £10,000, it was assumed that a warranted case would go to the Magistrates' Court as the expected fines issued at a Parish Hall level would likely not exceed £200.

Evidence Gathering to prove a case

The Panel sought to understand who would be responsible for initiating the investigative process when a cat was struck by a motor vehicle. During the meeting with the Comité des Chefs de Police, it was identified 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.

It was explained that when someone reported an incident involving a motor vehicle that had hit a cat a statement would be taken by an Officer from the States of Jersey Police (SoJP), who would be tasked with interviewing the suspected individual as Officers at the Parish Hall level would not be trained to undertake the interview process. The Panel was informed that 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 Hall Inquiry would be arranged.

The Panel questioned what further 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

¹⁴ [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

full length as it would be challenging to obtain the necessary evidence that would be needed to warrant a case.

The Panel identified, 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, 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.

The Comité des Chefs de Police also raised concern 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. Therefore, it was highlighted that the main challenge would be in relation to obtaining the required evidence to prove a case beyond reasonable doubt. It was noted that the onus for obtaining evidence would be with the SoJP.¹⁵

During a meeting with the Equal Rights for Cats Action Group, Caroline Holmes expressed the following view:

The nub of Centenier Bougeard's concerns seemed to be that the draft regulations would be unpoliceable. He said that the process to obtain evidence would require a lot of time and resourcing, and 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. However, when questioned further he clarified that when someone reported an incident of a motor vehicle hitting a cat a statement would be taken. He said that an officer of the SoJP would interview the suspected individual (i.e. not an honorary officer) and it would be for that officer to be satisfied, or otherwise, that a case warranted further action (i.e. not an honorary officer.) If he was so satisfied, then the matter would be transferred to the Criminal Justice Unit (i.e. not the honoraries) and a Parish Hall inquiry would be arranged. As the minutes later stated: '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 fact was that from the Report to the draft regulations and the evidence from the Quarterly Public Hearing, the SoJP were consulted and were satisfied with the draft regulations. Since they would have most of the responsibility of obtaining evidence and policing etc. then their views would be more relevant and pertinent.¹⁶

The Panel notes that the SoJP was involved in the drafting of the draft Regulations and that the SoJP had indicated that it was satisfied with the draft Regulations.¹⁷

Ascertaining what would constitute reasonable belief or reasonable excuse

It was the view of Centenier Wright that if a person committed an offence under the Regulations that numerous reasons as to why they failed to comply would be

¹⁵ [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

¹⁶ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

¹⁷ [Transcript – Quarterly Public Hearing – Minister for Infrastructure – 6th July 2021](#)

conceivable. Within her submission, Centenier Wright highlighted several reasons including - *they did not know, they did not reasonably believe, they reported it to the wrong person thinking it was the right person, they reported to the right person but the record was insufficient, They chose not to report it despite reasonably believing, the cat was not injured, they have not yet reached the reasonably practicable moment to notify.* Moreover, Centenier Wright raised concern regarding the difficulty in ascertaining what would constitute reasonable belief or reasonable excuse.¹⁸

It was the view of Caroline Holmes, member of the Equal Rights for Cats Action Group, that those terms (reasonable belief and reasonable excuse) were frequently used in both criminal law and civil law and were terms which lawyers and the SoJP would know.¹⁹ Caroline Holmes notes that reasonableness was a concept well known in law and would involve an objective test. Therefore, there would be no need to get into the head of the accused and that all the facts and the surrounding evidence would be considered.²⁰

Rationale for differentiating between a cat and other animals within the Law

Within Centenier Wright's submission, reference was made regarding the obligation on a motorist if they hit an animal in comparison with if a motorist hit a cat. In addition, reference was made to the reasoning for not originally including cats within the list of animals in the Road Traffic (Jersey) Law 1956.²¹

Noting that the Law addresses cats separately to other animals, the Panel explored the rationale for differentiating a cat from other animals within the Law and raised this at its Public Quarterly Hearing with the Minister for Infrastructure.

The Connétable of St. Brelade:

...could you clarify the rationale for the differentiation and separate inclusion of Article 52(4) which deals with cats separately to Article 52(1)(c) which outlines the duty of the driver of a vehicle in case of an accident and if injury is caused to any horse, cattle, ass, mule, sheep, pig, goat or dog. So we have a differentiation there. What is driving that?

The Minister for Infrastructure:

... there is a question of liability should your dog slip its lead and cause an accident then you would be, I would say, liable for that. As you say, cats are free spirits and usually far, far smaller so unless somebody actually swerved to avoid a cat, which you are not supposed to do, and cause an accident then the result is different. Maybe the team could clarify that.

Director - Transport, Infrastructure, Housing and Environment:

I am sure Liz will want to come in on the technical details but, yes, exactly what the Minister says, there is a duty to keep the other animals under control, there is not such a duty for cats.

¹⁸ [Submission – Centenier Wright – 12th July 2021](#)

¹⁹ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

²⁰ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

²¹ [Submission – Centenier Wright – 12th July 2021](#)

Legislative Drafter, Legislative Drafting Office:

Just to add, that is exactly right. That is the key difference between cats and the other animals. That was the question of ownership liability and that is why we could not just add cats to the existing list of animals.

The difference between a cat's nature and liability and that of other animals, as depicted in the Law, was similarly described by Centenier Wright, as well as the Equal Rights for Cats Action Group. However, Centenier Wright emphasised that no responsibility existed on the owner of a cat to keep it under control and to identify it in any way. Moreover, there was no central Parish register for cats.²² In a submission received from a member of the public a similar view was expressed as follows.

John Pinel:

*Cats are not required to wear a collar. They are allowed to roam freely day and night but are not required to have identification. This is not permitted for dogs and I consider that cats should be treated the same.*²³

Centenier Bougeard explained that the owner of a dog has 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.²⁴

During the meeting with the Equal Rights for Cats Action Group, the Panel asked whether there should be some responsibility on the owner of a cat to keep the cat in a way that would mitigate the cat from being hit by a vehicle. The Group highlighted that cats were roaming creatures and that owners would be aware of the risk of allowing their cats outdoors. The Group emphasised that an owner's responsibilities for a dog or a cat would be different, and cats and dogs would need to be distinguished from one another in law. The Panel noted that other animals including sheep and horses were placed within the same category as dogs according to the Law. However, highlighted that cats could not be controlled in the same way as the other animals. Caroline Holmes explained that for that reason a distinction had been made for cats in the legislation and that cats had not been included within article 52 (1) of the legislation.²⁵

The Panel notes the consensus that cats differ from the other animals depicted within the Law and therefore would need to be distinguished separately within law. The Panel notes that the draft Regulations make this distinction.

Implications of the Regulations on parties involved

The Panel sought to understand the implications of the draft Regulations, if adopted, on those with responsibility under the Law.

²² [Submission – Centenier Wright – 12th July 2021](#)

²³ [Submission – John Pinel – 26th August 2021](#)

²⁴ [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

²⁵ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

Implications on the driver of the motor vehicle

It is the Panel's understanding that under the draft Regulations, if adopted, the driver of the motor vehicle is obligated to stop and to report an incident where their motor vehicle has hit a cat. Thereby providing the opportunity for the cat to obtain any immediate medical attention and to assist in allowing closure for the owner of the cat.

The Minister for Infrastructure:

So a driver reporting the fact that a cat has been hit and in what area then it would give the owners, if they rang the J.S.P.C.A. and if a cat had been reported being hit in that area, some comfort to know where there animal is. A lot of cats now are chipped or with collars so they can be identified. Most domestic pets now, I believe, do have the chip but it is to give comfort to the owners as well.

It is the Panel's understanding that the purpose of the draft Regulations is not to impart blame on the driver of the motor vehicle for the RTA involving the cat, but for failing to report the RTA and thereby depriving the cat of medical attention.²⁶

The Panel identified that where an RTA involving a cat goes unreported, for the case to be investigated it would first need to be decided whether it was proportionate to carry out an investigation and to gather evidence to prove a case. Moreover, the degree of evidence required to prove the case and whether the case would be dealt with at a Parish hall inquiry or at the Magistrates' Court would depend on whether a guilty plea was forthcoming.

During the Public Quarterly Hearing with the Minister for Infrastructure it was emphasised that the Law would place the impetus upon the driver to report an incident.

Director - Transport, Infrastructure, Housing and Environment:

The law puts the impetus upon the driver who thinks that they may have hit a cat to report the location to the Jersey Society for the Prevention of Cruelty to Animals. If the cats is there an ambulance can be sent and they can come and offer humanitarian - if that is the right word - aid to the cat or otherwise they can keep a record of where the incident occurred so that if someone is interested they can find that.

The Panel raised concern regarding the probability that a case would go unreported due to a driver of a motor vehicle not being aware they had hit a cat. During the Panel's meeting with the Equal Rights for Cats Action Group, the Panel questioned whether it would be possible for a driver to not be aware that they had hit a cat and as a result had not reported the incident. It was the Group's view that such a situation would be highly unlikely. It was Deputy Maçon's view that such a situation could not be discarded and therefore there was a reasonability test in the law. Centenier Wright raised the same concern within her submission, noting that the driver of a motor vehicle may be unaware that they had hit a cat, since cats tend to be lightweight.²⁷

²⁶ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

²⁷ [Submission – Centenier Wright – 12th July 2021](#)

Implications on the JSPCA

From the evidence received, it is the Panel's understanding that the JSPCA would be the first point of call when an RTA involving a cat is reported by a driver of a motor vehicle. Subsequently medical assistance could be arranged for the cat and the report of the RTA recorded for information purposes.

The Panel notes that the JSPCA was consulted regarding the drafting of the draft Regulations and that the JSPCA had indicated it was satisfied with the draft Regulations.²⁸

During the public Quarterly Hearing with the Minister for Infrastructure the Panel sought to identify any implications on the JSPCA. The Panel was informed as follows:

Director - Transport, Infrastructure, Housing and Environment:

We spoke to the Jersey Society for the Prevention of Cruelty to Animals and they indicated to us that they are content that they could undertake this within their existing resources to receive the calls and to take down the detail or to send an ambulance out if required because that is basically what they are set up to do in any case. Where an animal is injured their intention is to respond to that injury and to help that animal.

The Panel requested the JSPCA's view on the draft Regulations and within their submission²⁹ the JSPCA demonstrated its support for the draft Regulations and its view that the changes to the road traffic law should come into force as soon as possible.

Implications on Centeniers and the SoJP

From the evidence received it is the Panel's understanding that the Regulations, as proposed, would only impact Centeniers and the SoJP when an RTA involving a cat goes unreported by the driver of the motor vehicle. Therefore, the Law would only be enforced when the driver of a motor vehicle involved in an RTA with a cat does not stop at the incident and does not report the incident which is witnessed by an individual. At that point the Law would come into effect and the investigative process, as previously outlined, would be initiated.

During the Public Quarterly Hearing with the Minister for Infrastructure the following was noted:

Director - Transport, Infrastructure, Housing and Environment:

The issue that arises, you are right, is how is it enforced. It is enforced where someone sees a vehicle hitting a cat and that driver does not stop or it comes to light that driver has not stopped to report the incident. That is when the law comes into effect.

²⁸ [Transcript – Quarterly Public Hearing – Minister for Infrastructure – 6th July 2021](#)

²⁹ [Submission – JSPCA – 13th August 2021](#)

Director - Transport, Infrastructure, Housing and Environment:

To be clear the offence, which the police would be interested in, only occurs if a person who has hit a cat has failed to contact the animal shelter. That, of course, by its nature would require some sort of witness because the police cannot be everywhere

Implication on the cat and the cat's owner

Through meeting with members of the Equal Rights for Cats Action Group and hearing the members' personal experiences, the Panel understands the trauma that losing a cat to an RTA can cause its owner. In addition, the trauma caused through the lack of closure for families as a result of an RTA involving a cat going unreported.

Christine Jackson, a member of the Group, highlighted during the meeting that should the draft Law be adopted by the States Assembly that cats would be provided rights and the welfare of cats would no longer depend on people's better nature. She noted that incidents had occurred where people had taken it upon themselves to end a cat's life instead of calling for help and noted that should not be allowed to happen.³⁰

It was the Equal Rights for Cats Action Group's view that when RTAs involving cats were reported, success in the medical treatment of cats was evident. However, the Group highlighted that it had not noticed an increase in RTAs involving cats being reported.³¹

The JSPCA highlighted within its submission that it provides a 24/7 animal ambulance service and is often having to deal with the difficult call from both the member of the public who finds a deceased cat and a distraught owner who has reported their cat missing. Within the JSPCA's submission it was noted that the JSPCA had dealt with 76 RTAs involving cats in 2019, 58 in 2020 and between January and July of 2021 the JSPCA has seen 32 cases.³²

JSPCA:

Sometimes owners can be searching for days before the body of the cat is discovered. Not knowing is extremely stressful for the cat owner and we believe that if accidents are reported we can recover the body and give the family closure. Unfortunately, not everyone is passionate about animals and would not consider the impact on the animal or the owner who consider their pet part of the family. If the requirement to report cat RTA's is made law, with subsequent consequences should they not, more accidents will be reported at the time of the incident and we believe this could in fact save a cat's life.

Within their submission, the JSPCA emphasised the importance of reporting the incident to the JSPCA even if the cat runs off following an RTA. The JSPCA highlighted this was necessary in order that they can leaflet the area with a description of the cat so that owners can check and be watchful of their cat. The JSPCA noted the following:

We have had a case very recently where someone reported that they had been involved in an RTA with a cat but it had run off. We put leaflets through the

³⁰ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

³¹ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

³² [Submission – JSPCA – 13th August 2021](#)

doors of a number of houses in the area and an owner came forward to say that their cat, which matched the description, had been acting strange so they took it to the vet who reported it had a head trauma, which they were able to treat. We are also fortunate to have contact with the Jersey Cat Search group who are very active in helping people search for cats and we can share information with the group to assist finding an injured cat.

Campaigns and education

The Panel sought to understand whether the draft Regulations were too draconian and whether a middle ground would be through education and a campaign to raise public awareness regarding RTAs and the requirement to report them for the welfare of cats and obligations to their owners.

During the meeting with the Comité des Chefs de Police 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 Regulations were excessive.³³

Caroline Holmes, member of the Equal Rights for Cats Action Group, highlighted that as demonstrated in both the Report to the Draft Regulations and during the Quarterly Public Hearing, the draft Regulations followed and developed the voluntary or advisory procedure already set out in the Highway Code. It was clear from the unanimous votes of the States that the members were of the view that the voluntary or advisory procedure was insufficient. It was noted that many instances of drivers hitting cats and driving off without informing the JSPCA continued to occur.³⁴

During the meeting with the Equal Rights for Cats Action Group, the Panel questioned whether the draft Regulations may be too draconian in respect of the person that hit the cat. It was the view of the Group that the offence was not in respect of the driver hitting the cat but for not reporting the incident. It was emphasised that the crime was reasonably knowing that a cat was hit and not reporting it.³⁵

Considering that awareness of new requirements would need to be raised, should the draft Regulations be adopted, during the Public Quarterly Hearing, the Panel asked the following.

The Connétable of St. Brelade:

Minister, should the draft regulations be adopted how do you propose to publicise and educate the public on the new requirements which by law are to report a road traffic accident involving a cat to the J.S.P.C.A.? How would you get that message across?

³³ [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

³⁴ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

³⁵ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

The Minister for Infrastructure:

It will be included in the Highway Code and our team will be publicising it. Do you have the information, Tris?

Director - Transport, Infrastructure, Housing and Environment:

Yes, so D.V.S. (Driver and Vehicle Standards) set the curriculum for the driving test and they also publish the Highway Code so it will be in an update to the Highway Code, we would make media releases in order to make sure that people are aware and you would expect it to be included in driver training along with all the other things that a driver needs to be aware of and how to respond in case of an accident.

The Minister for Infrastructure:

It is part, obviously, of the driving training to have a working knowledge of the Highway Code. That will be included.

Legislation in other jurisdictions

The Panel sought to understand what legislation to protect cats involved in RTAs was enforced or was being considered in other jurisdictions. The Panel raised this with the Equal Rights for Cats Action Group. The Group noted that similar legislation was being considered in other jurisdictions, as well as in the UK³⁶. The Group sent through their research into the law or absence of law in other jurisdictions regarding RTAs involving cats.³⁷

Identification and microchipping

Noting that it was not a legal requirement for cats to be microchipped, that parishes did not hold a register of cats and that many feral cats were roaming in Jersey, the Panel sought to understand the influence of improving the identification process of cats through microchipping in respect of the draft Regulations.

During the meeting with the Comité des Chefs de Police, 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 owner. In addition, 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 went missing or were hit by motor vehicles they could be identified when found. However, the Panel highlighted that Jersey had many feral cats and that would require further consideration. Moreover, 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.³⁸

The Panel asked the collective view of the Equal Rights for Cats Action Group on whether cats should be microchipped by mandate. It was the Group's unanimous view

³⁶ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

³⁷ [Research – Hit and Run Laws for Cats – Equal Rights for Cats Action Group – 28th July 2021](#)

³⁸ [Record of Meeting - Comité des Chefs de Police – 7th July 2021](#)

that cats should be microchipped for identification purposes, however, the Group emphasised that microchipping and the requirement to report an RTA involving a cat were two separate issues. The Group highlighted that the purpose of the draft Regulations was to protect the welfare of the cat and it should not depend on whether a cat had been microchipped or not. The Panel noted that if a cat was not microchipped it would be more challenging to identify the cat's owner. It was emphasised that the identification process would not be required at the point of medical assistance and that the reporting of the incident would enable the medical care to be provided. The Group emphasised that the draft Regulations should not be derailed through the suggestion of mandating for the microchipping of cats.³⁹

John Pinel, within his submission to the Panel, expressed his view that it was essential that all pet cats should be required to be registered, licensed and wear a collar to ensure they are identifiable as pets.⁴⁰

Recommendations

Recommendation one: Should the draft Regulations be adopted, the Minister for Infrastructure must review with all stakeholders including the Centeniers, SoJP and the JSPCA the impact of the Law change, including both positive and negative impacts, and any challenges experienced regarding the policing of the Law. The Minister must report back to the States Assembly after a 12-month period from the adoption of the Law.

Recommendation two: The Minister for Infrastructure and the Minister for the Environment should consider, before the end of 2021, whether microchipping of pet cats should be mandatory to improve the identification of pet cats. This should be considered independently of the draft Regulations as the intention of the draft Regulations is to provide all cats additional protection which must be independent of the ability to identify them.

Conclusion

The Panel notes that the States Assembly has unanimously approved P.30/2019 and has unanimously approved the principles of P.39/2021 to provide additional protection for cats.

After considering the evidence received, the Panel is mindful of the challenges raised regarding the enforcement of and ability to police the draft Regulations, particularly with respect to evidence gathering aspects should an RTA involving a cat go unreported and a guilty plea is not forthcoming. In addition, the challenges in respect of the nature of cats to roam freely and the inability for their owners to control them. However, it is the Panel's understanding that the SoJP would be involved in the investigative process, in the main, and noting that the SoJP was directly involved with the drafting of the draft Regulations and was satisfied with them, it is the Panel's view that the potential policing challenges raised should not hinder the intentions of the draft Regulations to provide additional protection for cats involved in RTAs.

Noting that the majority of pets are a significant part of family life, the Panel is very aware of the resultant trauma that losing a pet to an RTA or a pet going missing can

³⁹ [Record of Meeting – Equal Rights for Cats Action Group – 28th July 2021](#)

⁴⁰ [Submission – John Pinel – 26th August 2021](#)

cause a family. Moreover, the significant repercussions that are felt by families as a result. The Panel understands that closure is necessary for people's well-being. It is the Panel's view that the draft Regulations would assist to address these aspects in respect of cats.

The Panel understands that cats are very different creatures to the other animals depicted within the Road Traffic (Jersey) Law 1956. As a result of their nature and their inability to be controlled in the same way as the other animals under the Law, the Panel accepts the rationale for not including cats within the original list provided within Law and for ensuring that the draft Regulations maintains the distinction between cats and other animals.

The Panel would like to believe that most drivers of a motor vehicle involved in an RTA with a cat would report such an incident and would seek medical help for the cat, where the driver is aware of the RTA. However, the evidence suggests that RTAs involving cats continue to go unreported and as a result cats are not obtaining the emergency treatment required and owners are not obtaining the much-needed closure. Noting that the purpose of the draft Regulations is to provide cats additional protection when involved in RTAs by placing the onus on the driver of a vehicle to report an RTA and when a motor vehicle hits a cat; it is the Panel's view that although the draft Regulations may be difficult to enforce in some respects, it would be likely that the draft Regulations, if adopted, would influence more drivers to stop and to report an RTA involving a cat. Thereby, the cat would be permitted the immediate emergency medical treatment, and the owners would be able to obtain a degree of reassurance that their cat's welfare would be considered in the event of such a traumatic situation occurring. Moreover, in the instance where a cat runs off as a result of a RTA, it is the Panel's understanding that through the driver reporting the incident to the JSPCA, the JSPCA can do what is necessary to ensure that owners of cats in the area are aware and can keep a watchful eye on their cats wellbeing.

It is the view of the Panel that microchipping of cats would prove beneficial to improve the identification process of cats. However, the Panel understands that the purpose of the draft Regulations is to provide immediate medical attention for cats, in the first instance, and that should not be dependent upon the ability for a cat to be identified. Therefore, the Panel has recommended that mandating microchipping for cats should be considered, however, as a separate initiative to the draft Regulations.

The Panel is pleased that the Minister for Infrastructure has taken its concerns on board regarding the challenges for enforcing the draft Regulations and for lodging the Amendment to provide that no offence would be committed if the driver of the vehicle was not aware that a cat had been hit and had no reason to suspect that a cat had been hit. It is the Panel's view that the Minister's Amendment provides sensible changes to the draft Regulations considering the potential challenges around evidence gathering to secure a conviction. However, the Panel does still question the likelihood of viable cases being put forward for prosecution and, as a consequence, how effective the law will be in serving its purpose.

The Panel wishes to thank those who provided evidence to inform its review. In particular, Centenier Wright and the JSPCA for their submissions and the Comité des Chefs de Police and the Equal Rights for Cats Action Group for taking the time to meet with the Panel to discuss their concerns. The Panel is also appreciative of the advice received from the Attorney General and for the opportunity to liaise further with the

Minister for Infrastructure on the matter during the Panel's Quarterly Public Hearing. The Panel requests that the Minister for Infrastructure responds formally in writing to the Panel's recommendations outlined in this Comments paper by 29th October 2021.

In consideration of all the evidence and noting the involvement of the key stakeholders including the SoJP, the JSPCA and the States Vet in the drafting of the draft Regulations and their indicated support of the draft Regulations in their current form, the Panel is generally supportive of P.39/2021. However, given that the Panel considers that the draft Regulations are not without challenges and difficulties in relation to enforcement, the Panel is not unanimous in its support.