

Environment, Housing and Infrastructure Panel

Record of Meeting

Date: 28th July 2021

Present	Connétable Michael Jackson, Chair Connétable John Le Maistre, Vice-Chair Connétable Sadie Le Sueur-Rennard Deputy Steve Luce
Apologies	Deputy Graham Truscott Deputy Inna Gardiner
Absent	
In attendance	Deputy Jeremy Maçon Caroline Holmes, Equal Rights for Cats Action Group Christine Jackson, Equal Rights for Cats Action Group Athena Kallias, Equal Rights for Cats Action Group Sue Campbell Bisson, Equal Rights for Cats Action Group Nikita Hall, Committee and Panel Officer Monique Magalhaes, Research and Project Officer
Agenda Matter	Action
<p>1. Meeting: Equal Rights for Cats Action Group – Draft Road Traffic (No.68) (Jersey) (Regulations) 202- [P.39/2021]</p> <p>The Panel met with Deputy Maçon and representatives from the Equal Rights for Cats Action Group (hereafter ‘the group’) to discuss P.39/2021. Deputy Maçon and the members of the group introduced themselves. Deputy Maçon noted that he was attending in the capacity of a supportive States Member to the group.</p> <p>Christine Jackson, a member of the group, provided a brief summary on the group’s background. She informed the Panel that Sandra Jasmins, founder of the group, was unable to attend the meeting, however, had requested the group to represent her during the meeting. It was explained that the group’s members were unanimous in their commitment to the group’s campaign and its purpose. Christine noted that Sandra had founded the campaign six years prior after an unidentified person had knocked over her cat. It was explained that as a result her cat was badly injured and needed significant treatment resulting in her losing an eye and needing repair work to her jaw.</p> <p>Christine provided an outline of the group’s campaign and platforms. The Panel was informed that the group operated a Facebook group (Equal R4 Cats). In addition, had undertaken campaigning initiatives, including through physical campaigns in St. Helier as well as through social media, television, radio, newspapers, interviews and through the sale of merchandise (t-shirts).</p> <p>Christine informed the Panel that the group had set up a written and online petition which had gained in excess of 3000 and 5000 signatures respectively. It was noted, as a result, that the States Assembly had voted unanimously in favour of the draft Law.</p>	

28.07.2021

Christine noted that the provision in respect of Jersey's Highway Code was inadequate even with the 2018 changes that had been made. It was the view of the group that the changes had not improved the situation for cats.

Christine highlighted that the draft Law's purpose was not to impart blame on drivers for road traffic accidents (RTAs) involving cats, but for failing to report RTAs and thereby depriving cats of urgent medical attention and families of closure. It was emphasised that the priority was the animal's welfare. She explained, should the draft Law be approved 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.

Christine informed the Panel that the group had not noticed an increase in drivers reporting RTAs, however, had noticed success in the treatment of cats in cases where RTAs had been reported. The group provided the Panel with a couple of examples regarding the above.

Sue Campbell Bisson, member of the group, informed the Panel that she was responsible for the missing cats album which had been in place for the past 6 years. She highlighted that since the start of 2021 to date that 13 cats had been killed in RTAs and had gone unreported. She noted that it was a common occurrence and that the group were not made aware of all the incidences.

Athena Kallias, member of the group, informed the Panel that her cat had been a victim of an RTA that was not reported, and that the incident had affected her significantly. She explained that her cat was a part of her family and she was devastated when her cat was killed. She highlighted that she required medical treatment for three days to help her during that traumatic time. She emphasised that was the reason she was passionate about helping owners to find their cats.

Caroline Holmes, member of the group, introduced herself and noted that although she was now retired from the legal profession, she had decades of experience in the field. She informed the Panel that she would be making her comments in her personal capacity but with her experience of the law. Caroline provided her views on the comments made by the Comité Des Chefs De Police and on Centenier Wright's submission regarding the draft Law. Caroline Holmes highlighted her own comments and views as follows:

- *The starting point for considering both the comments of Centenier Bougeard and Centenier Wright would be that the States had unanimously approved Proposition P.30/2019, and then had unanimously approved the principles of the draft regulations after debate on 9th June 2021. Accordingly, it was and is the unanimous position of the members of the States that, in principle, the law should be changed to make statutory provision for what should occur in the event of a road traffic accident involving a cat.*
- *It was pertinent to note that the regulations were drafted after consultation with the States of Jersey Police (SoJP), the Jersey Society for the Prevention of Cruelty to Animals (JSPCA), and the States vet. In the minutes of the Quarterly Public Hearing before the Scrutiny Panel on 6th July 2021 it was stated by the Director of Transport, Infrastructure, Housing and Environment that: **"we spoke to the police, the States Vet and the Jersey Society of the Prevention of Cruelty to Animals and we drafted the legislation in***

conjunction with them. They indicated to us that they were satisfied.”

- *There was a suggestion in the minutes of the meeting with Centenier Bougeard that the Comité des Chefs de Police had felt that the draft law was excessive, and that a more sensible approach would be a public awareness campaign to raise awareness around such incidents and to encourage people to report them. As was highlighted in both the Report to the Draft Regulations and in the minutes of the Quarterly Public Hearing, the draft 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 voluntary/advisory procedure was insufficient. There had and continued to be many instances of drivers hitting cats and driving off without informing the JSPCA.*
- *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.*
- *It was also of interest to note the evidence of the Director of Transport, Infrastructure, Housing and Environment at the Quarterly Meeting where he said: **“The issue that arises, you are right, is how it is enforced. It is enforced where someone sees a vehicle hitting a cat and that driver does not stop or it came to light that driver has not stopped to report the incident. That is when the law comes into effect.”***
- *As to Centenier Wright’s submission, she was wrong in certain respects. The starting point would be that the law draftsman had an understanding of the law, as did the SoJP, and the regulations were drafted in conjunction with them and they were satisfied with them.*
- *Centenier Wright made much of the difficulty in ascertaining what would constitute reasonable belief and reasonable excuse. However, these terms were frequently used in both criminal law and civil law and were terms which lawyers and the SoJP would be well used to. Indeed, Article 29 of the Road Traffic (Jersey) Law 1956 (i.e. the same law which these regulations related to and which related to breath tests) referred to ‘reasonable cause to suspect’, ‘reasonable cause to believe’ and ‘without reasonable excuse’.*

Reasonable cause would impart an objective test, which was a test which would be well understood by the SoJP. In any event, as Centenier Bougeard highlighted, the lead in dealing with any investigation would be the SoJP.

- *Centenier Wright stated: “A52(4) continues: ‘the cat has been struck owing to the presence of the vehicle on a road’ So, the cat does not have to have been struck by the driver of this vehicle. It might have caused another to swerve, it might have been going slowly or giving right of way, and another overtook, it might have been stopped and another (even potentially not a motor vehicle) passed it and hit the cat, but it could be deemed that the driver is somehow at fault.” That was a misinterpretation of the regulation. The reference to the presence of the vehicle on the road would refer back to the beginning of that subparagraph where it said, ‘if a driver of a motor vehicle.’ ‘If a driver of a motor vehicle reasonably believes that a cat has been struck owing to the presence of the vehicle on the road…….’ So, it was one and the same motor vehicle.*
- *Centenier Wright stated: “‘a) Stop the vehicle as soon as it is safe or reasonably practical to do so’ As soon as safe is easy to define. But ‘Or reasonably practical?- is that when the businessman gets to town? The mother has done the school run? The driver is safely home? Who is to decide what is reasonably practical? What is the test to be- remember that a principal of law is that it should be clear!” Once again, reasonableness was a concept well known in law, and would import an objective test. There was no need to get into the head of the accused. One would look at all the facts and the surrounding evidence.*
- *Centenier Wright stated: “Finally, A52 is one which cannot be dealt with at the Parish Hall summarily, despite what it says in the Report para 8.” Regulation 3 amends Schedule 3 of the 1956 law: that schedule sets out those offences in respect of which there was no power to levy fines summarily (i.e. at Parish Hall level.) At the moment the entirety of Article 52 was included in that list. The draft regulations would amend it so that only Article 52 (1) and (3) would be listed, meaning that an offence under Article 52 (4) could be dealt with summarily; at Parish Hall level.*

The Panel asked for the group’s collective view on whether cats should be microchipped by mandate. It was the group’s unanimous view that cats should be microchipped for identification purposes, however, the group emphasised that microchipping and the requirement to report an RTA were two separate issues. The group highlighted that the purpose of the draft law 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.

The group explained that the purpose of the draft law was to provide immediate medical care for a cat that required it and that the identification of the cat could take place later down the line. 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 Panel emphasised its understanding of the trauma in respect of losing a pet to an RTA. 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; that is why there was a reasonability test in the law.

Deputy Maçon suggested the Panel could consider the available statistics for RTAs through the JSPCA and Parish Halls.

The group emphasised that the draft law should not be derailed through the suggestion of mandating for the microchipping of cats.

The Panel questioned whether the draft law 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.

Noting that the JSPCA would be the recipient of the report of an RTA, the Panel asked whether the JSPCA had sufficient resources to deal with its role as proposed within the regulations. It was the group's view that the JSPCA had the required resources and within their budget. Deputy Maçon noted that the JSPCA was the primary contact, however, that an alternative reporting option could be used, including reporting the incident to a vet or the SoJP.

Regarding microchipping, the group questioned whether dogs were required by law to be microchipped. It was the Panel's assumption that they were not, however, that responsible owners would choose to have their dogs microchipped.

Noting that it was the responsibility of a dog owner to keep a dog indoors at night and under the owner's control, the Panel asked for the group's view on whether cats should be kept indoors at night. 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. However, that some cats would be stressed if they were kept indoors. 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 brackets as dogs according to the Law.

The Panel 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.

The Panel asked whether statistics had demonstrated any hotspots for RTAs involving cats in Jersey. It was noted that Rouge Bouillon and the main roads, in particular, had higher incidences of RTAs. The group explained that in the centre of town RTAs appeared to be less as motor vehicles would drive more slowly in that area.

The Panel highlighted that the Comité Des Chefs De Police had informed the Panel that a prosecution in respect of an unreported RTA involving a dog was not heard of and, therefore, questioned whether the regulations would provide the results that the group was hoping it would achieve. The group explained that the regulations would

ensure that the incidents involving cats would be taken seriously as they were in respect of dogs.

The Panel asked the group where it had obtained its statistical data from regarding RTAs involving cats. It was noted that the statistics had been obtained from the group's social media communications.

The group noted that similar legislation was being considered in other jurisdictions, as well as in the UK. Christine was asked to send through her research into the law/absence of law in other jurisdictions.

The Panel thanked Deputy Maçon and the members of the Equal Rights for Cat Action Group for their time, and the meeting ended.