



House of Commons

Environment, Food and Rural
Affairs Committee

Controlling dangerous dogs: Government Response to the Committee's Ninth Report

**Fifteenth Special Report of Session
2017–19**

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The Environment, Food and Rural Affairs Committee

The Environment, Food and Rural Affairs Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Environment, Food and Rural Affairs and associated public bodies.

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Contacts

All correspondence should be addressed to the Clerk of the Environment, Food and Rural Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 7341; the Committee's email address is efracom@parliament.uk.

Fifteenth Special Report

The Environment, Food and Rural Affairs Committee published its Ninth Report of Session 2017–19, *Controlling dangerous dogs* (HC 1040), on 17 October 2018. The Government response was received on 11 January 2019 and is appended to this report.

Appendix: Government Response

Introduction

1. The Government welcomes the Environment, Food and Rural Affairs Committee's (EFRA) Report on Controlling Dangerous Dogs. We note this review follows the EFRA Committee's comprehensive Report on Dog Control and Welfare published in 2013 and the wider review of companion animal welfare in 2016. This reflects a keen interest of the Committee and Parliament more widely in animal welfare which is shared by the Government.

2. The Dangerous Dogs Act 1991 is the principal law in relation to the control of dangerous dogs with the aim of protecting public safety. It has two main strands. First, it prohibits ownership of four types of fighting dogs: the pit bull terrier; the Japanese Tosa; the Dogo Argentino and the Fila Brasileiro. This is consistent with the overall aim of the law to see a reduction and eventual elimination of the ownership of prohibited dogs in the UK. Secondly, it makes it an offence to allow any dog to be dangerously out of control. This is the principal provision that deals with dog attacks and is separate from the prohibition on specific types of fighting dogs. The Act is supplemented by a Statutory Instrument¹ which sets out the rules for people to be allowed to keep prohibited dogs. These rules are applied by the Court. Where the Court decides that a person may keep a prohibited type dog, the dog needs to be registered with the Index of Exempted Dogs and conditions that apply to its ownership and keeping, e.g. the dog must be kept on a leash and muzzled in public.

3. The law on dangerous dogs was revised by the Government as recently as 2015² which resulted in several improvements to the legislation. These changes included extending the offence of owning or being the person for the time being in charge of a dog which is dangerously out of control to all places and an increase in maximum penalties for dog attacks from 2 years to 14 years in the case of a fatality and to 5 years in the case of injury to a person. Additional protection was also given to assistance dogs. In 2014 new powers for police and local authorities to combat anti-social behaviour, including such behaviour involving dogs, were also introduced.

1 The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 (SI 2015/138).

2 For example, the Anti-social Behaviour, Crime and Policing Act 2014, sections 106(1), 2(e) and s 107(1), and the Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 (SI 2015/138).

Government Response to Recommendations

Review of effectiveness of Dangerous Dogs Act 1991

Recommendation 1

To ensure the public receives the best possible protection, the Government should commission an independent review of the effectiveness of the Dangerous Dogs Act 1991 and wider dog control legislation. This review should begin no later than January 2019. We expect this review to take account of the concerns and recommendations raised throughout this Report. (Paragraph 23)

Recommendation 2

Defra should commission a comprehensive independent evidence review into the factors behind canine aggression, the determinants of risk, and whether the banned breeds pose an inherently greater threat. We expect to receive regular progress updates on the evidence review, and to be provided with the results no later than Easter 2019. These results must then be used to inform the Government's future dog control strategy. (Paragraph 34)

4. In 2014 the Dangerous Dogs Act 1991 (DDA) was amended. This resulted in several changes, such as extending the main offence of owning or being the person for the time being in charge of a dog which is dangerously out of control to all places including in the dog owner's home; increasing the maximum penalties for dog attacks; and providing protection for assistance dogs.

5. At the same time the Government also introduced new anti-social behaviour measures which allow the police and local authorities to intervene in low level nuisance incidents before dogs become dangerous. This was specifically in response to requests to introduce preventative measures to tackle minor incidents involving dogs.

6. These changes reflected stakeholder views as well as the EFRA Committee's recommendations in its 2013 Report on Dog Control and Welfare. Comprehensive guidance was issued to the police and local authorities on practical ways to use these powers to tackle dog control issues.

7. In 2017 Defra reviewed the way the police and local authorities have used the powers available to them in legislation, including the most recent provisions, to tackle dog control and welfare issues. This resulted in further Defra guidance for these enforcement authorities emphasising their respective responsibilities and encouraging the use of good practice such as application of the LEAD initiative (Local Environmental Awareness on Dogs).

8. In November 2018, Defra commissioned further research in collaboration with Middlesex University to look at the following:

- (a) Assess the effectiveness of current dog control measures including the use of the powers provided to police and local authorities in 2014.
- (b) Identify and examine the factors and situations that may cause dog attacks, including whether any particular types of situation or domestic setting influence

dog aggression and dog attacks; how behavioural problems among dogs might best be addressed; and how policy might need to develop to deal with dog behavioural problems.

- (c) How to promote responsible dog ownership and, in particular, identify the help and information needed for dog owners who have experienced dog control issues or who are vulnerable to these (this includes evaluation of risk factors).

9. We will be pleased to update EFRA on the progress of this research which we expect will be published later this year.

Recommendation 3

If the Government feels the ban is a valuable tool in reducing numbers of dangerous dogs, it must clarify why other dogs which can be just as dangerous should not be prohibited. We recommend that such a statement be provided. (Paragraph 39)

10. The Government is concerned about any dog that is not under control and that poses a threat to public safety.

11. Section 1 of the DDA allows the Secretary of State to impose restrictions (as set out in that section) on any breed or type of dog which is either considered bred for fighting purposes or that shares the characteristics of dogs bred for fighting purposes. Section 2 of the DDA allows the Secretary of State to impose restrictions on other types of dog if it appears they present a serious danger to the public.

12. The Government does not consider that restrictions under the DDA should be applied to other types of dogs in addition to the four prohibited types.

13. Whilst any dog is capable of causing harm and even death to a person, the available evidence shows that prohibited type dogs (such as the pit bull terrier) which are moved illicitly are involved in a disproportionately high number of attacks on people, including fatalities. If anyone considers they have evidence that any other particular breed or type of dog should be subject to restrictions under the DDA, we will of course consider this evidence. At this stage the Government does not consider that additional restrictions, over and above the existing offence of allowing a dog to be dangerously out of control, should be placed on other types of dogs.

Extend transfer of exempted dogs to rehoming centres

Recommendation 4

To avoid imposing an unnecessary death sentence on good-tempered animals, the Government should remove the ban on transferring Section 1 dogs to new owners. This should be accompanied by adequate regulation of animal centres and appropriate safeguards to ensure the re-homing of Section 1 dogs is conducted responsibly and safely. (Paragraph 51)

14. The DDA makes it an offence for a person to have any of four types of fighting dog in their possession - namely the pit bull terrier, Japanese Tosa, Dogo Argentino and Fila

Braziliero.³ It is also an offence to breed from, sell, exchange, gift or abandon such a dog or to allow it to be in a public place without it being muzzled and kept on a lead, amongst other conditions.

15. The Government notes and agrees with the EFRA Committee's comment⁴ that it would be irresponsible to amend the breed ban immediately without adequate safeguards. The Government considers that the prohibition on possession of such dogs should remain in place for reasons of maintaining public safety.

16. Whilst it is an offence to possess any of the four types of prohibited dog, the DDA, as amended in 1997, provides for the Court to allow a person to keep such a dog under strict conditions. The Court will determine if the dog poses a danger to public safety, taking into account the temperament of the dog. The Court must also consider whether the person who wishes to keep the dog is a "fit and proper person" to be in charge of the dog, as well as considering the setting where the dog is kept.

17. As of 2018, there were 3,530 prohibited dogs on the Index of Exempted Dogs which must be kept under strict conditions to protect public safety. These dogs break down into the following types: 3,514 pit bull terriers, 3 Japanese Tosas, 13 Dogo Argentinos and 0 (zero) Fila Brazilieros. These dogs represent approximately 0.04% of the total UK dog population.⁵

18. Being responsible for a prohibited dog is a significant undertaking and the law expects the person in charge of the dog not to pass that responsibility onto someone else. It is an offence under the DDA to sell, exchange or gift a prohibited dog, or make an offer to do so, which, for example, prevents the passing of fighting dogs between gang members.

19. The law was further clarified by a recent case (*Webb v Chief Constable of Avon and Somerset Constabulary (Secretary of State for Food Environment and Rural Affairs intervening)* [2017] EWHC 3311 (Admin)). In *Webb* the owner of a pit bull terrier type dog emigrated to Australia and left the dog in kennels. The case confirmed that only the owner of a prohibited dog or "the person for the time being in charge" of it may apply to the Court to permit them to retain possession of a prohibited dog.

20. *Webb* also clarified that "the person for the time being in charge" of the dog can include someone who has had previous contact with the dog. The case also confirmed that prohibited dogs with no owner, such as stray pit bulls, cannot be transferred or rehomed to a new person, even if they have been the "person for the time being in charge" of it under any circumstances. Primary legislation would need to be amended to allow this.

21. Therefore, the law allows the Court to transfer a prohibited dog only where: (a) the original owner has died or is seriously unwell and unable to properly care for the dog; or (b) where there is an existing owner and also another person for the time being in charge of the dog, who the dog could be transferred to if the Court agrees. For a person to be the person for the time being in charge of a prohibited dog they must have had some contact with the dog. In this group of cases, possession is not seen to be transferred in a strict

3 There are exceptions to this offence where the dog is in the possession of a person in pursuance of the power of seizure conferred by the DDA or in accordance with an order for its destruction, see section 1(3) of the DDA. This is discussed further below.

4 Summary section, page 3, paragraph 2

5 Based on a total dog population of 8.5 million

sense, rather the exemption order recognises that there were two people responsible for the dog at the same time and both can apply to the Court to retain possession of that dog. The law does not allow prohibited dogs to be transferred to a person who has had no previous contact with the dog. But a dog already on the Dangerous Dogs Index (DDI), which would have satisfied the Court about its level of risk when it was initially put on the DDI, and which is then abandoned and subsequently walked by a person at a rescue centre, could then be rehomed if the Court approves that person as the new keeper and approves where the dog is being kept. This ability to rehome a prohibited dog has been established in a number of court cases and Defra is not seeking to reopen or challenge these court rulings.

22. Any proposals to amend the law here, for example to allow prohibited dogs which have no previous court approved owner to be rehomed, or to transfer a prohibited dog to people who have had no contact with the dog, would require an amendment to the DDA and the supporting secondary legislation. The Government does not consider that it is a priority to amend legislation at this time. We would also need to consider the implications for public safety and the increased burden on the Courts before any legislative change could be made, as well as the implications for rescue and rehoming centres themselves.

23. In relation to rescue and rehoming centres, the Government recently invited comments from the public and stakeholders on the issue of licensing such establishments in connection with a possible ban on the third party selling of puppies and kittens. The Government considers that, should a decision in future be made to amend the DDA around rehoming prohibited dogs, licensing would be a necessary prerequisite before considering whether such establishments could have a formal role in any rehoming.

Childhood education plan

Recommendation 5

Defra should commission a childhood education plan from experts and charities to determine the most effective education measures and how these could be implemented consistently across the country. The Department should then support the roll-out of this plan. (Paragraph 57)

24. The Government will develop a plan of action with stakeholders on the most effective way to reach children across the country in order to make them aware of dog safety.

Recommendation 6

Defra should introduce a targeted awareness campaign to inform dog owners and the general public about responsible ownership and safe interactions. Defra should further develop proposals to help local enforcement bodies increase engagement among hard to reach demographics. This should involve a thorough assessment of the merits of mandatory third party liability insurance and training classes for dog owners. (Paragraph 63)

25. The Government agrees that the key to reducing the number of out of control dogs is to improve responsible dog ownership. The research project that Defra has commissioned will consider and advise on these issues and Defra will work with key stakeholders on how best to take this work forward.

26. The Government has some concerns about requiring compulsory insurance of all dogs. The additional annual costs may deter some people from keeping their dogs, potentially leading to unintended consequences such as abandonment and subsequent pressures on rescue and rehoming centres. Previous consideration of compulsory insurance met with very strong opposition from the insurance industry. The industry doubted whether people with aggressive dogs would comply and were concerned about who would cover incidents involving uninsured dogs. It is also unclear whether the act of taking out insurance would lead to more lax ownership (the “moral hazard” aspect of insurance). We do not consider that the case has been made for insurance to be a necessary requirement.

Standards for trainers

Recommendation 7

As part of the review we have called for, the Government should investigate the impact of poor dog training practices in the private industry, and the merits of stricter regulations to ensure all trainers are properly accredited according to a standardised framework. (Paragraph 64)

27. The Government agrees that dog training quality can be variable and that bad practices can have a detrimental effect on the long term welfare of some dogs. The Government has announced a ban on the use of remote electronic training collars on dogs and cats in England, recognising that these devices can be misused in lieu of appropriate training practices.

28. Whilst the Government does not consider that it is in the best position to regulate dog trainers, we support dog trainers or dog training representative groups agreeing a set of standards and applying for accreditation by the United Kingdom Accreditation Service (UKAS), which is the *sole* national accreditation body for the United Kingdom. UKAS is independent of, but recognised by, the Government to assess against internationally agreed standards.

Resources for collaborative dog control

Recommendation 8

The Government should commit more resources to supporting collaborative dog control initiatives, and facilitate the upscaling of successful pilot projects across the country. Initially it would seem sensible to concentrate resources in areas with the highest rates of dog attacks. (Paragraph 71)

29. The Government will consider this recommendation in the light of the findings of the research project commissioned to assess the effectiveness of current dog control measures including the take up of new powers provided to the police and local authorities and the effectiveness of their use.

Central database for dog bites

Recommendation 9

Defra should engage with the relevant Departments, local authorities and police forces to ensure local staff record all incidents appropriately. We further recommend that the Government introduces a centralised database to record information on dog bites, level of severity, and the circumstances of the incident. This is key to improving understanding of the most effective ways to protect the public. (Paragraph 72)

30. The Government agrees that it would help planning and policy-making to have access to better data and information on dog attacks. The Metropolitan Police Service has set up a system for collecting such data including on the type of incident and the dog or dogs involved. The Government is keen to explore with the National Police Chiefs' Council and other police forces how such data can be collected more widely to give an accurate national picture.

Speed up court cases

Recommendation 10

Defra should work with the Home Office and Ministry of Justice to develop proposals for speeding up Section 1 case processing times. This could involve encouraging framework agreements between local courts and enforcement bodies to ensure cases are heard within pre-agreed timescales. The Government should also review the use of the Interim Exemption Scheme across the country and issue targeted guidance to forces that are not employing it consistently. We further recommend that Defra engages with the Ministry of Justice to ensure sentencing guidelines are being properly observed and that consistently robust sanctions are being applied across the country. (Paragraph 77)

31. The Government agrees that dogs should not spend long periods in kennels, and this must be balanced with the threat to public safety posed by the dog. Where the relevant Chief Officer of Police is satisfied about the dog's temperament, and suitability of owner, a seized suspected prohibited dog can be released back to the owner whilst the Court case is waiting to be heard. This provision exists to prevent dogs remaining in kennels whilst a court date is awaited.

32. In London, cases relating to dangerous dogs are now heard at a single magistrates' court which we understand has helped to reduce the time taken for cases to be dealt with. The Court itself and the supporting staff are now experienced at dealing with dog-related cases and the law around dangerous dogs. We will work with the Ministry of Justice to establish whether this model can be rolled out to other parts of the country.

33. The Sentencing Guidelines are produced for courts by the independent Sentencing Council. Courts, which are themselves independent, must follow the guidelines unless it is in the interests of justice not to do so. This is required by section 125(1) of the Coroners and Justice Act 2009. Published remarks on sentencing by courts often include reference to the guidelines. The Ministry of Justice collects data on all of the types of outcomes of Dangerous Dogs Act cases. Defra will engage with the Ministry of Justice on how to ensure that the sentencing guidelines are being observed properly.

Livestock attacks

Recommendation 11

Defra should work closely with the National Police Chiefs' Council to support closer collaboration across rural police forces, and encourage robust action to be taken against the owners of dogs involved in livestock worrying. (Paragraph 81)

34. Defra is represented on the National Police Chiefs' Council Livestock Working Group which is looking at ways to reduce livestock attacks. Defra explained to the group that section 3 of the DDA (allowing a dog to be dangerously out of control) applies to instances of livestock attacks without a person being present.

35. Previously many had thought that a person needed to be in fear of being attacked in order for a dog attack on another animal to be covered by section 3 of the DDA. However, in 2008, a Court of Appeal judgment specifically pointed out that the definition of "dangerously out of control" in section 10 of the DDA is not exclusive and made clear that the ordinary meaning of the words in section 3 of the Act should be applied to any given circumstances. The case in question was *R v Gedminintaite* [2008] EWCA Crim 814. Specifically, the Court said:

"We are inclined to go further [than existing case law on the issue]. In any event the definitions section, section 10, is not exclusive. It does not read as a matter of construction, "For the purposes of this Act, a dog shall only be regarded as dangerously out of control" and then proceed to the definition. Therefore we feel ourselves entitled to go back to the straightforward words of section 3: "If a dog is dangerously out of control in a public place"

36. The details of this particular case law and its consequences for livestock attacks have been shared with the National Police Chiefs' Council and all police forces, and the Crown Prosecution Service has endorsed this interpretation. This should encourage robust action to be taken against the owner of the dogs involved in livestock attacks. In addition the Government will continue to work with stakeholders, including the police, to ensure that powers and measures are used against owners of dogs involved in livestock attacks and to raise awareness of this.

Community Protection Notices (CPNs)

Recommendation 12

We recommend that the Government reviews the use of CPNs across the country, and issues targeted guidance to authorities that are not using them effectively. A centralised system for tracking CPNs must also be developed to ensure authorities have access to an individual's case history. (Paragraph 86).

Recommendation 13

We urge the Government to introduce specific Dog Control Notices, which would support more targeted early intervention. This must be accompanied by commensurate resource increases to ensure that officers receive the necessary training on dog behaviour. (Paragraph 87)

37. The research commissioned by Defra will look at the use of CPNs by local authorities and explore whether more use could be made of them. We may then consider what related reforms might be pursued in relation to local notices. CPNs remain an effective tool for local authorities to use in relation to low level instances of anti-social behaviour. According to recent research⁶ in a sample of 73 local authorities, the single biggest category for issuing a CPN (29%) to young persons was for animal related reasons and of those, most were dog related. Defra will explore with the Home Office and the police what scope there is to have a centralised database of CPNs that have been issued. Defra will encourage training for local authority officers and for police officers on dog related issues to be properly resourced.

Dog awareness training

Recommendation 14

The Government should introduce regulations requiring dog owners involved in low- to mid-level offences to attend a compulsory dog awareness and training course, similar to speed awareness courses for drivers. (Paragraph 89)

38. The Government agrees that many owners and their dogs would benefit from attending good quality and effective dog awareness and training courses. The law already allows for this. The police, local authorities and social landlords have powers to issue CPNs under the Anti-social Behaviour, Crime and Policing Act 2014 to require dog owners, for example, to attend dog awareness and training courses. The police can and do also use non-statutory acceptable behaviour agreements that can include a commitment from the dog owner to attend dog training classes. Detailed guidance for these enforcement authorities has been issued by Defra including on which organisations to go to for advice on such training courses.

Consolidation of legislation

Recommendation 15

The Government should consolidate the disparate pieces of legislation into a single coherent Dog Control Act. We expect proposals for this Act to be introduced following the conclusion of the Government review we have called for. (Paragraph 92)

39. The Government accepts that there are presentational benefits from bringing together various pieces of legislation dealing with the control of dogs. Simple consolidation of the legislation would not necessarily result in improvements to it because bringing together different pieces of legislation into one statute does not in itself introduce changes to legal powers and provisions. Primarily the key pieces of legislation are:

- (a) the DDA, covering dog attacks and prohibited dogs;
- (b) the Anti-social Behaviour Crime & Policing Act 2014 which provides powers to tackle more minor incidents and help prevent more serious dog attacks;

6 Anti-social Behaviour Powers and Young Adults – The Data, Helen Mills and Matt Ford, Centre for Crime and Justice Studies, July 2018 <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/YASE%20briefing%201%2017-07-2018.pdf>

- (c) the Dogs Act 1871 which is a simple civil measure to tackle incidents when dogs are not under control and a criminal prosecution is not considered necessary;
- (d) the Dangerous Dogs Exemption Schemes (England and Wales) Order 2015;
- (e) the Animals Act 1971, which makes provision in relation to civil liability for damage done by animals and the protection of livestock from dogs; and
- (f) the Dogs (Protection of Livestock) Act 1953, which provides specific sanctions for persons whose dogs worry livestock on agricultural land.

40. In addition to legislation there are initiatives that some forces use such as the Local Environmental Awareness on Dogs (LEAD). This is being used by the London Borough of Sutton, the Metropolitan Police Service and by a number of other local authorities. Such initiatives together with guidance notes issued by Defra to the police and local authorities cannot be consolidated with legislation but nevertheless help enforcement agencies tackle the irresponsible ownership of dogs. Defra's guidance notes also set out the powers available to enforcement agencies.

Overseas legislation on dangerous dogs

Recommendation 16

In line with Lord Gardiner's support for learning lessons from abroad, the Department should engage with foreign governments, local authorities and police forces to develop a deeper understanding of different dog control models and successful approaches that could be used in the UK. (Paragraph 96)

41. Defra will study other countries' legislation and practices, to consider what measures or controls could usefully be adopted here.