

Title: Extending Dangerous Dogs Act to Private Property (England and Wales) Annex C IA No: DEFRA1412 Lead department or agency: Defra Other departments or agencies:	Impact Assessment (IA)		
	Date: 25/03/2013		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Phil Alder 020 7238 5948			

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£-6.190m	£0m	£0m	No NA

What is the problem under consideration? Why is government intervention necessary?

Not all dog owners take full responsibility for the impacts their dogs have on society. A considerable number of dog attacks occur on private property belonging to the owner, many of which result in serious injury or even death. Whilst the law makes it an offence to allow a dog to be dangerously out of control in a public place (or a place it has no right to be), with a maximum penalty of a fine and/or 2 years imprisonment, it is not a criminal offence if the incident takes place on the private property belonging to the owner of the dog. Existing law in this area is not considered adequate - ie it is left to civil law where the maximum penalty is a fine of £1,000 for what can be a life threatening incident.

What are the policy objectives and the intended effects?

Increasing the prevalence of responsible dog ownership by increasing the legal sanctions imposed on dog attacks on private property. Along with other measures, this greater penalty will help increase responsible dog ownership. This would have the effect of making it safer for visitors or family members, particularly children as well as those people who occasionally need access to private property as part of their work (eg postal workers, social workers, nurses, utility workers, emergency workers, etc). It also provides greater justice equivalent to that which applies to dog attacks in public places.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 - Do nothing and rely on existing civil law to encourage more responsible ownership.
 Option 1 - Extend criminal law on dangerous dogs to private property of dog owner, including inside buildings such as dwellings.
 Option 2 - Extend criminal law on dangerous dogs to private property of dog owner, excluding inside buildings such as dwellings

No figures are available but there is no reason to believe fewer dog attacks occur inside the home to outside. The preferred option is Option 1 because many people have reasons to enter private dwellings on official business (eg police, social workers, utility workers, traders) as they do to enter the land surrounding the dwelling. In order to provide adequate protection and sufficient incentive for responsible ownership the criminal law needs to apply to all areas.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2016					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: n/a		Non-traded: n/a

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: de Manby Date: 2/5/13

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Summary: Analysis & Evidence

Policy Option 1

Description: Amend Section 3 of the Dangerous Dogs Act 1991 to cover private property including inside dwellings

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -11.900	High: -2.088	Best Estimate: -6.190

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		0.246	2.114
High		1.429	12.212
Best Estimate		0.728	6.269

Description and scale of key monetised costs by 'main affected groups'

There will be an increase in the number of prosecutions as the Act is amended to cover private property. Additional annual costs will accrue to the police (mainly for kennelling) (£0.468m), the Crown Prosecution Service (£0.029m), courts (£0.096m), and the prison and probation services (£0.092m). Legal aid will rise by £0.041m. (N.b. All the above figures have been rounded). There are no costs to business from this measure.

Other key non-monetised costs by 'main affected groups'

The costs of legal defence for those charged with an offence but later cleared in court have not been monetised.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		0.003	0.026
High		0.037	0.312
Best Estimate		0.009	0.079

Description and scale of key monetised benefits by 'main affected groups'

The Government will benefit from both victim surcharges and fines imposed on those convicted of an offence (see Annex 2).

Other key non-monetised benefits by 'main affected groups'

Owners become more responsible for their dogs leading to fewer attacks. This will lead to savings to the NHS in treating dog attack injuries, employers from lower work absence, lower human costs, pain, etc. and reduced loss of life. There will be clearer, consistent, and more comprehensive legislation which applies in all places, and better justice available. See Annex 1 for an estimate of these costs.

There may also be some savings in court costs if cases are heard in criminal rather than civil courts, but evidence is mixed.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Police and CPS devote same level of resources to each DDA case as they do currently. The main sensitivity is the increased number of prosecutions under the DDA, which would impact several areas of the CJS. Main risk is the failure to use DDA to prosecute these cases.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Amend Section 3 of the Dangerous Dogs Act to cover private property excluding inside dwellings

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -6.106	High: -1.057	Best Estimate: -3.134

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		0.123	1.057
High		0.714	6.106
Best Estimate		0.364	3.134

Description and scale of key monetised costs by 'main affected groups'

There will be an increase in the number of prosecutions as the Act is amended to cover private property. Additional costs will accrue to the police (mainly for kennelling), the Crown Prosecution Service, courts and the prison and probation services. The increase in prosecutions will be approximately half the level that occurs under option 1 as approximately half of the attacks that occur on private property are assumed to occur outside of buildings. There are no costs to business from this measure.

Other key non-monetised costs by 'main affected groups'

Costs associated with confusion over exactly where the law applied (i.e. would inside the home include certain buildings like garages, offices, etc). The costs of legal defence for those charged with an offence but later cleared in court have not been monetised.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		0.002	0.013
High		0.018	0.156
Best Estimate		0.005	0.039

Description and scale of key monetised benefits by 'main affected groups'

The Government will benefit from both victim surcharges and fines imposed on those convicted of an offence (see Annex 2).

Other key non-monetised benefits by 'main affected groups'

Owners may be more responsible for animals leading to fewer dog attacks. This will lead to some savings to the NHS in treating dog attack injuries, employers from lower work absence, lower human costs, grief, etc. and reduced loss of life, but only as far as dog attacks occurring outside the home. The benefits are therefore not as great as if the law is applied to all property (option 1). There may also be some (reduced) savings in court costs if cases are heard in criminal rather than civil courts, but evidence is mixed.

Key assumptions/sensitivities/risks

Discount rate (%)

Half of all dog attacks on private property occur inside home. Police and CPS devote same level of resources to each DDA case as they do currently. The main sensitivity is the increased number of prosecutions under the DDA, which would impact several areas of the CJS. Main risk is the failure to use DDA to prosecute these cases.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0		

Evidence Base

Introduction

This particular proposal (to extend the criminal offence in the Dangerous Dogs Act 1991 – DDA - of allowing a dog to be dangerously out of control to all places) is part of a package of measures proposed by the Government as a way of reducing dog attacks, making owners more responsible for their dogs as well as reducing the cost of enforcing the law on dangerous dogs. The other proposals that will impact on businesses, courts, police and others are: (i) compulsory microchipping of dogs; and (ii) removing the need for the police to have seize and kennel all suspected prohibited type dogs. The reference numbers for the above impact assessments are (i) DEFRA1372; and (ii) DEFRA1373.

In addition, the Government has also agreed to make funding available for evaluating local community initiatives to foster responsible dog ownership and setting up a network to ensure sharing of best practice between police officers responsible for dangerous dog work. We are also proposing to increase the fee for placing a prohibited type dog on the Index of Exempted Dogs to reflect the increase in administrative costs, since 1997 when the fee was last increased, from £20+VAT to £77+VAT. This will reduce the costs of public money on administering the Index. The reference number for the impact assessment for this proposal is DEFRA1255.

The Home Office is also streamlining its anti-social behaviour toolkit from 19 measures down to 6. The new measures will include tackling instances of anti-social behaviour where it involves a dog. The measures can therefore be applied to low level nuisance (e.g. dogs running loose and worrying people, dogs being used to intimidate people, constant barking) which will help prevent dogs becoming dangerous.

Problem Under Consideration

1. There have been a number of serious attacks by dogs on people that have resulted in serious injury or death. The main piece of legislation on dangerous dogs does not apply to private property where the dog has a right to be. The only other legislation that could be applied to accidental or non-deliberate attacks in such places are offences under the Offences Against The Person Act 1861 or the Dogs Act 1871 which is civil law.

2. The following are examples of serious attacks in the last few years that have taken place where the dog had a right to be:

- In December 2010, a 52 year old woman who was a lodger died in a dog attack in a home in Wallington, Surrey.
- In November 2009, a four-year-old boy was killed by a dog owned by his uncle in Wavertree, Liverpool.
- In February 2009, a three-and-a-half month old baby, from Mid Glamorgan, was fatally injured by the family's two dogs.
- In January 2008, a nine-year-old girl was attacked by a dog at a neighbour's house in Rotherham, South Yorkshire, leaving her badly scarred.
- In December 2007, a 13-month-old infant was killed by a dog at his grandparents' home in Wakefield, West Yorkshire.
- In January 2007, a three-year old was killed by a dog belonging to her uncle in his home.

3. Although there is no statistical data available we know correspondence from victims and their families and from reports in newspapers that a significant number of dog attacks occur on private property. Under existing legislation it is not a criminal offence if a dog is irresponsibly out of control on private property belonging to the owner of the dog, where the dog is permitted to be. Owners can only be prosecuted under civil law where the maximum penalty is a fine of £1,000 for what, in some cases, may be life threatening incidents. As a result some dog owners have little incentive to act responsibly within their own properties, which potentially leads to a higher number of dog attacks than would otherwise be the case if they were punished sufficiently for their actions. To extend the DDA to private property

requires a change to primary legislation. There are also around 100 attacks on assistance dogs (e.g. guide dogs for the blind) a year (figures provided by Guide Dogs). Owners become reliant on such dogs and so when an attack occurs it can have devastating consequences for the both dog and the owner, if the dog has to be retired as a result of the attack. Although the act of a dog attacking an assistance dog would not necessarily be excluded from the DDA, it does require that the owner was at least in fear of being attacked, which may be difficult to prove in the case of someone who is blind or partially sighted.

Rationale for Intervention

There is a huge inconsistency between the penalties available for the offence of allowing a dog to be dangerously out of control on public property or a non-public place¹, i.e. a private place, where the dog has no right to be and for the same incident that takes place on private property where the dog has a right to be e.g. the dog owner's property. Such inconsistency sends the wrong message about responsibility and justice. If an owner allows their dog to be dangerously out of control and attack someone they can be dealt with by the courts, thus providing the victim or victim's family with justice. However, the same incident that takes place on the property belonging to the dog owner will not result in a criminal prosecution. This for the victim, or their relatives, does not provide adequate justice and prompts a very obvious question as to why there is this difference. The reason the criminal offence was excluded from the dog owner's property was because it was considered that to include it would provide intruders with opportunity to prosecute dog owners whose dogs had bitten them in course of a criminal activity.

Consultation response

4. The Defra consultation on proposals to tackle irresponsible dog ownership asked the following questions: Q4. For what reasons do you think that the offence, under the dangerous Dogs Act 1991, of allowing a dog to be dangerously out of control, should: (a) be extended to include all places, including where the dog has a right to be (inside and outside the home); or (b) be extended to include places where the dog has a right to be but not inside the dog owner's home; or (c) remain as now (only applies to public places and places where the dog has no right to be). Responses showed that: 48% of respondents supported the extension of the criminal offence to all places (a); 22% supported the extension of the criminal offence to private property but not inside the dog owner's home (b); and 30% did not support extending the criminal offence to private property (c) (17,760 responses in all).

5. The main reason for supporting the option of extending the extension of the criminal law to all places was that owners should be responsible for their dogs at all times. The main reason for supporting the option of extending the criminal law to private property but not inside the home was that visitors should assess risk before entering the home. The main reason for not supporting any extension of the criminal offence was that all dogs need exercise and so it was wrong to impose restrictions on private property.

Decision on option

6. Following the analysis of the consultation responses the Government considers that Option 1 should be pursued i.e. that the criminal offence of allowing a dog to be dangerously out of control is extended to all places. Section 10(3) of the Dangerous Dogs Act 1991 (DDA) provides an interpretation of "dangerously out of control" as: "For the purposes of Act a dog shall be regarded as dangerously out of control on any occasion on which there are grounds for reasonable apprehension that it will injure any person, whether or not it actually does so."

7. We consider that dog owners should be responsible for their dogs at all times whether it is for their welfare, as required under the Animal Welfare Act 2006, or for their behaviour. All key stakeholders, including the police, RSPCA, Dogs Trust and The Kennel Club agree that the criminal offence should apply to all places including inside the dog owner's home. As set out in the consultation

¹ **Please note:** The terms "private" and "non-public" can be seen as equivalent, although the latter is used in the current Act. For ease of reference, we generally use "non-public place" to refer to private places where a dog has no right to be (places already covered by the Act) in this Impact Assessment and "private place" or "private property" to refer only to private places where the dog has a right to be.

impact assessment, some serious attacks on people have taken place on private property and very often inside the home. We therefore consider that the criminal offence should be extended to apply to all places, including inside the dog owner's home.

8. There was some concern from some respondees who were concerned that intruders could prosecute an owner of a dog if they were bitten in the course of committing a criminal offence. The law on people defending themselves or their property centres around using proportionate or reasonable force. A householder is not immune to prosecution if he attacks an intruder and so neither should they be, if their dog attacks an intruder. Clearly there needs to be a balance between situations where a dog acts in defence of its owner (or itself) and situations where the dog has become dangerously out of control. As with incidents involving people who defend themselves or their property, we would expect the prosecuting authorities to decide, with the assistance of explanatory notes, what action to take in cases where a dog has attacked someone. The law in Northern Ireland, in its application to private property, includes an exemption where a dog attacks someone during the course of committing a criminal offence. However, in Scotland the criminal offence was applied to all places without a specific exemption for dogs attacking intruders. We would not wish for a dog owner to be prosecuted if their dog acted in self defence or in defence of their owner and therefore consider that an exemption should be made so that the dog owner/householder is not prosecuted in such circumstances. The exemption would be similar to clause 30 of the Crime and Courts Bill currently before Parliament in that it would apply to inside, but not outside a dwelling. This is on the grounds that there is a greater expectation that the intruder is more likely to pose a threat inside the home than outside. We would also not wish children retrieving balls from gardens seen as malign intruders. Ultimately it would be for the courts to decide who was an intruder. Extending the criminal offence to private property not only provides consistency between incidents on public and private property relating to dogs but also in relation to the law on people defending themselves and their property.

Background

9. Section 3 of the DDA makes it a criminal offence for an owner to allow any dog to be dangerously out of control in a public place, or a private place where the dog is not permitted to be (the "criminal offence"). At present, the DDA does not apply to attacks committed on private property where a dog is permitted to be (e.g. the dog owner's property).

10. The total number of dog attacks on private property is not known for UK or England. The Commercial Workers Union estimates that there are 250,000 dog attacks every year in Great Britain and this estimate is supported by a report by Morgan and Palmer in the British Medical Journal (Vol. 334 Non 7590 February 2007) who state that *'every year 250,000 people who have been bitten by dogs attend minor injuries and emergency units in the United Kingdom.'* Given that around 85% of the UK population live in England and Wales, if we assume that the incidence of dog bites is proportional to the population this implies 210,000 attacks in England and Wales. It is unknown how many of these attacks take place on private property, but an assumption of 20-30% would imply 42-63k such cases. It should be noted that, partly because of this uncertainty, estimates of the overall numbers of dog attacks and the number of RIDDOR cases below are given here for contextual purposes only and are not used to estimate numbers of prosecutions / convictions for dog attacks that take place on private property.

11. The numbers of dog attacks and strikes requiring admission to hospital has been rising significantly, from 2,915 in 1997/98 to 5,827 in 2009/10, 6,118 in 2010/11 and around 6,400 in 2011/12. This trend may be due to an increase in dog numbers or in irresponsible or dangerous ownership of dogs. However, year on year data on the dog population or the total number of attacks is not collected, so we cannot investigate this.

A number of people who occasionally need access to private property as part of their work (egg postal workers, social workers, nurses, utility workers, emergency workers, etc) have been attacked by a dog on the owner's private property. The most recent available Royal Mail figures (from 2007-8) show that 70% of dog attacks on Royal Mail staff that year took place on private property. Figures provided by Royal Mail, BT and Parcel Force show that around 300 dog attacks a year are considered as RIDDOR reportable (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations – serious enough to be absent from work for at least two days). Applying the 70% figure of attacks on private property this suggests around 220 of these RIDDOR cases take place on private property. No detailed evidence of attacks on other workers, such as the police or social workers, is available. However, looking at HSE data on the

total number of incidents involving an animal, we might expect attacks on other workers to be around 80% of the 220 figure.

Furthermore, there have been a number of high profile serious attacks inside the home. In many of these cases the victims have been children who have either suffered serious injury or in some cases have even died: on average there are approximately 2 deaths per annum in England from dangerous dog attacks. Despite the potentially serious nature of the attacks, in all of the above fatal cases, none of the owners or people in temporary charge of the dogs at the time of the attacks could be prosecuted under the DDA for allowing a dog to be dangerously out of control because the incidents took place on private property where the dog had a right to be.

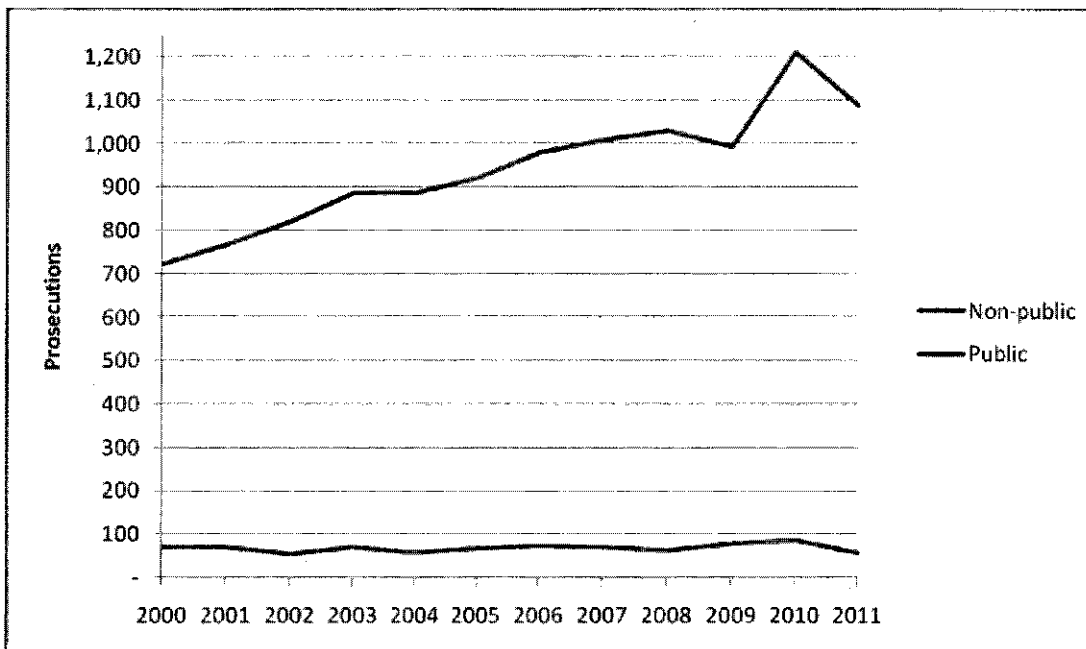
Estimation of additional cases brought before criminal courts

12. The offence, under section 3 of the DDA 1991, of allowing a dog to be dangerously out of control is divided into four types depending on the place and whether an injury is caused: (i) Public place – dog causes injury; (ii) Public place – dog does not cause injury; (iii) Non-public place – dog causes injury; and (iv) Non-public place – dog does not cause injury.

13. The proposal is to extend the offence to private property which will mean the DDA 1991 covers all places. We assume that dogs are more likely to attack in a public or non-public place than in a private place as they are more likely to encounter strangers in these places. Additionally, those attacked in private places are more likely to know the owner of the dog and therefore less likely to pursue a prosecution. However, dogs will spend far more time in private places than in non-public places. We might therefore expect the number of additional prosecutions to be similar in magnitude to the number of prosecutions under (iii) and (iv). On the other hand, we would expect the Royal Mail, BT and Parcel Force to encourage employees to pursue prosecutions in RIDDOR cases, given that they have been outspoken about dog attacks on their employees in the past and the cost of paid sick leave.

14. Figure 1 shows the trend in prosecutions under the DDA 1991 between 2000 and 2011. As can be seen, prosecutions under (iii) and (iv) (regarding incidents in non-public places) have remained largely constant. On the other hand, prosecutions under (i) and (ii) have increased more significantly. As we are unable to estimate the trend in prosecutions for offences on private property, we assume these to be constant over time – however, the high estimate of costs, outlined in Annex 2, includes a trend.

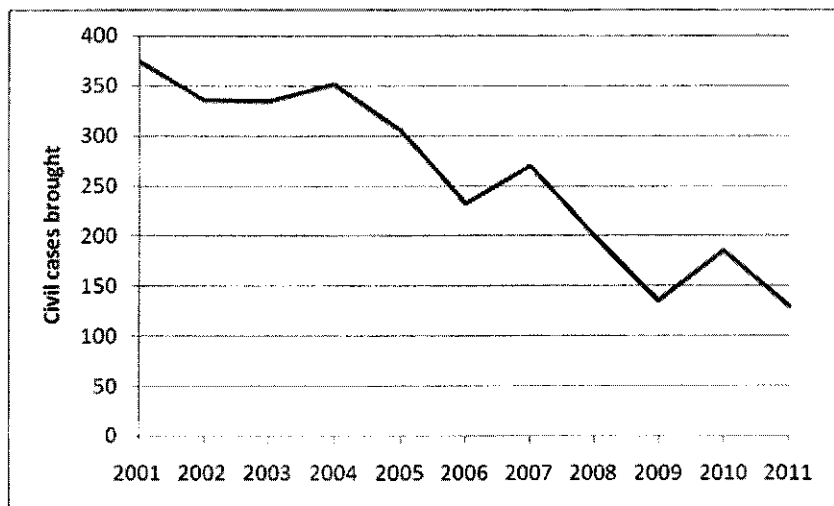
Figure 1: Prosecutions under the DDA 1991, (2000-2011)



15. There are already a number of cases brought before the courts under civil law (Dogs Act 1871 and Dangerous Dogs Act 1989) which relate to dangerous dog incidents that take place in any place (including on the dog owner's property). The total number of people prosecuted under the 1871 / 1989 Acts decreased steadily between 2001 and 2011 from 375 to 129 (figure 2). This may be due to the alternative of bringing criminal prosecutions under the 1991 Act. We therefore expect that some of the

civil cases relating to incidents on private property will be replaced by criminal prosecutions if the Act is expanded.

Figure 2: Prosecutions under the 1871/1989 Acts, (2000-2011)



We do not hold statistics on the number of prosecutions under 1871 Act for the years leading up to and just after the DDA 1991 came into force to see if they were effected by the DDA. However, we have assumed that this will be the case once the criminal offence is extended to all places.

In estimating the number of additional prosecutions as a result of extending the criminal offence to all places we have focussed on two sources of available data: the number of people prosecuted for (iii) and (iv), and a proportion of people dealt under the Dogs Act 1871. The RIDDOR data is also useful for gauging a range of additional cases, but will overlap with the Dogs Act 1871 data by an unknown amount. It is also unknown how many RIDDOR cases will result in prosecutions. Using the legal data we have estimated that there will be an additional 50-250 people prosecuted each year for the offence of allowing a dog to be dangerously out of control on the dog owner's property. The wide range is due to the uncertainty about the annual impact. We assume the number of prosecutions will remain constant year on year in the figures below – an alternative scenario is considered in Annex 2.

Convictions

In 2011 the percentage of prosecutions resulting in convictions for allowing a dog to be dangerously out of control in a non-public place was 75% - there were 44 convictions from 59 prosecutions. We therefore consider that an additional 38 to 188 people will be found guilty as a result of extending the offence to all places.

Sentencing

We have used 2011 sentencing data from offences (iii) and (iv) (relating to non-public places) to estimate the likely sentencing outcomes, divided between the two types of offence and a range of sentences (custodial, suspended or community sentences, and fines). A detailed breakdown can be found in Annex 2.

Policy Objective

16. The policy objective is to encourage responsible dog ownership and reduce the number of dog attacks occurring on private property. This will be achieved by increasing the incentive for owners to act responsibly by strengthening the relevant legislation which punishes owners for allowing their dogs to be dangerously out of control. It is proposed that the DDA will be revised to make it apply to attacks committed on private property, where the dog is permitted to be. This includes business premises as well as private homes.

Policy Options

Option 0 – do nothing

17. The Do Nothing option would keep the existing legislation which does not apply to private property (where the dog has a right to be) and rely on current procedures to encourage responsible dog ownership. Encouraging more owners to be responsible forms part of the overall package of measures (see “Introduction”) but the existing legislation does not make owners answerable for their actions.

18. In the 2012 consultation, 30% favoured keeping this option. One of the arguments put forward in support of this was in relation to working dogs on farms. It was considered by some that such dogs are not kept on lead and that members of the public might therefore consider the dogs to be dangerously out of control, even though no offence had been committed. However, there are many instances of dogs not being kept on lead without being considered to be dangerously out of control.

19. The inability to bring criminal proceedings against irresponsible dog owners who allow their dog to be out of control on private property is not consistent with the law in relation to public places. Education may play a part in helping to make people more responsible for their dogs behaviour at all times in all places. However, there needs to be restorative justice for those that fail to keep their dogs under control and which leads to other people suffering serious injury or loss of life as well as provide a greater incentive to act responsibly. The existing imbalance between the way incidents, dealt with by enforcers and the courts that occur in public places compared to those that take place on private property is a noticeable gulf. A person who receives minor injuries from an attack that occurs on public land may see the owner of the dog receive a heavy fine or even imprisonment but a more serious attack on private property (where the dog has a right to be) resulting in loss of life would not be able to be pursued under the DDA. It is therefore considered that a “do nothing approach” is not appropriate.

Option 1 – Extending current criminal dog control legislation to include private property (where the dog has a right to be) by amending section 3 of the Dangerous Dogs Act 1991 Act (DDA) to cover all places, including private property inside the home (or other building). We also propose to clarify the law as it relates to assistance dogs by making it clear that a dog attack on an assistance dog would count as an aggravated attack on a person.

20. This option would propose to amend section 3 of the DDA, from: “*If a dog is dangerously out of control in a public place— (a) the owner; and (b) if different, the person for the time being in charge of the dog, is guilty of an offence*” to: “*If a dog is dangerously out of control in any place — (a) the owner; and (b) if different, the person for the time being in charge of the dog, is guilty of an offence.*”

21. 48% of respondents to the 2012 consultation supported this option and most considered that the law needed to provide legal redress regardless of where the incident took place. Extending the scope of the DDA to cover all places would result in there being a form of criminal redress in the event that a dog has become dangerously out of control in any place. This would benefit those who have to enter private property on a regular basis, such as postmen and postwomen and those who work for utility companies as it would provide a greater incentive for owners to ensure their dogs are not out of control. Furthermore, it would clarify the legislation, as there would be no possible defence of an attack having taken place where a dog is permitted to be. Extending the scope of the DDA would result in clearer, consistent and more comprehensive legislation which applied in all places. This may act as enough of a deterrent and encourage more responsible dog ownership and more owners adequately training their dogs. This would help reduce the number of dog attacks.

Option 2 – Extending current criminal dog control legislation to include private property (where the dog has a right to be) – by amending section 3 of the Dangerous Dogs Act 1991 Act (DDA) to private property but excluding inside the home or other buildings

22. This would extend section 3 of the DDA so that the criminal offence of allowing a dog to be dangerously out of control applied to private property (where the dog had a right to be) but excluding inside the home. In the 2012 consultation, 22% wanted the criminal offence extended to private property (but not inside the home). One argument for this option was that it should be the responsibility of visitors to risk assess the situation before entering the home. However, whilst we need to consider the risk associated with anything we do, it is not reasonable to expect each individual to make such an assessment before entering somebody else’s home (particularly for children).

23. A key drawback to Option 2 is that it would not necessarily be clear where the criminal law applied and where it did not. Certain areas, like garages, offices and outbuildings could be argued either way to be inside or outside the home. The lack of clarity would result in additional costs associated with legal action (case precedents) and the issuing of guidance to enforcers.

Dogs attacking intruders/trespassers

82% of 17,480 respondents to the 2012 consultation considered that if the criminal offence was extended to all places there should be protection for the owner in cases where the dog attacks an intruder. The Government agrees that owners should not be prosecuted under the DDA if their dog attacks a "malign" intruder, such as a burglar. This is consistent with the new law on self defence in the home - the Crime and Courts Bill - which introduces a "grossly disproportionate" test in relation to cases involving householder who use force to defend themselves or others against intruders. However, in the case of a more "innocent" trespasser, such as a child retrieving a ball from a garden, the Government would like to leave open the possibility of an offence being committed by the dog owner.

Guard dogs on private business premises

We do not expect an extension of the law to result in additional prosecutions of businesses. The Guard Dogs Act 1975 requires that a guard dog must not be allowed to run loose. The dog must be under control of a handler at all times unless it is secured. Therefore if a guard dog attacked someone when it was not under proper control then it would be an offence under the Guard Dogs Act, as now. In the unlikely event that a guard dog did attack an intruder, when it was "under the control" of a handler, then the handler would be liable to prosecution under the Dangerous Dogs Act. However, we do not consider that such a scenario would arise very often, if at all.

Costs and Benefits of Options

Option 0 – costs

24. This is the Do Nothing option and represents the baseline against which the other policy options are appraised. This option therefore has no associated costs and benefits.

Option 1 – costs

25. An element of costs identified is associated with publicising the changes. We have estimated that such costs for publicising the whole package of responsible dog measures will be in the region of £20k (one-off). These are included in the compulsory dog microchipping IA and therefore no publicity costs are ascribed to this measure. However, we consider that there will be additional 50 – 250 prosecutions each year as a result of extending the criminal offence to all places. This will lead to some increase in costs for kennelling (all dogs seized under the DDA require kennelling until the case is heard), Dog Legislation Officers (police officers) and the Crown Prosecution Service of approximately £2,770, £350 and £195 respectively per case. According to advice from the Ministry of Justice, the average cost to the Magistrates Court of each prosecution would be approximately £760 in cases involving an alleged attack, and approximately £400 in cases where fear of an attack is alleged. Legal aid might be awarded in 50% of cases, costing approximately £660 in 'attack' cases and approximately £410 in 'fear' cases. Based on the average sentence length between 2000 and 2011 (6.5 and 4.8 months respectively), and the standard MoJ assumption that half the sentence given is served in prison, cases resulting in a custodial sentence would cost the prison service approximately £7,860 in 'attack' cases and £5,740 in 'fear' cases. These costs are further detailed in Annex 2. The cost of facilitating community sentences and suspended sentences, would be around £2860 per case. As the average sentence length is less than 12 months, MoJ advises that no one given a custodial sentence would serve a period on probation.

26. We do not consider that there would be any additional costs as a result of clarifying the law as it relates to dog attacks on assistance dogs. Any police costs would be offset by the fact that the law is made clear and would therefore involve less work trying to establish whether an offence had actually been committed. Costs for the criminal justice system would also be largely unaffected because such cases can already be subject to prosecution. Making the law clearer will not necessarily result in more cases being put before the courts.

27. We are unable to estimate the legal costs which might accrue to individuals charged with an offence but cleared in court.

28. The Ministry of Justice has previously taken the approach that the legal costs and any fines paid by those convicted of an offence do not need to be considered as a cost to the private individuals. This is because the “rules of standing” mean that the costs of sentences to criminals are not considered a cost to social welfare.

Option 1 – benefits

29. Fines (and any victim surcharge) imposed on those convicted of an offence would result in a benefit to government. The total is estimated at approximately £9,100 annually. This calculation of this figure is broken down in Annex 2.

30. We are unable to estimate the impact on court costs or costs to victims which might result if incidents which currently result in a civil case under the 1871/1989 Acts result instead in a criminal prosecution, as the evidence is mixed.

31. In addition to the changes in the number of prosecutions under the 1871/1989 Acts, we would expect that over time the number of dog attacks would decline due to more responsible behaviour on the part of dog owners, partly as a result of the other policies relating to dog ownership being implemented in the near future. This effect would be strengthened by any publicity generated by the Royal Mail, Parcel Force, BT or other employers highlighting their support for prosecutions in incidents involving their staff. Of course we do not know how many fewer attacks there might be but the total and average cost of attacks is estimated in Annex 1.

Option 2 – Costs and benefits

32. The broad assumption followed under this option is that approximately half the additional prosecutions that arise under option 1 occur on private property but not within dwellings. It follows that the additional costs, and any benefits, under this option will be approximately half those under option 1 as the remainder will not be eligible for prosecution.

Summary of Costs of Benefits (£)

These tables show the best estimate of the impacts over time. Further explanation of their calculation, and tables showing high and low estimates, are given in Annex 2.

Option 1 (based on 150 cases per year)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs											
Kennelling	415500	415500	415500	415500	415500	415500	415500	415500	415500	415500	4155000
Dog Legislation Officers	52500	52500	52500	52500	52500	52500	52500	52500	52500	52500	525000
Crown Prosecutions Service	29250	29250	29250	29250	29250	29250	29250	29250	29250	29250	292500
Legal aid	42911	42911	42911	42911	42911	42911	42911	42911	42911	42911	429100
Magistrate court costs	95751	95751	95751	95751	95751	95751	95751	95751	95751	95751	957500
Prison service	69500	69500	69500	69500	69500	69500	69500	69500	69500	69500	695000
Community and suspended sentences	22845	22845	22845	22845	22845	22845	22845	22845	22845	22845	228450
Benefits											
Fines and victim surcharge	9143	9143	9143	9143	9143	9143	9143	9143	9143	9143	91420
Net benefit	-719114	-719114	-719114	-719114	-719114	-719114	-719114	-719114	-719114	-719114	-7191140
Net present value	-719114	-694797	-671301	-648600	-626667	-605475	-585000	-565217	-546104	-527637	-6189910

Option 2 (based on 150 cases per year)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs											
Kennelling	207750	207750	207750	207750	207750	207750	207750	207750	207750	207750	2077500
Dog Legislation Officers	26250	26250	26250	26250	26250	26250	26250	26250	26250	26250	262500
Crown Prosecutions Service	14625	14625	14625	14625	14625	14625	14625	14625	14625	14625	146250
Legal aid	21455	21455	21455	21455	21455	21455	21455	21455	21455	21455	214550
Magistrate court costs	47875	47875	47875	47875	47875	47875	47875	47875	47875	47875	478750

Prison service	34750	34750	34750	34750	34750	34750	34750	34750	34750	34750	34750	34750
Community and suspended sentences	11423	11423	11423	11423	11423	11423	11423	11423	11423	11423	11423	11423
Benefits												
Fines and victim surcharge	4571	4571	4571	4571	4571	4571	4571	4571	4571	4571	4571	4571
Net benefit	-359557	-359557	-359557	-359557	-359557	-359557	-359557	-359557	-359557	-359557	-359557	-359557
Net present value	-359557	-347398	-335651	-324300	-313333	-302738	-292500	-282609	-273052	-263818	-254670	-245521

These figures are given in 'constant prices' i.e. inflation is not included.

Risks

33. There is a risk that the extended scope of the DDA, combined with the new Home Office anti-social behaviour measures will not be met with a reduction in prosecutions if, for example, financial constraints prevent early intervention. This would increase prosecution costs and reduce the benefits of the policy change, although powerful publicity applied to successful prosecutions might be effective as a deterrent to irresponsible owners. There is a risk that the link between extending the criminal offence to all places and reduction in dog attacks is weak, and the fall in these dog attacks is not achieved, so that break even benefits are not delivered. A key risk of adopting Option 2 is the difficulty in knowing exactly where the law would apply and where it would not. Whilst "inside the home" may be obvious, areas such as garages and offices may be less clear. The lack of clarity would result in additional costs associated with legal action (case precedents) and the issuing of guidance to enforcers.

Direct Costs and Benefits to business and civil society - OITO

34. This is a domestic policy initiative but the costs and benefits of this policy accrue to the police and Crown Prosecution Service and there are no direct costs imposed on businesses or civil society. While businesses which commit offences under the revised Dangerous Dogs Act may incur legal expenses these have not been quantified as they are only likely to result from suspected illegal behaviour. There are likely to be some benefits to businesses resulting from a reduction in the number of dog attacks e.g. on employees and productivity, but these are indirect impacts and it has not been possible to quantify these benefits. As businesses are not directly affected the moratorium on micro business regulation has no impact.

Review of policy

35. The Government will review the changes after they have been in force for 3 years, (estimated in April 2016). To do this, the Government will consult key interested parties (e.g. police, local authorities, animal welfare organisations, veterinary groups) as well as other government departments. For this review, we will examine the impact of the extension of the criminal offence on numbers of prosecutions/examinations.

Next steps

36. The Government will seek to introduce the proposal at the next available Parliamentary slot. For the purposes of calculating figures here we have assumed that the policy is effective from April 2014.

Wider impacts

Justice System

37. By extending the criminal offence of allowing a dog to be dangerously out of control to all places would have an impact on the justice system. We have estimated that there could be an increase in the number of cases brought before the criminal courts of between 50 and 250 per year. Some of these cases would have been dealt with under civil law (Dogs Act 1871). There are also outside factors such as the new Home Office anti-social behaviour measures which will allow more action to be taken at an earlier stage. We also consider that as this forms part of a wider package of measures designed to reduce dog attacks and irresponsible dog ownership in general, although we accept that we cannot reasonably estimate what effect this will have on the criminal justice system.

Health and Well-Being

38. The proposal to extend the criminal offence of allowing a dog to be dangerously out of control to all places is part of a wider package of measures aimed at promoting more responsible dog ownership and reducing dog attacks. A 5% reduction in dog attacks leading to hospital treatment would lead to a reduction in the costs of approximately £150,000 (see Annex 1: *Cost of dog attacks*)

Annex 1: Cost of dog attacks in England

The economic costs resulting from dog attacks mainly consist of: treatment costs incurred by the health service; lost productivity from those who spend periods out of work as a result of dog attacks; and the human costs of attacks including grief and pain.

In terms of calculating the health costs, it is estimated that in 2010/2011 there were 6,118 hospital admissions in England as a result of dog attacks which resulted in 13,460 occupied bed days, based on 2.2 days per admission (see HES 07/08 report). The cost of an average hospital bed day is £250 (includes fixed overhead costs of heating, lighting, laundry and provision of food for the patient occupying the bed, and an average cost for medicines and staff). The total cost to the NHS in terms of lost bed days is approximately **£3.4m**. This cost is inevitably an underestimate as it does not include outpatients who were treated in A&E, or those who were treated by their GP, and it fails to include treatment costs beyond medical and staff costs.

We estimate the productivity lost for people who are hospitalised by dog attacks using the data above that indicates the average hospital admission lasts 2.2 days. For postal workers who sustain injuries (it is unknown what proportion of these injuries require hospital admission) it is estimated that on average they incur 3 days off work, although this is likely to be higher for those who are admitted to hospital. The statistics show that 60% of admissions due to dog attacks are for people of working age. Assuming that each hospital admission incurs 5 days off work, then using an average hourly wage of £12.50 (ASHE 2010), an uplift for non wage costs of 27% (Green Book p59 and HMT advice), and a working day of 8 hours (hence £127 per day), hospital admissions for dog bites cost an average of £380 in lost productivity (£635 x 60%) for each person admitted for this, totalling **£2.3m** in lost productivity for the 6,118 people hospitalised.

There is also a loss of productivity for people who are attacked but not hospitalised. It is unclear how many days off work are incurred by victims of these less serious dog attacks, taken as 204k (the 210k for England less the 6k hospitalisations above). If we assume that on average for each less serious dog attack, 1 day is taken off work, and again 60% of people affected work, this could amount to 122k days off work. At £127 per day, this suggests **£15.5m** of lost productivity. Note that lost productivity only relates to the 60% of victims who are estimated to be in work, and nothing is included here for the value of time of the other 40%.

To calculate the human costs in terms of grief and pain, we apply a methodology from the Department for Transport (DfT). The DfT estimates the average human costs for road incidents which generates a slight injury ('slight' would encompass the majority of dog bites, being an injury which does not require hospital treatment, or, if it does the effects of the injuries quickly subside). It estimates that the human costs, encompassing pain, psychological impact, grief etc., constitute approximately 4.76 times the cost of the lost output (*"lost output" is calculated as the present value of the expected loss of earnings plus any non-wage payments [national insurance contributions, etc] paid by the employer, including the present value of consumption of goods and services that is lost as a result of injury* - Table 1 in para 2.1.5 DfT Transport Analysis Guidance Unit 3.4.1: The Accidents Sub-Objective, April 2011). The total lost output estimate above amounts to £17.8m; applying this ratio gives an additional human cost of **£85m**. This estimate should be treated with caution as it is calculated on the basis of road accidents which are innately different from dog attacks. It is possible therefore that the magnitude and nature of the human costs may differ widely between the two causes of injuries. This estimate represents an indication of the potential size of the human costs rather than a definitive estimate. Note that this is only applied to lost productivity, so no human distress costs are included for the 40% of victims who are assumed not to be in work.

On average there are approximately 2 deaths per annum in England from dangerous dog attacks. Applying the DfT value of a life of £1.65m, this equates to a cost of **£3.3m p.a.** (The DfT value is based on stated preference studies that show how much people would be willing to pay to avoid a fatality, including all the associated losses to society, as well as to the victim, relatives and friends - *section 2.1 of DfT Unit 3.4.1: The Accidents Sub-Objective, April 2011*. Policy analysis values the loss of life to enable assessment of interventions that reduce the risk of fatalities.) This £3.3m figure could be an underestimate, as the majority of deaths from dog attacks involve young children, and the value of their lives may be considered to be higher than the value of the 'average' human fatality from a road accident.

The combined cost of dog attacks in England estimated in the above paragraphs totals almost **£110m** per year. Across **210k attacks**, that's an average cost of around **£520 each**. Obviously the range around that average is vast, and a number of costs are omitted as mentioned above.

Annex 2: Breakdown of analysis and high and low estimates of the monetised economic impact

Unit costs provided by MoJ:

Item	Cost	Price Base Year	Source
Custodial sentence	£28,000 per year	2011/12	NOMS management accounts 2011
Community or suspended sentence	£2,700 per case	2010/11	MoJ Cost Benefit Framework
Magistrate court costs*: Violence against the person (injury)	£736 per case	2011/12	MoJ statistics
Summary non-motoring (fear of injury)	£632 per case		
Legal Aid: Violence against the person (injury)	£736 per case	2011/12	Legal Services Commission, Crime Lower Report (2011-12)
Summary non-motoring (fear of injury)	£397 per case		

*All cases are assumed to be dealt with in Magistrate Courts for simplicity

Estimated sentences from 2011 data on offences occurring in non-public places:

A: Owner or person in charge allowing dog to enter a non-public place causing reasonable apprehension of injury to a person

	2011 actual data	% of sentences	Best estimate for private property, based on 150 total cases. 2013 prices
Proceeded against	20		51
Found Guilty	14		
Sentenced	15		38
Immediate custody	3	20%	8
Suspended sentence	1	7%	3
Community sentence	0	0%	0
Fine	5	33%	13
Absolute discharge	0	0%	0
Conditional discharge	4	27%	10
Average fine amount	£370		£208.74*
Average custodial sentence length (months)			4.75
Average cost to prison service			£11,481**

B: Owner or person in charge allowing dog to enter a non-public place and injure any person

	2011 actual data	% of sentences	Best estimate for private property, based on 150 total cases, 2013 prices
Proceeded against	39		99
Found Guilty	30		
Sentenced	29		74
Immediate custody	1	3%	3
Suspended sentence	0	0%	0
Community sentence	2	7%	5
Fine	14	48%	36
Absolute discharge	0	0%	0
Conditional discharge	7	24%	18
Average fine amount	£230		£201.87*
Average custodial sentence length (months)			6.50
Average cost to prison service			£15,717**

*Best estimates of fines are based on averages from 2000-2010 as 2011 is a local peak in the data.

Victim surcharge accompanying certain sentences, and estimated payment rates (MoJ)

	Amount per case	Payment rate	Total from above
Fines		75%	£7,486
Victims surcharge:			
Fines	£20	75%	£735
Conditional discharge	£15	70%	£294
Community sentence	£60	60%	£180
Custodial sentence*	£80	40%	£448

*Immediate custody or suspended sentence.

Option 1 High costs (based on 250 cases, included extrapolated trends in 2000-2011 data) (£)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs											
Kennelling	692500	700810	709120	709120	717430	714660	714660	722970	722970	731280	7135521
Dog Legislation Officers	87500	88550	89600	89600	90650	90300	90300	91350	91350	92400	901601
Crown Prosecutions Service	48750	49335	49920	49920	50505	50310	50310	50895	50895	51480	502321
Legal aid	71518	72500	73482	73482	74465	74624	74624	75607	75607	76589	742491
Magistrate court costs	159585	161873	164161	164161	166449	167150	167150	169438	169438	171726	1661131
Prison service	60693	75201	94182	101195	123078	130936	154633	177725	192354	216776	1326771
Community and suspended sentences	148494	159916	174194	185617	194184	205607	217029	231307	242730	257008	2016081
Benefits											
Fines and victim surcharge	27528	29770	31870	33557	35979	37329	39552	42178	44028	46769	368561
Net benefit	-1241510	-1278414	-1322790	-1339538	-1380782	-1396258	-1429155	-1477115	-1501316	-1550491	-13917371
Net present value	-1241510	-1235183	-1234839	-1208187	-1203271	-1175612	-1162618	-1160999	-1140117	-1137644	-1189991

Option 1 Low costs (based on 50 cases, no trend) (£)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs											
Kennelling	138500	138500	138500	138500	138500	138500	138500	138500	138500	138500	1385001
Dog Legislation Officers	17500	17500	17500	17500	17500	17500	17500	17500	17500	17500	175001
Crown Prosecutions Service	9750	9750	9750	9750	9750	9750	9750	9750	9750	9750	97501
Legal aid	14304	14304	14304	14304	14304	14304	14304	14304	14304	14304	143041
Magistrate court costs	31917	31917	31917	31917	31917	31917	31917	31917	31917	31917	319171
Prison service	25080	25080	25080	25080	25080	25080	25080	25080	25080	25080	250801
Community and suspended sentences	8567	8567	8567	8567	8567	8567	8567	8567	8567	8567	85671
Benefits											
Fines and victim surcharge	3010	3010	3010	3010	3010	3010	3010	3010	3010	3010	30091
Net benefit	-242608	-242608	-242608	-242608	-242608	-242608	-242608	-242608	-242608	-242608	-2426081
Net present value	-242608	-234404	-226477	-218819	-211419	-204270	-197362	-190688	-184239	-178009	-2088291

Option 2 High costs (based on 250 cases, included extrapolated trends in 2000-2011 data) (£)

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Costs											
Kennelling	346250	350405	354560	354560	358715	357330	357330	361485	361485	365640	3567761
Dog Legislation Officers	43750	44275	44800	44800	45325	45150	45150	45675	45675	46200	450801
Crown Prosecutions Service	24375	24668	24960	24960	25253	25155	25155	25448	25448	25740	251161
Legal aid	35759	36250	36741	36741	37232	37312	37312	37803	37803	38295	371241
Magistrate court costs	79792	80937	82081	82081	83225	83575	83575	84719	84719	85863	830561
Prison service	30346	37600	47091	50597	61539	65468	77317	88863	96177	108388	663381
Community and suspended sentences	74247	79958	87097	92809	97092	102803	108515	115654	121365	128504	1008041
Benefits											
Fines and victim surcharge	13764	14885	15935	16778	17990	18665	19776	21089	22014	23384	184281
Net benefit	-620755	-639207	-661395	-669769	-690391	-698129	-714577	-738557	-750658	-775246	-6958681
Net present value	-620755	-617592	-617419	-604093	-601636	-587806	-581309	-580499	-570058	-568822	-5949991

Option 2 Low costs (based on 50 cases, no trend) (£)

Costs											
Kennelling	69250	69250	69250	69250	69250	69250	69250	69250	69250	69250	69250
Dog Legislation Officers	8750	8750	8750	8750	8750	8750	8750	8750	8750	8750	8750
Crown Prosecutions Service	4875	4875	4875	4875	4875	4875	4875	4875	4875	4875	4875
Legal aid	7152	7152	7152	7152	7152	7152	7152	7152	7152	7152	7152
Magistrate court costs	15958	15958	15958	15958	15958	15958	15958	15958	15958	15958	15958
Prison service	12540	12540	12540	12540	12540	12540	12540	12540	12540	12540	12540
Community and suspended sentences	4283	4283	4283	4283	4283	4283	4283	4283	4283	4283	4283
Benefits											
Fines and victim surcharge	1505	1505	1505	1505	1505	1505	1505	1505	1505	1505	1505
Net benefit	-121304	-121304	-121304	-121304	-121304	-121304	-121304	-121304	-121304	-121304	-121304
Net present value	-121304	-117202	-113239	-109409	-105710	-102135	-98681	-95344	-92120	-89005	-104414

