

Anti-social Behaviour, Crime and Policing Bill

Fact sheet: Dangerous dogs (Part 7)

Background

1. The Bill amends the Dangerous Dogs Act 1991 (“the 1991 Act”) to make four changes in order to tackle irresponsible dog ownership. These changes are part of a wider package of measures, which are described in the accompanying fact sheet, ‘Overview of dangerous dogs measures’.

Extending the Dangerous Dogs Act 1991 to private property

2. Under section 3 of the 1991 Act, it is an offence to own or be in charge of a dog that is dangerously out of control in a public place or a private place where the dog does not have a right to be. The Act was implemented as a result of a number of high profile dog attacks in public places. At the time, there was not a demand for the law to cover private property.
3. Since then there have been several high profile cases where no prosecution could take place, despite death or serious injury, because the attack took place on private property. Since 2005, ten children and eight adults have died as a result of dog attacks, 16 of which took place on private property. In addition, over 3,000 postmen and women were attacked across the UK by dogs from April 2011 to April 2012; approximately 300 of these attacks resulted in serious, reportable injuries requiring at least two days off work.
4. Under the amendment to section 3, it will be an offence to own or be in charge of a dog that is dangerously out of control in any place, including all private property. The Bill increases the maximum penalties for aggravated offences under section 3, from two years’ imprisonment to 14 years’ where the death of person is involved, to 5 years’ where a person is injured and to 3 years’ for an aggravated attack on an assistance dog.
5. There is an exemption from prosecution for householders where their dog has been dangerously out of control with respect to a trespasser who is in, or entering, their home, whether the owner is present or not. This exemption does not apply to dog attacks on trespassers in gardens, driveways or outbuildings. The reason for this is to differentiate between innocently intentioned trespassers, such as a child entering a garden to retrieve a ball, a neighbour leaving a parcel for safe keeping or retrieving garden cuttings, from those with malign intentions. Trespassers in or entering a dwelling are more likely to have malign intent.
6. The law will give full protection to postal workers, nurses, utility workers and other professionals who are required to visit homes as part of their work. Such visitors are not trespassers and the exemption from prosecution does not apply should they be subject to an attack whilst going about their legitimate business on private property.

7. The extension to private property will encourage owners to be responsible with their dogs at all times, including inside their homes.

Extending the law to cover attacks on assistance dogs

8. The 1991 Act was intended to cover attacks on people. However, the charity Guide Dogs estimates that there is an average of ten dog attacks per month on guide dogs. An injury to an assistance dog can result in the dog being removed from service either temporarily whilst it recovers or permanently if the injury is so severe it has a long lasting impact so that the dog must be retired. Any time without a dog that has undergone intensive and specific training limits the freedom of the assisted person. This is compounded by the impact such an attack can have in reducing the assisted person's sense of safety. In addition, the financial cost of training an assistance dog often means that those whose dogs are retired face a long wait for another, further limiting their ability to live independently.
9. Currently, an offence may have been committed under the 1991 Act if the assisted person fears injury to him or herself from a dog that is dangerously out of control. This can present difficulties for the police in collecting evidence and fails to recognise the very real impact on the assisted person of a physical attack on the assistance dog.
10. The Animal Welfare Act 2006 makes it an offence to cause unnecessary suffering to a protected animal under section 4 of the Act. However, such an offence would require evidence that the owner or person in charge of the attacking dog had failed to take action to prevent foreseeable unnecessary suffering to the assistance dog. Such a level of evidence can be difficult to ascertain for a case involving an assisted person.
11. The amendment will make it clearer for the police and Crown Prosecution Service if and when an offence has taken place on an assistance dog.
12. The Bill makes it an offence to own or be in charge of a dog that attacks an assistance dog. An attack on an assistance dog will be treated as an aggravated offence with a maximum penalty of three years' imprisonment or an unlimited fine, or both.
13. The definition of an "assistance dog" includes dogs trained to guide a blind person, assist a deaf person, or assist a disabled person.
14. The 1991 Act is not being extended to cover any other protected animals. The extra protection for assistance dogs recognises that they are a special case and an attack on the dog may result in severe consequences for the assisted person. There is sufficient provision to prosecute for attacks on other animals under the Animal Welfare Act 2006 and the Criminal Damages Act 1971. Civil remedies are also available under the Animals Act 1971 and the Dogs Act 1871, including the destruction of any dog considered to be dangerous and not under proper control. Livestock are protected by the Dogs (Protection of Livestock) Act 1953. In

addition, the new measures to help tackle irresponsible dog ownership will also apply.

15. It is worth clarifying that the law already applies if a dog threatens or attacks an animal and this has an impact on a person. For example, if a dog threatens or attacks a horse and rider, the Dangerous Dogs Act would already apply because the rider is likely to have reasonable apprehension that the dog will injure them. In such a situation an offence is committed under section 3 of the Act. The dog does not actually have to injure the horse or the rider for this to be the case.

Dangerousness test

16. If a dog has been found to be dangerously out of control, or if it belongs to a prohibited type, the owner may apply to the courts for it to be exempt from destruction. The court must consider whether the dog poses a danger to public safety and if so whether it should be put down or returned to the owner under strict conditions. A 2012 High Court judgment (*R vs. Sandhu*) ruled that the legislation did not allow the court to consider the character of the owner when assessing whether the dog posed a danger to public safety. The Bill makes it clear that the character of the owner and any other relevant circumstances should be taken into account, and will mark a return to the law as it was understood to operate prior to the judgment.
17. The process of assessing whether a dog is a danger to public safety will not change, but when the court considers the evidence, it will need to consider the character of the owner. If an exemption is granted it will lay down conditions that the owner must meet. Failure to meet those conditions may lead to the dog being put down.
18. A court will consider such an exemption based on a number of factors, including an assessment by dog legislation officers as to whether the dog is aggressive. Matters of interest to the court in making an assessment of the owner may include past convictions for animal cruelty or perhaps carrying an offensive weapon, as well as the owner's ability to provide suitable accommodation for the dog, to keep it and abide by the restrictions required by the court.
19. The amendment will ensure that there is a balance between allowing people to retain their family pet and the need to prioritise public safety.