

# BVA Scottish Branch and BSAVA joint response

## Scottish Government Discussion Paper – The Criminal Law Dealing with Dangerous Dogs

23 April 2021

### Introduction

- 1) The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom. With over 18,000 members, 2226 residing in Scotland, our primary aim is to represent, support and make a keen interest in all issues affecting the profession, including animal health and welfare, public health, regulatory issues and employment matters.
- 2) The Scottish Branch of BVA represents the interests of Scottish veterinary surgeons, government, academic institutions and research organisations in Scotland. The Branch advises BVA on the consensus view of Scottish members on Scottish and United Kingdom issues.
- 3) The British Small Animal Veterinary Association (BSAVA) exists to promote excellence in small animal practice through education and science and is the largest specialist division of BVA representing nearly 11,000 members of which 1,133 represent the Scottish region.
- 4) We welcome the opportunity to contribute to this discussion paper. We recognise the complexity surrounding the issue and protect the public and other animals from dog attacks.
- 5) Summary of our position  
As the representative bodies for veterinary surgeons, BVA and BSAVA do not have expertise in criminal law or criminal liability therefore we would defer to others with greater expertise in this area. Whatever the model for criminal liability falling on dog owners or keepers, it is paramount that they are aware of their legal responsibilities under Section 3 of the Dangerous Dogs Act, and any changes in criminal liability are effectively and clearly communicated to the wider public.
- 6) In terms of animal behaviour it is important to emphasise that animals can behave aggressively without warning, and most animals can behave aggressively in certain circumstances eg. if they are frightened or in pain. Therefore, the context in which aggressive behaviour occurs should be taken into account.
- 7) We also recognise that it may be necessary for authorities to seize and retain dangerous dogs to ensure public safety pending the outcome of a case, or where a court is considering an application for a destruction order. However, it is important to recognise that seizure and long-term kenneling can have multiple significant negative impacts on dog welfare and behaviour. To safeguard dog welfare it is paramount that seizure is performed by trained individuals in a considerate and calm manner, and that time spent in kennels is minimised as much as possible.
- 8) Fundamentally, we consider that the Scottish Government should take a more holistic approach to reducing irresponsible dog





**20) Lack of scientific evidence to support Section 1**

There is limited scientific evidence to support breed-specific legislation as an effective tool in tackling canine aggression and dog biting incidents. Given the multiple factors involved in the development of canine aggression (socialisation, rearing and training, environmental circumstances and human-associated risk factors), research has indicated that the aggressive potential of dogs should be evaluated at an individual level.<sup>16,17, 18</sup>

**21)** Whilst some studies have identified particular breeds as having a higher risk of causing bite injury, or displaying aggression, there is a lack of consistency in findings between studies.<sup>19,20,21, 22</sup> No studies suggest an increased incidence of aggression or biting injury in breeds listed in the Dangerous Dogs Act (1991) Section 1, nor in other  
<sup>23,24,25</sup> Whilst Pit Bull Terrier types may be argued to cause considerable damage should they bite, there is no evidence from hospital data that this is any more the case than for any other breed of dog of a similar size.

**22)** The lack of consistency in findings between studies that have tried to identify breeds with an increased risk for aggression, together with the greater consistency between studies in identifying environmental and human-behavioural risk factors, indicate that breed-specific legislation, and in turn Section 1 of the Dangerous Dogs Act (1991), is not an evidence-based, effective approach to preventing canine aggression and dog biting incidents.

**23) Identifying breed type**

Several studies have brought into question the validity of determining breed identity based on appearance<sup>26,27</sup>, highlighting a key limitation of Section 1 of the Dangerous Dogs Act.

**24)** According to UK case law, breed type is an animal which approximately amounts to, near to, or has a substantial number of characteristics of a dog as described by a particular standard. Identification of prohibited breed types is therefore based on a subjective assessment of appearance against a particular standard, as opposed to the sharing of genetics with a specific breed. Dogs are assessed on their physical characteristics, measured against a 100-point scale, of which only  
This subjectivity has the potential to prolong legal disputes about what is or is not a Section 1 dog despite any inputs from experts who may not always be in agreement.

**25)** Further, the UK Kennel Club does not recognise the pit bull terrier as a breed and therefore does not have a breed standard to assess against. Dog Legislation Officers therefore have to assess appearance against the American Dog Breeders Association standard of conformation as publish5(a)27(n)27(d)5(a)27(g)-31(a)27(i)-12(n)27(s)-28(t)-15( ) T

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33) In addition, in its submission to the [2018 Efra Committee inquiry on the control of dangerous dogs](#), Defra indicated that dog attack fatalities in England and Wales have unfortunately also increased since the introduction of the Dangerous Dogs Act (1991). While exact figures are not clear due to different reporting metrics and sources, Defra reported that there had been 31 fatalities involving dog attacks since 2005, and data from the Office for National Statistics (ONS) recorded a total of 67 fatalities following dog attack incidents between 1991 and 2015, with 37 fatalities occurring between 2005 and 2015.<sup>39</sup>

34) It is not clear from this data whether an analysis has been carried out to see if the number of incidents is proportionate to any increase in the dog population as a whole or represents a real rise in incident numbers.

35) Causing misconception

misleading assumption amongst the public that canine aggression and dog biting incidents are inherently related to breed type, and consequently that breeds -type behaviour.

36) Research has shown that the ability of the public to identify banned breeds of dogs is generally poor, suggesting that public understanding of dangerous dogs is poor, and that this may impact societal perceptions of dogs more widely.<sup>40</sup>

37) Negative welfare impacts for dogs of prohibited breed types

Consideration must also be given to the potential negative welfare impacts of Section 1 of the Act on dogs of, or suspected to be of, prohibited breed types. Under Section 1 of the Act, dogs suspected to be of a prohibited type are usually seized and placed in police-appointed kennels where a qualified expert will determine its breed type and whether or not it is prohibited under Section 1 of the Act. If the dog is then placed on the Index of Exempted Dogs, its owner must comply with certain conditions, including:

- the dog is neutered and microchipped;
- the owner purchases third party insurance; and
- the dog is leashed and muzzled in public.

38) \_\_\_\_\_ highlighted, this process may negatively impact on the welfare of seized dogs in several ways:

**Seizure** can be stressful for dogs, resulting in anxiety and a potential increased risk of aggression towards those trying to seize the animal.<sup>41</sup>

**Kennelled environments-** research has shown that many animals find kennelled life challenging and it is difficult to sufficiently meet the welfare needs of dogs in kennelled environments. In addition, studies have shown that specific aspects of this environment eg. noise levels, lack of environmental enrichment, small

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**Conditions of exemption posing risk** dogs on the Index of Exempted Dogs must comply with a series of conditions such as being muzzled and on a lead when in a public space. Keeping a dog on a lead at all times in public or isolating dogs to particular areas is likely to reduce their ability to show a normal range of behaviours and therefore negatively impact on their welfare. Ultimately, whilst understanding the need to muzzle a dog that is potentially unsafe for humans or other pets, this could prove counterproductive as dogs are more likely to show aggression when exposed to unexpected or unknown events.<sup>45</sup> Muzzling can also

<sup>39</sup> Office for National Statistics (ONS) Deaths from dog bites, England and Wales, 1981 to 2015. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/adhocs/006077deathsfromdogbitesengland1981to2015>

<sup>40</sup> Catherine A. Webster & Mark J. Farnworth (2019) Ability of the Public to Recognize Dogs Considered to Be Dangerous under the Dangerous Dogs Act in the United Kingdom, Journal of Applied Animal Welfare Science, 22:3, 240-254, DOI: [10.1080/10888705.2018.1476864](https://doi.org/10.1080/10888705.2018.1476864)

<sup>41</sup> Shepherd, K. (2011). Handling and restraining aggressive dogs. Veterinary Record. 359-360.

<sup>42</sup> Shepherd, K. (2010). Behavioural, legal and welfare implications of the DDA in the UK a case history. Journal of Veterinary Behaviour 5, 39-40.

<sup>43</sup> Hiby, E.F., Rooney, N.J. & Bradshaw, J.W.S. (2006). Behavioural and physiological responses of dogs entering rehoming kennels. Physiology and Behavior. 89, 385-391, and Rooney, N.J., Gaines, S.A. & Bradshaw, J.W.S. (2007). Behavioural and glucocorticoid responses of dogs (Canis familiaris) to kennelling: Investigating mitigation of stress by prior habituation. Physiology and Behavior. 92, 847-854.

<sup>44</sup> Gaines, S.A. (2008). Kennelled dog welfare effects of housing and husbandry. University of Bristol, PhD thesis. Taylor, K.D., Mill, D.S. (2007). The effect of the kennel environment on canine welfare; a critical review of experimental studies. Animal Welfare. 16, 435-448.

<sup>45</sup> BVA, 2017. Policy position on dogs in public amenity spaces. Available at:



social situations or following certain human behaviours. <sup>49</sup>

**Promoting safe dog-human interactions and responsible ownership**

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