



BRIEFING PAPER

Number 4348, 10 August 2016

# Dangerous Dogs

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## Summary

The [\*Dangerous Dogs Act 1991\*](#) was introduced following press reports of dog attacks, focusing mainly on American pit bull terriers. The Act raised concerns for many years because it only covered attacks by dogs that took place in a public places. It did not apply to attacks by dogs on private property, for example someone's home. In addition, reports of increases in deliberate attacks using dogs raised concerns about the need for further powers that could be applied to dog owners. Further background on the origins of the legislation can be found in Library Paper 98/6 on [Dogs](#).

In 2012 the then Government published a consultation on [Tackling irresponsible dog ownership](#). New, tougher, [sentencing guidelines](#) were also published at the time.

In 2013 the then Government [announced](#) a package of measures to tackle irresponsible dog owners, including the introduction of compulsory microchipping of all dogs from April 2016 and to extend dangerous dogs' legislation to private property. This became part of the [Antisocial Behaviour, Crime and Policing Act 2014](#), together with increased powers relating to dogs and antisocial behaviour.

There is also legislation in Scotland, the [Control of Dogs \(Scotland\) Act 2010](#), which requires all owners to keep control of their dogs in private and public places, regardless of their breed. Dog microchipping has been compulsory in Northern Ireland since 2011 and in Wales since March 2015.

More recently there have been calls for changes to the *Dangerous Dogs Act 1991*, specifically to remove the ban on certain breeds (the breed-specific legislation). Those that oppose the law criticise it for requiring the destruction of safe dogs while failing to tackle the number of dog bite incidents.

The Government has rejected these calls.

# 1. Background

The [\*Dangerous Dogs Act 1991\*](#) was introduced following an increase in press reports of dog attacks, focusing mainly on American pit bull terriers. Further background on the legislation can be found in Library Paper 98/6 on [Dogs](#).

The Act raised concerns for many years because it only covered attacks on dogs that took place in a public places. It did not apply to attacks by dogs on private property, for example someone's home. In addition, some evidence of increases in deliberate attacks using dogs also raised concerns and questions about the need for further powers that could be applied to dog owners.

This briefing summarises the *Dangerous Dogs Act 1991* and other older legislation. It also covers several reviews and consultations on dog legislation that took place between 2007 and 2013. It then covers the legislation introduced in 2014 under the Antisocial Behaviour and Policing Act to extend dangerous dog legislation to private property and to amend powers relating to dogs and antisocial behaviour.

## 2. Existing Legislation

### 2.1 Dangerous Dogs Act 1991

#### Prohibited Breeds

The following dog breeds are prohibited under the 1991 Act:

- the Pit Bull Terrier
- the Japanese Tosa
- the Dogo Argentino
- the Fila Brasileiro

It is also an offence to own or keep any of the above types of dog, unless a court has decided that it can be added to the Index of Exempted Dogs because it is not considered to pose a risk to the public. The Index was created by the Act, and is managed by Defra. If a dog is added to the Index the owner will be given a Certificate of Exemption, which is valid for the lifetime of the dog, but must comply with any specific requirements - such as muzzling in public. It is an offence to breed from, sell or exchange (even as a gift) a dog of any of the above breeds regardless of whether it has been placed on the Index or not.

#### Dangerous behaviour

Legislation applies to any dog that is in a public place or in a private place it is not permitted to be. This is one of the aspects of the legislation that caused most concern as it did *not* cover attacks that happened in the dog owner's home, for example, as this was a private place where the dog is allowed to be.

## 5 Dangerous Dogs

The Act also sets out conditions under which the owner of any dog, regardless of breed, would be considered responsible for it acting dangerously in a public place. Section 3 of the 1991 Act created a new offence of being an owner of a dog of any type or breed which is dangerously out of control in a public place or a non-public place in which it is not permitted to be.<sup>1</sup>The penalty if found guilty is up to six months in prison or a fine at level 5, currently £5000.

The 1991 Act was amended by the [Dangerous Dogs \(Amendment\) Act 1997](#) to remove the mandatory destruction order provisions and giving the courts discretion on sentencing. It also allowed the option of reopening the Index of Exempt Dogs, which was originally intended to be time limited.

## 2.2 Other legislation

### Dogs Act 1871

Section 2 of the [Dogs Act 1871](#) is the only part of the Act that is still in force and allows courts to direct a dog under control, or get it destroyed:

Any court of summary jurisdiction may take cognizance of a complaint that a dog is dangerous, and not kept under proper control, and if it appears to the court having cognizance of such complaint that such dog is dangerous, the court may make an order in a summary way directing the dog to be kept by the owner under proper control or destroyed<sup>2</sup>

A Defra advice leaflet emphasised the effectiveness of this Act for dealing with dangerous dogs:

Although over 100 years old now this Act is possibly the most effective piece of dog control legislation available to enforcers. Civil proceedings are brought at a Magistrates' Court and this can be done by the police, local authorities, or individual members of the public.

This legislation should always be taken into consideration when enforcers are investigating any incidents relating to dogs or when concerns are raised over an allegation of irresponsible dog ownership. Furthermore, it can be particularly effective when dealing with attacks on other domestic pets or livestock.<sup>3</sup>

The guidance also summarised other relevant Acts:

#### **Dangerous Dogs Act 1989**

In addition to any civil order made under the 1871 Act, the 1989 Act allows a Magistrate to disqualify an owner from having custody of a dog for any period the Court thinks fit. The 1989 Act

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<sup>1</sup> [Dangerous Dog Act 1991](#)

<sup>2</sup> [Dog Act 1871](#)

<sup>3</sup> Defra, [Dangerous Dogs Law: Guidance for Enforcers](#), 2009

also provides enforcement provisions for breaches of any control order imposed on an individual under the 1871 Act.

#### **Metropolitan Police Act 1839 and Town Police Clauses Act 1847**

These provide for offences for anyone to allow an unmuzzled ferocious dog to be at large (i.e. not under proper control in a public place) and attack, worry, or put in fear any person, horse or other animal in any thoroughfare or public place in the metropolitan police district, or any street in a town.

#### **Offences Against the Person Act 1861**

This Act makes it an offence to maliciously wound or cause grievous bodily harm (GBH) to another with or without a weapon or instrument. Section 47 also creates an offence of assault occasioning actual bodily harm (ABH). These offences should only be considered in the most extreme circumstances due to the severity of the penalties.

### **Animals Act 1971**

The *Animals Act 1971* covers liability for damage caused by dangerous animals. Section 2 of the Act sets out that where damage is caused by an animal which does not belong to a dangerous species, a keeper of the animal is liable for the damage, with some exceptions<sup>4</sup>

The [Dog Bite Law](#) website includes useful information on all existing dangerous dog legislation.

## **3. Review of legislation**

Several reviews of the legislation and consultations have been carried since 2007:

- A Labour Government review in 2007 consulted police forces in England and Wales and discussed the outcome of this consultation with the Association of Chief Police Officers. In the light of the response from the police service, the Government concluded that existing legislation was sufficiently robust to effectively deal with the problem of dangerous dogs.<sup>5</sup>
- Because of the increased level of offences and in response to public concerns about this, Defra did launch a consultation March 2010 on the various options it was considering to tackle the problem. It expressed concern that some irresponsible owners could be using dogs to intimidate communities or as weapons by gangs. This considered options such as extending legislation to private areas, compulsory microchipping, removing type specific legislation and introduction of dog control orders. The new Coalition Government also consulted, as part of a Home Office

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<sup>4</sup> [Animal Act 1971](#)

<sup>5</sup> HC Deb10 March 2008 c36W

consultation, on new more general antisocial behaviour powers that could also cover dogs and dog owners.

- The Government response was published in 2012, with a [written statement](#), as a further [consultation](#) on their proposals. These included:
  - Extending the criminal offence of allowing a dog to be dangerously out of control to private property (where the dog has a right to be); the consultation asks whether this should include attacks on intruders;
  - Compulsory microchipping of puppies by breeders, or when dogs are sold;
  - Removing the obligation to seize and kennel all dogs where court proceedings are pending; and
  - Not to remove the breed specific legislation, nor to add any other breeds to it

## 4. New measures announced

Following the 2012 consultation, the then Defra Minister, Owen Paterson, announced in [Written Statement](#) to the House of Commons on 6 February 2013, a series of measures to deal with strays and dangerous dogs:

- From 6 April 2016 all dogs will have to be microchipped and registered on one of the authorised commercial databases available. Various charities have agreed to provide free microchipping for all dogs. The aim of this measure is to tackle the problem of stray dogs.
- The offence under section 3 of the Dangerous Dogs Act 1991 of allowing a dog to cause injury, or fear of injury, would be extended to all places, including private property. However, the proposed amendment would not provide protection to trespassers who have entered a private property, if the householder believed they had unlawful intentions.
- It would no longer be necessary for the police to seize and kennel dogs pending court proceedings if they did not consider the dog presented a risk to the public.
- The fee for placing prohibited dogs on the index of exempted dogs would rise from £20 to £77 (ex VAT).
- Funding of £50,000 would be provided to various charities to help them encourage responsible dog ownership and funding would also be made available to the Association of Chief Police Officers to support the training that they provide for officers with knowledge of dog control legislation

Further details are also available in the [press release](#) published by Defra.



Dog welfare charities welcomed the requirement for all dogs to be microchipped. The Dogs Trust calculated that this would save the public purse between £20 million and £22 million. The Trust stated that it has set aside £6 million towards microchipping those English dogs not yet microchipped but also expected other organisations to offer free microchipping.<sup>6</sup> The RSPCA, while welcoming the plan, noted however that on its own microchipping would not reduce the number of stray dogs, make owners act more responsibly or reduce dog attacks on people and animals.<sup>7</sup>

The proposal to extend section 3 of the Dangerous Dogs Act 1991 to private places was widely welcomed, including by the Kennel Club which considered that greater responsibility would be placed on owners to ensure that their dogs are not out of control or allowed to behave aggressively either in the home or in a public place.<sup>8</sup> The police and representatives of postal workers have also welcomed this approach.<sup>9, 10</sup>

## 4.1 Environment, Food and Rural Affairs Select Committee Report

On 15 February the Environment, Food and Rural Affairs Committee published its [Dog Control and Welfare report](#).<sup>11</sup> It welcomed the proposal to amend the Dangerous Dog Act 1991. The report criticised the Government's proposals as belated and too limited in scope:

- the Home Office approach to tackling antisocial behaviour was too simplistic; and failed to reflect the impact that poor breeding and training by irresponsible owners could have on a dog's behaviour.
- DEFRA should introduce comprehensive legislation to consolidate the fragmented rules relating to dog control and welfare

It also called on ministers to amend legislation so that a dog attack on an assistance animal is treated as an aggravated attack, in the same manner as an attack on a person.

## 4.2 Details of proposed legislation

The Government published [draft legislation](#) in April 2013 for scrutiny by the Environment, Food and Rural Affairs (EFRA) Committee. This consisted of two Clauses, explanatory notes and an impact assessment

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<sup>6</sup> Dogs Trust [website](#) /

<sup>7</sup> "RSPCA gives cautious welcome to Government dog proposals" RSPCA press release, 6 February 2013

<sup>8</sup> "Government to implement compulsory microchipping in England and Wales" Kennel Club press release, 6 February 2013

<sup>9</sup> "ACPO comment on Government's announcement on dog microchipping and kennelling", Association of Chief Police Officers press release, 6 February 2013

<sup>10</sup> "New dog laws welcome", Communication Workers Union, 6 February 2013

<sup>11</sup> Environment, Food and Rural Affairs Committee, *Dog Control and Welfare*, Seventh Report of Session 2012-13, HC 557



which set out the Government's rationale for amending the existing legislation:

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 place<sup>1</sup>, 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.<sup>12</sup>

A letter from the Minister to the Chair of the Committee summarised aims of the proposed Clauses to deal with dog attacks on private property:

The amendment in clause 1 extending criminal liability for dog attacks to all places is drafted to ensure consistency with the UK Government's position on householders defending themselves against intruders in the home. In the Crime and Courts Bill currently before Parliament, there is a provision which will give householders a greater level of legal protection in such circumstances.

We want a similar level of legal protection if a householder's dog attacks an intruder, and have taken account of your Committee's recommendation on this issue to ensure that the law does not protect trespassers. The clauses outline that a householder will not be prosecuted under the Dangerous Dog Act 1991 should their dog attack a trespasser that has entered or is in the process of entering the home.

Draft Clause 1 also addressed the issue of attacks on assistance dogs by other dogs, by amending the legislation to consider it an aggravated attack under Section 3 the Dangerous Dogs Act:

The Government has also taken account of the EFRA Committee recommendation and the strong views of stakeholders in relation to dog attacks on assistance dogs. Clause 1 clarifies the law to make it explicit that an attack on an assistance dog is an offence under the [Dangerous Dogs Act 1991](#) and that any attack on an assistance dog be considered an aggravated attack. This is in line with the Government's policy on encouraging responsible dog

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<sup>12</sup> Defra, [Extending Dangerous Dogs Act to Private Property \(England and Wales\)](#), April 2013

ownership by ensuring dog owners are fully aware of the consequences of their actions or inaction as the case may be.<sup>13</sup>

Clause 2 amended the 1991 Act to extend what a court must consider before deciding whether a dog on the prohibited list should be destroyed or not. It includes factors such as the character of the owner - including whether they are a "fit and proper person" - and the temperament of the dog.<sup>14</sup>

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<sup>13</sup> Defra, [Draft Dangerous Dog \(Amendment\) Bill](#), April 2013

<sup>14</sup> *ibid*

## 5. Anti-Social Behaviour, Crime and Policing Act 2013–14

The [Queen's Speech](#) in May 2013 included an [Anti-social Behaviour, Crime and Policing Bill](#). Part 7 of the Bill consisted of [Clauses 98 and 99](#), covering dangerous dogs. These were the same as the two clauses published in the draft Bill, except for the removal of the requirement for the householder to be present to gain exemption from prosecution when their dog attacks a trespasser in or entering the home. However this exemption was removed during the passage of the Bill.

Following debate in Committee in the Commons, and a Government consultation, [Maximum Prison Sentences for Dog Attacks Causing Injury or Death](#) the Government introduced a Lords amendment to increase the maximum penalty for the aggravated offence where an out-of-control dog kills or injures a person or an assistance dog:

The maximum custodial sentence for the aggravated offence (that is, where a dog is dangerously out of control and injures a person or an assistance dog) is now as follows:

- 14 years' imprisonment if a person dies as a result of the attack;
- 5 years' imprisonment if a person is injured by the attack; and
- 3 years' imprisonment if an assistance dog is either killed or injured

### 5.1 Guidance on Dealing with Irresponsible Dog Ownership

Defra issued guidance, [Dealing with irresponsible dog ownership Practitioner's manual](#) in October 2014. This set out how the new general antisocial behaviour powers in the Act could be used to deal with problems related to dogs. These include:

- Community Protection Notices: low-level notices issued to stop antisocial behaviour (ASB), e.g. failing to control dog or causing nuisance;
- Injunctions: A civil order to prevent anti-social behaviour and address its causes. e.g. attacks on other animals combined with other ASB;
- Criminal Behaviour Orders: An order obtained for convicted offenders to prevent and stop ASB and address causes. eg dogs being used to intimidate people;
- Public Space Protection Orders: An order to restrict persistent anti-social behaviour in a public space. Will replace all existing Dog Control Orders within 3 years;
- Partnership Working: In areas where there is a significant problem with dogs, agencies should nominate a lead agency that will co-

ordinate efforts and inform other appropriate agencies of new notices issued, etc.<sup>15</sup>

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<sup>15</sup> Defra, [Dealing with irresponsible dog ownership Practitioner's manual](#), October 2014.

## 6. Legislation in Scotland, Wales and Northern Ireland

### Scotland

The [Control of Dogs \(Scotland\) Act](#) was passed in April 2010 by the Scottish Parliament. The Act focused on irresponsible ownership of dogs. It also extended the coverage of the 1991 Act to any place rather than just public places. The Act did not remove the ban on the four breed types included in the *Dangerous Dogs Act 1991*.

The Scottish Parliamentary Information Centre summarised the provisions of the Private Member's Bill as follows:

Christine Grahame MSP introduced 'The Control of Dogs (Scotland) Bill' on 22 June 2009. The Bill seeks to modernise the law on control of dogs. In particular the Bill seeks to:

- Introduce a new regime of 'dog control notices' (DCN) which will enable local authorities to impose measures on the owner or person in charge ("the proper person") of a dog where that person has failed to keep the dog under control.
- Provide Scottish Ministers with a power to establish a national database of dog control notices.
- Enable local authorities to apply to a court to have a dog destroyed where it considers a dog is out of control and dangerous.
- Extend the liability of a person where a dog is dangerously out of control to all places.

The Scottish Executive summarised how it worked as follows:

The provisions in the 2010 Act will widen the scope for local authorities and the courts to take action against persons in charge of a dog where the dog's behaviour is deemed to be "out of control". This will be achieved through the creation of a Dog Control Notice (DCN) regime that will permit (local authority appointed) authorised officers to issue DCNs to irresponsible owners of any dog that have been found to be out of control.

The DCN can impose a number of conditions on the dog owner including:

- Muzzling the dog whenever it is in a place to which the public have access;
- Keeping the dog on a lead whenever it is in a place to which the public have access;
- If the dog is male, neutering it; and
- The owner and their dog attending and completing a training course in the control of dogs.

The 2010 Act also amends the Dangerous Dogs Act 1991 so that a dog owner can be held criminally responsible where a dog is found to be dangerously out of control in any place rather than only a public place or private place where a dog is not permitted to be.<sup>16</sup>

## Wales

The Welsh Assembly Government published [consultation](#) on compulsory microchipping of dogs in May 2012. A decision to introduce the compulsory microchipping all dogs from 2015 was [announced](#) in April 2013:

Of the estimated 450,000 dogs on Wales, it is estimated that some 58% are already microchipped. This means that there are approximately 190,000 dogs that would need to be microchipped prior to March 2015.

The Welsh Government estimates that it is possible to have all dogs microchipped within a year of Regulations coming into effect. The Minister will therefore introduce Regulations in due course in order to allow dog owners 12 months in which to get their dog micro-chipped.

## Northern Ireland

BSL applies in Northern Ireland, which still has a requirement for dog owners to have a licence for their dogs. In addition the [Dogs \(Amendment\) Act \(Northern Ireland\) 2011](#) introduced [provisions](#) which made microchipping of most dogs compulsory, gave powers for dog wardens to attach control conditions to a dog licence for problem dogs and made it an offence to have a dog that attacks and injures another person's pet animal.

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<sup>16</sup> Scottish Executive Website, [Control of Dogs Act \(Scotland\) 2010](#), 21 June 2011

## 7. Campaign against breed-specific legislation (BSL)

The part of the *Dangerous Dogs Act 1991* banning specific breeds, i.e. the breed-specific legislation, has been criticised by some for failing to tackle dangerous dogs while requiring the destruction of safe dogs.

The RSPCA published a report in 2016 which stated that:

- there is widespread criticism of a breed specific approach for protecting public safety;
- it has not reduced dog bites as it was designed to do;
- breed is not an appropriate criterion on which to assess a dog's risk to people; aggression is a complex behaviour;
- the process of handling dogs under the law is compromising welfare;
- it is requiring welfare charities and police to put to sleep dogs based on their appearance, not temperament.<sup>17</sup>

The RSPCA report set out a range of evidence to support this view. It summarised this:

There is no robust data that dogs prohibited under s1, targeted due to the belief that these dogs pose a heightened risk to public safety, are more involved, or are any more likely to be involved, in dog bite related incidents than any other breed or type in the UK. However, there is evidence that dog bite incidence is increasing despite BSL being in effect for 25 years.

Aggression is not simply a product of breed and breed isn't a reliable predictor of aggression. As a behaviour, aggression is very complex. Whether or not a dog uses aggression is influenced by a range of factors including how they were bred and reared and their experiences throughout their lifetime.<sup>18</sup>

RSPCA said that the law should be changed to remove the ban on certain breeds. It said that the problem instead should be tackled through a "new three-pronged approach... to better protect public safety" involving:

- education particularly targeted at children;
- effective legislation and enforcement which tackles the issues through existing and additional powers under the Anti-social Behaviour Crime and Policing Act 2014 and Section 3 of the Dangerous Dogs Act 1991;

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<sup>17</sup> [BREED SPECIFIC LEGISLATION – A DOG'S DINNER](#), RSPCA, 2016

<sup>18</sup> *ibid*



- better understanding of why dogs bite (and hence how bites can be better avoided) by undertaking more research.<sup>19</sup>

These concerns and views are broadly shared by other organisations such as the British Veterinary Association (BVA), which said:

We are opposed to any proposal or legislation that singles out particular breeds of dogs rather than targeting individual aggressive dogs. The problems caused by dangerous dogs will never be solved until dog owners appreciate that they are responsible for the actions of their animals - the "deed not breed" principle.<sup>20</sup>

The Dutch government decided to withdraw its BSL in 2009 because it found it had not led to a reduction in the number of dog bites. It was replaced by an 'abnormal behaviour' test that assesses excessive fear and excessive aggression in any dog, the results of which can determine its fate.<sup>21</sup>

## Government position on BSL

### The Coalition Government

In 2012 the then Government acknowledged that the majority of respondents to a consultation on dangerous dogs wanted BSL to be repealed, "although the police and a number of local authority representatives wanted it retained".<sup>22</sup>

The Government concluded that "it would not be appropriate" to repeal BSL "as they share the concerns expressed by the police about the risk that unrestricted ownership of section 1 dogs ("dogs bred for fighting") could present to the public".<sup>23</sup>

The consultation document also noted that some "welfare groups, local authority interests, and the Association of Chief Police Officers consider that... there are no viable alternatives and it should not be repealed". It also noted that some stakeholders believed that additional breeds should be added to the banned list in order to protect the public, including Staffordshire Bull Terriers.

The then Government stated that before amending or repealing BSL, "it would be necessary to have robust risk-based evidence to support the move".<sup>24</sup>

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<sup>19</sup> *ibid*

<sup>20</sup> [Dangerous dogs](#), BVA, viewed 11 August 2016

<sup>21</sup> Legislation on canine issues, Netherlands House of Representatives research service, ECPRD, 3 September 2010

<sup>22</sup> [Promoting more responsible dog ownership: Proposals to tackle irresponsible dog ownership](#), DEFRA, April 2012

<sup>23</sup> *ibid*

<sup>24</sup> [Public Consultation on Dangerous Dogs: Does current dangerous dogs legislation adequately protect the public and encourage responsible dog ownership?](#), DEFRA, 9 March 2010

### The Government's position

The Government set out its position in January 2016 in response to an online petition calling for BSL to be repealed. It said that it "considers that the prohibition on the four types of fighting dog under the Dangerous Dogs Act should remain in place". It stated that "this view is supported by the police". It went on:

The law on dangerous dogs is concerned with protecting the safety of the public. The four types of dog, pit bull terrier, Japanese Tosa, Dogo Argentino and Fila Brasileiro are prohibited because they are types bred for fighting. The Dangerous Dogs Act 1991 states that no person shall give away, breed or breed from, sell, or exchange a prohibited dog. However, the law allows a person to keep an individual dog where a court has considered that it does not present a danger to public safety. The court must consider the temperament of the dog and whether the intended keeper is a "fit and proper person" and other matters such as suitability of accommodation. Dogs placed on the Index of Exempted dogs may be kept by the owner under strict conditions, including that the dog is neutered, microchipped and kept on a lead and muzzled in public. There are currently 3000 dogs where a court has granted an exemption and allowed them to stay with their owner.

The Dangerous Dogs Act also makes it an offence to allow a dog of any breed or type to become dangerously out of control in any place. The maximum penalty for this offence is 14 years imprisonment, where the offence has led to a death and 5 years imprisonment where someone is injured.<sup>25</sup>

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<sup>25</sup> [Ban Breed Specific Legislation](#), Petition, closed 27 January 2016

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