

## DOG LAW – ENGLAND AND WALES CRIMINAL LAW

*This information is intended as a guide but should not be taken as legal advice.*

### Breed Specific Legislation

Section 1, Dangerous Dogs Act 1991

Section 4B, Dangerous Dogs Act 1991

<http://www.legislation.gov.uk/ukpga/1991/65/contents>

[http://www.legislation.gov.uk/uksi/2015/138/pdfs/uksi\\_20150138\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/138/pdfs/uksi_20150138_en.pdf)

Section 1 of the Dangerous Dogs Act 1991 prohibits 4 types of dog namely: the Pit Bull Terrier, the Japanese Tosa, the Fila Brasileiro and the Dogo Argentino. A dog will be deemed to be a prohibited type if it shares a substantial number of the characteristics with any of the aforementioned breeds.

If the police identify a dog as being a prohibited type it will usually be seized, although the police do have the option of releasing the dog back to the owner under the Interim Exemption Scheme. If criminal proceedings are brought under section 1, they will be brought against the person in charge of the dog at the time it came to the attention of the police. If the police say your dog is a prohibited type, it is up to you to prove that it is not and this will require expert evidence. Legal aid may be available and the maximum sentence the court can impose is 6 months imprisonment and/or a fine. Most cases are resolved by way of a fine.

If civil proceedings are brought under section 4B, they can only be brought against the owner of the dog, and no legal aid is available. There is no sentence but the court can order police costs to be paid.

In both cases, the court has the power to make a destruction order against the dog and/or to order a person to be disqualified from having custody of a dog. The courts are usually in favour of destruction of the dog unless the owner can prove that the dog does not pose a danger to the public, and that the owner is a fit and proper person to own a dog of that type. If the court is persuaded that the dog doesn't pose a danger to the public, it can issue a Contingent Destruction Order which allows the dog to be exempted from the prohibition which will require that the dog is:

- Microchipped
- Has third party insurance for life
- Wears a lead and muzzle in public (the definition of "public" is a wide one and includes the common areas of a block of flats and a car if that car is in a public place)
- At the same address as the registered address with the exception of 30 days in a 12 month period

Ownership of an exempted dog can never be transferred but it is possible in very limited circumstances (serious illness or death) to make an application to the court to transfer keepership to

another person. It is also unlawful to breed, sell, exchange and give away a prohibited dog or to abandon it or allow it to stray.

***Dogs Trust are opposed to breed specific legislation as we believe it is ineffective at protecting the public and seriously compromises dog welfare.***

### **Dogs Dangerously out of Control**

Section 3, Dangerous Dogs Act

<http://www.legislation.gov.uk/ukpga/1991/65/contents>

A dog is deemed to be dangerously out of control if there is reasonable apprehension that it will injure a person or an assistance dog, whether or not injury is caused. An offence is committed by the owner and/or the person in charge of a dog if it is dangerously out of control in either a public or private place. If no injury is caused, the offence can only be heard in the magistrates' court where the maximum sentence is 6 months imprisonment and/or a fine.

If a person or an assistance dog is injured by the dog, a more serious offence is committed which can be heard in either the magistrates' court or the crown court. The maximum sentence available in the magistrates' court is 6 months imprisonment (or 12 months if there is more than 1 offence) and/or a fine. For more serious offences dealt with by the crown court there is a maximum sentence of 5 years imprisonment where a person or an assistance dog are injured or 14 years imprisonment if a dog causes the death of a person.

It is a defence for the owner of the dog to show that they left their dog in the care of someone they reasonably-believed to be a responsible person. There is also a potential defence available if the incident occurred in a dwelling and the victim was a trespasser.

If the court is satisfied that the dog does not pose a danger to public safety and the owner is a fit and proper person, they can make a Contingent Destruction Order with conditions to ensure public safety.

### **Animal Cruelty**

Section 9, Animal Welfare Act 2006

<http://www.legislation.gov.uk/ukpga/2006/45/contents>

It is an offence to cause or allow a dog-for which you are responsible to suffer unnecessarily, or to fail to take reasonable steps to prevent suffering from occurring. This is an offence that can only be dealt with in the magistrates' court. The maximum penalty is 6 months imprisonment and/or an unlimited fine. The court can also remove the dog and disqualify the owner from keeping dogs.

### Duty to Ensure Welfare

Section 9, Animal Welfare Act 2006

<http://www.legislation.gov.uk/ukpga/2006/45/contents>

An offence is committed if a person fails to take reasonable steps to ensure that the needs of a dog for which they are responsible are met. These needs are:

- A suitable environment
- A suitable diet
- To exhibit normal behaviour patterns
- To be housed with, or apart from other animals
- To be protected from pain, suffering, injury and disease

The maximum penalty is 6 months imprisonment and/or an unlimited fine. The court can also remove the dog and disqualify the owner from keeping dogs. As an alternative to prosecution, an Improvement Notice can be served specifying steps that must be taken to improve the living conditions for the dog.

### Identification

Control of Dogs Order 1992

<http://www.legislation.gov.uk/uksi/1992/901/contents/made>

A dog is required to wear a collar that states the name and address of the owner or this information must be on a tag which is on the collar. The maximum penalty for non-compliance is a fine.

Microchipping of Dogs (England) Regulations 2014

<http://www.legislation.gov.uk/uksi/2015/108/contents/made>

<http://www.legislation.gov.uk/wsi/2015/1990/contents/made>

Microchipping of dogs over the age of 8 weeks has been compulsory since 2016. Owners are also required to ensure that the microchip details are kept up to date.

### Dogs Dangerous to Livestock

Section 1, Dogs (Protection of Livestock) Act 1953

<http://www.legislation.gov.uk/ukpga/Eliz2/1-2/28>

An offence is committed by the owner/person in charge of the dog if the dog attacks livestock, chases livestock in such a way that injury is likely, or if the dog not under control in a field or enclosure in which there are sheep.

The maximum penalty is a fine and compensation can be ordered. The court does not have the power to make a destruction order against the dog but could bring separate proceedings under the Dogs Act 1871 (see below) to try to achieve this purpose or to obtain a control order.

### **Dogs Not Kept Under Control**

Section 2, Dogs Act 1871

<http://www.legislation.gov.uk/ukpga/Vict/34-35/56>

If a dog is found to be dangerous and not kept under proper control by its owner, the court can make either a destruction order, a control order with conditions to ensure public safety, and/or disqualify the owner from keeping a dog. The court can also order the owner to pay the costs of bringing the proceedings but they cannot order them to pay compensation or impose any kind of sentence. These are civil proceedings that are heard in a magistrates' court.

### **Breeding of Dogs**

Section 1, Breeding of Dogs Act 1973

<http://www.legislation.gov.uk/ukpga/1973/60>

If your dogs have 5 litters in a 12 month period (even if some of those litters are kept elsewhere) then your premises will be deemed to be a "boarding establishment" which is unlawful unless it is licenced by the local authority. The maximum penalty is a fine.

The position in Wales differs slightly under the Animal Welfare (Breeding of Dogs)(Wales) Regulations 2014. <http://www.legislation.gov.uk/wsi/2014/3266/made>

### **Boarding of Dogs**

Section 1, Animal Boarding Establishments Act 1963

<http://www.legislation.gov.uk/ukpga/1963/43>

It is an offence to keep a "boarding establishment" for dogs unless you are licenced by the local authority. The maximum penalty is 3 months imprisonment and/or a fine.

### **Shock Collars**

The Animal Welfare (Electronic Collars)(Wales) Regulations 2010

<http://legislation.gov.uk/wsi/2010/943/contents/made>

Although legal in England, electronic "shock" collars are unlawful in Wales.

***Dogs Trust are opposed to electronic collars and would like to see the ban extended to the rest of the UK.***

### **Public Space Protection Orders – “PSPOs”**

Sections 59 – 75 Anti-social Behaviour Crime and Policing Act 2014

<http://legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>

These orders replace the old “Dog Control Orders” and allow local authorities to designate areas of public land from which dogs can be excluded, have to be kept on a lead or other measures of control. Failure to comply with such an order is an offence punishable with a fine or a Fixed Penalty Notice.

*Local authorities must go through a consultation process prior to introducing a Public Space Protection Order. If you become aware that your council are planning to bring in such an order, please let us know as Dogs Trust like to respond to these consultations.*

### **Community Protection Notices**

Sections 43 – 58 Anti-social Behaviour Crime and Policing Act 2014

<http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/1/enacted>

Before a Community Protection Notice can be issued, a warning notice must first be served requiring the owner to do, or not do, certain things. The penalty for breaching a Community Protection Notice is a fine, although a Fixed Penalty Notice may be issued in the alternative.

## **DOG LAW – ENGLAND AND WALES CIVIL LAW**

### **Ownership Disputes**

A dog is regarded as an item of property in law and so in the event of a dispute, a court can be asked to make a declaration on who is the owner of the dog and who should have possession. Deciding who has the best claim to a dog can be difficult and the court will consider evidence of who purchased the dog and who has looked after the dog and paid for its upkeep. If the dog is microchipped to one of the parties this is persuasive but not conclusive evidence of ownership.

If an owner gives their dog away ownership will pass immediately after the dog is handed over.

### **Stray Dogs**

Sections 149 – 150 Environmental Protection Act 1990

<http://www.legislation.gov.uk/ukpga/1990/43/contents>

Responsibility for stray dogs rests with the local authority who are required to have an officer responsible for dealing with strays. The officer is required to serve notice on the owner of a stray dog. If the owner fails to come forward within 7 days from the date of seizure or the date of service of the notice (whichever is the later) the local authority may rehome the dog or may have it put to sleep.

## Sale of Goods Act 1979

<http://www.legislation.gov.uk/ukpga/1979/54>

If a dog is not healthy or fit for the purpose for which it was sold, it may be possible for a claim for damages against the seller provided the buyer can prove that the seller was acting as a business. If not, the buyer alone is responsible for checking the quality and suitability of the dog.

## Damage Caused by Dogs

Animals Act 1971

<https://www.legislation.gov.uk/ukpga/1971/22>

If a dog harms a person, another dog or damages property it may be possible to make a claim for compensation against the keeper of that dog.

***At Dogs Trust we strongly advise all dog owners to take out third party liability insurance as these claims can be expensive. If you become a member of Dogs Trust you receive third party liability insurance up to £1 million per claim*** <https://www.dogstrust.org.uk/get-involved/membership/>

## Noise Nuisance

Section 79, Environmental Protection Act 1990

<http://www.legislation.gov.uk/ukpga/1990/43/contents>

If a complaint is made to the local authority they will investigate it and may ask the complainant to keep a noise diary. Sometimes recording equipment is installed to monitor the extent of the problem and to gather evidence. If the local authority is satisfied that there is a problem, they may serve a Noise Abatement Notice. Breach of the notice is a criminal offence for which an unlimited fine can be imposed. Alternatively, the problem could be dealt with by serving a Community Protection Notice.