

Updates, news and other materials

The Hunting Trophies (Import Prohibition) Bill - third time lucky?

By Jessica Tang

The Hunting Trophies (Import Prohibition) Bill (the "Bill"), introduced by Labour MP John Spellar, passed its Second Reading in the House of Commons on 22 March 2024 and had the full support of the Government.¹ This is the third attempt in passing the Bill into law, which aims to protect endangered species abroad. If successful, the Bill will ban the importation into the UK of hunting trophies from animals of conservation concern.

What does the Bill prohibit and why is it necessary?

Currently, British people can bring hunting trophies such as ivory horns and stuffed lion heads into the UK as long as they have the correct import and export permits.² According to a report published by the All-Party Parliamentary Group, since the 1980s, approximately 25,000 hunting trophies have been brought into the UK by British hunters.³

The Bill proposed prohibiting the importation of hunting trophies from animal species listed in Annexes A and B of the 'Principal Wildlife Trade Regulation' (a retained EU law), which are either threatened with extinction or over-exploited and require trade control. Estab-

lishing a ban on the importation into the UK of hunting trophies of these endangered and exploited species is one way the UK can play its part in putting a stop to the killing of these species in the name of sport.

What happened with the previous attempts?

The Government first introduced the banning of trophy hunting as part of its Animals Abroad Bill but unfortunately, this commitment was abandoned in 2022.

Last year, Conservative MP Henry Smith also attempted to get an earlier version of the Bill through Parliament (the "2023 Bill"). Despite the 2023 Bill having the support of over 80% of the British public⁴ and the support of the UK Government (having already passed through the House of Commons with only minor amendments), the 2023 Bill was allowed to be frustrated by a small group of pro-hunting members of the House of Lords. This is because the Bill was a Private Member's Bill ("PMB"), as opposed to a Government Bill. PMBs require approval from both the House of Commons and the House of Lords before the end of a parliamentary session to become law.

With the timing restrictions in mind, the pro-hunting members tabled over 60 amendments at the Committee Stage. They flagged that the profits from trophy hunting are essential to fund conservation projects ultimately protecting endangered species and that the Bill "may be misconceived as some form of neocolonialism" by attempting to strip communities of their right to independently govern their wildlife management practices.⁵ The

¹ [https://hansard.parliament.uk/commons/2024-03-22/debates/2403228000001/HuntingTrophies\(ImportProhibition\)Bill#contribution-21CA2808-B43F-44F8-9569-30114489CoC9](https://hansard.parliament.uk/commons/2024-03-22/debates/2403228000001/HuntingTrophies(ImportProhibition)Bill#contribution-21CA2808-B43F-44F8-9569-30114489CoC9)

² See the Convention on International Trade in Endangered Species of Wild Fauna which is implemented through the EU Wildlife Trade Regulations.

³ Trophy Hunting & Britain: The Case for a Ban A report of the All-Party Parliamentary Group on Banning Trophy Hunting dated 29 June 2022

⁴ Survation carried out a poll of 1020 respondents in March 2021 on behalf of the APPG on Banning Trophy Hunting

⁵ <https://hansard.parliament.uk/lords/2023-09-12/debates/DCC57FBE-241C-4FC3-BB4D-407604F836DB/>

Lords requested for each amendment to be debated individually causing time to run out and the Bill to fail at the end of the parliamentary session on 7 November 2023.

What's next?

The Bill is still at an early stage and will be subject to further scrutiny. Given that the Bill was not re-introduced as a Government Bill, it is still subject to processes and timings associated with a PMB. That is, to become law, the Bill will have to clear its remaining parliamentary stages before a general election expected later this year. It is hopeful that the House of Lords will not take advantage of the timing restrictions to frustrate the Bill, as they had done last year.

Animal Welfare (Livestock Exports) Bill

By Adam Waite¹

The Animal Welfare Livestock Exports Bill (the "Bill") was introduced in the House of Commons on 4 December 2023. Having then received cross party support², The Bill passed through the House of Commons unamended, and is now due to proceed to the third reading in the House of Lords in May 2024. No amendments have yet been put forward ahead of third reading, where the Lords will have a final chance to amend the bill. In the second reading in the House of Commons, the Secretary of State for Environment, Food and Rural Affairs, ("DEFRA"), Steve Barclay said that the Bill would: "cement our position as a world leader on animal welfare"³ and the Government's own press release⁴ relating to the Bill refers to the Government's commitment to high animal welfare standards, and the desire to ensure that "all animals are treated kindly at all stages of life"⁵.

The purpose of the Bill is primarily intended to prohibit the export of certain animals for slaughter and fattening from Great Britain, with the goal of preventing unnecessary suffering and even death of these animals. The Royal Society for the Prevention of Cruelty to Animals ("RSPCA") has stated that the long journeys associated with such exports can cause animals to become mentally exhausted, physically injured, hungry, dehydrated and stressed.⁶ The RSPCA has also expressed

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² House of Lords 'Animal Welfare (Livestock Exports) Bill Library Briefing (2024) (<https://researchbriefings.files.parliament.uk/documents/LLN-2024-0001/LLN-2024-0001.pdf>) [Accessed 10 May 2024]

³ HC Hansard, 18 December 2023, col 1172.

⁴ [https://www.gov.uk/government/news/new-legislation-set-to-ban-live-animal-exports#:~:text=The%20Animal%20Welfare%20\(Livestock%20Exports,cattle%2C%20sheep%2C%20and%20pigs.](https://www.gov.uk/government/news/new-legislation-set-to-ban-live-animal-exports#:~:text=The%20Animal%20Welfare%20(Livestock%20Exports,cattle%2C%20sheep%2C%20and%20pigs.) [Accessed 10 May 2024] [Accessed 10 May 2024]

⁵ Ibid. 3. [Accessed 10 May 2024]

⁶ <https://www.rspca.org.uk/getinvolved/campaign/stopliveexports#action> [Accessed 10 May 2024]

concern that without this new legislation, animals may be exported to countries where they face conditions that would be illegal in the UK⁷.

The Government has said that the UK's departure from the EU gave it the freedom to implement a ban of the type contemplated by the Bill⁸, and the topic was highlighted at the time of the EU referendum as a benefit of leaving the EU due to the EU free trade rules⁹. Animal welfare organisations including the RSPCA and Compassion in World Farming have been campaigning for many years on this issue¹⁰, and in December 2020 DEFRA, in partnership with the Welsh Government, published a consultation¹¹, to which over with 87% of respondents agreed that livestock and horse export journeys for slaughter and fattening are unnecessary¹².

The provisions of the Bill would make it an offence to send, transport or organise transport (or attempt to do so) for the export of certain live animals¹³ which includes cattle, sheep, goats, pigs, wild boar, horses and certain related animals¹⁴. Amendments were debated in the House of Commons at committee stage about expanding the list of animals included, to also capture animals such as deer, alpacas, llamas and adult poultry, and providing regulatory powers to add to the list in the future. This would have allowed for what Wildlife and Countryside Link describe as a "future-proofing" of the Bill,¹⁵ but ultimately no

amendments to that effect were made, and so further primary legislation would be required in the event that other species need to be added to the exclusion list in the future.

The Bill would apply to transport of livestock from or through Great Britain for fattening and slaughter outside the British Islands, but would not prohibit the transport of animals for other purposes (e.g. breeding or competition)¹⁶. The Animal Justice Project has argued that the Bill consequently does not go far enough, asserting that: "any large animals, including cows, pigs and sheep, will still be allowed to be live exported across the world if their 'purpose' is for breeding",¹⁷ and contends as such that by failing to protect all animals and for all purposes, the Bill suffers from "significant flaws"¹⁸. The provisions of the Bill would apply to England, Scotland and Wales, but (despite concerns about this being raised in the House of Commons) do not apply to Northern Ireland, and do not therefore alter movements of animals within the island of Ireland,¹⁹ due, it is understood, to the close integration of the agricultural sectors between those two territories²⁰. Similarly, the Bill does not prohibit the movement of animals between the British Islands, so animals could continue to travel between Northern Ireland and England, Wales and Scotland²¹.

Animal welfare organisations who have campaigned for the ban have welcomed the Bill,²² and there is now a keen focus on ensuring that the Bill passes swiftly through the final stages of the parliamentary process to ensure that it becomes law before the next General Election²³

7 <https://politicalanimal.rspca.org.uk/animal-welfare-livestock-exports-bill>. [Accessed 10 May 2024]

8 House of Commons Library 'Animal Welfare (Livestock Exports) Bill 2023-24 Research Briefing (2024) (<https://researchbriefings.files.parliament.uk/documents/CBP-gg12/CBP-gg12.pdf>) [Accessed 10 May 2024]

9 Explanatory Notes relating to the Animal Welfare (Livestock Exports) Bill as brought from the House of Commons on 16 January 2024 (<https://bills.parliament.uk/publications/53691/documents/4276>) [Accessed 10 May 2024]

10 Ibid. 1. [Accessed 10 May 2024]

11 DEFRA 'Consultation on improvements to animal welfare in transport' (2020) (https://consult.defra.gov.uk/transforming-farm-animal-health-and-welfare-team/improvements-to-animal-welfare-in-transport/supporting_documents/consultationonimprovementstoanimalwelfare-intransport.pdf) [Accessed 10 May 2024]

12 Ibid. 1. [Accessed 10 May 2024]

13 Animal Welfare (Livestock Exports) Bill [as brought from the Commons], 16 January 2024, cl 1.

14 Ibid. 1. [Accessed 10 May 2024]

15 Wildlife and Countryside Link "Animal Welfare (Livestock Exports) Bill: Briefing for Lords 2nd

reading" (2024) (https://www.wcl.org.uk/docs/assets/uploads/Animal_Welfare_Livestock_Exports_Bill_Briefing_for_Lords_2nd_Reading_Feb_24.pdf) [Accessed 10 May 2024]

16 Ibid. 1. [Accessed 10 May 2024]

17 <https://www.animaljusticeproject.com/post/what-is-the-animal-welfare-livestock-exports-bill> [Accessed 10 May 2024]

18 Ibid. 16. [Accessed 10 May 2024]

19 Ibid. 7. [Accessed 10 May 2024]

20 Ibid. 1. [Accessed 10 May 2024]

21 Ibid. 1. [Accessed 10 May 2024]

22 See e.g. <https://www.rspca.org.uk/advice-and-welfare/farm/livetransport/keyissues> and https://www.wcl.org.uk/docs/assets/uploads/Animal_Welfare_Livestock_Exports_Bill_Briefing_for_Lords_2nd_Reading_Feb_24.pdf [Accessed 10 May 2024]

23 https://www.wcl.org.uk/docs/assets/uploads/Animal_Welfare_Livestock_Exports_Bill_Briefing_for_Lords_2nd



The Pet Abduction Bill

By Adam Waite

There is currently no legislation aimed at addressing pet theft specifically¹, although stealing a pet is a criminal offence under the Theft Act 1968.

The Stolen and Missing Pets Alliance states that: "more than 60 dogs are snatched every week in England and Wales"² and since their launch in 2014, have been lobbying to make pet theft a specific offence³ due to concerns that under the existing legislative and sentencing frameworks, pets are classed as "as property, second hand goods..."⁴ therefore leading to low prosecution rates and lenient

sentences for those found guilty⁵ of this "low-risk high-reward crime"⁶.

In light of the increase in pet thefts during the coronavirus pandemic⁷, the Pet Theft Taskforce ("Taskforce") was established to "to gather evidence to understand the factors that may be contributing to any perceived rise in thefts and to recommend any necessary measures to tackle the problem". When their report was published in September 2021, one of the key recommendations made by the Taskforce was to introduce a new offence of pet abduction, which "could switch the focus from the loss to the owner to the welfare of the animal" when sentencing⁸.

The Pet Abduction Bill (the "Bill") was introduced in the House of Commons as a private member's bill by Anna Firth MP (Conservative MP for Southend West) on 6 December 2023.

1 House of Commons Library Research Briefing (2024) <https://researchbriefings.files.parliament.uk/documents/CBP-9929/CBP-9929.pdf> [Accessed 10 May 2024]

2 Ibid. 2. [Accessed 10 May 2024]

3 <https://www.pettheftreform.com/specific-offence> [Accessed 10 May 2024]

4 <https://www.stolenandmissingpetsalliance.co.uk/> [Accessed 10 May 2024]

5 Ibid. 1 [Accessed 10 May 2024].

6 Ibid. 2. [Accessed 10 May 2024]

7 Ibid. 1 [Accessed 10 May 2024].

8 DEFRA Policy Paper "Pet theft taskforce report" (2021) (<https://www.gov.uk/government/publications/pet-theft-taskforce-report/pet-theft-taskforce-report>) [Accessed 10 May 2024]

In January 2024, the government announced that it was supporting the Bill⁹. In the House of Commons, the Bill received broad cross-party support¹⁰ and, having now completed all of the House of Commons stages, has been passed to the House of Lords, in which the second reading of the Bill took place on 10 May 2024.

During its second reading in the House of Commons, Anna Field explained that the purpose of the Bill is to recognise that: "...dogs and cats are sentient beings. They are not mere property; animals and humans can and do form emotional bonds and there is a devastating impact when animal abduction takes place, both on people and on pets."¹¹

The Bill would provide for two new criminal offences in relation to the taking or detaining of a dog from the lawful control of any person¹², and the taking of a cat from the lawful control of any person.¹³ Note that while the provisions are similar for cats and dogs, there is no specific offence of "detaining" a cat, given that the behaviour of the two animals is different and cats typically roam¹⁴.

The Bill would also introduce enabling powers for ministers to create, where certain conditions are met, similar offences for other species of animals commonly kept as pets¹⁵. Anyone found guilty of an offence under this legislation could be subject to a fine and/or a prison sentence for a term of up to five years¹⁶. The territorial extent of the Bill is England and Wales and Northern Ireland¹⁷. Unlike under the Theft Act 1968, the new offences do not require the prosecution to prove an intention

to permanently deprive the other of a pet¹⁸.

There are possible defences available for the person charged of the offences, including where the person can show that they had lawful authority or a reasonable excuse, presumably intended to protect those who have good intentions in looking after an unaccompanied animal.

The Bill has been welcomed by several animal welfare organisations including the RSPCA,¹⁹ Cats Protection²⁰ and the Kennel Club²¹ who will no doubt be keen to see the Bill proceed swiftly though the remaining stages of the parliamentary process to become law ahead of the next General Election.

9 <https://www.gov.uk/government/news/government-backs-new-pet-abduction-law-in-pet-theft-crackdown>

10 House of Lords 'Pet Abduction Bill Library Briefing' (2024) [Accessed 10 May 2024]

<https://researchbriefings.files.parliament.uk/documents/LLN-2024-0019/LLN-2024-0019.pdf> [Accessed 10 May 2024]

11 HC Deb c1168 19 January 2024.

12 Pet Abduction Bill [as brought from the Commons on 22 April 2024], cl 1(1).

13 Pet Abduction Bill [as brought from the Commons on 22 April 2024], cl 2(1).

14 Ibid. 10. [Accessed 10 May 2024.

15 Pet Abduction Bill [as brought from the Commons on 22 April 2024], cl 3.

16 Pet Abduction Bill [as brought from the Commons on 22 April 2024], cl 1(7) and cl 2(5).

17 Pet Abduction Bill [as brought from the Commons on 22 April 2024], cl 5.

18 Explanatory Notes relating to the Pet Abduction Bill as brought from the House of Commons on 22 April 2024 (<https://bills.parliament.uk/publications/55187/documents/4738>) [Accessed 10 May 2024]

19 <https://onthewight.com/rspca-endorses-pet-abduction-bill-to-create-stronger-deterrents-for-pet-thieves/> [Accessed 10 May 2024]

20 <https://www.cats.org.uk/mediacentre/pressreleases/proposed-bills-on-kitten-smuggling-and-cat-theft-could-protect-tens-of-thousands-of-cats-says-cat-charity> [Accessed 10 May 2024]

21 <https://www.thekennelclub.org.uk/media-centre/2024/january/the-kennel-club-welcomes-new-pet-abduction-bill/> [Accessed 10 May 2024]

Legal Briefing Note – Dangerous Dogs and Banned Dog Breeds

By Dr Angus Nurse, Anglia Ruskin University, the Focus On Animal Law (FOAL) Group and the Companion Animal Law Working Group of the UK Centre for Animal Law (A-LAW)

Executive summary

This briefing note considers the issue of banned 'dangerous dogs' following the Government's announce meant that the American XL Bulldog would be added to the list of banned breeds under the Dangerous Dogs Act 1991 (the DDA) from 1 February 2024.¹ Subsequently, the Government introduced the Dangerous Dogs (Designated Types) (England and Wales) Order 2023 which designated the XL Bully as a dangerous dog.

In order to engage with the issues, it is necessary in our opinion to understand the existing dog control legislation, including powers under the DDA.

This briefing note provides an overview and considers some of the problems and limitations with the legislation.

We have found little case law or other evidence to suggest that a substantial problem exists in respect of taking prosecutions for any dogs that are involved in attacks. Indeed, the wording of Section 3 DDA (as amended by the Anti-social Behaviour, Crime and Policing Act 2014) clearly relates to any dog that is out of control as do the provisions of the 1871 Dog Act. Accordingly, legislation already allowed for prosecution in respect of XL Bully dogs causing injury, without any need for them to be added to the list of banned breeds under the DDA.

However, in this briefing note we suggest that the DDA is largely reactive rather than preventative and so there is a need to consider the underlying issues relating to dog attacks, if a preventative approach is to be applied to the current perceived XL Bully problem.

¹ Defra (2023) XL Bully type dogs to be banned. <https://www.gov.uk/government/news/xl-bully-type-dogs-to-be-banned>

We suggest that the ban on XL Bully dogs has potential to be problematic. The evidence that placing a breed on the banned list effectively prevents dog attack incidents is questionable, as noted by the Environment Food and Rural Affairs (EFRA) committee.²

In principle, all owners of XL Bully dogs could have applied for a Certificate of Exemption by the 1 February 2024 deadline. Government evidence suggests that over 55,000 dogs were registered by the deadline.³ But where owners failed to do so it is unclear whether and what additional resources will be made available to deal with the unregistered dogs. Owners who chose not to register their dog through the exemption scheme could claim compensation if they opted to euthanise their XL Bully dog before the registration deadline. The closing date for all compensation claims was 15 March 2024.⁴ Compensation levels were set at £200 if an owner had paid for euthanasia or £100 if a free charity service was used. However, the scheme risked otherwise healthy dogs being euthanised for no reason other than the introduction of the ban.

It is questionable whether the existing requirement for banned breeds to be muzzled is routinely observed and rigorously enforced. Research⁵ has already identified variation in enforcement practice relating to dog control and any ban is only as effective as its enforcement. Accordingly, it is questionable whether adding the XL Bully to the DDA list will by itself be effective, unless additional enforcement resources are also provided.

We suggest that addressing the dangerous

² Environment Food and Rural Affairs Committee. (2017). Controlling Dangerous Dogs: Conclusions and Recommendations. Available at: https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/1040/104009.htm#_idTextAnchor058

³ Defra. (2024) XL Bully Registrations. Available at: <https://deframedia.blog.gov.uk/2024/02/27/xl-bully-registrations/>

⁴ See The Dangerous Dogs (Compensation and Exemption Schemes) (England and Wales) Order 2023

⁵ Nurse, A., Miles, A. and Guest, C. (2021). AW140: Investigation of measures to reduce dog attacks and promote responsible ownership amongst dog owners with dog control issues in the UK, London: Defra. In this research the authors interviewed police officers and local authority enforcers and engaged with the National Police Dangerous Dogs Working Group and identified clear variation in approaches.

dog problem requires an evidence-based review of dangerous dogs' legislation and its enforcement, together with greater availability of resources for effective enforcement of existing dog control legislation.

Legislative framework

In brief, the Dangerous Dogs Act 1991 ('the DDA') bans the possession, breeding, and sale of designated breeds of dog, currently the XL bully, the pit bull terrier, any type of Japanese Tosa, the Dogo Argentino, and the Fila Brasileiro. Where a breed is banned, and an exemption applies the dog must be neutered, microchipped, muzzled, and kept on a lead if out in public.⁶

The Act provides that the Secretary of State can add further dogs to this list if the dog is of 'a type appearing to him to be bred for fighting or to have the characteristics of a type bred for that purpose'.⁷ This part of the legislation allowed the XL Bully to be added to the list of banned breeds.

The types of dogs listed in section 1 of the DDA are not recognised breeds in the UK. There is no statutory definition of the dog types listed and the UK Kennel Club doesn't recognise pit bulls as a breed, therefore no breed standard which could be used to identify these dogs exists. Dogs are identified as pit bulls or pit bull types when they meet a substantial number of 15 physical features of a pit bull description.⁸

Furthermore, section 5(5) of the DDA reverses the burden of proof, so that where alleged that the dog is of a type listed in section 1, the onus falls upon the accused to show that it is not.

The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 requires that the owner of dogs to whom section 1 of the

DDA applies, place their dog on the Index of Exempted Dogs and meet certain conditions, including that the dog should be neutered and microchipped; an exemption fee should be paid; third-party insurance must be in place; the dog must be kept at the address of the person who has the certificate, and relevant authorities must be notified of any change of address; the dog must be kept in a secure place, must be muzzled, and must be kept on a lead in a public place.

The Dangerous Dogs (Amendment) Act 1997 also amended the DDA 1991 to provide for contingent destruction orders that allow for conditions to be imposed to ensure that a dog is kept under proper control, such as muzzling, keeping on a lead, and excluding from specified areas. A court can also require a male dog to be neutered if it considers that neutering would reduce the dog's 'dangerousness' (i.e. reduce the potential danger posed by the dogs).

Section 3 of the DDA refers to the need to keep dogs under proper control. The provisions apply to all types of dogs and makes it an offence for any dog to be dangerously out of control in any place (public or otherwise) in England or Wales. The Act was amended by the Anti-Social Behaviour, Crime and Policing Act 2014 and now states that a dog is regarded as dangerously out of control 'on any occasion on which there are grounds for reasonable apprehension that it will injure any person or assistance dog'. Injury is not limited to a bite but can include other types of activity such as being knocked over, scratched, or bruised. The dog owner is guilty of the offence but only where his act or omission with or without fault, caused or permitted the dog to be dangerously out of control.

The Anti-Social Behaviour Crime and Policing Act 2014 amends the DDA 1991 in respect of dogs 'dangerously out of control'. Section 107 of the Act specifies that, when deciding whether a dog constitutes a danger to public safety, the court must consider: (i) the temperament of the dog and its past behaviour, and (ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the

6 The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015

7 Dangerous Dogs Act 1991, Section 1 (c)

8 Hoffman, C. L., Harrison, N., Wolff, L., & Westgarth, C. (2014). Is that dog a pit bull? A cross-country comparison of perceptions of shelter workers regarding breed identification. *Journal of applied animal welfare science*: JAAWS, 17(4), 322–339. <https://doi.org/10.1080/10888705.2014.895904>

dog. Courts may also consider any other relevant circumstances, although these are not defined within the Act.

Part 4 of the Anti-Social Behaviour Crime and Policing Act 2014 provides a power to issue Community Protection Notices (CPN) which are aimed at preventing unreasonable behaviour that is having a negative impact on the local community's quality of life. Notices can be imposed where they contain reasonable requirements such as: (a) a requirement to stop doing specified things; (b) a requirement to do specified things; (c) a requirement to take reasonable steps to achieve specified results. Police officers, local authorities, and Police Community Support Officers can issue CPNs, but before doing so they should consider whether the conduct is having a detrimental effect on the community's quality of life, and whether the conduct is unreasonable. A written Community Protection Warning (CPW) must be given to the individual beforehand stating that, if the behaviour doesn't cease, the CPN will be issued.

The Dogs Act 1871, which is still in force, also contains powers to address problematic dog behaviour. Section 2 of the 1871 Act refers to a dog that is dangerous, and not kept under proper control. It states that if it appears to the court, having cognizance of such complaint, that such a dog is dangerous, the court may make an order directing the dog to be kept by the owner under proper control or destroyed. Accordingly, courts can impose specific conditions aimed at reducing the threat or risk of attack caused by individual dogs such as requiring it to be kept on a lead, muzzled in public, or only controlled by certain family members.

Dangerous and Out of Control Dogs: interpreting the law

The various legislation applying to 'dangerous' dogs constructs a broad definition of dangerous dogs, which encompasses 'dangerousness' as being: dependent on breed and identification and assessment of breed-specific characteristics in line with guidance and the law; determined by the temperament and behaviour of the dog; the extent to which the

dog's past behaviour and responsiveness to human control reduces or limits its threat; the extent to which the owner is capable of being a responsible owner or may be perceived as an irresponsible owner and has capacity to appropriately manage any control issues or dangers of dog attacks.⁹

Where dogs are dangerously out of control, a destruction order can be made unless the court is satisfied that the dog is not a threat to public safety. However, the provision should be interpreted so that the court should not automatically require the destruction of a dog that is out of control and should ordinarily consider, before ordering immediate destruction, whether to exercise the power under section 4a(4) of the 1991 Act to order that, unless the owner of the dog keeps it under proper control, the dog shall be destroyed (a suspended order of destruction often referred to as 'contingent destruction order'). A contingent/suspended destruction order '(a) may specify the measures to be taken for keeping the dog under proper control, whether by muzzling, keeping on a lead, excluding it from specified places or otherwise; and (b) if it appears to the court that the dog is a male and would be less dangerous if neutered, may require it to be neutered.'¹⁰

Addressing Dangerous Dog Problems

The evidence that the DDA is effective as a measure for dealing with dangerous dogs has been questioned by the Parliamentary Environment Food and Rural Affairs Committee (EFRA). In its review on controlling dangerous dogs EFRA commented:

We were concerned to hear that the Government considered the Dangerous Dogs Act to be successful on the grounds that it was impossible to tell how many attacks would have occurred without the law. This is not convincing. Children and adults are suffering catastrophic injuries. The increase in attacks - most of them from legal breeds - clearly indicates that the current approach is failing to

⁹ Nurse, A., Miles, A. and Guest, C. (2021). AW140: Investigation of measures to reduce dog attacks and promote responsible ownership amongst dog owners with dog control issues in the UK, London: Defra.
¹⁰ Section 4(a)(5) of the DDA.



protect the public adequately.

In relation to Breed Specific Legislation, EFRA commented:

We are concerned that Defra's arguments in favour of maintaining Breed Specific Legislation are not substantiated by robust evidence. It is even more worrying that non-existent evidence appears to have been cited before a Parliamentary Committee in support of current Government policy. This lack of clarity indicates a disturbing disregard for evidence-based policy-making.... Defra says it has adopted a risk-based approach, but its justification for maintaining the breed ban in its current form is incoherent. Some legal breeds can pose just as great a risk to public safety as illegal breeds, and yet there are no legislative restrictions on their ownership. This inconsistency undermines the logic of the entire Act. We do not support extending the breed ban, as we do not believe it to be effective. However, if the Government feels the ban is a valuable tool in reducing numbers of dangerous dogs, it must clarify why other

dogs which can be just as dangerous should not be prohibited.¹¹

While injuries from pit bull types may be more serious than from some other breeds, evidence that legislated breeds bite more severely than other breeds is not conclusive.¹²

As outlined in this briefing note, the DDA is not the only measure available to deal with problematic dog behaviour, including dog attacks although it seems to be synonymous with any discussion of breeds considered dangerous. However, the Dogs Act 1871 contains measures to deal with dogs that are out of control and, arguably, where a dog is part of wider anti-social behaviour other tools may be available for police and other enforcers to use.

¹¹ Environment Food and Rural Affairs Committee. (2017). Controlling Dangerous Dogs: Conclusions and Recommendations. Available at: https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/1040/104009.htm#_idTextAnchor058

¹² Jaqueline Boyd. (2022). Much-loved dog breeds are just as likely to bite as banned ones – here's how to stop them, The Conversation. Available at: <https://theconversation.com/much-loved-dog-breeds-are-just-as-likely-to-bite-as-banned-ones-heres-how-to-stop-them-188912>

In summary, we suggest that quite apart from the DDA, there are already legal powers to address problematic dog behaviour, with a relatively low threshold for intervention.

We are concerned that where policy requires a preventative approach, dog breed is the only factor (short of behaviour characterised as dangerously out of control) targeted by the legislation. The legislation does not address other relevant factors, nor does it require policymakers to even look beyond breed to identify the causal pathway behind dog attacks, including bites and strikes.

The reliance on the DDA as the operative legislation does not address any human behaviour, such as an owner or keeper using potentially harmful training methods (which may include positively training in aggressive behaviour and traits) or a lack of training, breeding methods, the role of fertility clinics, poor risk assessment in re-homing, co-ownership practices, education, or other factors that may have contributed to an escalation of risk.

The other consequence of a preventative approach that focuses only on breed, is that this has a disproportionately high impact on families with good natured, low risk dogs, who are captured by the 'blunt tool' of a breed specific approach. The current approach takes no account of responsible ownership, where owners take proper measures such as participation in obedience classes, the adoption of positive training methods and so forth. Such owners are also captured under the legislation due to their dog's breed and subject to a raft of conditions, breach of which may see their dog subject to a destruction order.

One of the harshest conditions of the exemption scheme is that dogs on the list cannot be re-homed, except if their owner becomes seriously ill or dies. This means that rescue and re-homing organisations have no legal power to re-home, and owners face the prospect of having a loved family member killed, if they can no longer care for them due to economic or other circumstances, even if there is an option for responsible re-homing.

Thus, we suggest there is an urgent need for

an independent evaluation of our whole approach to dog control legislation and its enforcement, without which the public will be inadequately protected from injuries caused by dogs and responsible owners will continue to be disproportionately and unfairly impacted.

Wildlife Management and Muirburn (Scotland) Act 2024

The Wildlife Management and Muirburn (Scotland) Act 2024¹ ("the Act") was passed by the Scottish Parliament on 21 March 2024 and received Royal Assent on 30 April 2024.

Scotland is now the first part of the UK to have some form of regulated game bird hunting² and it is hoped will stop the illegal persecution of birds of prey.

The Act introduces a licensing scheme where certain birds are shot. It also includes a ban on the use of snares and glue traps and regulates the use of other trapping methods.

Licenses can be removed (on a civil rather than criminal burden of proof) if wildlife crimes have occurred on a landholding. All year licences will now be required for muirburn – the controlled burning of moorland vegetation.

The aim of muirburn is to allow new growth of heather to feed grouse on grouse moors. Muirburn is believed to degrade certain environments particularly the blanket bogs of the uplands.³ The Act will provide two new statutory Codes of Practice that will cover both grouse moor management and muirburn.

The grouse moor licences will come into force on 12 August 2024 with the muirburn provisions in 2025.

The Act has been welcomed by raptor protection groups, animal welfare and environmental groups. However, the Scottish Land and Estates argue against the Act saying that it goes beyond initial concerns about birds of prey and that the benefits of muirburn have not been fully recognised.⁴

1 Wildlife Management and Muirburn (Scotland) Act 2024 (legislation.gov.uk)

2 Orr-Ewing, Duncan 25/04/24 at Welcoming the Wildlife Management and Muirburn Bill - Scotlink

3 The Wildlife Management and Muirburn Bill – The dawn of a new era of upland management in Scotland? | Scottish Wildlife Trust

4 'Gamechanger' Scottish wildlife law passes final vote - BBC News

American Bully XL type (XL Bully) - Scotland & Northern Ireland

Scotland

The rules have changed in Scotland regarding ownership of an XL Bully. As of 23 February 2024 it became illegal to have an XL Bully in public without a lead and muzzle breed or breed from an XL Bully sell, give away or re-home an XL Bully abandon an XL Bully or let it stray.¹

If owners want to keep an XL Bully they need to apply for a Certificate of Exemption by 31 July 2024, otherwise they will be committing a criminal offence and could face up to six months imprisonment and/or a fine of up to £5,000.

For those not wanting to keep their dogs i.e. have their dogs euthanised before 31 July 2024 compensation is available of up to £200 (although an appointment itself can happen after 31 July providing it is confirmed).

The definition of an XL bully is the same confirmation standard used in England and Wales.² The introduction of new safeguards was claimed as a result of the impact of adding the XL Bully to Section 1 of the Dangerous Dogs Act 1991 (as amended) in England and Wales.

"As the First Minister set out last week, the UK Government failed to act to stop dog owners in England and Wales evade the new controls by bringing their dogs to Scotland ...It means that it is now right and proper that we replicate the controls being implemented south of the border."³

The Scottish government is looking to amend the Control of Dogs (Scotland) Act 2010 to enhance and strengthen the general preventative dog control notice regime.

The Scottish Animal Welfare Commission⁴

1 XL Bully dogs in Scotland - gov.scot (www.gov.scot)

2 XL Bully conformation standard - GOV.UK (www.gov.uk)

3 New safeguards for XL Bully dogs: Community Safety Minister statement - gov.scot (www.gov.scot)

4 XL Bully dogs: letter to Victims and Community Safety Minister - gov.scot (www.gov.scot)



questioned the efficacy of ban and breed specific legislation in reducing bite incidents from evidence in the years following the introduction of the Dangerous Dogs Act. It also cites evidence from Defra that human behaviour is the key influence in dog bites. There are also considerable problems in terms of identification of XL bully dogs.

Northern Ireland

Plans to introduce new restrictions on XL bully dogs in Northern Ireland have been announced and guidance will be issued in due course. The restrictions are likely to replicate those in the rest of the UK.