



# Changes to dog control legislation

UPDATE PAPER FOR EXTERNAL ORGANISATIONS

The Anti-social Behaviour, Crime and Policing Act 2014<sup>1</sup> (AsBC&P Act) is due to come into force in England and Wales in May 2014. This paper gives a brief overview of the changes it makes to the Dangerous Dogs Act 1991 (DDA). However, you should not rely solely on this for interpretation of the law and also ensure you are familiar with the legislation yourself.

## What are the main changes?

The AsBC&P Act brings in five main changes to the law concerning dog control which will apply in both England and Wales from 13th May 2014:

1. It extends the scope of the law to cover private places (with a limited exception) in addition to public places.
2. It increases the prison sentence for those convicted of some offences.
3. It creates a new offence for a dog attacking an assistance dog.
4. It provides powers for a constable or an appointed local authority officer to seize a dangerously out of control dog in a private place.
5. It sets out specific considerations concerning the suitability of an owner and the behaviour of a dog a Court must think about if it is not to order the destruction of the dog.

- *Scope of the law*

Until the AsBC&P Act comes into force in May this year, a dog can only be considered dangerously out of control<sup>2</sup> in a public place (section 3(1) DDA), or a place where it is not permitted to be (section 3(3) DDA). The AsBC&P Act will change this and a dog can be considered dangerously out of control in “*any place in England or Wales (whether or not a public place)*”. This will amend these two offences under section 3 of the DDA. In short this means, from May 2014, a dog should be kept under control in both public and private places.

However, there is a defence known as the ‘*householder case*’ as the Westminster Government was keen to ensure homeowners should not be prosecuted if their dog attacks a burglar or trespasser. Here a dog may not be considered to be dangerously out of control if it is in, or partly in a building, or part of a building that is a dwelling (i.e. a domestic property), or forces accommodation and, at the time, the person being attacked is in, or is entering the building as a trespasser, or where the householder is present, he believes the person being attacked to be in, or entering the building, or part of it as a trespasser.

This defence is rather complicated and takes some time to understand. However, in short it

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted> (accessed 19.03.14)

<sup>2</sup> as defined by section 10(3) DDA, “...on any occasion on which there are grounds for reasonable apprehension that it will injure any person, whether or not it actually does so...”

means that the defence does not cover incidents in a back garden (e.g. a child climbing over a fence to get a ball back). The dog must either be in or partly in a dwelling (i.e. a place where someone lives) and the person being attacked must be in or entering a dwelling and either be, or suspected to be, trespassing. So the legislation means someone could be prosecuted if a dog attacked a postman delivering mail, but probably not if someone was breaking into a house to steal something.

- *Dog attacks on assistance dogs*

From 13th May 2014 a dog attack on an assistance dog (i.e. a dog trained to assist the blind, deaf or disabled) will be treated as a criminal offence under section 3 of the DDA in much the same way as an attack on a person. The only difference will be in the sentencing for anyone convicted of such an offence, see below. Note this does not apply to attacks on any other animals, only assistance dogs.

- *Prison sentences*

From May 2014 onwards the maximum prison sentences for those convicted of having a dog dangerously out of control will be increased to; 14 years if a person dies as a result of being injured by a dog, 5 years where a person is injured by a dog, or 3 years where an assistance dog is injured or killed by a dog.

- *Seizure of a dog on private property*

From May 2014 onwards a police constable or a local authority officer appointed under the DDA will be able to seize any dog that appears dangerously out of control in private places as well as public places. (Note the present tense - the animal must be dangerously out of control immediately before or at the time the constable or authorised local authority officer makes the decision to seize.)

- *Court considerations*

From May 2014 onwards a Court if deciding whether to order destruction or issue a contingent destruction order will be required to consider whether an owner (or keeper), of a prohibited type of dog that exemption is being sought, is fit and proper to be in charge of a dog.

Furthermore, when Courts are considering if a dog poses a danger to public safety they must consider the dog's temperament and past behaviour as well as whether the owner or person in charge of the dog at the time is fit and proper. They can also consider any other relevant circumstances.

This does mean that Courts will be required to consider the suitability of owners and the behaviour of the dog more carefully when making decisions about dogs and can also be encouraged to consider any other relevant factors.

### **What is the RSPCA's position?**

The RSPCA is disappointed that the Westminster Government has only tinkered around the edges of dog control legislation and not reviewed it properly to look at updating and consolidation of all the legislation. The RSPCA (and its supporters) campaigned very hard on this issue pushing amendments that would provide a better balance to the legislation and ensure dog welfare. We remain to be convinced that the latest changes will improve public safety or animal welfare, especially as no extra resources are being provided for training

enforcers or providing education for the public.

We are extremely concerned that these developments could have an impact on animal welfare especially as the changes in the law seem to fail to take account of our current scientific understanding of dog behaviour. For example, with regards to the extension of the scope of the law to cover private property (and the householder case) when a dog is using aggression it is almost invariably because he thinks he is undergoing some form of threat. This threat could be from a trespasser e.g. someone breaking into someone's home or a visiting child of whom the dog is scared of. Is it fair to expect the dog to know in which situation it is right to use aggression and in which it is wrong and for dog owners to be penalised in some situations but not others? Is it not also confusing for the dog owning public suggesting that aggression is acceptable in some situations but not others?

The RSPCA retains its position that a number of different areas of legislation concerning dog control need addressing:

1. Review, update and consolidate all dog control legislation so that it is evidence-based and provides a more useful and flexible approach for enforcers.
2. Repeal the breed-specific approach to the legislation (i.e. the part that bans pit bull terrier types, etc).
3. Ensure there is sufficiently early intervention with owners and their dogs to prevent serious incidents from occurring.
4. Ensure there is better protection for animals not just assistance dogs as horses, livestock, dogs, cats and other small animals are increasingly at risk.
5. Provide a more balanced approach to the legislation and ensure owners of dogs have a proper defence when genuine 'accidents' occur.
6. Ensure there is a greater focus for animal welfare throughout the legislation and in particular for those dogs that are seized as part of an investigation.
7. Ensure there are adequate resources and training for those enforcement bodies who will be using the legislation.
8. Ensure there is a properly coordinated public education and engagement campaign about responsible dog ownership and how to stay safe around dogs.

### **What else should I be aware of?**

The rest of the AsBC&P Act will be coming into force later in the year and further information on those specific parts will be provided in time for that. Do keep an eye out for this further information in the autumn.