The UK Centre for Animal Law (A-LAW) and The Focus on Animal Law Group (The FOAL Group) respond to the Government's announcement that it intends to add the American XL Bulldog to the list of banned breeds under the Dangerous Dogs Act 1991

Monday 25 September, 2023

Related Sectors:

Charities & non-profits :: Environment & Nature :: Government :: Public Sector & Legal ::

Related Keywords:

American Bulldog :: Dogs :: Law ::

Scan Me:

We are concerned that the debate about a proposed ban on the American XL Bulldog should be properly informed and evidence based.

About the Dangerous Dogs Act 1991

The Dangerous Dogs Act 1991 ('the DDA') was Introduced in response to a number of dog attacks on humans, often by pit bull type dogs. The legislative process was completed in 4 days and all legislative stages in the House of Commons were completed in one day. The legislation is often referred to as an example of a hastily prepared 'bad law.'

Section 1 of the DDA sets out the breed specific provisions (the subject of the proposed ban).

The types of dogs listed for the purposes of section 1 are not recognised breeds in the UK. There is no statutory definition of the dog types listed and S.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.

Section 1(2) DDA 1991 provides that:

'No person shall—

(a) breed, or breed from, a dog to which this section applies;

(b) sell or exchange such a dog or offer, advertise or expose such a dog for sale or exchange;

(c) make or offer to make a gift of such a dog or advertise or expose such a dog as a gift;

(d) allow such a dog of which he is the owner or of which he is for the time being in charge to be in a public place without being muzzled and kept on a lead; or

(e) abandon such a dog of which he is the owner or, being the owner or for the time being in charge of such dog, allow it to stray.'

Section 3 contains general provisions applicable to any dog breed, including the creation of offences where a dog is dangerously out of control in a public place. A dog is dangerously out of control if there are grounds for reasonable apprehension of injury to a person, whether or not injury results.

In opposing the ban, are animal welfare organisations prioritising 'pets' over people?

We believe that to a large extent, the opposition to extending a ban to American XL Bulldogs reflects frustration at the failure of successive governments to grapple with the underlying cause of dog bite fatalities and take an evidence-based approach to public protection from dogs bred or trained to be aggressive.

By focusing on breed as the only relevant factor, this policy ignores the potential of all dogs to demonstrate aggressive characteristics (albeit with larger and stronger breeds having the capacity to cause greater harm) and fails to target the behaviour of unscrupulous breeders or owners, who can simply switch to other muscled and strong breed types not on the banned list.

Media portrayal of American bulldogs with cropped ears.

We have seen many press reports on this issue showing images of American Bulldogs with cropped ears. It should be understood that cropping a dog's ears is an illegal procedure under the Animal Welfare

Act 2006 (England and Wales). Ear cropping is carried out for cosmetic reasons and is understood to be an attempt to make a dog appear more aggressive. It is harmful to the dogs and can cause lifelong pain and sensitivity.

It is indicative of the complexity of this issue that media reporting often portrays so-called aggressive dogs with cropped ears but fails to make the association between the cropping of the ears and the breeding and training techniques that foster aggressive behaviour.

Animal welfare groups have raised concerns about a rise in reported cases of dogs with cropped ears and have called for a loophole in the law that allows people to import dogs with cropped ears to be closed. This was to be one of the areas to be addressed in the Animal Welfare (Kept Animals) Bill dropped by the Government earlier this year.

The problem is not necessarily with certain dog breeds, but with the breeding, training and mutilation carried out deliberately to ‘weaponise’ dogs.

This issue and the related problems with co-ownership of dogs were highlighted in a recent Panorama investigation that also explored links with organised criminal activity.[1]

People’s ‘pets won’t be culled.

It has been reported that Professor Christine Middlemiss ‘the UK's chief vet has announced that there won't be a cull of 'XL Bully' dogs’.[2]
Owners will instead be required to register their dogs and comply with certain conditions including keeping them on a leash and muzzled in public.

The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015[3]
was introduced under the DDA. It 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, microchipped and exemption fee paid, third party insurance must be in place, the dog must be kept at the address of the person who has the certificate, a change of address must be notified, the dog must be kept in a secure place and must be muzzled and kept on a lead in a public place.

What people may not be aware of is that the Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 only allows a change of ownership if a person dies or cannot keep their dog due to serious illness. There is no legal power to allow a dog to be re-homed in any other circumstances. This means that rescue organisations cannot re-home puppies or dogs that come into their care, leaving them no choice but to arrange for them to be killed. Similarly, owners whose circumstances change other than by death or serious illness, cannot arrange for a new owner and the only option will again be for dogs to be killed.

Further, if an owner breaches any of the conditions of the 2015 Exemption Scheme, their dog is liable to be seized and killed. This places considerable strain on owners and over the years has led to relatively extensive litigation, placing a financial burden on both owners and the state.

Our position.

We appreciate the protection of the public, including other animals, from dogs who present a risk of serious and fatal bites, is a nuanced and complex issue. The DDA has been widely criticised. There are concerns that it has failed to effectively tackle dog attacks.

There needs to be a root and branch analysis of the law. This is why A-LAW invited the Law Commission to tackle this issue as part of its Thirteenth Programme of Law Reform (in 2017) and again for its Fourteenth Programme of Law Reform (in 2021).

In our opinion there should be a full inquiry into the best means of protecting the public, both from dog bites and from having families disrupted and loving pets wrongly seized.

We are not alone in calling for a full inquiry into the effectiveness of the legislation. As A-LAW pointed out in submissions to the Law Commission for the Fourteenth Programme of Law Reform (2021):

‘The Defra's Select Committee itself carried out an enquiry in 2018. (The UK Centre for Animal Law also submitted written evidence to this enquiry). The Environment, Food and Rural Affairs Committee published its Ninth Report of Session 2017–19, Controlling dangerous dogs (HC 1040)[4]. One of its recommendations was that:

‘To ensure the public receives the best possible protection, the Government should commission an independent review of the effectiveness of the Dangerous Dogs Act 1991 and wider dog control legislation. This review should begin no later than January 2019. We expect this review to take account of the concerns and recommendations raised throughout this Report. (Paragraph 23).’

We believe this is a subject that lends itself well to scrutiny by the Law Commission, who are well placed to carrying out an objective, evidence-based analysis of this area of law. Alternatively, an independent inquiry could be established if that will be a quicker route.

Short term – call to allow change of ownership of dogs with good temperament.

If American XL Bulldogs are added to the list of dogs specified under section 1, we call for the Government to commit to an immediate and full independent inquiry into dog control legislation with a root cause analysis of recent dog attacks. This inquiry should hear from all relevant stakeholder, including law enforcement agencies, relevant all-party parliamentary groups, and animal welfare organisations.

In the meantime, to ease the pressure on responsible owners of American Bulldogs we call for the 2015 Exemption Scheme to allow for a change of ownership where a dog is assessed as temperamentally suitable to be kept.

This chimes with the recommendation of the EFRA Committee in it’s Ninth Report of Session 2017-19 (above) which states:

‘51. To avoid imposing an unnecessary death sentence on good-tempered animals, the Government should remove the ban on transferring Section 1 dogs to new owners. This should be accompanied by adequate regulation of animal centres and appropriate safeguards to ensure the re-homing of Section 1 dogs is conducted responsibly and safely.’

If you have any questions, please email sarah@thefoalgroup.co.uk.

Notes for the editor:

- The UK Centre for Animal Law (A LAW) is a charity that exists to promote knowledge and education about the law relating to animal protection, and the more effective enforcement of legislation relating to animals.
- We are registered as a charity in England and Wales. We are politically neutral. As well as publishing legal analyses to inform public debates, we provide animal protection organisations with access to high quality legal advice to assist their work. We also promote the teaching of animal law in UK universities.
- We seek to be a source of objective, independent legal analysis on animal protection law issues. Whilst legal topics are often complex, it is our job to explain them as clearly as possible, to increase the effectiveness of UK animal protection organisations collectively, and to promote informed public debate.
- We are led predominantly by volunteer lawyers and work closely with legal academics and others on a multi-disciplinary basis to further animal welfare objectives.
- For further information about us, please see our website: www.alaw.org.uk

- The FOAL Group started with working on and achieving a change in the Law to protect our service animals. Over the course of 18 months, we helped bring in the new Animal Welfare (Service Animals) Act 2019 in England & Wales (often referred to as “Finn's Law”).
- We also worked with Liam Kerr MSP to ensure that those who harm service animals in Scotland would be held similarly accountable (also known as #FinnsLawScotland) and that penalties for serious animal welfare offences were increased to 5 years.
- We continue to support the campaign to introduce changes to Northern Ireland Animal Welfare legislation being run by Bernadette Kelly, Alex Easton MLA and DAERA that will bring protection for their service animals and increase sentencing to 5 years. Some of you may recognise this campaign as #ServiceAnimalsNorthernIreland, formally known as #FinnsLawNIreland.
- We are currently adding our voices in support of several current campaigns to improve the United Kingdom's Animal Law, such as Dr Daniel Allen with the #PetTheftReform campaign; Debbie Matthews from #VetsGetScanning with the #FernsLaw campaign. Both campaigns have run successful petitions, exceeding 100,000 signatures and both currently await a date for the petition aims to be debated in the House of Commons.
- For further information about us, or to access our online resources, please see our website: https://www.thefoalgroup.co.uk/about

[1] BBC iPlayer - Panorama - Dogs, Dealers and Organised Crime

[2]

;

[3] https://www.legislation.gov.uk/uksi/2015/138/made

[4] Controlling Dangerous Dogs (parliament.uk)

Company Contact:

UK Centre for Animal Law (A-Law)

E. info@alaw.org.uk
W. https://www.alaw.org.uk/

Additional Contact(s):
paula.sparks@alaw.org.uk

View Online

Newsroom: Visit our Newsroom for all the latest stories:
https://www.alaw.pressat.co.uk