

## Dog Law

There is a considerable volume of law relating to dogs both under the common law and statute. The earliest statute dates from 1828 and the most recent was enacted in 2014. This article is necessarily only a summary, concentrating on what is relevant to local councils.

### Control of dogs

Under Part 6 (sections 55--67) of the Clean Neighbourhoods and Environment Act 2005, local councils were given powers to make dog control orders. Part 6 of the 2005 Act was repealed and replaced in much broader terms by Chapter 2 (sections 59-75) of the Anti-social Behaviour, Crime and Policing Act 2014. Any dog control orders made before the 2014 Act came into force remain valid until revoked, in accordance with the procedure laid down in the 2014 Act. As from October 2017, existing dog control orders will become public space protection orders (PSPOs).

### Public space protection orders

PSPOs can be made by a district councils, a London borough council, the Court of Common Council of the City of London and a Welsh county borough council. Local councils have no power to make a PSPO.

A PSPO can be made where, in the opinion of the order-making authority, activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect. The effect of the activities must be, or be likely to be, of a persistent or continuing nature such as to make the activities unreasonable.

So far as the control of dogs is concerned a PSPO can cover the same matters that could be covered by a dog control order, namely:

- (a) fouling of land by dogs and the removal of dog faeces;
- (b) keeping of dogs on leads;
- (c) exclusion of dogs from land;
- (d) the number of dogs which a person may take on to any land.

For more information about PSPOs see: <https://www.gov.uk/control-dog-public/overview>

### Microchipping of dogs

Dogs over eight weeks old must be microchipped. This is to relieve the burden on animal charities and local authorities and to protect the welfare of dogs by promoting responsible ownership.

### Dangerous dogs

It is an offence under the Town Police Clauses Act 1847 to allow an unmuzzled ferocious dog on a street (which includes any road, thoroughfare or public passage). The maximum penalty on conviction is a fine not exceeding level 2 on the standard scale (£500).

Under the Dogs Act 1871, as extended by the Dangerous Dogs Act 1989, a magistrates' court may order that a dog which is dangerous and not under proper control is kept under proper control by the owner or is destroyed. The owner may appeal to the Crown Court against an order. The maximum penalty for breach of an order is a level 3 fine (£1,000). The court may disqualify the owner from keeping a dog for a specific period. The maximum penalty for breach of a disqualification is a level fine (£5,000). After a year of disqualification a person may apply for the disqualification to be lifted.

Under section 1 of the Dangerous Dogs Act 1991, it is an offence to allow a dog of a designated breed to be in a public place without a muzzle and not on a lead. The designated breeds are pit bull terrier, Japanese tosa, Dogo Argentino and Fila Brasileiro. The maximum penalty on conviction is six months' imprisonment or a level 5 fine (£5,000) or both. Under section 3 of the 1991 Act (as amended by section 106 of the 2014 Act), it is an offence for a dog to be dangerously out of control in any place in England and Wales, including all private property. Dog owners are thus liable to prosecution if their dog attacks a person, or an assistance dog, in the home. The maximum penalty on summary conviction is six months' imprisonment and a level 5 fine (£5,000). If a person or an assistance dog is injured by a dog which is out of control the offence is an aggravated one and on conviction or indictment the maximum term of imprisonment is 14 years where an injured person dies as a result of being injured, five years in any other case where a person is injured and three years where an assistance dog is injured (whether or not it dies). There is no upper limit to the amount of a fine.

### **Assistance dogs**

An assistance dog is defined in section 173 (1) of the Equality Act 2010 as a dog trained to guide a blind person, to assist a deaf person or to assist a person disabled by epilepsy or a similar condition or in such other cases as may be prescribed.

Where a person is convicted under section 1 or section 3 of the 1991 Act, the court may order the destruction of the dog and may disqualify the offender from keeping a dog for a specific period. An appeal against disqualification may be made after a year of disqualification.

Under section 1 of the 1991 Act it is also an offence to sell, abandon, give away or breed from a banned dog. There are powers in the 1991 Act for the police and local authority dog wardens to take away a banned dog even if it is not acting dangerously. Where a banned dog is not considered by a court to be dangerous, the court may put it on the index of exempted dogs and allow the owner to keep the dog. A dog on the exempted list must be neutered, tattooed, microchipped, kept on a lead and muzzled at all times when in public and kept in a secure place so that it cannot escape. The owner must be insured against the dog injuring other people, must be aged over 16, must show the certificate of exemption when asked by a police officer or local authority dog warden, either at the time or within five days, and must keep the index of exempted dogs informed if there is a change of address or the dog dies.

### **Dog collars**

Under the Control of Dogs Order 1992 (made under the Animal Health Act 1981), subject to certain exceptions, every dog while in a highway or in a place of public resort must wear a collar with the name and address of the owner inscribed on the collar or on a plate or badge attached to it. The exceptions are:

- (a) any pack of hounds;
- (b) any dog while being used for sporting purposes;
- (c) any dog while being used for the capture or destruction of vermin;
- (d) any dog while being used for the driving or tending of cattle or sheep;
- (e) any dog while being used on official duties by a member of Her Majesty's Armed Forces or Her Majesty's Customs and Excise (now part of Her Majesty's Revenue and Customs) or the police force for any area;
- (f) any dog while being used in emergency rescue work; or
- (g) any dog registered with the Guide Dogs for the Blind Association.

Under article 3 of the Order it is an offence for the owner or person in charge of a dog, without lawful authority or excuse (proof of which shall lie on him or her), to cause or permit the dog to be in a highway or in a place of public resort not wearing a collar as prescribed in article 2. The maximum penalty on summary conviction is a term of imprisonment of three months or a level 5 fine (£5,000), or both.

Under article 4 any dog in respect of which an offence is being committed against the Order may be seized and treated as a stray dog under section 3 of the Dogs Act 1906 or under section 149 of the Environmental Protection Act 1990 (see below). The provisions of the Order are operated by the local authority (district council, London borough council, Common Council of the City of London and Council of the Isles of Scilly in England; county and county borough council in Wales).

### **Stray dogs and dog wardens**

Section 149 of the Environmental Protection Act 1990 requires every local authority (see previous paragraph) to appoint an officer to carry out the functions relating to stray dogs conferred on local authorities by the section. They are commonly known as dog wardens. Where a dog warden believes that a dog found in a public place or on any other land or premises is a stray dog, he must (if practicable) seize and detain the dog, but only with the consent of the owner or occupier of the land where the dog is found otherwise than in a public place. Where a dog seized by a dog warden wears a collar with the address of any person attached to or inscribed on it, or the owner of the dog is known, the warden must serve on the person whose address is given on the collar, or on the owner, a notice in writing stating:

- (a) that the dog has been seized and where it is being kept;
- (b) that the dog will be liable to be disposed of if it is not claimed within seven clear days after the service of the notice; and
- (c) the amounts the person or owner would be liable to pay for the expenses of detention.

A person claiming to be the owner of a dog seized under section 149 is not entitled to have the dog returned to him unless he pays all the expenses incurred by reason of its detention and such further amount as is for the time being prescribed (£25). Where any dog seized under section 149 has been detained for seven clear days after the seizure or, where a notice has been served on the appropriate person, the owner has not claimed the dog and paid the amounts due above, the warden may dispose of the dog:

- (a) by selling it or giving it to a person who will, in his opinion, care properly for the dog;
- (b) by selling it or giving it to an establishment for the reception of stray dogs; or
- (c) by destroying it in a manner to cause as little pain as possible.

A dog seized under the section must not be sold or given for the purposes of vivisection. Where a dog is disposed of in the above manner to a person acting in good faith, that person becomes the owner of the dog.

The officer must keep a register containing the prescribed particulars of or relating to dogs seized under section 149 and the register must be available for inspection, at all reasonable times, by the public free of charge. The particulars are prescribed by the Environmental Protection (Stray Dogs) Regulations 1992. The warden must ensure that any dog detained under the section is properly fed and maintained.

A public place is any highway and any other place to which the public are entitled or permitted to have access.

Section 150 of the 1990 Act provides that any person who finds a stray dog must at once return the dog to its owner or take the dog to the appropriate dog warden. The finder is allowed to keep the dog if he wishes to do so, subject to compliance with the procedure laid down in the 1992 Regulations. If he keeps the dog, the finder must keep it for at least one month. Where the finder does not wish to keep the dog, the warden must treat the dog as a stray (unless he has reason to believe that the dog is not astray). Failure to comply with the foregoing renders a finder liable on summary conviction to a fine not exceeding level 2 (£500).

### **Guard dogs**

Under the Guard Dogs Act 1975, it is an offence to use a guard dog on any premises (except agricultural land and dwelling houses and their curtilages) unless the dog has a handler on the premises who can control it or the dog is tied up. The premises where a guard dog is present must be identified by a notice clearly exhibited at each entrance to the premises.

Section 2 of the 1975 Act provides that a person may not keep a dog at guard dog kennels unless he has a licence from the local authority (primary authority). Contravention of the Act is an offence, for which the maximum penalty on summary conviction is a level 5 fine (£5,000).

### **Dogs and livestock**

Under the Dogs (Protection of Livestock) Act 1953, the owner or person in charge of a dog is guilty of an offence if his dog worries livestock on agricultural land. Worrying includes attacking and chasing livestock and being in a field or enclosure where there are sheep. No offence is committed if the dog belongs to the owner or occupier of the field or enclosure (or a person authorised by him) or is a police dog, guide dog, trained sheep dog, working gun dog or part of a pack of hounds. The maximum penalty on conviction is a level 3 fine (£1,000).

Under section 3 of the Animals Act 1971, the keeper of a dog which causes damage by killing or injuring livestock (defined in section 11 of the Act) is liable for the damage, except as otherwise provided by the Act. In relation to section 3, a person is not liable under the section if the livestock was killed or injured on land onto which it had strayed and either the dog belonged to the occupier or its presence on the land was authorised by the occupier.

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