



# **BREED SPECIFIC LEGISLATION**

– A DOG'S DINNER



## Executive summary

**The Dangerous Dogs Act (DDA) was introduced to the UK in 1991 at the time of a number of high-profile dog attacks on children. It was one of the first laws in the world to apply Breed Specific Legislation (BSL) with the aim of reducing the number of particular breeds or types of dogs and improving human safety by reducing dog bites. In the UK Section 1 (s1) of the Act, which applies BSL, prohibits four different types of dogs traditionally bred for fighting: pit bull terrier, Japanese Tosa, Fila Brasileiro and Dogo Argentino.**

BSL has been copied by many countries worldwide but has been hugely criticised by a range of different organisations both nationally and internationally as it fails to deliver what it was designed to do: reduce hospital admissions from dog bites; improve public safety; and reduce the breeds or types it legislates against. It has created a difficult set of circumstances that police and welfare charities have been forced to manage.

This report presents scientific evidence that BSL is ineffective at protecting public safety and reducing dog bites. In the UK, accurate data about the breeds and types involved in non-fatal bite-related incidents is unavailable; justifying and evaluating BSL is therefore very difficult. Evidence of dog fatalities in the UK, where some data exists, shows that a variety of different breeds and types are involved. Thirty people have died in dog-related incidents since the DDA was enacted of which 21 involved dogs that were not prohibited under the law. Only nine were carried out by dogs identified as pit bull terrier types. The underlying basis of BSL is very weak as there is no specific research to suggest that dogs selected for fighting are inherently aggressive or that they are unique in their bite style or ability to cause serious damage.

It is clear that owners affected by BSL experience significant emotional turmoil. It is also evident that there are welfare problems imposed on dogs under the DDA. The process of handling dogs under the law results in exposing dogs to a number of procedures which have the potential to compromise welfare during the time they are seized, when kennelled, and finally due to the conditions imposed through the exemption system which allows the legal possession of a prohibited type. Because the identification process focuses predominantly on appearance rather than behaviour, many dogs are unnecessarily seized and kennelled, some to be returned with lifelong restrictions on how they can behave but many others euthanased. In addition, the police and the RSPCA, in particular, have to deal with further consequences of this flawed law by euthanasing hundreds of dogs simply due to the way they look and despite being suitable – from a behavioural point of view – for rehoming. Not only is this a huge ethical and welfare issue, it also places significant emotional strain on staff and volunteers, and can unfairly damage public perception of the organisations.

### In terms of BSL:

- there is widespread criticism of a breed specific approach for protecting public safety
- it has not reduced dog bites as it was designed to do
- breed is not an appropriate criterion on which to assess a dog's risk to people; aggression is a complex behaviour
- the process of handling dogs under the law is compromising welfare
- it is requiring welfare charities and police to put to sleep dogs based on their appearance, not temperament.

The RSPCA agrees that dog bites have significant physical and psychological consequences and we need a holistic approach to reducing incidents. The steady increase over recent years in the number of dog bites demonstrates clearly that the intended effect of the Act in enhancing public safety is failing and will continue to fail. Reduction and prevention of incidents requires education and effective, appropriate legislation and the report presents a number of case studies from other countries, where a reduction in dog bites has been achieved by a focus on education and prevention to improve responsible dog ownership, rather than on penalising owners.

**The report concludes that the DDA 1991 has not achieved its objectives of reducing dog bites and has had unintended negative consequences for dog welfare. A new three-pronged approach is required to better protect public safety:**

- education particularly targeted at children
- effective legislation and enforcement which tackles the issues through existing and additional powers under the Anti-social Behaviour Crime and Policing Act 2014 and Section 3 of the Dangerous Dogs Act 1991
- better understanding of why dogs bite (and hence how bites can be better avoided) by undertaking more research and disseminating the results effectively to all stakeholders.

BSL is now being reviewed in many countries worldwide and has been reversed by three European governments and many US administrations.

**Twenty-five years on, the RSPCA now believes it is paramount for the UK Government to launch an inquiry into the effectiveness of BSL, assess other options to improve human safety and dog welfare and ultimately repeal the breed specific part of the legislation.**

While s1 exists, the RSPCA wants to see a raft of measures to improve the welfare of the affected dogs including a consistent application of the interim exemption scheme, speeding up the review of cases, allowing the rehoming of prohibited types and improving the welfare of seized dogs through application of the RSPCA's guide on this issue.



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# 1. Introduction to the report

Twenty-five years ago the UK Government passed the Dangerous Dogs Act (DDA) 1991<sup>1</sup>. The circumstances surrounding the introduction of the legislation are complex with robust evidence and verified accounts absent from any literature. However, its introduction was the government's response to a number of high-profile dog attacks on children at the time. This piece of legislation prohibited the possession of certain types<sup>2</sup> of dogs traditionally bred for fighting and made provision for dealing with dogs dangerously out of control. It applies to England, Wales and Scotland with the Dogs (Northern Ireland) Order 1983 (as amended) having the same effect in Northern Ireland.

Section 1 (s1) of the Act introduced the approach known as Breed Specific Legislation (BSL) prohibiting the possession, ownership, breeding, sale, exchange or transfer, advertising or gifting of certain types of dogs: pit bull terrier, Japanese Tosa, Fila Brasileiro and Dogo Argentino. Throughout this report these types of dogs will be referred to as prohibited or s1 dogs. Section 3 of the Act, although not the focus of this report, was also intended to protect public safety, making it an offence for any owner to have a dog (of any breed or type) dangerously out of control in a public or private place.

The aim of the Act was to ban the breeding of fighting dogs and provide better protection for the public. Charities and the police had seen an increase in ownership of pit bull terrier types and dog fighting in the 1980s so the law was designed to phase out the ownership of these four types through mandatory euthanasia for non-exempted dogs. Dogs were identified and either exempted from euthanasia or destroyed. The exemption expired on the 30th of November 1991 and possession of a prohibited type became an offence.

In 1997, the law was amended as up until this point the only option to the courts was to euthanase any dog found to be a prohibited type. However, following these amendments, the courts are now permitted to allow for the exemption of such a dog which, in their opinion, does not pose a danger to public safety through the use of a Contingent Destruction Order i.e. the dog will be destroyed unless the owner of the animal complies with the following conditions:

- the dog must be neutered
- the dog must be permanently identified with a tattoo and microchip
- the owner must take out (and renew annually) third-party insurance for their dog
- the dog is muzzled and kept on a lead when in a public place
- the dog cannot be taken out in public by anyone under 16 years of age
- the dog must be kept securely at home, i.e. ensure gardens are secure
- the dog must be registered on the Index of Exempted Dogs (currently run by Defra) and a certificate issued to the owner.

In 2014 the Act was amended again with changes including:

- powers of seizure and
- considerations around the suitability of an owner and the temperament of the dog when a court is deciding not to order destruction of the animal.

**The Dangerous Dogs Act, and in particular, the prohibition of certain types of dogs, has been widely criticised over the past 25 years. It has been referred to as a 'knee jerk' piece of legislation that was poorly thought through<sup>3</sup> and concerns include:**

- the lack of evidence base to support a breed specific approach in reducing dog bites
- the potential to inadvertently contribute to dog bite incidents by misleading the public into thinking non-prohibited dogs are safe<sup>4</sup>
- the impact of BSL on dog welfare and owner wellbeing.

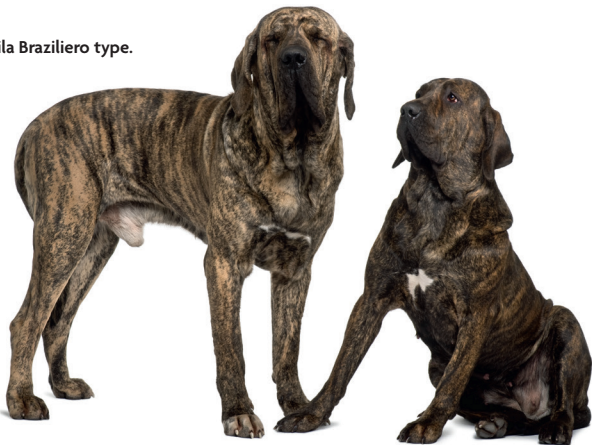
These concerns have been raised by a range of animal welfare, canine and veterinary organisations both in the UK<sup>5</sup>, USA<sup>6</sup> and elsewhere<sup>7</sup> and by many campaign/support groups opposing BSL. Results from a large number of respondents to the Defra consultation in 2010 on dog control suggest that BSL is generally not supported with 88 percent believing that BSL in its current form is ineffective in protecting the public from dangerous dogs; 71 percent felt that it should be repealed<sup>8</sup>.

The RSPCA has to deal with the consequences of this law, and has long held concerns about BSL. We, and others<sup>9</sup>, believe there is sufficient scientific evidence to show that a breed specific approach to protecting people is ineffective, and there is compelling evidence to show there is a better way to protect human safety and animal welfare. There is also persuasive evidence to show that BSL negatively impacts on the welfare of seized animals and their owners leading to the conclusion that urgent action is required to protect the welfare of those who are affected by this law.

Dogo Argentino type.



Fila Brasileiro type.



## 2. Aim of the report

The aim of this report – which presents evidence showing why BSL does not protect public safety and the ways in which it detrimentally affects dog welfare – is to provide information that BSL has failed to achieve its objectives and causes associated harms. The advent of the 25th anniversary of the enactment of the DDA, and the introduction of BSL to the UK, provides robust support for calls upon the UK Government to hold an inquiry into the effectiveness of this legislation on public safety and animal welfare.

The report is divided into five sections. Section A introduces BSL and B explores whether it protects public safety. Section C examines the ways in which BSL affects dog welfare and rehoming. Section D presents a series of proposed solutions and recommendations and concludes in section E.

Pit bull terrier type.



Japanese Tosa type.



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## 3. Section A – Breed Specific Legislation

### 3.1 What is Breed Specific Legislation (BSL)?

Breed specific laws are aimed at the restriction of ownership of breeds deemed to be dangerous to people, and tend to be underpinned by one of two beliefs<sup>10</sup>:

- the breed has a potential to be dangerous because of its physical characteristics and its functional history
- the breed in question has a record of bite frequency that supports the view that the breed shows a high level of aggression toward people.

BSL is now widespread with restrictions and bans in place for example in Australia<sup>11</sup> and across the United States of America<sup>12</sup>. Within the USA ([www.animalfarmfoundation.org/pages/BSL-Map](http://www.animalfarmfoundation.org/pages/BSL-Map))

the situation is very complex with some areas having adopted BSL, others having repealed it and in some places there are pre-emptions which mean BSL cannot be enacted (National Canine Research Council, pers comm). Legislation within the EU is devolved to the Member States, that differ as to whether they have BSL. For example, Denmark, France, the Republic of Ireland, Croatia and Lithuania do have some sort of breed based regulations while Latvia and Bulgaria do not. Within some countries such as Germany, there are also regional or state differences. Italy, the Netherlands and Lower Saxony, Germany, have repealed their BSL legislation.

In the UK, BSL was introduced through the Dangerous Dogs Act in 1991 and focused on dogs traditionally used for fighting. Of the four types<sup>13</sup> eventually prohibited in the UK the pit bull terrier type is by far the most commonly found.

#### WHAT IS A PIT BULL TERRIER TYPE?

As described by Dickey (2016)<sup>14</sup>, the term pit bull is an elastic, imprecise and subjective phrase ranging from the American pit bull terrier breed at its narrowest end through to a term which includes a number of bull breeds. It is also used to describe dogs similar in appearance e.g. block heads, white chest markings or brindle coats.

In the UK, the term is used in a similar way but case law has arisen with the DDA defining a pit bull terrier type as a dog which conforms to the 1976 American Dog Breeding Association standard<sup>15</sup>. This standard is an amalgam of breeders' thoughts and preferences and focuses on the appearance of the dog and whether its form provides for the function of a fighting dog. To be identified as 'type', the dog is expected to approximately amount to, be near to, or have a substantial number of characteristics of a dog as described by the standard. Genetics or the dog's parentage is not taken into account and instead focuses on appearance; any dog can be considered to be a prohibited type if its appearance is similar enough to that described by the standard. This means that a dog can be termed 'of a prohibited type' without sharing any genetics at all with that breed. In 1991, the Home Office wrote: "In the United Kingdom, the pit bull terrier is regarded as a crossbreed of a terrier with a larger dog, commonly a mastiff". This means that the dog need not have any pit bull terrier in it at all and still be 'typed' as a pit bull terrier type<sup>16</sup>.

Typing a dog is a very subjective exercise; experts trained to interpret and apply the standard differ and so do their decisions as to whether or not a dog is of type.

Furthermore, because the standard is predominantly appearance based and the UK Kennel Club does not recognise the pit bull terrier as a breed, the law was written in such a way that it allows the capture of crossbreeds. It is therefore possible for a range of non bull breed and terrier crossbreeds to be identified as type if they look similar enough to the standard e.g. potentially Labradors crossed with Staffordshire bull terriers. In practice this means that a large number of dogs can be labelled as pit bull terrier types. The diversity of the dogs seized as suspected pit bull terrier types shows just how variable the 'type' is. In reality, it results in a significant inclusivity of dogs whose behaviour poses no risk but are prohibited because of how they look.

There are undoubtedly people who are attracted to this 'type' of dog for troubling reasons. For example those who use them in illegal dog fighting<sup>17</sup> and those following the trend to use these types of dogs as status symbols, presenting an image of 'toughness' or the threat of aggression<sup>18</sup>. Both activities often marry with poor treatment of the dog and, as with any dog, this in itself can result in aggressive behaviour. It is often pictures of these types which are featured in the media. What is presented far less often, is the large number of dogs of type which have been acquired by those who wanted a family pet, unaware that they are banned or that their dog might be judged as conforming to the standard of a prohibited type. As a result of good breeding, rearing and positive experiences, these types of dogs are well adjusted and friendly.





A dog used in fighting.

In the UK, as in other countries where BSL is applied, those found to be in possession of a non-exempted prohibited type of dog are committing a criminal offence. This is also true if the dog is bred from, sold or given away.



Mason an exempted pit bull terrier type in a private area.

**All case studies are based on owners' accounts and information provided by representative bodies e.g. solicitors and campaign/support groups.**

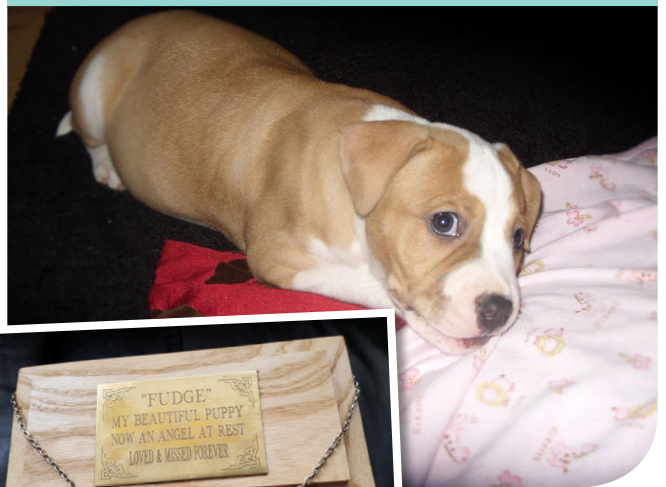
### Maisie and Annie

Maisie and Annie were bought by Sarah in 2008 as Staffordshire bull terrier/American bulldog crosses. Sarah mated both dogs with an American bulldog having no idea that either of her dogs was a prohibited type. Maisie and Annie both had a litter of 13 puppies. While rearing the puppies, Maisie hurt her leg and Sarah took her to the vet for treatment. It was during this appointment the vet suspected both dogs to be of prohibited type. Sarah was reported to the police and they called at her house taking away photos of the dogs and the puppies. Shortly after, Sarah was contacted by a police officer who said that Maisie and Annie may be OK but the pups would need to be destroyed. Knowing nothing about the law or the availability of advice and support, Sarah took all the puppies to the vet and had them euthanased. Sarah then had to have Maisie and Annie assessed – both were found to be of type. Again not knowing the help available to her, and frightened of being charged with the possession and breeding of prohibited types of dogs, Sarah felt she had no other option but to have the dogs euthanased.

Eight years later, Sarah still blames herself and feels incredibly guilty. She has suffered from depression and is still grieving for her dogs.

### Fudge

Carole took on Fudge at six weeks after a breeder threatened to drown her. She had no idea that Fudge could be seized as a potentially prohibited type of dog until the police knocked on her door. Fudge was five months old and a neighbour had suspected she was of type and called the police. Carole was not aware of BSL or the advice and help available to her. She sadly signed a disclaimer, not realising that it meant Fudge would be euthanased.



### 3.2. Legally possessing a prohibited type of dog

Possession of a prohibited type of dog is permitted if a court is satisfied that the dog would not constitute a danger to public safety and grants a Contingent Destruction Order, meaning that the dog will be destroyed if the owner fails to comply with certain conditions. When deciding whether a dog would constitute a danger to public safety the court must consider:

- the temperament of the dog and its past behaviour
- whether the owner of the dog is a fit and proper person to be in charge of the dog.

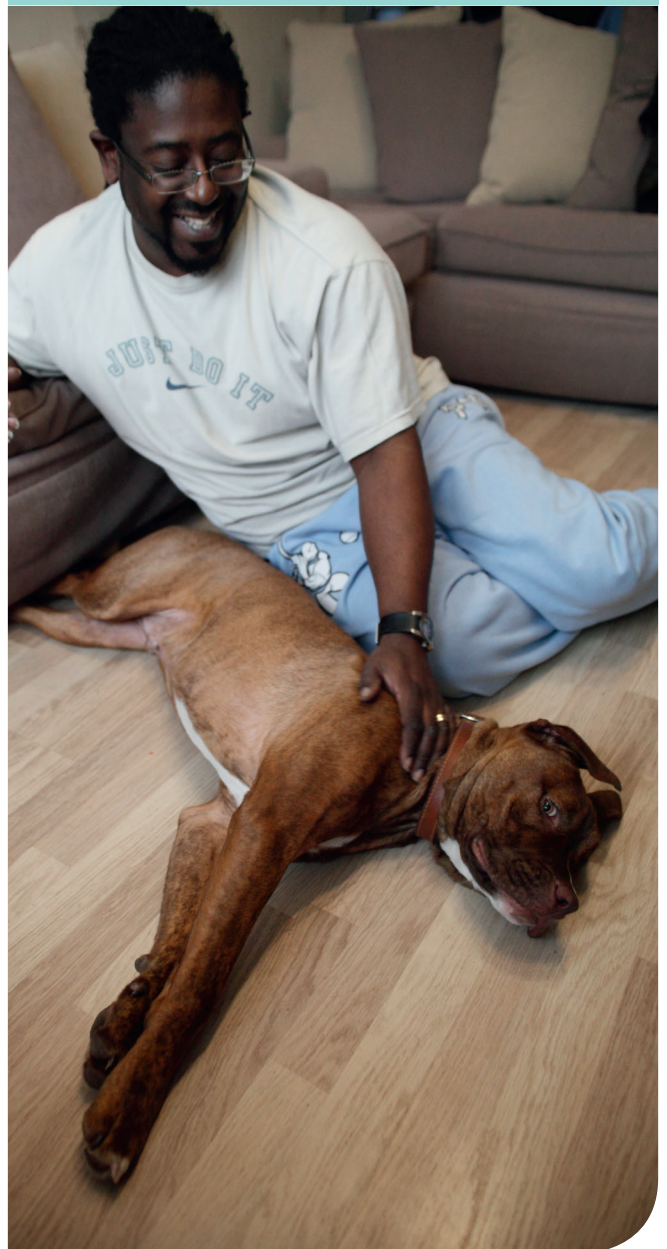
This occurs once an enforcing officer has seized the dog and asked the court to make a decision on the dog. If all the requirements for exemption are complied with, e.g. neutering, microchipping etc., then the dog can be placed on the Index of Exempted Dogs and the owner or keeper must act in compliance with the requirements of exemption which include, when in a public place, keeping the dog securely held on a lead, muzzled and in the charge of someone aged 16 years or over. Owners must ensure the dog is kept secure, and must obtain and maintain third-party insurance and a certificate of exemption from the agency designated by Defra. These conditions must be met for the rest of the dog's life.



### Mason

Mason has lived with Sean since he was six months old. He is very much an ambassador for pit bull terrier types in his local area. He has completed several different levels of dog obedience and regularly attends local fairs and shows.

Unfortunately as a pit bull type, Sean has been unable to find an insurance policy which would cover Mason and so when he injured his cruciate ligament, Sean had to find other ways of covering the veterinary costs. Mason had made such an impression on people and organisations that they offered to pay for his treatment. If it wasn't for the kindness of others, the outcome would have been very different for Mason.



Exempted dogs must be on the lead, muzzled and in the charge of a person over 16 years of age when in a public place.



In 2015 the exemption scheme was amended further, with consequences for exempted dogs being both positive and negative.

Positive changes include: the acceptance that tattooing is unnecessary for a dog which has been microchipped; and the new discretion for the police to effectively 'bail' the dog, using the interim exemption scheme, while proceedings progress. The police need to be satisfied that the dog does not constitute a danger to public safety, that the person in charge of it is a fit and proper person and that the usual exemption scheme conditions are met. This can avoid the unnecessary kennelling of dogs but if the police decline to exercise this discretion they cannot be compelled to do so.

In 2012, following a judicial review, the principle was approved for an application for a certificate of exemption being made by a person who was, for the time being, the keeper of the dog. However, the

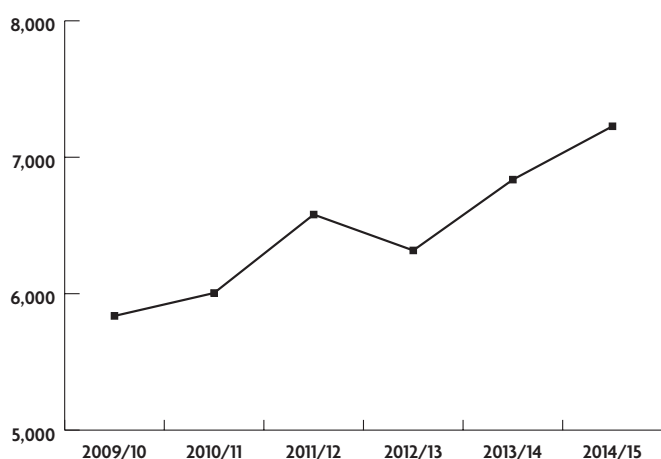
Dangerous Dogs Exemption Scheme Order 2015 imposes severe restrictions on change of keepership of the exempted dog, despite a court previously being satisfied that the dog did not constitute a danger to public safety enabling its initial access to the register of exempted dogs. Under s12 of the Order, the only circumstances in which a new person may apply to the court to be substituted as the person in charge of the dog is in the event of the death or serious illness of the current keeper. Given that there is no other legal means of moving a dog to another keeper, this is clearly a negative move particularly for organisations such as the RSPCA who cannot transfer ownership once the dog is in their care and ownership. The same downside applies to any owner of a dog who is in good health but whose circumstances change and who wants to transfer ownership. It is clearly possible that this law change may increase the euthanasia of s1 dogs.

## 4. Section B – Breed Specific Legislation and public safety

**Despite many countries enacting BSL, there is a surprising lack of scientific evidence to support the effectiveness of such legislation in reducing dog bites. Studies have shown that BSL has not reduced dog bite incidents in Ireland<sup>19</sup>, Spain<sup>20</sup>, Italy<sup>21</sup>, the Netherlands<sup>22</sup> or Belgium<sup>23</sup>. A reduction in dog bites was found in Manitoba<sup>24</sup> but major limitations were noted in the study that reported this outcome.**

In the UK, an initial assessment of the DDA five years after it was enacted<sup>25</sup>, found that there had been no significant reduction in dog bites. Increases in dog bites continue to occur, as shown in Figure 1. Between March 2005 and February 2015, in England, the number of hospital admissions due to dog bites increased 76 percent from 4,110 to 7,227<sup>26</sup>. There is no robust scientific evidence to suggest that prohibited breeds are a significant factor in this increase.

**Figure 1: Number of finished hospital admission episodes for dogs bites and strikes between 2009 and 2015. (Source: Hospital Episode Statistics (HES), Health and Social Care Information Centre).**



Note: A Finished Admission Episode (FAE) is the first period of admitted patient care under one consultant within one healthcare provider. FAEs are counted against the year or month in which the admission episode finishes. Admissions do not represent the number of patients, as a person may have more than one admission within the period.

### 4.1 Why doesn't BSL reduce dog bite incidents?

In the UK, the four types of dog currently prohibited are perceived to pose a heightened risk to the public compared to other breeds/types of dog. This view has recently been demonstrated in a statement from Defra<sup>27</sup>:

*“Dog attacks can have horrific consequences for victims and families. While any dog can become dangerous if it is kept by irresponsible owners in the wrong environment, the prohibition of certain types of dog under the Dangerous Dogs Act is crucial to help us deal with the heightened risk they pose.”*

However, if these types of dogs pose a heightened risk then it would be expected that they would be most involved in dog bite incidents. Analysis of the studies shows that, in some but not all, prohibited types of dogs are listed as the dogs most often involved. For example, one study, based on hospital data, reported German shepherd type dogs as posing a higher risk of causing bite injury<sup>28</sup>. In another study, a higher incidence of aggression was found in dachshunds, Chihuahuas and Jack Russell terriers<sup>29</sup>. In a clinical population, an increased risk of aggression towards people was found in cocker spaniels, Catalan sheepdogs, Belgian shepherds and beagles<sup>30</sup>. Indeed, a variety of breeds and types are listed in studies and a recent paper cited many peer-reviewed studies which reported a variety of breeds and types of dogs associated with bites<sup>31</sup>. This range likely reflects population biases or differences in data methodologies. Temporal effects also alter the breeds most represented in dog bite data and so an accurate indication of risk by breed is difficult.

When the number of human fatalities are examined, prohibited types of dogs are involved in some incidents but amongst other breeds and types. Since 1991, there have been 30 fatalities involving 16 children and 14 adults. Of these, only nine involved dogs identified as pit bull terrier types. The other breeds or types include terriers, Alaskan malamute, American bulldog, Rottweiler, great Dane, German shepherd and Staffordshire bull terrier<sup>32</sup>.

**In the UK, since 1991, 30 people have died in dog-related incidents. Twenty-one involved dogs of breeds/types not prohibited by law.**

Determining which dogs are most involved in dog bite incidents and which pose the greatest risk to the public is in fact very difficult. To do this it is necessary to have access to accurate breed specific bite rate data which means, for each breed, knowing the number of dogs of that breed and the number of dogs within that breed which have bitten. This requires comprehensive reports of all bites, breed identification and detailed information about the demographics of the entire dog population of the area<sup>33</sup>. Accurate breed identification is essential but notoriously difficult<sup>34</sup> especially – as recent studies have shown – with pit bull type dogs<sup>35</sup>.

In the UK, deriving breed specific bite rate data is currently impossible because there is no requirement for bites to be recorded and similarly there is no compulsory national dog registration system. In the absence of accurate numerical demographical data, conclusions and legislation based on breed or type are drawn on incomplete and skewed data<sup>36</sup>.

**In the UK it isn't possible to work out which breeds bite the most as we don't have accurate information about bites, the number of dogs within each breed or the total number of dogs owned.**

In the Netherlands where databases of registered dog owners do exist, it has been possible to calculate a breed-by-breed bite related index. As a result it was found, unsurprisingly, that the most commonly owned dogs were those most likely to have bitten. If a breed specific approach were to be adopted based on these findings then the most common breeds would have to be legislated against resulting in the removal or restriction of many dogs which posed no risk; something which is neither practical nor desirable<sup>37</sup>. It was the results of these studies that led to the repeal of BSL in the Netherlands.

An alternative approach to looking at the likely effectiveness of breed restrictions has been presented by the Australian Veterinary Association (AVA), who used the Number Needed to Treat (NNT) method. In human applications, it looks specifically at the effects of an intervention and represents the average number of patients who would need to be treated to prevent one patient from developing the outcome of interest. It can also be applied to dog bites. The AVA calculated the number of dogs of a particular breed that would need to be removed from the population to prevent one unwanted outcome i.e. one bite needing hospital treatment. For example, if a breed was responsible for 15 percent of dog bites and there was a total of 130 dog bite hospital visits per 100,000 people, 5,128 dogs of that breed would need to be removed to prevent a single hospital visit. These numbers dramatically increase once serious injuries are considered. Such calculations show the implausibility of the view that BSL will substantially reduce the number of dog bite incidents in the community<sup>38</sup>. It is clear from this that the theory underpinning BSL is extremely weak.

## Surveying behaviour experts

A report published by Battersea Dogs & Cats Home – *Dog Bites: What's Breed Got To Do With It?* – presented findings from a survey of experienced behaviourists to assess the role of dog breed in predicting risk, and what factors may be more relevant than breed as a predictor of potential problems. Using the findings from 215 of the UK's leading behaviourists:

- 74 percent said that breed was either not at all or slightly important as a reason for why dogs attack people
- 86 percent said that how the dog was brought up by the keeper was very important
- 73 percent said that how the dog was brought up by the breeder prior to sale was very important.

*“Not only is there a lack of evidence to support BSL, there is positive evidence against it. For the complex of traits relating to the occurrence of aggressive behaviour, a number of studies show that variation within a breed can be expected to exceed variation between breeds. So breed is not a good predictor of risk.*

*“I would also argue that the promotion of breed as a risk through legislation like this may even be counterproductive as it gives the impression that some breeds are completely safe, and we know the vast majority of bites come from breeds not listed.*

*“We need responsible owners and responsible behaviour around dogs, as any dog can be made to bite with enough provocation. This is a complex problem with social as well as biological dimensions which need to be considered if we really want to address the risk posed by dogs or people attracted to certain types of dog. From a biological perspective, until we have a validated genetic test I would say solutions like BSL are themselves dangerous, because they might give a false sense of security and thus increase the risk. A number of regions outside the UK are now retracting such legislation, in recognition of this<sup>39</sup>.”*

**Prof Daniel S Mills BVSc PhD CBiol FRSB FHEA CCAB Dip ECAWBM(BM) MRCVS. European and RCVS Recognised Specialist in Veterinary Behavioural Medicine**

## 4.2 Prohibiting breeds traditionally selected for fighting

BSL is also underpinned by the belief that dogs traditionally selected for fighting are inherently aggressive and more aggressive than other breeds towards people. Yet there is no specific research to demonstrate that breeds bred specifically for fighting are more aggressive towards people than other dogs<sup>40</sup>. Indeed dogs bred for fighting are reportedly selected to be non human aggressive (see box below) or at least those which show aggression towards people are eliminated from the fighting population.

### COMPARING BEHAVIOUR BETWEEN PIT BULL TERRIERS AND OTHER TYPES OF DOG

In response to common stimuli and situations, it was found that pit bull terriers scored relatively average for stranger-directed aggression and below average for owner-directed aggression<sup>41</sup>, a finding which the authors stated as inconsistent with pit bull terriers' universal reputation as a dangerous dog. Another study<sup>42</sup> tested the behaviour across a range of conditions of different breeds legally defined as dangerous under Lower Saxony, German law including pit bull terriers. Ninety-five percent of the animals reacted appropriately in the test situation and no significant difference in behaviour between breeds was detected. Results gave no indication of dangerousness in specific breeds and justification for BSL was not shown. An additional study<sup>43</sup>, also in Lower Saxony, was conducted to compare dogs defined as legally dangerous with the behaviour of a breed not considered dangerous – the golden retriever. No difference between the groups was found and as a result of this, BSL was withdrawn in Lower Saxony.

The pit bull terrier does descend from dogs intended for fighting that were selected over generations for specific characteristics including a low level of fight inhibition, rapid escalation of any conflict and absence of bite inhibition<sup>44</sup>. Therefore there is often much focus placed on the pit bull terrier with statements made referring to its unique ability regarding the damage it can inflict or that if bitten by a pit bull terrier, the injury inflicted would be much worse than most other breeds or types of dog. However, there is no scientific evidence to substantiate such claims and there has been no academic study of breed differences in bite styles<sup>45</sup>. Even if studies existed for the pit bull terrier breed and such claims could be justified, it would be inaccurate to assume that the same sort of behaviour would be displayed by the pit bull terrier 'type'.

As outlined previously (What is a pit bull terrier type?, page 8), the pit bull terrier type is, in fact, from a large diverse heritage and dogs are labelled as pit bull terrier types regardless of their parentage. Some of these will not be genetically descended from pit bulls, but from two different breeds which happen to look similar to the pit bull terrier type. In the case of types, the genetic composition and

diversity of behaviour will be vast, ranging from dogs which are extremely friendly through to those which are very aggressive. Moreover, when considering the pit bull terrier as a purebred dog, making a judgment on how it would behave based on its breed would be misguided. Breed is not a reliable predictor of behaviour; while it does have influence, a dog's breeding environment and what s(he) experiences throughout his/her rearing and lifetime has a great influence on how s(he) behaves.

Seventy-four percent of prominent behaviourists as surveyed by Battersea Dogs & Cats Home said that breed was either not at all or slightly important as a reason why dogs attack people. Eighty-six percent said that how the dog was brought up by its keeper was very important.

Clearly some dogs originally bred for fighting do show aggression towards other people, as is the case for any dog, and because of the selection for physical and temperamental attributes, serious injuries can be caused and undoubtedly have been caused. However, within any breed there is significant individual variation in how attributes are expressed; not all dogs of the same breed will behave in the same way. Furthermore, expert opinion state that the consequences of such a bite from a dog originally selected for fighting are no worse than those which would result from other types of large dogs. It also cannot be assumed that larger and more muscular dogs are most injurious<sup>46</sup>. For example, a bite of the same force administered by the same jaw configuration, could be more injurious when delivered to a victim's head and neck than when delivered to the torso or extremities. Lunging, chasing dogs may become airborne and may hit their victims with greater force, come into contact with the victim's neck and head more frequently, and potentially inflict more shearing damage than would dogs that bite from the ground. In short, there are other factors which impact on the extent of injury aside from size and power.

### IN SUMMARY THE EVIDENCE SUGGESTS THAT BSL DOES NOT PROTECT PUBLIC SAFETY.

**There is no robust data that dogs prohibited under s1, targeted due to the belief that these dogs pose a heightened risk to public safety, are more involved, or are any more likely to be involved, in dog bite related incidents than any other breed or type in the UK. However, there is evidence that dog bite incidence is increasing despite BSL being in effect for 25 years.**

**Aggression is not simply a product of breed and breed isn't a reliable predictor of aggression. As a behaviour, aggression is very complex. Whether or not a dog uses aggression is influenced by a range of factors including how they were bred and reared and their experiences throughout their lifetime.**

In the final section of this report, the alternatives to BSL are discussed in more detail but the next section looks at the key issues affecting dog welfare that result from BSL.

## 5. Section C – Breed Specific Legislation and welfare

Reports which relate to dangerous dogs generally focus on the effects on human welfare or note the flaws associated with the law<sup>47</sup>, rather than focusing on how dog control legislation impacts upon the welfare of the animals involved. However, during the application of BSL, dogs are exposed to a number of processes, as described in section 5.1, which have the potential to cause stress and possibly compromise physical and mental health.

### 5.1 Dealing with dogs suspected to be type

Dogs suspected as being of prohibited type are typically seized and transported to undisclosed police-appointed kennels during which the dog is examined by a designated expert to determine whether or not the dog is a prohibited type. This examination is carried out by a Dog Legislation Officer (DLO). DLOs have in-depth training in all dog-related legislation and a good knowledge of the identification of the prohibited types. This part of the process can take several days through to weeks and during this time owners are unable to visit their dog.

In the case of pit bull terrier types, a dog suspected to be of 'type' is assessed and matched against the American Dog Breeders Association (ADBA) standard produced in the *Pit Bull Gazette* in 1977. This is a subjective process as outlined previously (What is a pit bull terrier type?, page 8). Once the dog has been found by the police to be of a prohibited type, then the burden of proof shifts to the owner (rather than the prosecution) to prove that it is not. This reversal of the burden of proof is extremely unusual in criminal law.

If the dog is identified as type and is friendly, deemed not to pose a risk to the public, and the owner/keeper is deemed 'fit and proper', the police can apply to a court for an exemption from the prohibition so that the dog can be lawfully kept (see section 3.2 and reference 48 for more information about the conditions).

In some cases the police may use the interim exemption scheme<sup>49</sup>, more commonly known as the 'doggy bail' system. However, it requires the chief officer of the police in the force area to be satisfied that the dog meets the conditions needed such as s(he) does not present a danger to the public and the person in interim charge is a fit and proper person. Not all police forces currently implement this scheme, and are not obliged to do so, leading to a postcode lottery situation for owners and dogs.

In other cases, however, the police may seek to bring criminal charges against the owner and some owners may choose to contest the assertion that the dog is of 'type', wishing to avoid a situation where the dog is placed on the index or labelled as a dangerous dog. These cases can be particularly lengthy, with dogs spending months, even years in kennels awaiting the court's decision. As the courts do not set specific days aside for dog control cases, criminal cases can take around six months from the time the dog is seized until the first hearing<sup>50</sup>.

*"Assisting dog owners affected by BSL on the DDA Watch helpline service, is the single most distressing experience of my life; I know I also speak for colleagues when I say it is upsetting beyond words to hear the cries of disbelief, despair and heartbreak from a dog owner whose much-loved four legged friend has been seized and placed in kennels, effectively becoming a canine prisoner of the law. The heartbreak caused to ordinary, loving, responsible dog owners and their pets caught up in BSL, goes on day after day, year after year."*

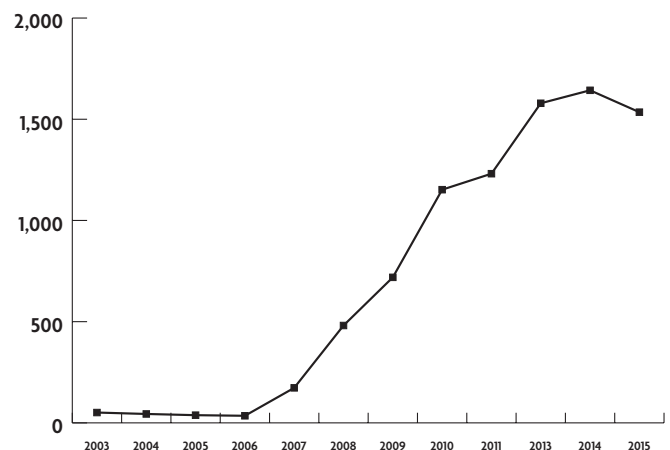
**Maria Daines, DDA Watch Volunteer and Director**

### 5.2 Key issues affecting welfare

#### a) Seizure

In the last three years, based on figures obtained by the BBC, nearly 5,000 dogs have been seized due to suspicions that they were a prohibited type<sup>51</sup> and as Figure 2 shows, the number seized since 2003 has increased dramatically.

**Figure 2: Number of dogs seized as prohibited types of dog between 2003 and 2015.**



Seizure can be a frightening and stressful experience for dogs and their owners, especially if the situation between owner and enforcers becomes difficult. This can result in the presence of a large number of unfamiliar people often in unusual attire, high levels of noise and interactions between people which the dog hasn't previously experienced. This may then result in more severe methods being used to control a dog to enable handling, restraint and transportation. For example, a dog may have to be removed from the owner's property using a grasper so that s(he) can be transported to a kennelled establishment. Unfortunately such methods are very likely to provoke or exacerbate fear and anxiety in the dog and increase the risk of any dog showing aggression towards those who are attempting to seize him/her<sup>52</sup>. This may also influence those who at a later date assess the dog's behaviour towards people and the risk they pose to public safety.

#### b) Kennelled environments

There is a lack of published reports relating to the welfare of seized dogs and few actual case studies in the public domain. However, those that are available<sup>53</sup>, related scientific literature, communication with legal experts and complaints received by the RSPCA leave us with no doubt that the welfare of some dogs seized under BSL is compromised.

Research using dogs kennelled for a variety of reasons has shown that many animals find kennel life challenging and experience poor or

compromised welfare as a result<sup>54</sup>. Studies have also shown that there are specific aspects within the kennel environment that, if inadequate or inappropriate, make it difficult for dogs to cope. For example, high levels of noise, a lack of environmental enrichment, small kennel sizes and restricted exercise may influence dogs' behaviour patterns and can limit their ability to perform strongly motivated behaviours such as resting, playing, exploring and investigating.

Limited contact with people and other dogs can impact upon social interactions<sup>55</sup> especially because, for many dogs, one of the greatest stressors associated with a kennelled environment is the separation from their familiar social group. Numerous studies have shown that the provision of contact with other dogs and humans has a positive benefit for welfare.

The importance of exercise and contact with people in ensuring acceptable levels of dog welfare is particularly relevant to seized dogs as both can be withheld if there are concerns around a dog's perceived dangerousness even if the dog has not displayed any behaviour indicative of risk to public safety.

The way in which seized dogs are managed in kennels became a focus for public attention in 2016 following allegations around Stella, a dog seized by Devon and Cornwall Police in 2014<sup>56</sup>. She was allegedly held for two years without any exercise and staff were instructed not to touch her or go into her kennel. While Stella may be considered an extreme case, the RSPCA is aware of other equally

### Oggi and Zack

Brian bought Zack from a friend. Oggi is Zack's son. Oggi was seized by the police following an incident between Oggi and another dog. As Zack was Oggi's father, he was seized two months later. Brian hoped that the officers would not have to take Zack away as he was 16 years of age and very ill. He had suffered a couple of strokes and was very weak on his back legs. He was deaf, partially blind and required daily medication. However, this was not the case. Fortunately due to legal and veterinary involvement as well as assistance from DDA Watch, a campaign and support group, Zack was released 12 hours later as he was not of type.

Oggi was held in kennels for eight months and after two court appearances was eventually returned to Brian after the case was dropped.

Brian's life was turned upside down during this time. He is a paraplegic and wheelchair bound. The absence of one of his closest companions and helper resulted in depression and loneliness.





lengthy cases. Furthermore, figures obtained by the RSPCA in 2010 suggested that there are dogs which spend significant periods of time in kennels before being returned to their owner or euthanased if that is not deemed possible under current law. These found that on average it took 186.4 days to prosecute a s1 offence and 61.2 days to exempt a s1 dog.

It is very likely that dogs seized and kennelled as a result of BSL, even for short periods of time, may find it difficult to cope with kennel life. For some, this means that their welfare will be compromised. Furthermore, research using working dogs has found that for those neither bred nor raised in kennels the transition is especially stressful<sup>57</sup>. As it is probable that many of the dogs seized in this context will have had limited experience of a kennel environment, it is very likely that at least some will find the transition particularly difficult to cope with.

Dogs who fail to adapt to the kennel environment may display behaviours which prejudice the likelihood of exemption. For example, dogs who show behaviour indicative of fear or frustration may erroneously be considered aggressive and a risk to public safety. For many of these dogs, however, such behaviour is highly likely to be a result of their surroundings, and a product of their experiences within the kennel environment, but it can be included as part of the assessment process when deciding whether the dog poses a risk to public safety. In some cases this type of behaviour may result in euthanasia of the dog.



Seized dog in kennels.

### c) Conditions of exemption posing risk

Once added to the Index of Exempted Dogs, owners must comply with a series of conditions which include keeping the dog muzzled and on a lead when in a public place. While these conditions are to protect public safety i.e restricting the dog's ability to independently approach a person or to bite them, it is possible that keeping a dog on a lead could increase aggression rather than effectively control him/her. For example, a dog which feels threatened by the approach of another individual, dog or human, if off the lead would have the option of retreat or avoidance but this is not possible for dogs kept on leads. They must instead rely on appeasement or aggression, rather than avoidance. Thus being on a lead might actually encourage aggressive behaviour rather than reduce it and in one study, the occurrence of threat was two times higher between dogs on lead than off lead<sup>58</sup>.

Furthermore, keeping a dog on a lead is likely to impact detrimentally upon his/her welfare through reducing the range of behaviour a dog is able to, or has the choice to, perform and will restrict some activities which many dogs find enjoyable and rewarding. One study<sup>58</sup> found that the occurrence of play between dogs was significantly lower when one or both dogs were on lead than when both dogs were off lead and in another, interaction in general was found to be reduced by the use of a lead<sup>59</sup>.

**Exempted dogs are not allowed to be unmuzzled or off lead in a public place, so secure and private areas are required for exercise and to play with toys.**



The requirement to keep a dog muzzled has the potential to compromise the dog's welfare, largely by limiting the ability to interact with other dogs and people. Facial expressions are important visual communication signals, for example, a dog that is feeling threatened by the approach of another dog or person may show his/her teeth either in a threatening fashion (front teeth exposed), or an appeasing fashion (back teeth exposed), both of which are performed in order to make the threatening individual back off and leave the dog alone. Other calming signals: licking lips and yawning are also likely to be masked or restricted by a muzzle. These behaviours are clear signals as to the dog's subjective state and his/her intentions. However, if these signals are not visible because of a muzzle then the ability of the other individual to read the body language and react accordingly is reduced.

Habituation to wearing a muzzle is very important, as is appropriate training in fitting the muzzle for the owner, especially for dogs on the index as they will be required to wear it on at least a daily basis. Without this, the dog could experience fear, frustration or discomfort.

### Zara

Emma adopted Zara from her local rescue. Suspicions that Zara might be a prohibited type of dog were first raised by her dog trainer and so Emma contacted her DLO. Following an assessment, Zara was found to be of type but because she was so well behaved and had good character references from the trainer, she was allowed to stay at home until the day of the court case. She was returned the following day having been exempted.

The conditions of exemption have impacted on Zara's health and behaviour. The muzzle causes rubs even though it is covered in fleece and the right size. These take a long time to heal as she has to wear the muzzle daily and for long periods of time. Being on the lead also means that she gets frustrated as she can't play with other dogs when on the lead.

Zara has a sore on her nose from wearing a muzzle.





#### d) Returning home

Although not widely publicised, it is understood that some dogs upon being returned to their owners are suffering or have suffered from health problems or changes in their behaviour (see case studies). To assist, the RSPCA has provided guidance to owners of exempted dogs which provides advice on how to reintroduce their dog into a domestic environment as well as complying with the conditions of exemption in a way which minimises the negative welfare consequences. This guidance is now sent out to any owners of exempted dogs.

Exempted dogs must be muzzled when in a public place.

#### Alex

Alex lives with Sian and is a very sociable, happy and easygoing dog who loves going for walks. He has a lot of dog friends who he plays with but hates wearing his muzzle. Alex will drop his head and put it in the muzzle very slowly, reluctant to wear it, but accepting this is the only way he can have his walk.

Alex also loves water but the only way he can go for a swim is when someone pulls on a pair of waders and gets into the water with him as he has to be on a lead in a public place. Alex wants to have fun, but it is always at a cost to him.

*“Breed Specific Legislation has not only proven ineffective at reducing dog bites, but it also tears apart families while punishing innocent dogs and their guardians solely because of a dog’s appearance. Any dog can bite under the right circumstances, so legislation should focus on protecting the public through responsible pet guardianship rather than targeting a particular breed.”*

**Victoria Stilwell, Dog Behaviour Expert**



Left to right: Angel, Lacy and Chico were all identified as pit bull terrier types while in RSPCA care and had to be euthanased.

### 5.3 BSL and its impact on rehoming

At the present time, the law does not permit rehoming organisations to rehome prohibited types of dogs to new owners, regardless of the individual dog's behaviour and so the only option is euthanasia. In the past two years, the RSPCA has been forced to euthanase 366 dogs due to s1 of the DDA.

It is the view of welfare organisations, and the public, that every animal's life matters. Furthermore, euthanasing dogs on the basis of looks alone has huge moral and ethical implications and also significant impact on the people responsible for their care in rehoming organisations.

#### a) Problems with identification and BSL relating specifically to puppies.

Puppies present a particularly difficult conundrum when it comes to BSL. Because suspected dogs are judged on appearance, many DLOs feel that they are unable to formally identify a puppy as type until they are fully mature. This can mean waiting until nine months of age, although some DLOs will do the assessment earlier. Therefore, when litters of puppies come into the care of rehoming organisations and one or both parents have been identified as type, ethical dilemmas result. Does the rehoming organisation keep them until nine months of age in an environment which increases the likelihood of fear-related behaviour and possibly aggressive behaviour, to avoid rehoming a dog which later is identified as a prohibited type of dog? In such cases, kennel staff will have spent some months creating a bond with the dog. Given that it is difficult to adequately and appropriately socialise and habituate a dog in a kennelled environment, subsequently rehoming a dog which is later found not to be of type could be problematic. On the other hand, they could be keeping a dog in a kennelled environment until s(he) is nine months of age only to euthanase the dog if found to be of type. Or do they avoid keeping the dogs in kennels completely and euthanase the entire litter assuming that because one or both parents are deemed to be of type, then chances are the puppies will be too?



Scott and Fuller's genetics and social behaviour studies in the 1960s demonstrated that some puppies look nothing like their parents. Thus, it is highly possible that a litter of puppies with a prohibited parent will look nothing like a prohibited 'type' themselves and there are various cases where this has been found to be so. For example, none of the puppies born to a pit bull terrier type in

RSPCA care in 2015 were identified as type upon reaching adulthood and more recently, in similar circumstances, only half of a litter were found to be of type. Not only does this mean that dealing with puppies of s1 parents can place considerable strain on rehoming staff, it also serves to provide further evidence of the impractical and contradictory nature of BSL.

**Suspected pit bull terrier type puppy.**



RSPCA Photolibrary

## 6. Section D – Proposed solutions and recommendations

### 6.1 Effective protection of public safety

In the UK, thousands of people attend hospital each year for dog bite related injuries. Between March 2014 and February 2015, 7,227 people were admitted into hospital in England, for a dog bite or strike injury<sup>60</sup>. In addition to this, a small number of people are killed each year as a result of dogs<sup>61</sup>. The physical<sup>62</sup> and psychological<sup>63</sup> consequences of a dog bite injury or fatality makes aggression towards people a significant public health concern despite the very small number compared with, for example, road traffic or DIY-related injuries and deaths. Therefore, efforts to prevent and reduce incidents through education are essential as well as legislation to deter and punish human offenders.

Ways to effectively protect public safety have been explored in other countries and it is clear that much of the focus is on encouraging responsible dog ownership and education (see case studies). Encouraging the basics of responsible guardianship by creating community-wide support for basic responsible behaviours including care, humane control and custody (identification and licensing) has been shown to dramatically reduce dog bite incidents<sup>64</sup>. Forging relationships between pet owners and enforcement agencies rather than penalising first is now the progressive trend<sup>65</sup>. It would appear the UK could learn from these other approaches.

### Focusing on responsible dog ownership and education

#### CALGARY, CANADA

An example where responsible ownership is encouraged is in Calgary, Canada. The Animal and Bylaw Services of Calgary<sup>66</sup> do not advocate BSL but instead engender responsible pet ownership based on five principles:

- license and provide permanent identification for pets
- spay or neuter pets
- provide training, physical care, socialisation and medical attention for companion pets
- do not allow pets to become a threat or nuisance in the community
- procure your pet ethically and from a credible source.

To comply with the 'Responsible Pet Ownership Bylaw' all dogs and cats need to be licensed and the revenue raised is used to deliver programmes and services including dog safety, public awareness and education. It is reported that despite an increase in the population of Calgary, dog bites decreased over the period 1985 to 2008.

#### AUSTRALIA

In Australia, the Australian Veterinary Association (AVA) has explored an alternative approach recognising the ineffectiveness of a breed specific approach and instead advocates legislation based on the identification of individual potentially dangerous animals and preventing them from inflicting harm<sup>67</sup>. Their model includes:

- identification and registration of all dogs
- a national reporting system with mandatory reporting of all dog bite incidents to the national database
- temperament testing to understand the risks and needs of individual animals, to help owners make more appropriate choices for their new pets and to guide breeders to improve the temperament of puppies
- comprehensive education programmes for pet owners, dog breeders, all parents and children
- enforcement of all dog management regulations.

In the following section we propose a series of solutions and recommendations which could better protect public safety in the UK and avoid the dog welfare problems associated with current BSL related processes.

#### a) Education

Education plays an integral part in tackling dog bites but is an issue often overlooked as governments focus on legislation<sup>68</sup>. One of the major issues relating to BSL is that it very likely leads the public to assume that only prohibited types are dangerous<sup>69</sup>. So BSL could be inadvertently contributing to dog bite incidents as those who own or interact with dogs may be falsely assuming that those which are not prohibited are safe<sup>70</sup> in all circumstances. However, as stated by the American Veterinary Society of Animal Behavior<sup>71</sup>:

*“Aggression is a context-dependent behaviour and is associated with many different motivations. Most dogs that show aggression do so to eliminate a perceived threat, either to their safety or to possession of a resource. In other words, most aggression is fear based.”*

There is, therefore, a need for anyone who comes into contact with any and all dogs to know how to stay safe and how to behave appropriately.

Resources to help people stay safe around dogs are available from a variety of different organisations<sup>72,73</sup>. However as a recent review of Responsible Dog Ownership in Wales<sup>74</sup>, produced by RSPCA Cymru and key stakeholders, demonstrated there is no strategic or coordinated approach in the delivery of these resources. This means that in some places there is duplication of effort and in others a complete absence of information. Furthermore, there is little evaluation around the success of these types of resources and so it is unclear whether desired behaviour changes have been achieved. Where there has been evaluation however, well designed programmes appropriate to the intended audience appear to play a role in contributing to the reduction of dog bite incidents<sup>75</sup>.

## Recommendation

1

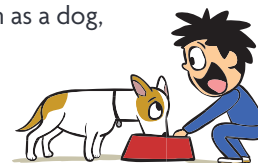
Standardised, authoritative educational resources should be developed and distributed which are targeted at children, parents and others that come into contact or interact with dogs, coupled with the means to evaluate their effectiveness. As hospital statistics have shown, children under the age of nine years are at most risk of getting bitten, and therefore we urge the UK Government to introduce materials on staying safe around dogs as part of the National Curriculum.

# The RSPCA's SIX Golden Rules

for keeping your child safe and your dog happy

1

Never leave your child alone in the same room as a dog, even your own.



2

Teach your child never to approach dogs when they:

- ▶ are eating or have a treat
- ▶ have a toy or something else they really like
- ▶ are sleeping
- ▶ are unwell, injured or tired
- ▶ are blind or deaf.

3

Teach your child to be kind and polite to dogs. Don't let your child climb on dogs, pull their ears or do anything you wouldn't allow them to do to another child.



4

Teach your child how to play nicely with your dog. For example, your child can teach your dog some really fun tricks like shake a paw, play dead, or roll-over.



5

Supervise your child when they're with your dog – if your dog looks unhappy, let him/her go somewhere they feel safe and happy.



6

Never allow your child to approach a dog they don't know, for example when out in the park.



## b) Effective legislation

Following two decades of BSL legislation, there is now a trend to repeal BSL. In the USA, the national trend is moving steadily away from BSL. For example, from January 2012 to May 2014, more than seven times as many American communities had either considered and rejected a breed specific legislation, or repealed an existing one, as had enacted BSL<sup>76</sup>. Nineteen states<sup>77</sup> now have pre-emptions that prohibit the regulation of dogs on the basis of breed<sup>78</sup>. Three EU countries or regions: the Netherlands, Italy and Lower Saxony, have repealed BSL. As described earlier, breed neutral laws that hold all owners equally accountable for the humane care, custody and control of their dogs are instead being introduced.

## Recommendation

2

**The UK should adopt a more holistic approach to tackling dog bites, based on education and legislation, with recognition that any dog, irrespective of breed or type, can be a safe and sociable animal or can display aggression towards people or other dogs; and that this will depend on breeding, rearing and lifetime experiences.**

Legislation already exists to tackle dogs dangerously out of control regardless of their breed. In the UK there are a number of laws including the Dogs Act 1871, the 1991 Dangerous Dogs Act and the 2014 Anti-social Behaviour, Crime and Policing Act (ASBC&PA) (2014). The latter law uses generic Community Protection Notices to tackle anti-social behaviour with dogs and is now being used proactively by some councils, it is however currently too early to evaluate their effectiveness. In Scotland, specific Dog Control Notices (DCNs), are used and may be an effective way of responding to problematic dog behaviour with an emphasis on improving ownership. DCNs do however require a trained council officer to impose conditions on an owner if a dog is out of control. These would look at deed not breed so are evidence based and a far better early intervention measure both proportionate and preventative in approach.

The RSPCA therefore believes that the legislative framework to tackle owners of dogs whose behaviour is deemed dangerous is available, although amends are required e.g. the introduction of specific powers for dogs. There are also other areas to be addressed including the availability of funds for training as well as ensuring knowledge and competency of enforcers. However we believe that these are surmountable. Repealing BSL would result in significant cost savings and these could be applied to more demonstrably successful approaches to reducing dog bites such as training enforcers and prioritising education for children.

## Recommendation

3

**Section 1 of the Dangerous Dogs Act (1991) should be repealed and the financial resources freed from this used to ensure effective measures, application and enforcement of Section 3 of the DDA and the Anti-social Behaviour, Crime and Policing Act, and to support relevant education programmes for children.**

## c) Understand the causes of aggressive behaviour

Scientific evidence shows that the cause of aggression, dog bites and fatalities are complex and multifactorial. For example, in the USA, a retrospective study examined more than 250 dog bite fatalities and found major co-occurrent factors which included: absence of an able bodied person to intervene; unneutered dogs; dogs kept in isolation from the family; mismanagement of dogs; and a history of abuse and/or neglect<sup>79</sup>. While the findings of these studies cannot be used to infer causal relationships, they can give us a better understanding as to why aggression, bites and fatalities may occur. Their findings also help identify factors which, if included in policy and education, could reduce or prevent incidents. However, in the UK at present there is little in the way of investigation of the factors surrounding dog bite related incidents, even those which result in serious or fatal injuries.

The model presented in Figure 3 proposes an example of a pathway whereby the context of the incident, forensic evidence, nature of injury, severity, medical and surgical treatment and the human and dog social factors could be investigated along with a behavioural assessment of the dog if alive or full history if dead. Complemented with a centralised database and a mandate for information about the bite to be recorded, for example, the type of dog, time of day, physical condition of the dog, treatment of the dog by owners etc., would lead to a greater understanding and hence the development of effective dog bite prevention programmes. While this doesn't prevent education from currently being rolled out, committing to dog bite incident investigations would ensure a fuller understanding of why incidents occur and the application of up-to-date preventative measures.

## Recommendation

4

**The UK and devolved governments should commit to the investigation of dog bite related incidents by suitably qualified people. All dog bites should be recorded on a centralised database with rolling analysis so evidence-based preventative measures can be identified. This is a piece of work which is already being explored as is the means to resource such investigations.**



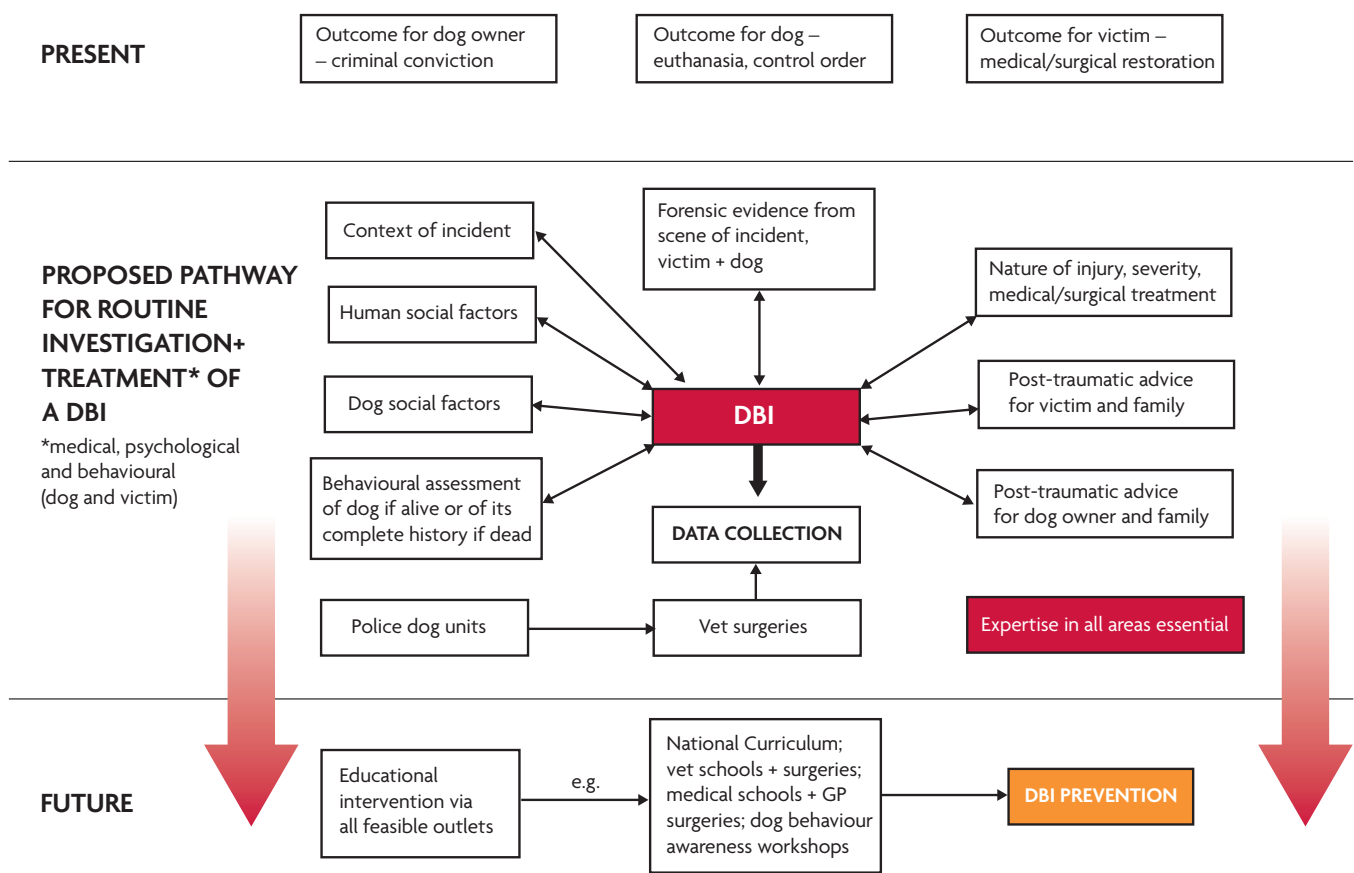


Figure 3. Dog bite incident investigation. ©Kendal Shepherd 2014.

## 6.2 Protect dog welfare

While BSL exists, interim measures must be introduced to safeguard dog welfare; the following outlines solutions and recommendations.

### a) Ensure consistent application of the interim exemption scheme across all police forces

While s1 exists, the RSPCA is very supportive of the interim exemption scheme which can minimise the time spent in kennels by dogs seized under s1 pending a court hearing. While some police forces such as West Mercia, Warwickshire, West Midlands, South Wales and Greater Manchester use the scheme, not all do and it is currently somewhat of a postcode lottery as to whether it is applied. Guidance on expected use of the scheme, coupled with the positive effect for forces on constrained budgets, could make a significant difference to the take up of the scheme. This would spare dogs, who end up being exempted, the negative welfare consequences of kennelling.

### b) Diminish the need for seizure

We believe that police discretion could be further extended such that seizure is not standard practice for dogs who pose no risk. In many cases, the police are content for a dog to be exempted as they are quite satisfied with the lack of risk posed by both the dog and his/her owner. In such circumstances, rather than waste court time and police money, it would seem sensible for the police to have the power to allow the dog to be put straight on to the Index of Exempted Dogs. As an example of effective risk assessing, there are models developed by police forces which assess whether or not it is appropriate to return a dog back to his or her owner prior to any court proceeding. Information about how to behave safely around dogs could be provided as well as the implementation of conditions similar to those currently used for exempted dogs e.g. keeping the dog on a lead and muzzled when in public.

## Recommendation

5

A consistent approach in the application of the interim exemption scheme for dogs affected by s1 should be developed such that all police forces in England and Wales use it.

## Recommendation

6

Explore measures to diminish the need to seize dogs who are highly likely to be subsequently exempted, such as the police having the power to exempt dogs, saving the need to seize and saving the courts and police time and money.

c) Identify a way to ensure the assessment process is more objective

The application of the assessment process and determining whether or not a dog is of type varies. Although all experts have to use the ADDBA criteria greater objectivity and an expectation that these would be used would make the assessment process feel more reliable for owners.

## Recommendation

7

Greater objectivity when applying the assessment process and greater consistency between experts in the way the assessment is applied, should be ensured.

d) Introduce measures to ensure cases are expedited

There are measures which could expedite cases and ensure better case management. We believe this could be achieved through guidance and sharing best practice, reminding those involved of the benefits of tackling unnecessary delays and adjournments on welfare and cost. For example, Greater Manchester Police have introduced a number of measures which has resulted in dogs going through the exemption scheme being returned to their owner much more quickly both improving dog welfare and reducing costs, for example by pre-booking regular court slots.

## Recommendation

8

Guidance should be updated in conjunction with the Ministry of Justice and HM Courts and Tribunals Service to reduce the time taken for cases to be dealt with by the courts.

e) Meet the welfare needs of kennelled dogs more effectively

a. Ensuring consistent application of the RSPCA's guide *The welfare of seized dogs in kennels: A guide to good practice*

A dog who is physically fit (healthy) and psychologically fulfilled (happy) is less likely to use aggression and so in the light of concerns around the welfare of seized dogs, the RSPCA has published guidance for enforcement bodies and kennel contractors and managers. The guide was put together by experts in veterinary medicine, behaviour, welfare and law and by frontline practitioners, and provides advice and information on meeting and protecting the environmental, dietary, behavioural, social and health needs of dogs

in a kennelled environment. It also outlines the minimum standards required to comply with all relevant legislation. In addition, it provides very specific advice for managing dogs whose behaviour may pose genuine risk to public safety, including ways to help dogs cope in a kennelled environment especially where exercise and human contact is impossible to provide. Consistent application of the guide across all police forces and kennelled establishments would ensure that the welfare needs of dogs are better protected and provided for, and reduce costs.

## Recommendation

9

Endorsement by the National Police Chiefs Council to be sought for the RSPCA guide on meeting the welfare needs of kennelled dogs, with a view to this being rolled out across all police forces.

b. Managing difficult dogs

In some cases there may be concern about a dog's behaviour towards people and this may prevent the dog from being exercised or provided with human contact. While it is acknowledged that the health and safety of staff must be protected, not providing a dog with daily exercise or human contact fails to fulfil the dog's needs to behave normally and have company, and fails to protect the dog from suffering as enshrined in the Animal Welfare Act 2006. In the majority of cases, dogs display aggression because they feel threatened by something or someone and the behaviour is generally indicative of poor welfare. So when situations like this arise, and it is believed there is no alternative but to withhold exercise and human contact, it is necessary for all other possible means of improving the dog's welfare to be explored, including the provision of additional enrichment and seeking and implementing advice from a vet and a suitable behaviour expert.

## Recommendation

10

The behaviour and welfare of all dogs should be monitored by suitably qualified personnel from the point of seizure and regularly throughout their stay. Where dogs cannot be exercised or provided with human contact, alternative forms of enrichment must be provided and veterinary and expert behavioural advice sought and applied.

**c. Providing for the behaviour and welfare needs of individual dogs**

Identifying and providing for a dog's behavioural and welfare needs at an early stage is likely to help dogs cope better with a kennelled environment and prevent behaviour problems from developing. For example, identifying a dog's behaviour towards other dogs can help identify where best the dog should be located. Meeting the dog's welfare needs can be further enhanced by gathering information about the dog from the owner. For example, is there anything which the dog is particularly fearful or anxious about?

## Recommendation

11

Where possible, officers should obtain as much information as possible from the dog's owner about the dog's individual needs and likes/dislikes, should arrange for behaviour and welfare assessments of dogs following the point of seizure by a clinical animal behaviourist and ensure that the dogs are monitored on a regular basis thereafter.

**f) Allow the revision of conditions for exempted dogs**

As some exempted dogs age, there may be changes to their physical condition or behaviour which means they pose no risk to public safety. In France there is a tiered system in operation depending on the dog's age and temperament which would take into account for instance a dog's arthritis or changes to its dentition.

## Recommendation

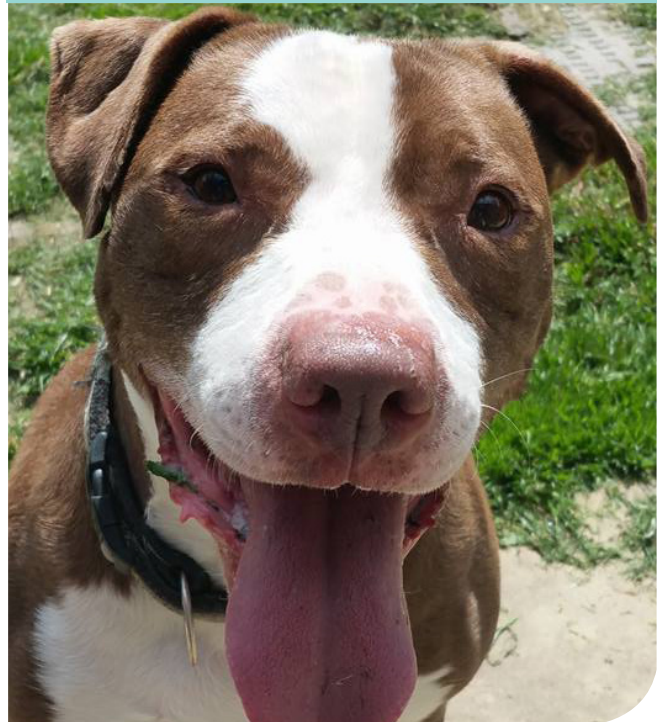
12

The UK Government should consider the revision of the conditions of exemption to widen the parameters, allowing the conditions for dogs that pose no threat to be relaxed.

### Jack

Jack was originally ordered to be destroyed because of his behaviour and issues surrounding his owner. He was also identified as a prohibited type of dog. However, the destruction order was appealed and Allie applied to be his keeper and showed that she could look after him. He had been held in kennels for two years and during this time hadn't been walked. He had several behaviour issues including over grooming of his front legs, which had resulted in sore patches, and he also chewed at the bars of the kennel.

Jack's teeth were broken and ground down as a result of chewing the bars and so it would be very difficult for him to injure anyone. He is very friendly towards other dogs and people, and is well trained. He really dislikes wearing his muzzle but he has to in order to comply with the exemption conditions.



g) Allow the rehoming of prohibited types of dog.

As described in section 5.3 (page 20), every year hundreds of dogs have to be needlessly euthanased by rehoming organisations to comply with the provisions of the DDA. This is despite behavioural assessments of the dogs showing that they are well adjusted and suitable for rehoming.

## Recommendation

13

S1 of the Dangerous Dogs Act should be revised to allow more opportunities for rehoming s1 dogs. Rehoming could be achieved through the normal exemption process so that conditions are placed on the dog when s(he) goes to a new home. Applying such conditions lowers the risk to public safety substantially but also reduces kennelling costs and the anguish and emotional impact on staff who deal with these dogs, including those officers required to formally identify them. The new owner would still be required to demonstrate that they are a fit and proper person.

h) Reversal of the burden of proof in s1 cases

It is time, given the large number of dogs deemed appropriate to go on the Index of Exempted Dogs, that these cases are placed on a similar footing with other criminal matters, i.e. that the Crown must prove their case beyond a reasonable doubt. This would restore the usual principle that a defendant is innocent until proven guilty.

## Recommendation

14

The UK Government should reverse the burden of proof in s1 cases to bring it in line with the usual principle of innocence being assumed until guilt is proven.

i) Keepership

Since 2015, the ability to transfer keepership has become increasingly restricted. In many cases, because the restrictions on changing keepership are so severe, owners are faced with euthanasing their family pet if, for example, they have to spend a period of time away with work or their housing circumstances change.

## Recommendation

15

The UK Government should relax the constraints on keepership such that owners and keepers are given greater freedom, and transfer of exempted dogs (on a permanent and temporary basis) to fit and proper persons becomes easier.

## 7. Section E – Conclusion

**The RSPCA strongly believes that the evidence presented in this report clearly shows that BSL has been ineffective in achieving its goals of protecting public safety and reducing the number of prohibited types of dogs. Since its introduction in 1991, a significant proportion of dogs involved in fatal incidents are not those prohibited by law, and hospital admissions due to dog bites have increased substantially in the past decade despite the prohibitions.**

Other countries have moved away from a breed specific approach, adopting instead one which recognises that any dog can be aggressive and equally, that dogs of any breed or type can be safe and sociable. Successful reduction in, and prevention of, dog bites is dependent on the fostering of responsible dog ownership and education. The UK Government has the legislative framework for such an approach available, although amends are required, and the RSPCA urges it to repeal BSL and focus resources on preventative measures along with education.

The impact on dog welfare and owner wellbeing has been very much hidden but it is clear that BSL comes at a significant cost to many law-abiding citizens who would not ordinarily come into contact with the police or courts. Until such time as BSL is repealed, there needs to be urgent action to protect the welfare of dogs affected by this law. In the absence of any evidence to show that BSL is effective in safeguarding public safety, safeguarding the welfare of those dogs affected by BSL is the very least we can do for man's best friend.

## 8. Acknowledgements

**The RSPCA would like to thank everyone who contributed to and assisted with this report, especially those who have shared their experiences of BSL, explaining how this legislation has changed their lives and those of their dogs.**

Pit bull terrier type.



RSPCA Photolibrary

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