

Communication Workers Union



CWU Response To The Defra Dangerous Dogs Offences Sentencing Consultation



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National Health and Safety Officer - August 2013

Introduction

Two recent surveys showed that over one million dogs are displaying aggressive behaviour towards people and other dogs on a weekly basis and that over 87% of people believe Dog owners should face tougher penalties if their dog attacks another person or dog. With a quarter of a million people bitten and attacked by dogs in the UK every year, 18 People killed in Dog Attacks in the UK, fatal attacks increasing and happening more frequently, 5,000 Postal Workers are attacked every year. The cost to the NHS and Taxpayer of Dog Attacks is £9.5 Million a year. There is a growing and 'out of control' problem with dog control in the UK and as such there is the need for more effective deterrents - Tougher Court Penalties and Ancillary Court Orders as well as more effective, well resourced enforcement.

CWU 'Bite-Back' Campaign

The Communication Workers Union (CWU) represents the largest number of Dog Attack victims in the UK and as such is the Number 1 stakeholder from a victims perspective. The CWU 'Bite-Back' Campaign was launched in 2007/8 after 6,500 Postal Workers were attacked that year and 2 nearly killed. The Main campaign objectives were:-

- To get the Law extended to apply everywhere including private land.
- The introduction of preventative measure - Dog Control Notices
- Compulsory Microchipping
- Tougher Sentences
- Compulsory Third Party Liability Insurance
- Raise Public Awareness
- Encourage responsible dog ownership, Improved training and socialisation.

Overview

The CWU has been campaigning for tougher sentences for many years. The CWU Supports an increase in the maximum sentence available for offences committed under Section 3 of the Dangerous Dogs Act 1991 where a dog has caused injury or death to a person or an assistance dog/guide dog. Our view is that a new increased and innovative sentencing regime should be introduced as follows:-

- **Injury to a Guide Dog** - Maximum Penalty 3 years prison and/or unlimited fine, plus automatic disqualification from Dog ownership, plus compensation for cost for veterinary care, rehabilitation or replacement.
- **Death of a Guide Dog** - Maximum Penalty 5 years prison and/or unlimited fine, plus automatic disqualification from Dog ownership, plus compensation for cost of replacement.
- **Injury to a Person** - Maximum Penalty 5 years prison and/or unlimited fine, plus automatic disqualification from Dog ownership, plus compensation for personal injury, plus costs for NHS Treatment.
- **Death of a Person** - Maximum Penalty 14 years prison and/or unlimited fine, plus automatic life disqualification from Dog ownership plus compensation to family of deceased, plus any costs for NHS Treatment plus funeral costs.

Destruction and disqualification orders.

All dog owners convicted of a Dangerous Dogs Offence should face an automatic Dog Ownership Ban ranging from 10 years to life in aggravated offences where injury or death occurs. The resumption of Dog Ownership following a ban should be conditional, requiring the person to undergo specified Dog Ownership Training and monitoring and that they obtain a Certificate of Third Party Liability Insurance for their Dogs. Any breach of a Dog Ownership ban should face Custodial Sentence of up to a Maximum of 5 Years and or fine. Currently the Penalty for breaching a Dangerous Dogs Act Section 4 (1) (b) Dog Ownership Disqualification Order is a Level 5 Fine, Maximum £5000. The existing sanction is dealt with in the Dangerous Dogs Act Section 4 (8) (a). The same penalties should apply with regards failures to comply with a Destruction Order. Sections 4 (1) (a) and 4 (4) (a) and 4 (8) (b) all refer.

Case Study: Convicted killer-dog owner Urfan Ahmed who was banned from keeping dogs in 2010 after one of his pets mauled his 18 months-old niece Zumer Ahmed to death in Crawley, Surrey, ignored the ban and was caught with Dogs in his possession a year after his conviction and ban. He was fined just £500 for breaching the Dog ownership Ban court order after police found five dogs at his Crawley address in 2011, just a year after the Ban was imposed. Ahmed was later to be prosecuted and convicted for having another Dog designated as bred for fighting.

Assistance Dogs/Guide Dogs

Additional to a new Maximum sentence of 5 years for injury or death of an Assistance Dog/Guide Dog the offending dog owner should be liable, as provided in USA and Canadian Law for any damage done to such guide dogs, and such liability shall include any costs incurred by such blind, deaf or mobility-impaired person or Charity e.g. the Guide Dogs Association for the veterinary care, rehabilitation or replacement of the injured guide dog.

NHS Costs

With the cost of treating Dog Attacks mounting the Chancellor' may be interested in recovering some if not all of the actual cost of NHS treatment of Dog Attack victims from irresponsible Dog Owners. At the moment the cost is met by the innocent Tax payer. Treating Dog Attack victims currently costs the NHS £9.5 Million a year (RSPCA). The existing system of recovering the costs of treating Road Accident victims is complex but the old Road Traffic (NHS Charges) Act 1999 system included provision for NHS costs to be recovered according to a very simple daily tariff of charges, with the NHS recovering a set daily amount for every person who is treated without admission to hospital and a higher amount per day for anyone who is admitted to hospital. There was a ceiling of charges in any one case. Introducing a similar system with dog attacks would assist the NHS, relieve Taxpayers of the growing burden and act as a further deterrent to irresponsible Dog Owners if they or their Insurers had to foot the bill. After all why should the Victims and Taxpayer foot this growing bill?

Criminal Compensation Orders

Sentencing guidance to the Courts should ensure that Criminal Compensation Orders are automatic in 'aggravated' convictions, involving an injured victim. The fact is that many dog owners are uninsured and in some cases untraced or unidentifiable after Dog Attacks occur and injury results. In such cases, Dog attack victims with serious injuries have no civil remedy for Personal Injury compensation. Ways must be found to correct this. The UK has long been a nation of dog-lovers who are happy to spend large amounts of money on their pet. According to the Pet Insurance industry the lifetime cost of dog ownership ranges from £18,000 to £33,000. Convicted Dog Owners should therefore be well able to either Insure their Dog or pay Compensation Orders following conviction.

'Mandatory' Third Party Liability Insurance Orders for Convicted Dog Owners and those served with Dog Control Notice/Community Protection Notice.

In the state of Illinois, in the United States of America, a type of Dog Control Notice is used. The law stipulate that any aggressive or 'dangerous dogs' identified by Police or Dog Wardens, are registered by the State authorities and the owner is served with an order that the dog must be microchipped and covered by the owner's third party liability insurance. No dog classified as such is allowed to leave the owner's property without a leash and muzzle, the owner shall 'maintain the animal in such a manner as to prevent its coming in physical contact with any person not residing with the owner'. A similar arrangement could be introduced in the UK whereby (a) Any Convicted Dog Owner must obtain third party liability insurance cover after any Dog Ownership Ban is served and (b) Any Owner served with a Dog Control Notice/Community Protection Notice must obtain third party liability insurance cover for the dog concerned. This would greatly assist with dog control and protect the public. The lifetime cost of dog ownership ranges from £18,000 to £33,000 according to the Insurance Industry. Therefore there should be no argument about affordability of insuring the dog. (CWU remains strongly in favour of compulsory third party liability insurance.)

Police and Local Authority Guidance

The development of Police and Local Authority Guidance on Dog Control enforcement and Prosecution is crucial. CWU and other key stakeholders must be involved in the shaping of new guidance.

Dog Warden Service Resources

There is a lack of will to enforce legislation amongst Local Authorities and a lack of financial will to adequately resource Dog Warden Services in the face of the substantial Local Authority funding cuts since 2010. Many Dog Warden Services have already been decimated by Local Authorities. Whenever savings have been needed the Dog Warden Service is an easy target, although it is one of only two statutory roles in a Local Authority. Government must ensure that all local Authorities provide and fund a well resourced Dog Warden Service as they are legally mandated by legislation to control dogs.

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CWU Response to the 2013 Defra Dangerous Dogs Offences Sentencing Survey

Q1 to Q3 are for the person responding to give their name, organisation and e-mail address details

Q4 Do you support an increase in the maximum sentence available for offences committed under section 3 of the Dangerous Dogs Act 1991 where a dog caused injury or death to a person or an assistance dog (the current maximum being 2 years imprisonment or an unlimited fine or both)?

Answer: Yes

Q5 If so, do you support an increase for injury (to a person or an assistance dog), death of a person and/or death of an assistance dog? Please indicate which of these options you support.

- Injury to a person or assistance dog
- Death of an assistance dog
- Death of a person

Answer: Yes to All 3

Q6 If you support an increase for injury to a person or an assistance dog, which of the following options most closely resembles the appropriate maximum penalty? (Please tick one box only)

- 3 Years
- 5 Years
- 7 Years
- 10 Years

Answer: 5 Years (CWU NOTE: (a) This is in line with Causing Injury by Dangerous Driving (b) Injury to assistance dog could be at the lower end of the scale of 1 to 5 years depending on circumstances of the attack and level of injury)

Q7 If you support an increase for death of an assistance dog, which of the following options most closely resembles the appropriate maximum penalty? (Please tick one box only)

- 3 Years
- 5 Years
- 7 Years
- 10 Years

Answer: 5 Years (CWU NOTE: death of an assistance dog could be at upper end of scale 1 to 5 years depending on circumstances)

Q8 If you support an increase for the death of a person, which of the following options most closely resembles the appropriate maximum penalty? (Please tick one box only)

- 5 Years
- 7 Years
- 10 Years
- 14 Years
- Life Imprisonment

Answer: 14 Years (CWU NOTE: This is in line with Maximum Sentence for Causing Death by Dangerous Driving)

Q9 Do you wish to add any comments in support of your preferences? If so, please add brief comments below.

Copy of CWU National response/submission attached separately.