



Subject:	Update on Dealing with Banned Breeds under The Dangerous Dogs (Northern Ireland) Order 1991 as amended.
Date:	10 th April 2018
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	<p>The purpose of this report is to further update the Committee on the motion that was brought to Council on 1st September 2016 with regard to dangerous breeds of dogs and to provide a report on the work that has been undertaken to review how the Council handles any future cases involving dangerous breeds. The motion called for a review of breed specific legislation to avoid the removal from their owners of prohibited dogs that have not posed a danger to the public, as follows:</p> <p><i>“This Council calls upon the Minister for Agriculture, Environment and Rural Affairs to conduct an urgent review of Breed Specific Legislation. Recent tragic events in England</i></p>

1.2	<p><i>demonstrate the need for effective controls in respect of dangerous dogs. However, the removal from their owners of dogs that have not posed a danger to the public should be avoided. The Council supports and encourages responsible dog ownership and those who exercise appropriate care and control of their dogs.”</i></p> <p>The Council wrote to the Minister for Agriculture, Environment and Rural Affairs, Minister McIlveen MLA, regarding the motion on 5th October 2016. A reply from the Minister’s office has been received. The Minister has stated in her response as follows;</p> <p><i>“The Department understands that the Council is currently reviewing its handling of a high profile case involving the seizure, assessment and return of a pit bull. We would be interested in learning of the findings of that review, and will then consider whether the existing legislative provisions could be reviewed to allow the impact of seizure on dogs and their owners, to be more effectively managed, while ensuring appropriate protection for the public.”</i></p>
2.0	Recommendations
2.1	<p>The Committee are asked to;</p> <ul style="list-style-type: none"> • Note the contents of the report and in particular the summary of current actions at paragraph 3.14.
3.0	Main Report
3.1	<p><u>Key Issues</u></p> <p>An internal officer group (comprising of officers from City and Neighbourhoods Department, Legal Services and Corporate Communications) has been reviewing the legal position and processes involved in dealing with cases of suspected banned breeds. The processes used by the Council’s Dog Warden Service have been developed based on the legislative requirements of The Dangerous Dogs (Northern Ireland) Order 1991 (as amended) aimed at dealing with banned breeds of dogs, specifically those dogs from the pit bull terrier type breed which are the predominant banned breed found in this Council area.</p>
3.2	<p>Since the seizure of a pit bull terrier type dog known as “Hank” in July 2016, the Council has seized a further three dogs which were subsequently found to be pit bull terrier type dogs but were assessed as suitable to be admitted to the exemption register. Those dogs were returned to their owners following court proceedings permitting the dog to be placed on an exemption register. In cases of this nature, a determination on whether a dog is of a breed banned under the legislation is made based on the animal’s physical characteristics and temperament. This is a two stage process. The ultimate decision in terms of action is based</p>

on; the dog's physical characteristics which determine if it is a pit bull terrier type breed, an assessment as to the temperament of the dog and whether it poses a danger to the public. Sixteen dogs have been placed on the exemption register and returned to their owner by the Council since 2011, out of seventeen dogs assessed to be pit bull terrier types during this period, sixteen dogs have had conditions attached to their return, which are aimed at addressing issues of public safety.

3.3 The prohibition on possessing pit bull terrier type dogs was introduced with the intention of preventing serious injury to human life. The legislation classifies four breeds of dogs which are deemed to be dangerous dogs, namely;

- Pit Bull Terrier,
- Dogo Argentino,
- Fila Brasileiro,
- Japanese Tosa

3.4 It is illegal to own or be in possession of one of these breeds or breed types unless a Court Order has been made exempting it from the prohibition on keeping such a dog. Once the Council is aware of the whereabouts of a dog that may fall within one of the prescribed breeds, officers will assess the situation to determine whether the owner is likely to agree to hand over their dog to be assessed. If not, or it is not possible to contact the owner, officers will seek a warrant from the court permitting the Council to seize and remove the dog from its home environment to allow an assessment to take place.

3.5 Whilst the removal of the dog from its home is understandably distressing for dog owners, the Council must balance that against its obligation under the legislation to protect the public and ensure that there is a comprehensive, impartial assessment of the dog's physical and behavioural characteristics. That assessment cannot take place in the owner's home, as it is important to see how the dog will react in surroundings and circumstances which are not familiar to it.

3.6 The purpose of the assessment is to determine whether, in the Council's view, the dog is a pit bull terrier type dog and if so whether its behaviour is such that it could be admitted to an exemption register. In order to admit the dog to the exemption register and return it to its owner the Council must obtain a court order. That order will contain a number of conditions, not least of all that the dog must be kept on a lead, muzzled, neutered and insured as a pit bull terrier type dog. It is officers understanding that the relevant insurance can only be

obtained when a court order is made making possession of the dog lawful.

3.7

The officer review considered the option of allowing a dog deemed to belong to a banned breed to “stay at home” after its assessment and pending court proceedings for exemption. There is legislation in England and Wales which makes provision for the dog to remain at home following assessment, pending exemption. No such legislation exists in Northern Ireland. In order to explore the liabilities associated with a “stay at home” option pending the outcome of court proceedings for exemption, on the advice of legal services, an opinion was commissioned from a leading expert on pit bull terrier type dogs and from a leading barrister.

3.8

Mr. Peter Tallack, a recognised expert in the field of identifying and dealing with banned breeds, advised as follows:

- He has investigated 14 fatalities caused by dogs on behalf of police forces in GB, ten of which involved pit bull terrier type dogs.
- The biggest problem with this breed of dog is with people who own the dog but lack any appreciation of the enormous strength and tenacity of the dog.
- That these breed/type of dogs are different to normal family domestic pets and sometimes do operate to different behaviour rules than ordinary domestic breeds.
- That whilst all dogs can bite, the severity of the injuries that can arise from an attack by a pit bull type dog are at such a level that they would not generally be appreciated without supporting evidence.
- It is standard procedure for the police service on the mainland to remove the dog from its home for assessment.
- Prior to the legislation permitting a “stay at home” option in England, “stay at home” policies were trialled but were discontinued, after the Independent Police Complaints Commission identified concern with this particular practice.

3.9

Under the most recent legislation introduced in 2015 in England and Wales, which makes provision for a “stay at home” scheme pending exemption, it is the Chief Police Officer who must make this decision and only where they are satisfied that the dog does not constitute a danger to public safety. In determining whether that is the case, they must consider the temperament of the dog, whether the person in charge of the dog is a fit and proper person to keep the dog and any other relevant circumstances. If the Chief Police Officer does decide to return the dog, the owner must comply with a number of strict conditions before the dog can be returned home.

Mr Tallack has advised that very few authorities have applied this approach. The report

3.10	<p>stated that;</p> <p><i>“It is my opinion that one of the main considerations in regard to leaving a dog at home after being brought to the attention of an enforcement agency is liability. The legislation is most unusual by reversing liability, therefore as soon as the dog is brought to the attention of the enforcement agency, technically the suspect and the dog are guilty of the offence until the court makes a judgement or order. Therefore, if anything were to happen to any person as a result of the dog not being in custody, whether it is a member of the family or not, must raise huge concerns for the agency involved and therefore its chief officer could be made responsible”.</i></p>
3.11	<p>Mr. Tallack pointed out that there have been no fatal incidents involving a pit bull terrier type dog in Northern Ireland and he expresses the view that our dog licensing system and Dog Warden Services are better resourced and consistent across Northern Ireland which carries many advantages. Mr.Tallack recommends that the Council should protect its position by ensuring that there are robust procedures in place to deal with dogs suspected of belonging to a banned breed, which must be taken into the Council’s care pending a determination on breed and court proceedings.</p>
3.12	<p>The opinion of a leading barrister in NI was sought in relation to the Council’s legal duties and administrative processes. The potential liability to the Council in allowing a dog from a banned breed to remain at home with its owner, pending legal proceedings for exemption, was considered as part of the review into the Council’s processes for dealing with dangerous dogs. The following comments form the basis of the legal opinion that has been provided to the Council in respect of its handling of dogs from banned breeds:</p> <ul style="list-style-type: none"> ▪ The risks involved with the ownership of a “dangerous dog” extends to fatalities of the most vulnerable, namely young children and elderly people. ▪ The objective of the legislation must always be the primary focus of those that operate under the processes of the legislation, namely to protect the public from serious injury and to prevent fear of an attack from such dogs. ▪ The current process of removing the dog from its home for assessment and fast tracking the court exemption process is the proper approach and works well in the vast majority of cases. ▪ The Council’s approach to considering whether a dog is suitable for exemption is well measured and professional.

- The application of robust procedures, well recorded and documented as presently apply, appear likely to provide the best approach to the complexities that can arise.
- The experience of England and Wales of increasing attacks is a situation which does not apply to Northern Ireland and the comparison that can be made is strongly supportive that the processes adopted of handling dogs in Northern Ireland have produced a better outcome for all concerned.

3.13 The legal opinion concludes *“I am of the view that anyone fully informed of the risks and potential liabilities involved in the seizure and assessment of dogs under the legislation could but only form the reasonable view that what is being done, needs to be done and would and should be supportive of same”*

In light of the above, officers are concerned at the potential risk to the public generally, and indeed the Council, if it permitted dogs to remain at home to be assessed and/or pending a court hearing.

The following improvement actions have been implemented as part of this review;

- 3.14
- The Council does not adopt a “stay at home” policy for dogs suspected of belonging to a banned breed who are eligible for exemption pending court proceedings.
 - When a dog which is suspected of belonging to a banned breed comes to the attention of the Council, the Council must respond and identify the breed as quickly and as professionally as possible. In advance of seizing the dog, the Dog Warden Service will endeavour to engage with the owner of the dog and encourage the owner to voluntarily hand the dog over for assessment. Each case must be assessed on its own merits and in some cases, it will be necessary to seize a dog without the owner’s consent or presence.
 - It is recognised that the removal of a dog from its owners is a stressful situation. Dog Wardens will ensure that every effort is taken to settle the dog into its temporary surroundings and they will liaise regularly with the owner of the dog, while it remains in the Council’s care to keep them fully informed of the welfare of the dog.
 - The dog will be assessed as soon as it is settled into kennels in order to determine if it is suitable for exemption.

<p>3.15</p>	<ul style="list-style-type: none"> ▪ Once a dog is deemed suitable to be placed on the exemption register, the Court proceedings for exemption will be fast tracked by the Councils' Legal Services so as to minimise the time spent in kennels. In recent cases, the dogs have been returned home within ten days from their removal. <p>In relation to visitation of dogs impounded in kennels by their owners, there is limited research to support or refute whether such visits are beneficial for the dog and its owner. For security and health and safety reasons, the location of the dog while in care will remain undisclosed. The dog will receive daily human contact and exercise from both kennel staff and the Dog Wardens. All aspects of its stay are documented to help allay the concerns of the owner. In most cases the duration of the stay will be relatively short. For dogs who may be required to stay for an extended period of time, the Council will explore how visitation can be facilitated taking into account our duty of care to the kennel provider, the welfare of the dog and the health and safety of the staff involved.</p> <p><u>Financial & Resource Implications</u></p> <p>Costs associated with the expert advice will be met within existing budgets.</p> <p><u>Asset & Other Implications</u></p> <p>None</p> <p><u>Equality or Good Relations Implications</u></p> <p>There are no relevant equality considerations associated with the review.</p>
<p>4.0</p>	<p>Appendices – Documents Attached</p>
	<p>None</p>