

Pendle Borough Council

Operational Services

Prohibited type and Dangerous Dogs Policy

December 2024

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1.Introduction

This guidance aims to assist Officers with the relevant legislation, evidential and public interest considerations and choice of options open to the authority applicable to prohibited dogs and dogs dangerously out of control.

The primary legislation for such cases is the Dangerous Dogs Act 1991 although other provisions are addressed under the selection of charges. This Act deals with dogs which are bred for fighting alongside other restrictions imposed which present a serious danger to the public.

As of December 2023, it became illegal to own or possess an XL Bully dog in England and Wales unless you have a valid Certificate of Exemption.

Local Authorities have sole responsibility for dealing with stray dogs under s68 of the Clean Neighbourhood and Environment Act 2005 (CNEA).

Section 149 of the Environmental Protection Act 1990 (EPA) specifically lays out the Authorities duties. Under Section 149(6) it states that: -

Where any dog seized under this section has been detained for seven clear days after the seizure or, where a notice has been served under section 149(4) the service of the notice and the owner has not claimed the dog and paid the amounts due the officer may dispose of the dog—

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

No dog seized under this section shall be sold or given for the purposes of vivisection.

Notwithstanding anything within this introduction, the officer may cause that a dog detained under Section 149 EPA 1990 to be destroyed before the expiration of the period of seven days above where they are of the opinion that this should be done to avoid suffering.

1.1 Scope of Operational Services

Operational Services is committed to enforcing legislation fairly and consistently to ensure all members of our community can enjoy the beauty of our Borough without being impacted upon by activities such as:

- The possession or custody of specified breeds bred for fighting
- The breeding, selling or other acts concerning dogs bred for fighting
- The risk of a dog causing road accidents, attacking people or animals or causing a general nuisance.

The effectiveness of legislation in protecting residents depends on the compliance of those regulated. We will take care to offer assistance to those who seek support to meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who disregard their obligations under the law or act irresponsibly putting residents' health at risk.

1.2 Joint Working

Pendle Borough Council will cooperate and work with any relevant regulatory body and/or enforcement agency to maximise the effectiveness of any enforcement or actions taken during the Authorities control of a suspected prohibited type, for example the Police, other local authorities and statutory undertakers.

The Authorised Officer, will work with our internal and external partners to achieve compliance with legislation so that resources are pooled which adds value for the customer.

In particular we will work closely with other agencies dealing with the stray and detained prohibited type to ensure the animal is humanly cared for or destroyed.

2. Competence of staff dealing with stray dogs

The Council recognises that only appropriately competent, authorised personnel may undertake certain activities in relation to the identification of prohibited type and Officers will seek guidance from the designated dog licensing Officers to confirm whether a dog is a prohibited type as and when necessary.

The criteria used to assess the competence of officers will be detailed in the specific requirements demanded by the Statutory Codes of Practice and any other considerations which are believed to be relevant to the capture, collection and welfare of stray dogs.

Competency of officers will be maintained through appropriate continuing professional development.

3. Comparing with Others

The Council is committed to comparing its services with those of others and in particular with better performing authorities. To achieve this, the Council will take part in benchmarking (including Inter Authority Auditing) where it is believed the resources needed to do this will be justified by the improvements which are secured as a result.

4. Charging for Enforcement Action

Legislation allows for the recharging of costs incurred by the Council. Where costs can be recovered the Council will use relevant legislation to recoup expenditure

5. Equality

The Council fully recognises and endorses the rights of individuals and will ensure that all enforcement action occurs in strict accordance with the Police and Criminal Evidence Act 1984, the Human Rights Act 1984, the Regulation of Investigatory Powers Act 2000 and other relevant legislation and guidance.

Action taken against an individual, business or organisation will be consistent with the Council's commitment to equality and diversity when taking a decision to take enforcement action, the Council aims to ensure that there is no discrimination against an individual with protected characteristics.

We recognise that some individuals need additional support or information in different formats to provide equal access to our service. Where a member of the public business does not speak or read English, they will be encouraged to arrange their own translations. If this is not possible then the Council will provide this service.

Mental capacity issues are assessed in each case to ensure that the individual the Council is taking enforcement action against understands the consequences of their actions and is able to make informed decisions.

6. Conduct of Investigations

All investigations will be carried out in accordance with any associated guidance or codes of practice, in so far as they relate to Pendle Borough Council.

7. Proportionate action

We will ensure that any action required is proportionate to the risks. Where the law allows, when considering what action to take we will consider:

- The circumstances of the case, this will include verification of ownership through the checking for microchip, tags and collars,
- the impact the animal is having on others,
- the possibility of the animal's suffering,
- the ability to re-home,
- the ability to temporarily provide shelter
- the length of time that will pass prior to the Dog Legislation Officer being able to confirm the animal is a prohibited type.

8. Euthanasia

In extreme cases it is unfortunate that some dogs may need to be put to sleep before seven days have passed. In accordance with the EPA, this will only be done to avoid suffering.

These cases could include.

- Where a dog cannot be temporarily re-homed due to its type
- Where a dog cannot be temporarily re-homed due to its suspected type
- Where a DLO cannot identify the dog's type within 24 hours of notification
- Where aggression towards carers or other animals' results in the need for destruction.

9. Enforcement in relation to specific legislation

9.1 Dangerous Dogs Act 1991

An Act introduced to prohibit persons from having in their possession or custody dogs belonging to types bred for fighting; to impose restrictions of such dogs pending the coming into force of the prohibition; to enable restrictions to be imposed in relation to other types of dog which present a serious danger to the public, and to make further provision for securing that dogs are kept under proper control.

9.2 Section 149 & 150 Environmental Protection Act 1990 (seizure of stray dogs)

Every local authority has an appointed officer for the purpose of discharging the functions of this section for dealing with stray dogs which are found in the area of the authority. Where the officer has reason to believe that any dog found in a public place or on any other land or premises is a stray dog, he shall (if practicable) seize the dog and detain it, but, where the dog is found on land or premises which is not a public place, with the consent of the owner or occupier of the land or premises the dog can be seized.

9.3 Antisocial Behaviour, Crime and Policing Act 2014

Community Protection Warning and Notices can be used by the Council to target those responsible for specific ongoing problems or nuisance which negatively affects the quality of life in a community. Examples of behaviour covered by CPW's and CPN's include owners allowing dogs to persistently stray and or cause a nuisance, owners persistently allowing dogs to foul without then removing the waste.

9.4 Public Space Protection Orders

The Council can introduce an order on a specific public area, when activities that have taken place or will take place have a detrimental effect on the quality of life of those in the locality, and that this effect is or is likely to be persistent and unreasonable. The Council has included matters relating to dogs in it's Public Space Protection Orders on dog control, Parks and sports grounds

10.Complaints of destroying an identified owners dog

Where Operational Services receive complaints of a dog being destroyed that was later confirmed not to be a prohibited type or banned, the Council will review the circumstances of the case leading to the animals destruction. Where required the details of the case will be presented to the complainant if it can do so without breach of regulations

11.Review

This policy will be reviewed every three years to ensure that it stays relevant to current guidance.

