

Criminal Justice Committee

8th Meeting, 2024 (Session 6), Wednesday, 21 February 2024

Subordinate legislation - Note by the clerk

Purpose of the paper

1. This paper invites the Committee to consider the following negative instrument:
 - [The Dangerous Dogs \(Designated Types\) \(Scotland\) Order 2024 \(SSI 2024/31\)](#) [see **Annex A**]
2. The Order designates a type of dog known as the XL Bully dog as being of a type appearing to the Scottish Ministers to be bred for fighting or to have the characteristics of a type bred for that purpose.
3. **The Order was laid on 31 January 2024 and comes into force 23 February 2024 thereby breaching the 28-day laying requirement.**
4. From 23 February 2024, the effect of this designation means an owner of an XL Bully dog must ensure they comply with the safeguards that relate to designated dogs as provided for in section 1(2) of the 1991 Act, including ensuring their dog is kept on a muzzle and on a lead when in a public place.
5. From 1 August 2024, the offence in section 1(3) and (7) of the 1991 Act will come into effect, criminalising possession of an XL Bully dog unless an exception exists under the 1991 Act (e.g. possession under a power of seizure) or, an exemption has been granted or such an exemption has been applied for but not yet determined.
6. XL Bully dog owners will be able to keep their dogs beyond 31 July 2024 if they wish but will be required to seek an exemption to do so. The process of how exemptions can be sought will be provided in a separate future Order under section 1(5) of the 1991 Act.
6. The Scottish Government has outlined the reasons why the 28-day laying requirement has not been complied with in a letter to the Presiding Officer. This is attached in **Annex B**.
8. If the Committee agrees to report to the Parliament on the instrument, it is required to do so by **18 March 2024**.

9. Members will wish to note that Christine Grahame MSP has lodged a [motion to annul](#) this SSI (S6M-12106). This motion will be considered at today's meeting according to the procedure set out below.

Delegated Powers and Law Reform Committee Consideration

10. The Delegated Powers and Law Reform (DPLR) Committee intends to consider the instrument again at its meeting on Tuesday 20 February 2024, having first considered it at its meeting on 6 February.
11. The clerks will circulate the DPLR Committee's report on the instrument to members when it has been published or provide an oral update on contents at today's meeting.

Procedure for negative instruments

12. Negative instruments are instruments that are "subject to annulment" by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. The annulment process would require a motion to be agreed in the Chamber.
13. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
14. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
15. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
16. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book). Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
17. Each negative instrument appears on the Criminal Justice Committee's agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to

allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

18. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Guidance on subordinate legislation

19. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:

<https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-delegated-powers-and-law-reform-committee>

Today's meeting

20. Members will commence proceedings by taking evidence from Siobhian Brown, Minister for Victims and Community Safety, and her officials on the SSI. This is their opportunity to ask any questions they have about its contents and effect.
21. If present, Christine Grahame MSP will be able to ask questions as well as Committee members as a result of the lodging of her motion to annul.
22. Once the questions are complete, there will be a short debate on the SSI and, at its conclusion, Christine Grahame MSP will be asked if she wishes to press or withdraw her motion. If she presses, the Convener will ask members if they agree that the motion to annul is agreed. If there is disagreement, the Convener will put this question to a vote.
23. As indicated above, if the motion to annul is agreed to, the Parliamentary Bureau must then lodge a further motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

Public petition and relevant correspondence

24. Members will wish to note that the Parliament has recently received a petition from Ms Katrina Gordon which is relevant to their deliberations today:

[PE2083: Review the rules to ensure that no dog becomes more dangerous as a result of breed specific regulations](#)

25. The petition calls on the Scottish Parliament to urge the Scottish Government to review The Dangerous Dogs (Designated Types) (Scotland) Order 2024 and ensure that breed specific regulations do not restrict responsible dog owners from undertaking exercise and training routines which support the dog's welfare and reduce the risk of their dog becoming dangerous. The petitioner has also provided an additional submission to the Committee; see **Annex C**.
26. In addition to the petition, as of the time of publication of this paper the Committee had received approximately 35 emails and items of correspondence from members of the public and from Blue Cross, a registered animal welfare charity based in Oxfordshire.
27. Almost all of the emails received call for the Committee to support a move to annul the SSI and many are similar or identically worded. An example of the email received is set out in **Annex D**. Many of these emails also provided the following attachments:
- <https://www.battersea.org.uk/what-we-do/animal-welfare-campaigning/breed-specific-legislation>
 - [Bully-Watch-Research-based-on-fraud-bias-and-hype.pdf \(abkcdogs.net\)](#)
 - <https://www.mkplawgroup.com/dog-bite-statistics/>
 - <https://pubmed.ncbi.nlm.nih.gov/22442371/>
 - <https://research.edgehill.ac.uk/ws/portalfiles/portal/20775484/DDL0200.pdf>
 - https://irep.ntu.ac.uk/id/eprint/45440/1/1512314_Nurse.pdf

Action

28. **The Committee is invited to consider the instrument and the motion to annul.**

**Clerks to the Committee
February 2024**

Annex A

Policy Note

The Dangerous Dogs (Designated Types) (Scotland) Order 2024

SSI 2024/31

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 1(1)(c) of the Dangerous Dogs Act 1991 ("the 1991 Act"), and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

The Order designates a type of dog known as the XL Bully dog as being of a type appearing to the Scottish Ministers to be bred for fighting or to have the characteristics of a type bred for that purpose.

From 23 February 2024, the effect of this designation means an owner of an XL Bully dog must ensure they comply with the safeguards that relate to designated dogs as provided for in section 1(2) of the 1991 Act, including ensuring their dog is kept on a muzzle and on a lead when in a public place. These safeguards will help protect communities from the effect of XL Bully dogs.

From 1 August 2024, the offence in section 1(3) and (7) of the 1991 Act will come into effect, criminalising possession of an XL Bully dog unless an exception exists under the 1991 Act (e.g. possession under a power of seizure) or, an exemption has been granted or such an exemption has been applied for but not yet determined.

XL Bully dog owners will be able to keep their dogs beyond 31 July 2024 if they wish, but will be required to seek an exemption to do so. The process of how exemptions can be sought will be provided in a separate future Order under section

Policy Objectives

The designation of the XL Bully dog under the 1991 Act will help protect communities from the potential harmful effect of XL Bully dogs including where XL Bully dogs have been moved to Scotland following the introduction of recent controls on XL Bully dogs in England and Wales.

The designation of the XL Bully dog through the Order means that from 23 February 2024, it will be an offence under Scots law for a person in Scotland to:

- Breed, or breed from, an XL Bully dog
- Sell or exchange an XL Bully dog, or offer, advertise or expose an XL Bully dog for sale or exchange
- Make or offer to make a gift of such a dog or advertise or expose an XL Bully dog as a gift
- Allow an XL Bully dog owned by the person or of which he is for the time being in charge to be without a muzzle and lead in a public place
- Where an owner, abandon an XL Bully dog or where either an owner or for the time being in charge, allow an XL Bully dog to stray

These new safeguards are intended to protect communities from the potential harmful effect of XL Bully dogs. While responsibility for a dog of any breed or type always rests with the owner and/or person in charge of a dog, it is considered necessary for these specific new safeguards on XL Bully dogs to be brought in following the impact in Scotland of similar recent UK Government controls in England and Wales.

The effect of those controls has been to encourage English and Welsh XL Bully dog owners to transfer their dogs to owners in Scotland as the UK Government legislation is not clear in terms of its effect on English and Welsh XL Bully dog owners who seek to, for example, sell their dogs outside of England and Wales within another country in the UK. It is as a result of this situation that it is considered necessary to replicate the safeguards in Scotland which have been introduced in England and Wales so that English and Welsh XL Bully dog owners can no longer, for example, sell their dogs to people in Scotland, as this will be an offence under Scots law.

On 1 August 2024, the offence in section 1(3) and (7) of the 1991 Act will come into effect, criminalising possession of an XL Bully dog unless an exception exists under the Act, an exemption has been granted or an exemption has been applied for but not yet determined.

It should be noted XL Bully dog owners will be able to keep their dogs beyond 31 July 2024 if they wish, but will be required to seek an exemption to do so. In seeking an exemption, dog owners will be committing to adhere to certain safeguards including those listed above. The details of how exemptions can be sought will be provided in a separate future Order under section 1(5) of the Dangerous Dogs Act 1991.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

This Order has been made as a direct response to the new controls in England and Wales on XL Bully dogs and the impact this has created in Scotland. Within this context, no formal consultation has been undertaken.

However, the Scottish Government has engaged over a period of months with key dog control interests in Scotland to understand their views on the potential for the introduction of new safeguards in Scotland on XL Bully dogs. A range of views have been offered through this engagement with many views offered indicating caution about introducing in Scotland the controls introduced in England and Wales. This caution related to the policy merits of the new safeguards. It is, as noted above, a decision made in light of the undue impact on Scotland of the new controls in England and Wales.

Impact Assessments

This Order requires any person who either owns an XL Bully dog or who is a person in charge of an XL Bully dog to ensure they comply with certain safeguards. An owner will be able to retain their dog subject to obtaining an exemption, though no action to seek an exemption is required through this Order as it is in a future Order that will provide for the arrangements for exemption as well as for seeking compensation for any owner who decides not to retain their dog. What this means is any XL Bully dog owner in Scotland will be able to, if they wish, keep their dogs subject to agreeing to adhere to the new safeguards listed at section 1(2) of the 1991 Act as well as others that will be provided for in the future Order.

It is not known how many XL Bully dogs there are in Scotland. This is within the context of an unknown number of XL Bully dogs in the UK as a whole.

While estimates are challenging, for the purposes of this Order it is suggested that approximately between 5,000 to 15,000 XL Bully dogs may be in Scotland. This reflects an estimated range of 50,000 to 150,000 XL Bully dogs in England and Wales (this range reflects evidence provided to the House of Commons by expert witnesses scrutinising the legislation bringing in the new controls in England and Wales).

Within this context of the limited nature of the impact of the new safeguards on XL Bully dog owners and a general lack of information that is available, no formal impact assessments have been prepared.

Financial Effects

The Minister for Victims and Community Safety confirms that no BRIA is necessary as the instrument has no significant financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate 31 January 2024

Annex B

31 January 2024

Dear Presiding Officer

THE DANGEROUS DOGS (DESIGNATED TYPES) (SCOTLAND) ORDER 2024

The Dangerous Dogs (Designated Types) (Scotland) Order was made by the Scottish Ministers under powers in section 1 of the Dangerous Dogs Act 1991 on Wednesday 31 January 2024. This instrument is subject to negative procedure. The Order is being laid in the Scottish Parliament today, Wednesday 31 January. The Order will come into force on Friday 23 February 2024.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) of that Act, this letter explains why.

In late 2023, the UK Government introduced legislation that has brought in new controls over XL Bully dogs for dog owners in England and Wales. The initial effect of these controls came into force on 31 December 2023 with further effect taking place on 1 February 2024. These controls include a ban on selling an XL Bully dog. The UK Government has been unable to confirm that an owner of an XL Bully dog who lives in England and Wales who comes to Scotland would be breaching English and Welsh law by selling their XL Bully dog in this manner. This has created a loophole in the English and Welsh controls with reports of some owners coming to Scotland to sell their XL Bully dogs.

As a result and in a decision not made lightly, the Scottish Government considers it necessary to introduce similar safeguards in Scotland with urgency to address growing public safety and animal welfare concerns. By introducing the same safeguards as operate in England and Wales, this removes the loophole created by the UK Government in relation to English and Welsh XL Bully dog owners who come to Scotland.

It is considered urgent to close this loophole while also maintaining some limited time for XL Bully dog owners to be ready for the new safeguards as well as the need for accountability to Parliament. The date of Friday 23 February 2024 has been chosen to balance these competing needs. It is for this reason why it has not been possible to meet the 28 day period.

I am copying this letter to the convenor of the Criminal Justice Committee and convenor of Delegated Powers and Law Reform Committee.

Yours sincerely

SIQBHIAN BROWN

Annex C

Additional submission from the petitioner

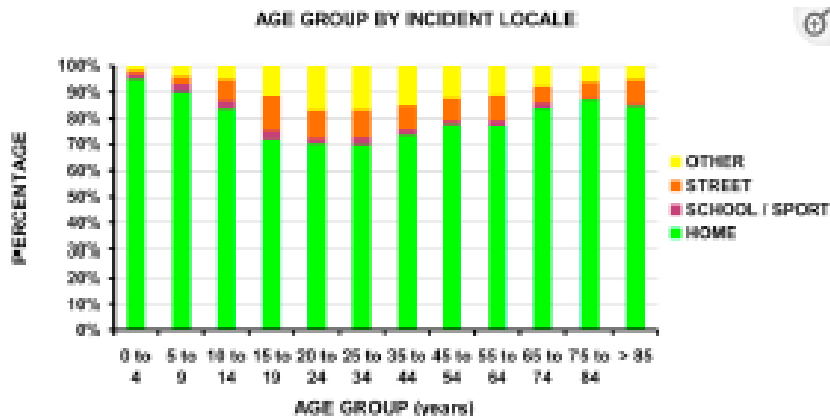
Calling on the Criminal Justice committee to annul the The Dangerous Dogs (Designated Types) (Scotland) Order 2024 and encourage the government to take a safer, more considered, evidence-based approach to this matter instead. Some of the proposed regulations will restrict responsible dog owners from undertaking exercise and training routines which are required to support the dog's welfare and this unnecessary restriction will markedly increase the risk of their dog becoming more dangerous in the home.

An XL Bully type dog needs around 2 hours of outdoor exercise daily, both walking to heel on a lead and a small amount of running off-lead. Without the ability to "run off" energy each day, excess energy builds up and a well-adjusted dog can quickly become an anxious dog, resulting in it becoming much more dangerous in the home. My personal experience of this is backed up by the PDSA website, which states *"Exercise is an important factor in dog behaviour, as dogs with excess energy often become frustrated, stressed and difficult to manage."* The recent indoor dog attacks by XL Bully types in England are an unintended and unacknowledged consequence of the recently introduced legislation there. Because of the requirement to muzzle and keep the dog on the lead at all times, these potentially dangerous dogs are now receiving less outdoor exercise with no chance to run off energy in a safe environment and the situation becomes more dangerous with every day that passes. One fatal attack in the home has already been reported in England since the rules came into effect there. Some XL Bullies in England are now being kept indoors 24/7 by their owners to avoid being seized as they are not muzzle trained, which is an extremely dangerous situation.

Responsible owners are unable to practice vital control commands effectively on a leash and with a muzzle. A trusting bond can be built up between owner and dog through daily off-leash practice of basic recall and other lifesaving commands including "stop" (which stops an off-leash dog in its tracks), "leave" (which prevents the dog from picking up an item of interest or chasing potential prey) and "drop it" (which instructs the dog to release whatever is in its mouth). At a recent inquest into a fatal XL Bully attack, the expert witness Dr Candy d'Sa emphasised *"If the dog has not been trained to stop, it won't stop [during an attack]"*.

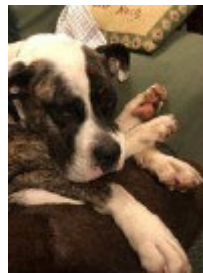
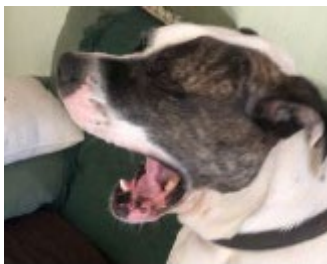
It is vital any regulations introduced do not curtail these existing successful strategies of responsible owners to maintain control, as this will result in dogs quickly becoming de-skilled and responsible Scottish owners losing their current high level of control over their dogs.

[An academic study](#) published in 2019 found that 80% of dog attacks happen in the home as illustrated below. This fact is ignored by the proposed negative SSI. If implemented, potentially fatal attacks in Scottish homes are likely to increase due to anxious, under-exercised, under-stimulated dogs sharing indoor space with vulnerable people.



It's also clear from the graph that children under 10 and adults over 65 are the most likely groups to be attacked in the home. These are the groups who face the greatest risk of death in the home through increased numbers of dog attacks if the SSI in its current format is allowed to proceed.

Other at-risk groups include police officers, paramedics, fire officers, postal workers, bin men and window cleaners – anyone who infringes the pent-up dog's home territory for any reason is at increased risk of attack and death if this legislation is implemented on the 23rd February.



My own dog has a huge and powerful jaw which is potentially as lethal as a loaded gun. It is of vital importance that any legislation actually mitigates the very real risk of indoor fatal dog attacks rather than increasing that risk as the current proposal does.

[A recently study commissioned by DEFRA](#) was published in 2022, It cost over £70,000 and took three years to research and write but was completely ignored by the Westminster government. The researcher summarises his findings thus: *“The research evidence indicates human behaviour as a key factor in dog bite incidents and that not all dog incidents should be seen as aggressive behaviour. If we consider a range of situational factors and focus on helping dog owners to develop skills to understand their dogs and potential warning signs for incidents, this should help prevent dog attacks.”*

The study recommends that in order to reduce attacks, rather than focusing on breed, a range of specific situational factors should be considered, such as the proximity between larger and smaller dogs in public places, children's interactions with poorly socialised dogs in the home, and trigger incidents including a dog experiencing fear or excitement, predatory behaviour from other dogs, being in

unfamiliar settings, provocation by humans and understanding the individual dog's needs.

In my correspondence with MSP Maree Todd, she defended the proposed SSI and blamed Westminster for the tight timescale, stating *"Sadly we were unable to take an evidence-based approach that makes sense for all who would be impacted and considers the measures already in place in Scotland, due to the timescales the UK Government set for its own measures."*

MSPs must stop blaming Westminster politicians for this situation. Westminster has already made a huge mistake which is costing lives. The Scottish Parliament has the chance to take a more evidence-based, safer, and I would argue more stringent approach than England. This is an opportunity to create evidence backed legislation which keeps children and elderly people safe in their homes and makes our streets and parks safer too. Since 2016, at least [65 different breeds](#) and mixed breeds have been involved in fatal dog attacks in the U.S.A. Here are a few suggestions of alternative approaches which need not be breed specific.

- Social distancing of 2metres from other non-household dogs and people in public places, this could apply to all [dogs over 30kgs](#) (most likely to inflict a fatal bite) and any other self-identified potentially dangerous dogs of any breed, including all those who have a bite history
- Must use the muzzle and lead on walks where 2 metre distancing is not possible
- Must be able to evidence to police or dog warden at a spot check home visit that basic obedience commands are known
- Must be able to evidence that the dog has a well-fitting muzzle which it is happy to wear on occasion as required (n.b. muzzle purchase lead-in times are currently 4-5 weeks and muzzle training takes at least 3 months.)
- Must exercise dogs over 30kg out of doors for a minimum of one hour a day, other dogs for a minimum half an hour per day
- Must be willing to pay an annual fee (to cover costs for registration of their dog and policing of the rules) which includes photo ID of the animal and a detailed record of any reported incidents no matter how minor
- Must be able to evidence a "safe space" for the dog in the home, especially homes with children either resident or visiting children or adults over 65. This could be a crate or a lockable room where the dog feels safe and content.
- Make it a specific criminal offence to verbally or physically abuse an owner who is walking a large dog in public. The offender should be held jointly responsible for any resulting attack.
- All male dogs to be neutered unless specifically being kept intact for breeding. Intact males of any breed should be subject to the above rules as they are all potentially more aggressive towards other dogs.
- No child under 16 should be responsible for any dog.
- No child under 10 should ever be left unsupervised with any dog.

I have created an XL spreadsheet detailing the 25 fatal dog attacks in the UK since 2020. Of these, 72% took place indoors or in private gardens and so would have been unaffected by the proposed negative SSI. Of those which took place outdoors, only one might have been prevented had an XL Bully type dog been muzzled and on

a lead, and this attack could equally have been prevented by the owner having his dog under control (as Scottish Law already demands) and certainly could have been prevented by maintaining 2 metres distance from other dogs. All the other outdoor fatal attacks involved other large breeds, including Rottweilers and Huskies, or were unattended stray dogs which had no owner present.

Only one of these fatal attacks took place in Scotland. In 2021, an XL Bully dog that had already been seized by the police was being “rehabilitated” in kennels when it killed the kennel owner. The new rules would not have prevented this attack. However, if implemented, this negative SSI will result in more XL Bullies being seized and kennelled, putting police officers and kennel managers at much greater risk of fatal attack.

In summary, the Criminal Justice committee has an urgent responsibility to annul the The Dangerous Dogs (Designated Types) (Scotland) Order 2024 before 23rd February and encourage the government to take a few more months to come up with alternative, more effective and fairer proposals.

The proposed requirement to muzzle and keep the XL Bully dog on a lead in a public place, if implemented, will, within a matter of days, make the general public much less safe. This includes our emergency service workers, our postal workers, and any child or elderly person who either shares a house with an XL Bully type or visits such a house. There is a genuine risk of death to anyone who has to enter the home or garden of an under-exercised XL Bully type dog who has had its training regime restricted. Therefore, this negative SSI is not fit for purpose. The unevidenced proposal to keep all XL Bully types muzzled and on a lead is actually a very dangerous one which will lead to more attacks and more deaths, not fewer. Please encourage the government to take a few more months to focus on the ample evidence which is available in order to come up with a proposal which will actually reduce dog attacks and fatalities in an evidence-based way.

Finally, two reminders:

The core values of the Parliament include:

- Stewardship: Focusing on the longer term to ensure you are leaving things better than you found them and putting our shared interests ahead of any individual or team
- Excellence: Taking care to enhance our reputation in everything we do. Using our skills and resources efficiently and effectively to deliver high-quality sustainable results.

And a [FOI request](#) published on 5th February states: *“The Scottish Government always considers carefully evidence based suggestions to help improve community safety, including keeping the prohibited breed list under review, and officials have been engaging with stakeholders, including Police Scotland, National Dog Warden Association, various Scottish local authorities, the Dogs Trust, the Scottish SPCA, and a number of animal behaviourists to gather evidence on the XL Bully dog.”* Also, *“This ‘deed not breed’ approach is supported by welfare organisations including the*

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Scottish SPCA as being the most effective in helping to keep dogs well-looked after and under control.”

Ask yourself if any of those experts think this proposed negative SSI is a good idea. Then, for safety’s sake and in the interests of excellent stewardship, please annul it and think again. Thank you.

Annex D

Example of the type of email received on the SSI

To whom it may concern,

The recent news of the upcoming legislation regarding XL Bully dogs has left me with a heavy heart. As a XL Bully owner myself I can't help but feel and know that these breeds are getting an unfair hand caused by recent hysteria in the media. I would like you to consider this email deeply and the data attached and please help us fight this dated legislation that I know it's causing a lot of owners and dog lovers distress.

It has been brought to my attention that the ['The Dangerous Dogs \(Designated Types\) \(Scotland\) Order 2024'](#) will be debated on the 20th & 21st of February by both the delegated powers and law reform committee (DPLR) and the Criminal justice committee respectively.

As my elected representative I must ask you in a professional capacity to advocate on my behalf against this secondary legislation with the evidence and facts provided within this email and it's attachments. The Primary legislation is of course the ['Dangerous Dogs Act 1991'](#). A law which is based upon Breed Specific Legislation (BSL), something that is proven to be completely ineffective and something that every animal rights and welfare organisation in the country advocates against (This includes the [SSPCA](#), the [RSPCA](#), the [BVA](#) and the rest of the [dog control coalition](#).)

I actually believe that this law conflicts with two existing pieces of legislation.

- [Animal Welfare Act 2006](#)
- [Animal Welfare \(Sentience\) Act 2022](#)

I implore you to advocate for me, as my elected representative and raise two things on my behalf.

1. Seek an annulment to the ['The Dangerous Dogs \(Designated Types\) \(Scotland\) Order 2024'](#) to allow for a debate and vote by MSP's on this barbaric, outdated and ineffective legislation.
2. A proposal to introduce a licencing-based approach in Scotland, to go hand in hand with our ['Control of Dogs \(Scotland\) Act 2010'](#)

Not only would a licencing approach statistically reduce the number of dog attacks in the country, but it would enable authorities to act preventatively as opposed to reactively. For example, when a dog is involved in a minor incident, the courts could impose mandatory dog training classes, similar to community service for minor criminal offences.

Scotland already leads the way in the UK in relation to legislation with our control of dogs act, something which we have openly spoken about in the house of commons and implored Westminster to follow. This decision to proceed with a further amendment to the DDA would significantly drag us back to outdated and ineffective laws and instead of allowing us to be at the cutting edge of effective legislation, cause the country to be nothing more than a 'yes man' to outdated legislation.

It is important to note a response made by AR419 The Green Party in which they state, "Our policy...

AR419 The Green Party is opposed to the wholesale breeding, manipulation and destruction of those animals who are chosen as companions to the human race. We will introduce measures to regulate the care and conditions for such animals including a two-tier system of dog-licensing [breeding and non-breeding], licensing of all animal breeders and dog owners, subsidised spaying and neutering, the implementation of good animal warden schemes and a prohibition on the import of exotic animals for the pet trade.

AR420 A Green Government will create a national register (similar to the ViSOR database) of convicted animal-cruelty offenders, which will work in conjunction with a compulsory licensing system for those keeping or working with animals. A Green Government will create a national register (similar to the ViSOR database) of convicted animal cruelty offenders, which will work in conjunction with a compulsory licensing system for those keeping or working with animals." This is a proposal we believe all parties should collaboratively work on.

Another hugely disappointing factor was that there appears to have been no mention of even considering the option to bring in Dog Licensing for the ownership of large breeds, responsible owners have urged the Government & Parliament to introduce a mandatory dog licensing scheme. The benefits of various models can be found in the attachments to this letter, but for quick reference please note the following amendments to Spain's licencing system. [These are the 10 most important changes that Spain's new animal welfare law will bring about from September onwards | Sur in English](#)

It is fantastic to see Spain change their laws and focus on ownership regulations and rid themselves of a BSL based law. Previously to the new law that has recently been passed in Spain, they had a law on potentially dangerous dogs. This law included,

- Owners having to sit a psychological test to obtain a license.
- Dogs obtaining ID.
- Muzzled and on a lead in public.

Although these laws may seem similar to the Dangerous Dogs Act which the UK will now add the XL Bully to, they have significant differences. There was no fear of dogs being seized due to malicious lies from members of the public, which is very much the reality of what the citizens of Scotland are facing. Dogs being seized in Spain is extremely rare and they would have had to commit a serious offence for this to occur. In England, Wales and Scotland we have seen XL Bully's be seized for minor issues. Owners in Spain had to be fit for purpose to obtain a license for a large

breed, something Scotland should seriously consider as we have proved time and time again ownership is the issue, not the dogs themselves.

I put it to you that it is utterly contradictory that the Scottish government has publicly stated it believes in an evidence based approach and “deed not breed”, yet by implementing this secondary legislation it is furthering breed specific legislation. If the government had indeed followed due process and an evidence based approach as they said they would, then we would without a shred of doubt not be continuing down this path, when not a single expert organisation, trainer or accredited individual is in favour of BSL.

The fact that the government is not following its own experts advice, taking published, peer reviewed evidence into account and is now blindly following Westminster’s approach after publicly speaking out against it proves that not only is it not taking an evidence based approach, but that it has blatantly lied to its citizens to their own detriment and is now about to pass legislation without a vote and without taking into account the full implications and impacts of this ban to the country and its citizens in the face of overwhelming evidence. This is exactly what the DPLR should be highlighting on the 20th of February.

Since the inception of the DDA there has been a vast increase in the number of dog attacks proving that it’s approach does not work. This statistical increase is also directly correlated to the vast increase in ownership. With such a large increase in population of all manner of breeds across the country, it is imperative that we tackle the problems we are facing at their root cause and not with a ‘sticking plaster’ approach if we really do want to make a difference.

Banning a specific breed does nothing to target the root cause of dogs with behavioural issues and irresponsible ownership and instead blames the wrong end of the lead; resulting in innocent dogs and owners suffering. This results in our country being worse off financially, the underlying problem being left unaddressed and unscrupulous owners simply moving onto the next popular breed which has not yet been added to the list of banned breeds.

On top of this there will be a ripple effect of consequences for owners. This includes the costs of a neutering/spaying operation and the potential additional fees if there are any complications during surgery which can be extremely expensive and third party liability insurance; all during a cost of living crisis when families are struggling to pay their bills and put food on their tables. There is also the fact that BSL casts such a wide net that owners of dogs who fall under ‘type’ but are not XL bullies will be caught up in this legislation unintentionally.

Another extremely important, overlooked and not discussed topic is housing. Most housing providers whether they are council, veterans, social or private lets, have a clause which does not allow banned breeds to be kept in the property. This means that ordinary citizens who comply with all restrictions and guidelines in good faith could exempt their dogs, find out they are not allowed to keep them at their property as ownership of a banned breed is prohibited and if they cannot afford to move house be forced to choose between homelessness and putting down their beloved family pet. This is a PR nightmare that the Scottish government does not need right now.

There are many ways in which this legislation failing the population. E.g. In the unfortunate event that an xl Bully's owner passes away, ownership cannot be transferred even to a close relative who is intimately familiar with the dog. A divergence from the primary legislation. This is something no other breeds on the banned breed list face, so why do XL bullies? Whilst a family are grieving over the loss of a loved one, the last thing they need to be considering is taking their family pet it's final walk to the vet to be murdered because its owner has passed away.

There is also the fact that hardworking, tax paying citizens will not be allowed to leave the country for more than 30 days due to owning a banned breed, restricting people visiting loved ones or sick relatives in other countries for example. These are just some examples of why this legislation criminalises ordinary owners and is simply not fit for purpose.

There is then the additional burden on the taxpayer to consider. We have seen in England and Wales so far that as of 10/02/24, there have been around 35,000-40,000 exemption applications made despite there being a minimum of 100,000 XL bullies in the country. This means that if the police and dog wardens were to actively try to enforce this ban millions would need to be spent on additional kennel space, feeding and vet care of confiscated dogs, staff and other associated overheads for keeping tens of thousands of dogs in kennels whilst they await temperament testing. We are already seeing Police chiefs in the country state in the media [they will have difficulty enforcing this ban.](#)

The BVA publicly stated in one of the DEFRA hearings on this proposed legislation that the average veterinary practices across the UK has the capacity to undertake 2, maybe 3 neutering's a day of dogs the size of an XL bully. This is primarily because the animal requires a secure room to wake up from their anaesthesia in. This is not practical to implement and would present the government with significant difficulties. Not only in enforcement, but in finding staff willing to euthanise healthy, non-aggressive animals who do not pose a risk.

The majority of vets have stated they would be uncomfortable or unwilling to do so and that it may indeed impact [their own mental health alongside creating an increased workload.](#) At a hearing in the house of commons, Neil Hudson, the only vet in parliament who is actually in favour of the ban, even stated that when polling their staff the RCVS found that vets were overwhelmingly against this legislation and unwilling to carry it out. He also stated that they would not be forced to by the RCVS.

I ask you, do you want this country to become one where we force citizens to undertake medical procedures on their pets against their will?

On the Royal college of veterinary surgeons own website, where they have noted guidance for vets on euthanasiation, they have distinctly stated that Defra requires the owner to declare that they believe their dog is an XL Bully, after reading the [Government's official definition.](#) This burden should not be put on an owner. If the government cannot even define an XL bully and faces significant difficulty in doing so

despite having so many experts on board ,we should not be considering such a widespread blanket approach; let alone passing the buck to owners.

There is also the impact to the NHS, which is already significantly under pressure, under staffed and still recovering from the COVID-19 pandemic. The number of individuals who would suffer from mental health issues as a result of this ban and seek treatment cannot be understated. This would be a significant overhead to an already overburdened and underfunded health service. This would be extremely negative optics for the government alongside a personal negative impact for all the individuals involved. This is multiplied by the stigma owners now face walking muzzled dogs who are automatically presumed to be aggressive because of biased media coverage. People are ostracized in their own communities simply due to the type of breed they own.

As a final point I would like to quote research done by the DEFRA committee themselves which directly contradicts their current position. [Science Search \(defra.gov.uk\)](https://science.search.defra.gov.uk)

"Executive Summary The overall aim of the project is to identify methods to reduce dog attacks and dog control issues as well as provide evidence-based recommendations to promote responsible dog ownership amongst owners with dog control issues. The project examined contemporary enforcement practice and also explored risk factors related to dog attacks. The project considered both primary and secondary data using a qualitative methodology to identify what has been published on dangerous dog problems and the factors contributing to the risk of dog bites, strikes and attacks. Empirical research was conducted (primarily qualitative interviews and analysis of enforcement data) to establish (i) if the police and local authorities were using new anti-social behaviour powers and (ii) how effective they were in addressing dog control issues. Key conclusions from the research are:

- Dog attacks varied in severity, frequency, motivation and situational risk factors and human behaviour is a key factor in dog bites and aggressive behaviour. The evidence assessed in our research indicates multiple reasons for dog bites, which can be caused not only by aggression but also by: fear; play; exploration; predatory behaviour; response to past abuse; and perceived threat.
- A range of situational factors can cause or make dog attacks more likely. Human behaviour, particularly inappropriate behaviour around dogs should be considered as a risk factor, particularly in the home. Our research identifies a range of risk factors including situational factors (e.g. proximity between larger and smaller dogs in public places, children's interactions with poorly socialised dogs in the home), trigger incidents such as a dog experiencing fear or excitement, predatory behaviour from other dogs, being in unfamiliar settings, provocation by humans.
- There is variation in the enforcement response to dog attacks and dangerous dogs' issues. The priority given to dog attack issues and the recording of these varies and collaboration between the police and local authorities was regarded as being varied and inconsistent. An inconsistent approach also existed in relation to use of enforcement powers together with variation in use of legislative powers.

- Our research identified questions concerning whether dog ownership is sufficiently regulated and whether there was a greater need for knowledge of dog behaviour prior to and during dog ownership. Compulsory dog knowledge prior to owning a dog and behavioural training following a dog attack incident was identified as an appropriate response."

"Our analysis also identifies a broad consensus within the literature that breed does not, by itself, provide an evidence base for addressing dog

'dangerousness'. Our Rapid Evidence Assessment (REA) examined the evidence on dog 'dangerousness', irrespective of breed. O'Heare (2017: 15) argued that 'the reality is that dogs almost never kill people, they don't typically bite very often, and when they do we are rarely injured'. Thus, the dog-bite issue, whilst distressing for anybody who falls victim to a dog attack, arguably needs to be considered in perspective. The argument is that an assumption that a dog is dangerous, based solely on breed, is inherently flawed."

"d) Some literature raised concerns relating to breed specific legislation (BSL) and dangerous dogs' legislation. While this is not a core focus of our research and the evidence is limited, some studies that, for example, examined bite data and levels of dog attacks prior to and following the introduction of legislation aimed at reducing such attacks regarded that BSL has not proved effective in reducing dog attacks. Initiatives to repeal BSL in other jurisdictions (i.e. other than the UK) are reported;"

Could you kindly keep me updated with updates on this matter. Primarily if you have voted or proposed an annulment to the secondary legislation listed above, any further developments regarding the law and any further supporting information, data or evidence you require to make your case on my behalf in parliament.

I must ask that you raise these issues as my elected representative. I believe not doing so will have a knock on effect to the country and its population and reduce Scotland's power and influence as a devolved nation.

To quote William Wallace; "There's a difference between us. You think the people of this country exist to provide you with position. I think your position exists to provide those people with freedom."

I trust you will do your duty as the voice of this community and its people. Thank you for taking the time to read and study this research.

Kind regards,