

Sentencing Council

FINAL STAGE RESOURCE ASSESSMENT: DANGEROUS DOGS

1 INTRODUCTION

1.1 This document fulfils the Sentencing Council's statutory duty to produce a resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation and youth justice services.¹

2 RATIONALE AND OBJECTIVES FOR NEW GUIDELINE

2.1 In May 2014 amendments to the Dangerous Dogs Act 1991 were enacted through the Anti-social Behaviour, Crime and Policing Act 2014.² A completely new offence was introduced, of an attack on an assistance dog. In addition, substantial changes were made to the existing offences, extending them to private property; and to the maximum penalties, increasing them from two years' custody to 14 years where death of a person occurs, and from two to five years where a person is injured. As a result, the Council considered it necessary to undertake a comprehensive revision of the existing definitive sentencing guideline implemented in 2012.

2.2 The Council's aim in developing the guideline has been to ensure that the sentences are proportionate to the offence committed and in relation to other offences. This guideline will apply to both the Crown Court and to magistrates' courts.

3 SENTENCING FOR DANGEROUS DOGS

3.1 Sentencing statistics for dangerous dog offences have been published on the Sentencing Council website at the following link:

<http://www.sentencingcouncil.org.uk/?cat=statistical-bulletin>.

This section presents simple statistics to give an indication of the volume of dangerous dog offences and the sentences which are received for these offences.³ Due to a coding issue there is no data available for those offences covered in the guideline (with the exception of possession of a prohibited dog) for the Crown Court,

¹ Coroners and Justice Act 2009 section 127.

² <http://www.legislation.gov.uk/ukpga/2014/12/part/7/enacted>

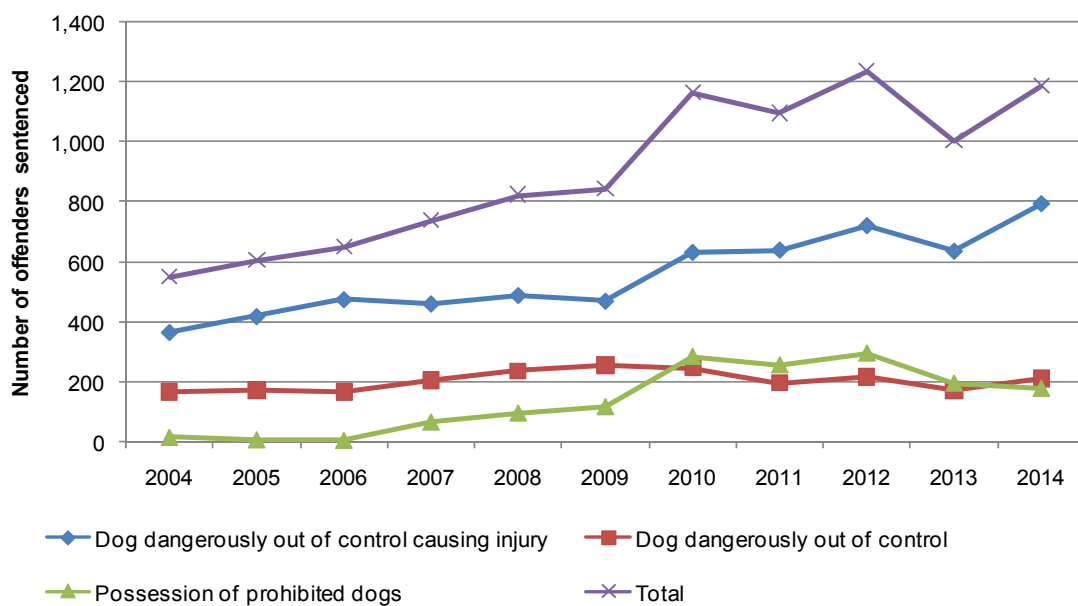
³ Source: Court Proceedings Database, Ministry of Justice. Due to a data coding issue in the Crown Court, the figures do not include offences of 'Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where death is caused', 'Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where a person is injured', 'Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where an assistance dog is injured or killed' and 'Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place)' sentenced in the Crown Court from May 2014 onwards.

since May 2014. Over the last 10 years, around eight per cent of these offences have been sentenced in the Crown Court. Therefore the volumes presented are likely to be an undercount of less than 100 offences in 2014.

3.2 Over the last 10 years there has been an upward trend in the number of offenders sentenced for all dangerous dog offences (figure 1). In 2004, approximately 550 offenders were sentenced for these offences, with the figure increasing to 1,200 in 2014, over double the number sentenced in 2004.

3.3 In 2014, of all adults sentenced for dangerous dog offences, 67 per cent were for offences involving a dog dangerously out of control causing injury, 18 per cent were for offences involving a dog dangerously out of control and 15 per cent were for offences relating to the possession of a prohibited dog.⁴

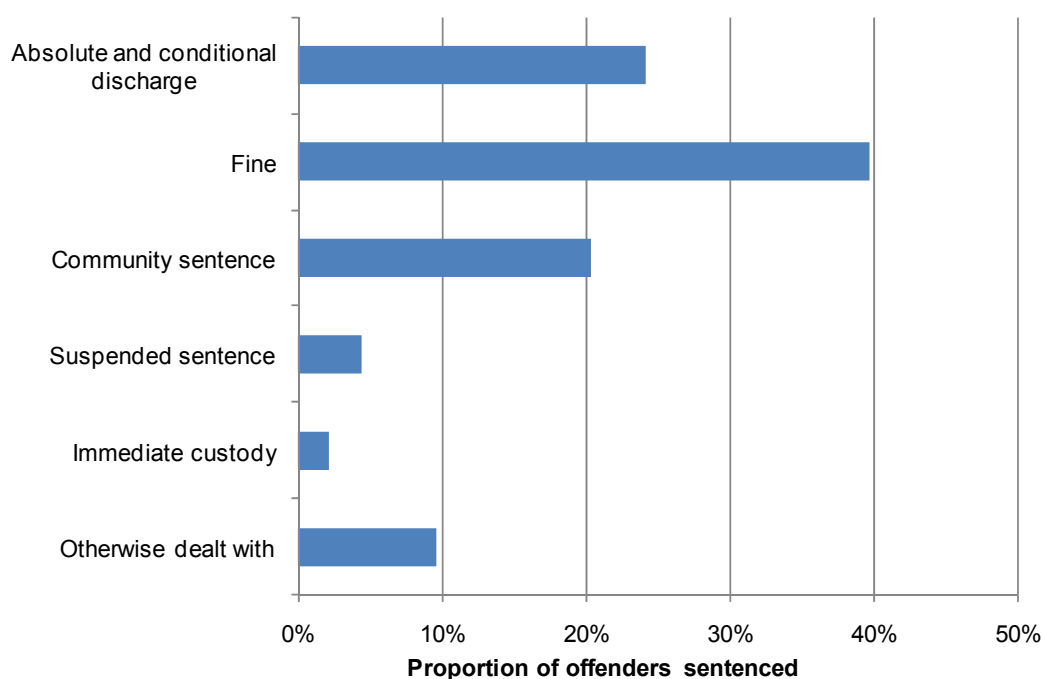
Figure 1: Number of adult offenders sentenced by type of offence, 2004-2014



3.4 Figure 2 shows the different sentence outcomes received by adult offenders sentenced for dangerous dog offences in 2014. Forty per cent of offenders received a fine, followed by 24 per cent who received a discharge. Two per cent of offenders (equivalent to 25 adult offenders) received an immediate custodial sentence.

⁴ ‘Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where death is caused’ is a new offence introduced in May 2014. This would only be dealt with in the Crown Court and as a result of the coding issue there are no volumes for this offence.

Figure 2: Sentence outcomes received by adult offenders sentenced for dangerous dog offences, 2014



3.5 The use of suspended sentences and immediate custody increased up to 2007, as a result of the Criminal Justice Act 2003, which made suspended sentences more readily available from 2005 onwards. However, since 2007 the proportion of offenders who received suspended sentences or immediate custody has remained relatively stable.

4 SUPPORTING EVIDENCE

4.1 Data on dangerous dog offences is limited, and there are very few sentenced cases which involve a death. Therefore to support the development of the guideline various exercises were undertaken.

4.2 A qualitative content analysis was undertaken of the transcripts of the sentencing remarks for 20 recent Crown Court cases involving death or injury by a dangerous dog attack, in order to help understand the key factors influencing sentencing decisions in these cases. These factors were compared to the factors within guidelines for other offences, for example, motoring offences causing death.

4.3 Dangerous dog offences bear some similarity to some motoring offences, in that cases can be characterised by a range of culpability on the part of the offender, which nevertheless results in high harm to the victim. They also have an equivalent maximum penalty. The Council therefore considered the current sentencing practice for those offences in drafting this guideline.

4.4 The Council also undertook a small-scale exercise with 12 Crown Court judges and magistrates who had recently sentenced a dangerous dog offence. Four of these involved a death and the remaining eight involved injury or injuries. In order to establish what impact the revised guideline might have on sentencing levels, the judges were asked to re-sentence their case to determine what sentence they might have imposed if the new maximum penalties had already been in force.

5 RESOURCE IMPACT OF GUIDELINE

5.1 The guideline has been produced in response to the legislative changes introduced by Parliament. The legislative changes introduced include:

- Extending the Dangerous Dogs Act 1991 to private property;
- Increasing the maximum penalties - from two years' custody to 14 years where the death of a person occurs, and from two to five years where a person is injured;
- Extending the law to cover attacks on assistance dogs with a maximum penalty of three years' custody.

The definitive guideline reflects these legislative changes.

5.2 As a result of the changes in legislation it is likely there will be an increase in the volume of offenders sentenced for dangerous dog offences. This is due to the extension of the offences to private property and the introduction of a new offence. We also anticipate there will be an increase in the average custodial sentence lengths, particularly for the most serious offences, as a result of the increases in the maximum statutory penalties.

5.3 The aim of all resource assessments is to give an estimate of the impact on prison, probation and youth justice services as a result of the guideline. Any future changes in sentencing practice which may have occurred whether or not the revised guideline was published, for instance as a result of changes to maximum sentences, would not be included in the assessment.

5.4 Therefore it has been assumed in this resource assessment that any changes in correctional resources are attributable to the changes in the legislation, and not the introduction of the guideline. As a consequence no significant impact on prison, probation or youth justice resources is anticipated as a result of the guideline.

6 RISKS

6.1 Two main risks have been identified:

Risk 1: The Council's assessment of current sentencing practice is inaccurate.

6.2 An important input into developing sentencing guidelines is an assessment of current sentencing practice. The Council uses this assessment as a basis to consider whether current sentencing levels are appropriate or whether any changes should be made.

6.3 However, developing an accurate picture of sentencing practice is challenging. There is no data yet available which allows us to determine changes in sentencing practice as a result of the legislative changes in 2014. Therefore it is not possible to separate potential changes in sentencing behaviour due to the increase in the maximum sentence in 2014 and those that may be due to the introduction of the guideline. In addition, due to the reporting issues identified in the Crown Court, it is difficult to say whether we will be able to do this in the future.

6.4 This risk has been mitigated by information gathered through the research interviews undertaken and through the transcript analysis. However, it is not possible to mitigate this risk completely.

Risk 2: Sentencers do not interpret the new guideline as intended.

6.5 The resource assessment assumes that sentencers interpret the guideline as intended and in a consistent manner. A failure to do so could cause a change in the average severity of sentencing, with associated resource effects. It could also lead to an inconsistency in sentencing outcomes.

6.6 The Council takes a number of precautions in issuing new guidelines to try to ensure that judges interpret them as intended. Sentencing ranges are agreed on by considering sentencing data in conjunction with Council members' experience of sentencing. The Council has also conducted a research exercise with Crown Court judges and magistrates to understand how the impact of the change in maximum penalties would have changed the sentences they imposed.

6.7 The Council will assess the guideline after it has been in force for at least 12 months. Due to the limited quantitative data and low number of offences, this will largely focus on content analysis of media reports, transcript analysis of sentenced cases and interviews with magistrates. The findings from this work will be published in due course.