

Owner or person in charge of a dog dangerously out of control in a public place, injuring any person (Dangerous Dogs Act 1991 (section 3(1)))

Bruce, 34, is in his local park with his Staffordshire Bull Terrier (not a prohibited type). The dog is not on a lead and Bruce is throwing a stick for it to fetch. The park is quite busy with other members of the public and as one family with a small child passes nearby, the dog bounds towards the family. He grabs hold of the child's leg in his mouth puncturing the flesh with his teeth. Despite the parents' attempts to get the dog away from their child, the dog does not relinquish his grip on the child's leg until Bruce, having run to the scene, pulls him away. The 4 year old boy requires hospital treatment for three separate wounds in his leg which are almost certain to result in permanent scarring.

Bruce has no previous convictions relating to dangerous dog offences but has two previous convictions for public order offences in the last 2 years both resulting in fines. The court hears that there have been no previous complaints against the dog and that Bruce had cared for the dog well for six years. Bruce pleads guilty at the first court appearance.

Step one

The guideline which relates to the offence, **owner or person in charge of a dog dangerously out of control in a public place, injuring any person**, applies.

In this case it is likely that the court will assess that there was a greater degree of harm caused as a result of the fact that the victim was a small child and suffered quite serious lacerations.

The court may decide that factors are present which indicate lower culpability on Bruce's part. Bruce attempted to regain control of the dog and intervened to prevent even more serious injuries to the child.

Using these assessments, of greater harm and lower culpability, the court will determine that the offence falls into category 2.

Step two

The starting point for category 2 offences is a medium level community order; the offence range is a band B fine to six months' custody.

The court will need to consider Bruce's previous convictions – how recent they are and how relevant they are to the current offence. It will also want to take into account the fact that the incident took place in a busy public park where Bruce had taken no precautions to keep the dog under control. There is almost certain to be some degree of ongoing effect on the victim in terms of permanent scarring.

However, the court will also want to take into account the fact that there had been no prior indication that the dog might behave aggressively towards children and that in many respects, Bruce had proved himself to be a responsible dog owner.

On balance, it is likely that the court may determine that the custody threshold has not been passed, whereas the community threshold has been, and a medium level community order is an appropriate sentence.

Step three

There are no other factors indicating a reduction in sentence.

Step four

There is a guilty plea at the earliest opportunity which may lead to a reduction in the punitive elements of the community order. The likely sentence is a medium level community order for 12 months with appropriate requirements.

Step five

The court should consider whether to make compensation and/or other ancillary orders.

The court is likely to make a compensation order since there has been personal injury in the case. In this case, the court will need to consider the effect of the incident on the victim and should refer to a victim impact statement if it is available. The parents of the victim in this case detail the effects that the attack has had on their family in their statement. There is limited guidance in the MCSG on starting points for compensation which are consistent with the Criminal Injuries Compensation Authority tariff (see pp.165-7 of the MCSG). The court must also take into account Bruce's means.

The court should consider disqualifying Bruce from having custody of a dog. In this case, the court is unlikely to make a disqualification order having assessed Bruce to be a responsible dog owner.

Because it is an aggravated s.3 offence, the court shall make a destruction order in relation to Bruce's dog unless satisfied that the dog would not constitute a danger to the public. Taking into account the circumstances of the incident, the fact that there have been no previous incidents involving the dog, and Bruce's record as a dog owner, the court is unlikely to make a destruction order. Therefore, the court must make a contingent destruction order that unless Bruce keeps the dog under proper control it will be destroyed. Appropriate measures to include in the order would be that Bruce must keep the dog muzzled and on a lead in public places in the future.

Step six

The totality principle is not applicable here as it is a single offence.

Step seven

The court should set out its reasons for the sentence.

Step eight

The defendant has been on unconditional bail so no adjustment for remand time is required.

Owner or person in charge allowing a dog to be in a private place where the dog is not permitted to be, which makes a person fear injury (Dangerous Dogs Act 1991 (section 3(3)(b)))

Donna, 52, is the owner of a Rottweiler (not a prohibited type) which she keeps in the back garden of her terraced home. The Rottweiler is normally kept chained near the back door of the house but on one occasion when it was unchained, it escaped the back garden through a gap in the rear perimeter fence. The dog went on to gain access to a nearby garden where a neighbour was hanging out her washing. Upon seeing the dog enter her garden, the neighbour quickly ran inside and closed the door after her. The dog ran up to the door and remained there, barking loudly for more than 10 minutes. The situation was resolved when Donna arrived to take the dog away, offering no apology to the neighbour who had previously complained to Donna a few weeks earlier about the dog's behaviour.

Donna has no previous convictions and pleads not guilty. She is convicted after trial.

Step one

The guideline which relates to the offence, **owner or person in charge allowing a dog to be in a private place where the dog is not permitted to be, which makes a person fear injury**, applies.

There are no factors indicating greater harm in this case and the dog being chained suggests there is a low risk to the public.

The fact that the neighbour had complained to Donna about the aggressive behaviour of her dog previously and that Donna had failed to respond to the concerns means that the court is likely to determine that there was higher culpability in this case.

Using these assessments, of lower harm and higher culpability, the court will determine that the offence falls into category 2.

Step two

The starting point for category 2 offences is a band B fine; the offence range is a band A fine to a low level community order.

Donna has no previous convictions but she has failed to take adequate precautions to prevent the dog escaping.

The court may determine that this factor should result in an upward adjustment from the starting point and that a band C fine may be an appropriate sentence.

Step three

There are no other factors indicating a reduction in sentence.

Step four

There is no guilty plea to take into account.

Step five

The court should consider whether to make compensation and/or other ancillary orders.

In this case, the court will need to consider the effect of the incident on the victim and should refer to a victim impact statement if it is available. The victim in this case does not suggest any mental anxiety resulting from the incident in her statement. Therefore, the court is unlikely to make a compensation order since there has been no personal injury, loss or damage resulting from the offence.

The court should consider disqualifying Donna from having custody of a dog. In this case, the court is unlikely to make a disqualification order.

The court may make a destruction order in relation to Donna's dog. The court will need to take into account the circumstances of the incident, the previous aggression demonstrated by the dog, and Donna's character, in deciding whether to make a destruction order. If the court decides not to make a destruction order, it may make a contingent destruction order specifying, for example, that Donna must ensure that the dog is kept on a lead in the back garden, that proper fencing is put in place to prevent escape, and that she keeps the dog muzzled and on a lead when in public places.

Step six

The totality principle is not applicable here as it is a single offence.

Step seven

The court should set out its reasons for the sentence.

Step eight

The defendant has been on unconditional bail so no adjustment for remand time is required.

Advertising a prohibited dog (Dangerous Dogs Act 1991 (section 1(2))

Gary, 25, advertises a Dogo Argentino for sale on a popular classified advertisements website. The police are notified of the advertisement and in light of the fact that a Dogo Argentino is a prohibited type of dog under the Dangerous Dogs Act 1991, they arrest Gary at his flat where they find the dog in question and discover that the dog has some scarring on its front legs and head, indicative of fighting. There is also evidence that there may have been other dogs living in the flat in the recent past including dirty blankets, some books relating to the mastiff breed and heavy duty dog chain leads.

Gary admits the advertising of the dog but claims that he was unaware of the fact that it is a prohibited type of dog. He pleads guilty when it is confirmed that the dog is indeed a Dogo Argentino. Gary has one previous conviction relating to possession of a dangerous dog (pit bull terrier) and also has two convictions for the possession of cannabis in the last 12 months.

Step one

The guideline which relates to the offence, **breeding, selling, exchanging or advertising a prohibited dog**, applies.

There are no factors indicating greater harm in this case.

The court is likely to conclude that Gary was in fact fully aware of the fact that his dog was prohibited given the fact that he correctly named the type of dog in his public advertisement and was in possession of literature pertaining to the breed. Therefore, he was advertising a dog known to be prohibited which would indicate higher culpability.

Therefore, the court will determine that the offence falls into category 2.

Step two

The starting point for category 2 offences is a band C fine; the offence range is a band A fine to a medium level community order.

The court will want to consider Gary's previous convictions as well as the fact that there is evidence that he was not adequately ensuring that the welfare needs of the dog(s) were being met.

In light of Gary's previous conviction for possession of a prohibited dog as well as the findings at his flat, the court may find that this case has crossed the community order threshold and determine that a low level community order is appropriate.

Step three

There are no other factors indicating a reduction in sentence.

Step four

There is a guilty plea which may lead to a reduction in the punitive elements of the community order or may lead the court to consider if a fine would be an appropriate sentence in this case.

The court may decide that the offence merits a community sentence and therefore, the likely sentence is a low level community order with an appropriate requirement.

Step five

The court should consider whether to make any ancillary orders.

The court is likely to decide that it would be appropriate to disqualify Gary from having custody of a dog on the basis that he is not a fit and proper owner as a result of his offending behaviour and the welfare of the dog, and may determine that a period of two years is appropriate for such an order.

The court shall make a destruction order in relation to Gary's dog unless satisfied that the dog would not constitute a danger to the public. Taking into account the danger posed to the public by the dog, the evidence that the dog's welfare needs have seemingly not been met, and Gary's history as a dog owner, the court may decide to make a destruction order.

Furthermore, the court also decides to order Gary to pay reasonable expenses in relation to the costs of keeping the dog pending its destruction.

Step six

The totality principle is not applicable here as it is a single offence.

Step seven

The court should set out its reasons for the sentence.

Step eight

The defendant has been on unconditional bail so no adjustment for remand time is required.