

Annex E

Dangerous dog offences

Possession of a prohibited dog

Dangerous Dogs Act 1991 (section 1 (3))

Breeding, selling, exchanging or advertising a prohibited dog

Dangerous Dogs Act 1991 (section 1 (2))

Triable only summarily

Maximum: 6 months' custody

Offence range: Discharge – 6 months' custody

STEP ONE

Determining the offence category

In order to determine the category the court should assess **culpability** and **harm**. The court should determine the offence category with reference only to the factors in the tables below.

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender’s culpability.**

Culpability demonstrated by one or more of the following:

A - Higher culpability:

- Possessing a dog known to be prohibited
- Breeding from a dog known to be prohibited
- Selling, exchanging or advertising a dog known to be prohibited
- Offence committed for gain
- Dog used to threaten or intimidate
- Permitting fighting
- Training and/or possession of paraphernalia for dog fighting

B - Lower culpability:

- All other offences

Harm

The level of harm is assessed by weighing up all the factors of the case.

Greater harm

- High risk to the public and/or other animals

Lesser harm

- Low risk to the public and/or other animals

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

Maximum 6 months' custody

Harm	Culpability	
	A	B
Greater harm	Starting point Medium level community order Category range Band C fine – 6 months' custody	Starting point Band B fine Category range Band A fine – Low level community order
Lesser harm	Starting point Band C fine Category range Band B fine – Medium level community order.	Starting point Band A fine Category range Discharge – Band B fine

The court should then consider any adjustment for any aggravating or mitigating factors. Below is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Presence of children or others who are vulnerable because of personal circumstances
- Ill treatment or failure to ensure welfare needs of dog, (where connected to the offence and where not charged separately)
- Established evidence of community/wider impact
- Failure to comply with current court orders
- Offence committed on licence
- Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Unaware that dog was prohibited type despite reasonable efforts to identify type
- Evidence of safety or control measures having been taken by owner
- Prosecution results from owner notification
- Evidence of responsible ownership
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives
- Determination and/or demonstration of steps having been taken to address offending behaviour
- Lapse of time since the offence where this is not the fault of the offender

STEP THREE

Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Compensation and ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog for such period as it thinks fit. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:

- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:

- other relevant circumstances

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by police; and
- any relevant previous breaches of court orders by the person.

Note: the court must be satisfied that the person who is assessed by the court as a fit and proper person can demonstrate that they are the owner or the person ordinarily in charge of that dog at the time the court is considering whether the dog is a danger to public safety. Someone who has previously not been in charge of the dog should not be considered for this assessment because it is an offence under the Dangerous Dogs Act 1991 to gift a prohibited dog.

If the court is satisfied that the dog would not constitute a danger to public safety, it **shall** make a contingent destruction order requiring that the dog be exempted from the prohibition on possession or custody within the requisite period.

Where the court makes a destruction order, it **may** appoint a person to undertake destruction and order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.