

Title: Allow owners of non-dangerous prohibited type dogs to retain possession of their dogs during court and Index registration processes ANNEX D IA No: DEFRA1411 Lead department or agency: Defra Other departments or agencies:	Impact Assessment (IA)		
	Date: 01/02/2012		
	Stage: Development/Options		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Phil Alder 0207 238 5040			
Summary: Intervention and Options			RPC: AMBER

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£2.7m	£0m	£0m	No	NA

What is the problem under consideration? Why is government intervention necessary?
 Under existing legislation, police are required to have possession of a dog that they consider is a "prohibited type" even if they assess that it does not represent a danger to the public. They must hold the dog for c.2 months for the Court hearing, and while the owners complete certain obligations so it can be registered on the Index as an Exempted dog. If 450 dogs per year are held by the police in kennels for this reason, the cost is £490k p.a. to the public (police). This kennelling is considered to bring little /negligible benefit to public safety, and the expenditure on it is not considered to be justifiable. Government intervention is necessary to amend the relevant primary legislation.

What are the policy objectives and the intended effects?
 (i) To de-regulate, removing a legal requirement which entails spending public (police) money and delivers minimal public safety benefit, & enable the police to re-allocate the funds saved to activities which have a higher return to society; (ii) To let individual dogs of "prohibited type" which police do not consider to be a danger to the public remain with owners until registration is completed. This will avoid the possibility of the dogs' behaviour deteriorating whilst in kennels, and avoid the distress to owners and dogs caused by the separation for weeks on end; and (iii) To enable the police more effectively to enforce the law on dangerous dogs by allowing them to focus on the more valuable parts of the law.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Option 0 - Do nothing, do not change the law
 Option 1 - Preferred option - No longer require (but do allow) police to hold and kennel the "prohibited type" dogs that they assess can be classified as Exempt, and that Court approves for Exemption. Instead let these dogs remain with their owners for the 2 months from Court hearing to completion of all requirements and Index registration.
 Option 2 - Allow owners of prohibited type dogs to apply direct to the Court to have their dog added to the Index of Exempted Dogs (i.e. remove police from the process).
 Option 3 - Allow the police to consider and decide whether a dog can be added to the Index (i.e: remove courts from the process).

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2018						
Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium No	Large No
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			Traded:		Non-traded:	
			NA		NA	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Allow owners of non-dangerous prohibited type dogs to retain possession of their dogs during court and Index registration processes

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		0.1	0.6

Description and scale of key monetised costs by 'main affected groups'

Owners will bear cost of feeding dogs for the 2 months during which they are held in custody under current policy - total estimated as £90k p.a. for 450 dogs, from 2013/14 onwards.

Other key non-monetised costs by 'main affected groups'

Loss of business for licensed kennels (5,000 in England) from 2013/14 onwards, worth £490k a year for 450 dogs. These effects on kennel businesses are not counted as costs to society in the cost benefit analysis on the usual assumption that the labour and capital resources affected will redeploy in the long run to more productive uses.

Other costs are expressed as Risks, below.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		0.4	3.3

Description and scale of key monetised benefits by 'main affected groups'

Public sector/police save £490k per annum from not having to hold procedure 4B dogs in custody from 2013/14 onwards: police spend this resource instead on activities with higher return to society.

Other key non-monetised benefits by 'main affected groups'

Saving of police resources and streamlining legislation will enable them to enforce the law more effectively. Reduced stress for dogs and owners and improved behaviour for dogs.

Key assumptions/sensitivities/risks

Risks: Marginally increased risk of dog attack while dog remains with owner for 2 months, & of dogs disappearing/owners moving without completing Index requirements; increased police effort and resources required to respond to these. For simplicity IA assumes 450 dogs p.a. are not held in custody, saving kennelling costs of £490k p.a. (400 in 2010). Assumes cost to feed dog for 2 months is £200. Assumes private kennels do not face dramatic transitional cost as result.

Discount rate (%) 3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: -	No	NA
Benefits: -		
Net: -		

Evidence Base (for summary sheets)

Introduction

This particular proposal is part of a package of measures proposed by the Government as a way of reducing dog attacks, making owners more responsible for their dogs as well as reducing the cost of enforcing the law on dangerous dogs. The other proposals that will impact on owners, businesses, courts, police and others are: (i) compulsory microchipping of dogs; and (ii) extending the criminal offence of allowing any dog to be dangerously out of control to private property (where the dog has a right to be). The reference numbers of the impact assessments relating to (i) is DEFRA1372; and (ii) is DEFRA1412.

In addition, the Government has also agreed to make funding available for evaluating local community initiatives to foster responsible dog ownership and setting up a network to ensure sharing of best practice between police officers responsible for dangerous dog work. We are also proposing to increase the fee for placing a prohibited type dog on the Index of Exempted Dogs to reflect the increase in administrative costs, since 1997 when the fee was last increased, from £20+VAT to £77+VAT. This will reduce the costs of public money on administering the Index. The reference number for the impact assessment for this proposal is DEFRA1255.

The proposal will apply to England only. Unless stated otherwise, all figures relate to England only.

Background

Under the Dangerous Dogs Act 1991, as amended 1997, (DDA) it is an offence to own, keep, breed, sell, exchange, advertise for sale any dog that is specified in section 1 of the DDA. The dogs specified as “prohibited types” under s1 of the DDA are the: (i) Pit Bull Terrier; (ii) Japanese Tosa; (iii) Dogo Argentino; and (iv) Fila Brasileiro. The maximum penalty for possession of a prohibited type dog is a fine of £5,000 or 6 months imprisonment, or both.

The police enforce the DDA and have powers to seize any dog suspected of being a prohibited type dog. The police have specialist Dog Legislation Officers trained in recognising prohibited type dogs. Ultimately, it is the courts that will decide whether a dog is a prohibited type.

Although the DDA makes a general prohibition on the possession of certain types of dogs, it also makes an exemption for owners, found to be in possession of a prohibited type dog, to be allowed to keep it under certain circumstances. Such an exemption can only be provided by the courts who must be satisfied that the dog does not pose a risk to public safety. The owner may then be allowed to be kept the dog provided the owner complies with the requirements of the general exemption (i.e.: dog must be neutered, microchipped, tattooed, insured against injuring a third party, muzzled and kept on a lead when in public).

If the police consider that someone has in their possession a prohibited type dog, that is not already exempted, they must consider whether the dog in itself represents a danger to the public. If they consider the dog represents a danger, they must seize it. It will then be for a court to decide whether (i) the dog is a prohibited type dog, and if so, (ii) whether the dog should be destroyed or whether the owner can be allowed to be keep it subject to it being added to the Index of Exempted Dogs (the “Index”). The Index is a Government held database of individual prohibited type dogs which the courts consider are not dangerous in themselves and can be kept by their owners subject to certain requirements being put in place (i.e.: dogs must be neutered, tattooed, microchipped, muzzled and on a lead in public and insured against injuring a third person). If the court agrees that the dog should be allowed to be added to the Index, they will issue a “contingent destruction order” which only comes into force if the owner fails to carry out the requirements of adding the dog to the Index within the set two month period. If the requirements are carried out and the Certificate of Exemption is issued by the Index, then the contingent destruction order is revoked. If however, the requirements are not fulfilled within the deadline, then the destruction order will be activated and the dog destroyed (there are instances where an extension to the time limit can be made by the court).

If the police consider that the dog does not represent a danger to the public, and the owner is in agreement, they will ask the court to allow the dog to be placed on the Index - rather than pursue a prosecution or asking the court to issue a destruction order. Such a procedure is known as a “4B procedure” because it is the process set out in section 4B of the DDA. In such circumstances, the police may leave the dog with the owner. However, the police are required to have the dog in their custody by

the time the case comes to court and until such time the owner has completed the necessary requirements of having the dog on the Index and has been issued with a Certificate of Exemption by the Index. It is this aspect of the process – the dog having to be in police custody during the court case and until such time that a Certificate of Exemption is issued by the court – that the Government considers should be reviewed.

In certain circumstances and under existing arrangements, the courts may award costs against the owner of a prohibited type dog and this may include the costs of kennelling the dog. However, such costs are awarded at the discretion of the court and may not cover the full cost of kennelling.

Around 400 dogs a year are currently kennelled by the police at public expense under 4B procedures, for an average of 61 days each. These are dogs which the police recommend can be Indexed and can live safely with their owners. The courts have never to our knowledge overturned this police recommendation that these dogs are safe. The proposal affects these dogs only.

The police currently kennel most seized dogs with privately run dog kennels (although this is not a legal requirement in the Dangerous Dogs Act). Such kennels must be licensed under the Animal Boarding Establishments Act 1963. There are an estimated 5,000 licensed kennels in England. In order to prevent owners from stealing back their dogs whilst their cases are being processed, the police do not divulge details of where the dog is being held so it is not possible to say precisely how many kennels accommodate seized prohibited type dogs. In this Impact Assessment we assume that the dogs in question are distributed across the licensed kennels and that the removal of this 4B business would not materially affect the industry. **However, we would welcome any information that the police can provide, without compromising security, on the numbers of private kennels that accommodate 4B dogs. Similarly, we would welcome anything that the private kennels can provide on the likely impact on their businesses if 4B dogs no longer need to be kennelled.**

We are not aware of instances of courts disagreeing with the police where they have recommended that a dog be placed on the Index. **However, we would welcome any information of cases to the contrary.** We have made this assumption on the basis that there would be unlikely to be any grounds for the court to disagree. Both the police and the owner provide evidence that the dog is not a danger to the public but there is no-one with a direct interest in the case who would challenge such evidence.

This Impact Assessment only affects the 400 or so cases per year where the police do not consider the “prohibited type” dogs to be dangerous to the public, provided their owners meet the requirements of the Index. For simplicity we assume that the number of dogs at issue is 450 a year, in each year of this assessment. The trend has been rising. It is expected that other policies coming into play by 2013/14 will reduce this figure, but since these are not finalised in law as part of Business as Usual, we have not included their impact in these figures.

A dog can also be added to the Index in cases where, although the police consider that the dog is dangerous, the court disagrees. In such cases, the dog will be in police custody from when they first suspect the dog is a prohibited type. This is because the police consider that it is a danger to the public and should not be added to the Index. However, the owner’s defence is able to provide evidence to the court that the dog is not a danger (e.g.: an independent assessment of the dog’s behaviour). As with the 4B procedure the dog will only be released back to the owner, once they have carried out the necessary requirements of having a dog on the Index and after the Index has issued the Certificate of Exemption. These cases are not covered by the proposals in this IA.

Other cases occur where both police and courts agree that the dog should be destroyed because it is considered a danger to the public. We know the number of people who were found guilty of possession of a prohibited type dog(s) each year (2010 - 303; 2009 – 119; 2008 – 95; 2007 – 62; 2006 – 5); in some of these cases the dogs may have been added to the Index (by 4A procedure) or the dogs may have been destroyed. We have estimated how many prohibited type dogs have been added to the Index under the 4B procedure each year (2010 – 400; 2009 – 200; 2008 – 115; 2007 – 90; 2006 – 3). However, we do not know the number of prohibited type dogs destroyed each year. **By way of background we would welcome any estimated numbers of dogs destroyed as a result of their owners being found guilty of possessing a prohibited type dog.** These cases are not covered by the proposals in this IA.

Earlier Defra consultation

In 2010 Defra ran a consultation exercise on existing dangerous dogs legislation. Most key interested parties, including the police and leading animal welfare organisations as well as dog interest groups,

suggested that the mandatory requirement for the police to hold suspected prohibited type dogs (that do not in themselves represent a danger to others – the “4B procedure”) for the duration of the court case and subsequent Index requirements, should be removed.

The police already have to make an assessment of whether the dog represents a danger to others in deciding whether or not to ask the courts to allow the dog to be placed on the Index. Given that the dog has been assessed and is left with the owner until the case comes to court it does not seem unreasonable to continue to allow the owners to keep the dog during the court process.

Main problem under consideration

In 2010, the police had to kennel around 400 dogs under the 4B procedure. Numbers of dogs added to the Index have risen in response to the serious attacks from 2007 onwards generating more police time spent on enforcement and in training of specialist officers. For simplicity in this IA we assume a flat rate of 450 dogs being kennelled under 4B procedure each year. The police estimate that it costs about £18 per day to kennel each dog and that each 4B case takes on average 61 days. It would therefore cost the police around £490k to kennel the 450 dogs (450 x 18 x 61).

The Government considers that appropriate measures need to be taken to stop police costs spiralling out of control, and delivering negligible public benefit. The police accept that they have a duty to protect the public from dangerous dogs but consider that the 4B dogs do not pose a danger. If the dog is considered safe enough to leave with the owner until the court case and it does not exhibit any worrying behaviour, then police should be allowed to let the dog remain with its owner during the court case and while the certificate of exemption is issued by the Index.

Rationale for intervention

Existing legislation requires amending in order to remove the mandatory requirement that police must hold dogs under the 4B procedure which they do not consider to be dangerous. The amendment would continue to allow police to seize dogs they suspect pose a threat to the public but would enable them to leave dogs with their owners for the entire time that the case is being processed and the Index requirements are being met, on average 61 days. The dogs to which the amendment would apply are already with their owners for the time preceding the court hearing, but must be in police custody at the time the case comes to court and until the Index has issued the Certificate of Exemption. Given that these dogs are assessed as safe and remain with owners until the hearing, and return to them after being Indexed, allowing them to remain with owners for this additional 2 month period is considered to create a negligible risk to the public. The kennelling absorbs funds that could be put to far better uses of greater value to society by the police.

Policy objectives

- (i) Save public money that is delivering little or no public benefit.
- (ii) To de-regulate, removing a legal requirement which entails spending public (police) money and delivers minimal public safety benefit, and to allow the police to reallocate the funds to activities that they deem to have much higher returns to society;
- (iii) To let individual dogs of "prohibited type" which police do not consider to be a danger to the public remain with owners until registration is completed. This will avoid the possibility of the dogs' behaviour deteriorating whilst in kennels, and avoid the distress to owners and dogs caused by the separation for weeks on end; and
- (iv) To enable the police to more effectively enforce the law on dangerous dogs by allowing them to focus on the more valuable parts of the law.

Options under consideration

Option 0 - Do nothing, do not change the law

Option 1 – Allow the dog to remain with the owner from the time the case comes to court to when the Certificate of Exemption is issued (preferred option)

Option 2 – Allow owners of prohibited type dogs to apply to the courts directly to have their dogs added to the Index (without involving the police)

Option 3 – Remove the courts from the 4B process – allow the police to direct that an individual dog can be added to the Index.

Options 0 to 3 are discussed in turn below with costs and benefits.

Option 0 – Do Nothing

Under the current arrangements the police may leave a suspected prohibited type dog with its owner until the case comes to court. The police will not do this every time they come across a suspected prohibited type dog because the behaviour of the dog may have given rise to the police's interest in it in the first place. However, if the police consider that the dog does not pose a risk to the public, they will leave it with the owner with the intention of asking the court to allow it to be placed on the Index – the 4B process. The law currently requires that the dog be in police custody by the time the case comes to court and until the Certificate of Exemption is issued.

The main cost of this process is kennelling costs, which are rising year on year. There has been a steady rise in the number of dogs added to the Index via the 4B process. This is resulting in increased costs to the police at a time when more demands are being placed on police resources, and is expenditure that delivers little or no public safety benefit. These are dogs that the police, and subsequently the courts, consider not to be dangerous and so arguably do not need to be kennelled. We estimate that under "Do Nothing" 450 dogs will be dealt with under procedure 4B each year. However, it is expected that other policies relating to dangerous dogs will have effect in 2013/14 onwards, bringing this number down. Since these measures are not yet confirmed in law, this expectation has not been applied to Business as Usual. If the number of dogs under procedure 4B increases beyond 450 a year, the costs, benefits, and net present value of the preferred option would all be higher than presented here.

Option 1 – Preferred option

Allow owners of non-dangerous prohibited type dogs to retain possession of their dogs during court and Index registration processes (recommended action)

If the police come across a suspected prohibited type dog and they do not consider that it poses a risk to the public, they may ask the owner if they will agree to have it placed on the Index of Exempted Dogs – the 4B process. If the owner agrees to this, the police may decide to leave the dog with its owner. However, the law requires that the dog to be in police custody by the time the case comes to court and until such time the Index has issued a Certificate of Exemption (about 2 months). This option would remove the mandatory requirement for the police to have the dog in their custody during the court and Index process (although leaving the police the ability to have the dog in custody if they consider it necessary, for example for reasons of public safety).

The dogs for which the amendment would apply are already with their owners for some of the time but must be in police custody at the time the case comes to court and are not released until the Index have issued the Certificate of Exemption.

The recommendation is therefore for the police to only hold those dogs that they consider pose a danger to others. Those estimated 450 dogs per year that are suspected of being a prohibited type dog but which the police judge are safe to be kept would be left with their owners whilst the court case progressed.

In order to remove the mandatory requirement that all such dogs be held by the police, the DDA would need to be amended. The proposed amendment and objectives are not controversial and would save considerable money for police forces by making the legislation more cost effective to enforce.

Benefits – option 1

The deregulation of the requirement for the police to take 4B dogs into custody for the court and Index processes removes a procedure which costs the public (police) money and which has little or no benefit.

Monetary benefit to public / police

The process for meeting the requirements for having a dog on the Index can take up to two months and on average in 2010 took 61 days. This IA assumes that the number of cases is 450 in each year. The average cost to the police of kennelling a dog is £18 per day. We can therefore estimate that allowing 450 dogs to remain at home with their owners while their cases are being processed would save £490k a year. In practice the figures are expected to decline as a result of the combined policy proposals concerning dangerous dogs, but since these are not yet in business as usual, this expectation is not reflected in the figures. The cost of keeping the dogs is partly transferred back to their owners. It represents loss of revenue for kennels.

It is assumed that these funds will be reallocated by the police to activities that have higher returns to the public than holding these dogs in custody. It is for individual police forces to determine the allocation of the funds and we cannot anticipate their decisions here. Some are likely to expand funding of other areas of their Dangerous Dogs work.

There may be other costs to the police of managing the kennelling of these dogs but this is the main and only expenditure estimated to be saved here.

Non-monetary benefit to police

The police have to balance priorities and operate within their own budgets. Reducing police costs attached to the 4B process will make the enforcement of the DDA more financially acceptable and perhaps more likely that the police would carry it out. This saving of police resources would enable them to more effectively enforce the law.

Reduced stress for dogs and owners and improved behaviour for dogs

An additional benefit would be the welfare of the dogs. There is considerable anecdotal evidence that lengthy periods of kennelling for dogs (that are not used to such environments away from their owners and domestic home setting) can have a negative impact on their welfare and behaviour.

Behaviour can be affected by a lack of socialisation and can have a detrimental effect later if the dog is then returned to a family environment. Whilst the police and kennel operators must meet the welfare needs of dogs in their care, they are not in a position to offer the same environment as a family home where the dog can be with its owner. Separation for the owner can also be stressful. Clearly without such separation neither the dog nor its owner is subject to stress.

However, we would welcome more robust evidence that supports this assumption.

Costs – option 1

Cost of lost business to private kennels Although not required in law, police do keep 4B dogs in licensed commercial kennels. The proposal will result in a loss of this business for kennels. These effects on kennel businesses are not counted as costs to society in this cost benefit analysis on the usual assumption that the labour and capital resources affected will redeploy in the long run to more productive uses. In the short term, if the kennelling of 4B dogs is concentrated on a few kennels where it forms a material part of their business, there may be some transitional costs as the kennels adjust to this loss of demand (eg possible redundancy payments, writing down of capital prematurely and retraining costs for individuals seeking alternative employment).

However we assume that any such transitional costs will be borne by a fairly large number of kennels around the country. At most 450 kennels might be affected in future, each losing one dog for 61 days per year, or around £1,100. If the dogs are concentrated at fewer kennels, the lost business totalling around £490k will be more per kennel. The 5,000 licensed kennels are quite widely spread throughout the country so it is not expected that there would be major impacts on local economies.

Costs of ownership passed back to owners

The costs of looking after the dogs for the 61 days in question will revert to the owners instead of being passed to the police. Owners derive benefits from owning and keeping their dogs, so these costs can be assumed to be willingly borne by owners in exchange for the rewards of dog ownership. A number of surveys have suggested that the cost of feeding a dog for 2 months may be up to £200, and this is reflected in this impact assessment, although it represents a transfer of cost from the police (paying kennels) back to owners. For 450 dogs in a year, that amounts to £90k. Since these 4B dogs currently live with their owners up till the court case, and from the date of Indexation onwards, this is the only *additional* cost of dog ownership assumed to arise as a result of the dogs remaining with their owners for the 2 months.

Risk to the public from these dogs remaining with owners for additional 2 months

There is a small risk that a dog might attack and cause injury while it is with its owner during these 2 months rather than being in police custody. However, this will be negligible given that the police will have already satisfied themselves that the dog is safe to leave with the owner until the court case, and safe to live there after the Certificate of Exemption is issued.

A major part of the success criteria of this proposal is whether any serious incidents take place during this additional time that the dog remains with its owner. This is an area which we will monitor during the first few years should the proposal be implemented, as part of the review process.

Cost to society/police arising from the increased risk that owners failed to comply within 2 months with requirements of the Index (chipping etc) or that dogs are moved/disappear.

We should also consider whether allowing the dog to remain with the owner for this additional period, acts as a disincentive to the owner carrying out the necessary requirements of having the dog placed on the Index, within 2 months. Arguably, owners currently carry out the requirements because they know that if they don't they won't get their dogs back. So if the dogs remain with their owners at all times, there may be less of an urgency on owners to carry out and complete the requirements. The Certificate of Exemption would not be issued to an owner if they had failed to carry out the necessary requirements and the dog would be seized by the police and its fate decided by the court. However, enforcing this would mean at least some police time spent following-up with the owner and possibly having to seize the dog, if the owner has failed to complete the requirements and has become in breach of the law.

Another new risk with the proposal is that the dog may go "missing" with the police unable to track it down and spending resources in trying to locate it. In deciding whether to leave the dog with the owner, the police would need to assess not only the dog's behaviour but also the likelihood of the owner carrying out the necessary requirements within the timescale. This again is an area that can be regularly reviewed if this proposal is adopted, by checking the Index for defaulters and holding discussions with the police.

Option 2 – allow owners of prohibited type dogs to apply to the court direct to add their dogs to the Index of Exempted Dogs (remove police from the process)

Some respondents to the previous Defra consultation indicated in answer to one question that they wanted to allow owners to be able to apply direct to the courts to have their prohibited type dogs added to the Index. This would remove the need for the police to be involved in the process (although the police could retain the ability to be involved in some cases). Owners would need to provide evidence to the court that their dogs do not present dangers to the public by obtaining an independent assessment of the dog by a professional dog trainer. The courts might also need to acquire their own assessment, indeed they might need a police assessment of the dog. Part and parcel of this option is that dogs are not taken into custody as they are today, i.e. the change proposed in the preferred option also applies.

Allowing owner led applications direct to the courts would remove an important plank of the Dangerous Dogs Act which is to protect the safety of the public from dangerous dogs. The police assess whether a prohibited type dog is safe to leave with its owner before the case comes to court. If they do not consider that the dog is safe to lead with the owner they can seize the dog. Ultimately it is for the courts to decide whether the individual dog is safe and in 2010 the courts ordered that about 240 prohibited type dogs be euthanized because they agreed with the police's assessment that they were not safe. Removing the police from the process suggests that the courts would have to rely on assessments by animal behaviourists to be satisfied that dogs were safe to add to the Index.

It is difficult to gauge how many owners would apply to the courts to have their dogs added to the Index. Whilst some would be confident that the courts would agree that their dog is not dangerous others may not wish to take a chance, even if they have funded a positive independent assessment. There is therefore a strong risk that, without police involvement, fewer owners will apply to have their dogs on the Index, and more dogs will remain outside the system. The police might still get involved in dangerous dog cases, including 4B cases, and if they came across a non-dangerous pitbull dog (for example), the police would probably just advise the owners to apply to the courts themselves.

Benefits – option 2

Monetary benefit to the public (police)

Kennelling costs would be saved as per Option 1, and this option would save more money for the police by ending police involvement in assessing the dogs. It is estimated that an assessment by a police Dog Legislation Officer (DLO) costs £105. *Not* assessing 450 4B cases a year could save the police about £47,000 a year, bringing the total saving to public/police funds from this option to in £537k p.a.

There would be savings to the police in terms of officers' time spent on the case because the police would no longer need to be involved in court applications etc. **We do not have an estimate of the costs of police time on these cases, so we would welcome any such estimates.**

Without the police in the process, how would the courts know whether any incidents had been reported involving the dog in question? If the courts were to approach the police with such enquiries would this really save police time?

Non-monetary benefit to police

This option should deliver greater non-monetary benefits to the police than option 1, since it frees up more police resources.

Reduced stress for dogs and owners and improved behaviour for dogs

This benefit is the same as for Option 1.

Costs – option 2

Cost of lost business to private kennels

This is as per Option 1, around £490k p.a.

Costs of ownership passed back to owners

As with option 2, owners would have to feed their dogs for the 2 month period that they are no longer kennelled by police – estimated at £90k per year in total for 450 dogs. Owners benefit from having their dogs with them throughout.

In addition under this option, the cost of a behavioural assessment by a professional dog trainer would have to be met by the owner. This might vary depending on the individual trainer but we have assumed that the cost could be about £105 – **again we would welcome any other estimates.** At £105 for 450 4B applicants, that is £47k in assessment costs for the owners.

The total additional cost to owners compared with Do Nothing is about £137k per year.

Other public sector costs - Courts

There would be additional costs/time for the courts who would have to arrange for impartial assessment of the behaviour of the dog because the police would not be involved. Courts might spend around £47,000 on this, duplicating the cost of the owner's assessment.

It should be noted that the courts would not be able to be confident of the robustness of a behaviourist's assessment as the trade is not regulated or accredited in any way, and could not be independently cross examined by a third-party. Courts would not have as much confidence in animal behaviourists as they do in the expertise and impartiality of the police.

It is likely that courts would face other additional expenses under this option, from processing applications onwards, but these costs have not been estimated, since this option does not merit detailed attention.

Risk to the public from these dogs remaining with owners for additional 2 months

As per Option 1 above.

Cost to society arising from the increased risk that owners failed to comply with requirements of the Index (chipping etc) or that dogs are moved/disappear.

As per Option 1 above, and in addition, there is a greatly increased risk that owners might not apply to the court at all, if they are at all doubtful that applications to have their dogs Exempted will be approved. Some dogs that police would have approved might therefore remain completely outside the system without meeting the safeguards required of the Index (neutering, 3rd party insurance etc) because owners fail to apply to the court.

Risks to the public from removing police involvement in dogs that are considered **unsafe** to leave with owners/unsuitable for the Index

Some dogs that might **not** have been approved by the police for Exemption might remain outside the system in this case, posing a risk to the public. These are not the target of the preferred option, but might be caught up in this option which is undesirable. Currently the police provide evidence to the court that around 240 dogs a year are a danger to the public and should be euthanized. It is difficult to see how the courts could take a balanced and informed decision without the objective, expert opinion of a police assessment and could establish that these dogs represent a danger to public safety. If not they would be approved for the Index, and although they would be subject to the requirements of keeping them on the Index (which may provide some protection, although clearly not enough to convince the courts), it would also mean that the dogs would be with the owners prior to the cases coming to court, with no safety guarantees for the public.

Reduced deterrent to ownership of prohibited type dogs

This option would also fail to discourage people from breeding and selling prohibited type dogs if they know that potential buyers can simply apply to the courts to exempt the dog from the general prohibition, without involving the police. People might assume that they have a better chance of adding the dog to the Index - and so be less discouraged from obtaining such a dog in the first place.

This option is **not recommended** because it removes the safety aspect behind the DDA.

Option 3 – Remove the courts from the 4B process – allow the police to direct that an individual dog can be added to the Index.

This option would remove the court from the process where police recommend dogs to be added to the Index, and - as in Option 1 - 4B dogs would not taken into custody as they are today. The police currently make an assessment as to whether the dog poses a risk to the public and whether it could be added to the Index. We are not aware that the courts have ever refused to a 4B application supported by the police to have the dog added to the Index, which raises the question of how far the courts need to be involved in the 4B process. It is difficult to see under what circumstances the court would refuse to allow a dog to be added to the Index under the 4B process - the police have already assessed the dog and obtained the owner's agreement to have it added to the Index (i.e: the owner is not going to contest that the dog is a prohibited type and has been made aware of what is needed to be done in order to have the dog placed on the Index). The court could challenge the police assessment of the dog but unless an independent behaviourist is invited to cross-examine that assessment it is unlikely the court would have grounds to refuse a 4B application.

Benefits

The benefits relating to police monetary and non monetary savings for option 1 apply to this option. The welfare benefits associated with option 1 also apply here.

Monetary benefit to owner or police from saving in court time and process

This would potentially save court time and resources as the courts would no longer need to spend time considering 4B cases. HM Court Service estimate that the average time a dangerous dogs case takes is 1½ days, and because 4B cases are civil cases, the cost for the courts is reflected in the fee which for

uncontested hearings is £200. The fee is sometimes paid by the owner of the dog or in other cases by the police (the police may consider in some cases that meeting the cost of the court fee is better than paying the usually higher cost of kennelling). Removing this cost for 450 cases would save £90k p.a. which is normally borne by dog owners, and occasionally by the police.

Benefit of faster process

This proposal may streamline and speed up the process of adding a dog to the Index.

Costs

The cost of lost business for kennels and the cost of ownership passed back to owners would be the same under this option as for option 1.

Increased police resources

This option may result in more time input from the police than required today e.g. on administering and considering applications – tasks currently carried out by the courts. The Dog Legislation Officer may need to spend an additional 1 hour's work per case on administering and considering each application. At £30 per hour for 450 cases this would result in additional police costs of £13.5k for this option (figures provided by police).

Increased risk of owners not complying with requirements and deadline for placing dogs on the Index

The police may consider that the court acts as an impartial arbitrator and that although no cases have been refused, there may well be instances where the owner has failed to fulfil the requirements of having a dog on the Index within the timescale. In such circumstances the conditional destruction order made by the court is activated and the dog is put down. It is not possible to easily identify such instances on the Index but we know that there are several defaulters but how many of these are 4B cases is not clear. The implication of this option without court involvement may be that the court does not issue the procedure 4B dogs with conditional destruction orders. This might significantly increase the risk of non compliance. We would welcome comments on whether the courts could still issue these orders without the cost of a full hearing as today.

This option needs further development and assessment. **We would welcome comments on whether this is a viable option. In particular, if the police are allowed to direct which dogs can be added to the Index what would happen in situations where the owner fails to carry out the necessary requirements of placing their dog on the Index: would the police then have a power to seize the dog (if it is not already in their custody) and have the dog put down? Could the Court issue a contingent destruction order upon request of the police, once the police assessor supports the dog going onto the Index? Should the dog remain with the owner throughout the whole process or would it be in police custody by the time the case comes to court?**

Risks

In relation to Option 1, Preferred Option

- Additional marginal increase in possibility of a dog attacking someone while the dog was with its owner if the mandatory custody is removed
- Additional marginal risk of dogs disappearing/owners moving without completing the Index requirements if the mandatory custody is removed
- Additional risk of increased police effort and resources required to respond to the above if the mandatory custody is removed

These risks will be monitored through the policy review.

Option 2 is considered to raise unacceptable risks to the public from dangerous dogs. Option 3 may present an additional risk of lower compliance than Option 1, if courts do not issue contingent destruction orders at all. We welcome comments on this risk in responses to the consultation.

Assumptions in this IA

- 450 dogs per year will be subject to 4B procedure and all will be allowed by police to remain with their owners for around 2 months rather than placed in custody, as now. (If the number of dogs being processed each year under procedure 4B is higher than this, the costs and benefits and +ve NPV of the preferred option will be higher than given here.)
- The main and only police expenditure saved under the Preferred Option is £18 x 61 nights per dog for kennelling.
- The cost for an owner of feeding dog for 2 months is about £200.
- Private kennels will not face dramatic transitional costs as a result of the proposal.
- The risks identified above do not materialise or are minimal.

One In, One Out

This de-regulatory proposal directly affects the police and a legal requirement on them, which means it is not in scope of OIOO. As the law stands, the police are not required to involve businesses in kennelling the dogs in question, although in practice they do. The Preferred Option that removes the dog holding requirement will impact on kennelling businesses indirectly.

Wider impacts

As noted, there will be an indirect impact of lower business worth about £360k-480k per year for licensed kennels in England. These can be assumed to be small or micro businesses (employing less than 20 or less than 10 employees, respectively).

Review of policy change

The Government will review the changes made 5 years after the changes are implemented (2018). To do this, the Government will consult key interested parties (e.g. police, local authorities, animal welfare organisations, veterinary groups) as well as other government departments.

This police is expected to save public money for minimal or no increase in public safety risk. The review focus on assessing the extent of the any downside resulting from the policy change. Key aspects to review will be the incidence of dog attacks during the 2 months between court hearing and Registration on the Index; the frequency of owners failing to comply with Index requirements and timing (compared with current levels); the frequency of dogs disappearing before Registration is complete; and the costs for police and others of responding to these events (compared with the costs of holding dogs in custody, as is done today).

Summary and Implementation plan

Once the consultation is complete Defra will consider all responses and make them available along with an official reply. The reply will set out what action the Government considers is appropriate and a further Impact Assessment will be published. It is not possible at this stage to say when the proposals (the whole package of measures) might come into effect because some of them require change to primary legislation and we do not as yet have a definite slot in the Parliamentary legislative timetable to do this. (For the purpose of calculating the figures in this IA we assume that proposal comes into force in April 2013.)