

## XL Bully ban update

### Purpose of Report

For information.

### Summary

XL Bully Dogs have been added to the Dangerous Dogs Act. Councils are responsible for collecting stray XL Bullies and putting them down after seven days if no owner comes forward. Councils are facing a number of challenges related to the ban: funding, typing a suspected banned breed, and kennel space. This paper outlines these challenges in greater detail and asks for member's views on the issues raised.

**LGA Plan Theme:** Championing climate change and local environments

### Recommendation(s)

**That the Board notes the update and shares their views on the issues presented.**

### Contact details:

Contact officer: Jade Hall/ Charles Loft

Position: Adviser/ Senior Adviser

Phone no: 07818577467/ 07795 842 481

Email: [jade.hall@local.gov.uk](mailto:jade.hall@local.gov.uk) / [Charles.loft@local.gov.uk](mailto:Charles.loft@local.gov.uk)

## **XL Bully ban update**

### **Background**

1. The Government has added XL Bully dogs (XLBs) to the list of dogs banned under the Dangerous Dogs Act 1991 (DDA). Since 31 December 2023 it has been against the law to:
  - sell an XLB
  - abandon an XLB
  - give away an XLB
  - breed from an XLB
  - have an XLB in public without a lead and muzzle
2. On 1 February 2024 it became a criminal offence to own an XLB in England and Wales without a Certificate of Exemption for your dog. Owners need to follow rules such as microchipping their dog, getting insurance in case their XLB dog attacks someone and keeping it on a lead and muzzled when in public.
3. The DDA gives powers to police and to local authorities, but the police is the lead enforcer of that legislation.
4. Local Authorities have a duty under s.149-151 of the Environmental Protection Act 1990 to appoint an officer to deal with stray dogs, and to seize stray dogs if practicable, and kennel them for seven days before destroying them (this duty does not apply to the police).
5. DEFRA contacted the LGA as part of its research into the new burdens that the ban will impose on councils.

### **Key issues**

#### **Funding**

6. DEFRA propose an initial funding of £872,000 for councils in England and Wales to enable them to fulfil their responsibilities under the ban. This has been increased from an initial new burdens estimate of £465,000, as we understand that DEFRA received far more applications for exemption certificates than they were expecting – they initially thought there were around 10,000 XLBs in the country, and we understand they have received over 55,000 applications for exemption certificates. They had initially assumed a 10% abandonment rate.

7. DEFRA intend to split the funding between different regions, based on their estimates of how many XLBs are in that area.
8. DEFRA is keen to distribute the new burdens funding before the start of the new financial year. However, they are struggling to get the bank and contact details of councils, and they say DLUHC are unable to share this information with them due to data protection concerns.
9. The LGA has offered to write to Chief Finance Officers to ask them to get in touch with DEFRA and share their bank details. At the time of writing this paper, these conversations were still ongoing, and the meeting will receive a verbal update.
10. Although DEFRA seem willing to revisit funding in the light of experience in the new financial year, officers are also concerned that the amount of new burdens funding is likely to be insufficient.
11. The cost of seizing, kennelling and destroying a dog can be up to £800 (this is the upper end estimate). Therefore councils dealing with significant numbers of XLBs are unlikely to be adequately compensated for this work given the limited new burdens funding available.
12. The draft new burdens assessment assumes councils will send one officer to deal with each dog. We think there are significant health and safety issues with this approach. It is likely councils will send more than one officer to seize an XLB, due to the risk to life they can pose (illustrated by the below example from Birmingham). DEFRA have also not included consideration of personal protective equipment in the new burdens assessment, which councils have told Government they will require to fulfil this responsibility.
13. Birmingham council has told us that one of their dog wardens was badly bitten by a pocket bully in the winter of 2023. This was one of twelve dogs at a residential property, all of which needed to be removed (under the Animal Welfare Act and Dangerous Dogs Act). There was an XLB in the back garden and despite there being five police dog handlers and the dog warden, no one went into the garden to attempt to capture the dog, which was eventually darted by a firearms officer before being removed. The dog warden had to be 'blue-lighted' to the kennels before the dog woke up, so it could safely be moved into the kennel. Two days after this incident took place, the dog warden had to collect five 'stray' XLBs.
14. They have informed us that their risk assessment requires two officers per case, and other councils (Newham, Richmond and Wandsworth) have indicated they are likely to take a similar approach. This could lead to other councils taking the view that for reasons of health and safety they need to send more staff and/or request police assistance.

## Typing

15. Historically, councils have always relied on police dog legislation officers to 'type' suspected banned breeds so that they can be put down if councils collect them as strays. This is in line with DEFRA [guidance](#), which advises councils that they should request the help of police dog legislation officers to 'type' suspected banned breeds.
16. Now that the ban is in force, a number of police forces have withdrawn this service with no notice. In February, the National Police Chiefs Council (NPCC) wrote to all police forces advising them to do the same for third parties – which includes councils and the third sector.
17. LGA officers have been contacted by a number of councils who are deeply concerned about this: whilst technically councils do have the powers to destroy a dog without the police typing it, most do not have staff trained to type dogs or any experience of doing so.
18. Moreover, council dog enforcement officers whose job descriptions do not currently include typing dogs may not be willing to do so for ethical reasons, particularly as many officers working in animal welfare have chosen that career because they are animal lovers and would therefore be reluctant to make a decision that would lead to an otherwise healthy dog being put down. Where dog enforcement officers are willing to type dogs, their jobs may need re-grading, which will take time and resources.
19. The removal of the police identification service at such short notice has not provided councils with any opportunity to react or put in place contingency measures. We have been clear that it is not realistic to expect that councils can suddenly start doing something they have previously relied on the police to do, while at the same time demand for that activity appears to be significantly increasing.
20. We have been advised by DEFRA officials that they believe the NPCC/ some police forces have taken this position because they do not believe some councils are fulfilling their responsibilities around collecting stray dogs and are leaving it to the police. DEFRA officials said the police advised them of 250 examples of this taking place. LGA officers asked for these examples so they could follow up with the relevant councils to understand the issues. DEFRA supplied a list of number of XL Bullies seized by police area, but with no detail (and no means of matching these numbers to individual councils). Requests for clarification have only yielded three examples. Engagement with these three councils is still ongoing, but it is far from clear that the police claims are accurate and in one case are strongly refuted.

## Kennel space

21. A further challenge is around kennel space. Given the ban, demand for kennel space is increasing, spaces are becoming limited, and costs are increasing. These pressures are being exacerbated by the difficulties some councils are experiencing when trying to get a Dog Legislation Officer (DLO) to type an XLB – this means that some suspected XLBs are being held for longer than the statutory seven days before being destroyed, which is further impacting on kennel space.
22. We have also heard from some councils who have said their local kennels are refusing to accept suspected XLBs for insurance reasons. DEFRA are aware of these challenges.

## Proposal

23. The LGA has written to the Secretary of State at DEFRA and the Policing Minister to ask for their help in asking the police/ the NPCC to reconsider the decision to withdraw typing support, or at least reinstate support in the short term to ensure we do not run out of kennel space, while a longer term solution is sought. The letter can be viewed in appendix 1. We are waiting on a response to the letter.
24. Officers understand that the DEFRA guidance referred to above, which states councils must get DLOs to type dogs, is being re-written to make it clear that councils can type and then destroy dogs if required. Although we initially requested this clarification, officers have now made it clear to DEFRA that this will not resolve the issue and that point has been repeated in our letter.
25. Officers are also speaking to DEFRA officials to scope out the potential of councils paying police DLOs to type dogs where they cannot do so themselves to ease the pressure on a shortage of kennel space, and to ensure that stray dogs, who may be dangerous, are collected swiftly to reduce the risk they may cause to the public. Councils' ability to pay police for this service will depend on new burdens funding being issued to the correct councils.
26. LGA officers have asked DEFRA to bring the police and councils together to establish an agreed way of working but this has yet to happen.
27. At present officers' recommendation is that the LGA advise DEFRA to establish whether the NPCC will amend its advice to police forces so that they will resume typing services for stray dogs in return for payment from councils once DEFRA supplies the funds. This may mean that some forces currently typing for no fee demand payment, but it seems the most preferable way to mitigate the risk that a dog fails to be dealt with and causes injury.

### **Implications for Wales**

28. The ban applies equally to England and Wales and the powers and the duties of councils are the same. The LGA has been working closely with Welsh councils and the Welsh LGA.

### **Financial Implications**

29. None for the LGA.

### **Equalities implications**

30. N/A

### **Next steps**

31. Members are asked to note the update and share their views on this issue. Officers will then take forward as directed.