

## **An Animals' Ombudswoman**

### **P1 Flaw**

The DDA is a poor law that was filled with flaws from 25 July 1991, the day it was introduced. Despite many amendments over the years up to and including the ABCPA in 2014, the problems with the DDA remain. Despite those attempts to rectify the faults they remain because they are inherent in the Act, then and now. The reason is not unlike a house that is badly-built by a bodger. Then no matter how much money and time is invested in trying to repair it, the house is never going to be as good as it could and should and would be if it was initially properly built. The problem can only be solved by razing it to the ground. Similarly the fact is the DDA is not fit for its purpose. It is not simply past its prime because it never was fit for its purpose. The piecemeal legislative process of amendments and minor repeals has failed. Now is the time to forget the false political compromise-upon-compromise. The only answer is to repeal the DDA and replace it with a new statute. To that end the new statute should incorporate the advances in animal welfare we have since learned and the ethic of animal rights. Hence in that respect English Law must lead rather than ignore or be forced to follow the advances. The DDA represents a contagion of bad cases where far too many dogs have been sacrificed by bad decisions forged on the anvil of a bad law.

### **P2 Ch-ch-ch-changes**

The quintessential question that must be asked is whether the purpose of the DDA is to control the dog or the owner? At present it concentrates on the dog and resolves any tricky issue by ordering the dog's destruction. That is why in aim and approach the DDA is anachronistic. Conversely the control should be fixed firmly on the owner as he is the one who controls his dog. Consequently the onus should rest with him as the conduct of his dog is his failure as the owner.

As now is the time for change these are some of the points that should beat at the heart of a new Act:-

1. *Licence*: A licence should be introduced so every dog owner has to pay a fee unless they are exempt from doing so on the grounds of exceptional hardship or special circumstances or otherwise. Part of the problem is there are just too many pets which are numerically outweighed by irresponsible owners. The cost of a dog licence, fixed in 1878, was 37½ pence. Despite opposition from animal welfare groups and the veterinary profession, it was abolished in 1988 as it was supposedly too costly to administer. By that act the politicians pitched the premium on a dog's value at zero. The present position promotes an attitude whereby dogs are considered as things not living creatures, magnified by the 'Christmas puppy' later dumped as detritus along with the discarded wrapping paper.

2. *Fee*: The fees gained from the licence should be used exclusively to directly and indirectly promote and protect dogs that have been abandoned or abused or need medical treatment. As there are approximately 10 million dogs in the United Kingdom, a Fee of £200 per year would raise annual revenue of £2,000,000,000. That would also pay for the services of an Animals' Defender. [See **P12**]

3. *Offence*: It should be an offence to fail to obtain a licence with a sentence of imprisonment and/or a fine, including on-the-spot fines. The revenue raised should be used to run education classes for convicted defendants or those who are cautioned. That would be consistent with the sentencing policy of changing the attitude of owners and the principle of rehabilitation.

4. *Breed*: The breed specific legislation should be replaced with new legislation being applied to all dogs. The present position engenders prejudice by condemning a dog to death based purely on his appearance. Breed does not determine a dog's temperament. So to decide his fate on his build and face is discrimination no less than if it was a question of race.

5. *Muzzled*: While even a mild-mannered 'toy' dog could bite a child, it is obvious that some dogs by virtue of their size and strength could cause serious injury if they attacked a person, whether it is an adult or a child. Therefore all designated dogs of a particular size and strength should be muzzled and on a lead while in a public place or an enclosed private place where the public can attend. In Ireland, where a licence is in force, there are additional 'rules' relating to 'certain breeds of dog' which have to be (a) wearing a collar with the owner's details at all times and (b) muzzled when they are in a public place and (c) kept on a lead by a person over 16 years old who is 'capable of controlling'. Besides three of the four 'prohibited' dogs under the DDA, the Irish Control of Dogs Regulations 1998 include a Bandog, a German Shepherd and a Rhodesian Ridgeback.

6. *Training*: There should be training classes which are the equivalent of a 'caution' for owners and dogs, rather than being put through the court process, except as a last resort. They should be charged with transforming people into responsible owners who comply with the Index and the law relating to their dogs.

7. *Sentence*: The education and training classes should also be available as part of the sentencing options, especially now with the ABCPA that more cases will be transferred to the Crown Court. Equally there will be likely to be more contested trials. As part of the new sentencing policy the sentences should be increased proportionately so in a grave case where the SC previously recommended 18 months' imprisonment, it should now be 10½ years. It should be higher if there is no discount for a plea of guilty. The sentences should reflect both the seriousness of the offence and be part of the principle of deterrence. [See **L1**; **L11**]