

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: 26 weeks' custody

Offence range: Discharge – 26 weeks' custody

STEP ONE

Determining the offence category

The court should determine the offence category using the table below.

Category 1	Greater harm and higher culpability
Category 2	Greater harm or higher culpability
Category 3	Neither greater harm nor higher culpability

The court should determine culpability and harm caused or intended, by reference **only** to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

Factors indicating greater harm

Injury to person
Injury to another animal(s)

Factors indicating 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

STEP TWO

Starting point and category range

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

Offence Category	Starting Point (<i>Applicable to all offenders</i>)	Category Range (<i>Applicable to all offenders</i>)
Category 1	Medium level community order	Band C fine – 26 weeks' custody*
Category 2	Band C fine	Band A fine – Medium level community order
Category 3	Band A fine	Discharge – Band B fine

* Imprisonment is not available if the provisions of s.1(7) Dangerous Dogs Act 1991 apply

The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

When sentencing **category 1** offences, the court should also consider the custody threshold as follows:

- has the custody threshold been passed?
- if so, is it unavoidable that a custodial sentence be imposed?
- if so, can that sentence be suspended?

When sentencing **category 1 or 2** offences, the court should also consider the community order threshold as follows:

- has the community order threshold been passed?

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 include:

Presence of children or others who are vulnerable because of personal circumstances

Ill treatment or failure to ensure welfare needs of dog, where not charged separately

Established evidence of community impact

Failure to comply with current court orders

Offence committed whilst on licence

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

Remorse

Good character and/or exemplary conduct

Evidence of responsible ownership

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Lapse of time since the offence where this is not the fault of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

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

Ancillary orders

In all cases, the court should consider whether to make any ancillary orders.

Ancillary orders available include:

Disqualification from having custody of a dog

The court **may** disqualify the offender from having custody of a dog.¹³ 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

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.¹⁴

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

- danger to the public – what is the potential risk of harm posed by the dog?
- behaviour of the dog – have there been any warnings or incidents involving the dog? and
- owner's character – is the owner a fit and proper person to own this particular dog?

If the court does not make a destruction order, the court **shall** make a contingent destruction order providing that unless the dog is exempted from the prohibition within two months it shall be destroyed.¹⁵ Statutory procedures and conditions automatically apply to exempted dogs and no other conditions can be imposed.¹⁶ Where the offender is the owner of the dog, it would not normally be appropriate to make a contingent destruction order in conjunction with a disqualification order.

Furthermore, the court **must not** transfer ownership of the dog to another.¹⁷

Where the court makes a destruction order, it **may** order the offender to pay what it determines to be the reasonable expenses of destroying the dog and of keeping it pending its destruction.¹⁸

STEP SIX

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 offending behaviour.

¹³ s.4(1)(b) Dangerous Dogs Act 1991

¹⁴ s.4(1)(a) *ibid*

¹⁵ s.4A(1) *ibid*

¹⁶ The Dangerous Dogs Compensation and Exemption Schemes Order 1991 SI No. 1744 (as amended by The Dangerous Dogs Compensation and Exemption Schemes (Amendment) Order 1991 SI No. 2297)

¹⁷ s.1(2)(b) Dangerous Dogs Act 1991

¹⁸ s.4(4)(b) *ibid*