

# Dogs and the Criminology of Control

A case study of contemporary  
policy making in England and Wales

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2019



## Abstract

This thesis explores the nexus of criminology and public policy analysis in order to better understand and explain the policy making processes in relation to the control of dogs in society. It does this through an empirical study of policy responses to the phenomenon of 'status' and 'dangerous' dogs in England and Wales, primarily during the past three decades.

An influential body of work has suggested an expanding trend in punitiveness within Western societies over the past few decades. At the forefront of sociological thinking in this field is David Garland's *Culture of Control* that theorises that the advent of late-modernity, with its adjusted macro-social conditions, has ushered in this new approach to law and order. As a theoretical scaffold, grand theories such as these can be useful, but this case study also seeks to go further into the empirical particulars of policy making in order to understand how a culture of control unfolds in relation to the lesser-explored arena of dangerous dogs.

The methodological elements employed were two-fold and included both an extensive documentary analysis (including academic work, policy documents and legislation) recounted via a history of the present, and a thematic analysis produced from the empirical data of key policy actors' accounts (involving a programme of semi-structured elite interviews, n=25) gained via my unique insider-researcher access as a professional member of the dog policy network. Findings suggest that widespread anxieties regarding the threat to public safety posed by dangerous dogs, have been addressed via draconian legislative measures, most notably breed specific legislation (BSL) designed to manipulate and control the dog population. Evidence that BSL and other control measures are not working, and that substitute harms are befalling dog owners and their pets, have been obscured by competition and 'white noise' within a chaotic policy network. Public debate, fuelled by high profile and disproportionate media stories, has intrinsically linked dangerous dogs with other risky, criminal and anti-social behaviours. This 'othering', coupled with expressive, symbolic and politicised policy making, has resulted in an overly-punitive culture of control for dogs and their owners in society.

## Acknowledgements

There are many people to thank for their participation in, and support of, this research.

I am so very grateful for all the opportunities and assistance I have had as a student of the School of Social Sciences at Cardiff University, but most importantly I must thank Professors Gordon Hughes and Trevor Jones for shepherding me through this seemingly mammoth task. I consider myself exceptionally lucky to have had two of the kindest, wittiest and knowledgeable supervisors there are. Your patience, encouragement and faith in me has been crucial to my ability to stay the distance. I will miss your guidance, not to mention mulling over the state of British politics and chatting about our dogs. I also want to thank my progress reviewer Professor Tom Hall whose challenges I initially railed against but then came to value so much. I think the turning point for me truly came when I told you I feared falling out of love with my subject. You counselled me that I would need to loathe it in order to let go and be done, but that I could look forward to loving it again one day soon.

To my firm and fast study-buddy Dr Victoria Silverwood. We met on the criminological outer limits all those years ago and you've been a stalwart friend ever since. I've enjoyed every moment we've shared in both the academic and non-academic spheres, with special mention for our many international conference trips, and so I can only hope there is a way we can continue to mix the two. Thank you for your never ending support (JFD!!); for never leaving me behind; for never making me feel a part timer; and most of all for keeping me sane.

I am indebted to the RSPCA for part-funding my studies and particular mention goes to David Bowles and Brian Dalton for supporting my original application. In these latter years my thanks go to my boss Chris Wainwright for tolerating my constant complaining and most of all to my very wise friend Dr Sam Gaines. I would advise anyone contemplating doctoral studies to lean on someone who has walked the path before, so that they might reassure you and calm your mind, just as Sam has done for me on countless occasions. Special mention also goes to those colleagues who gave their insights and time most generously. I am also so very grateful to my team, more than a dozen of you over these years have tolerated my absences, reminded me of the value of this work, and teased me mercilessly on my work/life balance just when I needed it.

Of course this study would not have been possible without the participants, all of whom were so very supportive from the outset. Your openness and enthusiasm for scrutiny of the policy process was inspiring. Some of you have now moved on to new roles or chapters in life, with one notable exception who passed away far too young. I so wish we had had more time to talk, there was so much more to learn from you. I am profoundly aware that had you lived you would have pursued a PhD. Wherever you are, I hope this thesis does you proud and please forgive every time I have moaned and been ungrateful for this opportunity.

Dad, I know my academic pursuits baffle you but nevertheless you have given your unending support for my pursuit of knowledge. We may not talk about the details all that much and yet I've always known you are fundamentally very proud of me. When you, Mum and I dreamt of me going to University for my undergraduate studies I never thought I'd be privileged to study for two further degrees. I have also worked hard to make Mum proud, even if she is no longer here to see it. I think that is what she would have wished for; but I know she would tell me to enjoy it too.

Above all others I have only made it through to the other side with the support of my wonderful, kind and enduring husband Russ. Whilst my absences may have, at times, given you just the excuse needed to play a computer game or, in more recent years, time to work all hours on your own business (of which I am exceedingly proud by the way), it is your unstinting support and belief in me that has often been the only thing that has carried me through. I'm not known as a quitter but this thesis may well have got the better of me on one or two occasions if it weren't for you. I can never repay you. Here's to catching up on all the holidays.

One final word to the greatest ball of fluff; my four-legged and doting friend; my office companion, my foot warmer; my portable Hoover; my guilt-inducer; my Doozer. A light went out in the world for me when you drew your last breath. For that to happen before I could finish this work and take you on those promised extra walks on the beach and have those struggle-cuddles in front of the fire, will stay with me forever; but then so will the memories of your unconditional love. I adore all dogs but you were not all, you were *the* dog.

For Doozer, and all the lesser dogs.



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## List of Abbreviations

<b>Abbreviation</b>	<b>Explanation</b>
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ACF	Advocacy Coalition Framework
ASB	Anti Social Behaviour
ASBCP	Anti-Social Behaviour Crime and Policing Act 2014
ASPCA	American Society for the Prevention of Cruelty to Animals
BRTF	Better Regulation Task Force
BSL	Breed Specific Legislation
CPN	Community Protection Notices
Defra	Department for Environment, Food & Rural Affairs, UK Government
DDA	Dangerous Dogs Act (1991) (as amended)
DLO	Dog Legislation Officer (a police officer with additional training and accreditation)
Efra	Environment, Food and Rural Affairs committee, House of Commons
IES	Interim Exemption Scheme, also referred to as 'doggie bail'
MSA	Multiple Streams Analysis
NGO	Non-Governmental Organisation
NPCC	National Police Chiefs' Council
PETA	People for the Ethical Treatment of Animals
PBT	Pit Bull Terrier
PNA	Policy Network Analysis
PSPO	Public Spaces Protection Orders
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SBT	Staffordshire Bull Terrier, also 'Staffies'
s1	Section 1 (dog) of the Dangerous Dogs Act 1991



# PART I

## Introduction and theoretical framework



# Chapter One

## Introduction

This study explores the nexus of criminology public policy analysis in order to better understand and explain the policy making processes in relation to the control of dogs in society. It does this through an empirical study of policy responses to the phenomenon of 'status' and 'dangerous' dogs in England and Wales, primarily during the past three decades.

The sociological sphere has sought to develop explanations for what is perceived to be a growth in overly-punitive measures within Western societies over the past few decades. David Garland's *Culture of Control* is perhaps the most influential of those theories and posits that the arrival of late-modernity brought with it a new response to law and order. This thesis seeks to apply Garland's theory to the dog control policy sphere but will also delve deeper into the empirical particulars of policy making in order to understand how a culture of control unfolds in relation to dangerous dogs. Kingdon's (1984) Multiple Streams Analysis has been utilised as an organising framework in order to delineate and examine the component parts of policy making.

Via the triangulation of both an extensive documentary analysis and a thematic analysis of the empirical data obtained from a series of elite semi-structured interviews, findings suggest that widespread anxieties regarding the threat to public safety posed by dangerous dogs, have been addressed via overly-punitive legislative measures. This is most notably seen in section 1 of the Dangerous Dogs Act (1991) which introduced breed specific legislation (BSL) as a means of manipulating and controlling the dog population. Evidence also suggests that BSL and other control measures are not working, with dog bites, not least of all, continuing to rise. In addition other, substitute, harms are befalling dog owners and their pets, with dogs which look most similar to those that are banned, also at risk. This evidence has, however, been obscured by the competition and 'white noise' of a rather chaotic policy network. Meanwhile, public debate, fuelled by high profile and disproportionate media stories, has intrinsically linked dangerous dogs with other risky, criminal and anti-social behaviours.

The following chapter is divided into two sections. The first section contains a brief introduction to my professional role as a member of the policy community that is the subject of this thesis. This is in order to provide the background to my own orientation as a practitioner within that policy sphere and how I came to study this subject. The second section of the chapter provides an outline of the structure of the thesis.

## 1.1 An insider-researcher role

It is important from the outset that I present an explanation and brief history of my own dual role as both researcher and 'insider' within the policy community central to this thesis. For over twenty years I have been the principal lobbyist in Wales for the Royal Society for the Prevention of Cruelty to Animals (RSPCA), which, for the last five years, has been at senior staff level. Until 2011, and the devolution of animal welfare in its entirety, dog control policy had been mostly a peripheral issue in Wales although I had worked on tangential policies both in Wales and Westminster for many of the preceding years and was already very familiar with both the legislation and the key policy actors. At this same time, having just completed a Masters in Criminology I embarked upon a research project, funded by the RSPCA, with Professor Gordon Hughes<sup>1</sup> and Dr Jenny Maher<sup>2</sup>, to investigate the motivations of young people in owning and using dogs in harmful and criminal behaviour in the UK (Hughes *et al.* 2011). Inspired by the subject matter and a desire to understand the policy process that had led to, or was related to, the phenomenon, I applied to pursue doctoral studies on the matter.

From the outset I recognised the privileged access to the policy network my professional role afforded me, and to the benefit of my research. Of course it also had the ability of dovetailing very neatly with my RSPCA role if I could successfully integrate the two, whilst ensuring the necessary safeguards were implemented so as not to compromise the ethical integrity of my research. Since 2008 the RSPCA had been actively working on the emergence of a 'status' dog phenomenon and I was part of a wider team who regarded social scientific research as crucial to the development of our organisational policies and strategies for dealing with the associated animal welfare issues. I was therefore grateful the case for research was accepted and the RSPCA agreed to part fund my studies.

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<sup>1</sup> Cardiff University.

<sup>2</sup> University of South Wales.

It is important to note that at the time that I embarked upon this research, neither the UK nor Welsh governments were interested in reviewing any legislation concerning dog control or engaging in any debates regarding policy interventions. As such, this appeared to present a policy environment existing in a form of stasis, and therefore conducive to being investigated and analysed, especially over a longer period, to accommodate my part time studies. However this position changed considerably when a year or so later the Welsh Government announced their intention to introduce a Dog Control Bill and then appointed me to their various associated pre-legislative working groups. This appointment was of course entirely due to my role within the RSPCA however my research focus has provided an interesting additional dimension at times for policy makers.

My professional role, and in particular the position I held in relation to the Dog Control Bill, provided me with a fortuitous position in 2013 when the UK Government began to quietly dismantle the Welsh Government's programme in favour of its own legislation designed to encompass both England and Wales. The Home Office had announced plans to introduce the Anti-social Behaviour, Crime and Policing Bill to, amongst other things, reduce the number of civil orders and enable various changes for status and dangerous dogs. A very private battle ensued between the UK and Welsh governments (to which I am grateful to have been uniquely privy through both my work with government officials and my close contact with Ministers), regarding purview over some of these matters including the elements pertaining to dogs. The Welsh Government Bill was withdrawn<sup>3</sup> with little fuss and in its place the Minister asked the RSPCA to conduct a study on responsible dog ownership in Wales for which I was appointed chair (RSPCA 2016a). The timing of this project was extremely beneficial to my research as it provided me - given we were taking both verbal and written evidence - with the opportunities to observe many of the key policy actors involved with dog control discussing the key events in the path of policy interventions, and to legitimately question them further on such issues given this was in the public arena. Plus, as other subject matters were off my priority list at the

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<sup>3</sup> The Government of Wales Act 2006 allocates animal welfare and aspects of community safety to the Welsh Government and so the disagreement then became a debate as to whether the use of dogs in harmful and criminal behaviour was strictly animal welfare or not. The devolution settlement for Wales is complex and as such these matters can be wide open to legal opinion and interpretation. Successive Ministers in Wales deliberated, negotiated and battled with their Westminster counterparts on these matters, but ultimately factors led to the Welsh Government backing down. It is important to note that at this time the Assembly's primary law making powers were very new and yet the UK Government had already taken the Welsh Government to the Supreme Court over matters where it felt Wales did not have purview. The standoff was eventually broken by the Welsh Government who, despite winning the first two cases, did not want a more risky third, high-profile, court battle over an issue that ultimately the UK Government intended to deal with in a forthcoming Bill.

RSPCA, my day-to-day role and my research priorities were now even more aligned, and on a daily basis, for an extended period of time.

Around 2014 I also assumed the role of principal liaison with the police across England and Wales for the RSPCA. Whilst most operational matters are normally executed (or, where there are problems, resolved) at a local level, the policy level discussions cross the entire range of enforcement in relation to animal welfare and control. This brings me into contact with the chief officers of several of the 43 territorial forces, as well as the National Police Chiefs' Council (NPCC) lead for animal welfare. Despite the breadth of issues for both the NPCC and the RSPCA, the portfolio is dominated by dangerous dog and dog control issues and as such directly related to my research. I am conscious that this range of lived experiences through the course of my RSPCA duties, firmly locates me within what is otherwise a relatively small central core of actors in the policy network, therefore characterising my work as an insider-researcher. I return to the issue of this dual role within Chapter Six - Methodology, where the implications of conducting such research, including the ethical dimensions, are considered.

## 1.2 Framing the field

The aim of the research study is:

*to explore the nature and dynamics of contemporary policy making in crime control via a detailed case study of the emergence and re-shaping of 'dangerous' dog regulations in England and Wales.*

Although some historical contexts are drawn upon where relevant, the time period selected is predominately from approximately 1990 until 2016. The territorial context, namely that of England and Wales, was determined by the legislative and political environment, as well as the uniformity of enforcement. Although animal welfare has been devolved to Wales (in part) since 2006<sup>4</sup>, the control of dogs largely remains the jurisdiction of the UK Parliament. This was illustrated in 2014 when the Welsh

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<sup>4</sup> the Animal Welfare Act (2006) empowered the National Assembly for Wales as the national authority for implementing the Act and bringing forth secondary legislation. Further devolution in 2011 transferred animal welfare as a subject area, excluding hunting, animals used in experiments and aspects of transportation governed by EU regulation - although the latter is expected to become domestic legislation following the UK's exit of the EU.

Government was unable to progress its own Dog Control Bill, as detailed above. As the statute central to this thesis, the Dangerous Dogs Act 1991 (DDA) was passed into law to be applicable in Scotland also, however the Scottish Government have since passed their own dog control measures. Whilst aspects of the DDA remain in force, the subject matter is devolved and, as such, the purview of the Scottish Government. Many of the participants of this study had only an England and Wales focus to their work which, coupled with the fact policing also follows the same boundaries, there was a natural jurisdiction offered to explore policy making within.

The research set out to address three central objectives which aimed to illuminate how a culture of control may be related to the policy making processes present in relation to dog control:

- To describe and analyse the dynamics and forms of 'problem definition' in relation to 'status' and 'dangerous dogs' in England and Wales
- To examine the various policy 'solutions' that emerged in relation to these 'problems'
- To assess critically the political processes via which particular policy responses were challenged and resisted

Once the data from a series of elite interviews had been collected, analysed and assembled within an organising framework it became clear additional data through extensive documentary analysis would greatly benefit this study. As such two alternative methods have been employed however these have not been amalgamated in one series of findings so as not to lose their distinctly different characteristics. The documentary analysis, presented first within this thesis, provides a chronological and precise textual account of the 'history of the present' in the vein of Timothy Garton Ash (1999) in an attempt to reveal a rounded and thorough account of policy making in relation to dog control during the period in focus. The third part of the thesis containing empirical data collected from elite interviews is intended to provide the lived experience of many of the key actors within the policy community, some of whom have been present during the whole three decades under focus.

## Outline of the thesis

This thesis is divided into four parts. The first has set out the introduction to this research and to my role as a policy practitioner, and will go on to explore the theoretical framework for this thesis. The second part contains an extensive documentary analysis of the dog control policy arena, along with an explanation of the methodology employed. The third contains the empirical findings of a series of elite interviews with dog control policy actors, and the final part draws the first three together to present a final discussion and the conclusions of this study.

### **Part I - Introduction and theoretical framework**

*Chapter Two* explores the arguments for situating animal abuse within criminology before moving to a discussion surrounding the theoretical framework of a *Culture of Control* (Garland 2001), with both providing the context for the study of the dog control policy sphere. The final section of the chapter considers the study of policy making itself, specifically the models of the policy process and primarily Kingdon's (1984) 'Multiple Steams' analysis - the organising framework utilised in Part III of this study. The subsection progresses to consider studies of policy process methods that explore other areas of animal related policy making which, although only an emerging field, offers some insights on how other theories have been utilised to illuminate the process. The final section engages specifically with the small amount of literature available that seeks to understand crime control policy making in relation to dogs and their owners.

### **Part II - Policy context**

*Chapter Three* discusses the methods employed within the documentary analysis of the policy making processes at work, contained in the three chapters of Part II. There then follows an analysis of the raft of policy and legislative measures in force concerning dog control across England and Wales. The final subsection provides a brief guide to the key stakeholders of the dog control policy community.

*Chapters Four and Five* present the findings of the documentary analysis, the first provides a detailed historical account of dog control and the response to a changing relationship

between society and dogs. The second provides an account of the politicisation of dog control and how man's relationship with its most favoured animal companion became the domain of the nation's politicians. These chapters are also organised so as to contribute to the key objectives of describing the problem definition; the policy solutions and the political processes at work.

### **Part III - Elite insights into policy formation**

*Chapter Six* discusses the methodological approach employed in the data collection and analysis for the elite interviews. The chapter outlines the aim and objectives of the research strategy as well as the utilisation of Kingdon's (1984) 'Multiple Streams' model to frame and organise the empirical findings. The ethical and political dimensions of conducting research in this area, including the insider-researcher role, is also considered and reflected upon.

*Chapters Seven, Eight and Nine* present the substantive empirical findings of the thesis with each chapter based around the organising framework from Multiple Streams, namely The Problem Stream, The Policy Stream and The Political Stream.

### **Part IV - Discussion and conclusions**

*Chapter Ten* concludes the thesis by synergising and discussing the findings of both the documentary analysis and the elite interviews. The main section is organised around the three objectives of this study in order to address the central aim of the research and illuminate the policymaking processes that have led to the dog control complex that exists in England and Wales today. I consider the recent policy developments in relation to the statute central to this research - the Dangerous Dogs Act 1991. Occurring in the final months of my work on this thesis and after all data collection had concluded of course, it was not possible to incorporate these developments within the main body of the study without causing significant delays and I am conscious they have occurred long after the elite interviews were finished, presenting a potential disjunct with the data. I have nevertheless kept abreast of developments, not least of all as part of my insider-researcher role and in an attempt to explore any opportunities to present this research. And in a final

section I also provide reflections upon the methodological approach of this research, calling attention to aspects which could be improved or built upon further:

## **Chapter Two**

### **Towards a criminology of dog control**

#### 2.1 Introduction

In order to better understand the policy processes in relation to dog control, this chapter will first seek to situate this subject matter within two broader fields, the first being the criminology of animal abuse. This will be done via a criminological analysis of the literature surrounding this nascent field in order to determine what represents harm to non-human animals and to engage with the research around what constitutes an acceptable way to treat animals in society. A consideration of the wider framework of beliefs and understanding of animal behaviours, and the interaction with their human-animal owners, such as the aetiology of dog attacks, has value for insomuch as it later informs part of the evidence utilised within the policy process. The second subsection presents an analysis of crime control through a focus on the institutional and cultural context within which the control of dogs and the regulation of their human owners exists. A third and final section presents an empirical analysis of crime policy making (with a particular focus on Kingdon's [1984] Multiple Streams Analysis [MSA] utilised as an organising framework for the findings in later chapters), and an exploration of the small body of work which has sought to explain policy making in relation to animals.

#### 2.2 Situating animal abuse within criminology

Although this thesis is not a criminological study of animal abuse, the control of dogs as a policy issue has both public safety and animal welfare at its core and its significance bears explanation. Certainly how dogs are treated in society engenders strong emotions amongst the public and in turn can draw political attention. The complex and extensive legislative landscape explored in Chapter Three also bears testament to the interrelated nature of dog control and dog welfare.

Often the dogs subject to control are the 'victims' as their welfare can suffer as a result of the controls, or indeed controls can be imposed when a dog is deemed a risk whereas in fact that risk may have only been generated by the poor standards of welfare that dog has

experienced since birth. As will be discussed in later chapters, the specific dogs targeted by the Dangerous Dog Act 1991 (DDA) are often equated to inanimate weapons such as knives and guns, however animals are sentient<sup>5</sup> beings whose welfare is protected in law and as such this is a vital consideration in any policy process designed to address their behaviour and limit their numbers. As will be seen, how these dogs are bred, socialised, used and abused are key aspects of evidence utilised by animal welfare Non-Governmental Organisations (NGOs) and campaigners who seek repeal of the legislation. Likewise certain types of dog, identified as dangerous to the human population, remain a target of state control, and later chapters will explore the evidence for both. If the complexities of human-animal interactions are not fully understood, the policy process may be vulnerable to conventional wisdom. This section of the chapter will examine the nature of harms to those dogs identified as 'risky' and subject to additional controls, but before that it is worth noting the position of the wider field related to animals in criminology and indeed what constitutes harm to non-humans.

### What is animal abuse?

Until quite recently there has been a paucity of social scientific research into crimes of animal abuse (Beirne 1995: 1), despite the fact that cruelty to animals has been on the statute books in some substantial form or other in the UK for nearly 200 years. Bryant and Siznek noted that 'no area of human-animal behavior is more neglected than animal-related crime and deviance' (1993: 32). But what can be considered harm to animals?:

Animals are considered as property only: to destroy or to abuse them, from malice to the proprietor, or with an intention injurious to his interest in them, is criminal; but the animals themselves are without protection; the law regards them not substantively; they have no rights! - Lord Thomas Erskine (Parl Deb Vol 14, col 554 15 May 1809)

This passionate protestation was uttered during the House of Lords debate on a Bill from longtime supporter of animal protection, Lord Erskine, reflecting a growing uneasiness in Georgian society with respect to the status and suffering of animals. Nevertheless his 'Cruelty to Animals Bill', and a later incarnation, failed, although they laid the foundations for legislation that would protect animals for the first time in the UK, finally introduced in 1822.

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<sup>5</sup> The sentience of animals is recognised in EU legislation. The UK and Welsh governments have committed to enshrining this principle in domestic legislation following the UK's exit from the EU.

Two years following the introduction of that legislation, and its perceived inability to bring about the changes it was intended to, and in a world first, the Society for the Prevention of Cruelty to Animals<sup>6</sup> was established with the specific purpose of enforcing the law and protecting animals. Historian Brian Harrison (1967) provides context to understand the RSPCA's provenance, charting the rise of such philanthropic organisations through religious support and means, 'by encouraging kindness to animals, the Society [RSPCA] hoped eventually to civilize manners, and hence to make the masses more receptive to religious instruction' (*Ibid.* 100), reminiscent, of course, to Elias's 'civilising process' thesis (1994). Kathryn Shevelow (2008) skilfully retells the story of the origins of the RSPCA, which led to the rise of the UK's animal protection movement, as a cultural narrative that explores the change in attitudes towards animals and the role of the movement in influencing policy. Hughes and Lawson (2011) provide further analysis of the contemporary RSPCA - the primary enforcer of animal welfare laws in England and Wales - as an agent of control and an 'institutional player' caught up in a 'morality war' as to what constitutes the most suitable human and non-human relationship. It was these early beginnings of both law and enforcer which produced the first standard of what society expected in regard to the treatment of animals.

One of the most commonly used definitions of animal cruelty devised by Ascione in his study of children committing acts of animal cruelty, states it is 'socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal' (1993: 228) however this is broad and open to interpretation given what may be considered as socially unacceptable in different countries and cultures. Perhaps in recognition of this fact, Vermeulen and Odendaal (1993: 251) suggest a more extensive typology of companion animal abuse that assists in detailing the prominent acts involved in the physical and mental abuse of animals. It consists of a prescriptive list of physical and mental acts, such as drowning, suffocating and instilling fear. However by narrowing definitions to mere illegal harms, we risk desensitising and legitimising other legal harms.

Agnew (1998: 179-180) argues the 'prevailing beliefs' surrounding the necessary uses and abuses of animals should be rejected, or else risk having 'political and social actors with the greatest power determine our definition of abuse'. In this vein he addresses what he sees to be the inherent inadequacies of typologies that ignore the suffering of animals within

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<sup>6</sup> Royal patronage and the associated moniker was later bestowed by Queen Victoria in 1840.

farming, sporting, research and other commercial or macro level practices, making the case for the widest possible definition. Cazaux (1999: 113) too notes the deficiencies with definitions that, amongst other defects, only pertain to pet animals, and goes on to propose that this is due to the status of animals, and therefore protection, in law (*Ibid.* 117). Conscious perhaps of the tendency of earlier definitions of animal abuse which drew criticisms for engaging with legal definitions or what is regarded as socially acceptable, a later definition of animal abuse, which appears to attempt to navigate these issues of practices, scale and philosophical difficulties, is offered by Beirne and Messerschmidt (2006: 152):

[A]ny act that contributes to the pain, suffering or death of an animal or that otherwise threatens its welfare. Animal abuse may be physical, psychological, or emotional, may involve active maltreatment or passive neglect or omission, and may be direct, or indirect, intentional or unintentional. Some forms of animal abuse are categorised as socially acceptable and therefore unlikely to be recognised as abuse by mainstream society.

This thesis nevertheless must engage with much of the legal definition of animal harm and as such makes reference to the Animal Welfare Act (2006), a relatively recent consolidation and modernisation of legislation dating back a hundred years, which applies to England and Wales (Chapter Three contains further information for a more detailed analysis of the Act. Also, see Sweeney 2013). Nurse (2016) argues that because obligations in relation to animals' needs are placed on owners, the Act introduces a version of legal rights for animals. I would counter<sup>7</sup> that is merely a semblance and in fact the Act was constructed in such a way as to avoid a specific definition of cruelty, instead defining the explicit duties of care the responsible person has for their animal, and the circumstances whereby an offence is committed. The animal has no right of redress, and the language construction of the offences is one in keeping with the welfarist/protectionist ideology, that as animals are sentient beings it is the obligation of humans to ensure no unnecessary harm comes to them. Through the Act animals do not gain personhood, nor does it change the fundamental status of animals in law as one of property. In addition only certain categories of animal are protected by this statute, for instance free-roaming and naturally occurring wild animals are not, but it does cover the definition of animal fighting, something that is considered, along with additional statutes specifically concerning the control of dogs, in a later chapter.

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<sup>7</sup> As part of the RSPCA's public affairs team during this period I was privy to much of the construction of the draft legislation which was executed in close collaboration with Defra officials.

Attempts to define animal cruelty can be linked to the controversial and conflicting ideologies underpinning these definitions (for an extensive discussion see Francione & Garner 2010). Pierpoint and Maher (2010: 481) acknowledge the influence of the position of animal rights and animal welfare have upon definitions of cruelty, but contend there is a third and distinctly different position, that of 'the animal as a commodity', referencing the Kantian view that as animals hold no innate value, they cannot be abused. In the case of status and dangerous dogs, where such dogs, it could be believed, are kept purely as a commodity, this position may appear to hold some value for exploring further; however studies have shown that in fact there are far more complex reasons for the ownership of such dogs, often involving deep owner-dog bonds (Hughes, Maher & Lawson 2011).

The origins of the call to study animal abuse within the criminological context can be traced to the entreaties of Clifton Bryant (1979: 412), who believed that what he termed as 'zoological crime' was probably 'among the most ubiquitous of any social deviancy'. The study of all forms of animal abuse is now often housed under the umbrella of green criminology but this can be an ill-fitting designation given that particular field's primary concern for crimes against nature. No longer competing against just humans for the status of victim, animals would also now be equated to flora, despite being sentient beings, if green criminology was the only field to have regard for crimes involving animals. Meanwhile the plight of companion animals, animals in sport, experiments, food and entertainment remain largely ignored. In studies such as 'Crimes Against Nature', White (2008: 20) considers animals only in the context of 'species justice' and categorises it as the 'third strand of green criminology' and yet barely revisits the issue elsewhere in the text. Beirne (2007) remarks upon the comparable origins, and thus similarities, of each movement, as well as their ethical foundations, proceeding to set out the impediments to integrating the two fields of environmental and animal issues, leading him to question the notion that green criminology can subsume animal abuse when it essentially proposes researching the area within a vacuum that ignores species and rights-based argument.

The predominance of non-animal environmental concerns in green criminology is pronounced (see series by Routledge 2018). Crimes of animal use and abuse, may well benefit its own, separate category, however, as has been argued, green criminology is a broad perspective, not a theory, and the study of harm of non-humans and the environment share many common and sympathetic features (Nurse 2013: 1-4). Given then the

significant endeavours there were in establishing, within the mainstream, the green criminological perspective, perhaps more effort is needed from researchers to ensure animal harm is not suppressed but developed much further (see Taylor & Fitzgerald 2018). One way in which this may be addressed is through positioning alternative and broader studies, such as this one, purposefully (but not solely) within the green criminological category in order to push out any boundaries and augment the field to allow for research that includes - perhaps not always exclusively - the interests of animals.

### Linking animal harm with interpersonal violence

'He who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals' (Immanuel Kant 1979: 240).

Despite the dearth of mainstream academic literature, animals undoubtedly occupy a privileged position in society, with press and social media reactions portraying a very low tolerance for most forms of harm to animals. This is further evidenced through the widespread popularity of campaigns to introduce more legislation restricting their use or prohibiting certain activities, as well as the public donations given to UK based animal charities amounting to approximately £679m per year (Charities Aid Foundation 2017: 11). As observed, 'Animals have become an integral part of political, as well as cultural and social life' (Keane 1998: 7), however the subject doesn't often occupy a central focal point for policymakers except perhaps in times of crisis, such as a food scandal on a national scale, or a local report of cruelty generating keen media attention. What has been more enticing to inquiry, and also for the creation of practical responses<sup>8</sup>, is the notion animals may have value in the aetiology of other violent human behaviours, in that animal cruelty may provide indicators of interpersonal violent behaviours either concurrently, or as a predictor for later in life, commonly referred to as the 'Links'. Animal abuse studies is often more interesting to some when expressed as a value to understanding what humans do to each other; for instance, where animal abuse has been discovered in a home 'the preventative value' could be employed 'by approaching these families as potential incubators of other forms of criminal violence' (Cazaux 1999: 114). This area has drawn more attention, and for far longer, as Pierpoint and Maher (2010: 480) note it was the

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<sup>8</sup> For example the Links Group has been developing resources and CPD courses for vets in spotting non-accidental injury in patients and the signs of domestic abuse in clients <http://www.thelinksgroup.org.uk>.

early 1970s when research began and a link was first propounded. As a result inquiry in this field has been anthropocentric in nature.

Miller and Knutson (1997) substantiated the effect of punitive childhoods on offending behaviour in adults but could not validate the theory that subjection to animal abuse was also a contributing factor. Beirne and Messerschmidt (2006: 151) agreed and also acknowledged the otherwise and 'obvious common sense appeal' of the notion of a graduation link between violence to animals and violence to humans but urged caution, citing contradictory and premature evidence. Authoritative, methodologically sound and reliable research in the UK has been either absent in this field or has thus far failed to provide strong evidence of a causal link. An association of factors is accepted amongst many of the contemporary researchers, but the nature of that link is not yet understood and thus should not be adopted as a predictor of behaviour in the absence of reliable evidence. Beirne (2009: 167-8) concurs there is a connection but makes a sardonic point that the main proponents of a causal link operate within government, its agencies, and organisations servicing 'at-risk' families, with the media providing a vehicle for the dissemination of this rather convenient maxim.

This has interesting connotations for the policy domain, particularly that despite the evidence vacuum, policymakers have, nevertheless, proceeded to endorse the Links issue by publishing guidance and information on their practical responses. The Parliamentary Office of Science and Technology have issued a POSTnote entitled 'Pets, Families and Interagency Working' (January 2010), detailing the issue of protecting children and what function animal NGOs can provide. Whilst encouraging awareness of the Links could be considered a positive move, there lacks any cautionary note regarding the lack of evidence and the perils of referring to any causal relationships as if they were fact. Elsewhere, the US Department of Justice's Office of Juvenile Justice and Delinquency Prevention issued a Bulletin on 'Animal Abuse and Youth Violence' (Ascione 2001) which defines and details abuse, providing indicators for public officials to be on the *qui vive* for, although does not entirely endorse the evidence of the links to interpersonal violence. There has also not been, as yet, any substantial research into young offenders and any links between offending with dogs, via intimidation or assault, and other forms of interpersonal violence beyond Hughes, Maher and Lawson's (2011) pilot study.

## The salience of animal related issues

Despite growing numbers of animal-related studies, researcher networks and criminological literature, the study of animals in the criminological context remains an embryonic field. The largest section of research seeks, as has been discussed, to examine the link between animal harm and interpersonal violence, which by its nature could be argued to attach less value to animals as victims. Nurse (2013) rationalises this, dismissing any focus on the number or nature of incidents where animals suffer, but welcoming the merits of better understanding criminal behaviours as well as the policing and policy responses. He also notes the importance of studying animal harm for the value of greater knowledge of key policy actors, the 'NGOs are especially important in shaping animal harm policy because the NGOs that have accepted (moral) responsibility for dealing with animal harm operate mainly from an environment or animal welfare standpoint rather than a criminal justice or policing one' (2013: 24) which perhaps also emphasises the role of these actors in the policy community.

In order to understand the potential harms to the types of dogs central to this thesis and any effect upon the policy process, it is important that definitions other than the mere criminocentric are considered, otherwise those legitimised by the Dangerous Dogs Act may otherwise go unscrutinised. Maher, Pierpoint and Lawson (2017) examined the various harms to status dogs in some detail. The definition of 'status' dogs and the relationship to 'dangerous' dogs lacks consensus and is the subject of much debate but for the purposes here, they are both often identified as being of greater risk to the public and are (or their owners are) subject to additional controls. The harms identified, incorporating both the legal and illegal and often related to the commodification of these dogs, includes: irresponsible breeding due to the attraction of the way these dogs appear in society as well as the financial gain to be made; inadequate stewardship leading to significant neglect and health issues; punitive training methods either inadvertently or purposefully leading to suffering and aggression; fighting and attacking other animals or humans resulting in endangerment, injury and seizure by the state; and abandonment or destruction which can involve the worst forms of suffering.

Those dogs that are banned under the Dangerous Dogs Act 1991 but have been added to the register of exempted dogs, are permitted to be kept only under strict conditions.

These conditions - applied irrespective of the dog's past and present actions - can restrict a dog's normal behaviour because they include being muzzled and kept on a lead at all times in a public place. This will affect a dog's ability to play, interact with other dogs and exercise, which can in themselves create behavioural problems such as making them fearful. If these conditions of exemption are not met, or if the owners are not granted exemption, the dog must be euthanased and cannot be rehomed under current restrictions. Should an owner contest a police and court decision not to allow them to retain keepership, the dog can remain in kennels, with very little enrichment and no visits from their owners, sometimes for extended periods of time - over two years in some cases (BBC News 2018).

The perceived usefulness of these dogs in the execution of a crime is thought to be an attraction for some owners and in such circumstances the dog's welfare may be more at risk, potentially making them more likely to be abused or neglected. Reminiscent of Garland's (2001) 'criminologies of the other', measures such as Public Spaces Protection Orders can be used to ban dogs from certain areas. Often utilised in large municipal areas where certain dogs and their owners are feared, the effect is to ghettoise public spaces where dogs are permitted, severely reducing exercise options and limiting positive interactions between dogs and non-dog owners. Likewise many housing associations have policies preventing even the lawful keeping of dogs or those specific dogs legally exempted under the Dangerous Dogs Act. If the owner is unable to move homes, and must relinquish ownership, the dog will automatically be euthanased. The harms to dogs subject to the labels 'status' or 'dangerous' are numerous and complex. Their relationship to evidence and the role that takes in the policy debates will be examined in later chapters.

### 2.3 Contemplating a culture of control

In pursuing evidence of the theoretical framework of the culture of control, this study examines the nature of how the policy making process unfolds in relation to the regulation of dogs and their owners in society. The politics of crime control as well as societal shifts in recent history, and in particular the notion that threats and risks are being managed by ever more punitive measures, as a feature of late modernity, are therefore central to these endeavours.

Many renowned scholars such as Simon (1997), Young (1999), Bauman (2000) and Lea (2002), have sought to pioneer theories to explain the more recent trends in crime; the increasing fear of becoming a victim to crime; and the often draconian responses by the criminal justice system, including dramatic rises in the prison population. Their theories all suggest, in different ways, that these developments arise from adjusted macro-social conditions presented by late-modernity. Evidence of exponential developments and advancements for humankind during the last six or seven decades are certainly plentiful. Technology pervades all areas of life, whilst national and global economic conditions fluctuate, and our cultures evolve, and thus society shapes and re-shapes in response. Perhaps the most influential theory that society has shifted in such a fundamental manner and brought with it a monumental transformation in law and order, is most associated with the prominent sociologist David Garland (2001) who argued that as a result of these changes by the end of the 20<sup>th</sup> century there emerged a 'culture of control'. Such a theory has been alluring for its ability to amalgamate the incomplete and fragmented explanations previously offered, in order to construct a framework upon which to view the landscape of crime control. It is thus worth exploring the principal features of Garland's thesis.

### Late-modernity and the 'welfare-penal complex'

The period of crime control dating from early 1900s until the 1970s is characterised by Garland (1996; 2001) as 'penal-welfarism' whereby law and order was seen to be the routine business of institutions such as the courts, prisons and the police. Loader and Sparks (2007: 79) describe this condition as being predicated upon three 'mutually reinforcing axioms', the first that crime as a concept was not viewed as too complex or troubling and it was believed to be geographically and socially specific. Secondly, that through causal theory, crime could be understood as a product of intrinsic social issues to be tackled through welfare, improvement and 'correctionalist' programmes. Finally, there was a common adherence to the notion that policy making in respect of crime control remained the purview of experts and expert knowledge, with the definition of experts including civil servants and experienced practitioners, but excluding politicians.

Hughes (2007: 39-40) attributes this view that crime control was the domain of specialists far beyond the political sphere, at least in part, to the 'hegemony and symbolic presence of the legal discourse' which centred around the 'uniqueness' of the criminal justice system in

England and Wales. And, given this regard for expertise, and the prominence of social science within state-sponsored positivist programmes for tackling deprivation and inequality as the root causes of crime, that in fact this period could be viewed as a time of 'criminological optimism'. This was not a condition, however, that was to last.

### Crime, disorder and late-modernity

The 1970s saw profound changes in the social and criminal justice landscape. Most prominent perhaps are the figures for recorded crime which demonstrated a massive escalation beginning in the 1950s (Maguire 2007). Irrespective of the accuracy of these figures, their publication and surrounding debates served to position the fear of crime squarely within the public consciousness; normalise it as a part of everyday life; and thus establish it as 'social fact' (Garland 1996; 2001). Jock Young (1999) referred to this as 'the central motor of change' for it also suggested previous strategies to tackle offending were not working as intended, and also exposed new, previously hidden, crimes. These erstwhile invisible, or ignored, crimes are often identified, for example, as domestic abuse, child molestation and harms to the environment, but as will be discussed in this thesis, I will argue this also included dog attacks or, most likely, the perception of them, which became another 'new' focus of public and political attention and an object for control. The significant economic and social changes from the 1970s onwards were such that some theorists have been compelled to identify a move to late or post modernity (Young 1999; Garland 2001; Bauman 1991; Crook *et al.* 1992) as a means of encapsulating the contributing factors such as the shifts in the markets; reshaping of domestic structures; suburban development; and the rapid expansion of the media.

A seismic shift also came when party politics and crime control became entangled in a way that had not occurred before. The domain of law and order that had once been seen to be above the influence of politics, was, by the general election of 1979, a prominent feature of the political discourse (Downes & Morgan 2007). The Conservatives focussed in on what they saw as Labour's failings, characterising the reported increases in crime in such a way as to make it synonymous with recent episodes of unrest and strike action. The 'bi-partisan' political consensus on law and order, in existence since the second world war, was now gone and Labour had been successfully rebranded as weak in the face of civil disobedience, rising crime, and a decline of the nation, and therefore wholly deficient

at governing Britain. The emergence of New Right governments in Westminster and internationally marked a break with state-dependent social programmes to tackle crime and an emphasis on the individual to 'help oneself' and it also intensified the open political discourse on framing the nature of law and order (Tonry 2004).

Successive election defeats in the 1980s perhaps made inevitable Labour's abandonment of the position that deep rooted economic and cultural issues were to blame for crime. The public demonstrated clear support for what in effect was the symbolism offered by the Conservative Government, for in reality the rhetoric had done nothing to divert and reduce crime throughout this decade, indeed quite the opposite was thought to be happening. Having the two mainstream political parties now adopt similar positions on law and order made for a form of forced consensus. It was against the interests of any political party to offer anything other than unwavering support for the police and for tougher sentences, and to have gone against this would be to yield crucial ground to their opponents (Downes & Morgan 2007). The 1990s however saw Labour pull away from the consensus and develop a more substantial and determined strategy ultimately embodied in the infamous phrase 'tough on crime, tough on the causes of crime' which overtly tapped into the cadence of a Hollywood movie strap line, designed to invoke both a fear of crime (and the criminal) and a confidence in New Labour's unique ability to tackle it.

The following years witnessed an open race between the parties on certain issues, such as increasing police numbers, which in itself created a shared culpability for any misinformation conveyed as to the causal relationship between police numbers and the prevalence of crime. Political attraction for high profile US-based policy initiatives such as 'three strikes' and 'zero tolerance' were abundant, driven by the evidence of electoral success for those who adopted them in the USA. Within the UK context, however, these were largely symbolic manoeuvres given that in practice the similarities of any policy initiatives and legislation to their US exemplars was relatively limited (Jones & Newburn 2007). It is worth noting here that there exists some indications to the contrary at least in relation to dangerous dogs, indeed substance rather than symbolism may have been present during this period in this regard, given legislation identifying dangerous and risky dogs via the criminality of their owners (with measures designed to target specific breeds) was first introduced in the USA and later appeared to be presented to Parliament as an almost exact facsimile. Nevertheless, overall the culmination of a series of populist

positions on the penal system meant that 'the politics of law and order had now become inherently and increasingly punitive' (Downes & Morgan 2007: 215).

### Contradictory adaptations

As the previously dominant ideal of rehabilitation waned in the face of mass social and political change, Garland argues a 'policy predicament' was arrived at against a backdrop of 'nothing works' (Martinson 1974). The state was obliged to concede that previous strategies, delivered only by state-operated institutions, were incapable of addressing crime as it had been framed in this new era. Simultaneously, however, it had to be acknowledged that the political sphere had now seized hold of the sovereignty of crime control and it would be any government's undoing to dismiss this as a factor. Emerging from the conflict of the state needing to be mindful of its own shortcomings, whilst also needing to appear 'tough of crime', Garland argues, is a 'culture of control', the evidence for which exists, he outlines, in a number of adaptive and non-adaptive strategies.

These conflicting manifestations appear as both adaptive preventative strategies with community focussed partnerships, as well as the non-adaptive punitive responses of 'acting out and denial' (Garland 1996). The former, Garland suggests, is based upon 'a criminology of the self' where crime is regarded as routine and rational, and where markets develop as private and non-statutory agencies also contribute to managing risky populations as part of the new 'criminologies of everyday life'. In contrast, however, the latter non-adaptive strategy is concerned with denying that rising crime and incarceration rates are evidence of a failed approach, which thus requires a new 'myth of sovereign crime control'. In this highly political sphere, evidence is forgone in favour of the populist approach, which is usually exclusionary in nature, such as zero-tolerance and segregating individuals from public spaces and communities.

Garland (2001: 143-4) also notes the 'sanctification of victims' a process whereby politicians and the press have capitalised upon their experiences, thrusting the suffering of the victim to centre stage, to engender mass appeal and acceptance for a regime based upon punishment. In this environment where the victim is given a voice, ever-more punitive measures become desirable, justified and openly-embraced. Garland also notes that as a consequence of this sanctification of victims, concern for the offender is nullified,

'any show of compassion for offenders, any invocation of their rights, any effort to humanize their punishments, can easily be represented an insult to victims and their families' (*Ibid.*). In the case of dog attacks, the victims are more often young children which may intensify this condition even further. It may certainly explain why a nation that considers itself animal lovers, was in support of the wholesale eradication of certain types of dog following one or two high profile attacks on humans.

Perhaps also linked to the status of dogs as the perpetrators of criminal acts is Garland's notion of the 'criminologies of the other'. As Hughes (2007: 30) notes, 'the expressive, punitive logic rests ideologically on a moralizing and atavistic' strategy where offenders are set apart from 'us' and positioned as 'them', being characterised as 'opaquely monstrous creatures beyond or beneath our knowing' (Garland 2001: 184). A deep divide is created between the respectable citizens and the 'otherness' of criminals, which works to demonise and to 'act out popular fears and resentments, and to promote support for state punishment' (*Ibid.*: 137). As will be discussed later, there is an interesting parallel to 'innocent' and 'dangerous' dogs, with only certain breed/types being successfully labelled as the latter (irrespective of their individual actions) and being subject to drastic legislative responses.

The discourse fed by New Labour's emphasis on anti social behaviour, and the crime and disorder measures designed to tackle it, have been argued to have resulted in society's waning tolerance and growing sensitivity towards misdemeanours and minor offending (Tonry 2004). With retribution, punishment and 'just desserts' central to a culture of control, it is perhaps easy to see why<sup>9</sup> it became possible to legislate to exterminate certain types of dogs in their thousands. In this new era of law and order, the 'crimes' (or, in essence, the potential crimes) of these dogs, could be more purposely linked in political campaigns to the mauling and deaths of children, conflating them with the 'dangerous other'. It was now straightforward, effortless perhaps, to demonise certain dogs and portray them as either the tool of the 'moral underclass,' or indeed the 'moral underclass' itself, and therefore in urgent need of more punitive controls than the country had ever witnessed before.

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<sup>9</sup> particularly in the absence of any new variables or evidence of disease or genetic developments to explain any changes to dog aggression, or any other factors to explain why these attacks on children could be thought to be different to any occurring regularly throughout history.

## A critical appraisal of *The Culture of Control* as a theoretical framework

*The culture of control* provides an extremely useful lens through which to examine and interpret the context of policy making in relation to the regulation of dog owners, however Garland's work is not, of course, without limitations or criticism, not least of all for its pessimistic outlook (see Matthews 2002; Loader & Sparks 2007). It has also been considered, for instance, to suffer from 'a lack of depth and empirical specificity concerning the interaction of political institutions, processes and cultures across different governable spaces' (Brewster 2017: 567). Garland (2001: vii) had been relatively mindful of this noting 'the unavoidable tension between broad generalization and the specification of empirical particulars' but is unequivocal in his claim that his intention was to engage a 'sweeping account of the big picture' and 'to stand back from the immediacies of current events and the recent policy initiatives and offer an historical and structural account' (Garland 2004: 169).

Tonry (2004: 60) summarises that the fundamental concern with Garland's theory is that the same social and economic developments are also present in every wealthy nation of the world and yet the control responses of the UK and the USA remain relatively unique. He posits that in fact this is because there are other cultural and social factors at play, such as race, judicial independence and patterns of liberality in the USA, and in the UK an exaggeration of crime that has led to greater fears, along with a cultural predilection for punishment. Therefore *The Culture of Control* fails to consider how the *sui generis* of cultural and structural factors give rise to shifts in the nature of crime control. Garland (2004: 179) himself later asks the same questions of how late modernity has been experienced by other nations and argues that '[w]hether or not the central thesis of *The Culture of Control* turns out to be correct, it has the virtue of stating a definite thesis in a way that lends itself to comparative investigation'.

In 2004 Garland revisited his theorem, not necessarily to address all the direct criticisms it had received but to acknowledge and consider the implications of constructive suggestions. He restates that, '[t]he critical aim of the book is to prompt readers to think differently about the culture of control, and to attribute responsibility for its development to actors and processes who are not the usual suspects' (2004: 185). It is worth noting that criminology as a whole has been relatively uninterested in undertaking empirical

studies of policy making processes, concentrating instead upon the effects of legislative measures (Jones & Newburn 2007). This oversight ensured the criminological effects of meso-policy making have so often gone explored, the consequences of which also remain unknown.

It is also worth noting that in years following the publication of Garland's *The Culture of Control*, there was a major and sustained drop in crime. After a period of time there also then followed a cooling of crime as a political issue particularly during major elections where it featured less than in previous decades (Loader & Sparks 2010). Arguably these trends may well be changing again but in any case understanding how, why and when policy is made within a social context is of growing interest due to the potential to make a meaningful contribution to both theory and practice. To look beyond the criminological anatomy of policy outcomes is to consider the political processes that have engineered policy responses (Jones & Newburn 2007). This thesis attempts to understand one specific arena of the policy making processes in the context of the UK's political and crime control complex in order to illuminate an area of crime policy hitherto ignored and contribute to the growing consensus which regards some of the main measures to control dogs and their owners in society as draconian and ineffective.

## 2.4 Policy theories

Understanding how policies are created, developed, implemented and evaluated has been the subject of much inquiry in political science and related subject areas, but to date received only limited attention within criminology (Jones & Newburn 2007). This has also shaped and informed the development of what social sciences can offer for policy analysis. Stoker and Evans' (2016: 9) presentation of the abundant methods for connecting the two comes with the candid admission that 'social science and policy making are not natural "best" friends....The two sides can be locked in a distant, difficult and disobliging relationship' and certainly the findings of this thesis may later provide confirmation of this in relation to the creation of dog control policies.

But as a study of contemporary policy making in England and Wales, it is important to discuss the extant research and scholarly literature that relates to such endeavours and how this assists in answering the key aim and objectives outlined in the previous chapter.

In order to determine later in this thesis how dog control policy has emerged, been framed and responded to, it is first prudent to consider the various methods of understanding the genesis of policy making, including why I have chosen one specific approach - Kingdon's Multiple Streams Analysis (MSA) - as the framework in which to later present the case study findings of Chapters Seven to Nine. Following this I review the small number of studies that have sought to explore policy making in relation to animals, which serves to discuss the approaches they have chosen to employ. This also demonstrates the limited regard there is in scholarly research for this policy community, which indeed may itself reflect that community's own, thus far, under-developed interest in comprehending the nature of policy making. The subsection will end with an examination of the small body of research that has specifically sought to understand how crime policy has been shaped with regard to the control of dogs to provide additional context for this study and the chosen methods.

### Defining 'policy'

In his discussion on the origins of public policy, Page (2008: 207) considers that:

insofar as they arise from conscious reflection and deliberation, policies may reflect a variety of intentions and ideas: some vague, some specific, some conflicting, some unarticulated. They can...even be the unintended or undeliberated consequences of professional practices or bureaucratic routines'.

Factors such as an event, or a discovery of some kind may then encourage its progression or development. Hill (2013: 14-19) discusses the various definitions and attempts to determine what is meant by 'policy,' drawing upon the plethora of definitions in existence, which perhaps reinforces the view of Sir Charles Cunningham (1963: 229), a former senior civil servant in the Home Office, that 'policy is rather like the elephant - you recognise it when you see it but cannot easily define it'. Hill (2013: 15) considers the issues surrounding definitions, which reflect an inherent lack of specificity influenced by temporal issues, as evidence that 'it is difficult to treat [policy] as a very specific and concrete phenomenon' and warns social scientists against attributing narrow meaning to such a ubiquitous word given the influence and bias this might produce. He proceeds to count seven features of the policy process, namely that it must be viewed as a complex series of interconnected decisions, and thus it is never merely one resolution. Events and time can influence its path, as such it is regarded as 'dynamic rather than static', and it does not exist in isolation, it is subject to influence by its environment in an already 'crowded

policy space'. Much of policy making can be about its own dissolution and successor, which can often mean that policy studies are about 'the examination of non-decisions' and resistance to change, which in itself raises 'the question of whether policy can be seen as action without decisions. It can be said that a pattern of actions over a period of time constitutes a policy, even if these actions have not been formally sanctioned by a decision' (Hill 2013: 16-17).

Whilst public policy - the purview of government and its ancillaries - could be argued to differ little from those developed by non-governmental or private entities, some researchers have turned to these lower level actors and to the 'street-level bureaucrats' (Lipsky 1980), to unearth more facets of the policy making process. Page (2008: 221) writes this arena is about policies without agendas - where policies are about executing functions and often bypass the upper echelons or any formal interface with legislation or government. However others, such as Chaney (2016), have sought to address a perceived lacuna as to what position, if any, civil society organisations play within the policy making environment, particularly at a formative phase and 'meso-legislature' level. In such environments smaller organisations can struggle to participate in the policy process due to resource constraints which can adversely affect the plurality of the field. Similarly, where one political party's dominance persists, policy can instead be generated through its own party - rather than parliamentary - networks (*Ibid.*: 518). Each of these salient points raises issues of transparency and inclusivity within the channels leading, albeit indirectly, to the creation of public policy.

Pollitt's (2001) three dimensions of public policy, based upon those of Brunsson (1989), can provide a useful schematic distinction for the study of the policy process, whereby policy 'talk' can be seen through political rhetoric, discussion and paraenesis; policy 'decisions' manifest as affirmative decision making through published policy or legislative moves; and policy 'action' is the implementation of such decisions by the lower level bureaucrats. The stages approach to the study of the policy process involves dividing the process up in order to focus on, and understand, distinct stages of what is otherwise a large, complex sphere. Initially proposed by Easton (1953 and 1965), the principles were elaborated upon by Jenkins (1978) and then later by Hogwood and Gunn (1984) who describe nine stages of 'deciding to decide', 'deciding how to decide', 'issues definition', 'forecasting', 'setting objectives and priorities', 'options analysis', 'policy implementation,

monitoring and control', 'evaluation and review' and 'policy maintenance, succession and termination', with the latter stages of implementation and evaluation, of course, attracting the majority of inquiry. It is important to note that the stages approach can portray the policy process as a rational sequence of developments which is far from the empirical reality of my own experiences of what can be a complex, contingent and often chaotic affair. Nevertheless, I have summarised these 'stages heuristic' within the following three sections of the chapter which have been organised around agenda setting, policy networks and epistemic communities, and lastly a more detailed discussion of Multiple Streams Analysis due to its use as an organising framework in later chapters. But the primary empirical focus of this study is upon the 'concrete manifestations' of policy as set out in formal statute and policy documents rather than in the more diffuse dimensions of 'policy talk' or the much more finely-grained areas of policy implementation on the ground – although, where relevant, these dimensions are also considered.

### Agenda setting

Understanding how policies first come into being has been the subject of much inquiry, albeit conducted largely outside of the criminological spectrum. This phase can be said to be when social and institutional processes transform conditions to create publicly-acknowledged problems worthy of a response by government. It can also be the most impenetrable part to investigation as so much of it can occur in private. Hill (2013) presents three approaches to researching how policy is formed: firstly the rational model (Simon 1957) which argues that decision-making is characterised by the comprehensive and logical consideration of alternatives and their consequences, which resonates with a conventional view of government whereby agenda setting emerges from a democratic and empowered way. The second model of incrementalism, or 'successive limited comparisons' (Lindblom 1959), clearly reflects pluralist thinking and contends that decision-making is about revisiting problems and earlier efforts, to resolve them pragmatically, in the real world without seeking to achieve some ideal future state. The third approach of agenda setting (and also the framework utilised in Chapters Seven to Nine), was devised by Kingdon (1984) and notes the unpredictability and instability in the maelstrom of policy making but nevertheless offers three 'streams' for understanding the process, and thus appealed to this study as an organising framework. These features are discussed in more detail later in this chapter, and again in Chapter Six. Kingdon's approach

to agenda setting was itself built upon the earlier works of Cohen, March and Olsen's (1972) '*garbage can*' model - the proposition being that policy making is characterised by the union of three features, namely that problems are seeking solutions; that solutions are seeking a problem; and that people are seeking to act. These theories may not in themselves illuminate the origins of policy however they do provide:

a framework that allows one to outline the proximate causes that lead to attention being devoted to an issue: how an issue comes to emerge from relative obscurity to becoming something that is being discussed as a serious contender for legislation or some other policy measure (Page 2008: 208).

### Policy networks and epistemic communities

Focusing on the institutions and participants, and their relationship or interdependence on one another, Policy Network Analysis (PNA) seeks to enable a greater understanding of the policy making sphere. Most associated with Rhodes (1981) this approach examines the complex connections of complementary and mutual relations between state and non-state institutions. Rhodes and Marsh (1992) later developed a typology of policy networks to be viewed as a continuum, containing five types - '*Policy Communities*' are described as having a relatively contained membership, boundaries and power, which is similar to '*Professional Networks*' although they will work in isolation and in response to the needs of that profession. '*Intergovernmental Networks*' have a broad interest area but draw only from representative bodies and '*Producer Networks*' are driven of economic need so have a fluctuating membership and a dependency upon the supply and demand of industrial relations. '*Issue Networks*' are more diverse in terms of both participants and participation, with varying levels of power. Given these labels can all be attributed different meaning and employed by a variety of disciplines, definitional issues can result, which is also a reoccurring feature of the literature.

Rhodes and Marsh (1992: 202) recognised 'there is a danger that the study of policy networks will become....a field bedevilled by arguments over the "best" definition. However, future developments need not hinge on definitional agreement'. As such this study does not seek to test this typology and, whilst it may be concluded from the data at a later point that there is likely to exist, in relation to dog control policy, an 'issue network' rather than of the others described, the terms will be used herewith interchangeably. The typology is not claimed by the authors to be definitive, nor are those specified types

deemed to be mutually exclusive, as they can operate side by side in the same policy space. It is claimed however that networks affect change which is, of course, of key interest to this research which seeks to understand how dog control policy is made. As Rhodes and Marsh (1992: 197) observed, 'All the case studies suggest that networks affect policy outcomes. The existence of a policy network, or more particularly a policy community, constrains the policy agenda and shapes the policy outcomes. Policy communities, in particular, are associated with policy continuity', although they also recognised that 'policy networks are a source of inertia' (*ibid.*: 203).

Dowding's critique of Policy Networks Analysis, (PNA) and what he saw as this 'dominant paradigm', claims it is merely a metaphor, and along with all other descriptors is used to portray the same essential attributes of policy making:

that the distinction between public and private organizations was flexible, the pattern of linkages within a sector affected policy outcomes, and the sub-governmental level was most important for understanding the detail of policy formation and the success of policy implementation (1995: 138).

The PNA approach fails in his view due to the individual characteristics of the components in each network which must be understood to be the real 'driving force of explanation' and because, he argues, grand theories of the state must be generalisable to all to which it is applicable. Although PNA could be viewed as ill-equipped in such regard, and indeed unable to explain change, it could be argued to have nevertheless weathered the storm. Whilst Atkinson and Coleman (1992) acknowledge it has retained some of those 'metaphorical qualities' they also judge it has been successful at least in portraying the fluidity of the policy making process as well as moving the focus from national bodies towards lower levels. In dismissing Dowding's verdict, Rhodes (2008: 434) points to PNA's continued popularity, and proliferation in other disciplines such as criminology, as evidence of its veracity and relevance.

With a similar attention to the study of policy via an emphasis on the importance of networks and communities, Sabatier (1987) developed the Advocacy Coalition Framework (ACF) approach which assumes that both government and private representatives within the policy arena can be categorised into coalition groups. Sabatier (1998) developed this approach to understanding the policy process as a countermeasure to what he termed the 'stages heuristic' that was sweeping through policy studies and in order to reposition the contribution of technical information to a more elevated role. This

role of - and importance attributable to - expertise is central to Haas's (1992) 'epistemic communities' which are differentiated from other networks in the policy process by their combination of beliefs and their superior technical knowledge. He describes them as, 'the transmission belts by which new knowledge is developed and transmitted to decision-makers' (Haas 2004: 587). As we will see other models place far less emphasis on this role of these knowledge communities and the expertise of the expert, and more upon the role of policy broker or entrepreneur (Hall 2013: 170). Despite the endurance and usefulness in understanding the importance of policy networks and communities, approaches such as PNA do not offer sufficient opportunities alone to explore the genesis of policy in relation to dog control because 'network theory lacks explanatory power' (*ibid.*: 67). Some understanding of the policy network is essential in any examination of the dog control policy process, but in itself the use of such an analytical tool cannot reliably offer explanations of the generation of policy, particularly, as highlighted by Dowding (1995: 144) the government can effect great changes without any reference to the policy network simply 'by ignoring or bypassing' it, because 'at the end of the day, the material power and legitimacy of elected government can ride roughshod over any policy community'.

### Multiple Streams Analysis (MSA)

Mindful of the view that the policy process is significantly vague and elusive, with often indistinguishable stages, Kingdon (1984) strives to make sense of the agenda setting phase. He eschews rational choice for its impracticality, dismisses incrementalism for its inability to explain sudden change in the policy process (1984: 82-85), and suggests instead that the process can be better understood through the three streams of *problems*, *policy* and *politics*. These three streams are explained such that various *problems* will present themselves and be known to government - they may have a pattern and be incremental; they can arise following an event or sudden jump in statistical indicators; or it can be where previous policies and initiatives have been deemed to have failed. *Policy* ideas are continually being explored, hotly debated and regurgitated within policy communities who try to determine what solutions may work best and how. Such ideas form and circulate within what Kingdon refers to as the 'primeval soup'. The *political* stream reflects the shifting dynamics of civic life and the influences upon that, including the role of legislators and administrators, complete with their own predilections; the national mood reflected in

elections, polls and the media; as well as the interests of organised forces. The three streams are said to operate independently of one another in response to their own internal forces, however they must converge, in a process Kingdon refers to as 'coupling', for policy to occur.

MSA then describes 'policy windows' where opportunities for change present themselves, often with some warning (such as the expected renewal or updating of legislation) but are only open for a short period of time and thus require a high degree of preparedness in order to take advantage of the opportunity. Under the right conditions this is when the coupling of the streams occurs. 'Focussing events', however, are unpredictable but, as often they take the shape of a crisis or disaster with high public interest, have the effect of propelling the issue on to, or higher up, the priority list. Though Kingdon found that only on rare occasions could they do this alone, usually it is preceded by a similar event or is an indication of a wider problem with the aggregation of the issue lending weight to that focussing event. This has interesting implications for the control of dogs and the events leading up the Dangerous Dogs Act of 1991 (discussed fully within Chapters Four and Five) where a very small, but serious, number of dog attacks occurred in quick succession. There is no evidence to suggest these attacks could be viewed as unique or fundamentally different to earlier and historical dog attacks however they occupied a far higher public profile and they generated unprecedented fear, which could be viewed as features of a focussing event in the context of a new culture of control.

The linking of the three streams is unpredictable even if argued to be engineered by policy entrepreneurs whose role it is to educate policy communities to attune them to new ideas, and build acceptance for them. Far from being considered coherent and rational, Kingdon argues that policy emerges from the aforementioned 'primeval soup' - a biological and evolutionary analogy of how only certain elements of life emerged successfully from the swamp. Béland and Howlett (2016) examine, through the notion of 'instrumental constituencies', the claim that solutions can pursue problems to determine how these two elements are eventually matched, concluding it should be considered a routine factor. Kingdon (1984: 215) acknowledges that 'advocacy of solutions often precedes the highlighting of problems to which they are attached' and therefore the process is vulnerable to policy entrepreneurs who have their own agenda and may seek to manipulate outcomes. Kingdon, though, favours the view of one of his research

participants who likened policy entrepreneurs more to the political equivalent of skilled surfers perpetually paddling 'waiting for the big wave' and this plus 'using the forces beyond their control contributes to success' (1984: 173 and 190).

Gains and Stoker (2011) develop further this idea of the policy entrepreneur, focusing specifically on the 'processing' role of the Special Advisor, who Hall notes 'are neither direct recruits to the civil service nor political appointees in a party political sense but experts in specific policy areas' (2013: 196). Gains and Stoker (2011: 495) argue Special Advisors act as mediators which highlights 'the messy interplay of problematisation, policy and politics streams in the primeval soup of policy making...the role of special advisers should be understood as playing a 'brokering' role, acting as 'middlemen' between the social science, bureaucrat and political decision-making worlds'. Special Advisors though may represent just one position within government and political forces who have an expert and/or brokering role in the policy process that is far from fully understood. Within my own research for this thesis, the language of participants reflected this idea, as the function of Special Advisor was often not differentiated from any reference to government and was used interchangeably with Ministers, with whom they are invariably very close, or civil servants. Haas (2004) regards epistemic communities as far more significant in the understanding of what constitutes power and influence in the policy process, however they may all be considered 'important actors involved in designating and defining policy problems and moving them forward through political processes' (Béland & Howlett 2016: 394).

Of course, MSA can be subject to criticisms in terms of its coherence as a general theory of policy making, or in relation to its relevance to the policy process in jurisdictions other than the USA. Kingdon developed the original MSA framework in relation to specific case studies of the USA's federal policy making within health and transport during the 1980s, which raises the question of its applicability to studies of more recent policy making in the contrasting legal and political contexts of other nations. Nevertheless, the approach has been utilised extensively elsewhere in the three decades since (see, for example, Béland & Howlett 2016) suggesting that the particular concepts underpinning MSA are transferable into other national and temporal contexts as a way of making sense of the inherently messy and unpredictable world of public policy formation. The USA's political institutions are unique to that country and as such the political stream cannot 'include the same

dimensions in all contexts' but these are factors that, it has been argued, are best addressed less through 'empirical studies and more systematic theory development' (Jones *et al.* 2016). Cairney's (2014: n/p) analysis of the contribution of MSA to policy studies, sampling those studies that have used MSA for inspiration and empirical purposes, concludes 'that there is no immediate prospect of turning MSA into a detailed model with hypotheses that are tested in multiple cases' although he doesn't address whether that was ever Kingdon's intention. Even judged as a 'framework' rather than a true explanatory theory, MSA is also often accused of being too metaphorically driven, which in itself has escaped detailed inquiry resulting in a lack of clarity as to their universal applicability (Béland & Howett 2016). The employment of metaphors may also have encouraged scholars to merely borrow from the framework. Thus, it is suggested that some studies have only superficially employed the language and concepts of MSA without delving into the inherent features of the streams themselves (Jones *et al.* 2016; Cairney & Jones 2016). However as Cairney (2014) concludes, MSA remains an effective framework for the case study process - which is indeed how this study utilises it - and that for this purpose it continues to 'represent a thriving field of study' (2014: n/p).

Imperfect by its own architect's admission, MSA wasn't designed in order to capture the subsequent stages of formation, implementation and evaluation, and this can be viewed as a key failing in the interests of the fullest exploration of policy making. However scholars have responded with the approach that rather than view policy making theories as mutually exclusive, they can be combined to potentially produce a four or five stream model and be applied to the different stages (Howlett *et al.* 2014). Winkel and Leipold (2016) argue that such recombination is in line with Kingdon's own propositions about how ideas emerge from the swamp, and it also addresses MSA's theoretical underdevelopment (Ackrill & Kay 2011).

Notwithstanding these criticisms, MSA remains relevant, and as such was chosen as a framework for the analysis of the findings in Chapters Seven to Nine for several reasons, not least of all because it is purposely designed as a system for focusing on the agenda setting phase to explain how policy emerges: the central aim of this thesis. MSA also provides an extremely practical framework for organising and analysing a multitude of data, making sense of what is otherwise a complex quagmire of information from a somewhat unpredictable and chaotic policy arena. In addition, key themes, arising from my

early elite interviews, surrounding the articulation of the 'problem definition'; the nature of the solutions being proposed and often cannibalised; a political fascination with the subject matter (in contrast to many other animal related subjects); and the influence of major events such as fatal dog attacks, suggested a clear disposition towards MSA. It is important to reiterate however that this thesis does not seek to test Kingdon's approach or use it as an explanatory theory, but instead merely utilise it as an organising framework in such a way as to permit an understanding of what the empirical data may be offering.

### Animals and the policy process

With the context for the study of public policy outlined above in brief it is worth exploring what use has been made of this field for the study of policy in relation to the control or protection of animals. Nurse (2013: 222) states that 'public policy on animal harm is predominantly concerned either with animal protection or welfarism rather than animal harm as an aspect of criminal justice' but whilst he considers the role of NGOs, and the priority and implementation of public policies, nowhere in the chapter does he examine how or why those policies come to exist. Indeed one of the leading research network organisations concerned with animal protection, the Animals & Society Institute (2018), concerns itself with the scientific evidence base for policies, not the process for their creation. As an emerging field of study, this is perhaps to be expected. In contrast for some, however, '...public policy is a key arena in which to explore the (re-)definition of human-animal relations. Yet, hitherto insufficient attention has been paid to the formative phase of public policy-making....to the evolving relationship between human and non-human species' (Chaney 2014: 907).

Whilst this remains a very limited field of research it is clear that a small number of scholars have been committed to exploring how public policy has come to be in relation to animals. Indeed a dedicated charitable think tank - the Centre for Animals and Social Justice (CASJ) - was launched in 2011 with the mission statement 'Policy research to advance animal protection'. Their inaugural seminar was entitled 'Animals and Public Policy' with a primary 'strategic aim to embed animal protection as a core goal of public policy' (2011: 2) although there are only tantalising details within the summary document as to the CASJ's views on the policy making process itself and how this can be best utilised to achieve their objective. It is likely they view themselves as part of the epistemic

community given they present the CASJ as 'a vital new bridge between academics and policy-makers' (*Ibid.*: 3).

The individual founding members of the CASJ have, however, explored policy making in more detail. In his 1998 extensive study of the nature of animal welfare policy making in the UK and USA, Garner (1998: 8) employed Policy Network Analysis which he reasoned was the optimum method 'given the fact that it is a policy area which is particularly subject to sectorization' and because it also offered an opportunity to 'comment on the utility of the network approach itself' (*Ibid.*: 10). He concludes by finding that 'political systems....have played a significant role in determining the nature of policy outcomes' (*Ibid.*: 229) and that Policy Network Analysis was the correct model for revealing this. However it is also clear that there are suggestions within the text that the roles of focussing events and policy entrepreneurs - which he acknowledges are key drivers of change - have not been quite accounted for. His later work in this same field examines the role in the policy process of political parties, public campaigning and, in some detail, the various NGOs, he states:

[P]ublic policy, of course, is not made in a vacuum and is never simply a product of moral principles, however valid one may think them to be. More important is the crucial contribution made by pressure groups. Indeed without the concerted efforts of those who have perceived a need for greater legislative protection for, and a change in society's attitudes towards, animals there would not be a set of political issues here requiring resolution (2004: 194).

This does not assist in explanations however as to the dog control measures at the centre of this thesis, where it will be later argued that change has not resulted from the efforts of the NGOs involved. Garner (2004: 230) does also acknowledge that in addition to other factors 'there is a limit, in the present social climate, to what governments will regard as acceptable demands from the animal protection movement' and that the 'outsider' role many animals rights abolitionists adopt does not usually result in any impact upon government policy (Garner 2008).

Lyons (2013) also employed Policy Network Analysis, specifically the Marsh and Rhodes (1992) model, for his award winning investigation of experimentation upon animals. In justifying this approach he acknowledges that it was initially developed from a static model of the political environment but that it now attempts to 'account for the interactions among exogenous factors, network structures and agents, thereby postulating a dynamic dialectical policy network approach' (Lyons 2013: 52). For the implications upon animal

related public policy, Lyons found that it is made and administered within insulated policy communities, hidden behind walls of statutory confidentiality, where its dominant actors are also those with a vested interest in the continued exploitation of animals; a condition that has existed since the creation of the policy community nearly a hundred and fifty years ago. He concludes that it remains a 'policy community that excludes effective participation by animal welfare interests' (Lyons 2011: 366).

In their in-depth comparative study of the development of animal policies and law in North America, Hunter and Brisbin, (2016: 27) determined a number of social scientific methods appropriate but due to issues of scale and complexity are unable to 'offer a formal policymaking model that rests on universal assumptions and laws of political behaviour. Instead we can only offer a framework for the analysis of pet politics' for which they repeatedly draw upon MSA. It is clear aspects of this analytical method offered these researchers a more applicable framework with which to examine their findings, which has parallels to my own reasons for selecting this method over another. Hunter and Brisbin, (2016: 142) focus specifically upon the role of policy entrepreneurs and whose responsibility it is to identify policy windows. Examples of coupling streams are explored, from puppy mills<sup>10</sup> and kennel regulation, to the abandoned and feral cat problem. Seemingly reconfirming MSA's appropriateness as a organising framework, Hunter and Brisbin, (2016: 399) conclude that advocates for animals must 'join together and cooperate as policy entrepreneurs eager to educate, mobilize, and organize quiescent pet lovers into a coalition with an avowed and shared political agenda' in order to develop proposed solutions and to harness focussing events, all as crucial constituent parts of any process to initiate policy changes that will benefit animals.

In the UK, Chaney focuses on the hitherto unexplored formative stages of policy making within the party political sphere as a means for revealing what position animal welfare occupies and as 'a corrective to traditional instrumental policy studies that focus solely on policy implementation and outcomes' (2014: 926). By studying the specific framing of animal related matters Chaney's intention is to illuminate how they lead to political agenda setting. Summarising growing public interest in the subject matter, Chaney's mixed-method research utilises two data sets of election manifestos and Early Day Motions (EDMs), over a period of thirty or so years to determine what, if any, topics concerning

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<sup>10</sup> referred to more commonly in the UK as 'puppy farms'.

animal welfare have become mainstream areas of policy and to which end of the political spectrum they can be said to align. Chaney finds that since the late 1970s the main political parties have espoused animal related policies during this formative stage, with increasing salience. The findings also suggest there are correlations with party politics and with claims of ownership, ostensibly confirming the centre-left domination. The development of animal related policies is also subject to events, activism and public and media attention, however they remain in a 'fragile' position, falling short of any mainstream status.

Chaney also notes that a significant proportion of attention to pet animals in EDMs in recent decades can be attributed to concerns surrounding dangerous dog control. EDMs were utilised because they offer 'insight into whether animal welfare policy proposals are party political in nature or subject to cross-party support' (2014: 909) and indeed, as explored in Chapter Five, this research also found a number of tabled Labour-led EDMs concerning dog control which could be argued to illustrate the political cleavage between left and right at certain moments in time - specifically, when Labour is in opposition.

### Dog control and the policy process

The literature on the protection and control of animals, as has been seen, is sparse, but the numbers of scholars that have turned their attention to the policy process with specific regard to dog control can only be described as diminutive, which in part contributed to the decision for this thesis to explore that field. The majority of texts that have some regard for the subject matter do so as part of a wider investigation of policies in relation to all animals, or as an examination of regulation. The study by Hood *et al.* (2000) of a government's method of assessing regulatory law, via the Better Regulation Task Force (BRTF), is examined with specific regard to the Dangerous Dogs Act 1991 following the BRTF's verdict that the DDA was an example of a 'knee-jerk response', a condition in law-making that, they claim, should be avoided. The study, drawing again upon MSA, counters that:

If all regulation introduced in such circumstances were to count as a "knee-jerk response", then many regulatory regimes would have to be condemned along with the DDA. The nature of the legislative process means that many regulatory changes need to be introduced during a limited time when a policy 'window' opens after a tragedy or in a period when public feelings are running high.... The

fact that a measure is introduced quickly - as it must be to enter a "policy window" - does not necessarily mean that it is "ill-thought-out".

The study concludes that 'it is ironic that the BRTF's condemnation of the DDA seems to have been as much of a knee-jerk reaction to media attention as the DDA itself was alleged to have been' (2000: n/p).

In his 2004 review of animal protection and public policy Garner uses, amongst others, the case study of the RSPCA's campaign to secure dog licensing in the early 1990s, during the formative stages of the Dangerous Dogs Act. He found that despite a formidable policy network which included farming groups, the police, and the British Veterinary Association, the Government was unmoved. Garner determines that this was a classic example of the power of the executive branch:

[W]inning the informed public debate, therefore (particularly when the issue, as in this case, is not high on the public's agenda), is not enough if a group has failed to win the argument where it really matters - in Whitehall and the counsels of government. Indeed paradoxically, the very fact that the RSPCA had the temerity to mount such a successful public campaign against the government's opposition was always likely to increase the determination of ministers and civil servants to defeat the amendment when it was tabled in parliament (2004: 206).

As will be discussed in Chapter Five, Lodge and Hood (2002) note the pressures the Government of 1991, and specifically the Home Office Minister, were under, by exploring the theory of Forced Choices with reference to MSA. During that period of time, as a General Election was fast approaching, prison riots, by-election losses and a new form of media frenzy in response to a few (but serious) dog attacks on humans could be argued to have propelled the Government towards anything that appeared to be a solution and would change their fortunes. However, it can also be argued that:

Policy making is always a matter of choice under constraint. But not all constraints are material. Some are social and political, having to do with the willingness of people to do what your policy asks of them or with the willingness of electors to endorse the policies that would-be policy makers espouse (Goodin *et al.* 2008: 21).

As with Kingdon's notion of the focusing event, Lodge and Hood find that 'small events can have big consequences' if occurring alongside a perfect set of conditions:

[O]ne dog bite at a strategic moment could trigger an institutional reaction that demanded heavy attention and activity by political leaders, cabinet committees, high officials, street bureaucrats and court systems. Given the right circumstances - in this case a combination of an attack in a public place, an innocent victim, a developing pattern of incidents that led to "institutional vulnerability" and an

absence of rival big news stories - one dog bite can present policy-makers with "forced choices" in the same way as large-scale events that rank high on any 'objective' scale of public risk (2002: 10).

Such a set of conditions is found to temporarily propel the issue from the unlit corners of policy making to centre stage so that it 'becomes part of a macro-political agenda' (*Ibid.*) until, that is, the 'media-frenzy' eventually subsides. They did not, however, in this study, discover any policy entrepreneurs manipulating or utilising the policy window.

Boucher however regards breed specific laws as examples of panic policy making referring to it as 'legislation versus logic' (2011: 61-76) and indeed this notion that breed-bans occur in relatively unusual political environments has been explored in some detail by Hunter and Brisbin, (2007):

Unlike adoption of some palliatives for risks, breed bans appear in circumstances marked by great emotionalism and limited inquiry into the sources and probability of a risk and limited consideration of alternative policies. Especially the alternatives suggested by animal rights and animal welfare advocates appear to be ignored. Therefore, to address how dog breed bans have come about, this paper proposes a framework to explain panic policy making. Unlike a theory, this framework is a guideline that organizes inquiry and uses partial theories about the influence of ideas and political mechanisms to evaluate generalizations about policy change (Hunter & Brisbin, 2007: 2).

Panic policy making is defined as the swift passing of new legislation (or rules) in response to a rapid manifestation of uncontrolled fear and 'is more closely akin to an individualized rather than an organizational or institutional policy making process' (*Ibid.*: 3). Using surveys of the public and interviews with both activists and public officials, Hunter and Brisbin's study also draws upon key features of Multiple Streams Analysis as a direct comparison with panic policy making to determine that:

it is too simplistic to capture the range of events that open a policy window. Fear and injury can induce policy action, but the framework ignores the ability of one or two powerful people to manufacture a danger and push legislation through at a municipal or even a provincial government with little real evidence to support the need for the policy. The lesson is that there are many policy "solutions" to the dangerous dog problem that result from an extensive array of causal events in diverse institutional and historical contexts (*Ibid.*: 37).

Hunter and Brisbin, also claim that the media is not always responsible for inflaming fear towards specific dog breeds (and even where they try, they are not always successful at engendering it) but the press can also fail to hold some policy making in this arena to account. Power was deemed to reside with a small number of elites however apathy amongst members of the public was also a key factor, in that they can be passive in

response to new breed specific laws. The combination of the two factors was seen to produce the necessary conditions for panic policy making. In contrast they also found, in a certain region of Canada at least, that when the process attracts interested communities and experts, the debate shifts away from dog behaviours to the human behaviours of dog owners. In terms of studying the policy process itself they acknowledge the pitfalls of the framework employed but defend the overall contribution to this field of study particularly with regard to the wider debates surrounding the amount of policy making occurring which eschews scientific evidence.

## 2.5 Summary

This chapter has reviewed three main bodies of literature to provide context to the study of the dog control policy process in England and Wales. Situating animal abuse within criminology has significance for myself both in terms of my scholarly research and my professional role, as well as the legitimate interests of my employer, the RSPCA, whose only purpose is to prevent harm coming to non-human animals (not regulate dog ownership), within the dog control policy sphere. As animals are recognised legally as sentient beings and have their standards of care protected in a multitude of statutes, it is incumbent upon us to be cognisant of the effects punitive controls can have upon dog welfare and how criminology may contribute to our understanding of that.

Positioning the dog control policy process within the context of the grand narrative of a culture of control provides interesting dimensions and parallels for exploration in later chapters. It is through this lens that it is possible to understand how the escalation of punitive dog control measures developed exponentially, with certain dogs, and potentially certain owners, demonised and characterised as the 'dangerous other', and ultimately how a nation of dog lovers suddenly found the extermination of a certain type of dog more than palatable.

So too the exploration of the methods of studying policy making in the latter part of the chapter has assisted with both an explanation of why MSA provides a more suitable framework for my empirical findings (in Part III), but has also been a useful exercise in understanding the strengths and deficiencies of alternative methods to gain an insight into why other researchers have employed them. They also contain useful tools to assist with

the later partial exploration of the policy community and in particular its epistemic status given the concerted, but thus far futile, efforts to prove the DDA does not work and should be repealed. As has been noted, much of the literature around animals and public policy is concerned with influencing the process and whether the implementation of those policies has been successful. There has been very little attention paid by scholars to the agenda setting phase in order to understand how and why policy has come about. This could be argued to present significant barriers for those seeking to understand the genesis of contemporary dog control policy, and for those seeking to bring about change. These are issues central to the aim and objectives of this thesis and as such will be repeatedly returned to and later directly addressed in Chapter Ten.



# PART II

## The policy context



## Chapter Three

### The policy landscape

#### 3.1 Introduction

The following chapter is the first of three which constitute Part II - *The policy context* of the four overarching sections of this thesis. My original intention was to employ a methodological approach based solely upon interviews with the elite actors within the policy community of dog control. It became apparent that it would be fundamentally beneficial to this case study if a thorough documentary analysis was also completed in order to properly illuminate this previously relatively unexplored arena. The results of such an analysis forms a 'history of the present' (Ash 1999) within the following two chapters of this study, providing the policy context for defining the nature of the problem and the evidence for it in Chapter Four, and the politicisation of dog control in Chapter Five. This chapter begins with a brief explanation of the methods employed in the document analysis, before providing a detailed examination of the most relevant legislation in relation to dog control and welfare in England and Wales. This is intended to provide clarity and assist with navigating the empirical analysis which forms the core of this study of what has essentially been, until now, an opaque policy landscape.

#### 3.2 Methodological approach

From the outset of this study it became clear a conventional literature review would face challenges as so few researchers had examined the policy process in relation to dog control from a sociological perspective. Nevertheless an abundance of valuable textual resources and evidence is available in relation to the nature of the dog problem in society, and how that is defined and responded to, through the legislative, policy making process. As May (2001: 176) suggests 'documents, read as the sedimentations of social practices, have the potential to inform and structure the decisions which people make on a daily and long-term basis; they also constitute particular readings of social events'. Thus a qualitative documentary analysis was undertaken in order to 'elicit meaning, gain understanding, and develop empirical knowledge' (Bowen 2009: 27). This primary research process of locating, selecting and appraising of texts produced a rubric whereby themes

could be collected and presented. A variety of document sources were utilised including: legislation and associated statutory and non-statutory guidance; journals and books; press releases; published Freedom of Information data; press cuttings; archived government material; biographical accounts; publicity materials; organisational and operational reports; institutional correspondence; and records of Parliamentary proceedings. The vast majority of these are open and freely available, and none are restricted access.

By utilising document analysis in combination with the qualitative interview method adopted in Part III of this study, it is hoped this thesis will benefit from a degree of triangulation as the corroboration and convergence of both data sets aims to mitigate the effects of researcher bias, which has the potential to be exacerbated by my profession as a member of the policy community (this is explored in more detail in Chapter Six). Bowen (2009) discusses the benefit verification brings, and outlines additional uses for this method which this study hopes to gain from, namely it can provide background information as well as insight in order to provide the context within which the research participants work; documents also provide supplementary data as invaluable augmentation of the knowledge base; and opportunities to monitor change over time are presented where documents develop via successive editions.

One of the strengths of this method is that the contents of the texts cannot be altered through the research process and thus remain free from my influence. However, there are some cautionary notes to acknowledge when employing such methods. For instance, there can be 'bias selectivity' arising from the determination of which documents are pertinent and also emanating from within the documents themselves for what they choose to report (Bowen 2009). As such care was taken to ensure a rigid impartiality and the analysis was focussed upon identifying any such pitfalls, whilst simultaneously tuned to recognise any meaning conveyed by those authors opting to account for only certain materials and facts. Clearly as researchers employing such methods we can be somewhat constrained by what is available in terms of documentation, and the quality therein. These factors can be at least partially mitigated against through triangulation and the employment of at least one other method - in this case study that is the qualitative interviews with key participants of the dog control policy community, discussed in Part III.

For the selection and evaluation of text, Scott's (1990: 6) rigorous criteria of authenticity, credibility, representativeness and meaning were utilised throughout the process. The function of performing a document analysis initially requires a superficial examination followed by a diligent and in-depth exploration of the text before developing an interpretation of the materials. For this study sections of text relevant to dog control were first identified before a thematic analysis was employed to develop and organise patterns of information into sections. Reading, coding and re-reading formed an iterative analytical process in order to be able to develop robust findings and supplement an element of pre-defined codes that had emerged from the process of analysing the interview data.

The analysis of documentation explored within Chapters Four and Five is interpretative in nature as it must be recognised, particularly perhaps in a highly divisive and controversial subject area, that different actors attribute different meaning to the same text. Indeed documents may be viewed not as self-evident, but as just one component in how 'truth' is generated (Foucault 1991). Certainly the view that the danger posed by one dog over another can be determined purely based upon its breed, is a widely accepted social fact enshrined in law, but is also an entirely antithetical view to many within the policy community. As such I have also attempted to take a critical approach to the same documents with a view to determining how and when some of the documents analysed become accepted - or indeed have been rejected - as knowledge, which itself may be subject to social control (Jupp 2006).

The sub-chapter that follows produces an analytical guide to the legislative and policy landscape drawn from the statutes themselves as well as some of the guidance produced for enforcers. The main actors within the policy community are also explored utilising my own knowledge gained from within my professional role working for the RSPCA. Chapter Four considers definitions and meaning as well as the emerging area of evidence around dog bites and their relationship to breed or type of dog as an essential feature of the evidence base for what is the pinnacle of dog control - the Dangerous Dogs Act 1991 (DDA). Media representations of dog attacks, Pit Bull Terriers (PBT), and dogs in general provides rich material and is also another central aspect to society's response to regulation.

Bearing witness to past events, as May (2001: 175) notes, document analysis can act as a 'means of enhancing understanding in case studies through the ability to situate contemporary accounts within an historical context' and thus the origins of dog control and its early development in England and Wales are explored, with the aim of also enabling a broader examination of the data and analysis in Part III of this thesis. Additionally, such analysis has enabled the exploration of the political aspects of policy development through time, in order to shed some light on the political processes of the construction of both the key dimensions of the 'dog problem' and the framework of control that has emerged in relation to this. Both of these two aspects of historical context and politicisation form the basis of Chapter Five.

### 3.3 Legislative and policy landscape

The section of the chapter that follows provides a brief overview of the key pieces of legislation concerning dogs in England and Wales. It is further subdivided into specific legislation relating to: animal welfare and dog control although many aspects of the law speak to both purposes. It should be noted there is also case law for many of these pieces of legislation and so this account should not be seen as an exhaustive review of the legal context. It does, however, cover the areas of most relevance to this thesis.

#### Animal welfare legislation

Although the focus of this thesis is dog control there are elements of animal welfare legislation that are relevant to aspects of this study, such as the problem definition and the solutions proposed, to be discussed in later chapters. Provision for animal welfare in law is often recommended as the foundation for encouraging responsible dog ownership (RSPCA 2016a) which includes both better welfare and control of the animal. As such the two issues are inextricably linked.

##### *a) Animal Welfare Act 2006*

Until 2006 the most relevant legislation central to establishing the acceptable treatment of animals in society was the Protection of Animals Act 1911 with archaic provisions detailing such out of date practices as dog-drawn carriages. A much needed modernised and

reformed law in the form of a framework statute<sup>11</sup> came with the Animal Welfare Act 2006. It makes provision not only for unnecessary suffering but also, for the first time, places a duty on people responsible for protected animals to take such steps, as are reasonable, in all the circumstances, to ensure that the needs of the animal are met to the extent required by good practice<sup>12</sup>. The needs are set out as: a suitable environment; a suitable diet; an ability to exhibit normal behaviour patterns; an ability to be housed with, or apart from, other animals; and to be protected from pain, injury, suffering and disease.

In order for owners to understand their obligations in meeting these welfare needs, the Department for Environment, Food and Rural Affairs (Defra 2018a) (for England) and the Welsh Government in Wales (2018) have each produced a statutory Code of Practice for the Welfare of Dogs<sup>13</sup>, which in fact differ extensively in content, but do not contradict, each other. Although being found in contravention of the Code is not an offence, the evidence can be used against the owner in court as a means of proving a welfare offence. Alternatively police or local authorities can issue a statutory improvement notice which informs an individual (or organisation) where they are failing, often in consultation with the Code. Failure to meet the requirements of the notice may lead to prosecution. The RSPCA issues similar, but non-statutory, notices and although non-binding on members of the public, reportedly have a 99% effectiveness in terms of compliance (Defra 2016: 72) which allows the RSPCA to act in a more preventative way.

This is first and foremost an Act about protecting animals but there are also elements of control - primarily through setting out the responsibilities of the keeper, but also by stipulating the offence of animal fighting in s8 of the legislation. The root of this section is an intention to provide standards for animal welfare but the offences also cover, for instance, being in receipt of related monies, publicising a fight, being in possession of any animal fighting related paraphernalia, or sharing a video of a fight. The nature of dog fighting in the UK (Lawson 2017) may not be quite how it has been consistently framed and connected to the dangerous dog issue by policy makers, indeed it has been cited as

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<sup>11</sup> The Act is considered framework in nature because it provides clear pathways for secondary legislation to be made such as regulations to prohibit or license, or make statutory codes of practice.

<sup>12</sup> This continues to apply to enforcers when dogs are seized for offences under other legislation e.g. DDA.

<sup>13</sup> These are both redrafted versions of the Codes which were originally issued in 2008 Wales and 2009 England.

the reason for some of the specific legislative measures relating to 'risky' dogs. This is considered in detail by participants of this study, which is discussed in Part III.

#### *b) Animal Welfare (Electronic Collars) (Wales) Regulations 2010*

Wales led the way within the UK in introducing legislation to prohibit the use of electronic collars on dogs (and cats). This was an important step forward in that it was the first legislative indication that negative training methods, based upon punishment, are no longer advocated or supported by evidence, and in extreme examples of these training regimes, such as this, where an electronic shock is administered to the animal wearing the device at the will of the owner, they are now specifically banned. It is now clear, in law, that it is not acceptable for an owner to control their dog via these means of punishment and negative reinforcement. England and Scotland announced plans to legislate in this area in 2018, although England, at least, is not expected to extend the prohibition to cover fences that transmit a signal to collars that emit a shock to an animal approaching an invisible boundary.

#### *c) Breeding puppies*

The breeding, sale and supply of puppies and dogs to the pet trade is regarded by many as a fundamental contributing problem when trying to ensure animal welfare and encourage responsible dog ownership - and it has not always been helped by a plethora of legislative measures to navigate. There are factors such as the appropriate socialisation period, which will determine the dogs behaviour including aggression as a response to certain stimuli. There are the welfare factors involved with breeding and whether the acquisition of puppies is sufficiently regulated as to provide appropriate welfare conditions. The growing divergence in laws pertaining to animal welfare in England and in Wales has also been stark in this specific policy area in recent years.

The Breeding of Dogs Act 1973 and the Breeding of Dogs Act 1991 had their provisions amended and extended by the Breeding and Sale of Dogs (Welfare) Act 1999, the culmination of which sets out what constitutes a breeding establishment and when a licence is required. For a local authority to issue a licence to a breeding establishment it must be satisfied that the animals have suitable accommodation, food, water and bedding;

are exercised sufficiently; and there are suitable disease prevention measures. This legislation was not sufficiently prescriptive as to provide for higher enough standards for animal welfare, particularly after the introduction of the Animal Welfare Act (2006) with which it was incompatible. As a result the Welsh Government brought forward the Animal Welfare (Breeding of Dogs) (Wales) Regulations (2014) which largely replaced its predecessors - and as of October 2018 England have also revised their regulations - with an emphasis on responsibility and welfare, whilst also providing clearer offences and punishment.

Developments in scientific knowledge around socialisation has propelled this issue into the forefront in terms of the debate around dog bites and attacks. The development of a puppy is thought to be most acutely influenced by the first three to 16 weeks and as such, where the puppy is bred; how soon it moves to its new home; and the environment it ends up in are of utmost importance, as are the skills of those caring for that puppy throughout that period. These are not the only factors of course as to whether a puppy will grow up to be an aggressive dog, but they play a much larger role than had once been thought. Given the lack of any minimum mandatory education for dog owners, or licence to own a dog, and the fact the evidence regarding the importance of the socialisation period is relatively new and still emerging, legislation would currently appear to be the only bridge between expert knowledge and the practice of keeping a dog.

### Dog Control Legislation

There have been various pieces of legislation concerning dog control enacted over the years and it is considered one of the more complex and confusing areas of law, much in need of consolidation and simplification (Efra 2018d: 28). As will be seen in later chapters, aspects of control legislation is also a more controversial area of law, for example it includes breed specific legislation (BSL) which prohibits certain types or breeds of dog. There now follows a brief description of the most relevant statutes in force today, in chronological order:

#### *a) Dogs Act 1871*

Despite the age of this legislation it retains an important role in a considerable number of

dog control cases. The measures contained within this Act allow for a complaint to be made by any individual (including the police, local authorities, a member of the public) to a Magistrates Court about a 'dangerous dog'. The Court may make any Order they feel is appropriate to require the owner to ensure that the dog is kept under proper control, or ultimately, if necessary, destroyed. The Court may also specify measures to be taken for keeping the dog under control, and this is most commonly muzzling or being made to remain on a lead when in a public space.

This Act's scope extends to both public and private places, although the complainant must show that the dog was not only a danger to others but was also not under the proper control of the keeper. A key aspect is that these conditions are not confined to the dog posing a danger to a member of the public - which is the case for its legislative cousin, the Dangerous Dogs Act 1991 (see below) - and as such can be used very effectively where a dog attacks another animal. Another fundamental feature is that any complaint to a court is classed as civil action, so the state need not always be involved. There are various significant effects from this, namely court action may be limited to those with the means to take a dog owner to court, and the outcome may also be influenced by the defendant's ability to support themselves through the process. This may also be a factor where the police utilise the Act (which is not uncommon). Being a civil process, there are no powers for enforcement bodies to seize or retain a dog pending the outcome of the complaint, which may influence the enforcer's choice to use the more severe measures made available under the DDA.

In terms of the offence of being 'dangerous', this was given its ordinary everyday meaning and then further defined by an amendment via The Dogs Act 1906 whereby a dog is classed 'dangerous' where it injures cattle or poultry or chases sheep. For those making a complaint to court, they will only need to prove their case on the balance of probabilities, as is the case with civil proceedings, and is a threshold considerably lower than for the criminal offences of the DDA. Procedures under the 1871 Act can also be a quick and low cost method depending on the local circumstances for securing controls on an individual problematic animal owner (the costs for the time in Court and preparation of an Order are at present around £200). However the time taken to obtain evidence and prepare a case will generally cost enforcement authorities who utilise the measures in this Act, considerably more, and pressures on the Court system may delay any hearing.

*b) Dogs (Protection of Livestock) Act 1953*

This legislation creates an offence for an owner or keeper (person in charge) of a dog to allow it to worry livestock on any agricultural land. The definition of 'worrying' includes attacking livestock as well as chasing them in such a way so as to cause injury or suffering, as well as simply being 'at large' in a field where there are sheep. Certain groups of dogs are exempt from this including police dogs, guide dogs, trained sheep dogs, gun dogs and hunt packs of hounds. The legislation provides for a limited power of seizure and very limited fines if convicted of an offence.

*c) Pet Animals Act 1951 and The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018*

The Pet Animals Act (1951) made provisions for a licensing regime for the types of animals that are permitted to be traded and where this may take place. It is for local authority licensing officers to enforce this piece of legislation. The Act has recently been repealed and replaced, in England only, by new broader regulations to cover a range of animal activities including vending. It is worth noting however that pet shops are no longer the primary source in the pet trade that they once were. For example, shops now account for less than five percent of puppies sold, with half of all people now obtaining their puppies from commercial breeders. Backstreet breeders, the internet and neighbours account for almost a third whereas rescue organisations may only be a fifth (APGAW 2009)<sup>14</sup>. In one survey it was estimated that a mere two percent of pet shops had a licence to sell puppies (Pet Industry Federation 2008). SI dogs and the sought-after bull breeds with a similar appearance to those prohibited dogs make up part of the backstreet and internet seller category as most of these dogs will not be sold through licensed legitimate trade. Traditional methods of pet sales have declined, having been replaced primarily by the internet, akin to other consumer patterns, and perhaps as a reflection of the challenges of regulating such an arena both UK and Welsh governments have recently announced plans to ban sales of dogs by third parties. It remains to be seen how this will be implemented and what effect it may have in those dogs deemed to be dangerous.

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<sup>14</sup>This data collection was conducted in England only.

*d) Animals Act 1971*

In addition to the provisions of the Dogs Act 1953, dogs that are found to be worrying livestock on agricultural land may, under specified circumstances, be shot by the livestock owner, during the course of the attack or immediately following, under the provisions of the Animals Act (1971).

The status and dangerous dog problem could be characterised as an inner city issue however farms are often located on the fringe of urban areas and there is growing evidence that another guise of irresponsible dog ownership is witnessed where irresponsible dog owners walk their dogs through farm land or permit their dogs to stray into neighbouring agricultural land during the day (APGAW 2017: 8), certainly it would appear a growing contingent of dog owners within an expanding population is interacting with livestock in a way unlike previous generations.

*e) Dangerous Dogs Act 1989*

This statute creates an offence of failing to comply with a Court Order under the Dogs Act 1871; gave courts extra powers, and increased the range and levels of penalties that could be imposed on dog owners. It also included powers for the destruction of dogs other than strays and provided courts with the power to issue orders banning dog owners from having custody of a dog for a specified period.

*f) Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005)*

The issue of stray dogs is a key area for local authorities in terms of encouraging responsible dog ownership, although the legislative focus has traditionally been on the environmental impact of dog straying rather than public safety or animal welfare. Local authorities have a statutory duty to appoint an officer for dealing with stray dogs and a register must be maintained setting out the number of stray dogs seized by the local authority. A stray dog must be kept for seven days and then if it is unclaimed, the legislation allows for it to be sold, rehomed, or euthanased. In 2007, dealing with stray

dogs moved from a shared role between the police and local authorities to being the sole responsibility of the latter.

g) *Dangerous Dogs Act 1991 (as amended)*

This legislation has two main features of note, the implications of which will be returned to in later chapters, but both refer to what is considered to be 'dangerous'. The first (s1) is the list of types<sup>15</sup> of dog deemed to be inherently dangerous and banned from ownership. The second (s3) concerns the offence of allowing any dog - irrespective of breed - to be dangerously out of control. Following a high profile attack the DDA was rushed through Parliament (see Table 1) with the intent of providing for public safety and as such does not focus on animal welfare, nor does it consider the effects of its measures on animal welfare.

The possession, ownership, breeding, sale, exchange or transfer, advertising or gifting of certain types of dogs is prohibited by s1 of the Act. These dogs were identified by legislators in 1991 as being those traditionally bred for fighting, namely, the Pit Bull Terrier, the Japanese Tosa, the Dogo Argentino and the Fila Brasileiro. A dog is identified as being of such a type based entirely on its physical conformation and whether it is deemed to have a 'substantial number of characteristics' so that it can be considered to be 'more' a prohibited type than any other type of dog<sup>16</sup>.

Under s3 any dog<sup>17</sup> can be regarded as 'dangerously out of control' in any situation where there are grounds for 'reasonable apprehension' that it will injure any person regardless of whether or not it actually does so. So while the focus is on people rather than animals, where a dog attacks an animal and any person present at the time of incident has reasonable apprehension that it would injure them whether or not it did so, it may be possible to consider a prosecution under s3. Although local authorities are able to appoint officers to enforce this piece of legislation, most incidents under the 1991 Act are investigated by the police specialist Dog Legislation Officers (DLOs).

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<sup>15</sup> They are specifically and legally referred to as 'types' because they are not breeds (as recognised by the Kennel Club) and because the breed and genetics of any dog is irrelevant within this legislation. It only matters whether a dog looks like the types banned under s1.

<sup>16</sup> This principle was established in *R v Crown Court at Knightsbridge ex parte Dunne; Brock v DPP [1993] 4 All ER 491*.

<sup>17</sup> Whilst this includes the types listed under s1 these were not the target of s3 given legislators fully expected them to be eliminated in the UK.

Table 1: Timeline of key events relating to contemporary dangerous dog legislation

14.4.1989	Significant media attention on dog-bite risks following a Rottweiler attack which killed Kellie Lynch. Government conducts urgent review of legislation
15.6.1989	Calls for breed specific bans as as means of assessing dangerousness rejected by the Parliamentary Under-Secretary of State for the Home Department, during House of Commons debate
27.7.1989	A new Dangerous Dogs Act introduced which amended the 1871 Dogs Act, providing courts with extra powers and increasing penalties of offending dog owners, essentially providing a criminal emphasis rather than solely civil
10.11.1989	The Government issues a consultation 'Action on Dogs: the Government's proposals for legislation'
27.6.1990	The Government issues a consultation paper 'The control of dogs: a consultation paper' which discussed general changes in the law on all dogs and proposals for special controls on particular breeds or types
18.5.1991	Dog attack on Rukhsana Khan, reported to be by a Pit Bull Terrier. She survives but with life-changing injuries
21.5.1991	Prime Minister John Major MP told the House of Commons that action to tackle dogs was now imminent. Supported by Labour, the Government immediately banned the import of several breeds deemed to be 'fighting dogs'
22.5.1991	Homes Secretary Kenneth Baker MP announces plans in a House of Commons statement to legislate to control dangerous dogs
23.5.1991	Mr Baker MP writes to parliamentary colleagues to provide further details on the intended measures
Parliamentary Proceedings of the Dangerous Dogs Act 1991	
04.06.1991	House of Commons 1st reading (a formality, no debate)
10.06.1991	House of Commons all stages of the Bill completed in one day
12.06.1991	House of Lords 1st reading
25.06.1991	House of Lords 2nd reading
10.07.1991	House of Lords Committee
23.07.1991	House of Lords 3rd reading
25.07.1991	Royal Assent

The s1 offences within the DDA are also unusual inasmuch as the burden of proof is reversed. Rather than it being the prosecutions' role to prove the guilt of the defendant, it is for the owner to prove that the dog is not a prohibited s1 type. This was challenged,

and lost, at the European Commission of Human Rights, who ruled that it was justified given the intent to provide for human safety from the risk s/l dogs pose (McCarthy 2016: 567). They did not challenge the evidence for the basis in law that s/l dogs pose a greater risk than other breeds of dog.

The Act was amended in 1997 and 2014 and on both occasions with some important changes. Until the 1997 amendments to this legislation were passed, the only option open to the Courts was to euthanase any dog found to be a prohibited type. However, following these amendments, the Courts are now permitted to allow for the exemption of such a dog which, in their opinion, does not pose a danger to public safety through the use of a Contingent Destruction Order (CDO) i.e. the dog will be destroyed unless the owner of the animal complies with the following conditions: the dog must be neutered and permanently identified with a tattoo<sup>18</sup> and microchip; the owner must take out (and renew annually) third party insurance for their dog; the dog is muzzled and kept on a lead when in a public place; the dog cannot be taken out in public by anyone under 16 years of age; the dog must be kept securely at home, i.e. ensure gardens are secure; and the dog must be registered on the Index of Exempted Dogs (administered by Defra) and a certificate issued to the owner.

*h) Identification - The Control of Dogs Order 1992, The Microchipping of Dogs (England) Regulations (2014), and The Microchipping of Dogs (Wales) Regulations (2015)*

In order to be able to trace animals back to their owners, whether they stray, are involved in an incident or are cruelly treated, identification is important. Legislation has been in existence for a number of years, although it is not well known by the public and compliance is therefore very inconsistent. The Control of Dogs Order 1992 makes it a requirement for all owners or people in charge of dogs to ensure their animals wear a collar and tag, featuring the name and address of the owner, when in public or on public highways<sup>19</sup>. In April 2016 new legislation in both England and in Wales brought mandatory microchipping for all dogs.

It is worth noting that dog licensing, which was abolished in Great Britain in 1987 still

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<sup>18</sup> This requirement was removed under the Dangerous Dogs Exemptions Scheme (England and Wales) Order 2015, see further below.

<sup>19</sup> There are exemptions for example hunt hounds, those used in sport, guide dogs, and farm dogs.

exists in Northern Ireland where it is an offence to own an unlicensed dog unless the dog falls into a series of exemptions, such as police dog, assistance dog, etc. All domestic dogs must be individually licensed with a fee of £12.50 paid annually, although there are some concessions. The history of the dog licence and the campaign by some organisations for the re-introduction of licensing in England and Wales, as part of a package of measures designed to aid the repeal of s1 of the DDA, is explored further in subsequent chapters.

*i) The Policing and Crime Act 2009*

This Act has provision for Gang Injunctions to prevent gang-related violence and gang-related drug dealing. The associated statutory guidance issued by the Government (HM Government 2016: 24) identifies situations where dogs are used to 'incite fear, intimidate others or to commit acts of violence'. A Gang Injunction in such circumstances is recommended as a means of prohibiting the individual from being in charge of dog (or any animal) or from being in a specific location with an animal. This relates to all dogs and is not related to the definition of dangerous in legislation.

*j) Anti-social Behaviour Crime and Policing Act 2014 Act*

In 2014, a series of amendments to dog control legislation within the Anti-social Behaviour Crime and Policing Act led to the following changes: the scope of the 1991 Act was extended to cover private places (with a limited exception) in addition to public places<sup>20</sup> and powers were provided for a constable or an appointed local authority officer to seize a dangerously out of control dog in a private place; prison sentences were increased for those convicted of some offences; a new offence was created for a dog attacking an assistance dog (these will be treated under s3)<sup>21</sup>; and specific considerations were provided concerning the suitability of an owner and the behaviour of a dog a Court must consider if it is not to order the destruction of the animal.

The new s3 offence where a dog causes injury to a person or an assistance dog means that it is now both a recordable and notifiable offence whereby any alleged offender will

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<sup>20</sup> In short it covers all places in England and Wales except where a dog attacks a trespasser or burglar. However even in such circumstances the dog must either be in, or partly in, a dwelling and the person being attacked must be in, or entering, a dwelling and either be, or suspected to be, trespassing.

<sup>21</sup> Note this does not apply to attacks on any other animals.

be fingerprinted, photographed, have their DNA taken and have all of this added to the Police National Computer, irrespective of any judicial outcome. However if a dog is dangerously out of control in exactly the same way as the conditions in the s3 offence, but only injures or kills another animal (not a person or an assistance dog), the offence is neither recordable nor notifiable. Apart from any perception of disparity regarding victims and the degree of seriousness of the behaviour and attack, there is no available method of tracking those offenders which is ignoring any potential escalation factors and the opportunity to prevent a more 'serious' attack, by working with the dog and the owner.

Another significant element within the Anti-social Behaviour Crime and Policing Act (2014) is the extension of enforcement powers to private land, including domestic premises, meaning that potentially irresponsible dog ownership can now be addressed wherever it occurs. This can enable enforcement action in more circumstances, for instance where there is serious injury or death, as well as for the more common issues of dog barking, fouling and straying that can affect local communities. The legislation removed powers from community councils, but gave new powers to Housing Associations to enable them to use a range of enforcement tools in addition to their powers as a landlord. The Act also introduced a series of anti-social behaviour measures that can be used by statutory enforcers to deal with dogs being used in an anti-social way. These included Community Protection Notices (CPNs), Injunctions, Criminal Behaviour Orders and Public Space Protection Orders. Defra and the Welsh Government (2014) have produced specific guidance on the use of these measures and other issues.

#### *k) Dangerous Dogs Exemption Schemes (England and Wales) Order 2015*

Further changes were made to the nature of dangerous dog control in 2015 when the Dangerous Dogs Exemption Schemes (England and Wales) Order came into force, replacing the previous pre- and post-release conditions for any prohibited dog becoming exempt. The Order also introduced the Interim Exemption Scheme (IES) - a system of 'doggie bail' - which permits a DLO police officer to return a dog suspected of being of type, to the owner who has indicated they intend to apply to the court to have the dog placed on the Index. The DLO must be satisfied that the dog will not pose a threat to public safety. If the owner breaches the conditions of the IES, the dog may be seized once

more and all relevant factors will contribute to the court's determination as to the suitability of the owner and the dog for entry on the Index.

The Order also specified the limited conditions under which a prohibited and exempted dog may be transferred to another keeper, namely as a result of serious illness or death or the previous owner. Before the order was passed there existed a degree of confusion as to Parliament's will in relation to this issue. Certain courts decisions, such as *R (Sandhu) v Isleworth Crown Court [2012]*, were being interpreted as to suggest the transfer of ownership was permissible. The order clarified the only circumstances under which this could be considered, as well as resolving the main issue arising from the *Sandhu* case - whether it is possible to consider the temperament of the dog and the character of the owner, when deciding upon exemption - these are now clear contributing factors. One of the core aims of the original legislation was to prohibit the selling or gifting of s1 dogs and prosecutors and courts have been reminded not to transfer ownership in any way other than by those conditions laid out in the Order, and that 'a Court ordering someone else to take charge of the dog for the remainder of the dog's life is exposing that prohibited dog as a de facto gift' (Crown Prosecution Service 2017). It is possible for a dog to remain the property of its owner but have the court appoint a new keeper, where it will live and be looked after. The rulings here have permitted this only where it can be proven that the new keeper has already been 'the person for the time being in charge of the dog' at the time of application to the court, this requires the person to have had responsibility for the dog in the past or the present. As yet there are scarce examples from court and so it is currently only an emerging area of law

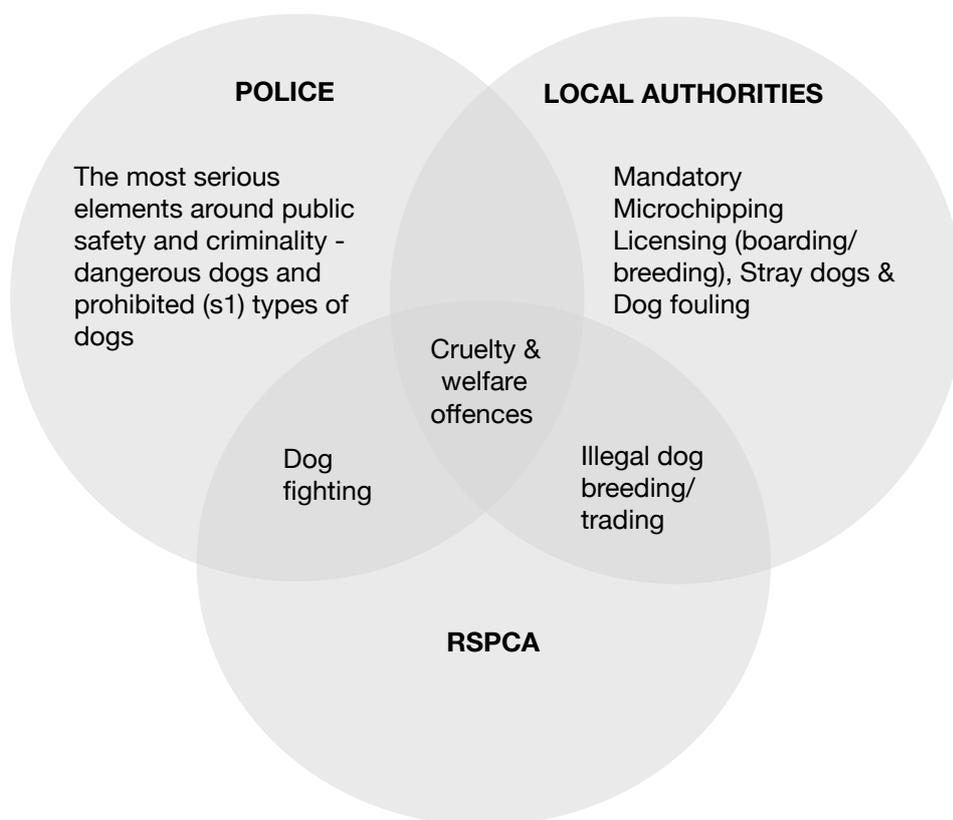
### 3.4 The Policy community

The participants of the policy arena concerning the control of dogs is diverse in terms of primary interest and indeed experiences, originating from different sectors, whether that be enforcement, animal welfare or victim representation. The elite interviews in Part III of this thesis were conducted with a range of experts drawn from these sectors, of which more will be discussed in Chapter Six. Whilst mapping the policy landscape within this chapter however it is worth providing a brief overview of the sectors within which these experts reside in order to offer a rounder explanation of the arena in which dog control policy is debated and produced. Not listed below, but still of note, are the civil servants

and politicians also often considered members of the policy community, as discussed in Chapter Two. In this instance and given the study's territorial context of England and Wales, this includes both the UK and Welsh Governments due to the complex devolution settlement which sees some aspects of the control of dogs, although not the DDA, devolved to the Welsh Government.

*a) Enforcement bodies*

Figure 1. A representation of organisational roles in relation to the enforcement of dog control<sup>22</sup>



The enforcement of various offences surrounding dog ownership falls to three main bodies in England and Wales, namely the Police, the RSPCA and local authorities. Although some areas of legislation are dominated by one enforcer, they are by no means exclusive, and there is a great deal of crossover. Figure 1 presents a visual representation of the main enforcement activities in relation to dog control.

<sup>22</sup> NB some local authorities (e.g. those interviewed for this study) are involved in certain aspects of the enforcement of s1 legislation, as part of their prevention work, however most are not. Also the RSPCA will prosecute s1 offences but only where other cruelty, welfare or fighting offences also exist. It must also be noted that the diagram in Figure 1 doesn't represent the proportionality of roles - for instance the RSPCA investigates and prosecutes the vast majority of cruelty & welfare offences.

The three enforcement bodies will attempt to work together as needed, and Memorandums of Understanding have sometimes been developed which can often help to explain and formalise these relationships and roles. There is regular communication between these organisations at national levels, as well as ad-hoc communication, intelligence sharing and joint working as needed at a local level. It is recognised however, that conflict can arise where responsibility for action is not clear-cut or where resources are not in place (Efra 2016). It can also be difficult for members of the public to understand who they should contact, which can lead to duplication where more than one enforcement body has been asked to investigate a complaint, or indeed an absence of anyone responding where confusion between enforcers exists.

The way priorities are formed for these three bodies is also often linked to funding, which is itself under pressure. Although local authorities and the police may have powers under key pieces of legislation to take action (and, in very limited cases, a statutory duty to do so) enforcement is not specifically funded, nor hypothecated, and is varyingly prioritised at a local level leading to a piecemeal approach. This can mean that different approaches are taken in different enforcement areas, ranging from very good to little or no enforcement action. The RSPCA is in a similar position to both local authorities and the police with limited resources and has no statutory duty to enforce animal welfare legislation, instead taking action as a private prosecutor. Although statutory duties in terms of enforcement are rare, they do exist in relation to dangerous dogs. Once having reasonable suspicion of a s1 dog in someone's possession the police are obligated to respond. It is a straight offence for which the police have no discretion. Accordingly the associated kennelling and prosecution costs have been outside the control of the police.

The training that each of these enforcers receive differs significantly. In recent years the Police have developed a standardised two week intensive DLO course covering canine behaviour, the identification of a suspected prohibited type dog and animal welfare, which is approved by both the National Police Chiefs' Council and College of Policing. Criteria have also been laid out which qualified Dog Legislation Officers have to follow annually in order to retain their occupational competence in role and to remain registered to practice - such as recording a minimum of four dog identifications in a new competency log book as well as having their evidence accepted in two court cases. Historically RSPCA Inspectors have completed an initial twelve month training programme before qualifying

to work as an Inspector. The training course consists of modules on relevant aspects of legislation, animal welfare and behaviour; and standard operating procedures which includes a period of field work and residential coursework. This covers all species they are likely to come into contact with and is not specific to dogs, they are also not trained or permitted to identify sI dogs. They will attend regular refresher training and professional development courses. Much of the training for local authority dog wardens is on-the-job and through experience and, as such, focussed on the practical aspects of the job such as catching stray dogs. Indeed, there are no accredited training courses for dog wardens although all officers specifically carrying out enforcement will have completed accredited training around enforcement protocols and procedures.<sup>23</sup>

Almost all of the 43 territorial police forces in England and Wales have at least one DLO amongst their dog handlers. The Metropolitan Police Service (MPS) have the only dedicated unit, named the Status Dog Unit (set up in 2007). The RSPCA has approximately 340 RSPCA inspectors in addition to 50 animal welfare officers who can investigate welfare offences, and 88 animal collection officers who collect and rescue animals. Responsibilities for the various aspects of enforcement regarding dogs at a local authority level is made up by a variety of metropolitan, borough, unitary and district councils and as such therein no standardised service, and it has been noted that 'some local authorities do not have the resources nor finances to offer full Dog Warden/Animal Welfare Services' (Efra 2013b:Vol II, Ev w25).

#### *b) Victim representatives*

There have been two major campaigns of note relating to the framework encompassing dog control legislation, that have been led by organisations outside of the animal welfare sector, and representing the victims of dog attacks. The first and largest was mounted by the trade union Communication Workers Union (CWU) who represent postal, cable and telephone personnel across a range of businesses and the Royal Mail Group who recognised the effect upon their staff (Langley 2012). Numerous case studies were publicised to demonstrate the dangers faced by these workers on a daily basis, most often on private land, as they tried to go about their job. Very serious attacks on several postal

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<sup>23</sup> Much of this information, which is not published in the public domain, has been gained: from personal correspondence with these practitioners; the discussions of the Task & Finish Group (RSPCA 2016a); and the RSPCA's working group meetings with police representatives.

workers highlighted the life-changing injuries which went uncompensated and without any legal redress due to the attacks taking place out of the jurisdiction of the DDA. The changes brought forward in the Anti-social Behaviour, Crime and Policing Act 2014 were designed to address that by extending the legislation to cover private places.

The second major campaign representing victims of dog attacks is the Guide Dogs for the Blind Association (2018). Although representing the interests of dogs, Guide Dogs are not an animal welfare organisation with instead their purpose being to breed, train and place assistance dogs with those in need. Reports of attacks upon assistance dogs (Moxon 2016) drew attention to the effect both upon the dog and the owner who was often traumatised by an attack they are unable to see; their inability to protect their guide dog; and the injuries, or risk of injuries, sustained themselves. The Anti-social Behaviour, Crime and Policing Act 2014 introduced, by amending the DDA, a new aggregated offence of attacking an assistance dog, which attracts a maximum of three years imprisonment.

#### *c) Dog welfare Non-Governmental Organisations (NGOs)*

All dog welfare charities and NGOs have taken a position on the control of dogs and in particular the DDA, with almost none in favour of s1. Most recently Peta UK (People for the Ethical Treatment of Animals) have stated a position in favour of retaining and extending the list of prohibited dogs in England and Wales because in their view BSL can protect those dogs specifically targeted by criminals for their ability to attack and fight (PETA 2018). However all other animal welfare organisations have a position to repeal BSL (although Chapter Four reveals how this was not the case during the passage of the DDA), though they may differ on what framework is best placed to replace it. This contingent of groups includes Battersea Dog and Cats Home, Blue Cross, Dogs Trust, as well as the RSPCA, who in addition to being an enforcer, as detailed above, also campaign and lobby on this and other animal issues. Also closely aligned to this sector and motivated by animal welfare objectives are the British Veterinary Association (2018) and the dog behaviour sector represented by Association of Pet Behaviour Counsellors (2010) who exist as representatives of animal-related services and also oppose BSL as a means of identifying and controlling dangerous dogs.

There are a number of specialist groups concerned with the issue of breed specific legislation, such as DDA Watch, Draconian Dogs Act, Deed not Breed, and Born Innocent, who are almost all staffed by volunteers. These groups campaign about the negative effect of the DDA on the welfare of dogs and their owners, but many are more often likely to be involved in supporting owners caught up in the minefield of legislation when they find themselves unwittingly in possession of a suspected s1 dog. In addition to these organisations there are a multitude of groups on social media raising the same issues. They will have anything from a few hundred to many thousands of followers, both within the UK and abroad.

#### *d) Forensic and other expert bodies*

The Dangerous Dogs Act is a specialised area of law which has led to the need for experienced legal expertise of a specific nature. One profession emerging from this need is Forensic Behaviourists, who are sometimes vets, or sometimes ex-DLOs with behaviourist qualifications, who have the recognised expertise to identify a s1 dog and testify to that fact in court. They will often act for both the defence and the prosecution. The identification process is a highly controversial and contested area of law as it is an extremely subjective process based upon a series of measurements and physical observations of the animal. The burden of the reversal of proof upon the defendant adds more meaning to the need for a strong forensic behaviourist who may be the only person to convince the court the dog is not one prohibited by s1.

Often those being prosecuted for DDA offences will seek out the services of legal practices that have defended other clients from s1 and s3 offences before and that also understand the nuances that can be present in different courts and different police forces. There is a small number of solicitors and barristers who advertise such expertise, with many of these also connected to other related activities such as working directly for animal welfare charities seeking repeal of BSL, or offering services such as diversion courses in animal welfare and dog handling to provide enforcers with the option of an out-of-court disposal, rather than a simple destruction order.

Specialists within this policy community also include scholars and researchers from a number of relatable fields. Much of the early literature has been on the epidemiology of

dog bites and this has progressed to include collaborations with the medical profession, particularly maxillofacial surgery, in exploring what dogs are likely to bite and how the injuries might be prevented. Veterinary research has also sought to establish risk factors in certain breeds, whereas the social sciences have examined the behaviour of the human victims and society's response to the issue.

### 3.5 Summary

Following an explanation of the methods for documentary analysis employed for the three chapters within this section of the thesis: Part II - *the Policy context*, this chapter has served to explore two substantive areas namely the legislative landscape and the key policy communities of England and Wales. These are intended to provide a solid foundation for navigating the policy context explored within the two subsequent chapters which consider the definitional issues of the problem as well as the evidence for it, and how dog control has become a highly politicised issue.

## Chapter Four

### A history of the present: dog control

#### 4.1 Introduction

The purpose of this chapter is to present the findings of an extensive documentary analysis of the policy debate, in the tradition of a 'history of the present'. As an approach employed by Timothy Garton Ash (1999) it encapsulates a style for 'everything...written at or shortly after the time it describes' by the 'historically minded witness' of our times and 'combining the crafts of historian and journalist' (Ash 2000). This method is of great assistance when the subject of study is complex and extensive, and consists of a series of interwoven events and current affairs, with many separate pieces of evidence requiring forging together into a unified representation. This analysis has been conducted to assist with addressing the first research objective of this thesis surrounding the dynamic and form of the 'problem definition'. As such the chapter has been divided into two main sections, the first discusses what the documentary evidence reveals about the definitions attributed to status and dangerous dogs. The second section of the chapter focusses on unearthing the nature and meaning of the dog problem by illuminating the evidence - or otherwise - of a problem, as well as the influences on the meaning in society of that problem. This section is further subdivided into sub-sections which consider dog fighting, other criminality and gangs, followed by dog attacks and Pit Bulls in particular, with a final section on the media's portrayal of these dogs.

#### 4.2 Defining 'status' and 'dangerous' dogs

In terms of the problem definition the following section of the chapter will be confined to the most salient areas of the public debate on dangerous and status dogs. However it is noted that participants of this study, as will be explored in Chapters Seven to Nine, were inclined to be 'broad-brush' in their explanations of the issues at hand. Puppy breeding, identification and straying were amongst the topics relating to irresponsible owners and the state's response were all raised in relation to the root causes of society's dog control problems. In addition to their interpretations of how and why these are interconnected it is worth noting that the participants are also reflecting the views of a wider collection of

stakeholders concerned with the welfare of companion dogs in the UK, which, to note, also saw status dogs ranked as a significant issue (Buckland *et al.* 2013).

### 'Dangerous' dogs

There are inherent difficulties in determining the exact meaning of both the terms 'status' and 'dangerous' dogs. Complications arise from legal definitions and the vast differences in how the terms are employed by governments, and further still within the wider policy community itself. Many governments have enacted legislation to protect the public from dog attacks and it is how this is done, either focussing on the dog or the owner, that creates the definition of dangerous (Schaffner 2011: 124). Status dogs, as will be discussed below, are not defined in law. The specific legislation in England and Wales governing dogs has been discussed in more detail in Chapter Three, but in order to provide some clarity and context for the purposes of this case study regarding definitions, it is important to first consider the history of the dog problem in England and Wales beginning with the very earliest pieces of legislation and a series of dog attacks in the late 1980s / early 1990s.

Dog control in the UK has in fact been long established, with early roots dating back to the Cruelty to Animals Act 1835 which criminalised dog fighting, and a short time later the Metropolitan Police Act 1839 which extended police powers in relation to dog fighting as well as determined the penalties for any person permitting to be 'at large an unmuzzled ferocious Dog, or set on or urge any Dog or other Animal to attack, worry, or put in fear any Person, Horse, or other Animal' (Metropolitan Police Act 1839: 512, 2). The Town Police Clauses Act of 1847 extended these offences to cover 'every person...in any street' if their dog was determined to be dangerous and not on a lead. The Dogs Act of 1871 then empowered the authorities with the ability to seize the dog in such circumstances, and is a piece of legislation still in use today. It is not however until the 1980s that it is possible to see that society's control (or lack of control) of dogs was fuelling heated debate. The UK's dog licensing requirements were abolished in 1987 in recognition of a failed system that had seen costs exceed income (RSPCA 2010a); this was inevitable perhaps when it cost just 37½pence<sup>24</sup>. To put this in context in 2018 the

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<sup>24</sup> The amount was a precise conversion from seven shillings and sixpence at decimalisation in 1971. When the halfpenny was withdrawn from circulation in 1984 the licence fee became 37pence.

equivalent cost of the same licence would be just £1.15<sup>25</sup> and so it is unsurprising that it is estimated only half of dog owners complied with the regulations (Hughes 1998: 6).

Despite the inefficacy of the licensing system, its repeal led to, or certainly coincided with, public concerns over stray, out of control, and dangerous dogs. On the 14 April 1989 Kellie Lynch was attacked and killed by two Rottweilers she was taking for a walk with a friend and immediately the calls to ban certain breeds of dogs were ignited, leading the Government to conduct an urgent review of legislation in relation to dangerous dogs. In response to this Parliament debated on the 15th June 1989 and The Parliamentary Under-Secretary of State for the Home Department Mr. Douglas Hogg rejected the notion the state should seek to determine dangerousness and the level of threat to the public based purely on breed stating 'the evidence of the last few weeks and the tragic attacks which have occurred suggest that dogs of a whole variety of breeds can be dangerous' and 'I do not think that there is anything to be gained by trying to define dangerous breeds' (Hansard, HC Deb 15 June 1989; Vol 154, col 1186). The Under-Secretary went on to classify the American Pit Bull as a fighting dog but although legal to keep would likely have a 'propensity to violence, which might well classify them as ferocious animals within the meaning of the 1847 Act', so, in fact, suggesting the legislation at that time, which prohibited unmuzzled dogs running loose, was sufficient for controlling what he deemed to be the more vicious breeds. This adjournment debate gave the Government the chance to reveal details of a new Dangerous Dogs Act which was passed the following month and increased the powers given to the courts.

Just a short time later, in November 1989, the Government issued a consultation 'Action on Dogs: the Government's proposals for legislation' in recognition of the still growing calls to curb dog fouling, straying and attacks (Department of the Environment / Welsh Office 1989). In June of the following year yet another consultation was issued 'The control of dogs: a consultation paper' (Home Office, Scottish Office, Welsh Office and Department of the Environment 1990) reflecting what was characterised as the escalating public concerns regarding the unaccountable actions of some dog owners. Fixed penalties for non-compliant identification, and measures to tackle persistent straying were offered for consideration, along with new offences of allowing a dog to be dangerously out of control

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<sup>25</sup> The Office for National Statistics' composite price index, records an average inflation rate of 3.40 percent per year for the pound. Prices in 2018 are therefore 211.7 percent higher than prices in 1984.

and owning certain breeds, despite the Under Secretary's statement on the extensive practical barriers to such measures just the previous year. Compulsory registration was consistently rejected by the Government throughout the consideration of various proposals, and although new measures for controlling dog fouling was included within the Environmental Protection Act 1990, this did not include the planned fixed penalty notices.

It was the culmination of these unremitting debates that led to many of the proposals mooted in the consultation progressing to the statute books. It became the Dangerous Dogs Act 1991, an Act that remains in force today, albeit amended, and will be central to much of this thesis. But it was the devastating attack on a little girl, Rukhsana Khan, on Saturday 18th May 1991 - the kind of 'focussing event' to which Kingdon (1984) refers - which finally spurred the action needed to create this legislation. It is important to note the strong parallels to the development of other punitive crime control responses following single horrific incidents - these have often been involving children, such as 'Megan's Law'. These focussing events, regarded as a feature of Garland's (2001) *Culture of Control*, grab public imagination and fuel 'knee-jerk' punitive responses such as sex offender notification or three strikes, all of which are expressive measures designed to calm fears irrespective of the evidence of how they may actually prevent atrocities happening in the first place.

The political context of the early 1990s is explored in the next chapter but it is important to recognise the speed with which this legislation was passed (as outlined in Table 1). It was just three days later that the Prime Minister, John Major told the Commons:

Everyone will have been shaken by the attacks during the past few weeks, particularly the horrific attack on Rukhsana Khan at the weekend. I have discussed the matter with my right hon. friend the Home Secretary and we are persuaded that urgent action must be taken....it is clear that such dogs have no place in our home (Hansard, HC Deb 21 May 1991 col 776).

Just the following day Kenneth Baker MP, the Home Secretary, announced 'legislation which will ban the breeding and ownership of Pit Bull Terriers and other dogs bred especially for fighting' and further 'I emphasise that the ban will initially apply only to those breeds of fighting dogs, but it is clearly important to prevent new and dangerous breeds coming in....The legislation will therefore include powers to add other types of fighting dogs to those which are banned' (Hansard HC Deb 22 May 1991, Vol 191 cc945-58). This was a momentous moment - dangerous dogs had just received a new definition: those bred for

fighting. Little or no mention can be found amongst the reports of the dozen or so high profile attacks on children and adults in the run up to the legislation passing, of any of the dogs being thought to have been involved in dog fighting. The Home Secretary offered no explanation or evidence as to why dogs (individual or breeds), which might be bred for fighting, could be deemed riskier to humans. This was left to be self-evident. Supported by the opposition and the main animal lobbying organisations such as the RSPCA and Kennel Club, conventional wisdom faced no obstacle or exposure.

Even within that debate others nevertheless sought to have recognised the complexity of the dog problem society was facing:

I shall certainly support today's announcement... However, it does not go nearly far enough. It does not address other problems with dogs in society, which the Home Secretary must tackle. We need a comprehensive Dogs Act and a neutering programme, we must stop puppy farming and we must engage in an exercise to promote responsible dog ownership. That can be done only through a dog registration scheme (Terry Lewis MP, *ibid*).

Despite strong support across the opposition benches, these other components perceived, by some, to be inextricably linked to the dog problem, were ignored by the Government in this and subsequent debates. The Home Secretary's intention to legislate for out of control dogs (of any breed) is also mostly ignored, the debate instead fixates on the panacea to dog attacks being the extermination of certain breeds or types bred for fighting, even when one member notes that the Pit Bull Terrier is responsible for only a quarter of bites in London, the Home Secretary remains steadfast in his mission, citing the dogs who are 'trained to fight and to kill' without reference to any link to the illegal sport of dog fighting (Kenneth Baker MP, *ibid*).

The Dangerous Dogs Act 1991 (DDA) was introduced on the 4th June 1991 with a long title<sup>26</sup> that firmly established, without challenge or evidence, the connection to dog fighting:

An Act to prohibit persons from having in their possession or custody dogs belonging to types bred for fighting; to impose restrictions in respect of such dogs pending the coming into force of the prohibition; to enable restrictions to be imposed in relation to other types of dog which present a danger to the public; to

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<sup>26</sup> The 'long title' is the formal title of an Act of Parliament, and is not always widely known. It usually appears at the head of a statute or other legislative measure and is intended to be a fuller description of the legislation's purpose and effects. Whereas a 'short title' is the formal name by which a statute will be widely known and referred to.

make further provision for securing that dogs are kept under control; and for connected purposes.

It passed all of its Commons stages in one day (the 10th June), glided through the Lords in six weeks, and gained Royal Assent on the 25th July 1991 (see Table 1). It remains notorious as an example of badly expedited and under-scrutinised, legislation both in terms of its speedy passage born out of a moral panic (Jones 2006) and for its 'lack of logic and fairness' in its application (Sweeney 2013: 241). The Act introduced the offence of any (breed of) dog being dangerously out of control in a public place (recently amended to include private spaces, see Chapter Three) and the highly controversial ban on certain types of dog, the so-called 'breed specific legislation' (BSL).

The UK is often reported to have been the first country, or amongst the very first, to introduce BSL (Jones 2016) but this is wholly incorrect, it is actually a prime example of US-UK policy transfer needing little in the way of domestic justification and evidence but based solely on the perceived success of a measure demonstrated through popularity, and its implementation being first in the USA (Jones & Newburn 2007). It was in New York in the 1920s following concerns about German Shepherds, labelled as 'wolf' dogs by worried citizens despite there not being very many attacks, when city officials first proposed a ban (Delise 2007: 74-75)<sup>27</sup>. Medlin (2007) identifies a breed specific ban eight years earlier than the UK in Cincinnati in 1983, and Dickey (2016) traces BSL to an ordinance introduced in Hollywood, Florida in 1980 which required owners of Pit Bulls to have \$25,000 of liability insurance. Since those days, 850 counties and municipalities in the USA, have had some form of restriction on breeds of dogs owned (as will be discussed many of these bans have since been reversed)(see Applebome 1987 for early BSL measures in the USA). The intention of Ministers in the UK in 1991 though was clear, they believed the extinction of certain breeds of dog, deemed 'dangerous', along with measures to address any dog being dangerously out of control, would reduce bites and attacks, thus improving public safety. They chose to ban 'ownership, breeding, sale and exchange and advertising for sale of specified types of fighting dogs' (Defra 2007) through s1 of the DDA. The term 'type' is also used because the four dogs are not recognised as breeds in the UK and in addition it captures any dogs cross-bred to look like the four dogs banned, namely Pit Bull Terrier, Dogo Argentino, Fila Brasileiro and Japanese Tosa. With the latter three almost

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<sup>27</sup> In 1929 Australia banned the import of the German Shepherd (a ban that stayed in place until the 1970s) (Delise 2007: 74-75). Whilst not a ban of these dogs within society as such, this is regarded, by some, as the first known breed specific law.

never being found in the UK, the central focus landed upon the Pit Bull Terrier (Clarke 2017: 194), which was to be identified through using a 'breed standard' published in the American Pit Bull Gazette in 1977 (Defra 2009: Annex 2). The law therefore defines dangerousness as something to be determined via a judgement on mere physical characteristics. However the literature on the blamelessness of the Pit Bull Terrier, in terms of any inherent aggression or danger to the public, particularly any to be detected through appearance, is abundant and increasing, and will be explored further in a later section.

### Status dogs

In contrast to dangerous dogs, which was created from within legislation, the term 'status' dogs is relatively new and reflects a phenomenon many have argued (discussed in Chapter Seven), that existed for a relatively short period of time predominately between 2007 and 2014. However as a label it is still employed by a few stakeholders and the media. Harding notes that the earliest use of the term that he can find is within an RSPCA briefing of 2007 (2012: 41) which is corroborated by an RSPCA participant of this study who acknowledged an uneasiness that the RSPCA probably did invent the term (see Chapter Seven). However the origins may have begun slightly earlier in 2006, in a short-lived RSPCA campaign<sup>28</sup> featuring a poster and leaflet entitled 'Your Dog is Not Just a Status Symbol: it deserves your respect'. A large bull breed dog displaying obvious aggression was the face of the campaign, which also contained the words 'Encouraging a Dog to Attack or Frighten People or other Animals is a Criminal Offence', and yet only in the small print, and in the detail of the leaflet, was there any information about dog welfare - the sole *raison d'être* of the RSPCA. Until this point in time, however, 'status' would have had wider connotations, indeed owning certain breeds of dog could be interpreted as having meaning and thus emulated by others (Hirschman 2002), such as having toy or 'handbag' dogs made famous by celebrities and the wealthy (Maher *et al.* 2017) and 'some owners may value a dog's pedigree as a status symbol, or believe that a pedigree means that the dog possesses superior behavioural characteristics' (Turcsán 2017). Elsewhere the Pit Bull was being recognised as a status symbol for certain communities thought to be actively enhancing aggression in dogs and fighting them (Hussain 2006). By 2007 in the UK, the various authorities were reporting an increase in

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<sup>28</sup> These materials are no longer publicly available from the RSPCA but I have retained copies in my own personal files.

banned dogs and dogs appearing physically similar (though not conforming to s1) from within the family of bull breed dogs, being used to threaten and intimidate people and in other anti social behaviour (Rawstorne 2009). The RSPCA published its definition of status dogs as those 'used in an aggressive intimidating way towards the public and other animals, often involving the fighting of these dogs... These dogs are traditionally, but not exclusively, associated with young people on inner city estates and those involved in criminal activity' (RSPCA 2010b).

Concern about the use of certain types of dog goes back much further however, before the moniker 'status' dog was invented. Indeed in one Parliamentary debate ahead of the introduction of the DDA, Diane Abbot MP raised the issue:

Public concern is about the irresponsible owner who keeps potentially vicious breeds,.....not as family pets or companions but as potential offensive weapons. Such people can be seen every day swaggering up and down the streets of our inner cities. Such irresponsible ownership cannot be tackled without dog registration. How long will the Government set their face against public opinion in this matter? (Hansard HC Deb 22 May 1991 vol 191 c955).

Other terms such as 'weapon' dog (as implied above), were in circulation at the beginning and height of the phenomenon, between 2007 and 2010 - certainly the Greater London Authority appeared wedded to the term weapon dogs (GLA 2009) - along with 'devil' and 'bling' dogs (RSPCA 2010b and O'Neill 2010). Reports, particularly in the media (Rawstorne 2009), of dogs being used by criminals or potential criminals were increasing as was concern amongst the statutory (both police and local authorities) and third sector. The view that 'many criminal gangs now adopt "status" dogs as a weapon of choice to protect them and impress their friends while frightening their enemies' (Sweeney 2013: 280), was beginning to spur action. The Metropolitan Police Service (MPS) set up a dedicated Status Dog Unit in March 2009 and in April of the same year the first Status Dogs Summit was held for a wide group of stakeholders (RSPCA 2009). It is worth noting that the majority of the MPS's Status Dog Unit focus is, and always has been, tackling the illegal ownership of banned breeds under s1 of the DDA and not anti-social behaviour with legally-owned dogs, nor dog fighting offences. This presents an interesting effect on the terminology although not acknowledged by the Government's own definition:

The term 'status dog' describes the ownership of certain types of dogs which are used by individuals to intimidate and harass members of the public. These dogs are traditionally, but not exclusively, associated with young people on inner city estates and those involved in criminal activity (Department for Environment Food and Rural Affairs [DEFRA] 2010: 4).

It is also worth noting the similarity between the Government and RSPCA (previous page) definitions of status dog. This would appear to reflect a consensus view at that time of the emerging phenomenon and which elements in society were to blame. This was a situation that was to change, however, as will be seen.

The conflation of dangerous and status is seen throughout the literature and is clearly evidence of the 'problem definition' to be elaborated upon in Chapter Seven. It is worth noting that it is possible for a status dog to also be a dangerous dog, as it could also be a banned breed (s1) or dangerously out control (s3), but the reverse is not true in so much as a dog that is not of a banned type nor out of control may still be a tool in anti social behaviour and thus be classified as a status dog. The Home Office ASB Focus circular of 2010 attempted to separate these factors with a clear explanation of dangerous dogs emanating from the 1991 legislation (which had brought the very first offences for enforcers to protect people), before progressing to a differentiation of what ASB in relation to dogs manifests as (Home Office 2010: 1-4).

### 4.3 Evidence and prevalence of a 'problem'

Having considered what the documentary evidence tells us of the definitions and meaning of status and dangerous dogs as terms, the following section turns to what it reveals of the nature and prevalence of a dog problem. This section of the chapter is sub-divided into six parts reflecting the emphasis afforded to these issues and the primary themes that emerged from within the literature. The aim is to understand the meaning of dangerousness attributed to certain dogs through an examination of the evidence put forward which it is claimed establishes a clear and significant risk to public safety. The contention that dog fighting, and other criminality is connected, is explored before progressing to a consideration of whether an association with gangs and other anti social behaviour is persuasive. An overview of the statistics that report upon bites, attacks and deaths is followed by a review of the scientific studies surrounding dog aggression specifically focussed upon the Pit Bull Terrier along with a wider consideration of how this dog has come to be regarded in society. The final section focusses on the media representations of the dangerous dog issue to understand its influence upon depictions of the dog control issue and what factors may be at work to produce these conditions.

## Dog fighting

From an early point in the dog control policy agenda dog fighting was linked by Government to dangerousness and public safety. It was the reason given for banning four types of dog in the DDA, although no evidence was offered in the public or policy arena to demonstrate that dogs used in fighting were more likely to bite or endanger human life, or that the attacks that were occurring had only, or predominately, featured those four types of dog.

As discussed later in Chapter Seven the problem definition is exacerbated by the nexus of a plethora of dog issues, and dog fighting itself also suffers from definitional complexities. Much of the research that exists on dog fighting is based upon studies in the USA and does not translate well to the UK, not least of all due to the significant differences in scale. I explored this issue of a typology of dog fighting recently (Lawson 2017) and found little to support the conclusions of Harding and Nurse (2015) that Ortiz's (2010: 14–18) USA characterisations of a) street-fighter, b) hobbyist and c) professional, exist in the UK, but instead there would appear to be evidence for just two categories, of informal and formal. The UK formal fighting sphere is as savage and inhumane as in the USA but the criminal network is minute in comparison. In the States there are sophisticated networks of perhaps 40,000 professional dogmen operating (Gibson 2005), with significant sums of monies involved - for instance one fight saw the seizure of \$500,000 (Lockwood 2012: 8), an estimated 2,000 dog fights per year (Strouse 2009: 17), and many hundreds of spectators. In the UK, however, there can be just single figures of those involved, including spectators, and much smaller amounts of money of perhaps just £5,000 or £10,000 as a result, with around 500 reports of dog fighting to the RSPCA, resulting in less than 30 convictions per year in England and Wales (Lawson 2017).

It is possible that the lower level of the informal category crosses over with the more severe end of the behaviour of status dog owners (Hughes *et al.* 2011: 14; see also Maher *et al.* 2017). Not involved in organised dog fighting or the discipline, training and subculture that it involves, they will nevertheless attempt to train dogs to attack and may engage in impromptu fights with other dogs on the street or in parks. Their ignorance of positive training methods and their desire to cultivate aggression in their dogs for street credibility could end up producing a dog that has a greater potential to be a threat to the

public (Maher *et al.* 2017). Conversely organised or formal dog fighters specifically train for dog-directed and not human-directed aggression (Hallsworth 2013: 32).

During the debate on the Dangerous Dog Bill (HC Deb 10 June 1991 vol 192 cc705-68) there was an attempt to have Rottweilers also banned under s1, which ultimately failed, but this revealed how Members from both sides of the House accepted the apparent merits of the arguments on why fighting dogs were to be banned, 'The Bill singles out and bans only fighting breeds. The Home Secretary justified that course of action because the threat of fighting dogs presented a different degree of seriousness from other breeds of dog' (John McAllion MP). The Minister Angela Rumbold MP spoke of the Government's view that it believed 'Clause 1 will protect the public against fighting dogs, while the other clauses will protect [from<sup>29</sup>] dogs that might be considered aggressive, but only a few of which are likely to cause harm' (Hansard, HC Deb 10 June 1991 vol 192 cc746-68). No figures of dog fighting or evidence of such a problem being on the increase was offered and there is no explanation amongst the literature of the time why that went unchallenged.

There is no evidence within the UK that dog fighters graduate from informal to formal, or have any interaction, with perhaps an exception within the Asian community (Lawson 2017). So it could be argued that s1 of the DDA was designed to tackle just a handful of people and their dogs not erstwhile indicated as being involved in the dog bites and attacks in the lead up to the 1991 Act. The DDA demonstrated the Government's belief that dog fighting was the cause of the problem and that banning certain dogs would significantly reduce attacks, and as a consequence it could be argued 'whenever pit bulls are outlawed, the ownership of the breed and association with dog fighting can become an "outlaw" status symbol' (Lockwood 2012: 8). Arguably therefore (and as will be explored through the data in Chapter Eight) the Act created a substitute harm because it made 'tough' looking dogs attractive to those intending to use dogs in their anti-social behaviour and criminal acts. Whilst the Association of Chief Police Officers<sup>30</sup> noted the Pit Bull type was 'without doubt the breed of choice for certain elements of the criminal and irresponsible dog owners in our communities' and had become 'quite a status symbol', they rejected this was due to their notoriety bestowed by the legislation to ban them,

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<sup>29</sup> Presumably the Minister misspoke and meant to say 'protect from dogs' or she was not accurately recorded in Hansard, which is often not verbatim.

<sup>30</sup> Renamed the National Police Chiefs' Constables (NPCC) in 2015

instead attributing it to the reason they contend the dogs were originally prohibited (Environment, Food and Rural Affairs Committee 2013: 20). Nevertheless the dogs and owners involved within the informal dog fighting category are consequently feared by the public but it has to be noted that they look indiscernibly akin to innocent owners dressed comparably, with similar looking dogs, in the same types of inner city neighbourhoods.

The conflation of the issues of dog fighting and status dogs is partially understandable given the involvement of some status dog owners in informal dog fighting, as well as the role of the media (see later in this chapter) promoting the issues as inextricably linked. There are also other forces at work to encourage this perception, not least successive governments who have defended the DDA for over 25 years, but also from elsewhere in the policy network. The League Against Cruel Sports re-launched their dog fighting campaign in December 2015 with the headline statistics that there is at least one dog fight per day in the UK (Snowdon 2015). This campaign and the associated data were based upon Harding and Nurse's commissioned report (2015), and openly includes the lower strata of informal dog fighting and status dogs, and as such tangles together very complex social issues and motivations for dog ownership issues. This aggregation, however, could be a barrier to the development of any tailor-made, UK-focussed, solutions.

Interestingly and also connected to problem definition, is the fact the law isn't always clear. Recent High Court clarifications, as a result of a case involving the use of dogs on wild animals, concluded 'a "fight" must be a contrived or artificial creation, specifically for the purpose of a fight during which the other animal must not be able to escape....The High Court was clear that a "fight" could not be a by-product of a chance meeting' (Cooper 2016). The placing of two dogs together in an area from which they cannot or would not escape does fall into the definition of dog fighting in s8 of the Animal Welfare Act (2006), thus it would appear this legislation, like the DDA, is more aimed at the organised, formal category of dog fighting.

### Connections to other criminality

The links to other criminality has also been signposted by both researchers and practitioners alike, such as the American Society for the Prevention of Cruelty to Animals (ASPCA) Senior Vice President; academic; and forensic expert, Dr Randall Lockwood

(2012: 4) 'dogfighting is almost inseparable from drugs, illegal weapons, illegal gambling, and many other activities'. The Kennel Club attributes this to the effects of the legislation, 'the Dangerous Dogs Act just pushed the whole issue underground. Making some dogs illegal made them more attractive to some groups, such as gangs, who used them to intimidate others or as weapons in fights' (Parkinson 2009). The statistics surrounding status dogs are usually expressed through other criminal behaviours, such as in the case where the RSPCA noted 284 reports of dog fighting in 2008 (up from 24 in 2004), with two-thirds of those involving 'youths using their dogs as weapons in street fights - 188 cases in 2008 compared with 132 in 2007. The RSPCA is worried dogs are being used as "weapons of intimidation"' (BBC 2009).

A lesser, but nevertheless frequent, offence is allowing a dog to stray (or be abandoned) the statistics for which the Dogs Trust collect from local authorities and compile in an annual public report. For a number of years that survey has included a question on status dogs and in 2011 they reported a 140 percent increase in dogs deemed to be 'status dogs' (Environment, Food and Rural Affairs Committee 2013: 20). Their 2016 report included a descriptive definition of status dogs:

Over recent years, there has been a rise in the number of people owning aggressive dogs for intimidation and dogfighting. These dogs are typically referred to as 'status dogs' and can pose a threat to humans. These dogs tend to be certain breeds – such as Bull breeds (including 'Staffies' and Mastiffs), Rottweilers, Akitas or crosses of these – as their looks and type are thought to convey a certain impression of their owner (Dogs Trust 2016: 12).

In fact despite this description their 2016 data suggested a decline in status dogs straying, to 19 percent, (as a proportion of all strays), down from 21 percent in 2015, and in the numbers euthanased due to aggressive behaviours of 5 percent, down from 6 percent in 2015 and 8 percent in 2013-14 (*ibid.*). What is interesting certainly, in terms of the problem definition and the use of the terminology, is that as of 2017 Dogs Trust have removed the definition and questions relating to status dogs and replaced it with questions around the intake of dogs under the Dangerous Dogs Act (Dogs Trust 2017: 11) although they do not acknowledge why within the report. The new data on the DDA is also useful, although on this point only 63 authorities (of a possible 376 who operate dog control services in England and Wales) responded, with 31 of those taking any dogs and 21 percent of those seizing, or accepting, just one that year. Only seven councils took in ten or more s1 dogs. It is impossible to draw comparisons with their previous figure of 14,519 status dogs that the local authorities reported handling the previous year (Dogs

Trust 2016: 12), not least of all because of the level of interpretation and recording methods local authorities would have likely employed to record status dogs, and because most of them would not be involved in seizing or collecting dogs subject to the DDA. Some, particularly in and around London, have traditionally done this work, but others are likely to record DDA dogs amongst their figures because they temporarily board them for the police.

The figures for dogs seized by the police for s1 and s3 DDA offences are not routinely collected nor available in one repository - they are held separately by the 43 forces and a multitude of courts. Table 2 contains the data the RSPCA collated on the number of prosecutions for s1 and s3 offences under the DDA between 1992 and 2010 for its evidence submitted to the Environment, Food and Rural Affairs Committee's investigation into dog control and welfare which clearly showed an increase in the offences of owning a banned type and of allowing a dog (of any breed) to be dangerously out of control. It is important to note that the factors influencing these statistics, such as police priorities (e.g. the creation of the MPS's Status Dog Unit), an increase in reporting due to public awareness following media attention or even changes in recording practices, remain unknown. It is possible to see clearly however that the s1 offences tail off dramatically after the legislation was introduced before rising sharply in 2007. That year immediately followed the tragic death of Ellie Lawrenson and a review by Defra of enforcement across the 43 police forces. From 2007 onwards forces began recruiting and training Dog Legislation Officers (DLO) which may account for the sharp rise in 2008, 2009 and 2010. Unfortunately there is no available data as to whether these offences tally geographically with the location and number of DLOs in each force but it is reasonable to assume that an increase in officers trained to detect these specific offences could lead to an increase in offences detected.

In figures obtained under Freedom of Information it is also known that 4,757 s1 dogs were seized between 2013 and 2016 in England and Wales (BBC 2016) and that around 3,000 dogs have been processed and added to the register of exempted dogs (first permitted by the 1997 amendment to the DDA) maintained by Defra (Lyons 2015). Despite the ban, 18 years after it came into being the Kennel Club estimated 'There are more pit bulls now than there have ever been before, but there are lots of pit bulls that

have responsible owners. There are also lots of cross-breeds. There's a bit of a misconception. Any breed of dog can be dangerous with a bad owner' (Parkinson 2009).

Table 2: Number of prosecutions for s1 and s3 offences under the DDA 1992 - 2010

Year	s1(3) DDA - Possession of a prohibited type of dog	s3(1) DDA - Owner/person responsible for dog at time allows it to be out of control in a public place	s3(3) DDA - Owner/person responsible for dog at time allows it to be out of control in a place it is not allowed to be
1992	209	696	50
1993	167	656	57
1994	57	482	33
1995	35	448	40
1996	18	383	22
1997	15	434	32
1998	23	681	40
1999	12	703	43
2000	5	724	72
2001	4	768	70
2002	6	821	56
2003	1	889	72
2004	5	887	59
2005	11	923	68
2006	8	981	73
2007	87	1008	72
2008	117	1031	64
2009	149	993	78
2010	354	1210	86

The Sentencing Council produced an analysis and research bulletin specifically on DDA offences in 2011, reporting a sharp increase in the volume of sentences from 439 adults in 2000, to 1192 adults in 2010 with the biggest increase centred on both the possession of a s1 dog and the incidents where a dog has injured someone, but with relatively steady numbers for dogs found to be dangerously out of control in a public place. Just over half of all DDA offences in 2010 were for a dog injuring someone (an aggravated offence),

with just over a quarter being for the possession of a s.l. Other trends are noted such as the move away from fines in favour of community sentences but with an acknowledgment that the data does not allow for any qualitative analysis for correlations with severity. Accepting the inherent flaws of police officers determining ethnicity the report also reveals offenders to be 44 percent White, 23 percent Black, eight percent Asian, and the rest unknown, with the largest age group to be 22-29yrs on 38 percent, followed by 30-39yrs on 24 percent, and then with both 18-21yrs and the over 40s representing 19 percent each (Sentencing Council 2011). This rather contradicts the notion that the issue is one of young people, if we are to accept the detection and prosecution of these offences is uniform in society. It is a great shame this report was not repeated and the data for later years not collated and published, as detailed information surrounding sentences could provide an insight into general trends and any potential deterrent factors. However following the increase in the prosecution of dog attacks; the public profile they received; and the resultant exposure of disparity in sentencing, the Sentencing Council consulted on, and then introduced, the first Sentencing Guidelines for the DDA (Sweeney 2013: 402-3), later updated to reflect significant changes to the legislation (Sentencing Council 2016).

### A gang issue?

From the very beginnings of the phenomenon the descriptions or definitions used in relation to the threat dogs posed to public safety was spoken of in terms of gangs, dog fighting and other serious criminal offences, 'Animal fighting, like drugs, gambling, weapons, and other violent behavior, is one manifestation of the same problem – gangs' (Randour and Hardiman 2007: 199). The suggestion, within media and political circles, of links to criminality, particularly amongst young people, is consistent with the deviance generalisation hypothesis which posits that animal abuse, especially amongst young people, is significantly related to interpersonal violence (Arluke *et al.* 1999; Ascione 1993; 2001). In one study, with the Chicago Police Department, other criminal behaviours such as carrying firearms, selling narcotics and involvement in street gangs were more likely to be prevalent amongst animal abuse offenders (Degenhardt, 2005). In a study of the ownership of 'high risk' dogs, Barnes *et al.* determined 'that choice of a high-risk dog breed by the owner can reflect the deviant nature of the owner' (2006: 1632) based on the higher number of convictions for serious violence and drugs offences committed by status dog owners than

non-status dog owners. It would therefore appear entirely legitimate to consider status dog owners to be amongst the more risky and dangerous of people in society, but there are limitations to this research not least of all the fact it was all conducted solely within the USA.

In the UK's earliest research conducted upon the phenomenon, the focus was specifically upon young people and gangs (Harding 2010, Maher and Pierpoint 2011), but with quite different results. Harding encountered the issue as a result of his doctoral work on gangs in the UK and based his later work on this early singular empirical data collection (Harding 2012, 2017, Harding and Nurse 2015). Seen through this lens - and one that presupposes gangs exist in the same format and condition as in the USA, and where their use and abuse of dogs has been the subject of more study - it would be reasonable to conclude an exclusive relationship between owning a status dog and criminal behaviours. Whilst the evidence available in the early stages of the phenomenon supported the appearance of this more simplified view of serious criminals fighting dogs; attacking people with their dogs; and using their dogs as tools for enforcement and protection in the criminal underworld (Harding 2010), it soon became apparent to other researchers that the factors at work were far more complex:

Most dangerous dog owners...are young people who are born into poverty, have poor parenting, fail in the education system, have no job, and are gang members or on the fringes of gangs. They can be said to be the result of a conveyor belt of social and educational deprivation that begins at birth. Their dogs are simply a marker for the social problems mentioned above (Grant 2011).

Maher and Pierpoint found that, in fact, dogs were used more for 'socialising and companionship, protection and enhancing status' within gangs and youth groups, and the relationship was deemed to be intrinsic and not extrinsic as portrayed by the media (2011). In their analysis of the 'dark side of pet ownership' Beverland *et al.* observe how the 'desire for status or control may motivate some consumers to own certain types of pets' (2008: 490) and Dotson and Hyatt also found that 'younger people, overall, experience more strongly the dimensions of dog ownership, possibly due to a generational effect or perhaps due to more openness to the interspecies connection and a greater flexibility in their lifestyles' (2008: 465). A relationship between young people and status dogs, including the abuse of those dogs, clearly exists however the notion that the 'underclass' with 'their feral children and feral pets' was found to be 'caught up in the moral panic and the demonisation of youths' (Maher & Pierpoint 2011).

Hughes, Maher and Lawson (2011) conducted the first investigation of young people - widely branded as 'hoodies' during the height of the phenomenon - and their motivations in owning status breeds and found an 'evidential quagmire' due to the fragmented collection, categorisation and recording of data. This, along with the driving forces of the media and political discourses, was distorting and obscuring the true nature of the problem, resulting in the 'humanization of dogs and the canine-ization of youth'. That said this study also confirmed four direct links with criminality, i) committing an offence with the dog, ii) committing an offence to the dog, iii) dog theft, and iv) offences protecting or avenging the dog, as well as evidence for the links between: demonstrating masculinity; status; and existing on the periphery of violence, all impacting upon the motivation for dog ownership (and specific breeds of dog). Studies by both Ragatz *et al.* (2009) and Schenk *et al.* (2012) suggest that owning a problematic ('vicious') dog is an indicator of broader social deviancy with higher incidents of arrests, violence and drug use.

Veterinary practitioners dealing with the manifestation of the new dog problem have been unequivocal about the underlying causes noting a new type of 'ignorant' dog owner using their dogs for 'protecting criminal assets, intimidation, or attacking people' which in itself acts as a 'marker for inner-city poverty and wider socioeconomic problems' (Grant 2011). The interaction with such dog owners on a daily basis provided an insight into their lives to determine the view that 'in some sections of society, children and young adults are at risk of leading blighted lives and blighting the lives of others, causing suffering to dogs and other animals along the way' (*ibid.*). Despite the evidence of the link to gangs, violent behaviours and the suggestion owning a 'socially deviant dog' may indicate a deviant identity in the owner, dog ownership can be an extremely positive force for some young people. The literature suggests that dog ownership 'leads to expanded social networks and increased civic engagement' (Bueker 2013) but given status (and restricted) breeds are rarely included within such studies, the social capital inherent with owning a dog may not be fully understood in all stratum of society and indeed choice of breed can also lead to clique formation and stereotyping (*ibid.*). The much maligned breed considered to be most alike to a PBT is the Staffordshire bull terrier (SBT) and one survey in 2011 found that young people were more likely to regard SBTs as illegal or guard dogs rather than family pets (Vet Times 2011). Lem *et al.* (2013) also found that whilst the bond between youth and dog owner can be strong, creating structure and reducing drug dependency, it can also be detrimental to their welfare for instance where homeless youths will reject

resources or assistance if it means being separated from their pet.

The research connecting criminal gangs to status dogs in the UK is now dated having been conducted nine years ago, so as such could merely reflect one aspect of a relatively short-lived phenomenon at its height. There is still, of course, real life examples of the currency of dogs, particularly amongst young men, often in gangs with connections to dog fighting and using dogs as protection (Combi 2013) but there is less to indicate these are representations of a large scale problem and continuance of the phenomenon and not merely isolated examples of an age old problem first legislated for nearly 200 years ago.

Hallsworth (2013) has been scathing in his ridicule for the notion status dogs is exclusively a gang issue. Despite Harding's contention that gangs obtain and train puppies to be deliberately aggressive 'weapon dogs' (2012: 65), Hallsworth notes the necessary skill and effort required to do such a thing and doubts that 'most young people (gang-affiliated or not) possess the refined dog-training capabilities of this kind' (2013: 32). In his view the issue is one of a moral panic with the evidence of gangs using status dogs to be one of a:

...continual self referential feedback loop whereby various control agents, including the police, journalists, practitioners and politicians, end up quoting each other about a problem everyone takes for granted and which must be serious (because everyone keeps telling everyone else it is) (2011: 398).

As Burley (2008: 16) points out, our society has been persistently inclined to judge this particular group negatively and this translates to an inability to see the potential to exploit the opportunities presented by the relationship between a young person and their dog, and instead 'the owning of the dog does little more in society than bolster the image of the young person as a 'problem''. In the minds of most young people however the dog may never have been a manifestation of any oppositional stance because one study found only in London were particular breeds acquired as accessories to image, and perversely the same respondents felt the type of dog owned communicated nothing about the status of the owner (Diesel 2008: 6).

### Aggression and attacks

Other statistics that have been used to confirm the existence of a problem with either dog control or status and dangerous dogs include the various data sets on dog bites/

attacks. Regular visitors of domestic premises, such as those within communications services, the health sector and tradespeople are naturally more vulnerable and as such some of the most powerful statistics that underline this fact have been collected and issued by the Royal Mail and the Communication and Workers Union. In 2007 the total number of attacks upon postal workers was estimated to be more than 5000 annually (Morgan & Palmer 2007). The affect on individuals and the overall service delivery for these sectors led to the Royal Mail Group commissioning the Langley report in 2012 which describes 82 percent of staff having either been attacked or barely managed to escape one, in just a single area delivery office<sup>31</sup> (2012: 9). The report is scathing in its assessment of the legislative framework, 'The existing law in England and Wales is, I repeat, a mess and patently inadequate to address what is a serious problem' as was the verdict in relation to society's control of the situation 'inadequate laws and sanctions do not encourage those whose task it is to enforce the law to do so. It is no surprise that enforcement seems to be patchy' (2012: 16). The statistics convey a scale far beyond that which is conveyed by other dog-stranger attacks, such as those that led to the DDA. In the latest industry report there were still nearly 2,500 recorded dog attacks upon postmen and women in the UK between April 2016 and April 2017 (Royal Mail Group 2017). The trend is one of decrease however, and is reported to be a fall of some seven percent on the previous year, which they accredit to their Dog Awareness campaign, but may also reflect the decline of the phenomenon or a response to changes in potential penalties. They also note that 71 percent of these attacks occurred within the garden or at the entrance to the property (*ibid.*) and as such is the reason why their campaign sought to change the legislation to include private spaces (as well as public).

Hospital admissions as a result of dog attacks rose in England by 76 percent from 4,110 in 2005 to 7,227 in 2015 (available each year from the NHS<sup>32</sup>, but collated in RSPCA 2016a). The NHS is part of a devolved function but there are no comparable figures collectively published for Wales. Public Health Wales however did conduct a review of child deaths resulting from dog attacks (Humphreys *et al.* 2014) and it has also been reported that there was an 81 percent increase in hospital admissions between 2002/3 and 2014 (BBC 2014), with some 800 admissions specifically between 2013 and 2015 (Shipton 2016). Dog attacks are three times higher in areas of deprivation with people in

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<sup>31</sup> Cardiff was chosen for the this data collection for the report.

<sup>32</sup> <https://digital.nhs.uk/article/4144/Hospital-care>.

Merseyside most likely to fall victim (NHS 2014) and the cost to the NHS in England for just 2009 was estimated to be £3.3 million (Environment, Food and Rural Affairs Committee 2013). Data for bites or attacks of humans however is inherently flawed. Not all victims will seek medical attention for a bite (Oxley *et al.* 2017; Westgarth *et al.* 2018). Those that do, may only see a GP and the information may go no further. If the victim attends an Accident and Emergency Department they may not be sufficiently knowledgeable about dog breeds and neither may the medical staff be accurate when entering the information into hospital records, nor is it a notifiable incident. If someone is knocked down and injured by a dog - perhaps an accident by an over-excited pet rather than any form of aggression - this will also be recorded, rather spuriously, as a dog attack (Orritt 2014). If someone is readmitted for their injuries this would also be double recorded. Epidemiologists also struggle with the denominator - the baselines used to assess the risk of a genuine dog bite in society - but have recently concluded, by using the most robust methods and all available data, that the dog breed responsible for the most (in total, a third) of all bites is the German Shepherd, whereas the Doberman, Jack Russell, Pit Bull and Chow Chow account for just 7 percent each (Morgan *et al.* 2017). Four out of five of these breeds, of course, are not banned in the UK.

Detailed information on the rare tragedy of a human death resulting from a dog attack is also extremely difficult to ascertain, but the Office of National Statistics has recorded 63 deaths between 1992 and 2015 (ONS 2016) and 15 deaths between 1981 and 1991 which is an increase from an average of 1.4 deaths per year to 4.5 after the introduction of the DDA. A recent study in Spain has determined that breed specific laws do not seem to have produced any reduction in fatalities caused by dog bites during the past decade (Mora *et al.* 2018), whereas in the UK, far less is known about the victims to enable such analysis. The ONS publish no detail beyond the total number of deaths per year and instead this information can only be gleaned from tracking media reports, accepting all the inherent flaws with determining: dog breed; ownership of the dog; which dog in a multi-animal household was responsible; the background and behaviour of the dog; and the circumstances leading up to and immediately preceding the death of that person. Although the statistics reveal that elderly women are at an increased risk of succumbing to dog-bite related injuries, it is young children who are most vulnerable, and in most circumstances the dog is also known to the victim (Mannion *et al.* 2015; Van de Voorde & Rijken 2017: 159-160; Sarcey *et al.* 2017). This would rather contradict the notion of

stranger attacks in public by dogs used for fighting, as was the justification for BSL. However, as above, and as Crosby (2017: 205) notes, more information is desperately needed, 'Why does the lack of investigation matter? A half-hearted approach fails to address core concerns and needs of trainers, owners, the public and the legal system, which at the very least might help us develop a evidence-based approach to prevention'. Statutory agency reports into two tragic child deaths in recent years have highlighted the missed opportunities to prevent them ever occurring and also warned of the need to learn from these incidents as well as radically change procedures and legislation - the UK's first known Serious Case Review following the death of a 7-month old baby 'Child Q' in Northamptonshire (Fox 2014) as a result of an attack by the family's pet (but illegally kept) Pit Bull, and the Coroner's report following the death of 14 year old Jade Anderson killed by more than one (non sl) dog at a friend's house (Walsh 2014).

The Guide Dogs for the Blind Association currently report more than 100 incidents of guide dogs being attacked by other dogs per year (Guide Dogs 2018) with the total veterinary costs to the Guide Dogs' stock of over £34,500. Between 2010 and 2016 attacks have increased by a mean of three per month to 11.2, but it is acknowledged this may be due in part to increased reporting (Moxon 2016: 10). Owners of the attacking dog were present in over three quarters of cases and would have been aware of the guide dog's clearly visible working harness, which the majority were wearing at the time. The trauma of the attack for the owner and the dog cannot be underestimated and it can be long term, with 20 percent of dogs needing time off from working and many left unable to ever return. The cost of the withdrawal and replacement of these assistance dogs was estimated to be over £600,000 to the Guide Dog charity in one five year study which saw the forced retirement of 13 dogs (*ibid.*). Dog attacks are not, however, limited to humans and to other dogs (see Winter 2017 for estimates of dog-on-dog attacks), and the British Horse Society have reported between three and 15 incidents of horses being attacked each month, since they began recording such statistics in 2010 (RSPCA 2016a: 31). Horse and other livestock attacks are less likely to be considered part of a status dog problem given their rural location in most incidents, however they must be considered a strong indication of a wider societal problem with irresponsible ownership and general dog control.

## Pit Bulls - a danger or a distraction?

'The Pit Bull Terrier is no villain, nor is British society the victim of this breed. The victim here is a dog that has found itself subject to a staggering degree of inhumanity on the part of society that has lost all moral bearings in relation to its relations with non-humans' (Hallsworth 2011).

Given that BSL, embodied in s1 of the DDA, is predicated upon the notion that specific breeds or, more accurately, types of dog are born dangerous, and the threat of dog attacks to the human population can be controlled through the elimination of those types of dog, it is important to examine the evidence for such claims as well as the wider context of such legislation. There is sufficient anecdotal evidence and media reports to suggest the wider public has felt, and may still feel, threatened by certain breeds of dog (Burley 2008; Rollins 2014) but the reason why is far more difficult to unearth. As has already been discussed the risk of being bitten by a dog is very small - the UK Government estimated this to be 740 people per 100,000 (Defra 2011) - and the risk of that dog being of a banned type is even smaller (a risk which is unaffected by the ban given the evidence previously discussed that PBTs exist in significant numbers, confirmed by numbers of prosecutions and the number on the Index of Exempted Dogs) and the vast majority of people will never have been near a dog fight, so what explains this fear? Certainly there have been a few studies linking dog aggression to breed, although how far such research has been communicated, in order to be influential, remains unclear. Sacks *et al.* (2000) appear to corroborate a link between aggression and breed, reporting the Pit Bull far in the lead for causing deaths in the USA, however the authors have acknowledged unreliable recording and identification methods, and warn against basing dog control policy on the rare occurrence of fatalities which, along with constitutional and practical aspects, they conclude results in there being no case for BSL.

In 2009/10 the UK Government funded a systematic review of scientific studies to establish what evidence exists of the factors for human-directed aggression in dogs (Defra 2011). This located and investigated 27,565 publications spanning 50 years of which 164 were worthy of detailed scrutiny, from this only eight studies had sufficient quality in their methods as to be considered valid and none found breed as a risk factor for aggression (Newman 2012). It is reasonable to expect these findings to have informed the Government that breed or type specific legislation was not rooted in science, and that aggression, and therefore the risk to the public, could not be attributed to the breed/type

of dog. Instead the Government never responded to its own commissioned research, at the precise point in time at which the phenomenon was developing and escalating fast. Worse perhaps is the continued reference by Government to population bite statistics that have been discredited (Orritt 2014).

International warnings from the outset about the supposed effectiveness of BSL as a means of remedying the 'pit bull controversy' (Lockwood & Rindy 1987; Oropallo 1988) were clearly ignored. Even early studies of the UK ban concluded that it had not resulted in a reduction of attacks by 'banned' dogs; that it was failing to protect the public; and it was based on absence of any data to support it (Klaassen *et al.* 1996). Dog bites have not been shown to have decreased since the introduction of BSL, they have in fact increased, and this is attributed by many to BSL itself because of the danger of creating a false sense of safety around dogs that are not banned (RSPCA 2016a: 13; Clarke 2017: 91), 'the increased perception of threat from specific breeds, and the lack of perceived threat from other breeds are essentially two sides to the same counterproductive coin' (Creedon & Ó Súilleabháin 2017: 8). The origins of BSL has been discussed earlier but it is worth noting that at the time of introduction in the UK, the Metropolitan Police's own report attributed only 34 percent of attacks to Pit Bulls, and other studies were reporting 85 percent of bites occurred in the dog's home (Hughes 1998: 9), and these were not suggested to be the homes of dog fighters. How then legislation to remove the Pit Bulls of dog fighters would benefit people who were being bitten, mostly by other breeds, and mostly in their own (or family/friend's) homes, was never explained during the introduction of the DDA, nor since. Hallsworth (2011: 397) noted very few Pit Bulls implicated in human deaths which in its 25th anniversary of the DDA report the RSPCA quantified in more detail, 'thirty people have died in dog-related incidents since the DDA was enacted of which 21 involved dogs that were not prohibited under the law. Only nine were carried out by dogs identified as pit bull terrier types' (RSPCA 2016b: 3). Clarke also analysed press reports of fatalities between 2005 and 2013 and found 88 percent were not attributed to s1 type dogs (2017: 91).

One recent study also found no difference in the type of bite nor the necessary medical treatment between dogs that are restricted/banned and those that are not (Creedon & Ó Súilleabháin 2017) and Capra *et al.* (2009) found no difference in human-directed aggression between a group of rescued Pit Bulls that had been used for fighting, and a

group of mixed and purebred dogs. This corresponds with the successful rehabilitation and rehoming of the dogs used in the infamous American Footballer Michael Vick's (see Strouse 2009) dog fighting ring, although interestingly these dogs had to be taken away from their locale, by animal rescue NGOs, across country to other states to escape the 'contagion of danger' (Tarver 2013: 11).

BSL is not without its supporters, of course, as illustrated by one case study of the Canadian province of Manitoba, where the researchers offer evidence that restrictions on which breeds can be kept has appeared to protect children and young people more effectively from bites (Raghavan *et al.* 2013). However the authors do fail to examine other contributing factors such as a rising public fear and resultant drop in ownership of such dogs, accompanied by an increase in reporting, in addition to other factors which could be at work. Villalbí *et al.* (2010) report a significant decrease in hospital admissions from dog attacks which they attribute to stricter dog controls targeted on dogs of certain breeds deemed 'potentially dangerous dogs', but it is not possible to ascertain what cultural shifts and trends in dog ownership occurred as a result of restrictions. Initially at least BSL gave an impression it might work in the UK, with the Metropolitan Police reporting a huge drop in Pit Bulls being used in criminal activity, from 372 cases in 1992-3 to 87 in 1995-6 (Hood *et al.* 2000). However the vast majority of scientific studies do not support BSL as a means of controlling or reducing dog attacks over the longterm, because:

BSL directed against the group of breeds with the worst bite records would be unlikely to affect bite frequencies for long, as even with rigorous and effective enforcement, there are many other breeds' individuals of which irresponsible owners could render dangerous (Collier 2006).

In the face of such evidence it is legitimate to ask how the Pit Bull found itself 'entrenched as the super-predator?' (Delise 2007: 95). There are a great number of extensive and thorough works charting the history, role, and political, and media, representations of the Pit Bull, which also expose the defects in the evidence and the true nature of society's dog control problem and most trace the contemporary and negative view of the Pit Bull to the mid 1970s in the USA (Delise 2007; Boucher 2011; Dickey 2016). In the years following the high profile death of a child in California the resultant crack down on dog fighting by law enforcement saw the media discourse confuse and mistranslate the inherent aggression of dog fights, with human-directed aggression:

Unbeknownst to the media, law enforcement and shelter workers, the exposure of this cruel and seedy subculture and their descriptions of the Pit Bull's fierce but

loyal nature would strike a chord with a segment of the human population which has always been attracted to dogs they believe will enable them to impress or intimidate other humans (Delise 2007: 96).

Thus the Pit Bull as a dog caught up in the myth of the underworld is 'figured as carrying the contagion of criminality' (Tarver 2013). Further confusion about these dogs ensued until "“Everyone knows” and “no one knows” what a “pit bull” is. Everyone knows, and no one knows, that “they” are dangerous' (Garber 1997: 194).

In their investigation of 'Pit Bull Panic', Cohen and Richardson (2002) found cause to be optimistic about people's perceptions of Pit Bulls however there was extensive misinformation in circulation about aggression in dogs used for fighting, and it is worth noting this research was conducted in the USA some time before the status dog phenomenon, at least, arose in the UK, although of course BSL was in force at that point. Clarke notes the rise of the Pit Bull as a 'folk devil' during the late 1980s in the UK when its 'name became a metaphor for aggressiveness and tenacity' (2017: 88), and this construction of Pit Bulls as socially threatening extends of course to status dogs as well. To further evoke Cohen's seminal work, certainly the notion that society desires control over elements it has labelled as dangerous or deviant can affect perceptions of the risk posed,

Societies appear to be subject, very now and then, to periods of moral panic. A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media (Cohen 1972: 9).

Hallsworth certainly appears to regard the RSPCA, Harding and others as 'moral entrepreneurs' and 'right-thinking people' for their invention, then perpetual use, of 'status', 'weapon', 'devil' and other stigmatised labels for dangerous dogs (2013: 29-34). Even healthcare professionals are guilty of widespread misrepresentations of dogs within peer-reviewed journals, often demonising the dog, on which Arluke *et al.* (2017: 8) noted:

Of course, we cannot determine the degree to which these reports contribute to or merely reflect moral panic about the dangers of dogs to humans. But they are part of a feedback loop, providing "scientific" legitimacy to support this panic while at the same time being by-products of such general fear and concern.

Despite the UK Government's 'attempt at a Canine Genocide' (Hallsworth 2011: 392), it has been claimed that Pit Bull numbers only increased as a result of the DDA and its new found status (Parkinson 2009; Hallsworth 2011) but the reasons may be more complex given that the knowledge of the banned types of dog was low in a recent study of dog

owners in the UK (Oxley 2012), which in itself has further implications for the reliable reporting of breed type in dog attack incidents. There have of course been other effects from the legislation. Being in possession of an 'outlaw' dog has its own stigma for owners not seeking to confer a tough or aggressive status and there is likely to be an effect on the dog itself given the reaction to them by dog owners and non-owners in public situations, and as such owners may intentionally misrepresent the breed to avoid the stigma (Twining *et al.* 2000) of being 'denounced as "chavs", "hoodies", "soap-dodgers", "thugs" and the criminal underclass' (Harding 2017: 72). One effect of the legislation - returned to within the findings from the empirical data in Chapter Eight - is that of the substitute harm of creating appeal in similar tough-looking, status, dogs amongst groups ill-equipped to care for their needs or intent upon using them in criminal or anti-social behaviour; as noted 'the prohibition of certain breeds has directly increased the allure of behaviourally similar, but marginally physically dissimilar breeds, in order to circumvent legislation' (Maher *et al.* 2017: 147; see also Dobson 2011). Hussain also noted this effect, 'Prince George's County, Maryland, which bans pit bulls and Rottweilers, has, since the ban's institution, witnessed an introduction into the community of large, powerful dogs not subject to the ban' (2006: 2874). This would look set to continue while BSL remains, as Kaspersson notes it can only be reversed through repealing that part of the statute, 'by abolishing breed bans the attraction of Pit Bulls for the 'wrong' kind of owners will diminish, rather than increasing it as the outlawing of certain breeds does' (2008: 221).

It may be asked where next for BSL then? Hussain notes that internationally breed bans merely follow whatever is the popular breed of the moment (and therefore involved in more incidents), referring to this as the 'slippery slope', citing Germany which started with just a few restricted breeds and ended up with a law governing any dog over 15.7 inches tall with a weight of 44 pounds (2006: 2874). Calls to add dog breeds to the banned list have been made during regular intervals since the DDA was brought into force (most recently PETA 2018) but this has been resisted largely, it would seem, down to some of the political factors to be discussed in the next Chapter. There is also little to suggest within the current discourse that repeal is in the UK's near future either; despite the trend internationally including dozens of municipalities and States in the USA. Cooke reviews this and repeal in other contemporary countries including the recent move by the Netherlands reportedly due to doubt over the effectiveness of the measures (2017: 192-198). Of course any evaluation of the effects of reversal could be pivotal to

convincing agencies in the UK of the merits of repeal. But could policy makers be already awakening to the dog control crisis? The policy network has drawn attention to the deficiencies of the current regime - our communities are no safer (Hussain 2006) as a result of BSL and indeed bans on certain breeds are merely 'symbolic actions of control and are meant to make people feel safe', (Franklin 2013: 55) and it is argued the investment used to enforce BSL would be better spent on community safety programmes and educating owners and non-owners about dog welfare and behaviour (*Ibid.*). In 2018 the Environment, Food and Rural Affairs Committee conducted an inquiry into the DDA and published a report (Efra 2018d) in October 2018 condemning BSL and the dog control legislative framework in general, although from the written and verbal evidence provided by Ministers during proceedings and in the surrounding media coverage, the Government remains unmoved, 'the Government says the Act is helping to prevent dog attacks and that banning breeds that have been developed for fighting is critical to helping to protect the public' (BBC Radio 4: 2018)(see also Chapter Ten).

### Dogs in the news

The role of the media in reporting status and dangerous dogs has already been alluded to, however its function and influence bear further scrutiny to see what contribution, if any, it makes to the dog problem in society. Before turning to the British press, and given both the modern day Pit Bull and BSL emanate from the USA, it is worth exploring the influence exerted upon the issues surrounding dog control by their own press first. Extensive study has been made of this area by several researchers, Delise (2007) went back to examine reports of bull breeds throughout the 19th and 20th centuries discovering in the main positive headlines and content charting these dogs as loyal, hard-working guardians. Many bull breeds were becoming popular in urban environments by the 1900s no doubt increasing in popularity when President Theodore Roosevelt brought Pete, a bull terrier<sup>33</sup> to the White House, although he was later exiled to the family's Long Island home after perpetually biting staff and visitors, and then tearing the bottom out of the French Ambassador's pants. Roosevelt was apparently insouciant to Pete's attacks on his cabinet ministers, which may or may not be indicative of a general view of dog bites at the time, attributing them to 'his attitudes towards their political stances' (Coren 2002:

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<sup>33</sup> There are conflicting accounts of the breed (interestingly reflecting a central problem that persists today) although it seems certain whatever derivative he was a bull breed of some sort.

279). A similar fate awaited Major, Franklin D Roosevelt's German Shepherd after he attacked Prime Minister Ramsey McDonald, the press, never failing to miss an opportunity for symbolism, made much of the origin of the breed and its victim, as the world poised on the brink of World War Two (*Ibid.*).

Other dogs became famous, not because of who their owners were, but because of the human deaths in which they were implicated. Delise (2007) and Dickey (2016) elaborate upon numerous accounts of these attacks in great detail, revealing the true nature of the incident which often involved bites inflicted postmortem following a natural human death; or prior and sustained abuse of the dog; or the culpability of an entirely different (often non-proscribed) breed than the one named in the article. Each era though has had its 'monster' breed and, as has been seen, this has more often not been the Pit Bull, particularly in the UK, nevertheless it was the Pit Bull that spurred legislation to ban or restrict ownership of specific breeds, largely believed to be due to its use as a fighting dog. Certainly Cohen and Richardson's study revealed the perceptions of Pit Bulls as fighting dogs to have been informed by the media's non-factual representations (attributed in part to 'pack journalism' where reporters regurgitate and amplify inaccuracies in stories they have read in other respected papers) and although Pit Bulls were demonised by only a small number of participants of their survey, they did find a strong 'recognition that the news media exaggerate and exacerbate any real or potential problems that may exist with Pit Bulls' (2002: 314). Dickey notes the media's representation of dogs in criminal activities, with the Pit Bull as the accomplice to the crack-dealing 'urban predator', evident in data records charting the use of 'crack cocaine' and 'Pit Bull' in published materials between 1986 and 1990 where their trajectories are exactly the same (2016: 185).

What is also interesting is the way in which media reporting of attacks in the USA has changed, whereas at one time the press felt some obligation to provide a reason for the dog's actions, demonstrating a respect for the animal, its emotions and behaviour; in more recent times the media representations can be described as more 'sterile' and lacking in any compassion. Delise provides examples from the late 1800s which used the language of human emotion - although not excusing the dog - which guides the reader to an appreciation of the complexities of dog behaviour (2007: 58-9). As reporting changed in the 1980s so did the relationship between the press and the readers, and a case of feeding the beast ensued as the 'media recognised that Pit Bull attack stories elicited an

emotional reaction from their audience, the media went into overdrive...churning out emotionally charged articles about Pit Bull anatomy and behaviours that were based on rumours, myths and unproven claims by both experts and laymen' (Delise 2007: 96). Boucher notes the pervasive myth of the Pit Bull's locking jaw and despite being scientifically proven to be untrue (in any breed of dog) 'the media has continuously reported on this so-called 'fact' for decades, and far-reaching acceptance of this myth has only caused the frenzy against pit bulls to grow' (2011: 25). Dickey however notes 'what appears in the local newspapers and on local television is as much a reflection of the public's obsessions as it is of the media's agenda' and as news outlets acquire most of their Pit Bull stories on tip offs from the public or local government, they claim they aren't told of incidents involving other breeds (2016: 198).

As the sector of population being primed to fear Pit Bulls grew, so did the sector who sought out such dogs, as seen in the registrations of Pit Bulls with the United Kennel Club rising 30 percent between 1983 to 1984 (Delise 2007: 96). In 1986 there were 350 articles in the USA about Pit Bulls (Boucher 2011: 31), by 1987 this had risen to 850 (Delise 2007: 100) and this hysteria was set to continue. Thus the Pit Bull's transformational journey is a very recent phenomena in itself, starting in the USA in the late 1970s and breaking into full stride in the aforementioned 'Pit Bull Panic' through the early 1980s, at least in part attributed by most researchers to 'media misrepresentation, pejorative imaging and associated myths' (Harding 2012: 235). Lockwood and Rindy (1987) reviewed the press clippings of 1,100 newspapers over a period of nine months in 1986 and found an over-reporting of Pit Bull attacks versus other breeds, and a significant mis-identification of what constitutes a Pit Bull, both of which call into question any study of bites and fatalities reliant on media representations. As to why such stories of dog attacks captivate the press, we can look to Ericson's explanations on the essential ingredient of deviancy as a 'defining characteristic of what journalists regard as newsworthy' (1998: 84), which he describes as the essence of both the story and the methods the reporter will employ, explaining further; 'Normal crime is not news; only abnormal crime is. If there is no deviance, there is no story' (*Ibid*: 88) and the nature of dog attacks, I argue, appears to fulfil this criteria.

Perhaps some of the best explanations for the nature of the media coverage comes from one of their own, journalist Debra Saunders of the San Francisco Chronicle who on 30

July 1990 wrote:

The Pit Bull scare illustrates how skittish we have become...skittish and ineffective, because this fad scare will do next to nothing to lessen dog attacks...Fad scares have been on the rise since we first learned about AIDS. Stations found that their ratings shot up whenever they ran an AIDS exposé or [a program on] the dangers of crack cocaine. They saw scaring viewers sells...Pit Bulls make for good local TV because they require no expertise. No need for facts, just get the best teeth shot...There aren't a whole lot of Pit Bull owners to alienate...There are no Pit Bull advertisers. Fad scares scare and soothe at the same time. If we stop taking crack or get rid of a nearby Pit Bull we're saved. Unlike the Middle East or acid rain, the Pit Bull problem is easy: Get rid of Pit Bulls. It won't upset an ecological food chain. No jobs will be lost. Most people won't be offended (cited in Dickey 2016: 190-191).

In the UK Podberscek (1994) produced an analysis of articles on dog attacks in five major daily newspapers (one tabloid and four broadsheets) and their Sunday editions from 1988 to 1992 and discovered a greater intensity of interest in dog incidents from 1989 to 1991. There was far less coverage in 1988 and 1992, either side of the frenzied coverage of dog attacks, mostly on children, and the resultant legislation. The German Shepherd and Rottweiler featured far more frequently and in a negative context in 1989 and 1990, with the Pit Bull dramatically overtaking them with 53 percent of such headlines in 1991 (although the Rottweiler had 70 percent of headlines at its height), all of which correlates, of course, with the debates within Parliament at that time as to which breeds were to be blamed and then banned. It never seemed to occur to the press that they were reporting on relatively short-lived trends in both breed popularity and dog bites, and the one common denominator was the owners<sup>34</sup>. Press cuttings and press releases by the main stakeholders, from around the time of the introduction of the DDA, that I have collected<sup>35</sup>, would appear to further confirm Podberscek's findings. More measured pieces referencing dog behaviour experts or concerns raised about the effectiveness of BSL are more obscure, buried deeper in editorials or less well-known publications. The main

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<sup>34</sup> It should be noted that in some cases of dog bites there have been clinical explanations for the aggression such as the dog being in pain from an unknown source/illness. Unfortunately it hasn't been possible to collect robust data on this as often the dog is rehomed or euthanased, and owners who retain dogs that bite but do not seek veterinary assistance are unlikely to participate in any study. There are recognised conditions however that can explain aggressive dog behaviour and thus it has not been as a result of irresponsible ownership. As an owner of a rescue dog that has bitten I am also aware of the conditioning through negative reinforcement that can happen to dogs where that punishment has led to aggression, indeed this is sadly the situation my dog experienced, who was beaten for the early part of his life by his previous owners.

<sup>35</sup> As part of a personal and professional archive, I have collected a number of press releases and articles since my introduction to the phenomenon of status and dangerous dogs around 2008, however I was extremely fortunate that several participants interviewed for this study were kind enough to supply me with copies of their own files. These provided a wide range of articles from publications from around the time of the introduction of the DDA and also in the intervening years.

tabloids and broadsheets contain emotive and alarming headlines and pictures of injuries, such as 'Baker plans to outlaw savage dogs' (The Times) and 'Destroy these disgusting dogs' (Independent). These plus: 'Savaged: Baker to Wipe our mad dog menace' (Mirror), 'An Unpredictable Fighting Machine' (also Independent), 'Girl savaged by Pit Bull is scarred for life says surgeon' (Daily Telegraph), and 'Killers on the Street' (Evening Standard) are all from 21 May 1991 three days after the attack on six year old Rukhsana Khan.

In their analysis Orritt and Harper 2015 highlight the common existence of an 'angelic victim' and 'demonic dog/offender' and news reports '...typified by negativity and unrepresentative prototypes, with audiences inferring these extreme cases as grounds for punitive legislation. The populist and reactionary nature of modern politics contributes to a self-perpetuating cycle of inadequate legislation, increased public concern, and emotional news coverage'. Certainly this was evident during the height of the status dog phenomenon which saw women's publications fight against any blame being attributed to parents or any explanations as to why small children were being attacked and/or killed, 'Most sane people are certain of one thing - the child is innocent in the purest meaning of that word. Wherever the fault may rest, surely no one would blame the victim, small and harmless'. And this article, entitled 'Real Life Public Terror: Mums insult Dead Kids' (*Take a Break* 4 November 2010) denigrated in no uncertain terms those keeping Pit Bulls and similar looking dogs, alongside case studies and photographs of dead children and other horrific incidents. As Clarke notes a, 'dog bite fatality involving an unremarkable breed and adult is not nearly as newsworthy as a Bull Terrier and a child' (2017: 91). The representation of both the angelic victim and the dangerous menace to social order and wellbeing posed by dogs - with these breeds and their owners depicted as threatening 'outsiders' and 'dangerous others' - directly corresponds with Garland's (2001) culture of control and the 'sanctification of victims'. Any desire to understand the deep complexities of a situation that led to an attack on a child, or indeed any concern for the welfare of the dog, is nullified, given it may represent the ultimate insensitivity to the grieving family and wider community.

A potential catalyst for much of the wider media awakening to the status dog phenomenon in England and Wales was the murder of Oluwaseyi 'Seyi' Ogunyemi, by a gang with dogs. Although Seyi was not killed by the dog - he was in fact knifed to death by the dog's owner - the use of the dog to attack and restrain Seyi was enough to fully

implicate it, in media reports, in this heinous murder. The attackers were also apprehended using innovative adaptations of DNA techniques and a new dog DNA database (Bhattacharya 2010). Clearly the inherent deviancy of this incident, plus its unique facets, gave it instant newsworthiness. Already engaged in research into gangs, Harding readily admits the media coverage of this murder drew his attention to the use of dogs by young people (2012: 3), he does not however admit that it was an isolated incident that has not been seen since. He also doesn't acknowledge the dog's peripheral and largely irrelevant role in what was example of a tragic long-running feud between two gangs, nor the limitations of exploring the phenomenon of status dogs through the solitary lens of gang-warfare. Part of Harding's research involved a media discourse analysis of 12 newspapers between 2009 and 2011 which did, however, find that 'without doubt these discursive strategies are used to manipulate our perceptions regarding how we view the breeds involved and their owners' (2012: 47). Given that one survey found that a quarter of its respondents based their knowledge of the most common status dog - the staffie - upon news reports (Vet Times 2011), this would appear to be somewhat troubling for certain breeds of dog at least if the content of those stories contains inaccuracies regarding any link between breed and aggression or the use of dogs by gangs, as an indication of the scale of a problem. The issue could be one of media hyperbole, whereas Hallsworth says it is one of media myth (2011), but Harding believes his findings contradict this and that the headlines are reflective of a real problem (2012: 49). Reviewing my own research in this area, I would agree that the media has certainly played a significant part in the social construction of the dog problem, but it has focussed on the wrong labels for the characterisations, causes and solutions (Maher *et al.* 2017).

Recent research into the nature of media coverage in the UK examined the websites of three national newspapers from the beginning of 2013 until the end of 2014. These were found to be consistent with previous research in revealing biased opinion in relation to bull breeds irrespective of the absence of any evidence that such dogs are responsible for more bites than any other breed. The authors also noted, in one example, the difference between two newspapers in reporting (in the aforementioned death of Jade Anderson) the breeds of dog involved and found other evidence of guesswork by journalists on breed (Kikuchi & Oxley 2017). Clarke implicates the media in facilitating fear in an increasingly risk-averse society, citing the example of a nine-fold increase in the mention of 'risk' in publications by the UK's media between 1994 and 2000 (Furedi 2006). A focus on

child safety, along with compelling visual representations of dogs attacking humans, supplies the necessary ingredients to sustain society's fears.

There have also been very significant changes to the way in which news is transmitted and is accessible during the past few decades, not least of all the introduction of twenty-four-hour TV news channels<sup>36</sup> and of course the internet. Dickey (2016: 157-8) argues the abundance of outlets makes it harder for people to filter out the untruths, particularly as it facilitates a proliferation of the self-appointed expert. The advent of social media during the past decade or so has had further, potentially larger, connotations for determining facts. It can also be a force for good, of course, not least of all providing new opportunities for anti-BSL campaigners to network, and work to dispel the myths that the media is less keen to address given the lack of deviancy (as per Ericson 1998 above) or focussing event, rendering the topic less newsworthy. Kikuchi and Oxley (2017: 66) observe the great potential of social media for further research using analytics and collecting photographic records, and certainly there is scope for monitoring injuries and identifying breeds more accurately. In addition to the benefits of social media, Dickey notes the communication of the 'sinister other', 'some animal advocates displayed a cringe-worthy lack of cultural sensitivity by first equating breedism with human racism, then using coded racial language to condemn certain pit bull owners', with an emerging theme that Pit Bulls only become an acceptable as a pet when owned by middle class white people (2016: 251).

The media construct of the dog problem is not without some foundation and this would correspond with Garland's view that the media do not produce an interest in crime or punitive responses, more that it 'has tapped into, then dramatized and reinforced, a new public experience' (2001: 158). But the characterisation of the dog and its underclass owner, as the dangerous 'other' or 'outsider', serves to only deepen the alarm about the risk they pose to society. The issue, I argue, follows Garland's assessment of the period during which the DDA emerged:

In the 1990s the pattern was for high visibility crime cases to become the focus of a great deal of media attention and public outrage, issuing in urgent demands that something be done. These cases typically involve a predatory individual, an innocent victim (often a child), and a prior failure of the criminal justice system to impose effective controls - their regularity reflecting the structure of middle-class fears and mass media news values rather than the statistical frequency of events. Almost inevitably, the demand is for more effective penal control (Garland 2001: 172-173).

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<sup>36</sup> CNN, launched in 1980, was the first twenty-four-hour news channel.

He references several examples of legislative responses, amongst which I argue the DDA sits very comfortably as an example of 'the rapid response system that now characterises policy making in this field' (2001: 172-173).

#### 4.4 Summary

The chapter has presented a documentary analysis of the definitions of both dangerous and status dogs - the very centre of the dog control problem, and explored the evidence supporting or refuting the problem, as set out in the research questions. It is clear that there is some compelling evidence of the very *real* nature of some form of a dog problem existing in society, not least of all the data that demonstrates the attacks upon communication workers, young people and other animals, which illustrates it is not merely a moral panic or a media construction. However the real nature of what dog problem exists in society is being obfuscated by the perpetual myth that only certain dogs are dangerous and will attack and injure, and those dogs are only owned by a certain 'outsider' element in society, and as such indications of a culture of control have been revealed during this process. As intended by Garland (2004: 185), it is necessary to look to the social and cultural arrangements, and their modification via economic, media and the institutional systems, in order to determine the perceptions of danger and to begin to understand the answers to the 'question of how we fail "to recognise the other"', how we limit compassionate identification, how we establish distance and demonisation'. This process will continue in the next chapter which considers the politicisation of dog control.



# Chapter Five

## The politicisation of dog control

### 5.1 Introduction

The following chapter is the last of the findings from my documentary analysis and focuses on how the legislative and policy responses to dog issues in society have become politicised, starting in Victorian times and escalating in recent decades. I continue in the vein of a *history of the present*, mindful that 'History is like therapy for the present: it makes it talk about its parents' (Jasanoff, 2017: 6). The chapter is constructed in order to address two of the research questions via a somewhat chronological and interwoven path, namely an examination of what 'solutions' emerged in relation to the perceived problem, and secondly the political processes evident within the policy responses. There follow seven sub-sections starting with the earliest responses to dog control issues in the 1800s before a consideration of the importance of pets within the political and social spheres. The political context of solutions is examined via discussion on the media, party politics and BSL. Dogs as a symbol of class war is considered before following the development of responses to the perceived failings of the DDA in its immediate aftermath. The emergence of the status dog phenomenon in the mid-2000s is explored before a final discussion on some of the most recent policy and legislative amendments designed to tackle the dangerous dog problem.

### 5.2 A Victorian dog problem

Dog control arguably became a political issue in the UK from as early as the 1860s when growing concern within Victorian society in relation to the serious zoonotic disease, rabies, led to the introduction of regulations. Walton (1979) discusses this subject in terms of the wider debates at that time regarding the primary rights of the individual versus the interference of the state in the name of protecting wider society. He charts the initial increase in dog ownership amongst the growing middle classes, who had begun to use dogs for more than just sport/hunting, and namely to put on show and to impress. This led to the creation of the Kennel Club to regulate dog breeds and dog shows and trials, and the market in pedigrees quickly became very lucrative, 'the dog was becoming a status

symbol' (*Ibid.* 222). This new fascination and use for dogs expanded rapidly amongst the lower classes and by the 1880s there existed 'a full scale dog industry... catering for a mass market' (*Ibid.* 224). There were fringe consequences to this emerging industry and indeed the contingent of lower classes not participating in the showing and breeding of pedigrees, but nevertheless keeping pet dogs, were blamed for the exponential increase in stray dogs (McCarthy 2016: 562). This was a problem that was also aggravated by puppies becoming more costly due to the need for a licence once they reached 6 months of age. By the following decade the Metropolitan police were collecting and destroying 20,000 dogs per year. These dogs were deemed to carry and spread disease, cases of hydrophobia were well publicised, panic grew, and thus emerged the 'Victorian dog problem', which soon led to the formation of a House of Lords Select Committee on rabies (HL Deb 17 May 1887 vol 315 c246). As this frenzied response intensified, 'powerful vested interests were involved, and a brisk debate soon began over what form the control of dogs and their owners ought to take, and how far it should go' (Walton 1979: 227).

After the consideration of import controls; expanding police powers; raising the cost of the licence (specifically to out-price the lower classes); and an increase in resources to enable the total destruction of stray dogs, the Victorian authorities settled upon muzzling as the most immediate and effective method to control rabies. This was a highly controversial and contentious move but the perceived link between muzzling and a drop in rabies cases only served to encourage Parliament to act further with a Rabies Order to enable Councils to introduce and enforce muzzling irrespective of the presence of rabies. However 'dogs were part of the family and in intervening here the state was meddling in issues outside its remit' (Keane 1998: 92). Local politicians were unwilling to act when faced with such strong resentment within their communities when it was deemed, amongst other things, to 'constitute an unnecessary infringement of civil liberties' (Walton 1979: 233). Frustrated by this, Parliament empowered itself to act, however, once rabies appeared to be under control, muzzling orders were dropped, as national politicians also recognised the hostility the move attracted from constituents. This pattern was repeated over many years as the disease picture increased and decreased over time.

McCarthy notes the transition from the use of the word 'disease' to 'dangerous' and connects the historical accounts to the contemporary in order to illuminate how state responses relate to the social controls introduced which target certain groups such as the

working class noting that, 'by situating current debates about dangerous dogs in a historical timeframe, it has been argued that we can learn much about the ways that political responses to human–animal relations are regulated by the state' (2015: 12). The Victorian dog control problem contained many of the same features of the policy process as presents today, with clear issues defining the concerns (particularly the epidemiology of the disease); the existence of a varied and diverse policy community (then consisting of groups du jour, such as the Anti-Muzzling Association, as well as the enduring RSPCA); the growing media reported on the focussing events of major outbreaks of rabies; and copious solutions were proffered and debated. There was also an abundance of political will eager to address the problem. Keane follows Walton in charting the political activities of some of the main actors of the policy community who were actively reflecting the views of society at that time, citing the National Canine Defence League's<sup>37</sup> Annual Report of 1899-1900, which stated with notable clarity that 'the dog lover as a political force is not to be despised' (Keane 1998: 94).

The debates around out of control and dangerous dogs didn't end with the elimination of rabies of course. A Victorian measure still in force, and often utilised, was passed in the form of The Dogs Act 1871 (see Chapter Three for the analysis of legislation). It did not however directly criminalise the keeping, or being in control of, a dangerous dog, instead it was more to introduce moderate penalties where an individual had not complied with their court order. There is little to suggest this legislation followed huge public outcry or a rise in incidents involving dogs, but instead was more likely as a result of the tidying and ordering of the administrative elements of dog control not covered within the criminal law introduced by the Town and Police Clauses Act 1847.

Perhaps in recognition of the fundamental opposition to state interference in what has so often been deemed a private, family issue, there has been an absence of animal related issues in election manifestos and mainstream political business. Despite this, dogs and their negative impact on communities, in various guises, continued to develop as a much politicised, often highly charged, issue. Keane (1998) examines the development of the animal focussed NGOs from when they sprang up, throughout the latter part of the 1800s, to maturation and widespread prominence, adapting their campaigning styles to the broader political movements of their time. Large scale campaigns with strong imagery,

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<sup>37</sup> Renamed the Dogs Trust in 2003.

petitions and protests ensured animal issues, such as the highly contentious practice of vivisection on dogs, remained prominent on the political agenda, even where solutions were not immediately secured. In relation to the control of dogs, there is a clear recurrent theme throughout this thesis that policy and legislative measures have sometimes developed in conflict with, and in spite of, the animal welfare and rights agenda. As Schaffner (2011) aptly details, the status of animals in law is one of property and the existence of animal control laws in most nations is to define and often curtail animal ownership, and the vast majority of these rules are in relation to dogs. Disease and the physical threat they can sometimes pose, coupled - and conflicted - with their close relationship to humans, has therefore afforded dogs a unique status, compared to other non-human animals, in politics and the public consciousness.

### 5.3 The political and social climate

Moving forward in time, the following sub-section of the chapter considers the rising political prominence of dog control issues and some of the social factors during this period that influenced rapid changes to the political views, of the time, on dangerous dogs. As dog attacks took on a new significance (despite no obvious deviation from previous patterns) within public debate, more radical proposals began to surface along with what I describe as a purposeful or irresponsible attribution to dog fighting trends.

In answer to their own question of 'does the treatment of pets possess any political importance?' political scientists Hunter and Brisbin, contend that 'the treatment of pets is intertwined with politics' and 'the identification of an animal as a pet, demands for political action, the practice of political institutions, public policies, and criminal and regulatory law enforcement agencies and courts, affect the lives of animals' (2016: 10). They chart in more detail, throughout their book, the areas of concern for animals prevalent on the political agenda and note the few studies that have even sought to examine the influence of pet ownership on voting preferences, as well as the role of dog ownership in major election campaigns. Perhaps the politicisation of dog control however was in fact solidified in the UK with the introduction of the Dangerous Dogs Act, a proposition supported, I would argue, by the Act's persistence beyond a quarter of a century. For, as it is argued in this thesis, it has no foundation in science nor is it defended with the use of statistical or any other robust evidence to prove it is working to reduce dog attacks, its existence

therefore is one, I argue, the evidence suggests serves only political symbolism. Questions have been raised as to the true nature and intention of the legislation 'it's [s1] punitive rather than controlling' (Cooper, T. cited in Clare 2012). Previous legislation for controlling dogs was not without controversy either but in contrast was, crucially, not intended to - and in the main did not - result in owned dogs being seized and euthanased where no disease or history of violent aggression existed. The DDA is therefore roundly regarded as a 'typically political act' (Sweeney 2013: 241).

There exists, outside of the dog policy sphere, an extensive body of work critiquing the DDA usually with specific reference to section 1, 'in public debate the Dangerous Dogs Act...has become a synonym for any unthinking reflex legislative response to media hype.' (Hood *et al.* 2000: 283). The website 'Politics' ran a poll of 'What's the worst British law of all time?' listing the DDA amongst a total of eight options and labelling it as:

The daddy of bad legislation. A law so terrible it became a byword for how not to do it. The Dangerous Dog's Act was a reaction to a much-publicised series of dog attacks. It was classic something-must-be-done territory, in which the thing which was done showed all the hallmarks of what happens when that territory is entered into (Dunt 2015).

One study reviewed the Daily and Sunday Telegraphs which ran 35 editorials between 1991 and 1998 citing the DDA as the epitome of bad regulation, and thus concluded therefore 'it is "a truth universally acknowledged" that the UK's Dangerous Dogs Act 1991 is a cardinal example of poor, ill-thought-out regulation' (Hood *et al.* 2000: 282). But could legislation of this nature - which had very significant consequences (the death of thousands of pet dogs) - have really been predicated merely on political goals? There is of course more context in the decades leading up to the Bill's introduction to first be considered.

Molloy (2011) posits that the discourse surrounding dangerous dogs in the latter part of the twentieth century was influenced by early press reports in the 1970s about the aggression of, and attacks, by guard dogs - specifically German Shepherds. Two high profile and tragic cases lit the debate resulting in Parliament passing the Guard Dogs Act in 1975, laying out the controls under which such dogs could be kept. What differs entirely from the debates 15 years later, however, is the attribution of aggression to specific breeds, in fact in 1975 it was accepted that a dog attack was as a result of the circumstances specific to that individual dog, including its training (*ibid.*). Concern at that point in time regarding

dogs went further than their use in guarding property, well rehearsed discussions were also being had in Parliament regarding fouling, straying and disease control, plus of course the dog licence which was under continual scrutiny and criticism. There are echoes in the press from a century earlier of the hysteria regarding rabies with one broadsheet noting the German Shepherds involved in the two fatalities were not tested for the disease before being shot dead, thus leaving the suggestion open in the reader's mind that they were infected. 'In this way anxieties about the abject canine body in the 1970s articulated a nascent discourse of risk, predominantly through the media, and located the dog as a growing social problem that required regulation in the form of control, training or destruction' (Molloy 2011: 115).

As charted in 4.3 of the previous chapter, the conflation of dog fighting and dog attacks emerged in the USA, but it also appeared, albeit slightly later, in the UK. In 1985 the RSPCA undertook the first dog fighting prosecution in perhaps a hundred years and as a result, Molloy argues, 'introduced the term "fighting dog" into the discourse of canine risk and situated the RSPCA as a significant voice of authority' (2011: 116). Whilst this may be used to explain the Home Secretary's decision in 1991 to ban certain dogs, given it was also eagerly supported by the RSPCA, this fails to note that the RSPCA was simultaneously advocating for a dog licence which the Government unequivocally rejected. Nevertheless with regard to the developing lexicon at that time, and its influence on the perception of risk, it would appear fighting dogs and attacks on humans were to be viewed as being firmly linked. Media reports, in lieu of any government statistics on total numbers of dogs; numbers of attacks; and which breeds were implicated, would also have their guesswork in relation to these issues go unchecked. Their influence on the debate and in turn the perceptions of the nation's policy makers at that time cannot be fully understood but certainly cannot be dismissed as irrelevant.

Breed specific legislation wasn't always the Government's first choice, indeed it was ridiculed just two years before it was introduced in the 1989 debate on dangerous dogs by the Parliamentary Under-Secretary of State for the Home Department, Douglas Hogg MP, who called the proposition 'manifest nonsense' and 'the idea of simply prohibiting an American pit bull terrier is a non-runner' (HC Deb 15 June 1989 vol 154 c1179-1201). Being unequivocal in his assessment of such a move, he stated 'I do not think that there is anything to be gained by trying to define dangerous breeds' and referring to recent

incidents he noted 'the evidence of the last few weeks and the tragic attacks which have occurred suggest that dogs of a whole variety of breeds can be dangerous' (*Ibid.*). These comments came in response to calls for the prohibition of certain breeds from both the opposition benches and the animal welfare lobby, such as the RSPCA. Whilst these NGOs might prefer not to recall their previous position on BSL, it is recorded clearly within Hansard, 'RSPCA experts had defined five breeds of dogs which are particularly dangerous' (John McAllion MP) (*Ibid.*). Unmoved however, and despite a Government commitment to develop dog legislation to better protect citizens, the Minister concluded the debate by rejecting both dog licensing and BSL, noting 'that the responsibility for the control of dogs rests much more on their owners than upon the framework of law' and 'I am concerned that we should introduce only changes which are viable and not promote changes which are simply unsustainable' (*Ibid.*).

#### 5.4 Exploring the political context of 'solutions'

Moving forward in time yet again, albeit now with smaller strides, it is important to review next what role public opinion, the media, party politics, and focussing events (Kingdon 1984) played in the development of BSL within the new Dangerous Dogs Act (1991). It is, though, quite difficult to unearth the facts of what could have changed the same Government's mind so completely in just under 24 months as there are few primary accounts. There are even some indications this policy reversal emerged from an even shorter window: during the passage of the 1991 Bill, Robin Corbett MP cited a Government response of October of 1990 (just seven months before) which stated that the Town and Police Clauses Act 1847 was sufficient for dealing with dog control issues and, should it not be, enforcers should employ the Animals Act 1971 (HC Deb 10 June 1991 vol 192 cc644-99). Corbett went on to claim the Prime Minister and Home Secretary had rejected calls for a change in dog control legislation from the dispatch box just a month before the DDA was introduced (*Ibid.*). During that same debate, opposition members who had supported BSL in 1989 were incensed at the Government's u-turn, often focussing on this rather than the success of securing the measures. For example, (John McAllion MP, *ibid.*) noted 'they cannot explain their sudden shift in attitude towards the ban that is set out in the Bill. It is not credible for Ministers to argue that the sheer ferocity of attacks in recent times has convinced them of the need to change their policy'.

## Extra-parliamentary media representations and popular concerns

The media may have played a role in leading public opinion in the months preceding the introduction of the DDA but when retrospectively reviewing material from that period it is clear that they act as a reflection of a substantial public outcry about dogs and wider social issues. As Molloy (2011: 107) observes:

Heightened public anxieties about canine-associated risks were reported in the popular press along with calls for immediate government action as debates about dangerous dogs became intrinsically linked to discourses of antisocial behaviour, masculinity, violence, the erosion of national identity, social responsibility and drug culture.

There were also a number of polls conducted by the media during this period which reveal that Government proposals were closely aligned to the very significant public feeling occurring in response to high profile dog attacks such as the one Rukhsana Khan endured (as discussed in the previous chapter). Polling can only provide a limited account of public opinion but these repeated national and local surveys demonstrated clear approval for a ban on dangerous dogs, with many, although not all, confirming extensive support for the mandatory destruction of banned types (Hood *et al.* 2000: 20). However it is worth noting these polls also showed clear support for dog registration, which the Government actively ignored.

During the passage of the DDA, the Minister of State, Home Office, Angela Rumbold MP reminded the House that a recent consultation had illuminated the strength of feeling upon dog control and the need to eliminate certain breeds:

[O]n two points the general public were unanimous. The first was the widespread desire for the new general criminal offence which my Rt. Hon. friend the Home Secretary announced yesterday, together with increased powers for the courts to muzzle dangerous dogs. The second was the universal public dislike of dogs such as the pit bull terrier which represent such a danger to small children such as Rukhsana Khan (HC Deb 23 May 1991 vol 191 cc1058-69).

Although she summarised public support slightly erroneously as unanimous, it is clearly the case - if the accounts given by numerous MPs during the debates is accepted - that public feeling was firmly behind any moves to significantly tighten dog control, criminalise 'bad' owners and remove certain dogs from the population. Clarke (2017: 88) is mindful, on this point, of the body of research, from Durkheim (1897) to Cohen (1972), and others, which suggests labelling of specific populations as 'dangerous' is an integral part of

the need in society to identify threats and exercise control over them, which would appear to be applicable here.

Molloy discusses dangerous dogs in terms of social constructionism, a position that views the problem through a contextualised, socially constructed view of risk. By examining media reports and parliamentary transcripts she describes a division between 'an idealised majority of "good dogs and owners" and a deviant subset of "bad dogs and owners"' (2011: 108), and analyses the discourses that have fused dangerous dog policy with the disintegration of social structures. This may also explain the enduring appeal of the DDA to policymakers or their reluctance to act on any evidence that jeopardises the foundation of that aspect of the law. Molloy's examination of the dog control problem through risk theory offers other explanations in so much as any threats to children, as is so often the media and political characterisation of dangerous dogs (which the statistics do in fact support), have been a catalyst with regard to moral panics, in the so-called 'politics of substitution' (Jenkins, P 1992: 10 cited by Molloy 2011: 111).

The body of social constructivist-oriented sociological literature analysing this period of dog control policy posits that:

Dominant discourses centralised the pit bull terrier as an aberrant canine breed, uncontrollable and synonymous with tenacious aggression. Pit bull owners were similarly constructed as social deviants with violent tendencies suggesting shared characteristics between human and canine. In this sense, a moral panic about the risks posed by fighting dogs and their owners was able to focus public anxieties about social deviance, drug taking, violence, animal cruelty and the collapse of social responsibility onto an imagined community of dog owners (Molloy 2011: 120).

In this social context it is easy to see why a government may react quickly to reassure the public, perhaps not stopping to truly understand the consequences of spontaneous legislative measures that have not been adequately scrutinised, particularly if that is not their primary concern, 'Policymakers can become moral entrepreneurs by implementing knee jerk policies to give themselves a better foothold in their community under what may be a guise of community safety' (Franklin 2013: 3). These are grand theories of explanation regarding the state of the nation and the role of moral panics, to which I have to admit to some concern. There is little in the way of empirical evidence to support this form of grand narrative theorising which could be in danger of producing an over simplified and tidier perspective of the criminological milieu, although my work may be

subject to similar criticism when drawing parallels between society's response to the dangerous dog issue, with the conditions set out in Garland's *Culture of Control* (2001).

### Party politics, electoral cycles and inside Parliament/Government circles

Having considered the documentary evidence with regards to the social context at this moment in time, the following section explores the deeper political manoeuvres at work, as various solutions were articulated and mediated. During the Second Reading of the Dangerous Dogs Bill the Member for Dundee East, John McAllion MP offered this analysis of why the Government had come around to BSL, 'It is my judgment that the Bill reflects the relative strength of the Government two years ago and the relative weakness of their position today', then proceeded further with a candid assessment typical of House of Commons debates:

The Government are trailing in the opinion polls and they have had first to postpone a June general election and then an October election because they knew that they would not be able to win either. The Government are politically weak and they are vulnerable. It is from their position of weakness that they have been bounced into introducing the Bill because of the pressure mounted by the tabloid newspapers. In short, the Bill represents the Government's panic reaction. It will be pushed through the House in one day not because the Government are legislating for a real emergency in the real world but because they, a weak Administration, cannot guarantee the unequivocal support of Conservative Back-Benchers (HC Deb 10 June 1991 vol 192 cc644-99).

Of course it is worth noting at this point that Garland has explored, as a feature of the culture of control, the fact that weak governments tend to 'play to the gallery' with more intensely punitive policies, 'it is worth noting that punitive outbursts and demonizing rhetorics have featured much more prominently in weak political regimes than in strong ones' (1996: 462).

It was certainly a matter of fact that John Major had only recently become Prime Minister and in charge of a party and a Government weakened by the exit of Margaret Thatcher and a series of by-election defeats as well as scandals. The country was in recession and had recently fought a war against Iraq. Frightening symbols were commonplace in the media and Pit Bulls made a relatively easy addition to the depiction of Britain as an increasingly aggressive and fearsome place, particularly given the availability and use of emotive and gruesome images of apparently aggressive dogs and the injuries they were reported to have caused. Kenneth Baker MP had himself been weakened in his position as

Home Secretary by a major riot in Strangeways prison which made him vulnerable to the impending reshuffle and he would therefore be keen to assert his authority and regain the nation's confidence (Lodge & Hood 2002: 5-6). Thus it is easy to understand Kaspersson's (2008: 217) contention that 'breed-specific legislation can also be used politically for ulterior motives such as re-election and has been introduced, or lobbied for, by sometimes dubious methods – such as selectivity of data used and tweaking the interpretation of these data.'

The 1871 legislation was deemed sufficient certainly for enabling the police to deal with stray or out of control dogs, and for the courts to order owners meet certain conditions or face a fine. That is until the Government responded to unfolding events and took the view that criminal sanctions (in the form of the DDA) were needed in order to tackle the problem of dog attacks (Bleasdale-Hill & Dickinson 2016: 66), although Lodge and Hood contend the Victorian systems were also generally deemed to be outmoded (2002: 4). But either way the Government was fast approaching a general election with a new leader facing challenges his predecessor had escaped and it is for this and other political reasons that it is argued the Government hastened the legislation through Parliament in effort to appear agile, responsive and, crucially, 'traditionally punitive tough on crime' (Clark 2017: 87). One examination of risk regulation regimes concluded that with a minimal state role much of the control of dogs conformed to a minimal feasible response hypothesis, apart from, that is, the ban on certain types of dog leaving other breeds, known to be involved in attacks, uncontrolled. This particular aspect of BSL would instead appear to fit the hypothesis of a responsive government whereby the regulatory regime will reflect the public attitudes towards a particular risk, and 'suggesting, for example, that 'dread' risks will be more heavily regulated than others' (Hood *et al.* 1999: 152).

Another concern for the Government ahead of the general election was that the opposition, who were gaining considerable ground in the polls, were mobilising on this specific issue having recognised its importance to voters. An almost exclusively Labour led 'Control of Dangerous Breeds of Dog' Early Day Motion stated:

That this House condemns the importation of dangerous breeds of dogs into the United Kingdom; and urges the government to introduce a dog registration scheme for all breeds, compulsory third party insurance; and a programme of humane destruction of all dogs of breeds which are specifically raised for illegal dog fighting, namely, Japanese Tosa and American pit bull terriers (EDM 840 1990-91).

Pressure on the Government intensified given this EDM was tabled four days before the attack on Rukhsana Khan even took place, making the Labour Party appear more in touch with the threats to, and needs of, society. This was also an unusually early attempt by Labour to out-flank the Conservatives on a regulation of crime issue (some time ahead of Blair's re-positioning of the party in the run up to the 1997 General Election).

Lodge and Hood (2002) employ a theory of 'forced choice' as to explain the Government's actions with regard to dog control policy during the period surrounding the introduction of the DDA. They put forward the view that governments are 'filters' not 'weathervanes' in response to external 'shocks' and as such must still act, and are obliged to legislate, but in a way that aligns to their own mandate. They also acknowledge that 'the pit bull tragedies of 1991 helped to accelerate changes in the criminal law that had already been mooted by government departments' (Lodge & Hood, 2002: 10). However this theory alone would appear insufficient in explaining why the attacks leading up to the DDA differed in any way to a very long history of similar incidents - during periods of fluctuating political fortunes - which did not spark a reaction as draconian as the euthanasia of thousands of pet dogs solely for how they looked and for some perceived potential for what they might do.

#### 'Evidence' for the sourcing of BSL as a policy: a case of 'policy-led evidence'?

With the political conditions during this period explored, I now return to the central issue of Breed Specific Legislation and what the documentation reveals as to its origins. Where a government's role is to reflect the norms and values, as well as the expressed wishes, of its citizens and, notwithstanding the inherent flaws in accurately gauging such wishes, it could be argued that public opinion was the only 'evidence' the Government of 1991 needed in order to proceed with the DDA. Except that is, during the introduction and short passage of the legislation, the Government repeatedly claimed the measures would better protect citizens from the inherent dangers associated with specific breeds and types of dog. However a government cannot expect an average member of the public to determine the viability of the evidence for, or against, the factors that may indicate aggression in dogs, although it must be acknowledged that this particular branch of science was in its infancy and there was an absence of robust evidence to prove breed was not a factor. It is in this context, only just over a quarter of a century ago, that the Home

Secretary, Kenneth Baker MP claimed sole credit for the proposals and clearly felt no requirement to provide robust scientific evidence to support them. At one point in correspondence with fellow MPs<sup>38</sup> he cited an unnamed dog expert<sup>39</sup> who supported the case for a ban and around the same time, during a Parliamentary debate, listed the NGOs who approved, 'one thing that is agreed between the RSPCA, the Kennel Club, the British Veterinary Association and ourselves is that we want those types of dogs to be removed from our society permanently. They made that very clear to me yesterday' (HC Deb 22 May 1991 vol 191 cc945-58)<sup>40</sup>.

International political influences must also be considered and indeed there are numerous references to the problem of dog control in the USA, often specifically in relation to Pit Bulls, throughout the Parliamentary debates at that time. John McAllion MP, a vehement supporter of BSL at this time made such references:

[T]he Government were well warned—I played my part in the Adjournment debate to which I referred—that American pit bull terriers posed a serious threat to public safety in the United Kingdom. The Government knew at least two years ago that the breed had killed and killed again in the United States (HC Deb 10 June 1991 vol 192 cc644-99).

However there is little amongst the documentation to suggest that policy makers were aware of the increasing number of breed specific laws being created in the States. Some scholars nevertheless suggest the evidence from the States, whilst defective, remained a key influence:

Evidence concerning dog bite related fatalities and the relationship between pit bull ownership and youth violence presented within the Parliamentary debates was taken from American studies, which proved later to be flawed and not applicable to the UK situation. In the absence of a scientific assessment of the risk the mass media construction of the “dangerous dog” and the dangerous dog owner was positioned as the dominant form of knowledge production (Molloy 2011: 127).

In contrast Lodge and Hood state that there 'is no evidence that the act was based on

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<sup>38</sup> A participant of this study was kind enough to provide me with a hard copy.

<sup>39</sup> This expert was later revealed (HC Deb 22 May 1991 vol 191 cc945-58) and (Daily Mail [1995] 'At £750 a day, a mad dog expert - He backed the Act, but then changed his tune.' 15 May 1995) to be Dr Roger Mugford who had worked with the Queen's huskies. Dr Mugford subsequently reversed his position and campaigns against the DDA as well as testifies as a defence expert.

<sup>40</sup> It should be noted in contrast, however, that one Chief Executive of the RSPCA who had led the Society in dealings with the Government in 1991 later claimed, 'We warned at that time that breed-specific legislation and the approach that was being taken, without a comprehensive underpinning, would singularly fail to deal with the problem. Here we are 22, 23 years later, and sadly - I hate to say it - our words have been proven correct.' (Gavin Grant, CE of the RSPCA, HC Public Bill Committee: Anti-Social Behaviour, Crime and Policing Bill 20 June 2013 c111).

learning from other countries to any extent' (2002: 6), however the banning and extermination of certain breeds had only recently been rejected by a predecessor Minister, not least of all for the extensive complications of determining breed. Kenneth Baker MP himself, both within Parliamentary debates and in his autobiography, was unusually quiet on the origins of BSL (Baker 1993). Justifications regarding public safety and reducing attacks by reducing dogs bred for fighting were cited frequently during this period, but explanations of where BSL came from as a policy initiative, and how it had been proven to be effective in response to such problems were not forthcoming. Accusations of a political motivation for the creation of s1 of the DDA, such as those of John McAllion MP (cited earlier), were never responded to by the Government either. These issues are revisited as part of the findings from my interview-based research with elites from the policy community (active during this period and more recently), in Chapter Nine.

## 5.5 Dogs as a symbol of a political class war

The following subsection of the chapter explores the evidence for the depiction of certain dogs as being inherently connected to criminal subcultures, in order to understand whether such symbolism has played any part in the policy process at a political level.

Through a combination of media content and parliamentary debate analysis, Molloy points to the fact that from the late 1980s 'dog fighting, anti-social behaviour and masculinised violence became clearly associated in press reports with repeated links to the status of Pit Bull owners as unemployed or involved in some aspect of drug culture or violent crime' (2011: 119) and she uses the example of the Daily Mirror from the 14th May 1991 which stated that 'the pit bull is often a favourite of social inadequates to show how macho they are' (2011: 119-120) to reveal how the dogs and their owners were being openly labelled as a clear danger to others and a separate distinct group set apart from other dog owners of more acceptable, average or harmless breeds. The criminologist Daniel McCarthy conducted a documentary analysis examining the various referencing and problem classifications utilised in societal and political language in respect of dangerous dogs and the resultant melding with the condition of the 'non-respectable class' thus offering valuable insight into the ways in which responses by the state 'have shored

up concerns about the condition of the working class and introduced subsequent social controls to target such groups' (2015: 571).

Kenneth Baker MP's own words would appear to verify the presence of a bias regarding the class of dog owners. He corresponded with MPs<sup>41</sup> to reassure them that breeds such as Rottweilers and German Shepherds were not bred to fight and would therefore not be targeted by the ban under s1, claiming that 'there is therefore a clear distinction between those domestic pedigree dogs, and the crossbreeds we intend to classify as dangerous dogs to be banned.' He talked often of his view of the uniqueness of PBTs, claiming 'increasing evidence that they [Pit Bulls] were being bred quite specifically for their power and viciousness' (1993: 433) but he also acknowledged some flaws:

The issue was made more complicated by the fact that the largest number of reported dog attacks was caused by Alsatians and other domestic breeds whose owners would never have regarded their pets as dangerous. But I considered that pit bulls represented a quite different scale of menace and caused far worse injuries than other dogs (1993: 434).

As an aside, Kaspersson argues that this indicates Baker was therefore aware there was an exaggeration or disproportionality at play, which forms one of the main pillars of a moral panic (2008: 208). Baker continued to reveal inherent prejudices, and his vulnerability to certain sections of voters:

There was a danger of over-reaction, with demands to have all dogs muzzled and to put Rottweilers, Dobermans and Alsatians in the same category as pit bulls. This would have infuriated the "green welly" brigade. However, the "pit bull lobby" came to my aid by appearing in front of TV cameras with owners usually sporting tattoos and earrings while extolling the allegedly gentle nature of their dogs, who names were invariably Tyson, Gripper, Killer or Sykes (Baker 1993: 435).

Hallsworth (2011) would therefore appear to have at least some justification for his rather hyperbolic view that Baker's actions are symptomatic of a wider class war, although employing routine activity theory by way of explanation, and pointing to the lack a capable guardians for PBTs, he may well himself be contributing to the labelling of their owners. Building upon Lodge and Hood's notion there existed a 'canine class issue' (2002: 10), Kaspersson points to conflict theory to explain 'those in power were not worried about their own dogs, but of those of the "dangerous" classes' (2008: 209). Molloy agrees, 'during parliamentary debates on the matter a clear schism began to emerge that aligned dog problems with certain social groups and linked social identity to particular types or breeds

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<sup>41</sup> A participant of this study was kind enough to provide me with a copy of the letter.

of dog' (2011: 118). She also points to the role of the Kennel Club who in refusing to recognise the breed of Pit Bull Terrier were argued to be contributing to the problem. While other breeds such as the German Shepherd, Doberman and Rottweiler featured regularly in well publicised dog attacks (and any dog bite data table) these breeds, and their more wealthy breeders and owners had the full weight of the Kennel Club behind them. Thus:

[I]n this sense, social identity, economic status, leisure pursuits and activities, and dog ownership were intrinsically linked. Pit bull owners were identified as a disenfranchised social group that existed apart from a larger set of socially responsible 'dog owners' and pitbulls were a type of dog that lacked legitimate status as a recognised 'breed'. With arguments that confirmed a relationship between violent humans and aggressive dogs gathering momentum by the late 1980s, the pit bull was centralised as the principal signifier of risk within the dangerous dogs discourse (Molloy 2011: 119).

The Pit Bull owner represented much less of a threat to policy makers than that of the owners of recognised and approved-of breeds, and Baker was unashamed in his representations and parodies of them. In the debate as to whether to microchip or tattoo all dogs he said:

[T]his led to humorous exchanges about exactly who would volunteer to tattoo a pit bull's inside leg, and whether the dog's tattoo should match that of their owner. Would pit bulls have 'love' and 'hate' inscribed on each knuckle? (1993: 436).

These words, published just two years after the legislation was introduced, would have been written in the knowledge of the devastation some dog owners had experienced when faced with putting their beloved pet to sleep, there were even high profile cases of owners who had committed suicide to escape the feelings of guilt and loss (Sweeney 2013: 241).

Excluding for a moment those individuals who used Pit Bulls to fight and intimidate, it may be that some owners of Pit Bulls may have engaged with the practice of tattooing or piercing, and indeed dog-naming practices, that signified and glorified violence, disobedience or rebellion as a means of communicating and reinforcing anti-social identities for themselves, and by extension their dogs. What is important to note is that given the views of Government as expressed by Baker above, these owners would have few, if any, opportunities to counter these perceptions. This further reduced their credibility with regards to views about the true nature of these dogs, the result being 'Pit

Bull owners were excluded from authoritative participation in the organisation of meaning within the mainstream media' (Molloy 2011: 122).

Such factors as those that have been discussed above, in my view, can only have contributed to the 'outsider' and 'dangerous other' status of the Pit Bull Terriers, similar looking dogs, and their owners. There is no evidence to suggest that the estimates of large numbers of Pit Bulls in ownership across England and Wales bears an exclusive relationship with anti social behaviour or offending patterns, which suggests these much maligned breeds and types of dog may be growing in popularity amongst other sectors of society. Certainly the Interim Exemption Scheme, known as 'doggie bail', is predicated on the owner being considered 'fit and proper' but its use by the police is thought to be growing each year. There may then be indications the labelling is lifting, or can be lifted in the near future (see Chapter Ten).

## 5.6 Political concessions and amendments in the aftermath of the DDA

Despite concerns that Pit Bulls lacked the representation that was needed to prevent the fate they ultimately suffered in 1991, disquiet grew fairly rapidly, across many quarters, in the years immediately following the implementation of the Act. The following sub-section charts these events within the political sphere which paved the way for a minor relaxation of the legislative framework in the form of an amendment Act.

The Dangerous Dogs Act was expedited through Parliament into law and then into force by late 1991. The initial chaos regarding owners identifying their dogs and either getting them exempted and added to the register, or relinquishing them to a certain death (as possession and transfer of ownership was now illegal), did not immediately subside in the way Ministers had hoped. As has been discussed, the dog has a very popular role in British culture as a faithful and loyal companion, and even given the enormous public support for controlling dangerous dogs, there was also widespread discomfort on the wholesale euthanasia of thousands of family pets. The postbags of politicians started to fill with a new narrative of the dog problem as people began to react to the DDA's measures and more harrowing examples came to light. None more eloquent than the prominent animal welfare campaigner Lord Houghton of Sowerby summed up the issues:

The Dangerous Dogs Act 1991 is in my experience the most outrageous law ever passed in Parliament.....It has now been in operation for about a year. I have to raise a question regarding the working of the Act so far. My conclusion on the working of the Act is that it is working within the structure of law and an ethos of administration which has all the characteristics of a police state. Indeed, we have planted inside our tolerant and democratic community an isolation of neo-fascist conditions which would have fitted comfortably in the works of any authoritarian state but which is alien to our own traditions and thoughts regarding the way to run a country. There is growing anxiety about the Act. Many people, quite apart from those grievously affected by it, are beginning to complain. I suppose the difficulty is that the British people, by culture and experience, tend to look to the law for justice. But there is no justice in the Dangerous Dogs Act. It was not introduced to provide justice. It was introduced to suppress. It was the next best thing to the wholesale execution of dogs known as Pit Bull Terriers. That was the sequel to the brainstorm which the then Home Secretary went through when he proclaimed that mass slaughter was a remedy for the danger of Pit Bull Terriers to public well-being....I am not being extreme in my language when I say that those are the conditions of a police state. We have them all. We have the informer. Plenty of information has been given. Some officials of estimable societies have given information away. Police raids take place and the police turn up in riot gear with all the equipment to subjugate a lion, and possessing warrants to enter and forcibly remove dogs. The dog is taken away and one is told that one will hear from the police or the court later. One can wait 14 months and still not hear a word. During all that time one is denied access to one's dog; one is not even told where it is. The anxiety of waiting day by day, week by week for a summons from the court to enable one to appear to defend the life of the dog is a misery beyond belief. I cannot contain my emotions when I read the innumerable letters that I receive from all over the country every day. Some were handed in only this afternoon. All that is not because of what the dogs have done, but because of what they are. It is a form of ethnic cleansing. It is the breed that is important. What matters is what they are or what we think they may do; it is not what they do (HL Deb 20 January 1993 vol 541 cc933-56).

This was an impassioned and knowledgeable monologue from an experienced parliamentarian who was at odds with his own party on this issue, particularly so during the passage of the DDA in 1991 (HL Deb 10 July 1991 vol 530 cc1407-61), which was a rather courageous endeavour but an entirely appropriate contribution of speaking truth to power given his recognition for the constitutional (the policy process had been woefully inadequate with no time for proper scrutiny) and evidential deficiencies he observed in the Bill.

Although those campaigning against the Act were aware that repeal was unlikely, a series of proposals emerged to soften the negative effects on the welfare of both dog and owner. The British Veterinary Association (2018) were amongst the first to suggest a system of 'doggie bail' could be utilised which allowed the dog to be kept at home until

their case made it to court, thereby reducing costs and improving welfare. A change to the mandatory sentence of death for dogs found to be conforming to that of s1 was also proposed, as was a reversal on the burden of proof<sup>42</sup>, all regarded as essential in order to 'humanise' (*ibid.*) the law. It took a further four years for some of these measures to be accepted and implemented, but 22 for others. Some areas, such as the method of identification and the reversal on the burden of proof, remain in force today. It is not a coincidence that the amendments which were ultimately successful in the form of an Amendment Act in 1997 were primarily two fold, those that responded to calls from the enforcers to remedy aspects of legal processes, and those that could silence, or at least dampen, the growing protestations about the automatic death sentence for the dogs involved. A context of events at this time may provide insight as to why.

Despite giving their support for the 1991 Act, Parliamentary debates continued to be driven on a frequent basis by an official opposition seemingly conscious of the growing disquiet of certain provisions within what had essentially been hurried and untested legislation. Other tools open to MPs such as Early Day Motions were also utilised. One such measure, on the two year anniversary of the attack on Rukhsana Khan, dominated by Labour but including other parties, proposed:

That this House is deeply concerned at the failure of the Home Office to recognise the fundamental flaws in the Dangerous Dogs Act and the overwhelming case for urgent changes; and urges the Government to (a) remove the mandatory destruction section of the Act and give the courts discretion to take into account the circumstances of a case before ordering the killing of a dog, (b) give courts discretion whether or not to have positively identified dogs destroyed, (c) declare a temporary amnesty by reopening the Index of Exempted Dogs for those who have not registered their animals, (d) allow owners to apply for bail for their dogs and (e) ensure that dogs kept in kennels (and refused bail) should conform with the requirements of the Animal Boarding Establishments Act 1963 and that owners should be allowed supervised visits' (EDM 2031 1992-93).

Six months later, and in response to the focusing event of another horrific attack on a child, (mostly) Labour MPs tried again:

That this House notes with regret the latest killing of a child by a dog; calls for an immediate response from the Home Secretary; believes that the Dangerous Dogs Act 1991 is totally inadequate and needs an urgent and immediate review; recognises that a comprehensive but balanced approach is necessary, and that this should include consideration for a more widely drawn Dogs Act, designed to educate and encourage responsibility among all dog owners, particularly among the minority of inconsiderate owners, and consolidating all dog-related legislation,

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<sup>42</sup> See 3.3 whereby the offender is required to prove their dog is not of type.

a national registration scheme, including third party insurance, for all dogs rather than one which is ineffective and covers just a few breeds to enable all dog owners to be traced and the breed of a dog to be more accurately and easily defined, to fund a national dog warden scheme and, where necessary, to enable neutering of dogs, working with and listening to responsible dog owners, the RSPCA and others in a Dog Advisory Committee, freeing magistrates to use their discretion on the full range of controls and penalties against irresponsible and anti-social dog owners and taking action on strays and uncontrolled dogs which cause problems of fouling public places, traffic accidents, and neutering, to avoid having 350,000 dogs destroyed each year, all of which would be tackled by effective registration and education; and believes that further consideration should be given to the breeding and sale of dangerous dogs and examining whether the ownership of such dogs should be limited to those who genuinely need them' (EDM 71 1993-94).

Interestingly this EDM provides an insight into the position of other members of the policy community such as the RSPCA who now supported a system that included judicial prudence. Although around the same time the RSPCA was quoted as briefing Parliamentarians with the view that, 'whilst the Act has clear weaknesses, the RSPCA supports the stated intention in the Act itself, "to prohibit ... possession or custody of dogs belonging to types bred for fighting"' (Lord Hayter, HL Deb 20 January 1993 vol 541 cc933-56).

Lodge and Hood note that enforcement of the DDA was far from uniform across police forces and that the courts were uneasy with the mandatory destruction element which prevented them from exercising their own discretion, and as such representations were made on these points (2002: 6). The Government of 1992-97 was perhaps particularly open to the influence of the police and courts given the political imperative of appearing, to the public, vigorous on tackling crime. The policy community were beginning to organise in response to the Act and formed an influential working group (which continued for two further decades) under the leadership of seasoned dog welfare and control campaigner, Lord Houghton of Sowerby who first attempted to amend the DDA with a Bill eighteen months after it came into force (HL Bill 86 1993-94). Press reports seemingly in favour of exterminating certain types of dog, particularly Pit Bulls, now also carried heartbreaking stories from families desperate to save their family pet, and of instances of vigilantism such as the case of a Staffordshire bull terrier mistakenly identified as a banned dog by the mob of men who broke into the home in which she was kept and beat her to death (Baroness Wharton, HL Deb 20 January 1993 vol 541 cc933-56). The influence of all of these factors upon an ailing Government may well be evidenced in the

concessions that were ultimately made but perhaps a more certain contribution to the pressure to amend came from the Home Affairs Select Committee investigation into the DDA in 1996 which concluded in no uncertain terms the legislation was in need of substantial change (Hughes 1998: 11).

Early in 1997 the Government announced it was willing to amend the DDA although they publicly credited this decision to the original legislation, and not any other factors, as in their view it had 'achieved its main objectives, to reduce the number of Pit Bull Terriers, and, by deterring irresponsible dog owners, to raise the standard of dog ownership generally' (*ibid.*). The changes included providing the courts with the discretion they had petitioned for. Those who had innocently acquired a Pit Bull or a dog looking 'of type', would be able to go through a court process to be added to the Index of Exempted Dogs and to eventually return home with their pet, albeit with numerous strict conditions including muzzling and keeping their dog permanently on a lead in a public place. The reality is though that the Conservative Government knew an election had to take place by early May and Labour was leading the polls by an overwhelming margin with a manifesto that included a commitment to amend the legislation in favour of judicial prudence (Hughes 1998: 11). A Conservative MP had launched a Private Members Bill which again the Government could not afford to be seen not to back. Having been elected with a 21 seat majority in 1992, there were a series of defections and by-election defeats until finally from December 1996 the Conservatives led a weak minority Government. The Government had little choice but to support the PMB and pass the amendments into law in March in the vain hope it would benefit them with the electorate in May.

Labour swept to power in May 1997 with a significant mandate for change however 'the alleged propensity for introducing extra regulation that was shown by the New Labour Government elected in 1997 did not extend to new dog laws or more vigorous enforcement of the existing ones' (Lodge & Hood 2002: 6). But the Government would have been aware that public support for controlling dangerous dogs remained, a MORI poll in 1999 demonstrated that 76 percent of respondents backed the ban on dangerous dogs (Hood *et al.* 2000: 294). The amendments were still relatively new and time was needed - or certainly could be argued to be so - to see if the measures had the appropriate capacity to deal with the key flaws that were raised with the original legislation.

Despite the appearance of relative contentment for the time being at least, there still came a damning verdict on the DDA from within the Government's own circles. In 1998 it had established the aforementioned Better Regulation Task Force<sup>43</sup> (BRTF) which developed the 'Principles of good regulation', namely 'transparency, accountability, targeting, consistency and proportionality' and that regulation 'Must have broad public support; Must be enforceable; Must be easy to understand; Must be balanced and avoid impetuous knee-jerk reaction; Must avoid unintended consequences; Must balance risk, cost and practical benefit; Must reconcile contradictory policy objectives; Must have accountability; and Must be relevant' accompanied by examples. Under the section 'Must be balanced and avoid impetuous knee-jerk reaction' by way of example was the verdict 'Ministers are often under pressure to regulate in response to a short-term public concern. Regulations introduced quickly because of an outcry about dangerous dogs were ill-thought out' (Better Regulation Task Force 1998: 5), but the DDA cannot be said to have followed many of the conditions set out for good regulation and as this thesis argues in particular there are unintended consequences that have continued until today. Conversely perhaps, Hood *et al.* consider that 'like so many of the BRTF's principles, 'avoidance of "knee-jerk responses" may conflict with the popular support principle, which expects democratic governments to be responsive to public and media demands for urgent action. One person's 'knee-jerk reaction' may be another's opinion-responsive government.' (2002: 24) and moreover that it is 'ironic that the BRTF's condemnation of the DDA seems to have been as much of a knee-jerk reaction to media attention as the DDA itself was alleged to have been' (2000: 33).

## 5.7 The mid-2000s and the emergence of the 'status dog' phenomenon

The following sub-section considers the emergence of a new dog problem in the mid-2000s and how political forces responded to that problem. There is, in fact, very little to reflect upon regarding the control of dangerous dogs for much of the ten years between the Amendment Act and 2007. During this period there were very few prosecutions under the DDA - 'with police rapidly returning to the traditional "one free bite" approach' (Lodge & Hood 2002: 10) - and very little enforcement in relation to the

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<sup>43</sup> The Better Regulation Task Force was set up by the Labour Government in 1997, was subsumed by the Better Regulation Commission in 2005 and then closed with its responsibilities transferred to a unit in central Government in 2007, and now sits within the Department for Business, Energy and Industrial Strategy.

banned types of dog, certainly outside of London which had almost all of the Police Dog Legislation Officers (DLOs) specially trained to identify sI dogs. There were also far fewer parliamentary questions and debates, although dog bites and deaths resulting from dog attacks continued to occur. An increase in these incidents began to be reported around 2006 and this is then said to have precipitated a consultation with police forces by Defra in early 2007 (McCarthy 2016: 564-565). Certainly the death of five-year-old Ellie Lawrenson in the early hours of New Year's Day 2007 can be seen as an acute focusing event (Kingdon 1984) as media and public attention were intense particularly around the gruesome details of her injuries (Bunyan 2007).

Defra wrote to all Chief Constables in England and Wales just 22 days later, citing the incident and asking for views on the effectiveness of the legislation and what changes might be needed. Commander Bray's response<sup>44</sup>, on behalf of the Met Police, provides some interesting insights into the police position, crucially he categorises the enforcement of the Act as 'one we police reactively, however the numbers of dog seizures have risen since the introduction of Safer Neighbourhood Teams'. Unfortunately he stops short of analysing whether the Safer Neighbourhood Teams had been in a position to detect dog control offences and indeed whether their presence had encouraged reporting, to determine if this played any part in giving rise to the phenomenon. Also of note are his suggestions regarding: reducing court time to improve dog welfare; more discretion for police (for example where owners innocently acquire a puppy which grows to be a PBT); making prosecution of the owner and destruction of the dog mandatory only where there are aggravating circumstances; including private spaces; and increasing sentences.

Commander Bray also wrote that 'current legislation does little to allow police to effectively deal with people who may keep dogs to protect drugs or other property' which sits in contrast to comments made more recently, as will be discussed in a later section. Support for the DDA or perhaps just parts of it from within the police is not as consentient in 2007 as it may have been thought, 'It is our view that it is not a realistic ambition to eradicate these breeds from the UK...and therefore we would rather see a more realistic and practical cost effective way of managing the problem as an alternative', although stopping short of advocating repeal 'at this moment in time, we feel that the

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<sup>44</sup> A copy of the Met Police's response to the consultation on Commander Bray's headed paper was very kindly given to me by an ex-Met DLO who was a participant in this research.

prohibition set out in Section 1 should stay' (*ibid.*). Despite the number of recommendations for change from the police and their reticence regarding s1, a year later in answer to a written question the Defra Minister Jonathan Shaw MP stated that:

[W]e consulted police forces in England and Wales and discussed the outcome of this consultation with the Association of Chief Police Officers (ACPO)...In the light of the response from the police service, we concluded that the current legislation is sufficiently robust to effectively deal with the problem of dangerous dogs (HC Deb 10 March 2008 Vol 473 c36W).

Certainly at this point in time the police do not appear to have had the political influence on the policy process that it may otherwise have been thought.

In 2007 the Met Police set up their dedicated Status Dogs Unit in response to the growing problem in London, which inevitably drew more attention to the issue, and would also speak to the 'tough on crime, tough on the cause of crime' approach the Labour Government wished to engender. Nevertheless the Labour party was not seen to be wedded to the DDA and indeed from within its ranks criticism of the legislation continued. For example, Nick Raynsford MP wrote, the:

Dangerous Dogs Act is the classic example of an ill-thought-out knee-jerk reaction to media pressure...As a result we have too much legislation produced as propaganda or as a sop to media pressure, which is rushed through Parliament without sufficient time to consider whether or not it is necessary, properly conceived and likely to achieve its objective (2007: 561).

In 2008 the influential Associate Parliamentary Group for Animal Welfare (APGAW) produced a mini report which detailed the growing problem since the previous year and the negative effects on animal welfare. It also demonstrated there was cross party agreement on the deficiencies of the legislation, citing the then Labour spokesman on animal welfare, Ian Cawsey MP, 'It is clear to me that the current legislation is inadequate and we need new measures that will address this' (APGAW 2008), however their consensus fell short of support for the outright repeal of BSL.

In 2007 Kenneth Baker, now Baron Baker of Dorking as a Member of the House of Lords, defended the legislation he had created and shepherded through Parliament, 'there is no doubt that the act has been a success in that the number of attacks by Pit Bulls declined dramatically - there was only one last year and it was not fatal - and so Britain has been a safer place as a result of the Dangerous Dogs Act' (Baker 2007). In answer as to why problems remain he countered that 'unfortunately the act was watered down in 1997

when the argument was put that it was the owners and not the dogs that were at fault - so dogs were given a second chance. This was a mistake' (*ibid.*). He argued for strengthening and extending the legislation by removing the exemptions and adding to the list of banned breeds. He would therefore probably see the escalation of enforcement, such as the new status dog unit, as a result of the relaxation of the original measures although he did not comment on this directly. He also did not address the argument that the ban on certain 'breeds' merely led people to seek out physically and behaviourally similar dogs (Harding 2012: 241) with some worrying consequences for people and for dogs. Around this time Kaspersson warned of the consequences and argued that 'by abolishing breed bans the attraction of Pit Bulls for the 'wrong' kind of owners will diminish, rather than increasing it as the outlawing of certain breeds does' (2008: 221).

Initiatives such as Operation Navarra in the London borough of Lambeth in 2010-11 were tried in an attempt to address dog incidents. In reality the operation became more about the removal of illegal types of dog and so, in essence, this was proactive policing regarding s1 perhaps for the first time. Enforcement, at the scale it was at, at least, could not have been argued to be adequately addressing the general dog control problem and perhaps partially, at least, in reaction to this, the Government issued a detailed *Guidance for Enforcers* around the legal framework for tackling dangerous dogs (Defra 2009). Further incidents of dog attacks, growing media attention and increasing public concern eventually led the Government to conduct a wider consultation for all stakeholders and the public in 2010 (Bennet 2016: 6; Defra 2010a), which resulted in firm proposals for the consolidation of all dog legislation; mandatory microchipping, repeal of BSL; and the extension of s3 of the DDA to cover private spaces, being put forward by respondents (Defra 2010b). In fact there were 42,500 responses, with 71 percent of those and 20 key interested parties<sup>45</sup> in favour of repealing s1. Interestingly 88 percent said that BSL was ineffective, which may mean the difference indicates those who wish to see it strengthened not repealed. Those that argued BSL was effective included local authorities and the police (both individual forces and the Association of Chief Police Officers [now NPCC]), which represented a policy shift from their response to Defra three years earlier. In the interim period the problem, as quantified by enforcers via tables of data on dog attacks and prosecutions under the DDA, had only grown worse. What had also grown, of course, was the number of DLOs across other forces in England and Wales and

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<sup>45</sup> There were 31 total 'interested parties' listed, with 14 of those being local authorities.

corresponding budgets of the dog units in each police force which could have been an influencing factor given that increased social control leads to increased deviance (see Table 2 and associated discussion).

In looking at the weight of evidence put forward in the consultation it is difficult to ascertain why Defra's response six months later was so particularly weak 'Defra will continue working closely with interest groups to look closely at community initiatives and other issues raised in the consultation - such as breed specific bans' and is working 'with the Home Office on their review of all anti-social behaviour tools and powers, including Dog Control Orders' (Defra 2010b: 35). In what may have been ultimately significant, the Government revealed, perhaps unintentionally, an integral part of their policy process through their response to the consultation. In the section on BSL they summarise the reasons given for repeal: 'dangerousness of a dog is not linked to its breed; it has failed to prevent dog attacks or reduce pit bull ownership; it is difficult to enforce/identify the prohibited types; resulted in lengthy kennelling of dogs waiting to be identified', whereas the reasons for retaining BSL are summarised as: 'no realistic alternative; useful enforcement tool; helps tackle illegal dog fighting'. The reasons for retention are not even linked to the purpose of the Act and the third reason actually falls under the s8 of the Animal Welfare Act (2006). Although officials were summarising responses, they made choices on which excerpts to utilise, thus intentionally or unintentionally attributing meaning to that process particularly when showing preference to particular respondents. This may be evident too in Defra's choice of quote from the Met police on the issue of BSL, 'there appears to be insufficiently robust alternative laws to ensure the protection of the public if the DDA were repealed' (Defra 2010b: 13).

Elsewhere in the summary of responses Defra chose to include a section of the submission by West Midlands police:

One cannot say how many people have never been injured due to certain breeds being prohibited in this country. Certain groups will criticise BSL when a person is injured by a legal breed of dog, stating, "Any dog can bite". Yet when a person is bitten by a Pit Bull Type dog, the legislation is still criticised for being ineffective. Similar "preventative legislation" is not considered for repeal when an individual is shot, stabbed or poisoned, it is accepted that although not all incidents can be prevented, the preventative legislation has been beneficial to some (Defra 2010b: 12).

Initially there were some indications that despite this the Government were listening to

the majority of stakeholders and were open to repealing s1, Lord Henley, then Defra Minister with responsibility for this policy area, said in November 2010 that in view of the 'enormous support among experts in dog health and welfare for an end to the failed breed-specific legislation ... Ministers must now take on board the strong views from this consultation to implement changes' (Efra 2013a: 19-20). However the legislation was not repealed, nor even considered for it, and so it can only be concluded that more weight was applied to the now strong preferences shown by the police. Throughout this period the policy community spent a great deal of time discussing and producing responses in broad organisational coalitions to try to effect change. There are many iterations evident in the various consultation responses and references in parliamentary questions and debates. However, it can be argued that the Police have emerged as the dominant player in the policy process, given the only amendments that were introduced in practice were measures the police had either initiated or supported.

## 5.8 Focussing events and further adjustments to the legislative framework

In this final sub-section of the chapter, I consider events within the last six or so years that have led to significant political responses with respect to dog control measures. Both deaths caused by dogs and published statistics of worrying numbers of workers being attacked in the course of their duties have precipitated change. Whether such events are linked in any way to BSL or not, however, the Government has remained steadfast on this issue despite strong voices within the policy community.

In 2012 the Government announced another consultation on measures within the framework of dog control legislation, namely the DDA's extension to private property and a system of 'doggie bail' removing the obligation to seize and kennel all dogs awaiting court dates - the very proposals the police had called for many years earlier and consistently since. Mandatory microchipping of dogs was also mooted by the Government, as was a commitment to retain BSL. The announcements in relation to this consultation with the changes the Government intended to make was made in February 2013 and covered all of the same proposals as well as the addition of funding made available (Bennett 2016: 6-7). However clearly the argument that BSL was causing much of the dog problem, and solving none of it, put forward by most of the policy community, had been lost again. This had happened during the tail-end and demise of the Labour

Government and now again with the new coalition Government of Conservatives and Liberal Democrats, the political sphere had thus become (or always had been) immune. Elsewhere within Parliament, when launching their own report a week after the Government announcement, the cross party Efra Committee had a raft of criticisms for the Government's proposals but despite hearing the same evidence about the ineffectiveness and dangers of s1 of the DDA, concluded not only that it should be retained but that 'the Dangerous Dogs Act 1991 be amended to enable the Secretary of State to add other types of dog with particularly aggressive characteristics to the list of banned types from time to time' although they did recognise banned dogs with a good behavioural characteristics 'were being destroyed unnecessarily' (Efra 2013a: 21).

In March 2013 Jade Anderson was tragically killed by two or more dogs, although none were of a prohibited type and the attack took place in a home, so not within the remit of the DDA at that time. The Coroner took the unusual step of issuing a Regulation 28: Report to Prevent Future Deaths (Walsh 2014) in which he was very critical of the legislative framework for the control of dogs not least of all for its fragmented and confusing nature. He noted that incidents of dog attacks; the keeping of prohibited dogs; and offences for having a dog out of control were all rising, stating 'legislation is not working and continues to put public safety and animal welfare at risk'. He requested the Minister carried out a review in relation to consolidating the law; switching from a breed specific approach to one centred on behaviour; and improving training for owners and enforcers, concluding with the strong statement, 'in my opinion urgent action should be taken to prevent future deaths and I believe you and the Government....have the power to take such action'. The mechanism for such reports is enshrined in legislation; namely The Coroners (Investigations) Regulations 2013 and they require the receiving body - in this case Lord De Mauley at Defra - to respond within 56 days (The Chief Coroner, 2014). However, if such a response by the Government was generated and submitted to the Coroner, it has never been made public. For all intents and purposes there would appear to have been no response by the Government and little in the way of scrutiny by others of this serious omission which it must be remembered was in light of a young girl's gruesome death.

Pressure was nevertheless now coming from very varied quarters, the CWU had been running a successful annual dog awareness campaign which featured uncensored pictures

of the horrific injuries sustained by postal workers in dog attacks. The Welsh Government had launched its own Dog Control Bill centred on the 'action and behaviour of an individual dog and not on the breed or type of dog' (Efra 2013a: 21). Attacks on assistance dogs were also making headlines and the campaign by the Guide Dogs had strong resonance with parliamentarians. The Government can be argued to have been highly responsive to many of these needs except in relation to BSL. The Anti-social Behaviour, Crime and Policing Act 2014 was chosen to be the vehicle to introduce all the announced measures to amend the DDA. Certain members of the dog policy network received credit, such as those working to have sentences for attacks on assistance dogs raised to act as a deterrent, and the CWU who had worked to have the 75 percent of all dog attacks previously excluded due to being on private premises now included within the scope of the law (IIRSM 2014). Welfare organisations supported many of these changes however all recognition for their petitioning on the effects of BSL had been in vain, politicians remained immune.

Continuing though with the responsive government theme, Defra then issued a guidance booklet, *Dealing with irresponsible dog ownership Practitioner's manual in October 2014*, which has over a hundred pages when including the detailed annexes. The size of this handbook reflects both the complexity of the legislative landscape and specifically the new tools provided through the Anti-social Behaviour, Crime and Policing Act (2014), for this was far from straightforward. Rejecting dedicated dog control notices, similar to those in place in Scotland and proposed by the now abandoned Dog Control Bill in Wales, the Act has provisions for four avenues, Community Protection Notices (CPN), Injunctions, Criminal Behaviour Orders and Public Spaces Protection Orders (PSPO). Often referred to as Dog ASBOs or 'DogBos' by practitioners, CPNs were envisaged to be the early intervention, and most often utilised, tool within the Act in relation to dog control and they can require a dog to be neutered or muzzled in a public place, or mandate training, for instance. The other measure the Government anticipated being utilised regularly is the PSPO which is designed to exclude dogs from certain areas such as parks or estates. None of the measures were accompanied with funding or specialist training in dog behaviours for the officers permitted to use them. The criticism from the welfare organisations and dog experts was that without this the enforcer could unwittingly make the problems worse.

Contrary to the view that the Government was responsive on this issue others argue that politicians 'are deliberately ignoring the testimonies of legitimate professionals (veterinarians, human society personnel, dog trainers, breed clubs)' (Delise 2007: 103). Defra had commissioned the aforementioned research with University of Liverpool's Institute of Veterinary Science into human-directed dog aggression which concluded that it was not possible to indicate breed as a factor (Defra 2011), which it has seemingly chosen to ignore along with other peer-reviewed scientific papers on the factors surrounding dog bites and attacks produced since (see previous chapter). It would appear these have been dismissed in favour of the views of the practitioners and enforcers. It is also true that other factors could have driven the changes on dog control the Government has made. Whilst 'Doggie Bail' (officially Interim Exemption Scheme [IES]) could be packaged as benefitting welfare, they also hugely reduce the kennelling costs that were crippling police forces in most major urban areas (Jones 2015; N. McCarthy 2016). If indeed this was a factor, reducing the proportion of public money spent on tackling the problem may not be the most prudent if investment could be shown to produce results. As Franklin points out 'the solutions to breed neutral city ordinances for managing dog and human safety are much easier to apply and are less costly than enforcing or maintaining a dog breed specific ordinance' (2013: 55). This conclusion is supported by Hussain who notes that 'dangerous-dog laws share many of the same direct costs as breed specific legislation' (2006: 2875). Evidence of such has been presented to government, committees and politicians throughout this latter period but to no avail.

The 2014 measures have been too recent to draw in depth evidence-based conclusions about their impacts. However, there are some early indications of concern. The extension of the law to cover private property has been explored by Bleasdale-Hill and Dickinson who found it, amongst other issues, to be 'problematic in that it places unclear expectations upon householders with dogs on their premises and there are ambiguities around how far the definition of "dwelling" extends' (2016: 75-76), leaving such a lack of clarity as to threaten the objectives of these amendments. The authors also call for consolidation of the law, something that has been echoed in the most recent Efra inquiry (2018), and they also warn that legislating alone won't bring about change as it will only be followed by the more responsible, 'whilst further changes to the law could encourage some of these different owners to take more care and be more accountable for their dogs' actions, it is submitted that other types of dog owners are unlikely to respond to

such legislative modification alone' (Bleasdale-Hill & Dickinson 2016: 65). McCarthy too comments on the most recent legislative changes and describes them as 'extensions of control that both depart from and complement discourses of "dangerousness"...one should consider these regulatory instruments as an extension of, not a departure from, earlier conceptions of dangerousness rooted in the DDA' (McCarthy 2016: .568-569). He does, however, note a general trend, through the post-2012 discourse, of a move from a focus on the fault of the dog to that of the owner. Even in that context the Government responded firmly in January 2016 to an online petition calling for the repeal of BSL stating that the ban on dogs bred for fighting should remain in place and that the police were also in agreement (Bennett 2016: 14). In response to this, in an book chapter I co-authored, we argue that 'by retaining and even solidifying BSL on the UK statute books the Government ignores the contribution this has made to the status dog problem, while also causing hysteria and myth-making around links between status dog and the more serious criminal activities, including dog fighting and gangs' (Maher *et al.* 2017: 146).

## 5.9 Summary

This chapter has presented the findings of a documentary analysis of the political journey through which the Dangerous Dogs Act has travelled over the last quarter of a century or more. This has covered its antecedents, enactment, (un)intended consequences, and particularly its status as symbolic politics. The evidential arguments discussed expose the absence of any scientific foundation for BSL, and therefore it has been argued to have all the characteristics of a situation of 'policy-led evidence'. Solutions have been clearly discussed, developed and implemented during the intervening years, most notably in the 1997 and 2014 Acts, however the fundamental objections to BSL, and the arguments it is not only contributing to, but also perpetuating, a dog problem, have been ignored. That is not to say it would not take an extremely brave government to repeal s1 given that an attack on a person by a dog currently subject to prohibition (as well as many other breeds), could be considered to be inevitable, particularly if there are no alternatives put in its place.

This concludes Part II of the thesis which has sought to present the findings of a detailed documentary analysis in relation to the policy process for status and dangerous dogs in England and Wales. This has illuminated the nature and form of the problem definition; the

various statutes manifesting as policy solutions as well as their perceived effects on the problem; and the political path and context of the policy process. The literature has provided the means to delve deeper into the historical and contemporary details of the position and development of dog control in our society than could be afforded by the data and methods utilised in Part III. That empirical data, formed from elite interviews discussed in Chapters Seven, Eight and Nine, instead provides a rich and comprehensive account of the lived experiences of those operating within the policy community itself, which allows, for instance, an exploration of those networks in a way that is not possible in a documentary analysis simply because those accounts are entirely absent from literature. But first, in Chapter Six, I explain the methodology utilised within Part III of this study.

# PART III

## Elite insights into policy formation



# Chapter Six

## Methodology

### 6.1 Introduction

The purpose of this chapter is to reflect upon the how the research relating to the third part of the thesis was conducted whilst also making the connection with the central research aim, and the objectives, through a discussion on the design, methods and analysis adopted. What follows includes a description of the research strategy and design as well as a consideration of the insider-researcher role. The methods of data collection and analysis employed will be explored before consideration is given to the political and ethical factors to conducting such research.

### 6.2 Research aim, objectives and approach

The aim of this research study is:

*to explore the nature and dynamics of contemporary policy making in crime control via a detailed case study of the emergence and re-shaping of 'dangerous' dog regulations in England and Wales.*

In order to engage successfully with this central aim, the research set out to address three principal objectives which aimed to illuminate how a culture of control may be related to the policy making processes present in relation to dog control:

- *To describe and analyse the dynamics and forms of 'problem definition' in relation to 'status' and 'dangerous dogs' in England and Wales*
- *To examine the various policy 'solutions' that emerged in relation to these 'problems'*
- *To assess critically the political processes via which particular policy responses were challenged and resisted*

Chapter Two of this thesis framed the subject matter within a *culture of control* (Garland 2001) in order to understand the policy developments relating to dangerous dog over the last few decades in England and Wales. In addition to providing an in-depth review of the literature on policy making in this field, the documentary analysis of Chapters Three, Four and Five offer confirmation of the usefulness of such a *culture of control* framework as they suggest a hardening in approach to certain critical elements of dangerous dog policy. This is to be further explored in the following three chapters as the nature of the policy process is unearthed from the policy actors and the voices integral to that process. However as acknowledged from the outset by Garland (2001) himself, grand theories can have a habit of obscuring the finite and salient details of how a culture of control unfolds within the policy making process. To counter this he encourages empirical research: '[s]weeping accounts of the big picture can be adjusted and revised by more focused case studies that add empirical specificity and local detail' (2001:vii). However in an erstwhile unexplored subject area, this detailed case study is the first to become immersed in the empirical particulars of the dog control policy process in England and Wales, and as Merton (1967) argues there is little guidance from any grand theories as to influence the collection of empirical evidence.

In order to address the research objectives successfully it is, of course essential to develop a medium that could identify data associated with those lines of enquiry (Francis 2000: 39). However it has to be noted that governments and large institutions - such as those associated with this study, including the one I also work for<sup>46</sup> - are often predisposed towards nomothetic studies of a positivist nature, where the natural science model, utilising experimental or quasi-experimental methods (Sherman *et al.* 1998), is perceived to be indisputable science and therefore more desirable. However, attempting to quantify the dog problem via such methods could fail to comprehend the idiographic nature of social meaning and the importance attributed to it by those experiencing it (Edwards & Hughes 2005; Hughes 2007), moreover the weaknesses of the statistical data often used in the problem construction (discussed in Chapter Four), are now quite conspicuous. Similar issues exist in relation to elucidating the solutions and to the political context leading to policy interventions. Such quantitative data have proven to be no more than peripheral information, at best, and cannot address the central questions of this thesis. Whilst it would be erroneous to dismiss all statistical data relating to dog control, it is also

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<sup>46</sup> and who part funded my doctoral studies.

important to note that such data provide a, at best, partial, and at worst, skewed representation of the 'problem' that they are deemed to measure. As a means of exploring the construction of the problem; the associated responses; and the political context, official statistics can therefore be seriously misleading (May 2001: 74).

When determining an appropriate research strategy - in order to understand the policy process for the control of dogs - it is perhaps as fundamental to reflect upon the acquisition of knowledge of the social world itself. This case study has been designed in order to excavate applied meaning, or in other words, it is constructed so as to ensure significance is placed upon deciphering the interpretations and experiences of the social world, by others, in order that it becomes possible to comprehend that world. As Bryman (2004: 14) notes:

[S]ocial reality has a meaning for human beings and therefore human action is meaningful – that is, it has a meaning for them and they act on the basis of the meanings that they attribute to their acts and to the acts of others.

The social world is presupposed to be a semiotic environment; a construct, whereby the dangerous dogs policy process is far from being a universally understood social fact but is actually being ascribed meaning by social actors, a meaning which is also in perpetual change. The interpretivist epistemological foundation of this research, however, also draws upon an element of 'scientific realism' (Pawson & Tilley 1994; Tilley 2000) in so much that understanding the underlying mechanisms leading to policy development within the social phenomenon of dog control is fundamental to its evaluation.

In seeking to establish *a posteriori* knowledge, the experience and findings of this study, being empirical in nature, are intended to produce knowledge which is not gained through prior intuition or deduction. As such I drew inspiration from Noaks and Wincup: 'research should be fun, it should be conducted in a reflexive manner and...it should be accomplished in an open, exploratory way, thus allowing theories to be developed from careful analysis of rich and detailed data' (2004: 139). However, it has to be acknowledged that such a grounded relationship between theory and research is rarely so exclusive and in reality, and in the practice of conducting research, it can become necessary to draw upon both inductive and deductive methods. Layder's (1993) 'middle-range' adaptive theory is, therefore, useful as it encourages the researcher, from the very initial stages, to tacitly acknowledge their own values and suppositions around theoretical framing. Layder (1993) contradicts the notion that inductivist and deductivist approaches are opposing

and alternative distinctions, and proposes that, in fact, a combination of both is valid and unavoidable. The pitfalls of not recognising the interrelationship has also been highlighted by other scholars: 'researchers need to guard against the inclination that they can unproblematically reflect social reality by producing data without theory and the idea that that theory without data can speak in the name of reality' (May 2001: 43).

### Framing the approach

Layder (1998) rejected the antipathy between grand theories and substantive theory however his adaptive theory argues that general theories should be far from unyielding but, instead, pliant to change and reformation, in light of results generated from new empirical research. For Layder it is imperative that there is room for any form of theorising in the research process, and as such the selective use of concepts from general theories is to be encouraged as a means of increasing the ability for theorising or explaining social behaviour. As Bottoms (2008: 101) notes neither inductive nor deductive empirical approaches find the inclusion of general theory that straightforward and helpfully adaptive theory 'deliberately seeks to overcome this difficulty'. Garland too, of course, encourages focussed case studies to build upon his own general theories and as such the culture of control thesis (2001) has been utilised as a theoretical substructure to this study, thus providing for the identification of any factors which facilitated or resisted such tendencies.

The study of policy has erstwhile concerned itself largely with the outcomes of developments in practice, usually through the impact of legislation. However, as has been previously noted, how and why policy comes into being is becoming increasingly more common as the object of enquiry (Jones & Newburn 2007). Nonetheless embarking upon a road less travelled often requires a researcher to purloin conceptual frameworks from other disciplines as some means to exploring and presenting the data. In such a tradition the middle-range analytical framework of Kingdon's Multiple Streams model has been utilised as an organising structure, in the following three chapters, in order to understand how dog control policy is debated, resisted and made for England and Wales.

Although this section does not seek to repeat the explanations of Chapter Two, it is worth noting that the selection of Multiple Streams Analysis (MSA) for this study was

based upon its proven suitability to making sense of what can often appear to be a complex and orderless milieu, 'MSA has proven to be a very productive and analytically useful way to study public policy' (Jones *et al.* 2016). Whilst other studies of the policy process in relation to animals have employed Policy Network Analysis (Garner 1998 and Lyons 2011; 2013) these have also sought to place greater emphasis on power relations and resources, and on structure versus agency, and they can as a result sometimes suffer from a rather static perspective. Kingdon however recognises the policy process is far from a rational event and is instead chaotic and unpredictable (though crucially, not random), and thus offers a way to understand what goes on even if it cannot easily predict outcomes: 'He has given us an approach - we may even say a "toolkit" - which we can use to explore agenda setting elsewhere' (Hill 2013: 179).

### 6.3 Research design

The case study as an empirical research design was chosen because it is compatible to applied problems that need to be studied in context, that is, a phenomenon that cannot be separated from - but must be studied within its real-life - context. This is especially so where, as in the policy process in relation to the status and dangerous dog phenomenon, the boundaries between the phenomenon and context are obviously evident. Inductive or exploratory case studies can be invaluable when illuminating a research landscape that has little in the way of explored theoretical knowledge (Siggelkow 2007). Of course all research designs are intended to provide the fabric between the research objectives, the data gathered and the conclusions reached. However fewer researchers may utilise the case study design as it has an occasional distinction as being the 'soft option' due to the lack of structure in terms of questions and data collection favoured by those employing the design. What critics may overlook however are the related advantages of the case study such as its plasticity, being emergent and exploratory in nature, and allowing the investigation of an extraordinary situation - the *terra incognita* - where strict pre-structuring can be counterproductive (Robson 1993: 148-149).

The 'case' within this research study is the unfolding policy process on dog control with specific regard to the dangerous and status dog phenomenon primarily between the period of 1991 to 2016. This was selected due to the particular characteristics of the policy process during that timeframe suggesting a culture of control has become a

dominant feature. The 'units' for analysis are the official government policy developments, and the legislative acts and amendments passed in the UK Parliament, and applicable to England and Wales.

## 6.4 The insider-researcher role

Chapter One was designed, in part, to provide a detailed background to my professional role at the RSPCA and how I came to study the policy process in relation to dog control. To build upon that description I return now to the dual insider-researcher role to consider the implications for the research itself.

There are examples, of course, of researchers who have themselves been immersed within a policy making environment whilst studying it, for instance Rock's (1986) seminal ethnographical investigation of the evolution of policy making in a justice ministry, whereby he adopts the role of 'story-teller'. His study may differ, however, in a number of ways to my own insider-researcher experiences. For instance, Rock readily admits to the unfamiliarity of his surroundings:

.....strange part of a strange Ministry in a strange country, it was difficult to recognize pattern and meaning in the world about me. I was not familiar with the staff, their work, their problems, and their universe of assumptions' (1986: xii).

He was also unaccustomed to the subject matter or even the more trivial details such as how materials were to be stored. In order to be accepted in the policy making environment to the degree to which he would be allowed to make observations, Rock conceded it was first important to learn these salient details. Despite doing so he also acknowledged that he never lost his outsider label amongst certain groups.

Insider-research has not been the subject of much inquiry and the critical attention it has received has been to warn against the incompatibility of the twin role (Brannick & Coghlan 2007) although some accounts suggest a delineation of the benefits and weaknesses of this form of research is emerging (Labaree 2002). The extant literature employing the approach would appear thus far to have been dominated by accounts from within the disciplines of medicine and education (see for instance Bonner & Tolhurst 2002; Sikes & Potts 2008) perhaps as testimony to the predisposition of those environments to learning 'on the job'. It is not a method that can only be confined to certain professions

however. Insider researcher is defined as any study conducted within a social grouping of which the researcher is also a part, whereby they can 'play two roles simultaneously: that of researcher and researched' (Greene 2014: 2). The group that is the object of study is already understood and experienced by the researcher from within, as a prior and existing member. The paramount consideration in definitional terms is the positionality, in other words the propinquity of researcher and participants and how aligned their shared experiences and normative values are, ranging from *total insiders* to *partial insiders* along a moveable scale (Chavez 2008). As with other methods of conducting research there are both potential benefits to be gained as well as pitfalls to be carefully navigated, which I will briefly explore.

Greene (2014) identifies three advantages to insider-research, namely knowledge, interaction and access. The knowledge is characterised by the researcher being already pre-oriented to the research environment and as such the topic and participants are known to them, what can be termed a 're-understanding' (Brannick & Coghlan 2007). It should, therefore, be easier for the researcher to seamlessly observe and collect data with the most minimal of effects upon their subjects. Interaction denotes the ease to which the insider-researcher can communicate with a participant given the familiarity and safety that participant will likely expect from someone they may consider they share experiences and an understanding with. Access to participants can be a blatant benefit for the insider-researcher given their pre-acceptance within their social group, however that may not always be the case and is considered by some to be 'situational depending on a number of critical factors that are determined by the circumstances of the moment' (Labaree 2002).

The drawbacks to insider-research may be considered more numerous, as Greene (2014) points out, the proximity of the subject to the researcher potentially producing subjective viewpoints characterised by assumptions and an over-familiarity they may be unable to challenge. Indeed there is, beyond other forms of interpretivist methodologies, an increased risk of bias, objectivity and validity issues arising from the researcher being on the inside which it must be acknowledged may 'compromise their ability to engage critically with the data' (2014: 5). A crucial way to address some of these threats is to engage with a highly reflexive methodology and indeed my system of recording field notes was supplemented by a methodological log and a research diary the contents of which I systematically reviewed during my time in the field and beyond in order to

challenge my perceptions and responses to participants, the data and the gathering process. Gaining access to participants is largely considered easier for insider-researchers but there are still issues to consider such as the relationship to the social group, they may still be considered an outsider within the group (DeLyser 2001) which may well exist in professional networks where hierarchies are underlined by length of experience and job titles for instance. In a much different way to an outsider, the expectations of participants may be more challenging to manage if it proves difficult for them to see the researcher swap between member to researcher and back again: 'insider researchers must be able to shift between identities and their dual roles of researcher and the researched, but without causing a noticeable disturbance to the research setting' (Greene 2014: 7). Rather than studying my community group, my workplace, or a local ethnic population to which I belong, as is the case with some of the insider-researcher literature, participants in my research work for other organisations or in other professions. As such the visibility of my 'insiderness' may be different, and indeed in my circumstances 'positionality is defined more by what you do than who you are' (Labaree 2002). Whilst we may all belong to the same 'epistemic' community on dog control policy, we also often work on opposing sides to one another on other, very public, issues and as such there were delicate professional jealousies and courtesies to consider as well as matters of confidentiality and power relations. Outside of the professional policy sphere some of the participants are also long term friends which can bring a complicated additional dimension including a risk of tension and a very real threat to that friendship. There are natural limits to the extent to which such personal relationships can be recast during interview, placing barriers on the research it may be impossible to lift. Further consideration of the insider role is given in the ethics section of this chapter.

## 6.5 Research Methods

The methods for generating data for Part III of this thesis, were selected for their capacity to address the key research aim and objectives and in contrast to the documentary analysis in Part II. This was principally done via 25 semi-structured elite interviews although my privileged position also allowed me to collect observations of key events in the policy process, such as the Task & Finish group and meetings with government and key stakeholders.

## Elite interviews

In order to determine the features of the dog control problem; its solutions both past and future; and the political context to the policy process it was necessary to procure and explore the accounts of those prominent figures working within the network, and who possess germane knowledge of its inner processes, to include governments, statutory bodies, veterinary and legal experts, and animal welfare agencies. Interviewing remains one of the most favoured data collection instruments employed by social researchers but, as noted by Morris (2009: 209), the preponderance of which is conducted with regular, 'less-powerful' members of society. Engaging with elites requires a recognition of the differences to other forms of interviewing, although it is not uncommon. There are a number of notable examples of research hinged upon elite interviews such as Reiner's examination of Chief Constables in England and Wales (1991). Lilleker (2003: 207) offers a typology of this form of interviewing stating that '[e]lites can be loosely defined as those with close proximity to power or policymaking'. Whilst most elites are interviewed because of the position they hold in society, not all elites can be regarded as powerful and within a specific sample they may also not be of equal stature (Odendahl & Shaw 2002). Whilst it is important to understand the seniority, experience and position of each individual captured within the study's category of elite interviewees, these need not be relative to their position within the policy network. The constituent parts of the network may present a different balance of power and influence depending on a range of factors - as illustration a police constable would not be considered influential within wider policing however if their role within this network is pivotal to police policy on dog control they themselves then, in the context of this research, transform into a powerful elite.

## Sampling and Access

The selection of participants followed a logical purposive sampling - providing a 'better purchase on the research questions' (Robson 1993: 155) - in utilising my insider-knowledge of the policy network with a very minor element of snowballing when two of the elites recruited three more participants who were less known to me at that precise time. This brokering in fact mirrors the everyday experiences of the policy network as individuals move on from their professional role, others will act as intermediaries in introducing the organisation's replacement to their key contacts. Although, of course, the

policy community, as a whole does not operate as one agency and therefore there will always be individuals unknown to others. In sampling I was careful to examine my preconceptions as to what constituted an elite, and it was beneficial to me that in seeking representation from key organisations they could self-select their own representative individual for interview (although they were invariably who I had already identified). Care was also taken to ensure there was a broad representation of elites identified to reflect the range of disciplines and organisations, both statutory and non-statutory, directly involved.

The challenge remained however that considering the constant state of flux of status and dangerous dog debates that those individuals and organisations could be persuaded to participate. This posed a significant threat to the research given that within such a narrow area of policy making there could never be a surplus of candidates qualified and prepared to participate. Whilst my insider role, representing one of the major stakeholder organisations, afforded me access to many of the participants, this could also act as a barrier to acquiring consent. Indeed all the key politicians present during the passage of the 1991 Act and with the portfolio at the time of data collection either refused to participate or declined to respond. I had not experienced this before when in earlier research I had been able to secure UK Government Ministers for interview (Lawson 2010). There are a number of factors that could have contributed to this development - the political party in power had since changed and my organisation's relationship with the new Government and some key parliamentarians could be considered strained at times. Indeed during the Parliamentary session immediately following my data collection period a Commons committee inquiry, with the subject matter of animal welfare, was widely regarded - given the nature of the call for evidence - to in fact be about the RSPCA (Efra 2016). The lack of participation by elected politicians was a key reason for the extensive documentary analysis of Chapters Three, Four and Five, so that their account may be unearthed from the literature and triangulated with the data from interviews representing the rest of the policy community.

Detailed information regarding the terms on which I proposed to interview including an overview of the subject matter was provided in advance. Avoiding any potential of accusation that I had sought to obfuscate my role (with anyone I was not familiar) or the methods being employed, before they were asked to provide written consent and either

during my approach or at the start of the interview, I explained in detail how the ethical pitfalls had been mitigated against. I provided finite details on the ethical oversight of the University and how the data was being collected, stored and processed in complete isolation from my professional role and my organisation's reach. I did not want to attract participants who were not prepared to offer genuine authenticity in their responses. Particular emphasis was given in asking all individuals to deliberate carefully as to any likely consequences to their participation and indeed if there could be any barriers to full disclosure.

### Doing the interviews

Once consent had been obtained, all interviews took place face-to-face, between mid-year 2014 and late 2015. I continued to pursue interviews with politicians for another 12 months. I met the majority of participants for interview at either their offices, throughout England and Wales, or at my own office in Cardiff. Three took place in a quiet corner of various hotel lounges and five participants were kind enough to invite me to their home. As such I was able to avoid the public venues where background noise can hamper recording equipment and generally negatively affect the flow of conversation. Interviews lasted between an hour and three, with the majority over one and a half hours.

The questions were semi-structured (see Appendix A for Interview Schedule) in order to mitigate post-coding but also to provide the appropriate latitude for discussion and elaboration on identified tangential issues whilst remaining within the interview schedule (Bryman 2004: 321). Remaining circumspect regarding some of the factors that jeopardise such research is quite judicious, the principle of which perhaps is the memory and recollection deficiencies that can plague first-hand accounts and result in impaired data. Careful consideration was therefore given to such possibilities particularly in the construction of the question areas and later in the transparency of coding. If the participant was working within the network during the passage of the 1991 Act, I ensured that I provided advance warning of the inclusion of this topic to aid their recollection. Indeed this prompted three participants to dig out old paper notes and cuttings to aid their memory, which they were also kind enough to pass me copies of afterwards.

The risk of a participant deliberately misrepresenting the facts to any particular degree is perhaps minimised when elite interviews are conducted by an insider as they could reasonably expect me to have an insight into the truth. However I had always feared my RSPCA role could potentially stifle fully authentic accounts in that the interviewee may hold back from explaining the extent of their views on a subject. The proof that this, however, was not the case came in the very real and brutally honest nature of the insightful criticism of the RSPCA and, in particular, of the one particular Chief Executive who had by then departed and another of a colleague that remains in post today. The danger with this candid criticism of the RSPCA, however, was its ability to dominate the conversation and blur the lines between wider animal welfare and organisations issues, and this research topic.

My insider-researcher status may well have facilitated a reduction in inhibitions and enabled a full and frank disclosure but there were consequences to navigate in the short window afforded by a research interview. The RSPCA was not the only topic that participants wanted to discuss enthusiastically, indeed our shared experiences of other campaigns, meetings, conferences and individuals appeared to make some eager to deliberate over these at the expense of the interview. I came to refer to this as 'falling down a rabbit hole' with participants as a means of lightly refocussing our conversation back to the schedule. Other challenges presented when participants would defer to me, appearing reluctant to answer, as found by other researchers, data was 'difficult to elicit because respondents expected that I "knew it already"' (Porteous 1988). The same obstacle presented when interviewees would express views through non-verbal language. To counter these issues I adopted a tactic used by others in such a scenario (Chavez 2008) and began to introduce each question with the acknowledgement that we may have discussed the topic previously, possibly many times, or they may just believe that in my role I would have a good understanding of the topic, but that I particularly needed their views and their voice on the matter, in some detail.

Other impediments to data collection emanated from the sway (or not) my organisation's name carries presenting as minor antagonism over past business dealings. A few interviewees demonstrated a heightened sense of risk particularly to their own employment and asked that certain specific comments they had made were not to be quoted out of a sense of professional self-preservation should it be possible to identify

them, however thankfully this proved to be a rare occurrence. My own relationships and friendships with others within the network or indeed certain participants of this study seemed to produce some occasional over-familiarity due to friendships and/or the level of extraprofessional information previously exchanged. It is prudent to be cognisant of what can manifest from some familiar relationships, where 'increased contact brings sympathy, and sympathy in its turn dulls the edge of criticism' (Fenno, 1978 cited in Bachman & Schutt 2007: 277). Conversely some elites exerted a dominance and a sense of superiority during interview, expressed verbally which was problematic, at times, for retaining control over the interview schedule. This proved to be a delicate predicament to overcome due to the balance of power being decidedly in their favour (Morris 2009: 209). Interviewing elites presents a number of obstacles that must be planned for and navigated, as DeLyser (2001: 443) acknowledges: 'in interviewing members of one's own community, asking the simplest question can present great challenges. A tension has to be negotiated between assumptions and the researcher's desire for data'.

### Observations

Whilst the 25 elite interviews became the main conduit for data collection, my insider-researcher status afforded me other forms of access to the policy process on a weekly, if not daily, basis. As my RSPCA role changed to adapt to the evolving environment on dog control policy, and my responsibilities increased significantly leading the Welsh Government's Task and Finish Group, as well as later the addition of the policing policy role, I became a regular member at meetings with a range of dog control stakeholders, many of whom I also interviewed for this study. I had fortunately begun a research diary from the outset and so as additional opportunities to observe the policy process presented themselves I further developed my method of recording written observations via the diary with the addition of a methodological log. My role within such 'policy soup' meetings, was to represent and further the goals of the RSPCA, however I was also able to ensure the other parties were aware of my research. For transparency and to comply with the ethical approval my research had received, I would reassure participants at these meetings that I was not recording them and would not be attributing any quotes or data findings to them or any individuals who had not already provided written consent. Instead I was using these observations as a means to reflect upon the process as I experienced it and to inform my analysis and findings. I also attended and chaired several dog control

policy conferences during this period and I was careful to overtly explain my dual role to other attendees. In all of these instances I was grateful to receive the support of others within the policy process.

The proceedings of the Task & Finish Group were, of course, recorded, both through written evidence and via transcriptions of the verbal evidence sessions (and are also in the public domain, see RSPCA 2016a), which allowed me to repeat my reflections upon my experiences several times over an extended period. It was also helpful this fell during the 12 months immediately following my interview data collection. The timing of this generally reflexive approach has helped to both develop my skills as a researcher and been invaluable at triangulating my data so that I may have confidence in my analysis and findings.

## 6.6 Data Analysis

Before embarking upon the analysis I ensured the data was anonymous by first developing a suite of codes to denote five sectors of expertise, namely 'Police' (POL), 'Local Government' (LG), 'RSPCA' (RS), 'Dog-related NGOs' (DNGO) and 'Technical Specialist' (TS) (Table 3 in Appendix B). The second stage was to allocate a code to each individual within the five sectors. These codes are contained in Table 4 of Appendix B along with a short anonymised biography to each participant's background.

All 25 elite interviews were recorded using a compact digital dictaphone, the files from which were deleted once they had been backed up to a personal home computer. It is worth noting the practical implications and challenges of qualitative interview methods in this research, namely the prolonged length of interview required in order to extract the relevant data, which necessitated a large amount of time initially being dedicated to transcribing with careful planning so as to avoid a loss in tempo, which can be more challenging within part-time hours. Once this was completed the data could be analysed through a thematic approach and although I have been trained in, and used on previous research projects Computer Assisted Data Analysis Software (CAQDAS), such as NVivo, I chose a manual coding approach. In a previous research project utilising CAQDAS I experienced a feeling of distance from the data when coding, which had not been offset by any significant gains in time by using it. Although the data coding may have ended up

taking slightly longer, I felt more confident that I would be more able to retain the context in which the data was generated. The data are therefore set to evolve through three sequential stages, from transcription it is probed for themes and patterns before codes are produced to aid interpretation.

The main analytical framework provided the matrix for coding data, organised around the three streams of 'problem', 'policy' and 'political'. From here there is a back-and-forth interplay when sifting through data, requiring checking and rechecking concepts and elemental codes to ensure no emergent themes are overlooked. Data must be compared with other data to organise similarities, patterns and ideas that may be clustering together; before the process is repeated many times over and the substantive categories are confirmed. Other codes were inductively generated as the process developed in order to organise the problem construction and definition issues in Chapter Seven and the policy solutions proposed and resisted, structured in two main sectors of time - pre and post 1991 - for Chapter Eight. Where the data allowed, meta-codes from within MSA were utilised although this is only significantly prominent within the political stream organised around 'national mood', 'organised political forces' and 'government' in Chapter Nine. Although the reality of analysis is messy for all researchers, as intended, the theory to research relationship adapted through an iterative process of utilising a theoretical framework to aid empirical interpretations.

## 6.7 Political and ethical considerations

Ethical dimensions are a crucial and constant consideration for all researchers throughout the process as a whole and do not stop once consent is granted by the University's ethics committee of course. Fortunately in addition to the School, there is an abundance of authoritative literature to advise and support (Bryman 2004; Noaks & Wincup 2004, Jupp *et al.* 2000; May 2001) and although I have ceased to be a member of the British Society of Criminology, I have continued to observe their guidelines. An attempt has been made throughout this chapter to address the predominant ethical issues at the appropriate juncture, however there are additional facets, particularly within the political features of the research, that would also benefit from exploration.

A methodical approach was taken to ensuring ethical mores were observed. At the initial stages detailed information sheets were sent to all participants to corroborate and reinforce the verbal information that had previously been given. This was further reinforced by the inclusion of a précis on the consent form, of which two copies were signed by each candidate and myself. Anonymity has been afforded to all interviewees but this was paramount and of particular concern to certain participants, as such additional reassurances on data storage and ongoing confidentiality were provided where needed. Where any participant referred to a third party those identities have also been anonymised in the corresponding transcript to minimise their identification and the ability to identify the interviewee themselves.

As Greene (2014: 2) notes, 'insider researchers may be confronted with methodological and ethical issues that may be deemed to be irrelevant to outsider-researchers' and these have been explored extensively earlier in this chapter however it is worth noting more specifically that the RSPCA can itself be a polarising force. The Society has occupied a political position for many years in that it is actively lobbies and campaigns for changes in legislation, although as a charity and through self-imposed professional ethics does not operate on a party political basis. Noaks and Wincup (2004: 20) explore the definition of political and note that it can include societal and organisational, and at interview these were interwoven by participants who provided indications of responding to both. As is discussed in later chapters, some of the participants were content to explore the highly political issues of competition and conflict (from their own or their organisation's experiences), although others may have been more reticent during interview on the subject given the organisation is my employer and partial funder of this research. As Hughes (2000: 235) states however 'no criminological research takes place in a political and normative vacuum'. Structured topics, detailed analysis of the accounts given, as well as the researcher's knowledge of these motivations were pivotal in evading or mitigating against such pitfalls.

Before embarking upon my doctoral studies I was advised by more seasoned researchers that a key component of the ethical dilemmas I would face would be the suspicions that, as 'paymaster' or 'piper' (Noaks & Wincup 2004: 24), the RSPCA had, or would seek to have, influence over the direction of my research particularly as they have contributed to its cost and have a keen interest in its findings. This is a routine issue for researchers

pairing their studies with a professional role when funding is sourced from an employer. A robust methodology and transparency of findings can counter these concerns, thus ensuring confidence in both myself and the research. I have also paid due care and attention to the practical details of storing data at home and using only home computers and equipment, to meet confidentiality and practical requirements but also as a wider symbol of separation. A foothold in both the professional and academic spheres, a so-called 'user involvement' (King & Wincup 2008: 29-30), brings undoubted benefits such as emboldening a renewed focus upon the policy process. During the near two centuries that the RSPCA has operated it has sought to capture and utilise developments within the animal welfare sciences but perhaps what has lacked hitherto is an appreciation of the social sciences and the motivations of people who use and abuse animals and how the policy process responds and adapts to those issues. This is a deficiency to which I am committed to addressing.

I also faced a political and ethical issue regarding the existence of some policy elites and literature orientated around animal rights. As provocative as it is, the challenging position of the more extreme interpretation of animal rights would be that the issues of status and dangerous dog problems in society, the responses to those problems and the policy process itself would be irrelevant, if dogs were not reared and kept as pets. It is therefore important to note that none of the participants in this study, nor myself, occupy an abolitionist position in our professions or workplace, the consequences of which is indeed an absence, within the data, of engagement with the animal rights' ideological position for any explanations or contributions it may provide as to the issues surrounding status and dangerous dogs. However the welfarist and anthropocentric nature of this study and that off the elite participants was justified in its early stages because of the focus on the policy processes in relation to a phenomenon regarding owned dogs, and because the influence of animal rights advocates does not yet feature in that particular policy process.

## 6.8 Summary

This chapter has sought to describe and present the theory-method approach that was adopted for the findings presented in the subsequent three chapters, constituting the third part of this thesis. Following a recapitulation of the core aim and objectives to unearth the nature and dynamics of the policy process on dog control, the research strategy, design

and methods were discussed in some detail. The adaptability of qualitative methods has demonstrated their suitability and strength for this research, as Coffey and Atkinson (1996: 3) note, such methods share a 'central concern with transforming and interpreting qualitative data in a rigorous and scholarly way – in order to capture the complexities of the social worlds we seek to understand'. The impact of my status as an insider-researcher has now been properly explored and this along with the political and ethical dimensions this study is subject to, will inform the following three chapters. The combination of the two methodological sections of this thesis in terms of their contribution to the overall aim, will be discussed in Chapter Ten.

# Chapter Seven

## The Problem Stream:

### The social construction of the 'dog problem'

#### 7.1 Introduction

The employment of Kingdon's evolutionary policy model 'Multiple Streams Analysis' (MSA) provides this thesis with a rudimentary framework within which to explore and present the data. What follows, along with the successive two chapters, utilises the three main elements of MSA, beginning with the 'problem' stream. I draw upon a number of data sources, most importantly the elite interview accounts of the policy process, but also my own observations of key discussions including the Task and Finish Group on Responsible Dog Ownership commissioned by the Welsh Government (RSPCA 2016a), and detailed policy meetings involving many of the stakeholders and all levels of local and national governments within the policy community.

There has been a persistent perception of a dog problem in society (as explored in Chapters Four and Five), resulting in a plethora of policy and legislative responses stretching back decades. The precise nature of this dog problem is however more complex to decipher, but features both the historical definitions and classifications Kingdon refers to, as well as the key 'crises, disasters, symbols and other focussing events' (Kingdon 1984: 103). Definitions, specifically those enshrined in legislation, were dealt with in Chapter Three and thus what follows does not attempt to duplicate that but instead reveal the role these and other definitions play within categorisations and manifestations of the 'problem' as held by the key actors in the policy community. The following sections are divided along the themes that emerged from the data on the articulation of the problem, namely,

- breeding and trading;
- identification and BSL;
- dog attacks gangs and dog fighting;
- responsible dog ownership;
- dangerous dogs, status dogs;
- substitute harms and the media.

These sections seek to present the social context of the dog 'problem' in England and Wales, demonstrating the challenges within the data of defining the policy problem, which has complex root meaning for the participants. Whilst these differ between, and within, sectors - of animal welfare NGOs, veterinary, scientific, dog behaviour, enforcement and local government (often seemingly due to their professions' partial perspective on the phenomenon) - there are also strong areas of consensus. The existence of such diverse accounts of the problem are consistent with Kingdon's notion of how particular problems - or potentially different definitions of just one problem - circulate within the system. I explore the contribution these perceptions, definitions and categorisations of the problem have made; the role of the media; and what factors may have led to the dominance of certain dimensions of the problem.

## 7.2 Identifying the policy 'problem'

As noted in Chapter Four there has been a very significant level of media debate and political activity in relation to the issue of controlling 'status' and 'dangerous' dogs over the past few decades. However, close analysis of the views of key policy actors engaged in this debate suggests that it is strikingly difficult to clearly define the 'problem' for which various policy 'solutions' have been put forward. The diverse range of professions included in the elite interview sample highlighted a range of general 'problems' faced by policy makers relating to dog ownership and the part dogs play in society, rather than a particular focus on 'dangerous' or 'status' dogs *per se*. This was most likely explained by the fact their perspectives were shaped by the specific sector within which they work, informed by their direct experiences that shaped their sense of the most pressing 'problems' within a broader field. Some also, however, disclosed a determined and conscious resistance to focussing specifically on, and utilising the labels of, status and dangerous dogs:

Ask any of us what the dog problem is and we'll tell you something different from each other and something different each time you ask, not because we forget or change our minds, but because it is huge and complex and we'll probably talk to you about the thing that is bothering us most at that moment. What isn't helpful though, sorry Claire, is some obsession with status dogs. That is usually at best, a distraction and at worse, damaging (RS3).

Although these issues explored within this first section of the chapter may not always appear at first glance to be specifically about the phenomenon of dangerous and status dogs, to the subjects interviewed they are central to both defining it and designing the

solutions. This was perhaps most apparent within the written and verbal evidence submitted to the Task & Finish group in Wales (RSPCA 2016a). From the outset this project was petitioned by a number of animal welfare groups and other member-led NGOs representing the rural sector and working-dog owners, seeking assurances that any recommendations put forward to the Welsh Government would not be primarily driven by the aim of retrospective punishment of those with dogs behaving aggressively. I observed a clear consensus on a desire for a deeper consideration of the issues, and the inclusion of substantial proposals on the various contributing factors to the problem of 'dangerous' dogs. Indeed the Task & Finish group concluded as a result (amongst other recommendations) that a new holistic approach to responsible dog ownership (if not all 'pet' owners) in society was long overdue (RSPCA 2016a). This is but one example of the definitional complexities I found during the analysis of the data, which gave rise to a number of distinct dimensions to the 'problem' of dangerous dogs - a pattern strongly consistent with the MSA approach.

### Breeding and trading

For many of the welfare sector participants the issues around the birth and early life of puppies was by far their main concern. It was offered not just as a root to dangerous and status dog issues (due to significant behavioural issues that will arise later from poor practices during the first stages of life), but also as the substratum to all dog problems in society. This is well illustrated by a participant with a multi-agency perspective:

...the puppies then, are not socialised, not habituated to the normal things that you'd expect a puppy to be habituated to. They're brought up in, squalor, is probably the kindest word. They are not trained to be people-friendly. Many of them are trained not to be people-friendly, not trained to be dog-friendly, because they only ever see the bitch, they don't see other types of dogs. So I would guess a lot of them are then showing significant fear responses that lead to aggression. So huge welfare problems for the puppies, and puppies then sold on to an owner who knows little or nothing about dogs. They then breed them and the cycle continues, if not deepens (RS3).

I also consistently observed and recorded this concern surrounding the raising of puppies within my own fieldwork notes throughout my research and in particular whilst immersed in the work of the Task & Finish group, where this was strongly emphasised. Since around 2009 this issue has been more sharply in focus as the figures of puppies bred and the associated welfare issues have been increasingly under the public and media spotlight. The

various studies and quantitative data gathering exercises conducted by both the NGOs and the local and national governments were discussed in interviews to highlight the prolific nature of legal and illegal dog breeding and its contribution to the problem. Across all my data sets I recorded a very deep-seated concern from the dog welfare sector regarding the increasing 'commodification' of dogs in contemporary society which has led to a degradation of the value of these animals as sentient beings:

The accessibility of getting a dog has definitely changed. Everybody blames stuff on the internet but you can't ignore the fact that if you want to get a dog, you can do a quick search and within a few minutes you could have bought yourself a dog, of whatever kind. There is no cooling-off period. You have now got that dog and you haven't really thought about it. I think that the accessibility and this instantaneous nature, has changed, and it is not that thought-through process, for a lot of people, which perhaps would help prevent some of these bad things from happening (RS4).

The potential for profits in the trafficking of puppies has also expanded both the illegal and legal trade. Large scale puppy supermarkets, where there is a structured marketplace devoid of messages of owner-responsibility towards the puppy and wider society, provide a guiltless avenue for consumers. It was also felt by some participants that no educational messages of the association between raising a puppy and later behavioural issues, potentially leading to bites/attacks or aggressive traits, are usually provided:

It makes no real sense if you think about it. I know we try to avoid comparisons with people, but we do as a society look to a child's upbringing and early experiences to explain worrying behaviours, so why not dogs I have to wonder. The more this is a business for people the less they seem to care about warning people about the huge responsibility they are taking on (DNGO2).

The reason for this void in educational messages, anti-puppy farm activists declared, is simply that the topic of early socialisation - beginning long before the puppy is separated from its mother and continuing throughout its early life - could draw attention to the trade's modus operandi of utilising large scale breeders and puppy farmers<sup>47</sup> separating the litter from each other, and the mother, in order to be sold on as soon as possible. Due to the large-scale consumer demand for puppies, what was once merely a sphere of breeders flouting relatively minor licensed-breeder regulations has, since the mid 2000s, become far broader. The lack of regulation, the significant potential profit and the relative ease in which puppies can be bred in very poor conditions, has seen the rise of highly organised criminal networks:

This is big business but also something done in people's homes. It has always been

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<sup>47</sup> So-called because they are not legitimate, licensed breeders.

notoriously difficult to find out what is happening on the ground but it has definitely got worse. This internet and imports from abroad are only part of that. Some of the problem lies of course, is there is no enforcement, or very little enforcement...there is nobody looking at who is breeding these dogs (DNGO3).

Equally of concern to the dog welfare groups (DNGO) within my interview sample was the validity of focussing entirely on the large scale legal and illegal breeders, traders and traffickers when it was felt there is clear evidence of the so-called 'backstreet' breeder or home/hobby breeder - whose activities are not even breaking any licensing regulations. This was highlighted as being of even more importance when considering the 'bull breeds' of choice:

The bottom has fallen out of the market for Staffordshire Bull Terriers and akin, no self-respecting [licensed] breeder would imagine they could make any money nor would voluntarily add to the excessive numbers of abandoned, stray and homeless in rescues and pounds across the country (DNGO2).

As such it is the opportunist breeder intent on producing more of these breeds irrespective of whether there is a sufficient market, or it is the accidental and irresponsible breeder contributing to the issue without facing any direct consequences. Participants believed that related to this there was also the illegal breeding of sl dogs - most notably the Pit Bull Terrier, where the motivations to breed are either ignorant of this type's status in law, or a direct intent to ignore and circumvent it. However, paradoxically, it was also argued that perhaps there is the potential within small scale breeding practices in domestic circumstances to meet the needs of the bitch and puppies more adequately than large scale breeding, although interviewees acknowledged this did not mean it was actually happening. As noted by veterinary professionals within the interview sample, there are no qualifications or experience required to breed dogs and no redress should that puppy go on to display worrisome behaviours, ending up as a direct cost to society, either through straying, being abandoned or attacking another animal or person.

The trade in puppies is heavily driven by the most popular breeds or type of dog. Animal NGOs have been dealing with the consequences of particularly sharp trends since the influence of TV, film and other popular cultural representations could affect such consumer behaviour. The so-called status of specific types or breed will be discussed in a separate section, but in the context of this subject it is noteworthy because of its connection to the most basic of misunderstandings - that of the link between a particular breed of dog and the reputation it has for certain behaviours. These myths regarding dog

behaviour and related training for owners were an important element in many of the interviews particularly amongst those most closely linked to the policy and scientific exploration of dog welfare:

We're talking about the way people keep their dogs, and they do not understand or know how to look after that animal properly and that can then lead to all these other perceived problems of irresponsible dog ownership, whatever that means. I think it actually boils down now to just a complete lack of understanding. I think dogs understand us, a lot more than most people understand dogs (RS4).

The attraction for certain individuals to Pit Bulls is based on what such scientific experts view as a total lack of understanding regarding the basic premise that aggression isn't inherently linked to a breed or type of dog. This fundamental misconception, being prevalent across society, relates to all types of dogs because in the wrong hands any dog can become aggressive, which many participants stressed at key points throughout the interview. Owners not seeking to use their pet for criminal or harmful behaviour, are not immune from problematic behaviours in their dog, indeed not understanding and responding to the development of certain behaviours can still result in a dog which displays aggression. In interviews with the dog NGOs it was suggested that where punishment is administered, a fearful and confused dog may for instance escalate those behaviours and bite. If these behaviours are not dealt with in the correct way, they may escalate even further and end in a serious attack:

It's not just those who want an aggressive dog or train it to be so. Not socialising and training a dog can in some circumstances lead to unwanted and dangerous behaviours. It's not specific to a breed and so some owners may yet end up with an aggressive dog simply because they may have thought they were safe with a 'harmless' breed (RS2).

The scientific community's understanding of early socialisation; the consequences of poor breeding; and the breadth of dog behaviours has developed in the past ten years to the extent it is unrecognisable from the standards espoused by most animal NGOs, until very recently. Animal welfare NGOs, vets and statutory bodies are only now getting to grips with this knowledge and its implications and implementing changes to policies, standards and practices as a result:

The public consciousness has been left even further behind and it is daunting to think about how we can possibly improve that to the benefit of dogs and society. It could take several generations (DNGO1).

## Identification and Breed Specific Legislation (BSL)

The lack of mandatory identification was raised by most participants as a very conspicuous problem in some form or other. Whilst proposals around addressing this, from mandatory microchipping - which were introduced during my data collection period - to annual licensing, are solutions discussed as part of the policy stream in Chapter Eight, it is also important to recount the significance of these issues to the problem definition. Those working in enforcement - both police (POL) and local government (LG) - had a greater clarity regarding the contribution this issue had to the dog problem:

The issue is you don't know how many dogs there are, never mind what breed, shape or size. You don't know who owns them and that's before you even consider what they are up to, good or bad. If you catch them for something, the next day you still don't know what dog they have or will go and get. Where do you begin in understanding scale (LG4).

Others in the same sector raised the issue of there being a lack of deterrent for owners if their dog's behaviour can't be traced back to them, potentially affecting offending with regards to straying, fouling and attacks. For other sub-groups of participants such as the welfare NGOs there was more emphasis on a fundamental need to understand exactly what dogs were owned, by who, and where, so that programmes and responses could be designed accordingly. With no way to quantify and understand the issues, there was reported to be a rather obscure picture of the degree of welfare and public safety issues at large.

Dog Identification itself also possessed a much wider meaning, for many participants, particularly given the subject matter on which they were being interviewed. The meaning of 'dangerous' took on an entirely new essence following the passage of the DDA in 1991 which introduced Breed Specific Legislation to the UK for the first time. Whilst the DDA was considered a solution to the dangerous dog and dog control problems of the UK in 1991, and as such will be explored in detail in the next chapter in relation to the policy stream, it was also offered in itself by a majority of participants as a definition (if not *the* definition) of the dog problem as it now exists, and so will be discussed briefly in this section.

As part of this legislation, dogs banned by section 1 of the Act have to first be identified - a highly controversial and very subjective process reserved for specialist trained police

officers and a handful of other experts. Some participants, such as those involved with these legal cases, recounted how subjective and highly emotive this issue is because it is often a death sentence based solely upon the way a dog looks. However those involved with the ID process from the police side questioned the merits of this process less at interview. They did however recall that from their experiences there was a need for a ban. As suggested by one of the first ever trained Police Dog Legislation Officers and a founder of the Met Police's Status Dog Unit, their experiences were different in the beginning:

I have got to admit through the 1980s I thought Pit Bulls were devil dogs. They were in drugs dealer's houses, firearms dealer's houses, you know they were the ones that were a problem (TS5).

Fairly early into the process the risks with identifying prohibited dogs quickly became a factor for those charged with enforcing the DDA:

If someone rings in, and says there's a Pit Bull at 27 Arcacia Avenue, if you go and seize it and it's a nice family pet you're all the devils under the sun. If you don't go and seize it, and it bites someone, you're all the devils under the sun (TS5).

All police participants confirmed this same daily dilemma and its inherent link to identification remains today. While not implicating themselves in such action they spoke openly about the risk to identifying dogs correctly - given the implications - and how dogs who might otherwise be ruled not of type (and not covered by s1) getting swept up in the legislation:

If all dogs subject to s1, but that have not displayed any worrisome behaviours are 'innocent', what would we call the ones deemed by the authorities as s1, when they are in fact, not? How even more innocent are they?! (TS4).

Further to the sensitivities of identifying s1 dogs, participants discussed another complication arising from the DDA and identification - the confusion between s1 and s3 - the former prohibiting those four types of dog and the latter prohibiting any dog (of any breed/type) to be dangerously out of control.

We need to acknowledge something crucially important. The [Dangerous Dogs] Act gave us a new problem, perhaps the only problem that matters right now, because to this day people hear dangerous dog and banned dog as the same thing (DNGO4).

Participants traced this to the nature of breed restrictions being governed by the same legislation as for those owners who allow their dog (of any breed) to behave dangerously. There was also a general understanding from those interviewed that the public, even long-standing dog owners, could be somewhat forgiven for absorbing and being

influenced by this. The enforcement section of interviewees, as civil servants usually in a government service role, can, as a profession, be less questioning of the nature of the legislation they are there to uphold, and as such these participants were more focussed on what evidence now existed to enable or justify repeal, rather than what evidence existed that gave rise to the original Act.

To varying degrees participants either proffered, or agreed following questions, that BSL was inextricably linked to the 'status' and 'dangerous' dog issues under discussion. For the majority of interviewees, BSL was deemed to be the problem itself. Whilst it was recognised in its original form to have been proposed as a solution, it had since become the recipient of great criticism and blame for the modern day dog problem. This did not, however, for all participants naturally lead to the conclusion that BSL should be repealed, indeed some police officers in interview, extolled the virtues of s1:

Yeah I won't even believe just getting rid of it is the right thing to do. Those people don't see what I see. Sadly it is often the only thing we have to stop the types of bad dog owners having and using the types of dogs in criminal activities, that we really all don't want to encounter (POL2).

In these conversations, where I detected a significant shift from previous attitudes that the Pit Bull was inherently dangerous, it was clear that repeal could only follow new measures where the police remain equipped to act wherever necessary:

I know you understand this. We've talked about it before. It's not that we're sticking our heels in, far from it, but nothing can change, really, can it, until we have the incidents of dog attacks, dog bites and deaths, criminal behaviours with these dogs, down. And we know it's working. We know that whatever it is we're doing is making the kind of difference needed (POL1).

In all interviews with police officers I prompted them on their views on what the welfare sector refers to as a vicious circle - that attack incidents with dogs will continue while these types of dogs are made more attractive to the very owners who either create those situations or do not understand dog behaviour to stop them, and that dog attacks by non-s1 dogs will continue to rise while sections of society are misled that only those types of dogs banned, are dangerous. There was a frustrating agreement on the idea of this vicious circle, but this did not, in discussion, lead to an acceptance that a solution may therefore be linked to repeal, with or without substitute powers and measures. I return to BSL and its influence on the phenomenon in a later section of this chapter.

## Dog attacks, ghettoisation, gangs and dog fighting

As was seen within the literature discussed in Chapters Four and Five the issues of dog attacks, gangs using dogs and dog fighting have often been cited as prevalent problems in society, not just as evidence for the 1991 Act but since that time also. Within both my discussions with the elites and my observations during working groups and other meetings, however, there was less emphasis than might be anticipated regarding these issues. There was an exception to this, of course, amongst the police participants, as might be expected given the greater significance they naturally attribute to public safety issues and their immersion in dog attack incidents. For the other interviewees, there was more of a tacit recognition that it was an element regularly highlighted in discussion and of relevance, but only as a factor that motivates government and the media and, as such, one that should be harnessed by the animal welfare and other expert lobby extremely cautiously. Concerns about misinformation regarding the facts of dog attacks, such as the hugely unreliable hospital statistics (as explored in Chapter Four) were raised by most interview participants. So too was the recognition that some sectors had purposively deployed such statistics to promote solutions of greater control, for example the Government in strengthening the DDA via the 2014 Act. It is also worth noting this position by the animal welfare sector has essentially reversed since the research for Hughes *et al.* (2011) was conducted when such data was regarded (by the animal welfare sector) as proof of the problem. At interview there was a convincing appreciation for the complexities of the data and the dangers of misinterpreting it - wilfully or otherwise:

'Big Society' think there is a large problem with status dogs and dangerous dogs, but from, at least, the research I've done if you look at dangerous dogs and dogs that have bitten it is actually a very, very small number. So for example the evidence from hospitals - the number of people that go forward for treatment - is around six or seven thousand, that's going to be an underestimate anyway, but when you think about that as a proportion of the total population you've got to question how big the issue is around dangerous dogs anyway and especially when you think about the number of fatalities (RS2).

Clearly dogs attacking, biting and sometimes killing other animals and more importantly people, causes the animal welfare sector concern, not least of all because of the obvious consequences of these actions, but also because it contributes to the further labelling and misinformation of both dog breeds and dog behaviour. A new awareness of the effects of mislabelling expressed in the interviews was recounted as having led to a re-definition regarding the involvement of young people. In 2010 the RSPCA and others drawing

attention to the problem of status dogs, lent heavily on data purporting to show that young people and their misuse of their dogs were almost wholly the problem. Interviewees were now citing a distinct awareness of stigmatisation and thus a reticence to frame the problem as one centred only on young people. Although those struggling with defining the section of society most closely associated with the problem also recognised the importance of doing so in order to design solutions:

It is more a young person's issue rather than middle aged or older. Yes it goes beyond that...it's particular types of young people. I would probably go as far as to suggest...it's people in deprived areas with hooded jackets on and up to no good (RS2).

Irrespective of this young people were in fact drawing support from the animal welfare sector, specifically for being ghettoised by measures within the new 2014 Act. The new powers to allow dogs and their owners to be banned from certain zones, with young people deemed to be the most likely to find themselves subject to these restrictions, were cited by participants. It was also feared that further measures such as forced muzzling, neutering and having to be kept on the lead, would only contribute further to poor welfare for certain dogs, and crucially provide the wrong kind of information on the correct ways to look after and control your dog:

It's not that we don't want more tools in the kit to be able to tackle issues, but you gotta know what you're doing, not everyone suits them, not every situation is right. For those, such measures will not educate owners, often young people in these circumstances, on the right way to understand and control their dog (DNGO1).

It was also feared by both local authorities and welfare groups that conversely dog bites and attacks and other harmful forms of behaviour exhibited by these dogs at the hands of their owners may actually become more frequent without any associated training and development of the owner's understanding of dog behaviour.

There was an interesting consensus between the enforcement agencies and the animal welfare NGOs, in fact amongst all interviewees, in terms of the rejection of the notion that criminal gangs are a significant factor in the wider problem of status dogs. This was not the case, perhaps, five or six years ago, as alluded to in Hughes *et al.* (2011), when organisations responded - akin to wider society as expressed through the media - with a fearful knee-jerk verdict on the problem. Since that time, as I have observed in my fieldwork notes over several years, there has been a softening and a palpable shift in attitudes, with some organisations, such as the RSPCA and Dogs Trust, adjusting their

language slowly and quietly rather than through any pivotal moment or formal announcement which was acknowledged by the participants from those organisations. As RSPCA participants argued, following the emergence of the status dog phenomenon of course the social factors have been appreciated far more, for example with the RSPCA commissioning the Hughes *et al.* (2011) report. Other organisations and statutory bodies also sought to work, often in multi-agency partnerships, with groups inside the very communities they had previously blamed for the issue. Participants speculated that both avenues probably contributed to the policy language change considering the lack of alternative explanation. Of course, policy windows, in Kingdon's view, often present themselves following a focussing event and as such the lack of any such event coupled with this subtle and somewhat lengthy enlightenment experienced by these sector bodies at the forefront of dealing with young people and their dogs, may have by-passed or been devoid of the very ingredients needed in the policy process to bring about the change most of the sector so desires - the repeal of s1.

There was a renewed fear of the damages of mislabelling appearing as a result of the breadth of issues now perceived to be captured by the terms 'status' and 'dangerous dog'. In talks and presentations (e.g. PPE conferences May 2015 and May 2017) Harding regularly cites the London case of a dog used in the murder of young man by a gang. As more intervening years pass the isolated nature of this case and its irrelevance to the wider phenomenon becomes apparent. I found no evidence, even amongst several interviews with police Dog Legislation Officers (covering inner city and metropolitan areas), to support Harding's claims that gangs and their use of status dogs are a significant element of the problem:

One of the lectures today<sup>48</sup> was on status dogs and gang members. We wouldn't really accept that that was the issue. We don't think that the media image of most of the dangerous dogs are with some hoodie-wearing gang member, that's not what we see. We see dogs coming from every strata of society. Yeah, there is an issue with youngsters on estates with, sort of, threatening dogs, I'm not pretending that that doesn't exist, but the image that I think some people would like to promote, that it's all about gang members, we don't see that. We don't follow with that (POL5).

There was just one exception to the above amongst the evidence collected, where an

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<sup>48</sup> Both POL5 and myself had just attended a Policy Knowledge conference in London entitled 'A New Strategy to Tackle Dangerous Dogs: Assessing the Reforms to the Dangerous Dogs Act' on 12<sup>th</sup> May 2015, where Harding had presented on the role of gangs in this issue. The participant nodded and pointed several times during interview to indicate they were referencing Harding, who we could see in another room.

NGO - the League Against Cruel Sports - argued that gangs are indeed a core problem requiring attention, but they conceded during their evidence to the Task & Finish Group that this emanated from a recent commissioning of Harding's services to compile a report on the matter (Harding & Nurse 2015). Being relatively new to this issue, as this NGO was, alongside their alignment with a criminologist outside of the policy process, could also explain the lack of awareness of recent changes to thinking on this aspect. Indeed I participated in a meeting with their status and fighting dogs campaign project leader in the summer of 2016 where they admitted to having no empirical evidence to support their assertions that gangs and dog fighting should be considered key characteristics of the status dog problem, and they expressed a view that the League needed to attune more to the current debates and tone of other more experienced animal NGOs.

The interview data from those working in enforcement and in local government provided no evidence to support the view that organised dog fighting was a significant part of the problem. This label of dog fighting is recognised to be distinct from ad hoc street clashes between dogs at the hands of their owners. Organised dog fighting in the UK has been, and continues to be, an extremely secretive and resistant sub-culture that operates around an impregnable network of dogs and 'dogmen'<sup>49</sup>. However there has been one area developing in parallel:

Experience of dog fighting up until late 1990s early 2000s, when we were dealing with the all-traditional, white, English, dog-fighter, they were very, very proud of their bloodlines, so they breed dogs that they, well breed the gameness into the dog. That changed really with the Asian population becoming involved in dog fighting from sort of 2000 onwards when they didn't really give a damn about the breeding lines, they are just going to fight the thing, and if it died, it died, they'd buy another one from Ireland. So there are two distinct factions there (RS1).

So no argument was made for the crossover or transfer between status dogs and dog fighting within the traditional white male dog fighting community, as further observed by the same participant:

Status dogs, from my viewpoint, is a social problem, isn't it really...potential injuries to people, potential injuries to other dogs and pets, whereas the dog fighting fraternity, I don't really see them as a harm to anybody other than their own dogs. Because rarely, if they are fighting dogs, well they are not going to be training them in a park, they are going to be running them on a treadmill. And more often than not raids are on people's house, warrants on houses, the dogs are living as pets within that environment. So they're not, they don't tend to be any more dangerous to their family than any other pet dog (RS1).

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<sup>49</sup> A term used, more widely in the USA perhaps, to describe the men involved in training and fighting dogs.

However the enforcement group perceived there to be some evidence, at least, for crossover between lower level offending with dogs, to the more serious dog fighting offences amongst the UK's Asian community. This was confirmed by one frontline expert:

Within the Asian community it has become a natural progression. The status dogs being used by potential young drug users, dealers, becoming involved in, I'm still never sure if it's their history from their roots in Afghanistan and Pakistan and they transfer that over here, or whether it is just a progression of the street culture really. But that's how it started really with status dogs, then moving on to chain-fighting or fighting in the parks and then to becoming more organised and mingling with the whole traditional dog fighters, who I think in the first place were just selling them their cast off dogs (RS1).

Whilst this underworld may hold some fascination to would-be dog fighters, mostly deemed to be young people on the fringes of criminality, enforcers report no crossover (bar the ethnic minority faction uncovered within one specific inner city area in England described above), and almost no access points for the majority of young people and their dogs. What many in wider society and the media classify as dog fighting differs from the organised sector greatly. This type of informal dog fighting involves no organisation of any sophistication; more often than not a relatively public venue; and only very small amounts, if any, of money changing hands (Lawson 2017). Accounts from young people in such scenarios, such as in Hughes *et al.* (2011), betray a distressing ignorance of dog behaviour and their welfare needs. Although discussed in detail, at interview the elites within this sector classify informal or street dog fighting as a secondary factor, important only in so much as the way it influences other dog owners and societal responses.

### 'Responsible dog ownership'

This particular phrase has had a meteoric rise during the past few years. This is largely because its apparently straightforward and all-encompassing nature appears to unite commentators, because what it implies, in the loosest possible sense, cannot surely be rejected. What can be regarded as obscure though, within the data and in the wider literature, is what this term means to those employing it on a regular basis. When questioned, all respondents were at pains to demonstrate their commitment to, and knowledge of, a range of rather vague principles, in relation to responsible dog ownership. No two interpretations were identical, and on further probing all participants admitted there was certainly no universally agreed definition. And yet for the welfare sector

representatives I interviewed and observed during meetings and conferences, the term forms a cornerstone of their mass public awareness campaigns and education materials.

Within the statutory sector and indeed within government there is rarely a clear definition of 'responsible dog ownership'. Several interviewees observed that the Government's own consultation entitled 'Promoting more responsible dog ownership' (Defra 2012) had provided no definition, with only a vague reference to the parameters of the exercise being to 'invite views on possible new measures to provide better protection for the public from dog attacks and to generate a more responsible attitude to dog ownership'. The consultation questions in the documentation covered: mandatory microchipping; extending criminal law to include private property; owners retaining their dogs during the court process for a suspected s1 identification/offence; and increasing the fee for registering a dog on the Index of Exempted Dogs. A number of participants from both welfare NGOs and local authorities observed that this curiously lacked any mention or measure regarding the responsibilities of individual dog owners. Instead the proposals all related to:

Did you have a look at the consultation? We went through it with a fine tooth comb, as always. Couldn't find much on responsible dog ownership, just further control of dog owners, which rarely works for responsiblising them in the way we would all like (DNGO4).

Also pointed out during interviews was the lack of any 'health warning' from Government that its consultation didn't contain a comprehensive definition, review or strategy for all the issues it considers under the umbrella of the term 'responsible dog ownership'.

The RSPCA's Task & Finish Group 2015/6 in Wales, wrestled with this very issue, with the group researching previous proposed versions and eventually settling on a five point definition merely to be able to move forward with the task at hand (RSPCA 2016a: 11-12). So some attempts at definitions have been made, but they are not universally adopted or employed, a key point participants agreed on. With so many facets making up the definition there is ample room for individuals to re-prioritise and even substitute their own agenda with dog policy issues that mainstream users of the term might see as more obscure. As one participant who researches and publishes on this very issue succinctly put during interview:

I've had this conversation a hundred times and I'm really interested in it, I want to produce some work on this as it is fascinating. We need to push people on what

they think they mean and what the problem actually is. As I always say, what does responsible dog ownership even mean? (TS1).

This was echoed across various participants when I pressed for their interpretations. Another participant, a vet and forensic behaviourist, admits to behaving argumentatively on this to try to force the debate forward. She had significant concerns specifically in how the term responsible dog ownership also mislabels and misleads:

This idea that it's other people and their dogs is the problem you know. People think to themselves well I'm responsible because I love my dog and it lives in the house with us. But the bottom line is those aren't the only issues and ultimately responsible dog owners' dogs bite too, you know! (TS4).

This reflects a classic issue of symbolism versus substance in the politics of crime control where symbols are difficult to excavate and distinguish for any practical dimension, they also of course then become impossible to oppose in any meaningful way. Participants identified consequences to this and expressed their fears of the confusions created amongst dog owners. Such confusion can lead to dog owners mislabelling themselves as responsible when in fact they are not properly equipped to provide for that animal's welfare nor ensure it is not a danger to other animals or members of the public. Once this had been explored during interviews, participants proposed that the complexities of defining this term (and its subsequent imprecise but generalised deployment) were, at least in part, contributing to the construction of the policy 'problem'.

### 'Dangerous dogs' and other types of bull

In terms of Dangerous dogs, there definitely needs to be change because the current legislation that we have isn't evidence-based because it is suggesting that certain breeds or types of dogs are more likely to be aggressive than others and are more likely to cause more severe damage than others and that isn't the case. I just think the term 'dangerous' is so often fundamentally misunderstood and misused (RS2).

As illustrated in the above quote, there are a number of terms in use with regards to categorising and characterising the dogs which are central to this phenomenon, with varying implications. Within the pool of elite interviews, once again, there were clear differences in the nomenclature, although the welfare NGOs were relatively similar. They also reported a strong desire to eschew the collective term of 'bull breeds', which is often used in public arenas to mean the various breeds of dog of a particular type. They acknowledged its use privately however as a convenient way to describe a collection of

breeds, such as those with 'bull' in the title, e.g. Staffordshire bull terrier, but also including other breeds such as boxers. However, those in the animal welfare sphere have begun to publicly raise concerns about the labelling effect this term can have on the dogs involved. Given the disproportionate way in which their numbers appear in animal rescues and pounds, coupled with their popularity with individuals who use and abuse dogs irresponsibly (and sometimes illegally) due to their similarity to the banned types of dog, such concerns may well have a solid foundation. Most other participants interviewed had fewer qualms about the term, which may well be explained by the fact they are not normally involved with the rehoming of such dogs in their own fields of work, and therefore have less motivation to avoid these pitfalls. But even where there is an element of a rehoming function, such as within the local authority participants, they were comfortable with the term:

There are categories for everything, toy, scent dogs and so on. It doesn't have to be negative, it doesn't have to mean bad dogs. I mean, why worry so much when it is what the public understand and better they think before taking on a bull breed in case they don't understand (LG3).

This and similar testimony from other elites appeared to suggest that despite the predominance of 'deed not breed' amongst those working within the dog welfare policy field, there remains a residual concern about some breeds in certain sectors of enforcement. About a third of participants emphasised they were not anti-dog, signing up to the mantra 'deed not breed' or similar categorisations:

I'm not a fan of deed not breed, it's still focussing on breed and s1 dogs aren't breeds, but more importantly it just doesn't fully encompass the issues. It still says look at the dog for the issues and problems. We prefer to say that it [society] is looking at the wrong end of the lead - to focus in on the owner's actions, whatever they may be (DNGO5).

Some 'deed not breed' subscribers amongst the participants still appeared to transfer at least some blame from the owners to the dogs. These participants were not working with dogs directly but are involved with supporting the victims of attacks - such as owners of guide dogs and communications workers. As such this may well be a layman's mistake in extending the recognised characteristics and traits of certain breeds, as recognised by animal scientists, and linking this incorrectly to aggression and problematic behaviours which are in fact a result of the way in which the dog has been reared and kept.

When pressed about the contribution to the perception of dog owners, both 'good and bad', and their use of 'bull breeds', policy actors from the statutory sector were less convinced of its influence and indeed their experiences of the more difficult dogs emerging from unfavourable environments (neglect, cruelty and mere negative training methods have been linked to dogs who have gone on to attack) has affected their views. Within the police sector and during the time span of the data collection phase of this research, there has been a palpable change with regards to their view on Pit Bulls for instance, which can in part be attributed to the body of science emerging which strongly suggests there is no evidence for such a thing as a 'dangerous breed', but despite this, doubt prevails. Being charged with keeping the public safe and finding themselves in extremely dangerous situations facing a dog out of control, who may already have mauled or even killed an individual, was reported to be both sobering and influencing:

It's not something you really get into, describing what its like. I've not been in that situation all that often to be honest. Thankfully. But when you are faced with it and you feel absolute fear looking into the jaws of something that can kill you, and these dogs I've seen anyway look similar; it just can pull you towards an opinion you may otherwise not have believed (POL3).

This is inherently linked of course to the inculcation police dog legislation officers receive during training and beyond, in addition to their onerous duty of protecting public safety:

When you first see those images of children almost decapitated by ultimately a dog that was known to the local force and kept by a known offender; you fear being the DLO at the centre of that case. It's your worst nightmare (POL2).

The context of the DDA - the legislation central to the control of dogs with regards human safety - is that it purports to reduce the risk of bites and attacks on humans by the removal of certain breed types. Police officers have been criticised in the past for failing to act on information regarding banned types of dog being kept, dogs which have later gone on to kill or maim:

...it's a constant worry you know. I know these dogs would have been different in someone else's hands, but I also know that 'dangerous' becomes something specific to that moment and to that dog and I have to think about what could happen to a child or anyone really (POL4).

In reality participants from the police reported that when responding to a report of an illegal s1 dog they will, more often than not, find a family pet that is no danger to anyone. However those police officers are understandably susceptible to a fear of blame following a major incident, and are therefore quite risk-averse:

After these major incidents I can tell you the talk is about what we did and what we could have done or thank god that's not my area as well. We start thinking it could be though and we're trained and told, really, to seize these dogs. The legislation is called the Dangerous Dogs Act after all, not the 'what to do if someone trains an innocent dog to be aggressive Act', is it? (RS3).

Whilst participants reported being content for the need for s3 of the DDA, to enable the police (and some local authorities) to deal with a dog (of any breed) dangerously out of control, the same legislation lists those four banned types of dog under s1, and participants were cognisant of the effects of that:

So s1 sets out those banned dogs who are forever labelled as dangerous, when they are simply born, for Pete's sake, no different to any other dog. The legislation tells you to be scared of them, irrespective of who owns or trains them, or how and where they live. It's ridiculous. This in my view is where we start. If we can't change this legislation we can't change things for the better (TS4).

It is worth noting again that although the DDA was introduced as a solution to dangerous dog control issues, for many participants, as can be seen in this above quote, the DDA is in fact the problem, particularly how it defines it and specifically what is legally considered a dangerous dog.

Not all of those interviewed were of exactly the same view, indeed there were two or three alternative voices raising interesting points around the nature of dangerousness. One participant in this research, an epidemiologist, approaches dangerous dogs from the perspective of preventing serious dog bites, as well as deaths, and believes an examination of the types of dogs involved in such incidents, particularly those in the home and involving children, suggests that these could be reduced or eliminated if certain breeds/types were indeed not available to the dog-owning public. This is of course the claims of those who framed s1 of the 1991 DDA, as to its purpose, although the RSPCA's report on the 25th anniversary of the DDA (RSPCA 2016b), has sought to debunk the suggestion dog bites can be reduced in this way. This approach to managing risk factors also surfaced in interviews with some police officers. One police officer was resolute that s1 dogs represent a greater danger to the public than other types of dog:

They absolutely have the potential to be dangerous and far more dangerous than most other popular breeds. In the wrong hands they can do serious damage, I've seen it. In that sense I am practical about the ability of this legislation enabling me to act and prevent something serious happening (POL2).

Clearly in defining the problem and the contribution of 'dangerousness' to that debate there isn't the consensus that may otherwise be needed to bring about change.

It was clear in both interviews with police officers and when observing various policy meetings with a range of forces that they view the DDA as an essential instrument of enforcement which needs to remain at their disposal:

What you have to understand is that this is our essential toolkit for dealing with certain undesirables and their dogs, whereas otherwise I may have struggled to interfere effectively with their ability to both harm their dog and others. There isn't much else relevant that is policed or resourced properly but this is something open to me of course (POL5).

This suggests of course confirmation of the work of others, such as by David J Smith (1986), on how the law does not set out the mechanics of policing but is in fact a permissive framework, used by the police as a 'flexible resource' where they have the latitude to employ different provisions depending on their need or wider goals. This may be contributing to their stance in the debate on the definition of the problem, producing a reluctance to acknowledge that dangerousness is perhaps more complex than the legislative framework would suggest. Lending itself to this was my interview with one very senior officer who acknowledged that dogs were not quite as implicated in some serious crimes as may have been suggested at one time:

Well I do have to say that if you look at organised crime, if you think about the range of crimes that we see every day in the sphere, the things we're called upon to police, our priority then no I'd have to say the dog is not used as a weapon, for instance, that's not happening now (POL1).

This indicated that perhaps legislation may not be the way to spuriously link criminal activities in order to target certain offenders.

Prior to embarking on this study, I had witnessed countless examples of some of the same policy actors referring to the issue of dog fighting and its link to dangerous dogs. As has been discussed earlier in this thesis, it is claimed the DDA, and in particular the BSL element contained within s1, was introduced in order to protect the public from fighting dogs. It is important to note here that by the time I was collecting data, the rhetoric had changed. From those more comfortable discussing the issue, largely from within enforcement and dog charities, there was a recognition that the experts no longer linked dog fighting with status and dangerous dog issues. These respondents were also critical of those who did make such a link, including academics such as Harding and organisations such as the League Against Cruel Sports, specifically due to impact this has upon the

definition of dangerous and the contribution to the debate about the true nature of the dog problem:

...this is irresponsible, possibly dangerous, because it misleads the public and more importantly in terms of policy, the Government, in their [the Government's] mind, it probably justifies their actions and the retention of BSL, not to mention the lack of impetus to truly tackle the real problems (RS4).

Certain factors at the heart of police work were apparent from another enforcement perspective too, that of local authorities. They were aware of the fear that DLOs hold of the potential of any dog they have seen, to go on to commit harm. Once again the dogs were, in most cases (where they proved to have a placid temperament with no signs of aggression) viewed as the victims, with one participant admitting as a result his team will perhaps from time to time let Pit Bulls through the system and not call the police:

If we suspect we have got a s/l dog, they [local police] send somebody down to have a look, the first question they ask by phone is have you got an owner, no - it's a stray dog, not microchipped, can't trace an owner. And you just know that they are going to turn up and say yeah it's a Pit Bull, because if it's a Pit Bull we have to take it for destruction.... We have probably done four or five in the last year and about that many each year. They won't even get the dog out, he'll look at it through the kennel and go 'yeah its a Pit Bull'. Because there is no owner present, there is no comeback and there is another Pit Bull off the street. My staff are very dog orientated and they dread calling the [police force] to say we think we've got a Pit Bull, so sometimes a borderline dog might get through. So we're actually letting Pit Bulls through because they don't want to see them destroyed. These are lovely dogs (LGI).

This made for an interesting example of two sets of street level bureaucrats subverting the intention of the legislation in a completely conflicting way - police officers moving to include dogs outside of the legislation to exclude any potential future risk, whilst those in local authorities work to exclude dogs that technically should be captured and dealt with by the legislation. Both of these sectors have reworked and resisted the official policy as set out in law in order to meet their different needs and concepts of the problem, which has interesting parallels with other practices in the criminal justice sector (such as judges subverting the 'three strikes' laws). When discussing such a scenario with participants of all views, there was consensus that in fact despite these actions by LAs there was no known case of a dog - having been through a local authority's system (and avoiding police detection as a s/l dog) - going on to attack or kill. And this is information that would likely come out given the intense scrutiny following a serious attack. Even if that were not the case, since April 2016 all dogs leaving LA control must and will be microchipped - removing any means for obscuring the LA's actions. In terms of the problem construction

however, participants could not offer an explanation why such seemingly powerful evidence as this that type/breed may not be the factor to fear would have such a little effect on policy or societal responses to Pit Bulls.

Ultimately there was only a small section of elites interviewed that were comfortable with the term 'dangerous' applying to all sI dogs. This was not least of all because it is inherently difficult to identify what is a sI dog given they are not a breed and their DNA cannot be tested for this purpose - indeed a dog may have more DNA of another breed but look sufficiently similar to the standard for a PBT as to be positively identified under the DDA. This point was illustrated by one participant, although not himself amongst this smaller section:

I do think just by banning them back in 1991 we made it worse, we should have just managed them, not banned them. It gave them a label. Back in 1989 and before the ban I remember people used to boast about having Pit Bulls and I used to go to Battersea Dogs Home and somebody was usually outside selling puppies as Pit Bulls, and they'd be Jack Russells or something else, and they used to command money. After the Act you'd go to the same people and they'd say no, no that's not a Pit Bull! The name Pit Bull came to mean something and it was irrelevant what it was, and probably many weren't even pits. But it had a much bigger status when the Act came in (LGI).

As many participants pointed out this rather makes a mockery of the definition of certain dogs as being dangerous if they can't even be accurately grouped as one type of dog and their genetics also differ quite considerably.

When asked about the use of the label 'dangerous' and its effect on the desirability of certain similar-looking breeds however, the small section of elites supporting sI did concede this was most likely a factor. They differed from the majority of participants however in so much as this was, in their view, the price that had to be paid for a safer society. As such, innocent dogs (a very anthropomorphic term but nevertheless utilised reluctantly as shorthand by most participants), they believe, will have to be humanely euthanased in some cases so as to stop those criminal elements, and those ill-equipped to keep certain dogs, from harming others. What is interesting is that despite being in a shrinking minority of policy actors, these views are held by those, such as the police, who are amongst the most influential with regard to the continued existence of this policy. In a highly politicised world of 24 hour sensationalised media; social media and litigious individuals, a risk-averse government may prefer to listen to only those charged with providing for public safety - i.e. the police who have also historically been, of course, a

powerful 'key definer' in the problem-shaping stream of the crime policy process. The other participants, even those who work closely and very well with the police, recognised that change was impossible without first convincing the police such change would not bring an increase in dog attacks.

### 'Status' dogs

The term and perceived phenomenon of 'status dogs' was the original inspiration for this thesis and of special significance to me not just in the commission of this work but also in my professional role. Its use in the literature may have become passé but in interview and in my ongoing observations it remains in use, often accompanied by an acknowledgement that any suitable alternative does not exist. There was consensus amongst participants about meaning, if not consequences, and was best described as thus:

It is largely those dogs that are used to intimidate, harm or frighten people, and may be aggressive and trained to be so. But I think dangerous dogs is a lot more difficult to define because you could actually argue any dog has got the potential to be dangerous given its anatomy and physiology or physical appearance rather, so I certainly differentiate those.....I would say that there is an issue with people who wish to use dogs, for status purposes, choosing those dogs that will frighten people and have the physical appearance to do so and a lot of bull breeds will actually lend themselves to that. So if you've got something like a Staffordshire bull terrier that's quite big, quite muscly, then you can train it to bark at people and to look aggressive, then yeah you're going to use that rather than a poodle (RS2).

In terms of the origin of the label 'status dogs', during interview one RSPCA participant revealed their belief that it was in fact the RSPCA who invented it and then promulgated its use although this expanded into the context and justification for the actions and decisions taken:

To be honest I have always had a very horrible feeling we were the first. Then of course everyone else jumped in, I guess that often happens though to be fair. I can't remember who said it or why it started to get used, but it just stuck really quickly.....Having said that, at the time, it was the right thing to do - to highlight the dogs that were reflecting their status in society (RS4).

We discussed in more detail what alternatives for articulating the problem were available to those seeking to highlight the issues they were facing. There was an acknowledgment these were absent and some alternatives were worse and as such the role of the RSPCA in its construction was defended. However the label was also understood to have produced other problems:

So we might reject it now but it was certainly better than calling everything dangerous which is misrepresentative. So it wasn't completely wrong but it was too narrow. . . . . But it's bad. It's not an accurate description of the problem and worse it misleads and misinforms. I don't like it. But once it became entrenched and once Defra adopted it, and then the Met created the Status Dog Unit, it became difficult to challenge (RS4).

This analysis of the RSPCA's invention of the term, also confirmed by Harding (2012), was loosely or tacitly confirmed by some other lobbying groups interviewed who also acknowledged its importance for the construction of the problem and opening up debate:

...the RSPCA [and name of RSPCA personnel] were certainly the first people I remember talking about the problem. We were experiencing issues but had not articulated or thought of them in the same way. Having a label [laughs] - isn't that unfortunate given how that encapsulates what we now know to be wrong about it? - but anyway having a 'name' for what was going on helped us all come together and start talking about solutions (DNGO1).

Veterinary and scientific sector participants didn't reject the term status dogs, only its application. Some were at pains to point out the very many trends and fashions of dog breed ownership and how indeed this bestowed a clear message the owner wants others to observe:

We talk about the breeds, both the Paris Hilton handbag dogs and the high class crook who has a doberman with a diamond collar, but what status does a rescue dog convey for instance? That middle class, socially responsible person wants you to know that they have done good, possibly better than you with your dog bought from a breeder. Tut tut. It's morally superior attitudes but it's still conveying status, isn't it for Pete's sake (TS1).

The theory is that all dogs, including rescue dogs, convey status of one form or another and they become a symbol. As such the dog communicates exactly what that owner wishes to communicate to the exterior world. The argument continues that the categorisation of status dogs is a middle class construct regarding, in the main, but not exclusively, bull breed owners, under a certain age and in socially deprived areas. However as several technical specialist participants noted, non-status dog owners have failed to recognise the status they convey with their own dogs, preferring to see only the 'lower classes' as the communicators of status through their dogs. When I posed this question to other participants a small number claimed to have had previously articulated the concept in a similar way. One RSPCA participant suggested this issue has been discussed in relation to those on the periphery of the shooting and hunting fraternity who would appear to always own a Labrador or Springer Spaniel:

We may not say it in our key messaging but what dog you own does say something about you. We don't want to put people off adopting those most in need in our care but we do know that our dogs are always communicating something about who we are. Don't forget we [RSPCA] struggle to rehome the really ugly dogs (RS4).

There was also a view amongst participants in local authority and some welfare NGOs that Defra's definition of status dogs was contributing to the problems:

I think it has legitimised and embedded certain ways of thinking around young people in inner city areas and their use of dogs. It left other people imagining all such dogs were dangerous dogs and they were a threat to be feared (RS3).

It was further argued this had brought untold confusion. The terms 'status' and 'dangerous' [dogs] have been, and continue to be, used interchangeably throughout the sector and even amongst policy makers, according to the welfare participants - the same group who have perhaps grown sensitive to its use during recent years. But their arguments that the statutory and government sectors were slow to acknowledge the shortcomings of the term and worse any potential harms its use may cause, were perhaps unfounded as there was some recognition of the need for clarity in articulating the problem:

I have to say that we [force area] might have dangerous dogs, but not necessarily status dogs and there is an extremely important distinction and implication for our resources. We know where our work lies on dangerous dogs, whatever your view, these are straight offences we are duty bound to police (POL1).

This senior officer and advisor to government on this issue, was very clear on the distinction and the need to formulate different contrasting plans that tackle the outright offence of owning (etc.) a s1 dog, and the lower level anti-social use and abuse of dogs - usually those of a 'bull breed' - in our communities. Overall the police interviewees were less concerned about the consequences of the use of the term 'status', which, given they are charged with a very specific role around dangerous dogs and protecting public safety, is perhaps understandable. Other participants clearly believed that whilst 'dangerous' as a word and a phenomenon could, and indeed had, heavily influenced 'status', it was highly unlikely the reverse was true and more than that, it was inconsequential therefore suggesting 'dangerous' sat above 'status' in a hierarchy of some kind.

I probed interviewees further for their views on how the terminology was, in their opinion, exacerbating the problem and one particular response signified the collective view:

As a term, 'status dogs' is contributing to the problem. I actually agreed with Roger Mugford<sup>50</sup> at a Parliamentary reception years ago on this subject when he said that we all need to stop calling the issue 'status dogs' and instead call it 'fluffy, cuddly dogs' because no gang member is going to want a dog like that then! (LG1).

Certainly there are accounts to corroborate these perceptions, not least of all amongst some of the young people interviewed in Hughes *et al.* (2011) where they responded that they would seek out alternative breeds when asked what action they would take if bull breeds became popular with pensioners and the image of those dogs became softer as a result.

Almost all participants expressed concerns, albeit varying in significance, regarding the continued use of the term 'status' in addition to the misapplication of the term dangerous:

We have to look at these words and admit they are the problem, I mean status and dangerous, indeed both can be a misnomer, but even saying that, lacks significance. What happens in society as a result of using them, do we even know? I know it's not helping the problem (DNGO4).

Participants who felt strongly about the shortcomings of the lexicon also expressed frustration about how to convey the problems inherent with their use:

We do need to be able to say, hey there's an issue. We're seeing problems with kids and their dogs, we think this is what is needed. If we can't do that. Well. But also, also we all should be worried about what it says about all of us and the sector if we cannot convey the problem without making it worse (DNGO3).

It was clear that the debate around the terms had now led some participants to be hesitant to use 'status dogs' even as an historic descriptor of the phenomenon. It was very clear indeed that the term status dog, as a 'speech act' has conferred a new reality, which in itself has consequences that participants of this study were attempting to suggest may well then be self-fulfilling. There was also an open invitation from participants to engage further in understanding these consequences. Many would welcome the socially responsible decision, among the welfare sector at least, to understand the consequences of labelling a problem, but it was also clear those same organisations have lacked the expertise and resources to do so adequately - which can be explained in part at least by their narrow remit around animal welfare.

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<sup>50</sup> Dr Roger Mugford, as referred to in Chapter Five - had worked with the Queen's huskies and advised Home Secretary Kenneth Baker MP during the passage of the 1991 Act. Dr Mugford subsequently reversed his position and campaigned against the DDA as well as testifies as a defence expert.

### 7.3 A substitute social harm

During interview, most participants returned to the consequences of the 1991 Act on dog control today and the policy proposals under persistent debate for at least the last decade. This speaks, of course, to the notion that laws and actions have created consequences, reflecting the long tradition in sociology of recognising the 'unintended consequences of action' (Merton 1949). In this instance it is argued that it has resulted in further, or new, harms victimising both dogs and humans:

All we've ended up with is types of dogs being bred to look like Pit Bulls and what they perceive to 'behave' like Pit Bulls. So they have just got round the legislation. But unfortunately what it has done is created the problems...that people think about a Pit Bull terrier type of dog, believe it's inherently aggressive and then generalise that to other types of dog that might be similar in its physical appearance. So I actually think the legislation has been incredibly damaging for dog welfare, but actually even speaking to the public, because you're still telling the public that these bull breed types of dog are dangerous, they then don't - this is a generalisation - but they don't really then understand any dog can be aggressive, so it just doesn't help educate people and protect them - what its original purpose was for (RS2).

The 1991 Act was introduced by the UK Government with their proposal to reduce dog attacks on humans by removing from society the types of dogs that were believed to be used in dog fighting. There was agreement from most interviewees that this was not ultimately successful in terms of eradicating the four types and instead led to an increased attraction of these dogs and those breeds, such as the Staffordshire bull terrier, that looks significantly like them. Those people seeking out such dogs for ASB and criminal activities would be forgiven for believing the dog was inherently dangerous and coupled then with their lack of the intricate knowledge for socialising and training them, would be more likely to generate bad and aggressive behaviour through reinforcement, thus creating the dangerous dog they were intentionally seeking. Although participants, primarily the police, foresee a role for the continuance of s1 of the DDA (for reasons discussed previously), the majority of interviewees were of the view that BSL had effectively had an augmenting role for other dogs, by bringing those dogs similar in size, stature and appearance to the attention of irresponsible and uneducated owners looking for conferred status. Dogs that are illegal and those that look similar provide a unique avenue to portray an individual's desire to look menacing and intimidating to their adversaries without risking the far more severe penalties associated with carrying knives or guns. Participants were clear that only

through banning certain dogs has such status been conferred by Pit Bulls and similar dogs and that such a reputation was otherwise unfounded:

Of course I don't have to tell you, you know don't you, that they were considered the nanny dog, the dog to trust with your children's lives, years before, how did that change? Through telling the world they were born killers, that's how. It all went wrong from there (TS4).

Participants were very articulate about the consequences to both dogs and humans. Section 1 dogs, if detected by the authorities, were put to sleep, but they were often put to sleep by innocent owners who, following the 1991 Act's introduction, thought their dog was inherently dangerous no matter how many years they had kept it with no incident, and no matter whether it was actually a sl dog. During interviews this effect was reported to have continued even after the 1997 (and to this day). Other dogs were abandoned or severely neglected for the same reason. Meanwhile those utilising the Pit Bull for their own criminal gains, recognising the potential of the new market place and the monetary value of the trade, organised cruel breeding programmes with an illicit underground network for selling the puppies on. Behaviourally similar, and only marginally physically dissimilar, breeds fell subject to those with less than decent intentions as they became a way to continue to convey status whilst circumventing the new legislation. Owners of dogs had their family pet removed based wholly on its looks, not its (or their) actions, and those who resisted or attempted to avoid detection, risked a criminal conviction. There is no evidence that serious attacks by particular breeds or types ceased either:

You only need to look at the data, we know other breeds were biting. Perhaps with less hysteria in those days, people might not have gone to A&E, and we'll never know the true picture, but the fear is people and children immediately believed all other dogs to be safe, because they didn't make it on to the Government's kill list (RS3).

In 1997 the amendment to the DDA was passed permitting owners to potentially keep their dogs once a court was certain a number of conditions had been met, including the dog must be neutered, be permanently identified, be muzzled and kept on a lead in a public place, and not be with anyone under 16 in a public place. These all clearly have consequences to the dog and its human family, particularly the children. All participants to some degree or other recognised the positive effects of neutering - strongly advocated by the dog policy sphere - but there was also an understanding that these are fairly draconian measures that carry repercussions for a dog's welfare:

It is still a legal mutilation that is not a legal requirement for any other breed or animal on the planet. Far more important though is the harms, behaviourally speaking, to a dog permanently muzzled and on a lead. It doesn't get to interact with other dogs and humans and it will quickly get unbelievably frustrated (TS4).

This aspect was discussed in more detail by participants with an understanding of veterinary or behavioural sciences. There was significant concern that these measures can result in aggressive behaviours. The tragic irony was not lost in discussion with these participants who noted that these were the very behaviours that the constraints were intended to limit or control. Instead they can, in some dogs, create or exacerbate problems, leading to the potential for more, not less attacks:

Let's be frank and I don't say this lightly but why would anyone want to frustrate a powerful dog. And these things do frustrate the poor things. We make them live a dull frustrating life where they can't play and interact in their natural way, surely potentially making this dog a risk to its family, despite never being much of one before (DNGO2).

#### 7.4 The role of the media

Turning to the role of the media participants were eager to discuss its effect on the phenomenon and therefore what contribution this makes to the construction of the problem. There was broad agreement that the press is a worthy recipient of blame most usually due to the over simplification of complex dog behaviour and societal issues, as well as the finger-pointing (aimed at dogs) misleading the public and therefore policy makers. However some interviewees blamed the media without confronting any uncomfortable truths about where the media sources the news upon which it reports, such as their own organisations who may be guilty of a marginally sensationalised press release or two in order to gain the necessary attention for their campaigns or the recognition needed to please funders. Some participants conversely, interestingly more in the local authorities, proceeded to also point out the media's usefulness. Although there were more positive representations of the need for the media in some interviews this did not extend to complimenting their research and reporting skills. This did at least though hint of an awareness of the responsibility of the agencies involved to feed broadcasters and journalists the correct information.

Agreement was clear across the pool of elites that the media was to blame for consistently and repeatedly using damaging terminology, 'weapon', 'monster', and 'devil'

dogs were all cited and indeed can be seen in numerous examples within the media coverage explored in Chapter Four. It was also highlighted by participants to be in conflict with the extensive coverage otherwise seen which favours dogs and indeed as a result promotes their ownership. There are a multitude of dog related magazines, regular columns and websites dedicated to promoting dog ownership and showing their aspects in a positive light. Given their readers, sales and following, it is evident this is popular:

So what do the public then get? Mixed messages with no explanation. Loads of positive information and loads of negative information all at the same time, and nothing to tell you why certain dogs or certain people with dogs are a danger - so it's no wonder it all becomes the fault of certain breeds - that's easier to understand (DNGO3).

A very specific area for which the media was blamed was linking status and dangerous dogs to dog fighting:

So this is where everyone gets frustrated, you guys, other welfare groups, us as well. I do understand. Linking a dangerous dog issue to dog fighting even when there has been no mention of a dog fight involved is what comes naturally to them, but bottom line, this is a media myth and a dangerous one (POL5).

Even where the evidence base was fiercely contested most participants were aware of the debates at the time of the introduction of the DDA and the justification that sI dogs were used for fighting. It goes some way, for some interviewees, to explain the media's rationale and not least of all because despite long-running campaigns, and changes in this legislative arena, sI of the DDA has survived and could therefore be reasonably expected to have a legitimate purpose in the Government's mind. It also has the appearance of support from one or two other quarters, as discussed earlier in this chapter, namely the League Against Cruel Sports who launched their first formal dog fighting campaign in December 2015, based on a report they commissioned from Harding and Nurse (2015) which appears to depict most anti-social uses of dogs by young people as dog fighting. Some participants engaged with the research in this area expressed frustration again:

He sensationalises everything. I get it, that's what gets them [the media] interested, but it's ultimately damaging. The handful, tiny minority, of incidents which could be seen to be related to dog fighting or other crimes, are nothing to do with the status and dangerous dog phenomenon (RS4).

Nevertheless, they are of course related because the profile of these stories in the media and in Harding's (2012) work, influences the perceptions of others of what constitutes the dog problem.

Dog fighting does occur in the UK and stories in the media will surface a few times per year often associated with an RSPCA prosecution of an offender. The images are naturally found to be harrowing and usually only those with dogs displaying aggression are favoured by the press, and they will also be bull breeds, if not Pit Bulls or look-a-likes and therefore prohibited. Interviewees remarked that they understood such pictures will naturally influence some readers:

We know, don't we, what people see when, I mean some people see when they see those pictures. If you don't already know differently and I mean really know, then they are going to make them fearful of those types/breeds of dog, even if they do understand most of them are not used in dogfighting (POL3).

Links between status dogs and gangs, which was discussed (and rejected, not least of all by the police) earlier in this chapter, was also raised again in the context of the media coverage. Several participants referred to the 'myth' or 'perpetual myth' driven by the media which would seek to link gangs to the criminal use of dogs. The responsibility for this was directed at the tabloid media as well as online sources with the acknowledgement that legitimacy may be provided in the view of these journalists through Harding's research:

They haven't produced any basis for this have they. Because there is no factually supporting evidence. The media and public just feed off each other, and his [Harding's] work merely provides the nourishment to sustain this vicious circle (RS4).

Participants with the relatable experiences and knowledge, did discuss the links to other criminality and there were numerous examples of where the irresponsible and dangerous actions had led to injury and death, amongst guide dog owners and communication workers for instance. As far as the participants representing those sectors were concerned, the media is crucial to highlighting these case studies in order to achieve public support for changes in the legislation. The harrowing cases where guide dogs have been attacked and killed was the centrepiece of the Guide Dogs communications strategy in achieving better sentencing and redress. Only case studies in the press could bring the recognition of the consequences, not just to the assistance dog but to the owner, who having been unable to save their dog may then find themselves without this essential assistance if the dog is killed or retired on health grounds. There was echoed praise for the media coverage of many, very serious, incidents of postal workers, and other communication staff, who, being subjected to dog attacks, have sustained life-changing injuries. There remained an acute awareness, however, of the dangers of labelling certain

breeds and certain owners accompanied by explanations of the measures that have been taken to help mitigate this whilst simultaneously remaining cognisant of the fact this is not their constituency or primary function. These organisations concerned with the consequences of dog behaviour rather than the dogs themselves have joined large-scale coalitions and campaigns on these matters:

We understand how important you guys and the other groups are. We need to work together, we're aware that in the long term if the problem gets worse due to it being misrepresented and tackled in the wrong way, that's only going to affect our members more (DNGO5).

There was no mistaking the strength of feeling amongst interviewees that the media was contributing to the problem by conveying status and a specific reputation on certain dogs, which breeds ignorance amongst the general public:

The papers, the poorly researched online articles too, they, well we know don't we, damage a lot of the work the animal welfare charities are trying to do to mitigate this. It feels like two steps forward three back when we get a load of positive stories in and then one semi-serious attack undoes all that (RS2).

Those that work directly with their organisation's communications divisions were more acutely aware of the changing dynamics of news sources. The advent of social media and news websites has altered the nature of print media which has adapted by becoming arguably more sensationalist in order to protect sales. This, plus 24 hour coverage, and the need for small bite-sized digestible pieces, leads to an increased risk to integrity, and particularly a vulnerability surrounding research and securing the facts. Participants believed the dog to have been the victim of these changes:

When you go online or read the papers, readers are always left thinking it was the dogs's fault. I know it's difficult perhaps to blame the parents of a newborn baby that died but it is inherently wrong to blame the dog, to just blame the dog, if anyone truly wants to understand what happened (DNGO4).

## 7.5 Summary

This chapter has sought to map the definitions and categorisations of 'the dog problem' in use by those most closely associated with the phenomenon of status and dangerous dogs. This includes the widest consideration of the dog problem in society from breeding, trading and socialisation, the identification of dogs in general and the specific identification of certain breeds or types, to the more organised criminal use of dogs in fighting or gangs, as well as the contributions of labels such as dangerous, status dog and a responsible dog

owner. In considering the problem construction it is also necessary to consider the views of media representations and their effect on public perceptions given how vital this factor is to policy makers. The collection of narratives gathered for this research from various policy actors situated at several different vantage points in the system, illustrates a key finding that the universal descriptors suggest a somewhat chaotic framing of the issues. As a result of such an imbroglio, early indications are not encouraging for any typology or clear definition of dog control problems. This is undoubtedly affecting the policy process and the ability for some sections of the policy community to bring about change and the repeal to s1 so widely desired.

This chapter therefore holds true to Kingdon's description of how different versions and dimensions of the problem are continually floating around the policy arena. Some of these may gain more attention and support at certain points in time, while others, for a variety of reasons will either be dropped or possibly reinvented and combined with other ideas to form new constructs. Many of the categorisations of the problems captured at interview clearly lacked the type of focussing events that Kingdon highlights as essential for initiating change. Whilst there was palpable frustration from the dog welfare participants at not being heard, they could not deny that in the policy landscape, as an essentially overcrowded field, it was often impossible to be noticed without some form or other of accelerant. Those problem dimensions that did have focussing events, namely death or serious injury from a dog attack, also combined with the other features of MSA to eventually produce a policy development, although not the changes many of those interviewed wanted or supported, but this will be discussed in the following chapters.



# **Chapter Eight**

## **The Policy Stream:**

### **Legislation, interventions and substitutions**

#### 8.1 Introduction

Kingdon contends that the policy process will contain a plethora of possible solutions, essentially a suite of concepts and ideas that are continually proposed, developed and debated within policy communities. In three separate sections beginning with the more peripheral proposals before moving on to the policy process in 1991 and finally the impact of that era on later developments, this chapter will seek to examine the 'primordial swamp'; the state of dog control policy ideas continually getting swapped around and adapted through the process of 'softening up' in order for life - and the early manifestations of policy - to emerge. I found no formal nor democratic structure within the policy network, which is in itself consistent with MSA, however MSA also contends agreement must occur at some level in order for one idea to rise out of the 'policy primeval soup'. Therefore the debate and agreement amongst the dog control policy community, something richly illustrated through the participants of this study, is of key interest when considering what solutions were successful and also those that were not.

An individual's proximity to the making and execution of law would appear to have directly affected their views given during interviews, which created clear sub-groups of participants, particularly evident when considering the proposed solutions to dog control issues. It was to be expected, perhaps, that those representing the statutory bodies have a somewhat more pragmatic view, in contrast to some of the more idealistic views taken by individuals and organisations operating on the fringes and, as such, further away from direct lobbying and/or enforcement. This was illustrated throughout the discussion around legislation where, for instance, there was, amongst the delivery agencies, less concern with the origins of, and therefore evidence for, any particular law regarding dogs, but more of a preoccupation with its practical application in the field. This could also be explained it would seem by the background and experience of the particular individual being interviewed rather than the body or organisation they now represent. If they were not in post in 1991 or in years where other relevant legislation has been consulted, debated and

introduced, they were less interested, perhaps feeling insecure, in discussing or analysing it in any depth. That said, the balance of both groups assisted with building a picture of the effects the body of legislation has on the problem, irrespective of the evidence for it, or its original intentions, and the policy solutions being proposed.

Although legislation concerning the control, trade and management of dogs had existed for many decades (see Chapter Three), the majority of participants primarily referenced the Dangerous Dog Act of 1991 and its directly related measures introduced since that date, to be discussed in the second and third main sections of the chapter. This was interesting in itself for it was clear that despite a whole variety of issues given in their accounts as to what constitutes the UK's dog problem, as explored in the previous chapter, in fact participants were focussing in this section of the discussion almost exclusively on the legislation that purports to determine what a dangerous dog is. When questioned further all participants, from all sides of the arguments, attached great significance to this legislation either directly and intentionally, or more indirectly and subtly whilst discussing their wider assertions. For this reason this chapter can only reflect that emphasis, with far fewer solutions explored in relation to the other characterisations of the dog problem given in Chapter Seven. It is quite likely that participants had drawn themselves away from their initial assessments of the impacts of wider laws or regulations, or lack thereof, on areas such as straying, breeding and trading, and narrowed their focus due to the questions and discussions becoming pinpointed to dangerous and status dogs. That said, their wider accounts for dog problems in society were rarely re-offered by way of explanation of this specific policy area, even when prompted. This suggests a narrower suite of ideas within the maelstrom than would be suggested by the breadth contained within the problem definition.

## 8.2 Solutions to the periphery

Although, as stated, the DDA and the control of dangerous dogs dominated the discussions at interview in relation to the solutions under debate and those that had resulted in change, the animal welfare participants did cover, to a much lesser degree, other aspects of the 'dog problem'. There was some discussion upon the need to control the breeding of, and trade in, puppies and what proposals had been suggested so as to improve welfare, educate owners and ultimately reduce dog attacks. As outlined in

Chapter Seven there was a wide reaching concern that the supply of puppies was a root issue lacking sufficient attention. At the time of interview the Welsh Government had completed a four year project to develop regulations to improve breeding, which many of these participants had been directly involved in. There was a strong view shared by these participants that the developments were a positive one. Of course the welfare sector had wanted more stringent measures than was achieved but conceded that the dog breeding industry had to concede far more in the way of defeats, and standards were certainly expected to change quite significantly. Some aspects such as the reduction in the number of breeding bitches was deemed to be more easily enforceable than perhaps other measures such as the minimal amount of socialisation time breeders must provide for each puppy. Concern from both inside and outside local authorities over the necessary resources to enforce such regulation was expressed with some force:

I have to say that we were all for this and we remain so, but my team gets smaller every year, some councils don't even have a team! How we are going to persuade our powers that be that we need to do this work and be trained better to do it, remains the key issue (LG3).

Even though it was too early to determine if the new regulations would tackle the problems as they have been previously outlined, those participants in England (or who covered both nations) were openly admitting to envy at the developments in Wales, given Defra had indicated no appetite for equivalent measures in England<sup>51</sup> and exhausting campaigns had been live for over a decade.

### Dog Identification and licensing

Whilst a wide range of interviewees raised the issue of dog identification and licensing, it was a greater preoccupation for the statutory sector and those organisations responding to the excessive numbers of dogs in society. Dog identification or mandatory microchipping has been an evolving policy area since the abolition of the dog licence in the 1980s with and both England and Wales only recently (and during my data collection period) passing legislation to govern this (The Microchipping of Dogs (England) Regulations 2014; The Microchipping of Dogs (Wales) Regulations 2015). The new regulations provide for the formal identification of dogs to allow them, in theory, to be

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<sup>51</sup> In fact within two years Defra indicated the Government was minded to overhaul the dog breeding regulations for England along with a range of other animal activities. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations governing dog breeding, amongst a range of other regulated activity, were passed, and came into force in 2018.

returned to their owners when lost or recovered following theft, but to also enable the apprehension of owners who allow their dog to stray or behave antisocially, or if it should be illegally abandoned or killed. This is dependent on owners' compliance with the new law and the sufficient enforcement of the associated powers. About this there was a degree of scepticism amongst research participants from across local government in anticipation of the regulations coming into force:

You only have to look at next year with microchipping, which realistically, is it really going to make a huge difference from where we are currently? I don't think it will because Defra, central government, are telling us, local authorities, to give it a light touch, that's so they don't have to give us any money. I look after animal health too, I don't know whether you know much about the fiasco of the horse passports, but basically dog microchipping is going to be a mirror image of that.....To me, really the only way your microchipping is going to work is if you have got some kind of national licensing scheme, that generates some money, that's ring-fenced, that's put back into local authorities. Then you could start from the very bottom then, you know as a start, at bottom, to make sure dogs are identified, breeders are identified and then start tackling those breeders that are irresponsible breeders. Obviously you can then start tackling all the illegally imported dogs or dogs that have been brought in abusing the pet passport, but you need to start somewhere (LG2).

I have recorded within my fieldwork notes, over an extended period of time, a tangible shift in the position of many dog welfare organisations in their support for dog licensing or mandatory annual registration scheme. This had been the lone policy of the RSPCA for several decades, while other organisations, such as Dogs Trust, were not even in favour of mandatory microchipping as an interim measure until very recently<sup>52</sup>. The journey of policy reversal or development that the other animal welfare NGOs have gone on could well be attributable, in part, to the problem of dogs in society but unfortunately a direct link was not offered by interviewees, perhaps due to their sensitivity and embarrassment and, as such, this is an area that would certainly benefit from further investigation.

The mandatory microchipping of dogs is also being linked in some boroughs, in both England and Wales, to schemes designed to identify dogs and thereby owners who allow their dogs to foul but do not dispose of waste responsibly. Campaigners have been trying to develop proposals and engage local authorities to try a new system. In some areas this has gone one step further with at least two local authorities exploring DNA identification (BBC 2015). The premise is that only those owners who have supplied a sample of their dog's DNA will be allowed to walk that dog within specified areas. This control and

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<sup>52</sup> The Dogs Trust have never published the reasons behind this or why they suddenly reversed their policy position in order to support calls for mandatory identification for dogs.

ghettoisation of dog-permissible areas could be seen to be linked to other issues regarding permissible spaces for dogs and their owners, but for now has drawn little comment from the experts, who appeared to be giving the issue more thought.

The issue of straying dogs and irresponsible owners will always be of greater importance to certain respondents however its links to the misuse of dogs in society for harm or criminality isn't exactly tenuous but requires a particular insight. Rather than this being a root cause or explanation of the problem, it can be more accurately characterised as further evidence of a wider regard for dog ownership and the level of irresponsibility associated with that. One Task & Finish group evidence session dominated by this issue saw one smaller dog rescue NGO calling on the bigger rescue NGOs to take on stray dog contracts to help ease the problem (RSPCA 2016a, Annex Four: Verbal evidence transcripts, Hope Rescue) – which was a direct reference to the larger dog welfare organisations, such as the Dogs Trust and the RSPCA who rarely hold local authority stray dog contracts<sup>53</sup>. Apart from this area being one of the few responses to dog issues directly funded by central and local government (thus making charity involvement questionable), it denotes a disregard for the work of the big NGOs across England and Wales in tackling the other causes of dog problems, such as cruelty and neglect. The consequences of stray dogs to society have understandably become the *idée fixe* to many dealing with the fall-out, but as such they have a parochial, although equally valid, perspective on the entirety of the problem at hand.

### 8.3 The root: the Dangerous Dogs Act 1991

Most participants were keen to explore the background to the 1991 Act as the single biggest event to dog control that has had lasting consequences on the policy landscape still being grappled with today. In fact a significant number of the interviewees from across the NGOs, local authorities and police were in the same or similar (usually marginally more junior) role, and were working alongside each other then too. During these interviews, the interplay between these experts came starkly into view:

I think it [the 1991 Act] was too quick. It wasn't considered and I do think Government was influenced by a small number of the charities at that time,

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<sup>53</sup> Both organisations run activities designed to work with and assist local authorities with stray dogs – the Dogs Trust operate a neutering voucher scheme, for instance – but Hope Rescue take the dogs directly from pounds and would like to see others do the same.

predominately the RSPCA. And it is funny in a way because Gavin Grant<sup>54</sup> was one of the people that was driving it and then just at the point where it was about to become legislation, he opposed it. . . . . But then you had people like Mugford<sup>55</sup> who was going to be making thousands out of it, so he was all for it, making some ludicrous statements to the press (LGI).

The fact that many participants had direct personal experience of 1991 become clear at the start of each interview when I began by exploring their background and knowledge. Returning later in the interviews to the issue of their own involvement in the 1991 policy process elicited a more reserved response in many of those participants, which presented as a reticence to explore factors that could expose their own culpability. The BSL section of the DDA is, of course, now widely perceived to be very poor legislation, with quite extreme effects on dogs and owners. Even senior police officers, who are unlikely to criticise it (indeed they support certain aspects), are acutely aware of how controversial it is, and perhaps the lack of evidence underpinning it (to be discussed further). When pressed further most participants were able to discuss only relatively anonymised blame of the other parties involved, although as illustrated above, one or two were happy to be quite blunt. Either way, there was a significant degree of historical recrimination:

This is bad legislation, right? Obviously. Frankly who could argue otherwise. But as to who is going to say 'oh yes I did think it was a good idea at the time'? Well no. No I don't see that! I mean no-one wants to get stuck with the blame - have the campaign-y and rights-y groups focussing on them, do they (DNGOI).

Although of course John Major's UK Government of 1991 and Kenneth Baker MP in particular also came in for some criticism, there was a very interesting self-recognition that the stakeholders themselves had been ill-prepared with their arguments, complicit even at times, or at the very least naive. At least two participants did, in my own view and understanding of that time, reinvent their own roles to play down their influence. Others were more willing to accept some responsibility, for example one who said:

Of course we supported it given what we thought we knew about dogs and dog attacks. It was popular in most quarters but in our defence and in all honesty we didn't know as much about [dog] behaviour in 1991 as we did in 2014. Most people have adjusted as they've learnt more (RS3).

There was indeed far less dog behaviour scientific research, coupled with a strong

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<sup>54</sup> Gavin Grant was the chief political operative for the RSPCA in 1991 and later returned as Chief Executive between 2012 and 2014.

<sup>55</sup> Dr Roger Mugford, as referred to in Chapter Five - had worked with the Queen's huskies and advised Home Secretary Kenneth Baker MP during the passage of the 1991 Act. Dr Mugford subsequently reversed his position and campaigned against the DDA as well as testifies as a defence expert.

influence from the USA within policy making, to contend with twenty five years ago. The enactment of BSL ordinances at US municipal and state level had been escalating during this period and for those within the policy community at that time this had a certain significance:

It was never specifically said or minuted exactly. I just remember that we were all aware of what was happening elsewhere. We certainly didn't invent the idea. Well something had to have been influencing them [UK Govt], it's not that there was a big NGO campaign to bring in BSL and his [Baker] predecessor had ridiculed such an idea from the opposition just before that (DNGO3).

Similar thoughts were echoed on this point however it fails to take account of some of the very public statements the RSPCA had made at the time - to which Douglas Hogg MP, then with the Home Office, referred to just two years early in 1989 - which listed additional breed types the RSPCA was calling to ban (discussed in Chapter Five).

Although RSPCA participants in this study were candid about the RSPCA's role in 1991, many were either not in post then or they were not working in close proximity to this issue at the time. Thus, they genuinely appeared unable to discuss this area except in regard of what they had heard from others. One key expert who had been employed in a pivotal role within the RSPCA in 1991 returned to the Society for a period of time that coincided with my data collection. Although we were unable to organise a time for a recorded interview<sup>56</sup>, I nevertheless observed their participation in workplace meetings on this subject and recorded our one-to-one discussions, with his permission, in my field notes. During these sessions he was very forthcoming and eager to discuss, in particular, the introduction of the DDA. There were also interesting omissions though, such as the RSPCA's pro-BSL campaign position at that time, which called for an even longer list of banned breeds. No explanation was offered despite this position being corroborated by Members of Parliament during Parliamentary debates at the time (HC Deb 15 June 1989 vol 154 c1190) and also during this study by an ex-police officer participant employed during that period: 'The RSPCA were saying yes let's ban them but also let's have a registration scheme.... let's not kill them' (TS5).

I also recorded within various RSPCA accounts, a dismissal of any question of competition from other NGOs, believing most, if not all of them, to be irrelevant except for what use they posed to the RSPCA's own goals. This was further recounted by other participants

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<sup>56</sup> They left the RSPCA during my data collection period and became uncontactable immediately afterwards.

on the receiving end of this sentiment who detailed some of the squabbles and conflicts between the stakeholder groups. The Kennel Club is the official registration body for pedigree dogs and membership club for dog breeders, and thus not a dog welfare charity like the other participating NGOs. As a result it often finds itself on the outside or in conflict with some of the unifying dog welfare campaigns in recent times such as puppy breeding and tail docking. However, during interview they were eager to claim the higher moral ground, referring to their rapid adoption of a firm opposition to BSL. They also claimed an early insight into the effects of BSL:

There are many effects of breed specific laws but one we have warned against for as long as I can remember is that it can perpetuate dangerous perceptions, and thus breeds not on the banned list would appear safe. We don't want people to suddenly become fearful of all dogs but they have to understand any dog can be dangerous (DNGO4).

Whilst opposition to, or variances of, BSL were clearly being debated by the policy network at that time, there was little agreement between the main actors - a regular feature of policy making that Kingdon refers to as fragmentation. Participants were unable to offer at interview explanations for how the legislation had reached the statute books in such a climate of disagreement and discontent but there was some suggestion the agreement of the police, UK Ministers and the RSPCA at that time could have been sufficient. This is explored further as a component of the political stream in Chapter Nine.

This central role of elected officials and other government officials is recognised within MSA because the responsibility for the emergence of proposals or items for the policy agenda does not solely rest with pressure groups. This was noted by participants with direct experience of the policy field in 1991 who confirmed the significant role of the two civil servants and the Minister Kenneth Baker MP who fully participated in all the key policy debates. Conforming to the patterns described in MSA the interest groups active in 1991 did not structure the public agenda at that time. They did, however, appear to provide agreement - consenting to BSL - as well as propose their preferred alternatives and complementary amendments to the Government's original proposals. These took the form of additional breeds to be banned and the reintroduction of dog licensing, both of which failed.

## The role of evidence

The construction of risk posed by the introduction of the 1991 Act persists to this day, with successive governments (including the devolved nations) grappling with the measures within this legislation. In the years following its implementation though participants reported tensions running high:

It soon became obvious that everyone was becoming uncomfortable with exterminating dogs. It was raising emotions sky-high. God forbid anyone would have said it wasn't working. We had Pit Bulls coming out of our ears. I can't believe anyone wanted to be part of a kill squad (POL5).

There were a number of factors surrounding the implementation of the DDA which was causing concern for enforcers, welfare organisations and the courts (as discussed in Chapter Five). Participants recalled the debates during that period and the various solutions under discussion. Repeal was mooted but lacked support as most organisations and bodies continued to approve of the measures and indeed initially anecdotally believed it to be reducing aggressive dogs in society. Instead a growing recognition that something far less draconian must be done to allow responsible and otherwise innocent owners to retain their family pet contributed to proposals ultimately enshrined in the 1997 Amendment Act:

So, ok, we knew the situation could not continue. Whether it was working or not, the truly awful, heartbreaking stories of owners having to have their dogs killed. Sometimes these were just old, toothless Pit Bulls, no threat to anyone. So the Amendment had to come. So now dogs already alive could stay that way, but we still had fear-based policies and laws to tackle, did we not? (RS3).

However there was disagreement amongst policy experts as to why the 1997 amendment came about. Those in the enforcement sector understood there to be process issues overriding any desire by the Government to soften the effects of the legislation:

We all thought, at that time, this is just a way to get them [PBTs] back before the courts again. I don't think anyone actually thought, we're saying some Pit Bulls are ok, let's allow them to go on to the register. Sometimes that did happen and we knew the opening of the register would be good but actually the 4B process<sup>57</sup> was about taking a limbo dog back to the court for a decision (TS5).

When participants were asked what was happening on the ground as new legislative frameworks came into being, those in post from 1991, or for most of the period since,

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<sup>57</sup> As described in Chapter Three.

confirmed a strong and long-held belief that after an initial reduction lasting perhaps less than ten years (after the 1997 amendment), the numbers of Pit Bulls grew year on year. Asked to reason why that may be, and what impact that had on the solutions being discussed, participants confessed to possessing an incomplete picture of any wider social factors and trends and therefore a reluctance to speculate. Working only within the animal sector, there was an uneasy recognition that it provided little clue to other social dynamics at play:

It's hard to say though isn't it. I'm not sure what we could make of it. Other issues were going on, other crimes and problems - is this related? Probably. We're told dogs became weapons because knives and guns and other stuff was becoming too hot, the penalties too high. I'm not sure we've understood those issues and if we can even be expected to (LG4).

Participants appeared to propose that the dog control policy community was ill-equipped to understand the extent of the problem. There was a recognition other forces may be at work but that these extended beyond the expertise of the network:

People talk about other social fabric issues such as the breakdown of family networks, social deprivation, adapting to environments and new crimes - that all has to be connected, doesn't it? But I'm not sure we've proposed holistic solutions to all these massively complex issues when we're concerned with just a small part of it - dogs! (RS5).

Participants were more comfortable in recognising a more tangible and straightforward issue surrounding the DDA in that it misinforms the public on which dogs are dangerous, presenting new problems, requiring new solutions. As certain undesirable dogs became desirable to certain elements in society so breeding them became popular and profitable:

Suddenly there were all these cultural references, from celebs with Pit Bulls to celebs called Pit Bull. Meanwhile the media was doing the criminals' job for them by making everyone fearful of those dogs. We had to start talking about what could be done (RS4).

It is clear that for many within the policy community the dog control 'problem' developed from s1 of the DDA itself - the very measure designed to tackle dog control issues, and as a result, solutions had to be adapted and discussed in relation to this. The 1997 amendments were only part of that debate.

The issue of the policy path that led to the introduction of the 1991 Act has posed challenges at interview, including falling victim perhaps to over-rehearsal as I sought to revisit the issue for perceptions on the link to evidence. Those participants who were in post (or similar) in 1991 were often defensive or even vague about certain details. The

stock answers recognising the inadequacies of the legislation were difficult to navigate in order to access the raw accounts of the role for expertise and science in discussions on solutions. Nevertheless, even where it was a lengthy process, I was able to elicit further details, particularly once we had discussed mitigating factors such as the paucity of scientific research concerning human and dog interactions and behaviour available at that time:

Ok I don't think it's a revelation to say that no, there wasn't the evidence back then. Evidence didn't mean the same thing, we used our best judgement and that held some weight. We just didn't know what we know now (RS3).

This position was echoed by other participants who were keen to convey their firm belief that the general policy environment placed less of an onus on what we would now call evidence. Further than that, it was believed that the representations made by the welfare NGOs were thought to hold weight and in themselves were regarded as proof in reference to both problems and solutions:

We were respected for our views, we were the experts. It was different then of course. It's not that we won every argument, there were always other ideas that may be more attractive to MPs etc. That said, [in supporting the DDA and the amendment] we were responding to what was deemed to be a problem and a call for what could work rather than being responsible for championing it originally ourselves (RS3).

Participants were clear that any organisations, including animal welfare NGOs, were simply not required to substantiate their views and claims in the same way as they are today, which perhaps sat in contrast to the notion of post-truth politics and a decline in deference to expertise. There was also an understanding that the policy process can be easily influenced by other factors:

So let's be frank. We know every government will cherry pick what it needs and claim support from whoever spoke up on that particular point. We're not naive. I'm sure the Government heard what it wanted to hear in order to move ahead with the legislation (DNGO3).

Given the policy community members I interviewed could account for very little, if any, debate and discussion on breed specific measures, it may never be known exactly how the proposals made it into a Bill and then on to the statute books. The Minister at the time, Kenneth Baker MP and his opposition number Roy Hattersley MP, made it very clear they are unwilling to revisit the issue at interview with me, which did not surprise participants who acknowledged the continued controversial nature of the legislation and how exactly such a solution came to be proposed.

Policy transfer was a reoccurring theme in so much as those participants who were in post during 1991 were aware that legislation that sought to single out specific breeds had first been designed and introduced in the USA. Although participants may not have had an academic focus on policy transfer they echoed many of the key issues criticising the notion that the importation of a solution failed, specifically in this case, to take account of any UK-unique features within the problem itself. Participants had already stated that BSL was not born out of any debate within the policy networks, of England and Wales to their knowledge, and so they were unable to attribute the proposals to any policy actors in particular. There was an assumption that it was from within Government who it was believed were often influenced by developments in the USA. There were a small number of participants (employed in this arena more recently) who had believed the legislation to be a UK invention which when explored had an interesting effect on their notions on the trend for repeal, which all participants acknowledged was striking:

Mmmm so it came from the States? I'm not sure I knew that. I mean it makes sense and doesn't surprise me, I just think I've heard people claim it's ours, like it's something to be proud of. So hang on then, why would we accept the US had good reason to introduce it, but then decide they could not have good reason to repeal it? (LG3).

This pause or termination of policy transfer was discussed and explained as being potentially part of a bigger policy picture that has witnessed less mimicry of the USA and more homegrown solutions with an emphasis on UK evidence. This may be true given the UK Government has, rather than explore and embark on a path (even a long term plan) to repeal, instead sought to codify BSL by embedding it in new measures.

Although BSL was devised elsewhere, the UK Government was itself consulting unofficially on what breeds to ban here ahead of the 1991 statute and interestingly this would appear to alter the contention that the legislation was about banning fighting dogs:

In 1990, I was told that when the Government drew up the list for s1 dogs... originally they had five breeds on there and the fifth breed was Rottweilers and they didn't include them because the Rottweiler club of Great Britain boasts a 100,000 members and they just thought that's too many votes to lose. So that is why there is a clause in there that the Secretary of State can add dogs to the list without going to consultation or anything else (LG1).

This corroborates Lord Baker's own autobiographical account discussed in Chapter Five and is an interesting example of how the political influence of certain fractions can shape the details of policy solutions - exposing the fact that such solutions have nothing to do

with 'what works'. Indeed no evidence was put forward that Rottweilers (and potentially the other breeds under consideration) were used by dog fighters in the UK and indeed not all current banned sI types have been either. Participants were cognisant of the effects on the dog owning public by banning certain breeds, given particular breeds are often more popular with different affluent or non-affluent sections of society, and what influence this had, and may have continued to have, upon discussions surrounding solutions.

At the point of the introduction of the DDA, dog fighting had long been illegal in the UK, although it existed underground then, as it does today, and participants could offer no information as to why it was overtly linked, at the time, to the increased concern regarding dog attacks:

This was an issue of public safety which was linked to the increase in PBTs and worries around dog fighting cases, but there wasn't really anything telling us the dogs in the attacks on kids were the dogs in dog fighting - just that it might be the same breeds (RS1).

No interviewees suggested that the proposals were touted in 1991 as a means of addressing the dog fighting problem only that removing the same types of dog in society was necessary in order to protect the wider public. However the fact that dog fighters train their dogs to be dog-aggressive and not human-aggressive was largely ignored or misunderstood at this time, participants agreed. Some defence of this fallacy and what it meant to the solutions being proposed was nevertheless offered:

[I]t was reasonable to question why dog fighters were using specific dogs and why other undesirables were obtaining the same types of dog. It gave us good reason to, sort of.....point the finger at these dogs (POL2).

#### 8.4 Post 1991 - The perpetual policy soup

The following section deals with the policy soup that existed after the DDA had bedded in, but first it is worth noting that for many of the participants, the 1991 Act was their own focussing event as it created the problem their professional expertise was then called upon, or even invented and designed, to address. It should be seen as a watershed moment in dog control policy that created the now perpetual chaotic and messy 'white noise' (RS3) policy environment. As has been discussed it can take some time for a proposal to make it out of the debate within the policy community and into being. Since the issue of status and dangerous dogs escalated and came into prominent view - agreed by participants to have been around 2005/6 - the solutions that have been advocated by a

series of policy actors have been plentiful, with some moderate proposals even succeeding into action. Whilst participants acknowledged that repeal has also been discussed seemingly *ad infinitum*, it is in the knowledge that Government has no appetite.

Participants discussed the campaigns each of them took on or witnessed during this period and up to, and including, 2014, with a relatively unified position from the welfare, veterinary and local government sectors that a consolidation of all dog related legislation was needed along with the reinvention and updating of specific dog control notices, coupled with trained, skilled and well-resourced enforcement. Some of the animal welfare sector worked on legislation with that aim and this was embodied in Lord Redesdale's Private Members Bill which was attempted in 2008/9, 2010/11 and again in 2011/12 but has now permanently lapsed. Participants acknowledged that the vehicle of a Private Members Bill may have been a contributing mistake. Whilst in some instances these backbench bills are supported by government because their own legislative agenda is full, in the case of Lord Redesdale's Bill on dangerous dogs - which contained most of what the welfare sector were calling for - this was not the case:

Let's be frank there are good and bad bills and that one wasn't necessarily a good one. It had other issues, of course, not least of all who was involved with it, but they also didn't appreciate the need to discuss with the right people in Defra and the Home Office, they had ignored and frozen them [UK Govt] out (RS4).

Other very similar draft (but not tabled) Bills were constructed across various stakeholder coalitions around this period, all with the aim of repealing almost all existing dog control legislation (the abundance of which is illustrated in Chapter Three) due to its complex and confusing nature for both enforcers and dog owners. Consolidation was argued, in interviews, to have been proposed not just for its simplicity but also in recognition of the specialist nature of this area of social control particularly given dogs can be a clear danger to people and their welfare can also be an extremely emotive subject for many. The various guises of a new dog control bill were all designed to provide clearer advice and responsibilities and replace the emphasis on breed although not all proposed repealing s.l. Participants suggested this was in recognition of the political opposition to such a move and the need to engage the police as the senior policy actors within the network who would only come on board if that specific measure was off the table. There were, as was alluded to, other reasons for the Redesdale Bill's failure and thus the conflict and fragmentation factors of the policy network came sharply into view, once again. The NGOs were not able to agree, with the interested statutory bodies, on one draft Bill.

Several made it into the grasps of MPs and Peers, only to fail at the first hurdle in Westminster and it was clear that some interviewees believed that the Redesdale Bill had been the one opportunity to get it right:

We lost it. It's not that I blame anyone in particular, but we all knew the legislation wasn't working and we'd built up momentum for change, then we couldn't all agree on what should succeed it, or more importantly whose name was on it and getting the credit. We let it slip through our fingers (DNGO1).

The Government meanwhile was aware that whilst it could easily justify ignoring the so-called 'white noise' emanating from the disagreement amongst stakeholders, it could not ignore the call for change completely, given there was some unrest in statutory quarters. The police were working closely with the CWU and Guide Dogs on what were very high profile issues around attacks on communication workers and assistance dogs:

70,000 members, and dangerous dogs is their number one issue. I worked hard to get a lot of media attention for our members, the victims of these horrific attacks and we were extremely successful. Our campaign 'Bite Back' has been huge, with all the main players on board. We had 6,500 dog attacks on postman at the peak in 2007 and something had to be done. We collected all the evidence we could. I was the first to do that and those stats are now used by Defra, Home Office and everyone (DNGO6).

Indeed these focussing dog attack events were fundamental to the policy responses ultimately coming to the fore. The feasibility of amending certain measures around culpability on private land and penalties for injured or killed assistance dogs suddenly became entirely possible through the vehicle of the new Anti-social Behaviour, Crime and Policing Act of 2014. It would appear therefore that those representing the communication workers and assistance dogs sectors fulfilled the role, as Kingdon (1984) outlines, of 'policy entrepreneur', highly successfully. Through their campaigns, brokering of multi-agency partnerships and access to politicians they managed to exploit the right opportunity to introduce a solution that had already gained a values acceptance from the main experts:

This wasn't a difficult campaign to run, these are very emotive, very real issues affecting people who already have huge challenges. Frankly who could argue against the effects on a blind person from the horrors of their guide dog being attacked or for that matter argue against better protection for postmen? Both have a fundamental job to do and should be able to (DNGO5).

Thus the 2014 measures were then introduced, although the dog welfare NGOs were quick during interview to identify the missed opportunities. Interestingly as a direct consequence, in the views of other participants, within the policy community the divide

between stakeholders was now said to be at its widest. No participants could claim, that dogs, or indeed their owners, were less demonised as a result of these new (2014) measures or that despite all the coverage about increasing responsible dog ownership, there is little to reduce the attractiveness of certain breeds (those banned and those which look like banned types), to owners with unscrupulous intentions. This new fissure clearly had a significant destabilising effect, further fragmenting the welfare NGO sector and sinking the various other more large scale policy solutions back into the 'swamp'. Repeal of s1 of the DDA had never looked more unlikely and by using yet another statute - the Anti-social Behaviour and Crime Act 2014 to pass further measures, interviewees recounted how a consolidation Act also never looked further away. Some interviewees were adamant that the 2014 developments increased the punitive nature of dog control measures in England and Wales. They acknowledged the ability of a scaled and proportionate response within the various anti-social behaviour control notices under the 2014 Act, however the potential for such an emphasis is seriously hampered by the lack of resources for enforcement, citing not just the lack of local authority and police officers in general, but also specifically those with sufficient training, knowledge and expertise as to execute such duties without having a further detrimental effect on the dogs in question:

My concern for the wider implications, London-wide or nationwide, is that you're going to have people that don't know or understand dogs that are maybe issuing these notices. I mean I can judge fairly well what is reasonable behaviour from a dog and an owner; and what is reasonable and what is anti-social. For some people that judgement might not be there.....For some boroughs who don't have dog people, they are going need some form of training on implementing it [2014 Act] (LG1).

The police were engaged in this research at both a senior policy level (NPCC) and a local policing level (usually DLOs and their command, within individual forces). The latter only revealed vague clues as to their own personal view and rarely strayed from the official police line. Within my RSPCA role, where I act as lead on policing at a policy (not operational) level, I am however in close contact with a number of DLOs across the country, during regular meetings with which I have kept detailed field notes. Many of these serving and ex-police officers expressed deep concerns about the consequences for dogs and their owners from the legislation, and the requirements - often expressed as a personal burden with deep psychological effects - that it places upon them to act. That said, as has been alluded to before, serving police officers also live in constant fear that a s1 dog they have allowed to return to its family home, goes on to harm an individual. There is little individual police officers can do differently when the legislation establishes

what is contained within s1 as a simple straight offence. There are no areas for interpretation (other than later, after the assessment of both dog and owner on whether the dog can return home). The legislation itself was recounted, during interview, to be at the root of the construction of their fears:

So the law, yeah, it determines what is a dangerous dog. Yes of course there should be s3 to remind everyone of the danger from any dog, but s1 says from birth this other dog over here is also dangerous for no reason other than the way it looks. I just have to get along with that, no questions (POL5).

There was little to suggest that this is spoken about within the policy networks. Only certain officers participate in any national or regional policy debates and so opportunities to discuss solutions, in forums that contain both ground level police and other stakeholders is limited. There is a police Dangerous Dog working group chaired by the lead NPCC officer, but until very recently not all forces have been represented and of course within police structures, individual forces are autonomous, thus officers are responsible only to their own command. Officially the police are not policy making but as all participants agreed, they are the main, and sometimes only, stakeholder to which the UK Government listens:

Let's be really clear, sometimes they [Government] listen to this group or that, particularly if it's a copper, but ultimately the Government will do what will get it the most votes. It's not necessarily what is right for dog owners, whether they [the public] understand that when they vote or not (LGI).

As was reiterated at interview with senior police officers, whilst there are circumstances surrounding the misuse of dogs, with incidents of serious attacks involving s1 dogs, the legislation, in their strong view, should be retained. Other interviewees were also acutely aware of this position:

Of course we know what the issues are, but what we need though, is a plan. We know the police fear not having the right tools to tackle the scumbags, and the Government fear the first attack after repeal, but that alone is not justification for s1 - for keeping it (LGI).

Repeated references to best practice in partnership working were made by those statutory bodies and NGOs involved in their creation and execution. This included Service Level Agreements and Memorandums of Understanding with major stakeholders such as the Police, Guide Dogs and CWU, and clearly these were a factor in establishing agreement within a powerful sector of the policy network. According to the MSA model of policy making this would have been one key factor in ensuring success. There was also discussion with senior police officers on the potential for removing opposition to repeal

by reducing dog bites/attacks through intervention and prevention programmes. These were a mix of disposal orders for those caught offending with their dogs, to early intervention programmes which identifies groups of people potentially vulnerable to factors which could lead to them offending with their dogs in future. In 2010 I had visited one such trial programme within a Youth Offending Team in an inner city area for the research project *Status Dogs, young people and criminalisation: towards a preventative strategy* (Hughes, Maher & Lawson 2011) in order to interview a young person caught for the theft of mobile phones by using his dog to threaten the victim. This young person, as part of his sentence, was being taught about animal welfare and in particular the DDA. I used this example in the interview discussion to elicit more information on what place such programmes took in the debate on solutions. It was clear that many participants had no direct experience of such programmes and instead confessed to succumbing to an element of conventional wisdom as to the efficacy of such measures in tackling dangerous dog issues. In reality these were admissions that such ideas were proposed for mere populist reasons however fundamentally when pressed for a more elaborate answer, participants didn't see how they alone could work or even begin to work without first a repeal of s1 and/or a consolidation dog control Act. Police participants were pragmatic about the contribution of such intervention schemes:

Many programmes have been bandied about like they're a panacea, whereas in fact they are long after the horse has bolted. Aren't they? That said only once such schemes, or something else, for sure, has been proven to be effective could there be a reasonable opportunity to discuss alternatives to s1..... And as you know our position is that any premature repeal would pose an increased danger to public safety (POLI).

### Substitute harms and proposals for change

Participants all agreed that the DDA effectively criminalises erstwhile innocent dog owners but admitted this aspect is rarely discussed in the debate on proposals for change. Setting aside those that may have intentionally sought out a banned type of dog, most progressing through the exemption scheme permitted by the 1997 and 2015 amendments have innocently acquired the dog, perhaps as a puppy when it can't even be identified as a s1 dog (that is the case until approximately 9 months of age). Despite caring for that animal, socialising it and raising it responsibly and through no fault of their own, should they want to keep it, they will find themselves on the wrong side of the law. The risks to themselves and to the dog are higher should they wish to contest the police

identification of the dog as a s1<sup>58</sup>. There are numerous accounts of such difficult situations for dog owners and these provide an insight into their extreme mental anguish. Some participants (DNGO2) wanted to discuss these case studies again in detail, but admitted the practice of doing so as part of the proposals for repeal, was not for some reason effecting change.

Some dogs are seized in police raids on the home which in itself can be terrifying. Although the methods employed before 2014/15 were deemed more brutal - dogs have been taken to an unknown location to be kept until the court case which in several instances has taken over two years. There is an accumulative effect from this on the dogs and owners from the circumstances of the seizure to the time in kennels, which can cause separation anxiety for both, and behavioural issues for the dogs concerned due to limited exercise, boredom, frustration and infrequent human contact. Solutions to this particular aspect were discussed at interview where some expressed cynicism that the proposals and subsequent changes primarily came about due to concerns about welfare. Instead it was argued that practical and resources issues were a more likely overriding motivation:

The Government and the Police definitely know what the concerns are, but let's be honest they heard some of the arguments of the distress to dogs and owners, but there was a huge motivation to do something to bring down their huge kennelling costs too, which course we totally get. For them this would be a more immediate problem (LG2).

This was an interesting example of solutions to problems - in this case long term kennelling - being debated, but where the motivations for the agreed change significantly differ across the policy network. Nevertheless a certain amount of change was achieved with the introduction of 'doggy bail' (the IES). And as fractured as the policy community was at this point in 2014 on repealing s1 and what solutions were necessary to tackle dog control in society, there was agreement that an Interim Exemption Scheme was required. The scheme - for behaviourally-sound dogs, and owners deemed fit and proper - enables police officers to manage the various risks involved and leave the dog with the owners during the pre-exemption period. The earlier concerns regarding processes under s1 was argued by interviewees in the enforcement sector to have been very effectively addressed. Dogs in kennels for long periods is now happening in far fewer situations although there were no official statistics available at this time:

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<sup>58</sup> As discussed in Chapter Three the legal emphasis is on the owner to prove the dog is not a s1, rather than the police having to prove that it is.

Things have changed a lot and we have a lot more flexibility. This was a good outcome, which we all agreed with. We work hard now to keep the dogs with their owners and we'll do a paper seizure, so the dog may then only with us few days to just a few hours where possible (POL4).

These and other more recent developments in regulations governing dangerous dogs brought in through the 2014 Act and 2015 Statutory Instrument were argued by the welfare participants to have created new harms or certainly the potential for them (given these measures were new at the time of data collection), which has brought an interesting dimension to the solutions being touted. It was the contention of the welfare NGOs and other participants that dogs can now be more easily banned from certain public spaces. This risks ghettoising areas for dog owners and distancing dog owners from non-dog owners; limiting their interactions and increasing the risk of friction between the two. The prevention versus retribution balance of the new measures was deemed by many in the welfare groups to lean too heavily towards the latter particularly in light of the risks to the general population from dogs being very low. And in relation to other changes introduced at the same time, there was a great deal of concern in relation to offences now extending to cover private property. The potential efficacy of these developments was met with scepticism:

I just don't know. I don't see it. It doesn't look to tackle those factors that create status dog owners, it sweeps up all dog owners. How exactly is a dog supposed to know a legitimate visitor versus a burglar, especially when most people can't even train their dog to fetch or not pull on the lead? (RS4).

Most importantly the welfare sector participants indicated these changes emerged from the policy community led by just a few more prominent voices, to the detriment of others particularly those concerned with the wellbeing of dogs. There was a contention that the Government's complete refusal to entertain discussions on repeal had opened up opportunities for those who were willing to ignore that significant fact and propose effective solutions (unrelated to repeal) designed to tackle other aspects of where the policy community agreed there were problems. Therefore those particular policy advocates gained an audience that those seeking repeal were effectively excluded from.

It was conceded that these new, successful measures had been attractive as they may offer legal and financial redress to post office workers and other house-visiting professions, but concern was expressed at any effective preventative element unless perhaps more people kept their dog confined or locked up on their property - the effects of which will be

detrimental to a dog's welfare. A dog in such an attack would most likely face destruction, depending on the severity, and thus the potential for any further attack is removed. But of course, as the opponents to these measures pointed out, there are other methods for preventing attacks in the first place for which the dog does not pay with its life. In relation to this also, there was a general understanding that status dog owners might be disproportionately represented amongst those situations where the dog is destroyed, given their potential lack of detailed knowledge of legislation and dog training, and also perhaps because they may have limited facilities to segregate their dog from visitors.

Legislation was not recounted as the only cause of substitute harms through the creation of new problems, however. There was a general fear from participants that some of the dog related intervention and prevention programmes could well be contributing to the problem, given the lack of regulation for the training and behaviour industry. Not all delivery partners subscribe to the same schools of thought on dog behaviour<sup>59</sup>. Innocent dog owners looking for help with anything from puppy training to how to tackle worrying behaviours could end up with unscrupulous and unqualified self-defined experts, with the potential to cause their dog, and by extension themselves, harm. Many of the participants recounted how proposals for regulating the training sector had been discussed for years without effect. It was acknowledged that an industry body - the Animal Behaviour and Training Council (ABTC) - had been set up in response to criticism of the training sector, however a self-regulating body with a voluntary membership was thought to be limited in its ability to ensure consistently high standards. Reputable welfare NGOs felt immune from many of these issues within their own programmes but they recognised the risk of exposure to poor training practices within small NGOs who lacked access to the latest welfare science. The risk could extend beyond those organisations on the outer fringes however and include those in enforcement also:

Let's just remember that just because a police officer is a highly trained dog handler also doesn't necessarily mean he knows enough about dog behaviours as to be advising status dog owners out on the street or within their projects. In my experience some police officers have given 100% the wrong advice (TS4).

This appeared to be another clear area where concerns were widely shared across the policy community however as yet either the solutions around regulating the dog training

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<sup>59</sup> Even within TV programmes on the subject there is a huge difference between those advocating positive reward and reinforcement, such as Victoria Stilwell, and those who believe in a pack structure and dominance, such as Cesar Millan. The latter was strongly criticised by interviewees who expressed disbelief that he, and those within his school of thought, continue to gain a substantial profile and airtime.

sector have either yet to be adequately developed and articulated, or Government is not yet convinced of the scale of the problem and the efficacy of any proposed solutions.

It appeared to many participants that some responses to the problem, such as the 2014 measures had contributed to the anthropomorphisation of dogs in society. The expectation that dogs make decisions on who to attack - the visitor or the burglar - was claimed to be, if not in the minds of the policy framers, in the minds of some of the dog-owning public:

Dogs are far more understanding and tolerant of us than we are of them and in response society treats them as if they reason in the same way we do. Not understanding dogs, their genetics, their traits, their behaviours is setting ourselves up to fail (TS4).

This is a notion that relates to the blame being consistently situated squarely on the dog in the case of any dog attack. The media is quick to blame the dog and rarely the actions of the owner or the victim who mis-read or ignored the warning signs. General knowledge in society of how to interact with dogs safely was deemed to be woefully inadequate:

This is wrong really, isn't it, with dogs paying the price often with its life. The owner however, is rarely held to account and is ultimately able to get another dog and subject it to the same conditions that may have led to its predecessor attacking (DNGO4).

These are issues under debate by those within the policy community but the accompanying solutions have not yet emerged with any form of coherency other than a over generalised point on the need to address how society educates itself about the status of animals in general.

The path that legislation has taken over 25 years may yet prove to serve only to damage the human-dog bond and it was clear most participants felt it has done nothing to enhance it. The improvements in 2014 are reported to be offset by the disappointment of the missed opportunities to consolidate the law and repeal s1 of the DDA. By retaining and solidifying BSL within the law of England and Wales, the UK Government and the key policy actors who support it, chose to ignore the direct contribution this legislation makes to the status dog phenomenon and the substitute harms to dogs, owners and the general public. The solutions it was held up to deliver may yet prove to produce even more complexity to the dog problem.

When analysing the more recent changes in policy, for instance in relation to the 2014 measures, participants acknowledged a positive development in the relationship between national and local governments. This was welcomed given it followed a difficult period when the Welsh Government was forced to withdraw its own Dog Control Bill under pressure from the Home Office. Participants praised the Welsh Government draft Bill launched at the end of 2012, which contained many of the measures previously touted, such as dog control notices, intervention courses, and training for enforcers. This praise - from local authorities, animal welfare charities and workers' unions participants - was despite the Bill containing no repeal of s1 of the DDA, which can be explained in part because these powers fall outside the Welsh Government's purview. The Police however were mainly either unaffected (due to being within a force in England) or felt insufficiently consulted before the Act in Wales was withdrawn. They had, however, been given direct input into the ASBCP Act, in one form or another throughout the development process and, as a result of having their evidence listened to, reported a greater affinity with its aims. But when I asked other enforcers, the local authorities, if this Act had incorporated the direction they needed - in effect whether it was future-proofed and whether it provided all the necessary materials to solve their current problems, there was an unequivocal response:

No! It is another tool that is going to help us now but it is a bit like the 1991 Act, everyone said 1991 was going to be the saviour and then by 1995 that actually was useless. We've spent 10 years lobbying for these changes and presenting our evidence to the powers that be and it has taken so long that the problem is changing and what we've got is outdated slightly..... It's a fault of the system, we need to make a change on the evidence and you've got to gather the evidence over time, but by the time you've got the evidence to change the law, the problem has moved (LGI).

### The role of evidence

The existence, nature and regard for any underlying evidence of the phenomenon of status and dangerous dogs is intrinsic, of course, to the perception and construction of the 'problem' as outlined in the previous chapter. Through legislation and intervention, policy makers have outlined fighting dogs; dangerous dogs; and out-of-control dogs as a public safety issue and therefore the problem at hand. However, animal welfare organisations, other stakeholders from the periphery, observe the problem, not in isolation from public safety and dog bites - not least of all due to the consequences to an individual dog (and its breed/type) - but as a symptom of the primary issue, that of irresponsible dog

ownership. This difference and conflict in emphasis between the two positions was observed by participants to be linked to the evidence, or evidence vacuum, depending on the stance taken. These positions and perceptions of the problem affect the ability of the policy community to come together to agree, in some form or other, the necessary solutions.

Attempts to link dog fighting to dangerous and status dog issues, as well as BSL, have persisted throughout the last few decades but intensified, participants felt, since the development of a phenomenon in 2005/6. In addition to a retrospective application of the evidence of today, to the 'dog problem' of 1991, there are a small number of practitioners and researchers who argue the evidence of a link exists. The practitioners - who have sought to uphold current examples as justification for the legislative measures originating in 1991 - can mostly, but not exclusively, be seen amongst the police. Other participants, even those from diametrically opposed views understood this position amongst enforcers:

I get it. I think we don't have to be critical to recognise that few police officers would prefer to relinquish powers they have and have used. If I was them, if there was nothing to replace it particularly, I would want to keep a full toolbox to deal with all eventualities (DNGO5).

Alternative controls, which could see the legalisation of Pit Bull ownership, deeply concern police officers of all ranks, as they are charged with public safety and thus can ultimately live better instead with the consequences of the current measures:

Yes, it's brutal but true, I'd rather be hated for a dog being put down humanely than a child ripped to pieces by a dog the law - rightly or wrongly - says I should take off the streets. And that's the way most of us think you know. We don't want the dogs to be put down but that's a far more pleasant death than someone mauled and eaten. I couldn't live with that (POL3).

This was used in interviews by way of explanation for the reluctance by police officers to discuss repeal and therefore participate in those specific debates. It was also an indication of the security of position the police experience within the policy process as they recounted no fear of repeal while they remain opposed to it.

Others concerned with epidemiology at a veterinary level also had a more positive regard for the simple elegance of removing certain breeds that dog fighters (of any level) are attracted to. The idea being that any danger that exists, however remote is also removed - which in itself was acknowledged as an argument for actually adding to the banned breed/type list, to include a significant proportion of the dog population particularly any large,

powerful dogs. This section of participants also referenced the work of Harding, whose arguments, they believed, support increased removal or control of certain types of dog. Although there was also some recognition that there were media and market-based motivations for some of Harding's more dramatic statements on the scale of the problem and the severity within the particular case studies he highlights. Whilst Harding may be considered by some as a policy entrepreneur; in fact the majority of participants rejected this notion on the basis that he is not, in their view, working in close proximity to them or on the frontline, and because he originally pursued research on this subject matter through only the prism of gang culture which does not represent the wider societal issues surrounding dogs.

As discussed in Chapter Four, criminological researchers Harding and Nurse, and by extension the League Against Cruel Sports who commissioned their 2015 report, have argued that status dog issues are in fact dog fighting issues. Participants discussed that this may be attributable to the particular interpretation of dog fighting (from the USA) used, given that no universally agreed typology has been adopted in the UK. However this contention by Harding and Nurse was not supported by the experiences of the participants and further than that, concern was expressed (also see the previous chapter for categorisations of the problem) that there is no evidence to support such a claim. Several participants were concerned that these assertions could have serious consequences for policy making within this field:

This worries me, you know. It fails to understand the context. By not challenging, by just saying it [the PBT] was prohibited in 1991 because 'it's a fighting dog and because it's inherently aggressive' that then perpetuates the myths we're working very hard to get rid of and then you get Staffies dragged in as well (RS2).

Several participants delved deeper into this issue, expressing significant concerns about how such published work is not assisting the policy debates, partially because it is a distraction from the real discussions on solutions and partly because it may perpetuate some of the poor perceptions of dogs and their behaviours, and their owners similarly:

Let's think about this for a moment because its got some, it's quite dangerous this. If the papers and the people reading them become convinced that any young person with a staffie is involved with dog fighting, then we've got a much bigger problem. It's far from helpful (DNGO4).

One or two within the welfare sector speculated that if such opinions gain a foothold, potentially the UK Government may become even less inclined to address the status

afforded to dogs who look a particular way through BSL. The solutions Harding and Nurse proposed - such as the need for a separate offence for dog fighting<sup>60</sup> - gained no traction with the majority of participants not least of all for the absence of what dog control issue this would address. Such a move was not reported to have been discussed within the policy networks at any point and as such this would illustrate its remoteness from the process itself.

Further evidence of this was illustrated by Harding's presentation, which I observed, to the Policy UK event, *Dealing with Dangerous Dogs and Associated Behaviour* on 3rd May 2017 which was in stark contrast to the presentations of practitioners from the welfare sector and the police in that it focussed on the few very extreme cases of child deaths and attacks or where criminals have trained dogs to guard their activities and attack the police. Harding's academic focus (originally as a gang researcher which developed into gangs with dogs), has brought widespread attention, ensuring a place within public criminology this subject matter had erstwhile escaped, which in itself participants welcomed. However entering the marketplace for research in the media spotlight can increase the vulnerability of research to being led only by what will secure headlines and certainly Harding was the only conference presenter to be witnessed being interviewed by a TV camera crew during this event. This was despite the fact his empirical research was now eight years old and in conflict with the findings of the rest of the panel of experts presenting more recent studies and direct workplace and frontline experiences. Presentations immediately before Harding, for instance from a London borough local authority dog warden (also interviewed for this research), had warned of the pitfalls of linking irresponsible dog ownership and so-called status dog issues with young people<sup>61</sup>:

We thought it was the youngsters didn't we? We all said it, not all that long ago really, but we know something different now, don't we. I'm here to tell you we were wrong back in 2009, it's actually over 25s or even older. It's people my age, it's the older generations not picking up their dog mess! (LGI).

Likewise the dangers of mis-labelling were also discussed at the event and within many of the interviews, in one such interview the participant ridiculed his previously held views:

You don't need me to tell you, what plenty of people were saying, what they thought they were seeing. We were calling it as we saw it, hoodies with their backsides hanging out and dogs on a chain stripping bark from trees, as dog fighting (LGI).

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<sup>60</sup> As opposed to the general offence of animal fighting within s8 of the Animal Welfare Act 2006.

<sup>61</sup> Specifically 11-25 year olds were cited.

However, extensive work in that particular borough had developed good communication lines with those particular young people and established with almost certainty the bark stripping was a misunderstanding by them of dog behaviours, easily corrected with education and the provision of dog training materials and a dedicated park with proper equipment:

Most importantly we found out for the vast majority of these scenarios it is definitely not dog fighting and it is dangerous to say so. I wish it was easy to get this message out, but it's just not as much of a headline is it, when we solve a problem that didn't really exist! (LGI).

The design of the 1991 legislation and even subsequent amendments have fundamentally enshrined the intention to remove four types of dog from Britain's shores, and thus in itself is evidence that the Government believed and still believes such a move (although universally accepted by participants as impossible) would solve the 'problem'. The content of my interviews repeatedly returned to this point as participants often confessed to bafflement that the failure of the legislation - given it is universally accepted there remains a proliferation of PBTs - has failed and yet remains on the statute books. Participants within the welfare sector were unequivocal that apart from the obvious futility and failure to eradicate the PBT the evidence for it working as a control measure, is absent:

The DDA doesn't work in its current form, well s! I mean. It has not been proven or demonstrated, in 25 intervening years, with empirical evidence, that those types of dog should be removed from society and that the public will be safer for doing so (RS2).

A majority of interviewees were again unable to explain, and indeed expressed considerable frustration, as to why repeal and the arguments for it, continue to be ignored at Westminster. It was clear they believed expertise and evidence is being ignored partially in deference to the police as the the more revered stakeholder, and partly due to political factors, which are explored in the next chapter.

Other legislative developments, contained within the Anti-social Behaviour, Crime and Policing Act, as well as elsewhere in secondary legislation, have sought to adopt at least some of the proposals the stakeholders have long been lobbying for. The practitioner's guidance *Dealing with Irresponsible Dog Ownership* issued by Government (Defra, UK Government and Welsh Government 2014) was acknowledged by most of the statutory sector participants as being as a result of the evidence base put forward by the extended policy community. That said not all local authorities are using the new measures placed at

their disposal - by way of a sample, at the aforementioned Policy UK event (3 May 2017) only a quarter of the 25+ councils in attendance had implemented and utilised the powers and guidance in the three years since they had been made available. This is perhaps surprising given it can reasonably be assumed that their attendance at this costly conference indicated a keen interest in dog issues within their borough.

The DDA was intended to reduce dog bites and attacks. Although it was assumed this would mostly happen through the eradication of the PBT, there was clearly, participants agreed, some recognition by legislation-framers that all breeds could be dangerous; because that principle exists within s3, which allows for action to be taken against owners of any dog, of any type/breed, found to be dangerously out of control. Concern was expressed however that this is often the extent to which the Government is prepared to recognise the role of evidence for non-breed related aggression. As an emerging scientific field 20+ years ago, this was perhaps understandable, however it is now a relatively well-populated area that is attracting an increasing number of researchers, indicative perhaps of a wider academic interest in the human-dog bond. Hope was universally expressed that society would become more informed and policy proposals would begin to reflect that.

The Government's interest in evidence of the role of breeds in dog attacks, and the contribution this can make in discussions regarding solutions, has in fact been extremely high at one time. A large number of participants were aware of the Defra-funded Liverpool Veterinary School systematic literature review which had found no studies to support a relationship between breed and aggression (discussed in Chapter Five). Disappointment was expressed, however, that the study was then effectively ignored and conspicuously absent from subsequent debates, as though Defra had changed its view as to what discussions on proposals it wished to be a part of. The policy soup was determined to be less enriched as a result in terms of the breadth of debate and indeed there was frustration amongst those who had hoped its contribution would have been more meaningful:

It should have got much more of a public profile than it did, but it was perhaps that it was funded by Defra and obviously there's the issue with the Dangerous Dogs Act...and from that there's a lack of evidence to help us move forward with legislation and even educational measures. This puts the RSPCA in a tricky position, but from my point of view [in the absence of this] it wouldn't mean I wouldn't be able to write policy, what I would then draw upon is the expertise of the people that work in the field and what is generally commonly established and accepted (RS2).

Much of the data cited as evidence throughout the field of commentary are vulnerable to criticisms regarding its validity and applicability but it would be reasonable to assume that Defra would observe the merits of its own commissioned research. Given it was funded by the public purse, participants also felt it was reasonable to expect that if Defra had any misgivings about its own research these should be made public. No such critique or retraction have ever been lodged and as such the conclusions of the Liverpool University review should be viewed in themselves as robust. The relationship therefore between evidence and response; that is breed-related aggression and breed-specific legislation, should be at its strongest in this area and yet it couldn't be more at odds:

But I don't really think they [Defra] took anything from it. I only say that because in my experience of Defra-funded research they generally don't seem to implement what the findings are. What we were hoping was that that would give some evidence to repeal breed specific legislation but there just seems to be absolutely no appetite to do that (RS2).

There would appear to be questions therefore regarding the true status of the epistemic community (Haas 1992) and the notice taken of its superior technical knowledge within the dog control policy process. Contrary to Haas's notion, the scientific and veterinary expertise inherent to determining risk in the dangerous dog issues does not appear to have been the 'transmission belt' of knowledge, and instead may have been dismissed in favour of practitioners such as the police. During interviews we discussed this aspect and the ranking, in importance, of evidence. In a risk-averse society, it was agreed, albeit begrudgingly by some participants, that the conventional and practitioner's wisdom of key stakeholders such as the police, who are after all charged with protecting public safety, must be taking precedence over scientific evidence. Further to this if the evidence of substitute social harms or additional harms, caused by the existing regime, is less influential - perhaps due to the sector from which it emanates - this will have far less influence upon the Government. Recognition was given that the Government has acted where influence has been put to bear in recent times, but these are also instances where there has also been the backing of the police such as the changes brought in 2014 and 2015. This was illustrated clearly by one participant present during those particular policy proposals:

Aye, when everyone is singing from the same hymn sheet, they [UK Government] will act, but for many repeal is a deal breaker. That divides people up because the police won't then come to the table. If they aren't there, you've got nothing (DNGO1).

Some participants discussed the potential for the regard for scientific evidence to change

in the near future due to an increase in attention from those working to protect child safety. As children are a recognised sector of society more at risk of death or injuries with long term consequences from dogs, child protection advocates from within social and health services have sought to establish risk factors and prevention models. Although hospital data have been used across all disciplines to track dog attacks and bites, it is universally recognised to have significant flaws (as discussed in Chapter Four). A more qualitative approach is being adopted by the human welfare sector to assist with determining risk factors. The forensic behaviourists interviewed were particularly enthusiastic about this focus:

We know breed isn't a factor, but we need to know what is, what happens in that home right before that attack and in the weeks and months leading up to it. Destroying the dog, as is normally the way, before we have had chance to study its behaviours and its interactions with humans, is effectively destroying the evidence. If we can persuade more forces to work with us perhaps we can begin to understand what led to the attack (TS4).

Animal welfare specialists confirmed the same view and the need to understand the influences on where the dog attacks; the size of the victim; the actions of the victim, the severity of the attack, and the animal welfare standards the animal has experienced, in order to shape proposals for change:

Sadly there still is not sufficient research for us to really understand what it is about those particular fatalities and what led those particular dogs to behave in that way. That is something that is lacking and because of that it is difficult to put true defensive measures in place. And what we do is end up looking at more risk factor based research to try to get an indication of what has correlated with attacks, because we don't have anything concrete on cause and effect (RS2).

Of course it was understood by participants that where children have died as a result of a dog attack in the home, there will undoubtedly be other priorities for the authorities, however the reluctance by the press and most commentators to discuss the contributing factors of human behaviours (including the rearing of the dog) that could have contributed to whatever led the dog to attack, further obscure the real opportunities for lessons learned. There was a sense of hope, in our discussions, that this area of emerging evidence could contribute positively to enabling a policy development to emerge from the soup with the necessary support from stakeholders. For now though frustration was rife that evidence is often being prevented from being collected in the first place, which would not happen, several interviewees commented, in other criminal cases. It should be noted that it isn't always the case however and we did discuss the Coroner's unusual steps following the death of Jade Anderson in 2013 (as discussed in Chapter Five). Indeed this

very tragic 'focussing event' produced the moniker 'Jade's law' for the 2014 amendments to the Dangerous Dogs Act which extended cover to private places, because the owner of the dogs in Jade's case could not be prosecuted for dangerous dog offences. Participants were keen to point out however that she was successfully prosecuted for animal cruelty - which has significant connotations for the causes of dog attacks. Several interviewees argued that whilst they did not wish to appear in any way unsympathetic regarding Jade's death - this prosecution was very significant. This was because it sharply brought into focus the potential for links between animal cruelty and the causes for some dog attacks usually, and frustratingly, disregarded by the media and onlookers. Jade's tragic and preventable death was met with widespread anger and public attention - those within the policy community that I interviewed hoped it would facilitate a significant shift towards the real factors contributing to the dog control problem.

## 8.5 Summary

This chapter has sought to address the second key objective of this thesis namely to examine the various policy 'solutions' that emerged in relation to the dangerous and status dog problems. As such it has summarised and explored the main policy interventions that have been discussed, debated and produced within the policy networks of England and Wales. Reflecting the emphasis from participants and throughout my data on the more obscure constructs of the dog problem around breeding, trading and identification, the majority of discussions on solutions has focussed upon the Dangerous Dogs Act 1991. This included the issues the DDA purported to tackle during its development and the role of the policy actors in those debates before progressing to the discussions surrounding the evidence for those solutions which would now appear to be in doubt, although there is an acknowledgment that far less was understood about dog behaviour and aggression some 25+ years ago. Nevertheless successive governments have remain wedded to their position, seemingly unmoved to activate change beyond the main amendments in 1997. The policy soup since that time has developed further, not least of due to the influence of a perceived phenomenon of status dogs, often confused with dangerous dog issues either through lack of knowledge or with purpose. This has been directly linked to the issue of substitute harms, which in itself required the policy community to adapt and discuss new proposals, some of which were successful, possibly because they fell short of requiring the repeal of s1 of the DDA. The role of evidence was

once again considered as the nature of society's understanding of dog attacks has deepened. To what extent this is appreciated in the development of new dog control proposals may not, at this time, give cause for too much hope however.

# Chapter Nine

## The Political Stream: Influencing forces

### 9.1 Introduction

The third component of Kingdon's Multiple Streams Analysis (MSA) requires an assessment of the political arena in terms of its connection to the phenomenon of dangerous and status dogs. The chapter is divided into four distinct sections with the first three reflecting the main elements that Kingdon highlighted as key features within the MSA's Political Stream. The first of these will discuss a particularly abstruse object of study: the 'national mood', through trends in the media, public consultations, polling and party political dimensions. The second element of 'organised political forces' is examined through a more in depth review of the policy network including its fragmentation and competing forces. Themes conveying the political dimensions of the various stakeholders relationships have already been explored but I return to these issues in order to contextualise what influence their interplay, competition and level of mutual respect has had upon policy makers and the political sphere. The third element incorporates the various 'governmental' changes from powerful individuals in the cabinet to general elections. Administration changes have been numerous during the time period most acutely under examination and indeed the additional element of devolution upon dog control policy, has also provided an interesting backdrop. A final section considers Kingdon's notion of 'coupling' and 'policy windows' and what evidence there is for these within the development of dog control policy in England and Wales.

Given the themes are organised to reflect the key elements of MSA, this chapter does not necessarily reflect a precise temporal structure. It is clear that many participants during interview responded with a continuum in mind as many of the features, such as the competition between NGOs, have remained relatively static in terms of their influence (the nature of the conflict will of course change). Political changes such as elections, devolution and new political parties in government do, however, anchor particular aspects of the data in time, nevertheless I have attempted to ensure clarity regarding the relevant time periods throughout when presenting these findings.

## 9.2 The Canine Zeitgeist: the National Mood

Beyond the considerations afforded to the views and opinions of the policy community, as discussed in the previous chapter, politicians also gauge the wider national mood. Prominent politicians from the UK Government and the opposition benches with responsibility for dog policy - those both in post in 1991 and at the time of my data collection period - were not willing to be interviewed for this case study. As such, it is only possible to explore the possible influences of national opinion on their actions from public records at the relevant significant moments in time, as discussed in Chapter Five, and from the personal and organisational experiences of the elite interviewees participating in this research. Politicians read shifts in the national mood from a variety of conduits, not limited to public correspondence, polling, the press, social media and mid-term or local elections, many of which emerged as themes explored below.

During interview the various polls that have been commissioned and publicised over the years (such as those discussed in Chapter Five) were discussed in some detail. Their influence upon politicians and wider society was recognised to be quite substantial although as a method of gauging opinions, most participants were keen to emphasise the inherent flaws. The types of questions used, often leading or certainly lacking in important detail, were the most prominent issues but also sampling and timing - such as following a recent particularly gruesome attack - were also referenced as problematic. Several interviewees, particularly within the welfare NGOs were troubled by the complexity and nuances of the dangerous and status dog issues being reduced to over-simplified and broad positions, mediated through media attention, echoing other themes regarding definitions, the construction of the problem and the impact of negative influences. The perceptions of national mood by politicians was deemed to be arguably more important than the reality:

I'm really not sure what politicians think people think is the same as what people actually think. They will always accept whatever poll tells them what they want to hear. It's the same cherry-picking as anything. They still think the country wants pits banned so that's what they are running with (LG3).

This echoes the work, of course, by Roberts and Hough (2005) which suggests policy makers respond to public opinion without first accurately capturing and understanding it. As a result public expressions for more punitive controls may be mistakenly taken at face value.

Participants nevertheless remained eager to engage with the issue of the political assessment of the national mood. Whilst acknowledging it as a complex and ever-shifting entity, most also recognised it as another key factor for government inertia on the repeal of s1 of the DDA:

Ah you mean the canine zeitgeist and the reinvention of the dangerous dog in our times? A nation of animal lovers does not like to be told how to look after a dog, they think they are born with that know-how, but they also expect the authorities to protect them and their children. They expect the system to know what a dangerous dog is. How do we explain to them there is no such thing as a 100% non-dangerous dog, and they can't ask the Government to have a crystal ball about certain dogs? How do we convince Defra they can't and shouldn't, particularly if they thinking they are reading this as the public view? But we live with a public that wants Governments to protect them from harm and that means to be tough on crime. It's easiest, by far, for the Government if they go with that angle (RS3).

The national mood could not be characterised as one of consensus on dangerous and status dogs. Even amongst dog owners or sympathetic members of the public, there is a lot of fear of certain dogs and certain types of owners of these dogs. The interview evidence gave rise to two main examples of perceptions of public opinion about dogs and risk. Firstly, the media symbolism of these dogs, with 'devil dogs', 'weapon dogs', and the visceral nature of the word 'dangerous' referenced and discussed by the participants once again, illustrating the powerful driver of policy concerns that the tabloids can be. Secondly public fear of certain dogs was argued to be evidenced in the reluctance of many people to rehome and take on bull breeds, and also in their interactions with these dogs in public - most participants recounted stories to illustrate the difference in reaction between member of the public meeting for instance a Staffordshire Bull Terrier or a Labrador when out for a walk. Both these issues were regarded as underpinning the reactive nature of policy rather than any rational process.

Public and media pressure can be difficult, if not impossible, to quantify, but nevertheless participants wished to discuss the significant contributions to the picture that public meetings, petitions and consultations can have. Defra undertook public consultations in both 2010 and 2012 on a series of questions including; mandatory ID; an extension of offences to cover private property; and measures to reduce or eliminate time spent in kennels for suspected s1 dogs (where a suitable owner existed alongside a favourable behavioural assessment of the dog). Participants made reference to the Government's formal response to these consultations (Defra 2012) for its value in illuminating the Government's regard for public opinion:

I think nearly 30,000 responses came in didn't they? Even discounting those from the major charities and others like that, and their supporters, that's a big indication of public thinking. If you ask me that's also why they softened up on a few things (TS2).

Indeed, the Government themselves track the huge shifts in favour for both mandatory ID and the extension of offences to cover private property within the first part of the response. Consultation responses were not generally viewed by interviewees, however, as having a significant influence on the Government as they were not always seen as a representative form of public opinion. Responses have traditionally been dominated by the key organisations and stakeholders and in more recent years these campaign groups have used software, or stirred up supporters on social media, to submit a copy of the organisation's position to the consultation. Some participants were acutely aware that in fact on a number of occasions more than one administration within the UK has discounted large proportions of submissions as being the sole consequence of an NGO's campaign:

We've talked about challenging this stance that all of the responses we generate through Engaging Networks<sup>62</sup> are openly disregarded or counted as one response from the charity that's running that campaign. We know that's wrong because each response requires an individual to submit it themselves, but it is interesting in the context of what you just asked me, that yes it's probably the case that those governments look to measure public opinion from the other responses, that aren't connected to our campaigns. I know you've said before that Welsh Government has said this publicly, I'm not sure Defra have, but they are certainly doing it (RS4).

## The press and social media

The role of the media in communicating public opinion was discussed at some length and provoked some disagreement between whether they drive public views or convey them and what government makes of this:

I see a role for them, I do, and it's an important one, but I do have to ask if they can be a trusted source for government to refer to and see as representative. They are not dog experts and in an ever increasingly pressurised market place are they really able to put the time and effort into investigating public views? I get they will print what sells, but what direction is the influence going in then exactly? (LG2).

There was concern therefore that the Westminster machine may well be interpreting public opinion from a flawed source although there was recognition that there was a

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<sup>62</sup> Engaging Networks is complex software utilised by charities and pressure groups to channel supporters to calls-to-action, providing them, for instance, with a pro forma response, or letter, or petition to sign, all within its domain.

significant difference between the tabloids and more specialised media. Some of the broadsheets and dog specific publications have increasingly been more favourable towards bull breeds and have recognised the consequences of sI upon dangerous and status dog issues as well as the evidence vacuum which attributes aggression to breed. Positive editorials along these same lines were also hoped, by participants, to reflect a growing sense of appreciation by the public of the complexities of the issues and the need for change. But problems emanating from sI of the DDA are nevertheless extremely complicated to communicate and indeed so are the secondary partial-solutions being proposed if repeal (as the primary goal of many within the policy network) is off the table. This issue of complexity could afford the media a greater role in influencing the national mood, particularly if they are oversimplifying the key points.

Also under discussion was the issue of what happens in the media as a result of a focussing event such as a serious dog attack resulting in life-changing injuries or death. It was clear that the perception amongst interviewees from most sectors was that it is not the Government who is blamed, whether by the media or the voices of the community they seek to reflect. There is no substantive examination, by the media, of the various ongoing policy debates and solutions under discussion within the policy soup, with respect to what the Government has done or not done:

You don't see any real outcry that the Government created the situation that led to that attack. You might see something that suggests resources, say at a local or police level could be at fault, but you don't see in the media, unless they quote one of us saying it, ah yes, that's because of sI of the DDA, do you? (DNGO4).

I asked participants if this then meant that politicians are not hearing what they need to hear and that the outcry following an attack is misleading in itself, to which there was an emphatic yes, although there was no accompanying suggestion of an easy solution. This therefore may well insulate the Government and lead them into thinking the wider public do not feel the legislative framework is to blame and there is no national mood geared for change.

Social media was deemed to be one factor that may combat any diversion the media creates inadvertently or otherwise. For all its faults, discussed in some detail, participants were quick to point to its ability to put politicians in direct touch with public feeling on an issue. Research participants pointed to a number of high profile campaigns to save specific dogs and/or raise money for court cases often shared many times over and viewed by

hundreds of thousands. As a result social media was deemed to have replaced the previously more prolific vehicles of petitions and public meetings. Acting as a peer-to-peer communication tool, in addition to its other functions, it has provided a conduit for crucial information about dog behaviour:

We see more organic discussions about dog behaviour and the legislation now. Yes there are campaign groups involved too, but as we well know, they can't control their supporters. We can only guide and provide connections to the information (DNGO3).

### Who is the constituency?

MSA poses that it is not necessarily the mass public that determine the national mood in the minds of our politicians and indeed they are also persuaded by social movements which can provide the same measurement of intensity but do not have the breadth of the wider public. There are clearly electoral and profile benefits for individual politicians, political parties and governments from certain policy proposals that will induce them to associate with that movement, even if that movement is not representative of the public view as a whole. That said no interviewees were able to draw comparisons in respect of dog control policy and the link to s1 of the DDA. There was a recognition that this may have happened around greater penalties for attacks on assistance dogs and so it was acknowledged as a potentially essential component of the policy making process.

In progressing this discussion further it became obvious that participants perceived there to be a very party political dimension to the Government's approach to assessing the national mood.

You know it seems to me that it is the political party and their own ideology that affects who they listen to and consider as the public, doesn't it? They listen to specific sectors, perhaps what you'd think of as their known followers. That's my experience but it stands to reason (DNGO6).

This reflected a popular view of the national mood having party politically motivated components. It is possible for any political party to determine the mood, not of the wider public, but of perhaps just its own base and for those it must appeal to, to be reelected. This presented in the analysis of Government views centring on Conservative Party values at the time of the introduction of the DDA and since 2010, which appears to have produced a verdict that status and dangerous dogs are the specific problem of a particular demographic:

The Tories have either knowingly, or not, presented the status dog issue, well most of these dogs issues to be fair, as a problem of the lower classes in areas where they do not seek, and, let's face it, are unlikely, to return a candidate of their own (RS4).

The point was made that the control of dogs within these 'to-be-feared' communities suffering from social deprivation can only win the Conservatives votes in their loyal and target constituencies and lose them very little elsewhere, given they have traditionally had little presence in deprived areas. There were some alternative ideas proposed by the enforcer section of participants, however, in so much as targeting young parents, who may have expressed their fears through the media and elsewhere regarding dog control, may transcend partisan politics. The reasons given is that strategies seeming to be tough on crime and remove or reduce the risk of harm involving children retain popularity. It was claimed by the same enforcer group that this had happened in the case of extending offences to cover private property after Jade Anderson was tragically killed by dogs.

Related to this was the argument that politicians in the UK now exist in an almost constant state of electioneering, with a total of 28 referenda and local, devolved and general elections across England and Wales just since 2005. This frequency of doorstep contact has brought politicians in close proximity to their constituents allowing them to acquire a picture of exactly what issues and proposed solutions gather support. This has not been the only developments to increase the interaction of politicians with their local (and beyond) population however, social media also came back into focus:

All these platforms, Twitter and what have you, they've really made a difference haven't they? They've transformed how we see them. They have effectively made the MPs far more accessible, perhaps not 24 hours but the perception of it at least for many people (DNGO4).

Open social media profiles and inviting, interactive websites have enabled perceptions of a close relationship and a greater sense of familiarity with politicians, amongst the public. Whereas at one time a sometimes long wait for an appointment at an MP's monthly constituency surgery, or an exchange of letters, may have been the only avenues open to constituents, they are now able to see and hear the views of their elected representative and comment on these publicly, as well as - depending on how that politician organises their office administration - interact directly via email. Some participants argued this was increasing the ability of MPs to assess the national mood and may be a cause for optimism:

I know we all moan about Facebook and Twitter, but look we know MPs are reading it avidly, because they need to know what's going on and that's a really fast and frankly cheap way to do it. What this means for us is that we need to convince the public it's time to repeal s1 and it's time to understand dog behaviour a whole lot better (TS4).

### The moving pendulum

Politicians do not just detect the national mood at a specific moment, they are also sensitive to changes. This was again cause for hope amongst the dog NGOs participating in this study who interpreted the public consciousness as becoming more knowledgeable about dogs and sympathetic to the arguments for repealing s1:

This is going to be crucial because we know the Government fears, is petrified of, the first dog attack after repeal. Sadly we know there will be an attack, not because of repeal but because it is somewhat inevitable when there are so many people unable or unwilling to read the signs dogs give off as a warning. There's a long way to go on that front, but that's not going to happen while we have people thinking they are safe as long as they don't have a Pit Bull. If we can convince the public it's not s1 then maybe we can convince the Government to repeal and that it won't anger the public, and that it won't be unpopular (DNGO1).

Clearly the national mood is only one component but there was a recognition from the dog NGOs and the technical experts that change was not necessarily going to happen solely on the word of experts but that tangible public support is going to be crucial. The examples set by the many US states and other countries around the world who have repealed or are repealing their breed specific legislation was also hoped to assist with this transition. It was understood that politicians and their officials place great significance on public opinion and thus it has meaningful consequences for the direction of policy. Proposals can easily be fast-tracked riding a wave of opinion or indeed they can, simply and quickly, be lost.

### 9.3 White Noise and Competition: Organised Political Forces

Examining the nature and extent of consensus and conflict within the policy networks is an essential component to understanding the impact upon policymaking regarding dog control and of itself could warrant the employment of Policy Network Analysis in a further study given the degree of fragmentation and competition uncovered. For the purposes of this study however, participants provided a rich account of these issues, first

seen in the breadth and contradiction in their views of what constitutes society's 'dog problem', in Chapter Seven. The resultant lack of coherency between participants and the organisations or sectors they represent, and how these different parties deploy distinctive definitions or categorisations to promote their perspective, is explored further below, along with additional accounts of both rivalry and unity on the legislative policy solutions proposed.

The particular view each participant has on the issues under discussion greatly affected their characterisation of the problem and therefore the terminology they employ, as has already been explored. They also appeared, and sometimes expressly confessed, to being influenced by a series of organisational or personal vested interests - although this was often followed by a request that I not quote or attribute any such comments to that individual, which suggested a heightened sense of professional self-preservation. However this is, of course, a noted attribute of elite interviewing, discussed in more detail in Chapter Six. Some of the participants do not appear to have previously overtly articulated these inter-agency differences before being interviewed and therefore have arguably been operating in their day-to-day roles without the necessary reflections that could have been beneficial to the interviews. Questions supplied by me in advance would have allowed them sufficient time as to consider the ramifications of their characterisation of sensitive professional relationships, possibly allowing them to speak more freely at interview. Several interviewees reported that the interview represented the first occasion they had begun to consider the impact of conflicts and consensus upon the phenomenon of status and dangerous dogs and the policy direction in response to it.

It is worth noting that with all interviewees I discussed the definition of these network relationship characteristics and clarified that 'conflict' represented the general disagreements between policy actors and 'competition' was a subset of this. This referred specifically to disagreements that emerge on matters of principle and those born out of a simple motivation to defeat a contemporary in the policy network. Competition was deemed to arise out of professional jealousy and the desire for recognition, as well as the increasing market demands on resources - for some this constitutes statutory funding and for others the need to attract and retain supporters and donors. The fluctuation between partnership and hostilities within the animal NGO sector was acknowledged to occasionally suffer from general conflicts around the interpretation of scientific evidence, but in fact many situations were attributed to competition:

Basically in own little worlds we all want to be the expert, to be recognised for what we do, to reign supreme over the others [dog NGOs], it's essential in the public eye, for their support and for our political influence (DNGO3).

Conflict was also explained, perhaps excused by some participants, as a feature of everyday campaigning, profile-raising and fundraising activities these NGOs experience and contribute to on a daily basis and of course this exists across the whole third sector. To more openly acknowledge the damage caused by such actions upon the policy process has been fruitless, in their minds, given no one NGO will volunteer to bow out and close its doors. But these conflicts were not exclusive to dog policy organisations, and their existence within other sectors was also made very clear:

There are a lot of other law firms out there, a lot of training providers looking to cash in on this issue, there are a lot of court experts and everyone wants to make a name for themselves, of course they do and then business is scarce for some too. Where there is not enough business to go around I worry what people are prepared to say and do. They turn up at meetings and policy conferences and say all sorts and that's bound to be having an influence (TS3).

The biggest target for criticism from all participants was the RSPCA. From a methodological point of view, I found this reassuring purely because it resolved any concerns I had in mind that my own role within the RSPCA would hamper fieldwork and limit my ability to collect true and unabridged accounts from the participants. There was a potentially increased risk of this within my chosen methodology, due to the fact elite interviews may suffer more from the fears participants have of the consequences of causing offence or conflict, given their high profile role within their sector. The criticism of RSPCA was characterised sometimes as general conflicts but more often for specific competitive behaviours:

So then we had the Dangerous Dogs Act Study Group which included a number of charities around the table and the RSPCA, with predominately [RSPCA representative, also a participant of this study] presenting it, pulled away from the group, so had done a lot of work to get us to that stage and then pulled away from it in a similar sort of fashion to Gavin [Grant]<sup>63</sup>. Really I think it's a case of, you do it the RSPCA way or no way. That's very much the RSPCA in totality. A lot of the things they do are great but their skills around negotiating aren't one of their fortes.... You can see why that's the mentality though, when you think that a problem arises and the local authority say no we're not doing it, it's always, give it to the RSPCA and they will deal with it. And the RSPCA never say no and I think they should sometimes (LGI).

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<sup>63</sup> Gavin Grant was the chief political operative for the RSPCA in 1991 and later returned as Chief Executive between 2012 and 2014.

This participant was clear both in his criticism and his high regard for the RSPCA and indeed has worked closely with the organisation's field and policy staff for over 30 years. These direct criticisms were further suggested to be related to the RSPCA's refusal to participate on any occasion where they are not in control of the agenda. Further still the RSPCA's public affairs team was sometimes considered to be petulant where they were not able to take full credit for a project or where their participation would be diluted amongst a multitude of partners:

There is an issue for sure. It sounds awful but it's just the way it comes across whenever there's been a big working group and we're all together. If someone else leads on an issue or wants to, the RSPCA comes across like, I mean those other groups, it regards as beneath them (DNGO1).

Thus, the judgement is that the competition between organisations, and the importance of dominating and acquiring the credit for any success, can become more important than the shared animal welfare goal. The analysis of the participant (LGI), which was indicative of the views of other cross-sector interviewees, albeit in more couched terms, is of high validity given his knowledge and experience of the RSPCA and importantly the context and legislation within which he and the RSPCA works. Criticism of the RSPCA is far from uncommon, however there is clearly a significant value to the testimony of an insider such as this.

The features of competition were evident in other sectors and agencies where resources are a key factor:

I've sat on various groups, I've sat on parties where it fractured and I was opposed to the RSPCA's stance but we could always come together to move forward. I always maintained though these were the wrong groups, it needed to come from the local authorities and the people that were dealing with it. You had the [force area] police there, and you had the charities, but of course they are dealing with it from a different angle. The people dealing with it at the sharp end are the local authorities (LGI).

This was interesting because it betrays a notion that some delivery partners are more important than others in the context of exerting influence over policy, which of course may be true and was certainly echoed in other interviews. What was not expressed in this discussion around a hierarchy of influence was whether that hierarchy is affected by one particular organisation's core work - i.e. whether it is a campaign group, referred to as "those keyboard warriors" (DNGO1), or for instance has a body of field staff on the ground and thus gathering direct experience. There were a range of enthusiastic and

defensive positions put forward in this regard which betrays a fundamental disagreement within the policy community. If the organisations are unable to agree in the most basic of terms who does what in a very practical sense, there can surely be little hope for a coherent outline of the problem. All of the local authority participants expressed similar views on this issue although one, who occupies a national representative role, was of the view that issues of coherency and competition were linked to the lack of direction and facilitation by Government.

It was also acknowledged that individual voices may have been drowned out by the lack of collective coherency:

Although we've got the legislation [2014 developments], unfortunately, a trick was missed. I shouted and shouted about it, but obviously not loud enough, because what I would have liked to have seen the Government do is to give local authorities a statutory obligation for enforcement and make local authorities responsible for managing dog populations (LG1).

This would appear to suggest a view that it is whoever shouts the loudest will be listened to, whereas in fact the competition has been fierce amongst stakeholders at time, in particular to first articulate the problem, secondly to pitch the correct 'solution' and finally to claim the victory. As was recounted from around the time of the 2014 proposals:

We knew we had the grasp of what was wrong and what we all needed to do to fix it, but no-one was listening to us - to do so would mean dropping their own proposals in favour of ours and that's simply not how it works (DNGO3).

Such infighting and self-interested behaviours across a very wider spectrum of key groups could only be making it impossible for the light to fall solely on the true nature of the problem. One of the more difficult of conflicts, specifically featuring the welfare organisations, police, local authorities and other groups, such as the CWU, was around the dog control policy changes made under the ASBCP Act in 2014:

This gets my back up right. I did all this work to pull people together and it was a farce, everyone trying to bring in their own agenda and missing the bloody point. That time, well, which was the stormiest period, by far, and oh what a bun fight, amongst a bunch of flaming idiots. It almost cost us everything (DNGO6).

Even where agreement on individual measures existed, organisations failed to identify that fact to ministers/civil servants in either direct discussions or in their literature. Yet once the legislation had passed those same organisations were almost immediately seemingly less critical despite their proposals not being adopted:

We were really chuffed to get those amendments through, it's what we asked for and what was needed. It's not everything yet I know. But it's a miracle we did because it's like the fight is more important than the outcome for some of them (DNGO6).

This exposes a very interesting feature of the fragmented nature of the dog advocacy policy community. It would appear to suggest they may ultimately be somewhat unaware their actions may undermine their political influence or if they are aware it hasn't thus far resulted in a change of approach.

### 'White noise' and its effects on the process

A feature of pluralist societies is a multitude of voices that will conflict and debate issues, but from which must emerge cogent argument. As such I asked participants to describe the level of coherency they believed policy makers could perceive from the debates on status and dangerous dogs. It was in answer to this question that many participants appeared to reach an important realisation on the effects of the 'white noise', although there were others who claimed this to be a very obvious consequence:

You ask a question that politicians must answer really. For me, I can't see how they can wade through all the different slogans, messages and briefings. Yes frankly, of course it's a maelstrom. Indeed, it's a revelation when we get anything done. I do wonder how it looks from the outside (DNGO4).

Of course this issue of an internal coherence of perspective and values echoes the findings and characterisations of others (Marsh & Rhodes 1992). But if the recognition of the lack of collective coherency was indeed high, why would these organisations not also have analysed its effects and concluded it was having a detrimental influence on gaining any ground with governments and key stakeholders I asked participants. A general view was articulated well by one participant:

Well because they are all arrogant, because we all like to think we work for the best organisation that must get the credit. And if secretly we know we don't work for the best, we have a chip on our shoulders about the better organisation and we will work to overshadow them if we can (RS3).

Those sitting outside of that immediate group of welfare and lobbying organisations, but still an insider to the process, have perhaps the best non-governmental perspective on it:

You've got the RSPCA, Battersea, Dogs Trust, the Kennel Club and others, all these groups involved and they are all pulling in a slightly different direction which is why, I think, we didn't get anywhere for many years (LGI).

Early in the data collection there were expressions regarding coherency or lack thereof: 'Ultimately we are creating our own white noise, which government can just duly ignore' (RS3).

This was echoed by the dog NGOs and the local authority sectors, who applied a similar 'radio static' descriptor to the issue. I posed this concept to later participants following their own account of what clarity existed within terminology and messaging of the phenomenon. Some interviewees immediately warmed to the 'white noise' argument perhaps through a now revived perspective - as I encouraged, through questioning, a self-reflection upon a very lengthy career in this field, they may have acquired the ability to see through a new lens. But others had already provided evidence of this problem already, through their accounts and their criticism of individuals or organisations attempting to affect policy. For that latter group, when asked a direct question on this aspect - where respondents did not appear defensive verbally or in body language, there was sometimes an explicit acknowledgement of being part of this problem. That was further confirmation this finding was valid. For instance, when any examples of the 'white noise' manifesting in inter-group fighting during the passage of legislation in recent times, one participant, after some thought, remarked:

That's what happened when the Dangerous Dogs Act Study Group fractured, Government just said argue amongst yourselves and then bring it to us, because at the moment you all seem to disagree. But we never went back to them (LG1).

When encouraged to talk about the manifestations of this competition and lack of coherency participants separated them out into practical consequences and policy implications, which in themselves may lead to practical issues at a later point. The practical category was illustrated by the local government sub group of participants who talked about instances where management and communication systems and agreements are not in place, there then appears to be a 'buck passing' problem with no lead agency taking over all control:

What you get is the buck being passed on. So it's 'oh it's a police problem', no 'it's not our problem it's a local authority problem', 'it's a charity problem', you go to the charities and they say, 'no we don't want it'. Then nobody does it (LG4).

Participants also became keen to discuss the impact of conflict within the policy community upon the various intervention programmes tried by local authorities, police and charities:

I was thinking about all the projects with young people and dog owners. How we've often struggled to get these off the ground, yeah? Is it any surprise that the programmes have appeared to anyone in the know as ill-thought-out and non-evidenced when the sector is so incoherent and lacks structure or agreement? (RS4).

This participant was directly linking competition and coherency to the tendency for organisations to run programmes with too little reliance on social research or robust evidence, because such initiatives are not evaluated with any legitimacy and because the sector is so fragmented this dissuades professional stakeholders, and potentially government, from becoming involved:

This is fairly easy to understand to be honest. These organisations run these projects as they do simply because they can get away with it when everyone is busy shouting at each other and no single standard has been agreed. That has to have the potential for a negative impact (RS4).

On this latter point participants mostly agreed that 'what works' was actually, in fact, a subjective and ultimately un-evidenced myriad of opinions, indeed they agreed accounts of solutions were in fact all but unintelligible and opaque when scrutinised by anyone knowledgeable, but the resultant smoke and mirrors worked well on the public and the layman politician. However, with such an acknowledgement and confession, there did not accompany any explanation as to why each of their organisations nevertheless continues to vie to be the principal and knowledgeable stakeholder the public and government listen to.

The patterns leading to the 1991 Act, then the 1997 Amendments, and later the 2014 Act were recounted with a high degree of consistency amongst participants. I also found consensus on the vast majority of issues around dog behaviour, welfare, s1 of the DDA (1991) and also what doesn't work, including almost universal agreement on the time scales of the phenomenon. Despite this uniformity however participants acknowledged that although similar marketing and externally messaging on dog control has been utilised by the NGOs and others, there have been very few instances where stakeholders referenced each other. Nor indeed has there been much publicity generated for where strong agreement and consensus did occur. It was acknowledged that for anyone coming afresh to the policy arena, this would present navigational issues:

Yeah it's true that if you started work in this field or were trying to research the issues as a dog owner you would not know who were the experts, who was dealing with what, and who agreed with who. You wouldn't find it all the easy to sort out at the beginning either (TS2).

This revealed an interesting paradox in so much as conflict did not appear to be rooted in any substantive issues and indeed the majority of the policy community suffers from divide over only the minutiae and yet these stakeholders usually fail to communicate effectively and with a united voice. Participants acknowledged that did not appear to be in any rush to change this landscape and set about publicising all areas of agreement. This was despite the fact that most interviewees understood that to do so may be related to the success of any solutions on dog control they wished to see come to fruition.

The second aspect of the consequences from competition and incoherency upon the problem itself, discussed by participants, was the impact on Government with some openly recognising that it meant Government did not have to observe the problems the 'field' were reporting to them, given there was a "cacophony of voices, confusing the issues" (RS3). Government was also not obligated to listen to the myriad of messages offering little in the way of evidenced-based solutions:

So although we were trying our best, in my view, at times, to coordinate our messages on evidence-based problems at least it's obvious that at certain times we've just been ignored. I'd like to think it's because of other factors but the likelihood is some people weren't singing from the same hymn sheet (RS3).

Others argued that the coherency issues provided the cover of time for the Government to determine what would be popular - by observing the media and the public's support for the campaigns - and not actually what would work:

It seems to me that the Government could hang on a bit, see what happens for a while as we all jump and down and see what comes out in the wash. Ultimately there are those in power preferring the well-rehearsed messages and punitive legislative responses to the social intervention programmes, which, I get, are traditionally more difficult to communicate (RS4).

Some participants, perhaps amongst the least experienced, surmised that because these issues of conflict within the policy communities have not been adequately acknowledged and explored, it wasn't reasonable to expect the Government machine to truly understand the nature of the phenomenon nor engage with the solutions being proposed. This is a view that can be characterised as sympathetic towards Government. There was an alternative, more cynical view, explored by others, that the maelstrom works in the Government's favour:

So the infighting muddies things and whilst the sphere is a bit murky they can continue to do nothing. And the press is unlikely to grasp the key issues either so they have been useless at holding Government to account too (LG2).

Thus incoherency could be said to suit policy makers at times and one indication there could be evidence for this has been the Government's reluctance to facilitate or coordinate discussions with the sector. Whilst there are, and have been, several forums, not least of all the police's Dangerous Dog Working Group, they are not inter-agency in the main and none have all essential sectors represented.

The animal welfare policy sector is certainly not the only one to suffer from fragmentation and the resultant competition by the main stakeholders that dominate debates, and participants argued their failings must surely be replicated elsewhere. What is clear, though, from the evidence gathered for this research is that Government is able to legitimatise its ignoring of these stakeholders when they are so unable to agree on the nature of the problem and how to characterise the solutions. In a constantly evolving policy arena this may be considered a feature of the process itself however it remains relatively unusual within animal welfare. For instance the campaigns to ban primates as pets, or wild animals in circuses or for that matter behaviour change campaigns such as cat neutering or dogs dying in hot cars, whether a welfare NGO coalition exists or not, there appears to be clarity and coherence amongst the stakeholders and thus any lack of change in those policy areas can be argued to be explained by other reasons.

### A feeble consensus

The 'communication flows' of which Kingdon speaks, where governments are able to distinguish an intensity of support on an issue, appear to be absent in this instance. Some of the participant dog NGOs nevertheless argued that whilst there has been significant disagreement over the problem definition and the appropriate solution, there is sufficient consensus as to have reasonably expected some change, particularly around s1 of the DDA. However even if that is the case the Government has been predominately influenced by one sector, the police, who have traditionally operated as a powerful actor elsewhere in the crime policy network able, for instance, to prevent the straightforward application of particular policy developments (Jones & Newburn 2013). The police may not possess quite the superior political resources and ability to affect the economy that Kingdon describes and attributes as to why politicians will favour one sector - but they are undoubtedly regarded as the leading stakeholder in what might be viewed as an unofficial hierarchy on dog control policy. Two decades of risk-averse centrist to right-wing

governments committing to an overarching policy agenda of being tough on crime, was offered by participants as to why the police occupy such a privileged position:

Good luck getting anything done while the police don't want it. Defra listen to them and them only on this one. MPs are always worried about looking soft, they need the police, they can't appear to ignore what the police are saying, it's far too risky for them (RS3).

The police themselves acknowledged in interview their influence is substantial if not a dominant force:

Yes of course it's fair to say Defra have made some murmurings at times on s1, just a couple of questions probably after they've heard from you guys, or a new Minister has been lobbied, but for now, and until we get incidences of dog bites down, see the general trend downwards, and we can say to them, yes, the measures are having the right effect, they are working, then no, that's just not going to happen. We've been very clear (POL2).

The accounts given by police during interview for this case study is suggestive of other points Kingdon argues in that powerful organised forces are able to suppress or obstruct, not just any tangible change, but even the mere discussion of it, within government. Participants were asked again - but now in the context of a hierarchy of policy actors - for their perceptions of why the police may themselves oppose repeal of s1 and one general view emerged,

They have to oppose it because they benefit don't they? It's not just that they worry about dog attacks and bites, and I genuinely believe some DLOs do, ignoring the s1 thing for a moment, but what it is, they benefit don't they? They have a role, some funding, a specialisation, they don't want to lose any of that. It's understandable to a degree (RS3).

Multiple Streams Analysis recognises and records this motivation, where groups draw sustenance from an activity or function, they will then work to protect it and their own interests in its continuance.

Both conflict within the policy community and the nature of consensus explored in this case study have failed to achieve the policy changes many within that community desire for status and dangerous dogs. Politicians are interested in where the balance of support rests and so continued competition and conflict, where no dominant force emerges, results in the *status quo*. This form of stasis is of course a recognised feature within the policy networks literature (Marsh & Rhodes 1992) which posits why change doesn't happen. For change to become a possibility consensus must also be successfully communicated to politicians, it must be heard, it is ineffectual if not. Inarticulate sectors

within the policy networks are answerable to why certain items remain in obscurity or barely even on the political agenda despite their every effort.

#### 9.4 Gained and lost allies: Government in the Political Stream

The final component of the political stream in Kingdon's Multiple Streams Analysis concerns the dynamics of political and administrative changes within the Government itself. These changes arise due to events such as elections where the administration can change its political colours or through personnel changes affecting ministerial roles. These factors were discussed with participants and found to be a feature that had affected the policy process for status and dangerous dogs. There were additional factors which fall into this category put forward as well, specifically the role of devolution and the conflict between administrations, sometimes fuelled by control being in the hands of opposing political parties. In examining to what extent administration changes were a factor participants loosely divided their considerations into two periods of time: the first being the political context to the introduction of the DDA and the initial amendments and the second being the rise of the phenomenon around 2005/6 up to and including the policy developments of 2014/5. There were additional comments featuring predictions specifically centred around the ultimate goal of many of those interviewed, that of the as-yet unrealised repeal of the UK's breed specific legislation. However the interview data were collected in 2014/5 and therefore, it must be noted, cannot accurately encompass the political and administrative changes post 2016.

As has previously been discussed, many of the participants of this case study were in the same or similar professional roles in 1991 as they are in now. For those that were not, they are often in political advocacy roles and as a result have studied the evolution of the political context and its relationship to the dog control policy process since taking up their post. It could be classed as essential knowledge within all the sectors interviewed in order to develop one's status as an expert, because the origins of both distant and recent developments, and the political motivations underpinning them, are crucial to understanding current policy solutions, as outlined in Chapter Eight. The discussion with most participants around the political events of 1991 was therefore very thorough and informed.

At the end of the 1980s many listened to the proposals for BSL, which included the euthanasia of all qualifying dogs, being roundly rejected by the UK Government's Conservative Home Office Minister Douglas Hogg in the House of Commons, who, as referenced in Chapter Five, labelled any such move as 'manifest nonsense' (HC Deb 15 June 1989, c1187). Coming from whatever side of the arguments on BSL, this didn't appear to allow for any room to manoeuvre and although some report then turning to alternative solutions to tackle dog control issues, such as the reintroduction of dog licences, elements of the policy network continued to discuss BSL. Political consensus was established across the floor and other barriers were in the process of being overcome such that when Kenneth Baker MP entered the Commons as the new Home Secretary late in 1990, the path was nearly clear for the DDA and its new measures bringing BSL to the UK for the very first time. These barriers are very well-known to the interviewees, one surrounding which block of voters could be expected to be effected by which breeds were banned was clearly illustrated by one participant:

They dropped the Welly Brigades' dogs didn't they? They had to be careful not to sweep up their own members and voters, because initially that would have happened, all sorts of breeds were considered at one point. I reckon that is why Hogg wasn't going to do it, but Baker found a way (LG1).

The change in Home Secretaries also enabled a change in the policy agenda. This was in part attributed to Baker's policy making style. He engaged with, but also controlled, the stakeholders with a forthright manner and proudly recounts in his autobiography (Baker 1993) his contempt for his civil servants who he believed at times worked against him and any progression or change. Baker was known for engaging with third sector groups and statutory agencies but some participants believed this was often to provide the necessary cover or protection for the proposals or policy changes should they prove to be controversial. He was also discussed in the context of his regard for the individuals and organisations with whom he engaged with, and from that what his views were on what constituted robust evidence in favour of the effectiveness of BSL. One participant recalled:

Well this was a different era and one where scientific or social studies just didn't come into it. Our opinion and the opinion of others mattered, but what did we know? None of us knew whether it was even working in the States. I'm really not sure it would have happened if he hadn't been Home Sec though (RS3).

Later the weakened Tory Government was in 1996, in its final year or so in government, attempting to make changes in response to a strong voice within the policy community. That strong voice was again from the police who were experiencing legal and technical

issues with the 1991 Act. The Amendment Act was brought forth in 1997, in the final days before Parliament was prorogued for the election, to enable the police, as they recounted in interview, to act upon dogs held effectively in limbo. After time had run out on the prosecution case against an owner the dog was left in kennels with the police then lacking the powers to euthanase or rehome the dog. So, as far as the police were concerned, there was merely a procedural issue to address with these amendments - which the incumbent Government took seriously. In contrast welfare participants believed the main thrust of the amendments introduced were to respond to the outcry about so many dogs being put to sleep. Several participants also recounted how that was the very issue that had turned the RSPCA away from BSL, as they had in 1991 in fact advocated neutering and licensing (rather than euthanasia), to allow the breed/type to die out instead. The local authority sub-group attributed change to the forthcoming general election and the desire by the Government to appease certain sectors, as growing unease had been detected amongst their own backbenchers who were soon going to be facing the electorate on the doorstep. Others within the welfare group suggested the Government knew it was going to be voted out of power and thus there was some motivation in tidying up its own business:

I think some of them [in Government] knew the end was nigh and better to address the issues created by their own legislation and shore up the Act before any new Government embarrassed them. That has to be a possibility and one that I've also heard an MP or two say (DNGO3).

Initially of course the 1991 Act and its 1997 Amendment appeared to have had the intended effect of eliminating the four named types of dog and this was confirmed by those working in enforcement at that time:

After the first few months I'd handled hundreds of these dogs and I began to think something is not right here. Then after 1997 it [the numbers of s1 dogs the police were seizing] died off (TS5).

For seven or eight years after this period the issue was effectively dormant and no participants could recall any particular discussions within the policy networks. That said police participants acknowledged there was only one DLO outside of the Met Police until just a few months before five year old Ellie Lawrenson was killed by the family Pit Bull on New Year's Day 2007. As such there was no-one qualified or charged with identifying s1 dogs in 41 police forces across England and Wales before the focusing event that was this tragic death:

So Ellie Lawrenson was killed. Awful, just awful. Can't imagine. And this whole thing kicks off suddenly. There's a problem. Labour didn't like this, it was happening in their backyard. They could see events were escalating and they started engaging with us. There was an opportunity for them to change the direction because of what happened up there (DNGO1).

The Labour Government was indeed, as participants agreed, then engaging with the policy network over these next few years. Whilst, having firmly supported its introduction, they were not ready to repeal s1 of the DDA, they were recalled by most participants to now be listening to the debates from stakeholders:

So this is when the Met got the backing they needed to set up their Status Dog Unit and we got invited to Number 10, do you remember? That was not an everyday occurrence! We had a Government that was listening at least. But it was now too late. It came too late (RS4).

As discussed by the participant above, it was now 2010 and Labour lost the election, to be replaced by a coalition between the Conservatives and Liberal Democrats, with the Conservatives possessing the upper hand, as the senior and much larger party. This had a detrimental effect on the policy network and the work done thus far:

There was simply no desire whatsoever to pick up the mantle from Labour or reconsider the legislation they themselves had brought in. More importantly it was not on the agenda and nor was it going to be, given their preoccupation with overturning what their predecessors had done (DNGO6).

This change in administration caused an ideological redistribution within Government that some participants, particularly the welfare and local authority sectors, felt created new barriers to securing change.

The phenomenon was agreed by participants to now be in full swing by 2010 and a palpable level of hysteria towards large bull breed dogs was witnessed by the policy networks. The representatives of those networks in this study then recalled discussions led by Government officials about adding to the banned breed list. This was contrary to what the dog NGOs wanted and at interview they were grateful that it had not been supported by others within the policy community either. Swings are an inevitable part of political dynamics, with one period often a reaction to the former. Participants were aware that the new coalition Government was seeking to assert its tougher stance on crime and would be more sympathetic to additional, not seemingly fewer, control methods, which was the new Government's perception of repealing s1. With any option of repeal being categorically discounted, alternative ideas were now emerging out of the policy soup

which allowed for change without entertaining any notion of reducing controls afforded through BSL. These new policy ideas centred on mandatory identification and extending the DDA to cover private dwellings, as per the aforementioned consultation by Defra.

### Jurisdictional conflicts

Then came an entirely different factor, one of conflict with another government - the Labour controlled Welsh Government - who announced plans in November 2012 for their own Dog Control Bill. This was a very significant development in Wales given the National Assembly for Wales had only recently acquired powers to pass its own primary legislation. Time and resources afforded to the Bill process are not insignificant and yet these were to be allocated to the issue of dog control in the Assembly's first term as an immature legislature in possession of these new powers. Participants who worked with both administrations recalled the negative response from the UK Government about Wales' plan to legislate in an area it believed was reserved for itself:

They were serious [in Wales], what's more they were going to put a huge dent in the UK Government's plans, or lack of! The swords were drawn immediately, it was tense, you'll remember. Of course party politics played a part but I also like to think it's because they [Welsh Government] listened to us here, they understood what was needed (LG3).

Jurisdictional issues can sometimes lead to compromise and even an improved consensus as a result, but in this instance the competition and conflict between the two administrations quickly led to stalemate:

Behind the scenes they were busy threatening each other. The Welsh Government seemed set to continue but the UK Government was equally determined to stop them. They'd already been in the Supreme Court once or twice, was it? And I just think the Welsh started to get worried. The First Minister wanted to pick his fights carefully on ones he could win and this was a grey area one. Animal welfare is devolved and had been since 2011 but public safety was much more difficult to define in their powers (LG4).

I discussed the key factors with participants who worked solely in Wales or in both countries. It was suggested to me that the stalemate between governments could not continue although it was some months of difficult negotiations during which the Welsh Government attempted to keep its Bill alive. Ultimately it was the Welsh Government that gave way and Defra triumphed quietly. The episode was deemed to be embarrassing for the UK Government as it viewed the Welsh Government as having publicly challenged

their position and seniority. It was widely known that the UK Government wanted to wrap up the changes to dog control policy within the Anti Social Behaviour, Crime and Policing Act 2014 and their wider agenda had been endangered by the interference of the singular goal of the Welsh Government. Known to only a few of the interviewees was that the Welsh Government feared a loss in the Supreme Court and dog control was not deemed noteworthy as to risk defeat. The Welsh Bill was fairly quietly withdrawn.

The legal parameters were not the only reason for the retreat by the Welsh Government, there was a reshuffle and a new Minister:

The previous Minister was good, he introduced the Bill and didn't see to want to drop it, but then when the new Minister came in well, we all thought right this is right guy for it, I mean he is known for being bullish, no? but in a good way, so I guess if he couldn't make it happen, no-one could (LG3).

The new Minister was deemed to have different priorities, he appeared content, in public at least, to suspend the Bill and work with Defra. His officials reported to a number of interviewees that they had influenced the 2014 Act and the other measures, in a positive way, blending the plans they had had for Wales with what had been outlined by the UK Government, softening some of these in the process. Participants were all of the view that the UK Government's dominant stance was not altruistic nor was it out of some regard for elegant and uniform legislation, given that it is a policy area devolved elsewhere in the UK. Rather it was a rush to claim credit for any changes to be received positively and there was also a bigger war raging between the two governments over power and influence to which the Wales Dog Control Bill fell victim.

There are some benefits to pursuing a PhD on a part time basis in that a phenomenon, and any corresponding policy process, can be observed over a longer time period which is indeed the case here. However one of the potential drawbacks is the increase in time between data collection and completion, which in this instance results in the absence of any analysis of the perceptions of changes in Government since 2015. That said, being involved with the Welsh Government's Task and Finish Group on Responsible Dog Ownership until its completion in the spring of 2016 brought me back into contact with many of the same elite group in the context of this research, and I was able to record in my field notes their perceptions of the 2015 general election. Whilst some believed that little had changed from coalition to Conservative Government, others argued that the

Government had swung further to the right and was less likely as a result to entertain anything that lessened the state's control of dogs:

Wise up, right. We've got it potentially even harder with this Government. They are desperately hanging on to the right wing base who are constantly being seduced by UKIP, they are not going to listen now. We've got to look at other ways to focus attention (DNGO6).

Others discussed their hopes for the emerging leftwing and more socially tolerant movements led by the new leader of the opposition, Jeremy Corbyn, although realistically they posited he was not likely to remain there long nor could they claim he was engaged on this issue, having no record of any interest from him on dog control policies.

## 9.5 Coupling, events and windows

Having considered the three specific features of the political stream and indeed all three central elements of 'problem', 'policy' and 'political' within MSA, this final section considers Kingdon's notion of 'coupling' and policy 'windows' and what evidence there is for these within the development of dog control policy in England and Wales. Coupling is described as occurring when the three streams, which normally operate independently of each other, come together in a critical window of opportunity which Kingdon argues is when policy change is most probable. It is important to note however that despite the simplistic description a policy window may not in fact open automatically or in a logical fashion. It might be that a window must be forced open by policy actors of great influence and usually via projecting a collective national mood with an inherent appetite for change. One window is sometimes created by another as an issue comes in on its tail, perhaps as a re-working of a previous solution. The window may also not remain open for long as the streams may fluctuate and decouple as quickly as they converged - illustrated, for instance, in a snap election.

There are perhaps three main episodes of policy change within dog control to consider in this context, namely the lead up to and creation of the DDA; the development and implementation of the 1991 Amendment Act; and the 2014 and 2015 changes introduced via the ASBCP Act and the Exemption Scheme Statutory Instrument. The evidence from participants suggest that there was a linking of processes leading up to the 1991 Act. Whilst the policy network was much smaller at that time there had been a small amount of discussions led by Home Secretary himself on the principle of introducing BSL. Whilst

this proposal was rejected by his predecessor in its first consideration, the perception of a growing dangerous dog problem caused by dog fighting breeds was brought sharply into focus by a huge outcry following the attack by a Pit Bull on six year old Rukhsana Khan. Determined to overcome recent political events which could otherwise weaken him, and backed by an equally motivated Prime Minister with a desire to appear tough on crime, BSL was immediately introduced. Arguably, participants described this window being somewhat forced open as the Home Secretary asserted his powerful position; ignored the rest of the policy community's wishes for licensing and a slow elimination of the banned types; and utilised a once easier system to push legislation through the Commons in just one day (see Table 1).

The 1997 Amendment Act was not under Lord Baker's control and indeed the exact conditions that led to change remain partially obscure as participants have conflicted somewhat in their accounts of this period. The welfare groups believe the need for change rose up through the political arena due to the emotional stories of dogs (and sometimes their owners) losing their lives entirely unnecessarily. However the enforcers consider the Amendment Act to be as a result of process problems and dogs being left in kennels not able to be put to sleep nor to return to their owner as they were prohibited. It is entirely possible that both contributed to the construction of the problem at that time as the solution was the same - to permit an exemption scheme and tidy up the legal processes for fit and proper owners to reclaim their dogs. The political stream completed the necessary coupling, given, as the participants so aptly described, the Government was motivated by a fast approaching election. Whether the Conservatives hoped to sufficiently appeal to the electorate so as to retain power or instead they had acknowledged loss was inevitable and they were merely tidying up loose ends, the result was the same and the policy window was open long enough to pass the legislation.

The third and final policy window can be said to have opened in 2014 (extending to 2015) and is perhaps the closest to the analysis suggested by MSA. For the solutions brought forth in these measures had been discussed within the policy soup for an extended period, initially rejected by many within the community due to an overriding aim of achieving repeal on s1 and the inability to compromise and unite on alternatives. Focussing events were being quickly highlighted in the media featuring both the acute problems of traumatised owners of assistance dogs severely mauled or killed by out of control dogs, and the gruesome and life changing injuries sustained by communication

workers (accompanied by some shocking national statistics on prevalence). The solutions were being readily offered by all sectors in the policy community, there was little or no resistance to the idea of extending the DDA to cover private places and indeed to increase the penalties for attacks on assistance dogs. The Anti-Social Behaviour, Crime and Policy Act offered a very convenient avenue for these changes, and by now the Welsh Government could be persuaded to drop its own Bill if the majority of its proposals around anti-social behaviour orders for people with dogs were met. The streams converged in a rather more orderly and logical fashion although it is to be recognised many of the problems and proposed responses had been in discussion for in excess of five years.

## 9.6 Summary

This chapter has sought to discuss the main issues arising from the data utilising the framework of Kingdon's political stream. The political arenas of England and Wales, and their effect on the policy process for status and dangerous dogs, have been assessed through the perceptions of those working closest to the governments of both nations. The main themes of the national mood, organised political forces and changes in government have been developed and examined and found to be significant elements at work. MSA has allowed for a reconstruction of the path dog control policy has taken over the past 25 years and what political factors should be considered. The final section summarised this path in the context of the coupling of the three streams and how this has led, in the field of dog control policy, to change.



# PART IV

## Discussion



# Chapter Ten

## Discussion and conclusions

### 10.1 Introduction

This final Chapter is intended to draw together all four Parts of this thesis in order to address the central aim of this research namely *to explore the nature and dynamics of contemporary policy making in crime control via a detailed case study of the emergence and re-shaping of 'dangerous' dog regulations in England and Wales*. This is considered within the next section via the three objectives underpinning the central research aim. The remainder of the Chapter comprises a further four sections - where I consider the more recent developments with regard to dog control, and what implications this has for policy making in this arena, as well as recommendations for future research. A section on methodological reflections follows before a final recapitulation of the conclusions of this study.

### 10.2 Culture of dog control in policy making

This study has explored the nexus of criminology and public policy analysis in order to better understand and explain the policy making processes in relation to the control of dogs in society through an empirical study of policy responses to the phenomenon of 'status' and 'dangerous' dogs. This has focussed primarily upon the past three decades across England and Wales via the three following objectives:

- *To describe and analyse the dynamics and forms of 'problem definition' in relation to 'status' and 'dangerous dogs' in England and Wales*
- *To examine the various policy 'solutions' that emerged in relation to these 'problems'*
- *To assess critically the political processes via which particular policy responses were challenged and resisted*

The following discussion is structured in three parts to reflect these three objectives and will seek to consolidate the findings of this study through the amalgamation of the

primary documentary analysis of Part II and the empirical findings from a series of elite interviews contained within Part III.

### Identifying and defining the problem

It is clear from within both the documentary analysis and the interview data of this thesis that there is a wide scale issue in society with accurately defining and articulating the nature of the dog problem, and its aetiology, into a digestible form. The social construction of the dangerous dog phenomenon has taken various guises across the policy debates, for many it is purely a public safety issue - or the perception of one - that simply requires the removal of the threat. For others the issue is more nuanced or requires a greater understanding of other factors such as the organised criminal activity of breeding and trafficking puppies, as well as the general ignorance of the welfare, behaviour and socialisation of puppies by backstreet breeders. For some, it is the issue of identification and the abundance of stray and abandoned dogs, or the media representation of dog attacks, or indeed the largely uncharted links to gangs and dog fighting. All of these were explored in depth, in Chapters Four and Seven, for their merits in focussing in upon the dangerous dog issue, and undoubtedly they offer disturbing evidence of a breadth of dog problems in society, which represent a threat to the welfare of those dogs and, often as a result, to public safety.

On closer analysis, it is apparent that there is an interconnected nature to the representations of the problem and the disjointed nature of the various policy responses, which are in themselves considered to be piecemeal and far from holistic in nature (to be discussed in the next subsection). Indeed during the exploration of the problem definition there have also been contradictory positions presented by policy actors at different times (such as interviews with serving and ex-police officers in defence of s1 of the DDA through a punitive enforcement position, versus emerging evidence of a softening of the police stance not least of all through the adoption of the IES). This is of course a key characteristic of a messy and unstable policy environment, particularly one where the scientific evidence base and professional experiences are evolving at speed and challenging long-held practitioner views.

The media's characterisation of the dog problem and in particular those types or breeds

owned for their perceived dangerousness and/or the status conveyed upon the owner - was a reoccurring sub-theme of my investigation of the problem definition. During the height of the phenomenon, which appears to have been during the early part of this decade, many scholars were unequivocal in how the media should be held to blame for the crisis:

Without any form of institutional legitimacy, the media constructed a discourse wherein the pit bull was an illegitimate breed, created by a marginalised social group primarily for the illegal and deviant practice of 'dog fighting'. Within this discourse the issue of class was emphasised to such an extent that dog breeds and types and the associated behaviours of each were aligned with different social classes (Molloy 2011: 126).

Certainly a feature of Garland's crime control complex is that there is an inherent demand upon media outlets to produce sensational stories in order to be deemed newsworthy and this has an appreciable effect upon the policy process. As Garland suggests (2001: 86), 'risks and problems that were previously localized and limited in significance, or else were associated with specific groups of victims, increasingly came to be perceived as everyone's problem'. Dog attack incidents that, before the DDA, may have only been reported locally are now national news, that is despite the absolute rarity of the most serious of attacks and the proportion of those attacks actually involving a s1 prohibited dog being much smaller again. As Molloy also alludes to above, there are parallels with Garland's 'criminologies of the other' as both the dogs and their owners are repeatedly characterised as the 'dangerous other'.

To summarise, the first objective of this thesis - *to describe and analyse the dynamics and forms of 'problem definition' in relation to 'status' and 'dangerous dogs' in England and Wales* - took me upon a very broad path through what the evidence suggested were either the definitions of the problem at hand or were key factors contributing to the defining of the problem. The historical definitions, most clearly identified through legislation, were unearthed alongside other forms of classification, with special focus upon the dominant 'crises, disasters, symbols and other focussing events' (Kingdon 1984: 103). Kingdon's Multiple Streams Analysis however suggests that some problems will get dropped and some will get traction, so I have sought to understand fundamentally why it is that dog control became such a highly politicised issue, with a particular period of acceleration in the form of the status dog phenomenon circa 2007 - 2014. To address this point it is first necessary to consider the other two key objectives of this thesis.

## Policy solutions and 'vicious' circles

In consideration of the second objective and the various policy solutions to the dog problem that have emerged, a full exploration of the plethora of legislation governing dog control was presented within Chapter Three, to complement the data collected from interviews with the main policy actors, presented in Chapter Eight. Although various dog control solutions put forward have been designed to tackle aspects such as identification (eventually successful in 2016) and licensing (unsuccessful thus far) the statute most acutely in focus, particularly within the interview data, is the Dangerous Dogs Act 1991 (as amended). Effectively the policy stream appears to be split into firstly the conditions that led to the implementation of the DDA in 1991 and then secondly the solutions being proposed in response to it. This second section of the policy stream is further subdivided into those policy solutions seeking to strengthen or at least protect the existence of the DDA, and those concerned with reducing its most negative effects or repealing it.

The conditions that led to the enactment of the DDA are not easy to understand, even when considering some participants of this study were in their professional roles during that period. Of course the severe dog attacks that came to light in the late 1980s/early 1990s were horrifying to most people and some form of reaction was to be expected perhaps, as was a demand for action. However, despite being high profile 'focussing events' (Kingdon 1984), there remains little convincing evidence of any particular change in the nature of those dog attacks, after all, dogs are unpredictable animals that have always occasionally attacked humans, this is not new. The DDA then would appear to have been a solution in search of a problem. That said its origins as a policy solution also remain obscure, with some maintaining it was a US invention influencing - as was the case of several crime strategies at that time - the UK policy process. Others believe there is little to support that notion and that in fact it grew from a simple and fundamental need to remove certain problem breeds and types of dog from society.

The implementation of the DDA almost immediately had consequences for dogs and their owners. Beyond the obvious effects of euthanasing thousands of dogs that had never displayed any signs of aggression or behavioural issues, the effect upon the banned types was to make them more alluring to criminals. Dogs that were not covered by s1 but looked physically similar began to experience the effects as they too became attractive to

those seeking dogs for use in anti social behaviour, or due to a misplaced need for protection. The DDA is deemed to have caused a substitute social harm by labelling and stigmatising certain dogs therefore making them vulnerable to humans unfit for dog ownership, who inappropriately raise and train those dogs to be aggressive, thereby completing a 'vicious circle'. A further substitute harm was identified from the data, namely the way in which the DDA has misinformed the public about safety around dogs - creating the belief that the only dangerous ones have been removed from society via s1. Nevertheless dog bites continue to rise, to this day. As these effects took shape, solutions were being continually debated and recombined to form new ideas before being debated again. From this, legislative amendments came in 1997, 2014 and 2015 although, as has been seen, the fundamental effects, particularly upon public safety, remain the same as when the original Act was implemented. Repeal of s1 of the DDA, however, has never been considered as a serious option by any government despite its status as the primary ask of the vast majority of dog welfare NGOs (and others) within the policy network.

Scientific evidence would appear to have played a rather loose part at most times during the debate on policy solutions to the dangerous dog problem. This may be because epistemic communities have had less of an impact than could be expected. Dog welfare and behaviour specialists, as well as epidemiologists, veterinarians, public health statisticians and others have been marginalised in favour of enforcement, specifically police, perspectives. Without a solid foundation in evidence there persists a perception (see 10.3) that s1 dogs are inherently aggressive and must be controlled; that this issue is inextricably linked to dog fighting and gang issues; and that the DDA's measures can best protect public safety. In the most recent guidance issued by the Crown Prosecution Service (2017) to its prosecutors in cases where a dog has caused the death of a family member, it states 'if the animal was a trophy dog or status symbol there would be a greater Public Interest in prosecuting'. No explanation accompanies this statement as to the evidence for such a claim and how it could be proven or why this attracts increased public interest. It also ignores the reason why, of course, certain owners are attracted to these dogs. As has been seen in this research, in fact, there is a substantial body of evidence which suggests that dog fighting and related gang activity is probably much smaller than perceived (although warrants further study), plus similar strong evidence bases exist to reject the notion that s1 types demonstrate uniquely aggressive behaviours particularly different to

any other breed; and there is strong evidence that the DDA is not protecting public safety because dog bites continue to rise.

To summarise, the second objective of this thesis - *to examine the various policy 'solutions' that emerged in relation to these 'problems'* - required a thorough wade through the 'primordial swamp' of policy ideas, that Kingdon (1984) describes. This necessitated an analysis of the legislation as well as an exploration of the explanations for those solutions both enshrined in legislation and those that have failed or remain within the debate. The hard line that many within the policy network take regarding s1 of the DDA - that it is the largest contributing factor to the dangerous dog problem - potentially prevents the kind of 'softening up' of policy proposals that Kingdon describes. However there may be other contributing factors such as the nature of the parties within the policy community which is addressed in the next subsection.

### Politicking, white noise and the zeitgeist

The third objective required an investigation of the policy environment at an inherently political level to determine how responses are challenged and resisted. In Chapter Two I stated that although the terminology of policy 'network' and 'community' would be used interchangeably within this study, I also suggested the dangerous dog/dog control policy sphere could be considered an 'issue network' under Rhodes' and Marsh's (1992) typology. This is due to the diversity of both participation and participants who have varying levels of power. There have undoubtedly been fluctuations during the past three decades as organisations have grown more or less successful at communicating their ideas and developing collaborations and coalitions as a result. Some of the factors of this success or failure have been related to external events, such as elections bringing a different party to power, and the zeitgeist regarding dangerous dogs. Other factors include the relative size of each organisation, or influencer, operating at the 'meso-legislature' level, as Chaney (2016) identifies, whereby those with limited resources can struggle to participate as effectively as the larger ones.

The pool of participants in this study reflects the breadth of the policy network and indeed many of the primary actors from its forefront. As the themes of the findings developed, so too did a sense of a natural grouping of participants. Often the welfare and

technical specialists share similar viewpoints with a second natural grouping of enforcers consisting of the police, local authorities and the RSPCA. The RSPCA participants however wouldn't always appear within this group, particularly on specific issues such as BSL where they share many of the views of the welfare fraction and indeed on this issue the local authorities also followed suit, leaving the police alone in defence of s1. However within the welfare grouping and across the policy network a strong theme of conflict and competition, resulting in fragmentation, was also evident. Where agreement amongst a number of policy actors exists, such as the negative effects of s1, there remains significant disagreement on how to address these policy problems. This key finding also suggested that the resultant 'white noise' caused by the conflict - the notion that much of the dangerous dog policy network has drowned itself out - either makes it impossible for government to gather a coherent solution, or indeed permits them to continue to legitimately ignore them. The result of this, of course, is that the policy proposals that have erstwhile succeeded have been largely unaffected by the developments in the understanding of breeds, of dog behaviour, and of the true nature of society's use and abuse of dogs.

To summarise, the third and final objective of this thesis - *to assess critically the political processes via which particular policy responses were challenged and resisted* - posed some additional challenges. The main issue was accessing the motivations and strategies of politicians in 1991 and throughout the subsequent decades which ultimately had to be unearthed from within the documentary analysis and the second hand accounts of others within the policy network and not from the politicians themselves given they declined to be interviewed<sup>64</sup>. Nevertheless there remains a rich source of information within the documentation, detailed within Chapter Five, supplemented by the empirical findings of the interviews in Chapter Nine to illustrate the political forces at work during this period. The influence of the unprecedented media coverage of the serious dog attack on Rukhsana Khan (and others), coupled with a vulnerable Home Secretary and Prime Minister both determined to respond with highly punitive measures deemed popular with the public, resulted in what many, even outside of the dog policy network, regard as knee-jerk, ill-thought-out legislation.

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<sup>64</sup> Home Secretaries and Shadow Ministers during the interview period and those who were in post during the passage of the 1991 Act did not respond to requests to be interviewed for this study.

## The dog control policy process

The three streams of 'problem', 'policy' and 'political' have undoubtedly come together in what Kingdon (1984) refers to as 'coupling' on several occasions during the last few decades. Beginning with the focussing event of the attack upon Rukhsana Khan which contributed to the opening of a policy window resulting in the 1991 DDA; followed by the backlash and a slight slackening of the most draconian measures within the Act in the 1997 amendment; then later with the 2014 amendments which attempted to address aspects of dog control whilst ultimately retaining BSL.

Nevertheless the significant issue of dog bites alone suggests a dangerous dog problem remains (although the status dog phenomenon would appear to be subsiding), and much of the policy network agree on repeal of s1 even if they cannot agree on the detail of what should replace it, so how is it that a BSL policy remains a cornerstone of dog control legislation in England and Wales? Tonry (2004: ix) suggests that:

Policy-makers adopt bad policies for four kinds of reasons - evidence, ignorance, ideology and self-interest. Sometimes they believe, wrongly but honestly, that existing evidence gives valid reasons to believe that policies will have wanted effects. Sometimes they act ignorantly, simply not knowing that what seems like a good idea isn't. Sometimes they are so influenced by ideology or political self-interest that they adopt policies primarily for symbolic reasons, without knowing or caring whether they will work.

This explanation may seem rather simplistic and of course in the case of dog control policy it may be a combination of all four reasons. The evidence at that time was certainly convincing to policy makers and banning certain breeds would have appeared a logical move to make however it also suited politicians inasmuch as it presented as a bold response to public fears. Such 'playing to the gallery' whereby politicians were aware of the mostly symbolic but populist nature of their responses - in many more areas than mere dog control - served to help strengthen an otherwise weak government.

Time may also change the motivation for retaining a policy that is already set in law. Whilst the evidence base may have changed from the time of its introduction - tending to suggest the legislation was not going to achieve its original aims - there can also be a negative impact from the repeal of legislation. Participants of this study that support s1 of the DDA did not however suggest realistic negative effects upon public safety from repeal but instead remarked upon the political fallout once a then-legal s1 type dog happened to

attack someone. This pointed, in a very fundamental way, to an understanding on some level of the symbolic nature of retaining BSL purely for political reasons.

Dog attacks in recent decades have served as very effective focussing events, but arguably no such equivalent event, quite as striking, will occur in a way as to suggest repealing the legislation. There are no dramatic news stories that draw national attention from the consequences of sI dogs being banned, and the substitute harms are far more nuanced and difficult for most to comprehend. The drivers for change are harder for campaigners for repeal to come by. So too the repeal campaign may have suffered from a lack of 'policy entrepreneurs' who occupy the kind of status and role in the policy network that Kingdon (1984) suggests is needed.

### Dogs and a Culture of Control

Many of the facets of contemporary dog control policy in England and Wales appear to evoke the features of Garland's Culture of Control (2001) particularly the symbolic, overly-punitive, knee-jerk, expressive policy making which eclipses any adaptive and evidence-based strategic response. As Garland (2001: 173) details:

What this amounts to is a kind of retaliatory law-making, acting out the punitive urges and controlling anxieties of expressive justice. Its chief aims are to assuage popular outrage, reassure the public, and restore the 'credibility' of the system, all of which are political rather than penological concern.

Indeed the DDA and its aftermath also expresses the Janus-faced culture of control, in line with the contention that crime control is in fact contradictory, with pragmatic adaptive crime strategies being contemporaneous with the politics of denial. The 'responsibilisation' Garland (1996) discusses can be seen where the 'partnership' enforcement approach of local authorities and police enforcement is encouraged - by government (thus passing on responsibility) - to include the welfare NGOs, particularly on preventative strategies within inner-city dog-owning communities. The redefining of success and failure can also be seen at certain moments, particularly, for instance, when the huge surge in sI dogs seized by the Metropolitan Police Service's newly established Status Dogs Unit were used as a justification for BSL. And likewise the key performance indicators (discussed by many police officers at interview for this research) centre upon what can be controlled, such as police kennelling costs, rather than the problem of rising dog bites in society.

The DDA has also been shown to be symptomatic of Garland's 'criminology of the other', with, according to its logic and imagery, a criminalised world of monsters, human and non-human, and of exaggerated fears/panic, through the use of gladiatorial style language and the labelling of 'dangerous' dogs and their 'dangerous' owners. This had another effect in its ability to marginalise the owners as credible stakeholders in the policy process. As Molloy (2011: 126) outlines:

The status of the pit bull owner/breeder as a source of legitimate knowledge was overruled by truth claims promulgated by the media, animal welfare groups, official agencies, political groups, professionals of various kinds, and government discourses. Ascription of anti-social identity prohibited pit bull owners from having authoritative status within discursive formations as the moral panic about dog fighting excluded pit bull ownership from the legitimate practices of pet-keeping.

As has already been mentioned, experts and professional groups have not escaped disenfranchisement either. From a once commanding position upon the policy making process, these specialists have been devalued and swept aside. The RSPCA was cited by Lord Baker (1993) as a key advisor and supporter in the development of the DDA and yet any subsequent representations (in particular during the last decade) have been ignored, along with the rest of the dog welfare expert policy network. Garland (2001: 13) characterises this as a key feature of the culture of control:

The policy making process has become profoundly *politicized* and *populist*. Policy measures are constructed in ways that appear to value political advantage and public opinion over the views of experts and the evidence of research. The professional groups who once dominated the policy-making process are increasingly disenfranchised.....There is now a distinctly populist current in penal politics that denigrates expert and professional elites and claims the authority of 'the people', of 'common sense', of 'getting back to basics'.

To summarise, a number of similarities with Garland's grand theory have been revealed. In the absence of rational, evidence-based and problem-solving policy making, the issue of widespread anxiety in relation to the threat of dangerous dogs has been addressed via draconian legislative measures. Despite evidence of this legislative framework not working and additional harms arising from within it, its measures have instead been retained and further codified in law. Public debate, fuelled by high profile and disproportionate media stories, has intrinsically linked dangerous dogs with other risky, criminal and anti-social behaviours. This 'othering', coupled with expressive, symbolic and highly politicised policy making, has resulted in a overly-punitive culture of control for dogs and their owners in society for some three decades across England and Wales. Or perhaps this is better expressed as: the characteristics of the dog control policy revealed through this unique

study are merely further confirmation of a broader culture of control within the UK's approach to penal policy. The findings nevertheless remain the same.

The following sections of the Chapter now turn to the most recent developments in dog control policy and the policy implications of this sphere.

### 10.3 Current dog policy developments

I am conscious that since concluding the collection of interview data there have been a number of developments in the dog control policy sphere. These warrant further empirical research however short of that it is worth briefly exploring some of those developments purely in the interests of thoroughness and for their implications for the direction of policy.

Today, the human/dog bond - the most complex and profound inter-species relationship in the history of mankind - has been reduced to a simple axiom: Breed of dog = degree of dangerousness (Delise 2007: 171).

While this quote stems from 2007, it may well be as valid and relevant in today's dog control policy sphere. Even the recent small steps (I go on to discuss below) in an anti-BSL direction don't mitigate against this oversimplification and misdirection of the dog problem highlighted in the above quote. In fact it could be argued that raising the profile of breed/type issues, is reinforcing stereotypes in the minds of some people, intentionally or otherwise. Nevertheless, internationally the trend is away from BSL style policies. In the 30 months following the start of 2012, more than seven times as many US municipalities repealed or rejected proposed BSL measures, than implemented such a policy (National Canine Research Council 2016) and by the summer of 2017 twenty states in the US had brought in a state-wide law to prevent municipalities from introducing any legislation based on breed. Other nations had been quick to follow the UK in enacting BSL, first Australia - despite never having had an attack involving a Pit Bull (Hallsworth 2011) - then Germany, France, Denmark, Norway, Netherlands, Spain and Italy<sup>65</sup>. But this apparent trend for policy transfer in Europe then abruptly stops and only the Netherlands, Italy and parts of Germany have thus far repealed their versions of BSL.

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<sup>65</sup> This is not an exhaustive list of countries in Europe with BSL.

Public support for the repeal of BSL in England and Wales would appear to be growing. In the summer of 2018 the RSPCA reported that more than 66,000 people had signed their BSL campaign petition (RSPCA 2018) and more recently the Blue Cross announced 80,000 people had signed their version of the same campaign (Blue Cross 2019). Plus the majority of stakeholder groups have also responded in support of repeal in a recent public consultation from Parliament (Efra 2018, see discussion below). However this support for repealing certain dog control laws is not merely an inherent opposition to state control of dog ownership, on the contrary, support for alternative methods and regulations is rising, some of which, i.e. dog licensing, arguably have measures that reach much further into the dog owning public. Sietto *et al.* (2013) found that 73 percent of survey respondents support dog licensing which is roughly in line with what the RSPCA found with 76 percent in 2010 (RSPCA 2010a: 15) and 82 percent in Wales in 2012 (RSPCA 2012: 9).

Perhaps as part of a routine review or in recognition of the turning tide, Defra surveyed local authorities and the police in January 2017 in order to ascertain their approach to dog control and welfare, and specifically any measures designed to reduce dog attacks. This survey was done without notification to others within the dog policy network and thus any opportunity for another stakeholder to respond with salient information - perhaps for a locale where a force or council didn't respond - was therefore missed. It is impossible to understand at this point why the Government chose to only engage with statutory enforcers, as no justification has been given. A subsequent document (Defra 2018b) was published as a guide to Local Authorities and police, however it does not appear amongst the Government's other similar advisory documents for enforcers but instead it is posted on the Local Government Association's (England) website. The document does not provide any analysis of the results of the survey but instead appears to seek to delineate the separate roles of the two enforcer bodies and also where their responsibilities sometimes converge. There are also case studies of dog bite reduction initiatives although they are not accompanied by evidence of any independent evaluation of the results in order to validate any suggestion they could be replicated in other boroughs.

On 11th May 2018 Efra announced an inquiry into dangerous dogs, specifically BSL (Efra 2018b), representing the first real hearing for the campaign to repeal s1 of the DDA. The vast majority of written and oral consultative elements of the inquiry reflected the

positions of the various constituent agencies and key actors within the policy network but served to produce little in the way of new evidence or proposals. Nevertheless much of the evidence already in existence and solutions under debate had not had a hearing at such a senior political and public level before. The inquiry could therefore be regarded as having brought legitimacy to the anti-BSL campaign as well as much needed public awareness. The oral evidence sessions, which I observed in person or via [parliament.tv](http://parliament.tv), proceeded as expected with one notable exception, the police. There was a subtle but discernible shift from previous positions given (including in interview for this study) seen via the oral evidence submitted by NPCC representative, Temporary Chief Constable Gareth Pritchard. When asked by the Committee if the DDA is effective T/CC Pritchard responded:

It is partially effective. It has been in place quite a long time. It has changed the behaviour in many regards in terms of criminals having status dogs and providing a danger to society. But obviously society has changed, patterns of behaviour have changed and you can see that fashions in dog ownership have changed (Efra 2018b: Q109).

When questioned further T/CC Pritchard added:

We want to see best practice across the world. We are interested in seeing how the law can develop. It is a point in time, but on this journey we do need to look at options, and we are interested in supporting the research and looking at other options to see what might be a more effective way in the future. No Minister would just repeal BSL immediately. There would be concerns about the impact of that. But we want to be part of a longer-term solution. That would be very welcome in the community (Efra 2018b: Q110).

These statements and elsewhere in the testimony of the police represent a minute but significant change in approach. Whether this shift is reluctant or voluntary on their part, there would appear to be an acceptance that change in some form or other is now due. However this was clearly not understood by the Government when a week later Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity and his lead official, Marc Casale Deputy Director Director, Animal Welfare and Exotic Disease Control, Defra, gave evidence to the same committee (Efra 2018c). The Chair and several committee members repeatedly point to the police position of supporting changes to the current dog control regime, for example:

...and I really am very sad this morning that you are not more conciliatory, because the police, certainly in the evidence they gave us last week, are really quite keen to have some interpretation on how, even with keeping those particular breeds in the frame, they can deal with a good-tempered dog and rehome it (Neil Parish MP, Chair of the Committee, Efra 2018c: Q243).

And also for example, Alan Brown MP 'The police have said they could support a shift away from BSL as long as there is an appropriate framework' (Q267). Any response to these key points and questions regarding the police policy position are avoided throughout the Government's testimony until however Mark Casale eventually replied, 'We are speaking to the police about what they would like. The police are telling us that they are very supportive of our current regime. They are not pressing us to relax it' to which the Chair responded, 'The evidence we have here is quite different' (Q276). Of course it is quite possible the Government had not been kept abreast of developments in the police policy position but it may also be that they merely needed more time to adjust to it and assess the impact of such a shift upon the policy network as a whole. If that was the case, however, there would appear to have been insufficient time for the Government to make that adjustment ahead of the publication of its formal response to the Committee's report where they reasserted resolute support for the current legislative framework: 'The Government considers that the prohibition on possession of such [prohibited under s1 DDA] dogs should remain in place for reasons of maintaining public safety' (Efra 2019: 6), and a number of the Committee's recommendations, for example a consolidation of the dog control legislation, were essentially ignored.

The Government also chose not to respond to the Committee's unusually strong comments on the validity of the Government's own evidence:

'We are concerned that Defra's arguments in favour of maintaining Breed Specific Legislation are not substantiated by robust evidence. It is even more worrying that non-existent evidence appears to have been cited before a Parliamentary Committee in support of current Government policy. This lack of clarity indicates a disturbing disregard for evidence-based policy-making' (Efra 2018d: 30).

This perhaps echoed the strength of feeling elsewhere in the policy network previously expressed by otherwise moderate animal welfare NGOs who had, for example, issued press releases questioning the accuracy of the Government's evidence base (Blue Cross 2018). There are perhaps some indications however that the Government was in part listening to the criticism of its stance from the policy network's discussions, as long-awaited research was commissioned of Middlesex University in November 2018. Defra's tender documents detailed the scope as:

Provide a more in depth assessment of how authorities currently use the powers granted to them; the extent and nature of data collection and sharing related to dangerous dogs and identify best practice case studies that can be learned from

and practical and proportionate opportunities to improve data collection and sharing (Defra 2016<sup>66</sup>: 21).

There are some indications within the policy network that these parameters have changed, but in any case they would still appear to be a significant disjoint with the recommendations for research Defra set out:

The Government should commission an independent review of the effectiveness of the Dangerous Dogs Act 1991 and wider dog control legislation. This review should begin no later than January 2019. We expect this review to take account of the concerns and recommendations raised throughout this Report (2018: 30).

Defra should commission a comprehensive independent evidence review into the factors behind canine aggression, the determinants of risk, and whether the banned breeds pose an inherently greater threat. We expect to receive regular progress updates on the evidence review, and to be provided with the results no later than Easter 2019. These results must then be used to inform the Government's future dog control strategy (*ibid.*).

The findings of this Government-commissioned study will not be made public for some time yet but its framework could either be encouraging in that it provides a legitimate platform to present to Government the recent developments in understanding within this policy area or it could be a terrible, damaging even, missed opportunity. The Government does not, however, have a good track record in regard of observing the outcome of research and consultation. It should be remembered that the results of its previously commissioned research - Liverpool University's systematic review of studies relating to human-directed dog aggression (Defra 2011) - and the results of public consultations, were either partially or completely ignored, without explanation (for example Defra 2010a, and 2010b).

#### 10.4 Policy implications, recommendations and future research

There are a number of implications for the direction of policy stemming from current events. The Defra inquiry itself would appear to suggest the political debate is becoming uncoupled from its previously almost exclusive relationship with the pro-BSL position. In addition the shift in the police position is yet to be fully understood. Firstly it may yet change again given the NPCC portfolio senior officer lead has since retired and the post

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<sup>66</sup> The document is dated as 2016 thus reflecting the Government's long-held intention - and subsequent delays - to commission research. It is believed the document was amended to some degree or other, however, until its release at the start of the tender process.

is currently vacant - a new senior officer filling this role may take a different view. And secondly it remains to be seen what influence the changes in approach from the police may have upon the Government's position. In addition the Defra-commissioned research has yet to conclude and report, and thus its influence upon the Government position cannot be estimated, for reasons already discussed.

What is already clear regarding this new research is that, judging by the published criteria, it has not been commissioned to examine all aspects of the dog control problem. The omission of the wider societal factors has been identified as a problem previously by McCarthy (2016: 572): 'Few studies exist which examine how state attempts to "make up" dog dangerousness through legal measures may stigmatize some owners (and in some case grant social status...) and impact on their social interactions with their pets'. McCarthy goes on to identify the implications for animal-human research including the idea of companionship being reshaped as a consequence of the level of penalties and controls exerted by the state upon the owner-canine relationship, suggesting that:

...pure companionship becomes more challenging when involving dogs which are classified as 'dangerous' by restricting the types of canine-human relationship which may be formed - where the preservation of public safety through prevention of attacks against fellow dogs and humans becomes one of the core modes of responsibility for the human 'owner' to deliver (*ibid.*).

It also remains to be seen what implications will result from the influences of the legislative moves of other nations. Whilst the 2018 Efra Committee inquiry returned many times throughout their deliberations and evidence sessions to the experiences of other countries and what lessons might be learned regarding BSL and alternative methods of dog control, they also identified a lack of shared enthusiasm from the Government:

We were concerned at Defra's apparent lack of interest in learning from experiences abroad. Whilst the Government obviously should not 'copy and paste' initiatives from other countries, it is important to investigate successful programmes elsewhere to ensure the UK's future strategy benefits from a wide variety of evidence and lessons learned' (Efra 2018d: 32).

Meanwhile the rate of repeal across municipalities in the USA - often regarded as a more risk-averse and litigious society than the UK - continues, with the latest being Kansas City, who in May 2019 reversed a 30-year old ban on American Pit Bull Terriers, American Staffordshire Terriers, Staffordshire Bull Terriers and any mixed-breeds with characteristics of those dogs, living within the city limits. This will mean that with immediate effect dogs of these types currently in rescue centres will be able to find homes and also the city is set

to save \$246,000 per year that it was previously spending on 'breed-specific services' (Arnold 2019).

### Recommendations and future research

Whilst there is consensus amongst the vast majority of the policy network as to the fallacy that links dog aggression to type/breed and that the DDA is working inasmuch as preventing dog attacks, there is however significant conflict in terms of how to address these policy problems. A dialectical discourse to establish what solutions are evidence based and best placed to succeed is long overdue. Compromise and perhaps unusual coalitions on message would undoubtedly be a necessary outcome. However such a process could benefit the policy network immensely, removing the ability of the Government to legitimately ignore the 'white noise' created by the policy network.

It must be acknowledged, however, that the animal welfare lobby (and the growing fringes), even when supported by the scientific and veterinary spheres, may be unable to compete with the populist responses to human injuries by dogs. Policy makers can be argued to have been very effective at presenting a package that appears to the layman as valid in terms of protecting the public. The disjuncture between such measures and the evidence base for them is obscured by a general ignorance of dog welfare and behaviour and the contribution of those particular factors to aggression in dogs. There must be a general appreciation of the dangers of being too specialist and how this can impede the policy debating process. Speaking about the ideas in jargon can be seen as gatekeeping and excluding people from the interest area, thus disengaging the layman and in turn reducing any influence upon the key policy actors in government. As scientific understanding of dogs has developed, the gap with regular dog owners has widened and arguably little of this information has been communicated successfully. All those within the policy network working for change must acknowledge the need, and work towards, a greater general level of knowledge about dogs in society.

The study of policy making has perhaps always been more obscure than other academic pursuits, as observed by Rock (1986: xi):

There have been very few sociological descriptions of how policies are constructed, presented and applied. And most available description has had little to do with the practical logic-in-use of the policy process. In effect, surmise and imputation have

supplanted observation. Policy-making has been reduced to the analytic status of a small Black Box which is allowed to be neither very puzzling nor particularly threatening to other models and ideas.

And indeed over 30 years on and it remains a nascent field. It is hoped that this study will inspire others to investigate the making of policy and in particular with specific regard to animals and perhaps dog control. Indeed alternative methods such as those discussed in the next section of the Chapter may also lead to a confirmation of my results or an entirely new perspective on the culture of dog control in England and Wales. I also believe some comparative research would benefit our understanding of how dog control policies are constructed, particularly if that were to include a European nation as well as perhaps the most obvious inclusion of the USA should the Garlandian scaffolding I have employed be re-tested.

What is also very clear is that the optimum conditions for repealing s1 of the DDA require an alternative framework ready to be deployed, and for that to happen the Government would wish to see a solid evidence base for the projected success of a new regime, underpinned by robust research. As Medlin (2007: 1318), identified some time ago:

There is no question that the reduction of dog bites is an important issue that requires government attention and action. Breed bans, however, gloss over the complexity of the issue and apply a superficial fix to an expansive problem. The proper attention to the pit bull problem requires the study of regulatory alternatives that will root out the causes of the problem, rather than the symptoms. Irresponsible human actions will continue to produce dangerous dogs as long as legislation leaves human conduct unchecked. Banning an entire breed from existence will not alter irresponsible human behavior, nor will it reduce the number of dangerous dogs resulting from this behavior. A true solution requires bringing the issue of irresponsible and inhumane ownership to the forefront.

It is the view of a growing number of advocates, including myself, within the policy network that some form of annual dog registration or licensing is needed, perhaps amongst other additional measures, as part of a new dog control framework. Far from reintroducing the previous UK dog licence - which is roundly viewed as having failed in all regards - a new regime would be designed specifically to aid behavioural change, greatly increasing responsible pet ownership and reducing a plethora of dog related issues in society. As an adaptive policy it can be shaped to respond to specific local issues, and it is also evidence-based as it draws upon international experiences such as the pet licensing system in Calgary, Canada. The benefits of such a system for wider communities, such as

links to human wellbeing, is also already a subject of scholarly interest (Rock *et al.* 2015). Most importantly it is entirely possible that only once such a system is firstly attractive to both the public and policy makers, and secondly bedded in well - resulting in positive indicators such as a drop in dog attacks - that the UK Government might finally accede to becoming unwedded to BSL.

## 10.5 Methodological reflections

Before concluding this study it is important to reflect upon the research process in terms of what it has and has not provided. When evaluating the adaption of theoretical frameworks it is, of course, important to determine if they managed to capture the social phenomenon they were intended to (Layder 1998). The social world is complex and so there must be an expectation that any method designed to understand and interpret it will be fallible and perhaps inherently incapable of capturing a complete picture, leaving ample space for alternative and perhaps contradictory accounts. Garland's theory offered a scaffolding with which to explain the findings of an examination of policy making however such grand theories can lack the empirical specificity surrounding political institutions, processes and cultures and their interactions, which are undoubtedly of key interest in relation to dog control policy making.

In relation to Kingdon's Multiple Streams model utilised as an organising framework, this was a useful instrument for capturing and delineating the constituent parts and conditions of policy making. In order to be fully reflective it is important, however, to also record the limitations of this model, most notably that Kingdon collected his data exclusively in the USA some forty years ago (Hill 2013: 179). As Page (2008: 208) identifies, Kingdon's research focuses upon plurality and a political system arguably designed to produce equality and a myriad of actors with a role to play in the process. This differs greatly to the European/UK reality of political hierarchies where the seniority of role can be a factor affecting the nature of the pluralistic landscape. The UK is an 'Executive-dominated system' where it is possible for one group to dominate or have a disproportionate effect on the direction policy takes. This may go further to explain the influence of the police in dog control policy which would have appeared to have eclipsed the rest of the policy network and any contradictory scientific evidence.

In the time since MSA was first published there has also been a great deal of change such as the growth of the machinery around government and the professionalisation of lobbying particularly within the third sector. In the UK there has also been the rapid expansion of the meso-legislature with the creation of the devolved parliaments, which are also often led by entirely different political parties to that of Westminster. It may be that for a future researcher alternative methods of examining policy making, such as Policy Network Analysis or Advocacy Coalition Framework could navigate these issues, yield different results and provide a quite different explanation for the dog control policy environment of England and Wales, therefore confirming or challenging the culture of control thesis.

Whilst it is the duty of any researcher to reflect upon their own role during and throughout the research process I have been in a slightly more unusual position in that I am aware that my profession as a senior representative of the RSPCA may have influenced certain aspects of the process. The lack of participation by the Members of Parliament responsible for dog control both in 1991 and during the data collection phase of this study may well have been one of the consequences. Whilst 'there are multiple ways in which qualitative research, conducted by researchers practitioners, can assist the policy development process' (Noaks & Wincup 2004: 15) and as such I remain confident of the validity of the findings from the extensive documentary analysis within this thesis, undoubtedly the inclusion of interviews with these specific individuals could only have served to have enriched the study further. My RSPCA role also challenges me to consider what part my personal and professional values have played within this process beyond that, of course, of any researcher. It is important to accept the inevitability of intruding values but to also acknowledge that it is widely accepted that qualitative research is rarely value-free (May 2001: 46-59). A self-aware 'confessional' (Bryman 2004: 22) of such factors can offer some mitigation and indeed my personal account of my insider-researcher role in Chapter One is designed to provide some transparency regarding what aims, opinions and expectations I took within me into the field.

## 10.6 Conclusion

In summary, this thesis has assessed how a purported culture of control unfolds in the dog control policy process across England and Wales and in doing so provided a contribution

to the still under-researched area of crime control policy formation drawing upon both political science frameworks and also broader sociological/theoretical treatments of developments in crime control policy. It provides insider accounts of the 'empirical particulars' of policy making that few others would be in a position to acquire given my own privileged vantage point in the policy network and, relatedly, access to key elite players. Furthermore this thesis presents an original contribution in terms of the focus on controlling animal-related harms in criminology, a still under-developed area of 'green' criminology.

By employing a rigorous methodological approach triangulating the accounts of the primary actors within the dog control policy network with an extensive documentary analysis, it has been possible to generate a comprehensive understanding of a subject area that has occupied a commanding, often emotional and moral, position within the political and public domains over a number of years. As both a complex and controversial issue, combining both threats to public safety and harm to animals, questions are inevitably raised - given the current regime would not appear to be working - about how we wish to see these dangers managed and controlled through government responses. I believe criminology has a significant contribution to make to those debates but there is a hurdle that must first be overcome, one of prioritisation, that Medlin (2007: 1318) has previously identified:

Communities cannot continue to cite the protection of citizens from dangerous animals as a paramount concern, while at the same time declaring that they have 'more important concerns' than making the enforcement of animal control laws a priority. Responsible dog ownership must be made a socially significant issue on which communities are willing to spend time and resources.



# Appendix A

## Elite interview schedule

### Background/expertise

1. Your role / experience within the policy community (policy maker/influencer; practitioner; academic; NGO; statutory; enforcer; legal; veterinary; etc. expertise. Length and type of experience)

### Nature of the 'problem'

2. Is there a dog problem in our society, and if so what is it? Are there elements of a moral panic?

3. What are dangerous dogs and what are status dogs? Do cultural references affect these definitions?

4. Can we explore (if not already) any meaning in respect of youths, ASB/criminal aspects, responsible dog ownership, s1 and s3 of the DDA, and animal cruelty. How does it manifest?

5. What is the media's role?

6. What factors led to where we are? (Explore pre and post 1991)

7. What evidence exists to support the notion of a 'problem'? (Explore dog aggression, bites and attacks; dog welfare; criminality, ASB; etc.)

### Solutions; policy responses

8. Who are the main actors in the policy sphere? What are the interrelationships? What are the influences?

9. What role is there for evidence and expertise?

10. Is there a vacuum?

11. What proposals for change have you been involved in during the phenomenon?

12. What is needed for change, and to resolve society's dog issues? (explore legislation, intervention, education, other)?

### Policy, politics and influences

13. What have been the influences on policy development and in particular the changes we have seen from 1991 onwards?

14. What are the political and societal influences affecting change?

15. Have any lessons been learned and what role is there for behaviour change vs legislative?

16. How has change been achieved successfully? What issues remain?

17. What legislation - or draft legislation has been important/influential?



## Appendix B

### Key to elite interview participants

Table 3. Participant Sector Key

POL	Police
LG	Local Government
RS	RSPCA
DNGO	Dog-related NGOs
TS	Technical specialist

Table 4. Participant Key for In-Text Participant References

POL1	Senior officer with national (England and Wales) responsibilities
POL2	PC, DLO and DDA advisor
POL3	Sergeant of dog unit, a large urban force
POL4	PC, full time DLO, a large urban force
POL5	Sergeant, specialised dog unit, a large urban force
LG1	Officer lead of large dog control unit
LG2	Officer lead with a national coordination role
LG3	Officer lead and a representative to an England and Wales dog forum
LG4	Officer lead and a lead for a professional dog forum
RS1	Chief Superintendent with significant experience investigating dog fighting
RS2	Head of a scientific department
RS3	Ex-veterinary lead
RS4	Advocacy and policy officer
RS5	Adult offender rehabilitation specialist
DNGO1	Policy lead for a multi-species animal welfare charity
DNGO2	Veterinary nurses for a multi-species animal welfare charity
DNGO3	Senior officer of a dog welfare charity
DNGO4	Senior officer of a dog owners' organisation
DNGO5	Policy lead for group utilising service dogs
DNGO6	Policy lead for a workers' union
TS1	Epidemiologist in human-animal interactions
TS2	Policy officer for veterinary representative body
TS3	Solicitor acting in welfare, s1 and s3 court cases
TS4	Veterinarian and Forensic Behaviourist
TS5	Ex-DLO police officer and Forensic Witness



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