France’s dangerous dogs legislation has new teeth: should UK law bite the bullet?

Author : Glen Cousquer

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Glen Cousquer reviews France’s revised dangerous dogs legislation, and asks: should Britain follow suit?

RESPONDING to the recent spate of attacks and child killings by dangerous dogs, the French authorities have rigorously reinforced their legislation – a move we would do well to study and reflect on in the UK.

While some might describe the new legislation as authoritarian and controversial, it clearly recognises the need for careful policing of ownership of dangerous dogs. This serious attempt to protect French society, broaden the definition of dangerous dogs and create a structure to address all aspects of this social problem, shows up the gross inadequacies of UK legislation. This article reviews the important aspects of current French legislation and provides suggestions on improving our own laws.

France’s dangerous dogs legislation has evolved over the past nine years (see box).

The subject was very much in the public eye during 2007: an American Staffordshire terrier killed a young girl on August 28; two great Danes (dogue allemande) killed a 10-year-old girl on September 22; and a 19-month-old boy was killed by a supposed Rottweiler cross on October 22. These incidents, and the resulting public and political debate, gave rise to more legislation in the form of the loi 2008-582 du 20 juin 2008.

That legislation was supplemented by the decree of September 4, 2008 (décret 2008-897 du 4 septembre 2008).

First-category dogs were due to have a behavioural assessment by December 21, 2008, while all second-category dogs have until December 21 this year to be assessed. This assessment must be done by a veterinary behaviourist registered with the Direction Departemental Service Veterinaire.

As the first of the deadlines approached, French vets prepared themselves for a significant increase in responsibilities.

The categories

Currently, the French rural and penal codes identify two categories of dangerous dogs.

The first category is designated “chiens d’attaque”, or attack dogs, and it includes all dogs of the following types: mastiffs, pit bulls (American Staffordshire terrier) and Tosa. A crossbreed bearing the general characteristics of any of these three groups can also be listed as a first-category dog.

The second category is designated “chiens de défense”, or defence dogs, and includes all pedigree dogs of the following breeds: mastiff, Tosa, American Staffordshire terrier and Rottweiler. It also includes all dogs of the Rottweiler type.

The legislation clearly establishes who may own or be left in charge of such a dog and under what conditions (Table 1).

Additionally, all first-category dogs are banned from public spaces, transport and buildings. The definition of public spaces does not, however, appear to include the street (voie publique), where these dogs are to be muzzled and on a lead held by a responsible adult. Secondcategory dogs are not banned from public spaces, transport or buildings, but must always be muzzled, on a lead and in the care of a responsible adult.

Infractions

Where these legal requirements are not observed, the mayor has the power to take the dog into custody and order its destruction. In the latter event, the mayor will consult with an approved veterinary surgeon within 48 hours of capture. All costs arising from the capture, transport, kennelling and euthanasia of the dog become the owner’s or keeper’s responsibility.

The punishment for law infraction is heavy:

• the acquisition, cession (ownership transfer), importation, breeding of and failure to sterilise first-category dogs is punishable by six months’imprisonment and a fine up to € 15,000;

• individuals with a criminal record or minors (younger than 18 years old) found in charge of a first or second category dog may get a fine of €3,750 and a three-month prison sentence;

• failure to declare a first or second-category dog carries a fine of €135; and

• involuntary homicide carries the heaviest penalty, currently five years'imprisonment and a fine of €75,000. This increases to seven years'imprisonment and €100,000 fine where the owner has failed to observe statutory responsibilities or is proven to be intoxicated in charge of the dog.

After he met the parents of the 19-month-old killed in October 2007, French president Nicolas Sarkozy indicated his desire to see the penalty increased to 10 years'imprisonment.

Reporting all dog bites

Since 1989, all dog bites have to be reported under legislation designed to assist in the fight against rabies.

Any dog that has bitten a human (chien mordeur) must be placed under veterinary surveillance for 15 days.

During this period, the dog must be examined on three separate occasions: approximately 24 hours, seven days and 15 days after the bite.

Recent legislation further emphasised the legal requirement to report any dog bite. Under article seven of the loi 2008-582 du 20 juin 2008, anyone with knowledge of a dog biting a person is required to make a report to the mayor's office. Health professionals attending a patient with bite wounds will, therefore, automatically report their findings. The owner of the offending dog is required to submit his or her dog to a behavioural evaluation as if it were listed as a first or second-category dog.

Following this evaluation, the mayor can require the owner or keeper to attend a training programme and obtain the necessary qualification demonstrating his or her competency. Failure to do so can lead to the dog's confiscation and eventual euthanasia.

Discussion

It will be clear to the reader that this legislation is not lacking in scope or ambition, and can make a significant difference to the dangerous dog problem.

I believe it is a positive step to require breeders, owners and keepers of dangerous dogs be suitably qualified and responsible people. This is particularly important given the tendency for certain characters to arm themselves with such dogs. Certain criminal records should raise

questions as to an individual’s right to own a dog with the potential to be dangerous. That said, dog ownership is a positive life experience for many people and one that should not be denied without due reason; it does, however, carry with it a number of different responsibilities.

Upset dog owners

The French legislation has, quite understandably, upset large numbers of the dog-owning public who fear they may be persecuted or unfairly treated. This may include malicious complaints by disapproving or spiteful neighbours, and tarring all dogs of a particular breed or type with the same brush, while others escape such stigmatisation. These concerns, all very real to the dog owners, will be justifiable in the eyes of an impartial and objective third party.

For example, the two dogues allemands that killed the 10-year-old girl in September 2007 would be recognised as great Danes in the UK. Introduced to the UK in 1877, the great Dane is also known as the German mastiff, although crossings with hounds have altered the mastiff characteristics. The Romans developed the original mastiff type, the Alaunt, as a fighting dog – which led to the rise of other fighting dogs, including the Italian Alano and England’s national dog, the bulldog. Leggier breeds, such as the great Dane, resulted from crossings with hounds; as the German national dog, the Dane was bred for boar hunting. In view of this ancestry, a French pedigree dogue allemand (great Dane) could, therefore, be listed as a second-category dog, while a great Dane cross could be listed as a first-category dog if conforming to the specified type. This illustrates the continuing difficulties for efforts to control and/or eliminate such dogs.

Automatic assessment

The category system ensures that certain types of dog are automatically assessed; in my opinion, it is a positive step to include Rottweilers in this list given the recent tragedies witnessed in the UK. That said, my stated opinion is unlikely to meet with universal support, as there are many powerful and potentially dangerous breeds that are popularly described as making good family pets.

Breed aficionados will always feel aggrieved if their breed is included among a list of controlled dogs, and will blame the irresponsible owner. The nature/nurture debate between the relative importance of genetic characteristics and learned characteristics will, no doubt, continue for some time. It must not, however, detract from a clear ethical responsibility to take the necessary steps to protect the public from dangerous dogs.

The oft-quoted argument that any dog has the potential to be dangerous can clearly be felt simmering under the surface. Nobody appears to deny that the more-powerful breeds have the potential to cause considerably more damage should they chose to bite or be provoked into biting a person. This is no doubt why they are singled out for closer controls. The legislation does not, however, overlook the potential for small dogs to cause serious injury.

Friends of mine will never forget the day they returned home to find their Jack Russell terrier choking on a burglar's finger. The burglar was soon caught red handed and, while his injuries were not life threatening, he would probably have described them as severe and the dog as dangerous. Under French legislation, this dog would be assessed and evaluated of the risk posed to members of the (law-abiding) general public. While this may be an extreme example, it does emphasise the need to evaluate each case on its merits.

Key initiative

One of the key proposals of this new legislation (Table 2) is that all dogs that have bitten a person have a behavioural evaluation.

This is a great initiative as it will allow those owners with an essentially reliable dog to be reassured and provided with appropriate advice and training, while problem dogs are subjected to a stricter range of controls. This initiative places the veterinary surgeon in a position of great responsibility. It will require members of the profession to further their training in canine behaviour to become an appointed vet.

This, in itself, is no bad thing, as it will improve the veterinary surgeon's ability to identify problems early and intervene before they get out of hand. Most incidents of aggression occur within the home environment, and it is essential that families be well advised in their choice of dog and its training. The veterinary surgeon is well placed to provide this valuble advice.

However, there are a number of problems that we must address, for we are not automatically consulted for behavioural and training advice, and those who do seek our advice are unlikely to be those who are most in need of such advice. With this in mind, it is interesting to note that some French towns, including Grenoble, employ a veterinary behaviourist and offer free training to dog owners.

Lack of reporting system critical

The position of power occupied by the mayor of every commune may prove very important.

In the UK, the lack of a mayoral system may leave it for the police to administer any similar system. The police are often overwhelmed with work and sometimes may not act on an aggressive dog report unless a person has been injured.

This lack of a reporting system means that it is currently difficult to bring problem dogs and their owners to the attention of the authorities before someone is seriously injured. Would this change if they, or some other authority, had the power to order a behavioural assessment?

DEFRA has produced a leaflet outlining the law governing dog control in the UK. This can be

downloaded from DEFRA (see link at the end of this article) and made available to clients.

Complaints

Under the Dogs Act (1871), any person may make a complaint to a magistrates'court that a dog is dangerous, or report the matter to the police. If the court is satisfied that a dog is dangerous and not kept under proper control, it may make an order for it to be controlled or destroyed.

Significantly, as this act is part of civil law rather than criminal law, the burden of proof is lower. Any dog is defined as dangerously out of control if it injures a person or if it behaves in a way that makes a person worried that it might injure him or her. If a dog injures another person's animal and the owner of the animal reasonably believes he or she could be injured by intervening, then the dog could be judged as being dangerously out of control and, therefore, an offence may have been committed.

Offering good advice

Unfortunately, I have yet to meet a client whose complaint to the police has been acted upon. Clearly, we need to be able to offer good advice to our clients following a traumatic dog attack. The leaflet mentioned above may help with this matter. However, in the absence of an effective reporting system, I have started suggesting to clients that they exercise their democratic right and raise the matter with their member of parliament, if they and their dog are attacked by a "dangerous dog".

Not allowed in

Finally, it should be noted that British owners of any dog conforming to the morphological descriptions of a first or secondcategory dog is unlikely to be allowed to enter France. Should they pass the customs authorities, they will be expected to conform to the legislation.

All British vets issuing or renewing pet passports should alert their clients to this. Rottweilers and Rottweiler crosses, for example, will need to be muzzled and on a lead at all times when in public.

Conclusion

Where a dog presents a potential danger to the public, a system should ensure that the dog is assessed and the dog's owner or keeper is fully competent.

Car drivers get rigorous training and assessment before they can responsibly take charge of something with the potential to kill, and a vehicle must be roadworthy and insured. The same system should apply to any dog with the potential to kill.

The latest French legislation goes a long way in creating a model system to protect the public and promote responsible dog ownership.

Further Reading

- French news channel – dog attacks: http://tf1.lci.fr/infos/france/chiens dangereux/
- Up-to-date version of the law: www.legifrance.gouv.fr/affichTexte.do;jsessionid=974F0867D829F42C2FF8F45E6AE2A06D.tpdjo08v_2?cidTexte=JORFTEXT000019060485&dateTexte=&oldAction=rechJO#
- Information from the Toulouse Veterinary School, on dangerous dogs legislation and dogs designated as a first or second category dog:
- www.envt.fr/Cliniques/page528.htm DEFRA summary of current domestic dog legislation:
- www.defra.gov.uk/animalh/welfare/domestic/dogs.htm DEFRA leaflet on responsible dog ownership:
- www.defra.gov.uk/animalh/welfare/domestic/ddogslawyouleaflet.pdf
- Wilcox B and Walkowicz C (1995).
- *Atlas of Dog Breeds of the World* , USA: TFH Publications.

CURRENT FRENCH LEGISLATION

• Article L211-11 à L211-28 du code rural (loi 2008-582 du 20 juin 2008).

• Article R211-3, D211-3-1, R211-5, D211-5-2, R211-6, R211-7 du code rural (loi 99-5 du 6 janvier 1999)

• Arrêté du 27 avril 1999

• Arrêté du 29 décembre 1999

• Décret du 4 septembre 2008

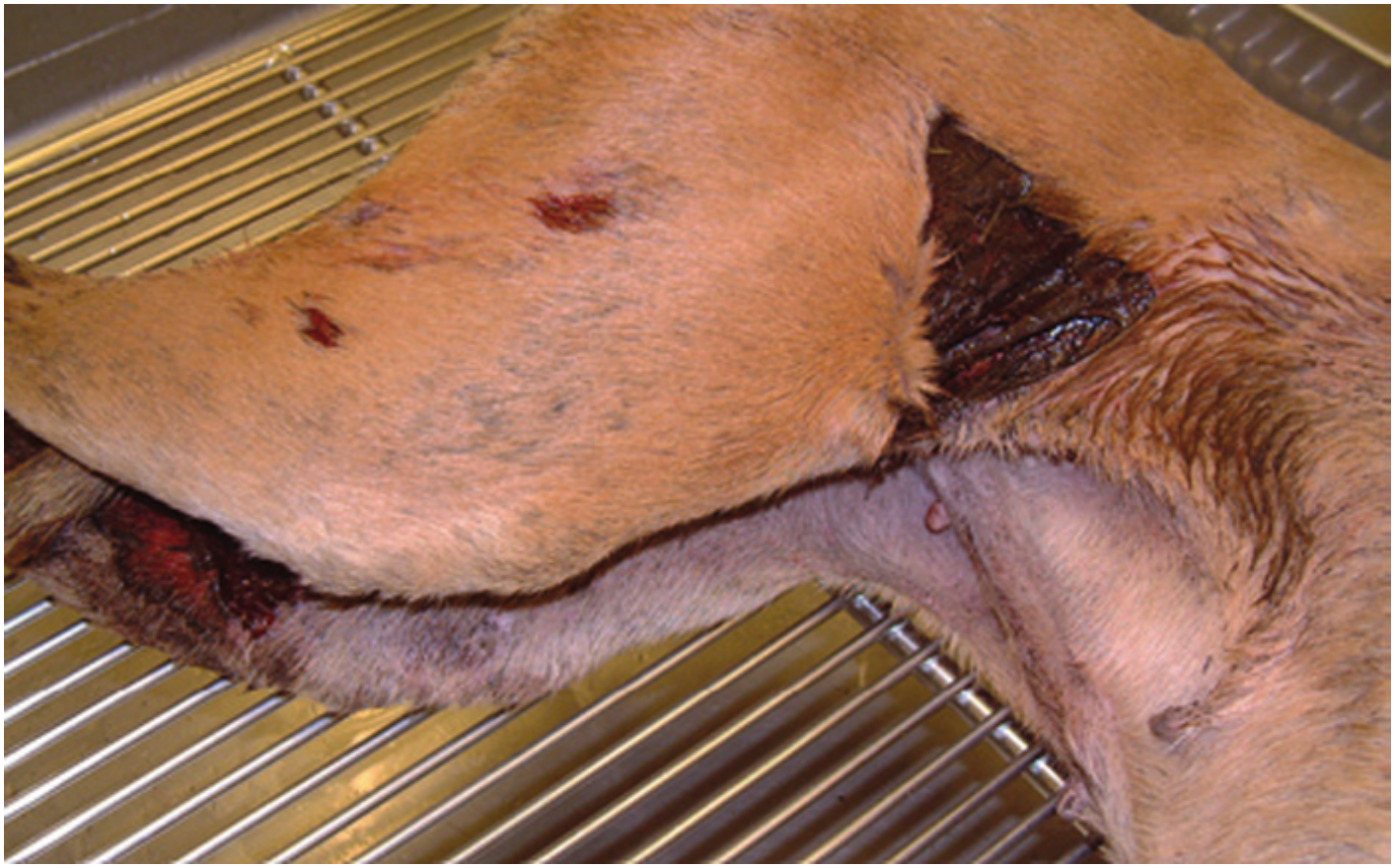
Full details of this legislation can be found on the government website: www.legifrance.gouv.fr/



Top and above: The multiple bite wounds to the lateral and medial thigh of this Labrador – the result of an Akita attack – caused considerable soft-tissue trauma. Akitas are often identified as the aggressors in dog-on-dog attacks and can cause significant trauma.



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The wounds on this elderly greyhound were inflicted by two Jack Russell terriers. Owners of small dogs sometimes overlook their responsibility to train and control the dogs.



This champion French Rottweiler was bred by responsible and experienced owners. The new owners of these puppies will have a behavioural assessment, and training to get the necessary licence. This goes some way to ensuring that such dogs do not get into the wrong hands.



This Lhasa apso was attacked by a mastiff, suffering extensive trauma to its lumbar area. The wounds were explored surgically and the protruding fat was subcutaneous rather than omental – one of the few benefits of being overweight.



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Must obtain a permit from the mayor of the commune, which must be renewed if moving to a new commune.
Must meet a prescribed level in dog training, behaviour, control and accident prevention.
Must have a behavioural assessment of the dog (if more than eight to 12 months of age), conducted by an approved or listed veterinary surgeon.
Must meet all costs of training, together with costs of the dog's behavioural assessment.
Must obtain a provisional licence from the mayor if the dog is less than eight to 12 months of age.
Ownership of a first or second category dog is prohibited: for those under 18; for those under supervision orders; for those with a criminal record; and for those who have been banned from keeping dogs.
The issue of a permit to owners of all first or second category dogs is dependent on: permanent identification of the dog (microchip or tattoo); an up-to-date rabies vaccination; adequate third party dog insurance; sterilisation (first-category dogs only) by a veterinary surgeon and certified; and any second-category dog (except for Rottweiler crosses) must be a registered pedigree.

TABLE 1. Laws for owners of first or second-category dogs

The local mayor enforces the dangerous-dog legislation.
All incidents of a dog biting a person are reportable to the mayor.
All biting dogs are subjected to clinical and behavioural examinations.
Owners of controlled dogs must be certified fully-trained and competent.
All controlled dogs must be subjected to a behavioural evaluation. Further evaluations can be required by the mayor.
The list of controlled dogs includes Rottweilers and Rottweiler crosses.
Controlled dogs cannot be left in the care / charge of a minor (less than 18 years old) or someone with a listed criminal record.

TABLE 2. Key points of the legislation