

**WHAT TO EXPECT IF
YOUR DOG HAS
BEEN SEIZED BY
THE POLICE AS A
SUSPECTED XL
BULLY TYPE**

(ENGLAND & WALES)



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There are 5 proscribed (= banned) types of dog in Section 1 of the DDA:-

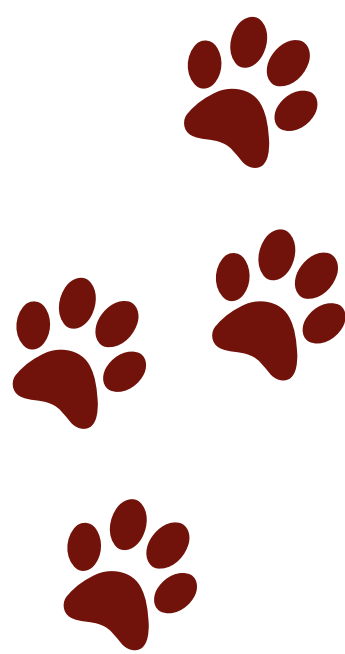
XL Bully (XLB)

Pit Bull Terrier (PBT)

Japanese Tosa

Fila Brasileiro

Dogo Argentino



It is a criminal offence to have possession of such a dog unless it has been exempted from the prohibition ie a Certificate of Exemption must have been issued. The option to self-register XLB types on the Index of Exempted Dogs (IED) has closed:-

- **For rescues, it ended on 22nd January 2024**
- **For a person, it ended at midday on 31st January 2024**

This factsheet assumes that the Police have seized your dog because they suspect that it is an XLB which had not been exempted.

The conformation (ie. the physical features) of an XLB, in the Government's opinion, is set out in DEFRA's 'official' definition.

<https://www.gov.uk/government/publications/official-definition-of-an-xl-bully-dog/official-definition-of-an-xl-bully-dog>. A dog will be regarded as an XLB type if it substantially conforms to that definition, unless:-

- **It is of an established breed such as those recognised by the UK Kennel Club, or**
- **It is an adult and its height isn't at least 19" for a female or 20" for a male**

Did you sign a disclaimer when the Police took the dog? If you did, this probably authorises the Police to put your dog down and so you need to IMMEDIATELY contact the Police and withdraw your consent.

Provided you haven't signed a disclaimer, your dog will be assessed by a Dog Legislation Officer (DLO), who is a Police Officer who has received training on identification of banned breed types. If the DLO confirms that the dog is an XLB type then you are likely to be invited to the Police Station for an interview. We advise that you ask for the Duty Solicitor to be provided as they will be able to ensure that the rules are followed and will be able to recommend whether, in the particular circumstances of your case, you should (a) give a 'no comment' interview, (b) answer the questions or (c) read from a pre-prepared statement.

**Just because your dog has been seized doesn't mean that the Police are required to detain it while waiting for the case to go to Court. The Police have the discretionary power to allow the dog to be returned home subject to the Interim Exemption Scheme (IES). This is a matter for the Police to choose and they will have to be satisfied that the dog is not a danger to public safety. As a precondition, the dog must be neutered unless it is less than 6 months old, in which case it must be neutered within a month of it reaching 6 months. The full details of the IES are set out in Part 4 of the following Statutory Instrument :
<https://www.legislation.gov.uk/ukxi/2015/138/made>**

Whether or not the dog is released under the IES, the next step is that proceedings will be issued at a Magistrates' Court. There are a couple of ways this will be done:-

Criminal prosecution

You may qualify for Legal Aid if this is the route that the Police take, and it will be prosecuted by the CPS. The burden of proof will be on you to prove on the balance of probabilities that the dog is not an XLB type. If you choose to plead guilty (or you are found guilty at trial) the current Sentencing Guidelines can be found here :

<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/possession-of-a-prohibited-dog-breeding-selling-exchanging-or-advertising-a-prohibited-dog/>

In addition, the Court (a) will probably make an order for you to pay towards the CPS costs, the kennelling fees and pay a Victim Surcharge, and (b) may disqualify you from having custody of a dog



Civil application

There is no Legal Aid if this is the route that the Police take and they will usually present the case themselves. The burden of proof will be on the Police to prove on the balance of probabilities that the dog is an XLB type. If you choose to admit the proceedings (or it is proven at trial) there is no sentencing on you as it is non-criminal in nature. However, you may still be ordered to pay towards the Police's costs as well as to pay the kennelling fees.



What will happen to the dog



Regardless of whether the case is dealt with as a criminal prosecution or a civil application, if the Court's ruling is that the dog is an XLB type, there will be a presumption that the dog shall be destroyed. You will be able to present evidence about the dog's behaviour and you may also present expert evidence from a behaviourist. The burden of proof will be on you to prove on the balance of probabilities that the dog would not constitute a danger to public safety.

The Court must have regard to the temperament of the dog (including its past behaviour) and whether you are a fit and proper person to have charge of the dog. The Court will undoubtedly also want you to provide a good reason as to why you had not exempted the dog prior to the cut-off date. Provided the Court can be satisfied of all these things, they may make an order for the dog to be exempted from the prohibition within 2 months ie they can allow late registration onto the IED. This will require a fee to be paid to DEFRA of £92.40, membership of Dogs Trust's Companion Club (currently £25 if under 60 years old), and the dog must be microchipped and neutered.

The Court cannot allow an XLB type to be exempted to a rescue. The dog can only be exempted to a natural person (a) who is its owner, or (b) who has or has had responsibility for the dog. Once the dog is released, all of the conditions will apply.

Conditions of the Exemption (include)

- **Keep the dog at the same address as the registered keeper except for up to 30 days in 12 months**
- **Notify the Agency of any change of address**
- **Notify the Agency of the death or export of the dog**
- **Keep the dog muzzled and on a lead when in a public place**
- **Keep the dog in sufficiently secure conditions to prevent its escape**
- **Maintain third party liability insurance for the dog (which is only available by becoming a member of Dogs Trust's Companion Club)**



Terms & Conditions

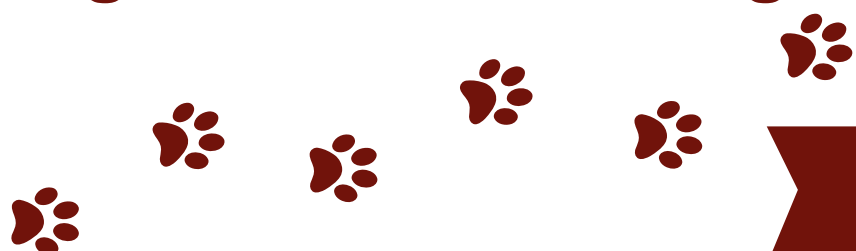
This factsheet has been prepared on 23rd February 2024 by Doglaw Specialist Solicitor Trevor Cooper of Cooper & Co Solicitors (SRA 258139) who acted in his first dog case in 1994, so has 30 years of experience in this area of law.

Every effort has been taken to ensure that this factsheet is accurate. However, it does not constitute legal advice in and of itself.

If you have specific queries on the XL Bully ban / Breed Specific Legislation, then Cooper & Co provide a fixed fee telephone advice service which is on an appointment basis at a cost of £60 for up to 20 minutes by calling 01304 755 557 during normal office hours.

If you want us to represent you at Court, please send us the summons IMMEDIATELY via email to trevor@doglaw.co.uk together with your contact phone number and we will get back to you as soon as possible. NB We are unable to offer Legal Aid and so can only accept instructions on a fee-paying basis.

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