

# Restricted Breed Dogs

## Inquiry into the legislative and regulatory framework

Submission from the Australian Veterinary Association Ltd (Victorian Division)



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### August 2015

The Australian Veterinary Association (AVA) is the national organisation representing veterinarians in Australia. Our 8800 members come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, farm animals, such as cattle and sheep, and wildlife. Government veterinarians work with our animal health, public health and quarantine systems while other members work in industry for pharmaceutical and other commercial enterprises. We have members who work in research and teaching in a range of scientific disciplines. Veterinary students are also members of the Association.

As individuals and a society we value the positive role that dogs play in our lives. However there is a persistent gap between the community's desire to live alongside dogs and its knowledge of how to properly interact with those animals.

Dog attacks on humans, other companion animals, livestock and wildlife in Australia are similar to other developed countries in most respects. Some breeds of dogs receive more media attention when attacks take place, even though the frequency of attacks by these breeds may be small. For many years countries including Australia have attempted to regulate certain breeds in an attempt to reduce the frequency of dog bites.

The AVA, along with the national veterinary associations of Britain, the United States and Canada and major animal welfare organisations internationally, have recognised that breed-specific approaches to dog regulation are not effective as they do not protect the public by reducing dog bite incidents. Countries that have introduced and later repealed breed specific legislation include Germany, Netherlands, Italy and numerous counties within the USA as it had no effect on decreasing dog attacks. Existing breed specific legislation in the United Kingdom is considered a failure after estimations that the costs of determining whether a dog belonged to a specific breed were in the region of £14 million. In fact, breed-specific approaches causes a false sense of security within the community; particularly if the public believe that only certain dog breeds may pose a threat to them or their families.

The Secretary of the Economy and Infrastructure Committee has asked the AVA to consider particular questions within this submission which we have done - in addition to proposing solutions to reducing dog bites within the community. We have also provided a possible solution in place of breed specific legislation and provided extracts from the AVA's Dangerous Dogs – A sensible solution document. The AVA would appreciate the opportunity to appear before the Economy and Infrastructure Committee to expand on this submission and address questions from members of the committee.

### Regulation by breed as opposed to regulation by behaviour, or deed

The AVA is opposed to regulation by breed. The AVA does not believe that breed based approaches reduce public risk. The AVA is opposed to breed-based dog control measures because the evidence shows that they do not and cannot work. We understand that the intent of government by introducing the breed-specific legislation was to reduce dog bites but this has not been the outcome.

Human decisions have resulted in dogs from all breeds that are more likely to display aggression. Breeding of dogs with unsuitable temperaments, inadequate socialisation with humans and other animals and inadequate training are all factors that contribute to dogs displaying aggressive behaviour. Humans are playing genetic roulette with breeding choices in regard to temperament across all breeds and this is where the real problem lies.

Dogs should be assessed by their behaviour in an incident in which they may have been involved – *deed not breed*. Dog bites are the result of complex behaviour caused by the interaction of many factors (see page 4). It is the human participation with breeding and owning dogs on which regulation should focus.

The failure of breed-specific legislation to prevent dog attacks is due to a number of factors.

- Firstly, breed on its own is not an effective indicator or predictor of aggression in dogs
- Secondly, it is not possible to precisely determine the breed of the types of dogs targeted by breed-specific legislation by appearance or by DNA analysis.
- Finally, breed-specific legislation ignores the human element whereby dog owners who desire this kind of dog will simply substitute another breed of dog of similar size, strength and perception of aggressive tendencies, ie. Large, intimidating barking dogs.

## Current regulatory framework

The current regulatory framework in Victoria has three classifications: dangerous; menacing and restricted breed.

Dangerous dogs and menacing dogs are of course breed neutral descriptions, with dangerous dogs being the more serious category. The AVA believes that the current framework is satisfactory in regard to dangerous and menacing dogs but that there could be more done to prevent menacing dogs from escalating to dangerous dogs. The introduction of behaviour training that the dog could undertake aligned with opportunities for these classifications to be removed if the owner is prepared to undertake structured training with the dog and receive appropriate accreditation. Behaviour reviews could be conducted by councils on a bi-annual or annual basis.

Further education for owners of dangerous and menacing dogs that results in improved training for their dogs would be extremely beneficial for the community. If the owners had a real opportunity for removal of the menacing or dangerous classifications from their dog, they may strive to correct the undesirable behaviour of their dogs.

## Risk of current framework leading to dogs not being identified as restricted breed dogs and not being registered

There is absolutely a risk of owners not registering their dog for fear the dog may be assessed by council and it is highly probable that this is currently occurring. There are also probably owners that will decline participating in dog training and health checks for the dog with a veterinarian for fear of their dog being reported to council as a suspected restricted breed dog. Owners of Bull breeds and American Staffordshire terrier breeds where purebred papers are not available will be fearful. This is detrimental not only to the dog who may not receive the required vaccinations and veterinary care – but also to public safety if the dog has not been properly socialised and/or trained.

## Amount of restricted breed dogs in Victoria

Each municipal council in Victoria keeps a record of the number of dogs that are registered as restricted breed, dangerous or menacing. Therefore each council would be able to provide those statistics accurately but sighting domestic animal management plans of various councils over the past couple of years, it appears to be low single digit figures of registered restricted breed dogs in each municipality (some councils record 0). As opinions differ between authorised council officers, dog judges and veterinarians as to whether or not a dog fits the standard of a restricted breed dog, there is no real way of identifying unregistered dogs as a particular restricted breed.

## Identifying whether a dog is in fact a restricted breed dog

Assessing whether or not a dog is a restricted breed according to the standard is impossible and open to broad interpretation. There is no definitive or scientific process to achieve this – there is no genetic testing and no phenotype test. There is enormous variability of breeds. Breeds such as Bull Arab, Bull Mastiff, English bull terrier, American Staffordshire, English Staffordshire and those that are crossbred partially with these breeds have characteristics that could suggest compliance with parts of the standard for restricted breed dogs. Differing opinions

by veterinarians, authorised council officers and dog judges have led to over fifty hearings at the Victorian Civil and Administrative Tribunal (VCAT) and in the courts. Members of VCAT and judges of the courts that have presided over these hearings have also been perplexed by the complexity and interpretations of the standard and have enormous difficulties arriving at decisions and verdicts pertaining to whether or not a dog is declared a restricted breed. A study published recently documented the difficulties that animal shelter personnel have in identifying pit-bull type breeds (K.R. Olson et al).

## Discernible differences between the behavior of a purebred dog and a mixed breed dog, particularly in relation to restricted breed dogs

The AVA is opposed to regulation by breed. We understand that the intent of government by introducing the breed-specific legislation was to reduce dog bites but this has not been the outcome. Human decisions have resulted in dogs from all breeds that are more likely to display aggressive behaviour. Breeding of dogs with unsuitable temperaments, inadequate socialisation with humans and other animals and inadequate training are all factors that contribute to dogs that may be aggressive.

## Particular breeds that are not considered restricted breed dogs that are high risk of attacking either people or other animals

There is no scientific evidence that any particular breed of dog is more likely to attack people or other animals.

## Characteristics that make dogs more dangerous than others

All dogs of all breeds and all sizes have the propensity to be dangerous in certain circumstances. The genetics of the dog, early experiences of the dog, whether or not the dog has been socialised and trained properly, whether or not the dog has chronic pain or experiencing discomfort and the behaviour of people around the dog (if the person is aggressive or abusive) are all contributing factors to whether or not a dog may be dangerous. The size, strength, muscle strength, age, teeth and jaw are all characteristics that will determine the seriousness of injuries a dog may inflict on a person or another animal. Further facts and information is included in the *Dog bite facts* section below. This is why decisions by breeders are critical and should be based on positive behaviour traits – not breed and not appearance.

## Management of restricted breed dogs so they do not represent a significant risk to the community

The AVA does not believe that restricted dogs represent an inherent risk to the community. Veterinary professionals are one group most at risk of being bitten by dogs and therefore support measures that rectify the behaviour of dangerous dogs and where necessary the decision for euthanasia.

## Dog bite facts

While genetics are an important factor, the impact of the current environment and learning are critical to the behaviour of a dog. The tendency of a dog to bite is dependent on at least five interacting factors\*:

- Heredity (genes, breed)
- Early experience
- Socialisation and training
- Health (physical and psychological) and
- Victim behavior (Beaver 2001, Seksel 2002)

Other factors include the sex and age of the animal, along with a range of other social and environmental factors:

- Male dogs are 6.2 times more likely to bite than females (Gershman 1994, Shuler 2008)
- Entire (undesexed) dogs are 2.6 times more likely to bite than those that are spayed or neutered (desexed) (Gershman 1994, Guy 2001, Messam 2008)
- Chained dogs are 2.8 times more likely to bite than unchained dogs (Gershman 1994, Yeon 2001)
- Dogs bred at home are less likely to bite, compared to those obtained from breeders and pet shops (Messam 2008)
- Dogs are more likely to bite the older they are when they are obtained (Messam 2008)
- Biting dogs are more likely to live in areas of lower median income (Shuler 2008)
- Dogs are more dangerous when acting as a pack (Kneafsey et al 1995, Avis 1999 cited in Patronek and Slavinski 2009; Raghaven 2008)

Owned dogs at large in public places (stray, escaped or being walked off-leash) were responsible for 13-25% of reported bites in Baltimore (Berzon cited in Overall and Love 2001), 35% of reported bites to children in Belgium, 38% of reported bites in the Netherlands (Cornelissen 2010), and 42% of reported bites in Toronto (Bandow 1996). Only 10% (cited in Beaver et al 2001) to 27% (Messam et al 2008) of biting dogs are not known to the victim.

Research has shown that owned dogs delivered more bites, were larger, bit more victims on the head and neck, delivered more bites needing medical treatment, and in short, were more dangerous than strays (Harris et al 1974 cited in Overall and Love 2001).

## Solution

The AVA's alternative to breed-specific legislation is a comprehensive strategy to address the multiple and complex causes of dog bites. The model legislative framework sets out sound principles for regulating dangerous dogs as well as describing a system to identify and control potentially dangerous dogs. The approach requires early identification of dogs that pose a risk, and intervention to protect the community. At the same time, a complete system of measures to support socially responsible pet ownership is essential to achieve a real reduction in dog bite incidents:

- **Identification and registration of all dogs**

There needs to be an effective identification and registration system in place to provide the structure for regulation of dangerous dogs. This provides the:

- Link between legislation, the dog owner and the individual dog
- Relationship between dog, owner and dog control service
- Revenue to pay for dog control service through registration fees.

Identification must be permanent, unalterable and be capable of use across the country. Microchipping that is linked to registration on an open access database is the preferred method.

- **A national reporting system with mandatory reporting of all dog bite incidents to the national database.**

A nationally consistent reporting system is required to truly understand the nature of the problem, to base policy on reliable data, and to assess the impact of policy and legislative change. The system would require a single database and mandatory reporting of dog bite incidents including:

- Dog bites from hospitals, with a standard grading system for injuries and data about the victim, location and time of attack, and the dog's involved
- Dog attack reports from states, territories or councils (depending where the legislation and data records lie). Sources should include dog management personnel and police. The *Council Reports of Dog Attacks NSW 2011-2012* is a good example of data reporting and analysis

Details of declared dangerous dogs would also need to be recorded, given that the human and therefore dog populations are highly mobile and move from jurisdiction to jurisdiction.



Surveys of dog bite incidence in the general population are also required, since the vast majority of dog bites are not reported to authorities and do not require medical attention. In particular, dog bites in the home or by known dogs are unlikely to be reported. Random digit dial telephone surveys (Gilchrist et al 2008) are probably the most useful, as well as surveys in, for example, veterinary practices (Guy et al 2001).

In 2004, the Urban Animal Management conference agreed and published a Dog Aggression Incident Severity Scale, which could be used to classify dog bite incidents nationally. The scale was subsequently endorsed by the then National Consultative Committee on Animal Welfare (NCCAW), accepted by the relevant Minister, and recommended to be used by the Australian States. This scale is detailed below:

### UAM Aggression Incident Severity Scale

Description	Consequence
1. Dog that exhibits unacceptable aggression without actually biting	<ul style="list-style-type: none"> <li>a. Dog must be identified using an Australian Standard microchip with data on an accredited registry</li> <li>b. Owner and dog must undergo approved training courses</li> <li>c. Dog must be on leash and under control at all times when off the owner's property</li> <li>d. Must not have access to the area between the driveway and the front door of the owner's property.</li> </ul>
2. Dog that inflicts a single (not serious) bite wound in a situation where provocation of the dog has been established as a significant causal factor	<ul style="list-style-type: none"> <li>a. Dog must be identified using an Australian Standard microchip with data on an accredited registry</li> <li>b. Owner and dog must undergo approved training courses</li> <li>c. Dog must be on leash and under control at all times when off the owner's property</li> <li>d. Must not have access to the area between the driveway and the front door of the owner's property.</li> </ul>
3. Dog that inflicts a single (not serious) bite wound without provocation.	<ul style="list-style-type: none"> <li>a. Dog must be identified using an Australian Standard microchip with data on an accredited registry</li> <li>b. Owner and dog must undergo approved training courses</li> <li>c. Dog must be on leash, under control and muzzled at all times when off premises</li> <li>d. Must not have access to path between the front gate of the property and the front door of the residence and with an approved warning sign must be posted</li> <li>e. Dog must be spayed or neutered at owner's expense</li> <li>f. Must wear an approved identifying collar</li> <li>g. Owner must obtain public liability insurance to keep the dog.</li> </ul>
4. Dog that inflicts multiple bite wounds in a situation where provocation of the dog has been established as a significant causal factor.	<ul style="list-style-type: none"> <li>a. Dog must be identified using an Australian Standard microchip with data on an accredited registry</li> <li>b. Owner and dog must undergo approved training courses</li> <li>c. Dog must be on leash, under control and muzzled at all times when off premises</li> <li>d. Must not have access to path between the front gate of the property and the front door of the residence and with an approved warning sign must be posted</li> <li>e. Dog must be spayed or neutered at owner's expense</li> <li>f. Must wear an approved identifying collar</li> <li>g. Owner must obtain public liability insurance and produce the certificate of insurance to keep the dog.</li> </ul>
5. Dog that inflicts multiple bite wounds without provocation	<ul style="list-style-type: none"> <li>a. Euthanasia of the dog unless owner prepared to make exceptional efforts including all of the above for levels 3 and 4 plus confinement to a child/dog proof enclosure.</li> </ul>
6. Life threatening attack (potential grievous bodily harm)	<ul style="list-style-type: none"> <li>a. Euthanasia of the dog</li> <li>b. Prohibition order for owner on owning another dog.</li> </ul>

With mandatory reporting, those making the report must be appropriately protected similar to the mandatory reporting of the NSW *Children and Young Persons (Care and Protection) Act 1998*, Chapter 3, sections 27 and 29. This is considered a good model to be adopted Australia-wide. These sections ensure that there is no breach of professional etiquette, ethics or standards and that the reporter is protected from liability for defamation or civil proceedings as a result of mandatory reporting.

- **Temperament testing to understand the risks and needs of individual animals, to help owners make more appropriate choices for their new pets, and to guide breeders to improve the temperament of puppies.** Temperament testing is a tool to assign risk categories to dogs (and their owners) and to reduce community risk by enforcing controls or rehabilitation. This tool could also reduce risk within the household and family by making owners more aware of their dog's potential to bite.

Temperament testing could be useful if:

- Encouraged by a reduction in registration fees for dogs which pass the test
- Mandated by animal control authorities, or
- Required by owners' public liability insurance.

Temperament and behaviour tests have been used since the 1980s by those responsible for selecting working and assistance dogs, by pounds and shelters to assess suitability for rehoming, and by animal management authorities to determine potentially dangerous dogs. There are a number of tests available and in use in Australia, but there remains a critical need for a standardised and reliable test that can be applied on-site at shelters, pet shops, veterinary practices and training venues.

There is currently no formal approval or accreditation in place for either the tests or the testers, and this is a significant gap in the ability to respond effectively to dog bites.

- **Comprehensive education programs for pet owners, dog breeders, all parents and all children.** Education has long been considered the "answer" to dog bite problems. Because most dog bite incidents occur in the home, "it is more effective to support activities which include the training abilities of dog owners" (Kuhne and Struhe 2006).

Studies have shown that well designed and appropriately targeted programs to educate children (and their parents) about how to behave around dogs are effective in reducing the incidence of dog bites (Chapman et al 2000, Wilson et al 2003, Jalongo 2008, Meints and de Keuster 2009).

Education was the centrepiece of the approach to reducing dog attacks in Calgary, Canada (City of Calgary 2012). The Calgary model was based on:

- A high level of dog registrations
- Strong education investment for pet owners and children
- Increased penalties for owners of dogs that attack.

The education component included programs delivered in kindergartens and primary schools that focused on dog safety.

A proportion of all dog registration fees should go to community and targeted education programs, as occurs in Victoria. Some other states have government-run education programs, while others offer very little education on responsible pet ownership. Education programs are also provided by the AVA, dog clubs and shelter and welfare organisations.

A comprehensive education program needs to address:

- Educating all types of dog breeders in correct selection of breeding stock, and the raising and socialisation of young puppies (Korbelik et al 2011)
- How to select a pet of an appropriate size, activity level, coat type and temperament
- Importance of effective socialisation during the critical period of 3-14 weeks and throughout life
- Importance of lifelong training
- Benefits of spaying and neutering
- Dog restraint (fences, collars, harness, leashes)

- Recognition of canine body language
- Addressing human behaviour around dogs
- Training parents to protect small children from dogs
- Training children in safe behaviour around dogs.

Education programs need to be scientifically evaluated to ensure they result in the required knowledge and behaviour changes.

- **Enforcement of all dog management regulations. Resourcing is often a major barrier to effective enforcement, and this problem needs to be addressed effectively to achieve tangible reductions in dog bite incidents.**

No policy solution will be effective without consistent enforcement to ensure a high level of compliance.

Resourcing is often a major barrier to effective enforcement, and this problem needs to be addressed in every jurisdiction to achieve tangible reductions in dog bite incidents.

Sufficiently strong penalties to deter owners from disobeying all regulations are an important component of enforcement. Penalties for non-compliance should be financial when the dog has not threatened or injured any animal or person, but may include removal of the dog where the dog has behaved in a dangerous manner. Imprisonment may be appropriate in some circumstances such as repeated dangerous dog offences, “setting” a dog on a person or use of a dog in the commission of a crime.

In addition to regulation of dangerous and potentially dangerous dogs, control measures that ensure effective restraint of all dogs must be enforced:

- **Fence laws** – all dogs must be confined to the owner’s property behind effective fencing except when the dog is being supervised by suitable individuals off the property.
- **Leash laws** – all dogs to be restrained by an effective collar or harness and leash or in an escape-proof restraint when off the property, except when in a designated off-leash area. Not all dogs are suitable to be off leash.
- **Safe off-leash exercise areas** – dogs in off leash areas should still be under the effective control of the person supervising the dog (“call back”) and the off-leash area should prevent dogs from escaping, and prevent ingress of unsupervised children.
- The **person in charge** of the dog when it is being walked on leash or in an offleash exercise area must be of sufficient maturity, physical ability and proficiency to restrain the dog from being injured, or from menacing or attacking a person or animal.
- **Street patrols** by council officers to impound stray dogs, especially targeting areas and times of the day when attacks have been more common (van der Kuyt 2001).

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