



ANDERSON STRATHERN  
SOLICITORS

**Formidable but**

**Friendly**



# Weimaraner Club of Scotland

Legal Issues & Your Dog: 19 September 2012

Robert D M Fife  
Solicitor Advocate & Part Time Sheriff  
Anderson Strathern LLP  
Edinburgh/Glasgow/Aberdeen

# Taster of Topics

- Animals Act 1971
- Animals (Scotland) Act 1987
- Dangerous Dogs Act 1991
- Control of Dogs (Scotland) Act 2010
- common law
- Welsh v Brady [2009] CSIH 60
- Whippey v Jones [2009] EWCA Civ 452
- Addis v Campbell [2011] EWCA 906
- overview
- 2012/13+ what next ?

# Animals Act 1971

- strict liability: definition
- cautious consideration
- damage of a kind which likely to cause; and
- likelihood of damage being severe due to characteristics of animal which not normally found except in particular circumstances; and
- characteristics were known

## Animals (Scotland) Act 1987

- Act extends to Scotland only
- new provisions as to strict liability
- “... by virtue of physical attributes likely to injury severely...”
- “biting or otherwise savaging, attacking or harrying...”
- detention of straying animals
- killing of, or injury to animals attacking livestock
- civil proceedings

## Dangerous Dogs Act 1991 - as amended

- dangerous breeds: section 1
- owner and person in charge of dog dangerously out of control
- grounds for reasonable apprehension of injury
- fit and proper person
- was "in a public place" now "in any place (whether or not a public place)"
- under 16: head of household responsible

# Dangerous Dogs Act 1991 - as amended

- penalties
- where no injury
- where injury
- summary: 6 months prison
- indictment: 2 years prison

# Control of Dogs (Scotland) Act 2010

- dog control notice: dog has been out of control
- serving of notice: local authority
- keep the dog under control
- electronic transponder: microchip
- appeal
- duty to monitor
- failure to comply
- dangerous dogs



## common law

- common law of negligence
- contrast with statutory regulation
- duty of care
- reasonable foreseeability

## Welsh v Brady [2009] CSIH 60

- Cava: golden retriever
- “Cava come”
- Ebony: black labrador
- Ebony collided + injury sustained
- s1 of Animals (Scotland) Act 1987 + common law negligence
- physical attributes
- “...likely to injure severely or kills persons or animals.”

## Whippey v Jones [2009] EWCA Civ 452

- running along footpath
- fully grown 2 year old Great Dane: Hector
- “encounter”
- Animals Act 1971 section 2
- sufficient probability of injury
- reasonable person to anticipate
- possibility as opposed to likely
- Chauhan v Paul 1998 EWCA: approach at speed by a large dog

## Addis v Campbell [2011] EWCA 906

- claim: knocked down by dog belonging to defendant
- issue of negligence
- common law
- standard of care
- objective standard of "reasonable behaviour"
- sufficient probability of injury for a reasonable person to anticipate

## Overview

- protection of livestock: Dogs (Protection of Livestock) Act 1953
- cause danger or injury in a public place: Civic Government (Scotland) Act 1982 s49
- Breeding of Dogs Acts 1973 and 1991
- Breeding & Sale of Dogs (Welfare) Act 1999
- cruelty: cause unnecessary suffering ( includes cars): Protection of Animals (Scotland) Act 1912
- excrement: Civic Government (Scotland) Act 1982 s48
- collars: The Control of Dogs Order 1992
- detention of stray dogs: Animals Act 1971 s3
- best advice

## 2012/13+ what next ?

- increased regulation
- mandatory microchip
- licences
- mandatory owner training



# Questions?



**Robert D M Fife**  
**Direct Dial: 0131 625 7293**  
**Mobile: 07803 613358**  
**Email: [robert.fife@andersonstrathern.co.uk](mailto:robert.fife@andersonstrathern.co.uk)**

**Edinburgh Office**

1 Rutland Court  
Edinburgh  
EH3 8EY

**T:** 0131 270 7700

**F:** 0131 270 7788

DX ED3  
Edinburgh

**Glasgow Office**

24 Blythswood Square  
Glasgow  
G2 4BG

**T:** 0141 242 6060

**F:** 0141 221 4733

DX GW157  
Glasgow

**Aberdeen Office**

20 Queens Road  
Aberdeen  
AB15 4ZT

**T:** 01224 562427

**F:** 01224 562442

**[www.andersonstrathern.co.uk](http://www.andersonstrathern.co.uk)**

