



Devon & Cornwall  
**POLICE**

**Chief Constable** [REDACTED]

Police Headquarters, Middlemoor, Exeter, Devon, EX2 7HQ

☎ 101 Non-urgent

☎ 999 in an emergency

🌐 [www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)

✉ [101@dc.police.uk](mailto:101@dc.police.uk)

📘 [DevonAndCornwallPolice](#)

📱 [@DC\\_Police](#)

📞 [dc\\_police.999](#)

📺 [DCPolice](#)

Mr A Cox  
Senior Coroner  
Cornwall Coroners' Service  
The New Lodge  
Newquay Road  
Penmount  
Truro  
TR4 9AA

22 November 2021

Dear Mr Cox

**INQUEST INTO THE DEATH OF FRANKIE MACRITCHIE: REPORT UNDER REGULATION 28 OF THE CORONERS (INVESTIGATIONS) REGULATIONS 2013**

I write in respect of the above-mentioned report of 17 September 2021 ("the Regulation 28 report") that I have received from you.

Although the Regulation 28 report was addressed to our Dog Legislation Office ("DLO"), I have decided to respond to it myself given the nature of the concerns that you have raised, notwithstanding that this response has been compiled in consultation with the DLO.

Firstly, I would like to express condolences on behalf of myself and Devon and Cornwall Police to the family and friends of Frankie.

Secondly, I thank you for sending a copy of the Regulation 28 report that was made during the inquest into Frankie's death. As you would expect, I welcome any such opportunities for Devon and Cornwall Police to consider whether there are any improvements that can be made to how we work.

In the Regulation 28 report, you confirm that the matter of concern that you wish to raise is one of whether dog attacks are fully investigated and, where appropriate, a dog is euthanised to try and reduce the risks of further and more serious incidents such as the tragic death of Frankie. You also suggest that consideration should be given to:

- The extent to which reports of previous attacks by the dog [REDACTED] that attacked Frankie were investigated.



**Chief Constable** [REDACTED]

Police Headquarters, Middlemoor, Exeter, Devon, EX2 7HQ

☎ 101 Non-urgent

☎ 999 in an emergency

🌐 [www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)

✉ [101@dc.police.uk](mailto:101@dc.police.uk)

📘 [DevonAndCornwallPolice](#)

📱 [@DC\\_Police](#)

📱 [dc\\_police.999](#)

📱 [DCPolice](#)

- Taking steps to ensure that there is now a robust process in place that means all reported dog attacks are appropriately investigated and dealt with.

By way of context, in the first instance I will outline our general position in respect of the investigation of reports to the police of an incident involving a potentially dangerous dog.

### **Devon & Cornwall Police's investigation of dangerous dog matters**

Reports to the police of an incident involving a potentially dangerous dog commonly fall into the following categories:

- Dog attacks on people;
- Dog attacks on livestock;
- Dog attacks on other animals (for example: dog on dog fights, dogs chasing cats etc); and
- Offences involving prohibited breeds.

The police response will typically vary depending on the type of report.

I only intend to give attention to the first category of allegation above in this response as the others do not appear to be relevant for the purposes of the Regulation 28 report, in that I am not aware that the police have ever received a report in relation to the dog that attacked Frankie that would fall within the scope of the other three categories.

Where dog attacks on people are concerned, a dog causing an injury to a person while dangerously out of control represents an offence under s.3 Dangerous Dogs Act 1991 ("DDA").

The police response to an allegation of such an offence depends on the circumstances of the individual matter; for example, the seriousness of the injury caused and any previous offending history involving the dog in question.

Where an allegation is less serious in nature, and / or is the first allegation of a minor s.3 DDA offence, a Dog Control Order ("DCO") can be given to the owner of the dog in question by the police. A DCO is an agreement entered into by the owner of the dog on a voluntary basis that is not legally-binding whereby they agree to keep the dog in accordance with various requirements. Common examples of such requirements are requiring the owner to ensure that the dog is muzzled and kept on a lead when in a public place.

In the event of either a breach of a DCO, or more serious suspected s.3 DDA offences, the following options are potentially available:

- An order that is similar to the DCO can be made by a court following a complaint by the police under s.2 Dogs Act 1871 ("the 1871 Act"). A breach of such order



Devon & Cornwall  
**POLICE**

## Chief Constable [REDACTED]

Police Headquarters, Middlemoor, Exeter, Devon, EX2 7HQ

☎ 101 Non-urgent

☎ 999 in an emergency

🌐 [www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)

✉ 101@dc.police.uk

📱 DevonAndCornwallPolice

📱 @DC\_Police

📱 @dc\_police.999

📱 DCPolice

is not in itself a criminal offence; however, a breach of an order can be treated as a contempt of court which is potentially punishable by a fine and / or prison sentence. The order can also be made as a contingent destruction order ("CDO"), i.e. the court can order that the dog be destroyed if the order is not complied with. A prosecution does not need to have taken place for the court to grant such an order.

- The court can also make an order for the destruction of the dog under s.2 of the 1871 Act. Again, a prosecution does not need to have taken place for the court to grant such an order. When making an order for destruction under the 1871 Act, the court can also potentially make an order banning the owner from owning dogs in the future under supplementary provisions of the Dangerous Dogs Act 1989 (rather than the similarly-named 1991 DDA).
- The owner can be prosecuted under the DDA. This will typically be pursued where the allegations of s.3 DDA offences are particularly serious and are accompanied by evidence that makes out the offence to the criminal standard of proof. In other cases, pursuing an order under the 1871 Act may well be more appropriate as the court can make such an order on the basis of the civil standard of proof. A prosecution under the DDA can result in one or more of a fine, imprisonment, CDO and / or destruction order being ordered by the court as a part of their sentencing powers.

It is our experience that the court will only make an order for destruction in the most serious of cases, and typically only where there is evidence of both significantly irresponsible ownership and the dog itself posing a risk of harm.

The police do have powers under which a dog can be seized, and any decision to seize is also made by reference to the individual circumstances of the matter in question. An incident that is assessed as being more serious and / or one where the public are believed to remain at a risk of harm from the dog is more likely to result in a seizure. The welfare of the dog is also a potentially relevant factor.

A dog that is believed to be unregistered, i.e. not registered in accordance with the appropriate government dangerous dogs regime and a prohibited breed, will be seized regardless.

It is my experience that there is a perception that the police are readily able to seize a dog that is believed to be dangerous and have it destroyed. In reality this is not the case, as I have hopefully illustrated.

### Previous incidents involving [REDACTED]

As outlined above, the Regulation 28 report invites me to consider the extent to which reports of previous attacks by the dog that attacked Frankie were investigated.

I have been made aware of two reports to the police that are believed to be in relation to [REDACTED], both having been received in October 2016. These are as follows:



Chief Constable [REDACTED]

Police Headquarters, Middlemoor, Exeter, Devon, EX2 7HQ

101 Non-urgent

999 in an emergency

[www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)

101@dc.police.uk

DevonAndCornwallPolice

@DC\_Police

dc\_police.999

DCPolice

- A report of a dog that attempted to bite a member of the public. The subsequent enquiries by the police also revealed further suggestions that the dog had been intimidating residents local to where the dog lived, having not been kept under control by its owner. The complainant in this matter also alleged that the dog had previously barked and growled at her as she tried to leave her vehicle.
- A further report of a dog running loose in the road, in and out of traffic, and after another dog.

Both reports are believed to be in relation to [REDACTED]. As the Regulation 28 report indicates, we do not appear to have received any other reports in relation to [REDACTED].

In relation to both incidents, enquiries were undertaken but ultimately the police were unable to identify definitive evidence that [REDACTED] had acted in a way that represented an offence; therefore, the owner of [REDACTED] was given words of advice by the police about keeping the dog secure.

These incidents were concerning, notwithstanding that no physical injury to a person or animal was alleged, with police taking action. I am nevertheless confident that, between the seriousness of these allegations and the lack of evidence available to the police, that a prosecution for a s.3 DDA would not have been possible, nor would have an application for a destruction order (whether following a conviction for a s.3 DDA offence or by complaint to the court under the 1871 Act). In short, I am confident that any attempt by the police to have [REDACTED] destroyed would have been unsuccessful.

It is arguable that the dog could have been seized by the officers dealing with these incidents, but on the basis of the limited evidence available and that these incidents (even considered collectively) were not among the more serious such reports that we receive where dangerous dogs are concerned, I believe the decision to not seize [REDACTED] was legitimate.

It is also arguable that a DCO could have been made, or a similar order applied for under s.2 of the 1871 Act, in response to these incidents, with a requirement that [REDACTED] be kept under proper control. I accept that these were options available to the police to explore at the time.

I am however confident that the contents of any such order would not be able to extend to requiring that [REDACTED] be kept in accordance with any requirements in a private place. It is our experience that such an order will only be lawful if it is proportionate, i.e., no more than is necessary to ensure that the dog in question is kept under control, particularly where to go further could represent an interference with the owner's Article 8 rights under the Human Rights Act 1998. Notwithstanding that there was no definitive evidence that [REDACTED] posed a serious risk of injury to anyone available to the police, there was no evidence at all that he was out of control in a private place, i.e., where he lived or was kept.



Devon & Cornwall  
**POLICE**

**Chief Constable** [REDACTED]

Police Headquarters, Middlemoor, Exeter, Devon, EX2 7HQ

📞 101 Non-urgent

📞 999 in an emergency

🌐 [www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)

📧 [101@dc.police.uk](mailto:101@dc.police.uk)

📘 [DevonAndCornwallPolice](#)

📱 [@DC\\_Police](#)

📱 [@dc\\_police.999](#)

📱 [DCPolice](#)

## Conclusion

I understand fully why you have raised this matter under a Regulation 28 report based upon the information available to you at that time, along with the terrible tragedy that resulted in the death of Frankie. In responding to your direction, undertakings by operational and senior leaders including discussions with front line colleagues assures me that Devon and Cornwall Police are dealing with reports appropriately where a dog poses a risk of serious harm. On the basis of these enquiries, I am of the view that we deal with such reports robustly. This includes having to defend our position through the courts and the media.

The police can only successfully apply for the destruction of a dog in the most serious of cases. Where Frankie's tragic death is concerned, I do not believe that the police could realistically have taken any steps that would have had the direct result of [REDACTED] being destroyed or otherwise kept under proper control, while in a public place.

As you would expect, correspondence from yourself is taken most seriously by me. Whilst I am assured in regard to the specific questions you raise, I have nevertheless taken this opportunity to give further consideration to how Devon and Cornwall Police can improve our approach to the policing of dangerous dogs and potentially dangerous dogs with the public. Whilst I am satisfied as to our procedures, I do perceive that the public do not always contact us and we are not always consistent in making clear why and how our decision making has taken place. I will explore with the Police and Crime Commissioner the opportunities for enhanced public communication, potentially with our farming community and Local Authority partners in respect of dangerous dogs.

Thank you again for your consideration and questioning of the force through the Regulation 28 procedure and copying the report to me. I trust this response provides you with the further information that you require. Please do contact me should you wish for further clarification or information.

Yours sincerely

[REDACTED SIGNATURE]  
Chief Constable