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Scottish Parliament
Edinburgh
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25 September 2026

Dear David

The Dangerous Dogs (Compensation and Exemption Schemes) (Miscellaneous Amendment) (Scotland) (No. 2) Order 2026 (SSI 2026/212)

Thank you for your letter dated 23 September 2026, sent following the Criminal Justice Committee meeting on that date, where the Committee considered SSI 2026/212.

With regard to the subsequent questions from the Committee regarding this SSI, the following information will be of use.

1. The Committee noted the provisions relating to persons under the age of 16 and would welcome further explanation of the policy rationale for setting the age threshold at 16 in Scotland. In particular: whether alternative age thresholds were considered during policy development; how the final age was determined; and whether these considerations formed part of the Children's Rights and Wellbeing Impact Assessment.

Under existing prohibited breeds legislation relating to XL Bullies, any person who is aged 16 or older can legally receive an exemption to keep ownership of their dog.

When considering the age a person would need to be to satisfy the adult supervision requirement, we considered that it would be inconsistent to set an age above 16. If such an age had been set, then a person could be legally allowed to maintain ownership of a prohibited breed, but not legally permitted to be old enough to supervise their dog in the vicinity of a child under 12. As such, the Scottish Government has set the age at 16 to ensure this Order aligns with previous legislation laid before the Scottish Parliament for XL Bullies. We also note that, while it may be unusual for a young person aged 16 or 17 to live apart from any older family members who might be able to provide alternative supervision, such situations can occur.

More generally, as the Committee will be aware, in Scotland the age of legal capacity is 16 and this age limit is already used in many different areas.

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I would refer the Committee to the [Children's Rights and Wellbeing Impact Assessment](#) (CRWIA) for this SSI. As noted in the CRWIA, all children under the age of 12 will need to have supervision from someone aged at least 16. The age limit of 12 in respect of the need to be supervised is the same as that set for England and Wales.

2. The Committee understands that equivalent provision in England applies a different age threshold. The Committee would welcome an explanation of the reasons for this difference and any considerations given to alignment with the approach taken elsewhere in the United Kingdom.

For the reasons given in answer to question 1, we consider the age of 16 is appropriate.

The Scottish Government notes that the UK Government legislation for England and Wales sets the legal age for supervising a child under 12 at 18. This is entirely a matter for the UK Government to consider.

3. The Committee would welcome clarification of the meaning of the requirement for a person under 16 to be "supervised" when in charge of an exempt dog. In particular, it would be helpful to understand what level of supervision is expected in practice.

Scottish Government guidance has been published to aid exemption holders in understanding what is required in this area: [New child protection condition for holders of a Certificate of Exemption](#)

This guidance sets out helpful advice for exemption holders to help follow the new legal requirement. It includes advice on how to keep children and exempted dogs safely apart when supervision is not possible.

As the guidance indicates, this new child protection condition requires that appropriate supervision is in place. What this means is a person aged 16 or over (the supervisor) is present and able to take steps to keep children safe around dogs in any situation where there is or could be physical contact between child and dog.

The supervisor should:

- remain nearby in order to keep both the child and dog under observation
- pay close attention to their interaction and be able to intervene if needed
- be able to separate the child and dog immediately if necessary

Supervision should be in person. Cameras, baby monitors, video doorbells or other devices are not a substitute for a person aged 16 or over being physically present and able to intervene as the supervisor.

The exemption certificate holder is responsible for making sure that there is appropriate supervision or separation. This supervision can be by the exemption holder themselves or any other person aged 16 or older.

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4. The Committee also seeks clarification of the meaning of the term "close contact" as used in the instrument and how this is intended to operate in practice.

The Guidance published by the Scottish Government provides information on this question. It includes helpful information on how best to avoid close contact such as measures that can be put in place within a home. This includes a need to ensure physical contact between a dog and a child is avoided in the absence of adult supervision.

5. The Policy Note states that no formal consultation was undertaken in relation to the instrument. The Committee would be grateful if you could outline what engagement, discussions or informal consultation took place during the development of the Order and identify the organisations, stakeholders or individuals involved.

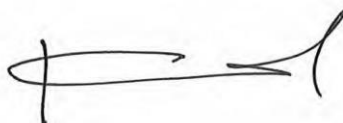
This new child protection condition was first proposed by the UK Government. Policy discussions between Scottish Government, United Kingdom Government officials, in conjunction with support and engagement with Northern Ireland Executive were held in May and June 2026. No formal consultation was considered necessary as the Scottish Government wishes to ensure similar protection to children being provided elsewhere in the UK would be provided to children in Scotland.

More generally, there are existing dangerous dogs laws which apply in situations where any dog, including an XL Bully dog, is dangerously out of control in any place, including the home. The Scottish Government sees the addition of this new condition as adding to these general protections as a means of strengthening the XL Bully dog safeguards regime.

This new child protection condition will come into force in Scotland, England, Wales and Northern Ireland on the same date, 1 November 2026.

I trust that this information is of interest to the Committee.

Yours sincerely



KIRSTEN OSWALD