SHERIFF APPEAL COURT

[2026] SAC (Crim) 13
SAC/2026/299/AP

Sheriff Principal Gillian Wade KC
Appeal Sheriff Paul Brown

OPINION OF THE COURT

delivered by APPEAL SHERIFF PAUL BROWN

in the appeal in the cause

by

SASHALEIGH WILLIAMS

Appellant

against

PROCURATOR FISCAL, KIRKCALDY

Respondent

Appellant: Deans, advocate; John Pryde & Co
Respondent: Jones, AD; Crown Agent

20 November 2026

[1] "Hunter," a large and powerful Cane Corso dog, viciously attacked an on-duty police officer. The dog bit the officer's arm, dragged her onto and across the ground before getting on top of her and locking its jaws on her thigh. The officer's colleague had to Taser the dog twice and use his PAVA spray to stop the attack. The incident was captured on Body Cam footage, and it makes for disturbing viewing.

[2] Bobbie Ann Margaret Hutchison ("the accused"), pled guilty to a charge which included an averment that she was the owner. The court was told the dog had previously

attacked and killed another dog and "grabbed" another person by their clothing. The sheriff at Dunfermline ordered destruction of the dog in terms of section 4(1)(a) of the Dangerous Dogs Act 1991.

[3] Sashaleigh Williams ("the appellant") claims she is the true owner. She did not intimate her interest to the court until the destruction order was made. She obtained interim suspension. As at the date of the appeal hearing, the dog's kennelling costs (borne by the public purse) were approximately £5,000.

[4] The appeal contends the sheriff erred. First, that she proceeded on a factually erroneous basis, namely, that the accused owned the dog and that the dog was subject to a Dog Control Notice. Second, by overlooking sections 4(1A) and 4(1B) of the 1991 Act and failing to "have an expert assessment report on the dog" when this was "a pre-requisite for any court considering destruction under the 1991 Act" (*Luckhurst* v *The Procurator Fiscal, Forfar* [2016] SAC (Crim) 29).

The sheriff's report

[5] The sheriff reports that the accused tendered a plea of guilty at a case management hearing on 26 June 2026 to the following charge:

> "On 23 May 2026 at [Address], you BOBBIE MARGARET ANNE HUTCHISON were the owner of a dog, namely, a Cane Corso whereby said dog was dangerously out of control in any place in respect that said dog attacked [FPC], police constable of the Police Service of Scotland, biting her on the arm and pulling her to the ground and biting her thigh all to her injury;
>
> CONTRARY to the Dangerous Dogs Act 1991, section 3(1) as amended by the Control of Dogs (Scotland) Act 2010, section 10."

[6] The salient features of the Crown narrative were as follows. On 23 May 2026, a Female Police Constable ("FPC") and her male colleague ("MPC") attended the locus and

knocked on the door. They heard a large dog inside and MPC went to look through a window. The accused then opened the door and stepped aside at which point the dog sprang from the house attacking FPC, seizing her left arm and dragging her to the ground. She screamed for help and the dog continued to maul her, taking hold of her right upper thigh, dragging her and tearing her trousers before getting on top of her and locking its jaws onto her thigh.

[7] MPC ran to help and used his Taser. The dog released its grip and FPC got away. The dog then turned aggressively on MPC and he had to reactivate the Taser and use his PAVA spray before it eventually ran back inside. FPC was taken to hospital and had four puncture wounds to her left arm, two puncture wounds to the back of her thigh and extensive bruising.

[8] The accused made no effective attempt to control the dog. She tried to remove the Taser wires. Additional officers were summoned and she refused access, refused to muzzle or secure the dog and was hostile and uncooperative, repeatedly shouting over officers and blaming FPC. When cautioned and charged she said, "Fuck the lot of ye's is my reply to that."

[9] During police enquiries, the appellant had claimed ownership of the dog and said the accused was looking after it whilst she was in hospital. She said she took the dog after an incident in May 2025 when it killed another dog and "grabbed" a member of the public by their clothing. As a result, the local authority had imposed a Dog Control Notice requiring muzzling and a double lead in public with other conditions. The appellant said she had been working with the local dog warden and attending training classes. She said she had given clear instructions to the accused about the conditions.

[10] Body worn footage recorded the accused shouting, "that's ma dog," at the time of the incident and "I'm gonna lose ma dog," shortly afterwards whilst asking if the officers were "going to shoot ma dog." She had a screensaver photo that looked like the dog on her mobile phone. Ultimately, she pled guilty to owning the dog.

[11] The sheriff at the conclusion of her report said the appeal proceeded "on the erroneous basis that I had discretion in making the destruction order" which was "peremptory for an aggravated offence." She "took into account the dog's past behaviour." The attack on the officers was sustained and only ended through use of the Taser. She concluded "that the dog is a danger to public safety."

Submissions

Body Cam footage

[12] At the outset of the appeal hearing the court was invited to view the Body Cam footage of the incident. Counsel for the appellant then asked the court to postpone the appeal hearing for the author of a report to view the footage. This was refused as unnecessary for the determination of the appeal.

The report

[13] The appellant's counsel turned to a report prepared on the dog and largely focused his initial submissions on commending its terms to the court. The report was by Callum Hardie of "The Dog Life," who was a "professional canine behaviourist" with "12 years of practical experience assessing, handling and working with dogs presenting with a range of behavioural difficulties." No further elaboration was given on experience, and no other qualifications were referred to in the report.

[14] He was instructed to assess *inter alia* "observable temperament" and "potential for safe, structured management." There were acknowledged limitations on the report. He spent just over an hour with the dog in a "secure, spacious indoor training environment" with "progressively challenging" exercises. His favourable conclusion of "positive temperament traits" was "not an assertion that risk [was] absent." The report was "not to be mistaken for a claim that [the dog] could never behave aggressively in another context."

[15] The ultimate recommendation was to refrain from destruction by imposing a very long list of stringent conditions to manage risk including extensive owner assessment, "non-negotiable" door protocols, no interaction with unfamiliar persons, animals or children, muzzling and double-lead use, distance and control around people and animals, no uncontrolled access to children, visitors or unfamiliar animals, and no handover to an unprepared temporary carer. It was said there should be mandatory practical training with a "suitably experienced professional," documentation of progress, a written contingency and compliance plan covering illness, emergency care, transport, temporary boarding or handling by others, plus prompt professional review following any new concerning response or management breach.

The sheriff's approach

[16] Counsel submitted the appellant as the true owner of the dog could appeal in terms of section 4(2) and 4(9) of the 1991 Act, although the question of ownership did not require to be resolved to determine whether the sheriff erred.

[17] The sheriff's error was plain as her analysis of the law was "out of date by 29 years." The sheriff failed to read section 4(1A) of the 1991 Act as inserted by the Dangerous Dogs (Amendment) Act 1997, "following widespread dissatisfaction at the lack of discretion

afforded to sheriffs." As part of that exercise, section 4(1B) required the court to consider the dog's temperament by means of an expert report (*Luckhurst* v *The Procurator Fiscal, Forfar* [2016] SAC (Crim) 29, at para [4]) as well as its past behaviour and whether the owner of the dog was a fit and proper person to be in charge of the dog.

[18] Counsel conceded that it was incumbent upon a person bringing an appeal such as this to demonstrate the sheriff had erred in relation to the question of ownership. Beyond the appellant's claims there was nothing further to be offered to the court in terms of vouching for this position and it was accepted that, despite being aware of the court proceedings, the appellant had not intimated her interest to the court. It was accepted that the accused indicated ownership at the time and by her plea. However, in this case, the appellant had told the police that she was the owner of the dog.

[19] *Luckhurst* was authority for the proposition that an expert report was required before a sheriff could make a destruction order. In terms of what was meant by temperament, it was suggested that this is something which could only be determined by a "canine behaviourist." The attack on FPC and the attacks on the other dog and person fell to be categorised as "past behaviour" and were not part of the assessment of temperament. On a closer reading, counsel responsibly conceded that *Luckhurst* imposed no requirement for a specific type of report, and that the word "report" at para [4] of that judgment could be interpreted in its widest possible sense to include information from parties.

[20] It was also conceded it would be incumbent upon a party to obtain a report at first instance ahead of a diet at which a destruction order was to be considered. However, in the special circumstances of this case, where the appellant had taken steps to inform the accused's solicitor and the police, she had discharged any onus upon her to address the matter ahead of the imposition of the destruction order.

Analysis and decision

Alleged factual errors

[21] We see no error in the sheriff's approach to ownership of the dog. The accused tendered a plea of guilty to a charge which contained an averment that she was the owner of the dog. The factual circumstances showed she claimed ownership of the dog at the time of the incident.

[22] There may be cases where ownership should be revisited for the appeal. In this case, certain factors are likely to have weighed heavily against the appellant in that regard. First, the sheriff was aware of the appellant's original claim and properly considered the question of ownership at first instance. Second, there was an absence of formal intimation to the court on the part of the appellant despite her being aware of proceedings. Ultimately, however, we agree with counsel that the question of ownership need not be resolved in the particular context of this appeal.

[23] It was accepted that the dog had previously attacked and killed another dog and attacked another person by biting their clothing. Against that agreed background, the issue of whether there was a Dog Control Notice is of no moment in our view.

The sheriff's approach to sections 4(1A) and 4(1B)

[24] The starting point for considering the statutory framework is section 3(1) which is in the following terms:

> "**3. Keeping dogs under proper control.**
>
> (1) If a dog is dangerously out of control in any place (whether or not a public place) (a)the owner; and (b)if different, the person for the time being in charge

of the dog, is guilty of an offence, or, if the dog while so out of control injures any person, an aggravated offence, under this subsection."

[25] Section 4 provides for sanctions including a destruction order, and the relevant provisions are in the following terms:

> **"4. Destruction and disqualification orders.**
>
> (1) Where a person is convicted of an offence under section… 3(1) above… the court—
>
> (a) may order the destruction of any dog in respect of which the offence was committed and, subject to subsection (1A) below, shall do so in the case of… an aggravated offence under section 3(1) above;"

[26] Since this was an aggravated offence, destruction was mandatory unless the court was satisfied that the dog did not constitute a danger to public safety in terms of section 4(1A) and 4(1B) which are in the following terms:

> "(1A) Nothing in subsection (1)(a) above shall require the court to order the destruction of a dog if the court is satisfied—
>
> (a) that the dog would not constitute a danger to public safety;
>
> …
>
> (1B) For the purposes of subsection (1A)(a), when deciding whether a dog would constitute a danger to public safety, the court—
>
> (a) must consider—
>
> (i) the temperament of the dog and its past behaviour, and
>
> (ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog, and
>
> (b) may consider any other relevant circumstances."

[27] As we shall come on to note, amongst the disposals available to a sheriff in these circumstances, is the option to impose costs on the offender in terms of section 4(4):

> "(4) Where a court makes an order under subsection (1)(a) above it may—
>
> (a) appoint a person to undertake the destruction of the dog and require any person having custody of it to deliver it up for that purpose; and
>
> (b) order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying the dog and of keeping it pending its destruction."

[28] Although the provisions of sections 4A(4) and 4A(5) were not specifically addressed as part of this appeal, the appellant's ultimate submission was that this court should quash the sheriff's destruction order and impose a contingent destruction order. It was argued that the imposition of conditions would remove the danger to public safety. The relevant provisions are as follows:

> "(4) Where a person is convicted of an offence under section 3(1) above, the court may order that, unless the owner of the dog keeps it under proper control, the dog shall be destroyed.
>
> (5) An order under subsection (4) above—
> (a) may specify the measures to be taken for keeping the dog under proper control, whether by muzzling, keeping on a lead, excluding it from specified places or otherwise; and
> (b) if it appears to the court that the dog is a male and would be less dangerous if neutered, may require it to be neutered."

[29] Looking at the sheriff's approach to the relevant statutory provisions, we consider that the decision is unclear. Whilst there is use of the wording in sections 4(1A) and 4(1B), namely, considering whether the dog was a "danger to public safety," and noting "past behaviour," there is no explicit reference to these provisions and no mention of "temperament." The sheriff also states that she had no discretion despite the terms of sections 4(1A) and 4(1B). We therefore see force in the submission that the sheriff has erred in relation to the statutory test.

[30] However, we consider the approach proposed by counsel would also be erroneous. Sections 4(1A) and 4(1B) are directed to relieving the court from an otherwise mandatory duty. These provisions should not be read as fettering discretion in a different way. Counsel's proposition amounted to a claim that section 4(1A) read with 4(1B) imposed an evidential condition that had to be met before an order could be made. The argument that

in terms of *Luckhurst* an expert report was a mandatory requirement cannot be supported. The relevant passage in *Luckhurst* at para [4] reads as follows:

> "In so far as the sheriff has determined that the dog constituted a danger to public safety, he has correctly considered the past behaviour of the dog (no previous incidents). He had however no report **of any form** available to him in respect of the dog's temperament. This was an essential factor which was simply not present during the exercise undertaken by the sheriff."(Our emphasis.)

[31] The court in *Luckhurst* did not prescribe a particular type of report. Nor did it specify what qualifications, if any, the author of such a report would have to obtain before expressing a view. Counsel ultimately conceded that the word "report" as it is used in this passage is to be interpreted in its widest possible sense. That seems to us to be a concession that was well made.

[32] Section 4(1A) is an exception to an otherwise mandatory consequence. Section 4(1B) regulates the exercise of that exception by specifying factors which the court must consider. It does not elevate those considerations to the status of conditions, nor does it require expert evidence on each (or any) factor before the discretion can competently be exercised. To construe the provision otherwise would undermine the legislative purpose of introducing a discretionary alternative to mandatory destruction.

[33] It follows from this, that we are not persuaded by counsel's submission that the definition of "temperament" could only be determined by a "canine behaviourist." Nor are we clear on what would be required in terms of qualifications for someone to achieve such a specialist designation. The word "temperament" should be given its ordinary meaning and it was clearly directed towards the dog's general nature or disposition (*cf Richard James Greenhowe* v *Procurator Fiscal, Aberdeen* [2026] SAC (Crim) 12 at para [44]; *Samuel Stewart* v *PF, Lanark* [2025] SAC (Crim) 3, at paragraphs 39 and 40, under reference to *Pepper* v *Hart* [1993] AC 593).

[34] The requirement to consider the factors set out in section 4(1B) (including temperament) does not create any evidential hurdle and it does not require the preparation of a specialist report. Temperament can be inferred from the information available. If parties wish to furnish the court with a specialist report, then that will be one matter to consider in an overall assessment. It need not be determinative and should be considered in the context of the full circumstances of the case.

[35] The most concrete manifestation of a dog's temperament in real-life situations may well be the circumstances of the offence itself. In this case, the court had the benefit of body-worn footage. Past behaviour may also be relevant. The distinction counsel sought to draw between temperament and past behaviour was unconvincing, as there will often be substantial overlap between the two. Behaviour considered as part of a dog's past conduct may equally inform an assessment of its temperament. This was implicit in counsel's own request that the hearing be postponed for the author of the report to view the Body Cam footage. Furthermore, an accused person can offer their own view about temperament, and it can be helpful in these cases to obtain observations from those caring for the dog in kennels. These are examples of sources of information on temperament. A formal expert report is only one possible source of such information. Whether lay or expert evidence is to be provided to the court, the burden of satisfying the court that the mandatory consequence of destruction should be displaced falls upon the person asserting that the dog would not constitute a danger to public safety (*R (Killeen)* v *Birmingham Crown Court* [2018] EWHC 174 (Admin) at paragraph 9).

[36] If the accused wishes to place a specialist report before the court in summary procedure, the case management hearing process offers an opportunity for that to be obtained prior to tendering any plea. Given the high costs of keeping a dog in kennels in

these cases, and the burden it can place on the public purse, we consider that it would be incumbent on an accused to obtain such a report well before any diet at which the sheriff is to consider a destruction order and it would generally be inappropriate to bring an appeal on the basis of a report obtained after the order was made (*R* v *Parsonage* [2025] EWCA Crim 456 at paragraph 26*)*. Considering this, sheriffs should be slow to postpone a decision on destruction where there has been a failure to timeously obtain a report. And sheriffs should always bear in mind the terms of section 4(4)(b) set out above which allows for kennelling and destruction costs to be imposed on the offender.

The destruction order

[37] Even if the report was available to the sentencing sheriff, we do not consider that it could have satisfied the court that the dog would not constitute a danger to public safety in terms of section 4(1A)(a).

[38] In terms of section 4(1B)(a)(i), for temperament, the report is positive but acknowledges limitations on the findings. The author was at pains to point out his recommendation was "not to be mistaken for a claim that [the dog] could never behave aggressively in another context." The report acknowledges the incident itself demonstrated the dog was "capable of causing significant harm." In terms of past behaviour, the dog had previously attacked and killed another dog and attacked another person by "grabbing" (we assume this means biting) their clothing.

[39] In terms of section 4(1B)(a)(ii), the accused's conduct during the incident amply demonstrated that she was not a fit and proper person to be in charge of the dog. The same can be said for the appellant. On her own account, she chose to give the dog to this accused despite knowing she had previously failed to control it. Furthermore, the appellant now

effectively concedes that she is not a fit and proper person by submitting at the appeal hearing that she will have to give the dog to someone else. Even if the dog was given into the care of a skilled or trained owner, the report in this case suggests a very long and very stringent list of conditions are imposed. This is unrealistic and does little to assuage the concerns about this dog. We do not consider a contingent destruction order in terms of section 4A(4) would mean the dog would not constitute a danger to public safety.

[40] Having considered all of the factors specified in section 4(1B), there was no realistic basis upon which the court could have been satisfied that the dog would not constitute a danger to public safety for the purposes of section 4(1A). In those circumstances, the statutory exception was not engaged and destruction remained mandatory. The sheriff may have erred, but the outcome was correct.

[41] This appeal is refused.