

Dog Attacks and Harassment Policy

Policy Reference Number	5977689
Responsible Department	Infrastructure, Planning & Sustainability Services
Related Policies	Nil
Related Procedures	Nil
Date of Initial Adoption	06 March 2000
Last Reviewed by Council	16 April 2024

1. Purpose

Campbelltown City Council provides this Policy to inform the community how it will deal with instances of dog attacks and dog harassment.

2. Introduction

It is the intent of this Policy to guide Authorised Persons and other administrative Employees of the Council in undertaking investigations into, and making decisions about, the various enforcement options available to the Council when responding to reports of dog attacks and/or dog harassment incidents. Each incident of this kind is unique, and it is intended that there will be a degree of flexibility when determining the appropriate enforcement pathway.

It should be noted that there will be cases where Council still may deem it appropriate or necessary, e.g. due to the seriousness of the incident and/or for public safety reasons, to deviate from this Policy.

3. Power to Make the Policy

This Policy will apply particularly to those matters set out in Section 44 of the Act (*Dog and Cat Management Act 1995*). In a particular circumstance, Authorised Persons and Employees may additionally have regard to other relevant sections of the Act and the *Dog and Cat Management Regulations 2017*.

Whilst not in scope for this Policy, Members of the Community are advised to refer to Council's website for protocols and procedures in relation to barking dog matters.

4. Strategic Plan Link

This Policy has the following link to Council's Strategic Plan 2024:

- Supporting our Community (Goal 1)

5. Principles

This Policy will help ensure the safety of the Community by supporting the objects of the Act and provides the basis for a clear process for the management of reports of dog attacks and harassment incidents, so that each incident is addressed in a consistent and equitable manner.

An assessment of the nature of a reported attack will be made by an Authorised Person appointed by the Council pursuant to the Act, who has the appropriate training, experience and delegation to undertake an investigation and make enforcement decisions.

6. Definitions

Act means the *Dog and Cat Management Act 1995*;

Authorised Person means a person appointed by the Council as an authorised person pursuant to Section 25A of the Act;

Dangerous Dog means a dog in relation to which either a Council or the Board has made a Control (Dangerous Dog) Order, or a court has made an order the terms of which generally correspond to a Control (Dangerous Dog) Order.

Dog has the same meaning as in the Act;

Owner in relation to a dog, has the same meaning as in Section 5 of the Act;

Person responsible for control of a dog, has the same meaning as in Section 6 of the Act;

Prescribed Breed means any of the following breeds or any further breed as prescribed by the Act:

- American Pit Bull Terrier;
- Fila Brasileiro;
- Japanese Tosa;
- Dogo Argentina;
- Presa Canario.

Regulations means the *Dog and Cat Management Regulations 2017*.

7. Policy

Notwithstanding the below, where a dog attacks or harasses a person, or another animal owned by or in the care and control of another person, and that dog is a dog of a Prescribed Breed or a Dangerous Dog then different (potentially more serious) enforcement action may be taken.

7.1 Dog Attacks

7.1.1 Attacks of a serious nature

Where:

- a dog attacks a person, or another animal owned by or in the care and control of another person, and injury is caused;
- the attack is of a **serious nature** (as determined by an Authorised Person and may include circumstances where requiring medical attention, hospitalisation, and/or treatment by a veterinarian is sought); and
- the complainant is able to identify (where possible) the location of the incident, the address at which the offending dog was or is kept (if possible), a description of the offending dog including its breed, type, colour, height, markings etc. and if relevant, a description of the person responsible for the control of the offending dog at the time of the incident; and
- the complainant is able to provide details of witnesses (if any) including the contact information of those witnesses; and
- the complainant is prepared to give a statement and give evidence in court; and
- it is considered that no defences pursuant to Section 86 or 44(4) of the Act are available to the owner or person responsible for the control of the offending dog at the time of the incident, and the investigating officer is satisfied that sufficient prima facie evidence exists to support a case, then:

the following action may be taken after considering the history of the dog and the particular circumstances of the incident:

- for a **First Offence**:
 - an expiation notice for a relevant offence or offences may be given; or
 - legal action, including prosecution proceedings, may be commenced; and/or
 - an appropriate Control Order pursuant to the Act may be made.
- for a **Second Offence**:
 - legal action, including prosecution proceedings, may be commenced; and/or
 - an appropriate Control Order, including a Destruction Order pursuant to the Act may be made.

7.1.2 Attacks of a moderate nature

In situations where:

- a dog attacks a person, or another animal owned by or in the care and control of another person, and injury is caused; and

- the attack is of a **moderate nature** (as determined by an Authorised Person and may include circumstances where minor medical attention and/or veterinary treatment is sought); and
- the complainant is able to identify (where possible) the location of the incident, the address at which the offending dog was or is kept (if possible), a description of the offending dog including its breed, type, colour, height, markings etc. and if relevant, a description of the person responsible for the control of the offending dog at the time of the incident; and
- the complainant is able to provide details of witnesses (if any) including the contact information of those witnesses; and
- the complainant is prepared to give a statement and give evidence in court; and
- it is considered that no defences pursuant to Sections 86 or 44(4) of the Act are available to the owner or the person responsible for the control of the offending dog at the time of the incident, and the investigating officer is satisfied that sufficient prima facie evidence exists to support a case, then:

the following action may be taken after considering the history of the dog and the particular circumstances of the incident:

- for a **First Offence**:
 - an expiation notice for a relevant offence or offences may be given; and/or
 - an appropriate Control Order pursuant to the Act may be made.
- for a **Second offence**:
 - legal action, including prosecution proceedings, may be commenced; and/or
 - an appropriate Control Order, including a Destruction Order pursuant to the Act may be made.

7.1.3 Attacks of a minor nature

In situations where:

- a dog attacks a person, or another animal owned by or in the care and control of another person, and injury is caused; and
- the attack is of a **minor nature** (as determined by an Authorised Person; and
- the complainant is able to identify (where possible) the location of the incident, the address from where the offending dog was or is kept (if possible), a description of the offending dog including its breed, type, colour, height, markings etc., and if relevant, a description of the person responsible for the control of the offending dog at the time of the incident; and
- the complainant is able to provide details of witnesses (if any) including the contact information of those witnesses; and

- it is considered that no defences pursuant to Sections 86 or 44(4) of the Act are available to the owner or person responsible for the control of the offending dog at the time of the incident, and the investigating officer is satisfied that sufficient prima facie evidence exists to support a case, then:

the following action may be taken after considering the history of the dog and the particular circumstances of the incident:

- for a **First Offence**, an expiation notice for a relevant offence or offences may be given;
- for a **Second Offence**, an expiation notice for a relevant offence or offences may be given and an appropriate Control Order pursuant to the Act may be made;
- for a **Third Offence**, legal action including prosecution proceedings, may be commenced and an appropriate Control Order, including a Destruction Order pursuant to the Act may be made.

In any of the above cases, where the offending dog was, at the time of the incident, subject to a Control (Dangerous Dog) Order, consideration may be given to making a Prohibition Order in accordance with the Act.

7.1.4 Defences

If as a result of the Council's investigations, it is considered that a defence is available to the owner or person responsible for the control of the offending dog at the time of the incident for any relevant offence pursuant to Section 86 or 44(4) of the Act 1995, no action will be taken against the owner or the person responsible for the control of the dog at the time of the incident.

If considered necessary, Council will obtain legal advice as to the applicability of any defence/s.

7.2 Dog Harassment

7.2.1 Serious Nature Harassment

In situations where:

- a dog harasses a person, or another animal owned by or in the care and control of another person, and no injury is caused; and
- the harassment is of a **serious nature** (as determined by an Authorised Person); and
- the complainant is able to identify (where possible) the location of the incident, the address at which the offending dog was or is kept (if possible), a description of the offending dog including its breed, type, colour, height, markings etc. and if relevant, a description of the person responsible for the control of the dog at the time of the incident; and
- the complainant is able to provide details of witnesses (if any) including the contact information of those witnesses; and

- the complainant is prepared to give a statement and give evidence in court; and
- it is considered that no defences pursuant to Section 86 or 44(4) of the Act are available to the owner or person responsible for the control of the offending dog at the time of the incident, and the investigating officer is satisfied that sufficient prima facie evidence exists to support a case, then:

the following action may be taken after considering the history of the dog and the particular circumstances of the incident:

- for a **First Offence**:
 - an expiation notice for a relevant offence or offences may be given; and/or
 - an appropriate Control Order pursuant to the Act may be made.
- for a **Second Offence**:
 - legal action, including prosecution proceedings, may be commenced; and/or
 - an appropriate Control Order, including a Destruction Order pursuant to the Act may be made.

7.2.2 Minor nature harassment

In situations where:

- a dog harasses a person, or another animal owned by or in the care and control of another person, and no injury is caused; and
- the harassment is of a **minor nature** (as determined by an Authorised Person); and
- the complainant is able to identify (where possible) the location of the incident, the address at which the dog was or is kept (if possible), a description of the offending dog including its breed, type, colour, height, markings etc. and if relevant, a description of the person responsible for the control of the dog at the time of the incident; and
- the complainant is able to provide details of witnesses (if any) including the contact information of those witnesses; and
- the complainant is prepared to give a statement and give evidence in court; and
- it is considered that no defences pursuant to Section 86 or 44(4) of the Act are available to the owner or person responsible for the control of the offending dog at the time of the incident, and the investigating officer is satisfied that sufficient prima facie evidence exists to support a case, then:

the following action may be taken after considering the history of the dog and the particular circumstances of the incident:

- for a **First Offence**, an expiation notice for a relevant offence or offences may be given;

- for a **Second Offence**:
 - an expiation notice for a relevant offence or offences may be given; and/or
 - an appropriate Control Order pursuant to the Act may be made;
- for a **Third Offence**, legal action, including prosecution proceedings, may be commenced.

7.2.3 Defence

If as a result of the Council's investigations, it is considered that a defence is available to the owner or person responsible for the control of the offending dog at the time of the incident for any relevant offence pursuant to Section 86 or 44(4) of the Act 1995, no action will be taken against the owner or the person responsible for the control of the dog at the time of the incident.

If considered necessary, Council will obtain legal advice as to the applicability of any defence/s.

7.3 Other Offences

If, as a result of the Council's investigations, it is considered that the owner or person responsible for the control of the offending dog at the time of the incident may have also committed other offences (e.g. allowing a dog to wander at large in breach of Section 43 of the Act) then appropriate enforcement action in relation to that or those breaches may also be taken.

8. Review & Evaluation

Within twelve months of each new Council term, Council will review this policy. Following this initial review, this policy will be reviewed at least biennially by Staff with minor administrative adjustments being approved by the Chief Executive Officer.

9. Availability of the Policy

Copies of this Policy will be available at Council's principal office during ordinary business hours and at Council's website www.campbelltown.sa.gov.au.