

PROCEDURE



Dog Attack Procedure (Administrative)

1. Purpose

The purpose of this procedure is to ensure that Council deals with dog attacks promptly and professionally and in accordance with the *Domestic Animal Management Act 1994 (Act)* to ensure that Council is keeping the Shire safe. This procedure should be read in conjunction with Council's Dangerous Dog Declaration Procedure and Enforcement Policy.

2. Scope

This procedure applies to persons with valid authorisation under the Act and Council employees involved in the administration, investigation and prosecution of animal attacks.

Authorised Officers are required to act reasonably and transparently, demonstrate good customer service, undertake their responsibilities in a proficient manner and use their judgement where necessary to ensure an outcome in line with Council's Enforcement Policy and all relevant regulations and legislation.

3. Definitions

Council means Hindmarsh Shire Council

CEO means the Chief Executive Officer of Hindmarsh Shire Council

Dog Attack includes dogs biting, rushing at or chasing a person or animal¹

Restricted Breed means a dog that is any one of the following breeds: Japanese Tosa, Fila Brasileiro, Dogo Argentino, Presa Canario, American Pit Bull Terrier

The Act means the *Domestic Animals Act 1994*

4. Taking a report

In the first instance, a report of a dog attack should immediately be directed to a Local Laws Officer. If the Local Laws officer is unavailable, the receiving staff member should obtain the name, address and contact details of the person making the report. They should ascertain whether the dog is still at large and creating a nuisance. If it is, contact and dispatch an authorised officer immediately.

After calling the authorised officer, take the following details:

¹ *Domestic Animals Act (Vic) 1994 s29.*

- Date and time of notification;
- Time and location of attack;
- Breed, colour, sex and any distinguishing features of the dog(s);
- Whether medical or veterinary treatment was/is required;
- Whether anyone was in control of the dog(s) at the time;
- Any knowledge/belief about where the dog(s) come from;
- Identification of any other witnesses; and
- Any other relevant information.

Advise that the authorised officer will make contact shortly.

If an authorised officer is available, they should make record of the same details listed above at the commencement of their investigation.

5. Immediate action

The authorised officer is to proceed to the location where the dog was last sighted as a matter of priority. Where possible, the authorised officer should take a second person with them. Police assistance may also be requested, the requirement for this will be assessed on a case-by-case basis dependent on the severity of the incident and any other relevant factors.

Where appropriate, the authorised officer is to photograph the scene and any relevant objects.

a. Dog not found

If the dog is not found, the authorised officer should patrol the immediate area and surrounding streets.

If the dog cannot be located, note the actions taken to be included in the investigation report. The authorised officer should continue to attempt to locate the dog throughout the investigation.

b. Dog found

If the dog is located, assess the dog's behaviour to ascertain whether back-up is required to assist with the capture of the dog.

If back-up is required, don't attempt to approach the dog until back-up has arrived unless there is an immediate threat. Keep the dog in sight. Take all safety precautions to protect the public and yourself.

Use the appropriate techniques to contain a dog. Where possible, a catch pole should be used to secure the dog to ensure the safety of the officer.

If the dog appears to be aggressive and cannot be contained, contact the Police for assistance. If required a veterinarian may be contacted in order to obtain sedation for the dog.

When the dog is safely contained or it is safe to do so, a photograph should be taken for evidentiary purposes.

6. Taking reasonable steps to establish ownership

Search for any identification or microchip. Where a microchip is identified, contact the appropriate register.

If the dog does not have a microchip or identification, check Council's register of lost dogs. If the dog was found near a Council boundary, check with the neighbouring Council.

If the dog appeared to come from a property, approach the occupants to establish any possible ownership or links.

Where the owner can be identified, the decision about whether to return the dog or transfer it to a holding facility must be made. The authorised officer should consider all information obtained in the initial report, the behaviour of the dog and any other appropriate information when determining whether to seize the dog. The officer should refer to section 7 of this procedure, and all relevant requirements of the Act, when determining whether seizure is appropriate or necessary.

If the dog was found wandering at large and no owner can be identified, or in the event that the owner is known but it has been decided to seize the dog, proceed as section 7 – Seizure

7. Seizure

The Act gives Council various discretions in respect of dogs that are found to have, or are suspected to have, attacked persons and/or animals. This includes the discretion to seize a dog in prescribed circumstances in accordance with Part 7A of the Act.

If it has been established that a dog attack did occur and that the dog poses a significant public safety risk, Authorised Council Officers will issue a Notice of Seizure under s81(2) of the *Domestic Animals Act*:

- (2) A Council authorised officer may seize a dog that is in the municipal district of that Council if—
- (a) a person has been found guilty of an offence under section 29 with respect to that dog; or
 - (b) the authorised officer reasonably suspects that a person has committed an offence under section 29 with respect to that dog.

Any seized dogs will remain in custody until the alleged incident has been fully investigated. Where an order for destruction has been made by the court or pursuant to section 84TA (whereby Council may destroy a dog where a serious injury is found to have occurred as a result of a dog attack), the dog will be euthanized. Where a dog is declared to be dangerous or menacing, the owner of the dog must comply with relevant state government regulations before the dog is released.

The owner must be provided with a Notice of Seizure, as per section 84H of the Act. It must state the following

- That the dog has been seized and a description of the animal;
- The contact details of the person or body that has custody of the animal;
- The date of seizure of the animal; and
- Any other requirements contained within the Act.

8. Surrender

Owner/s of the dog/s responsible for the alleged attack will be provided the opportunity to voluntarily surrender the animal to Council at the commencement of the investigation. The dog/s may be voluntarily surrendered up to the time at which Council administers a Notice of Seizure to the owner/s.

Upon signing Council's Animal Surrender Form, the owner permits Council to take possession of the animal, abdicates all legal rights to the animal, and permits Council to euthanise or - where appropriate - transfer the animal to a shelter or alternative pound facility at Council's discretion.

9. Investigation

The entire process is to be documented and uploaded into Council's digital records management system. Meticulous records should be maintained to ensure that costs, processes and details can be clearly established.

The authorised officer should have a second person sit in on all interviews with witnesses, victims and alleged offenders.

a. Authorised officer written statement

The authorised officer who is handling the matter is to provide a written statement detailing the following:

- The steps undertaken in the investigation;
- Any observations made during the investigation;
- Any other matters relevant to the investigation; and
- A statement that the investigation has been undertaken in accordance with this procedure and the Principles set out in the Enforcement Policy.

b. Background checks

The authorised officer is to check Council records to identify whether the dog has any history of attacks.

The authorised officer is to attend the alleged offending owner's property, or any other place that the dog is kept to ensure it is contained in a secure yard, if the dog has not been seized. Where possible, this visit should be used to advise the owner of the seriousness of the situation and the procedure to be undertaken, including making a time for a formal interview.

c. Photograph

Where consent has been given, take photographs of all injured animals and persons. Do not photograph children without the consent of their parent/guardian.

d. Medical/ Veterinary statements

Where applicable, obtain any medical and/or veterinary statements.

e. Interview victim/ witness

Arrange and conduct an interview with the alleged victim / complainant. If a child is involved, ensure the presence of a parent or guardian and ensure that all principles of Child Safety are maintained.

Establish whether sufficient evidence exists to proceed. If not, record actions taken and advise involved parties that there is insufficient evidence for the investigation to proceed further.

i. Record of interview

- If there is sufficient evidence to proceed, complete a record of interview and Accident/ Hazard Report.
- It is preferable for the authorised officer to undertake the interview to ensure that all the relevant information is captured.
- If this is not possible, ask the victim / complainant to provide a written statement and send it to the authorised officer.
- Ensure that they understand to include all the details that they remember and that they sign and date their statement. All statements should record all information and conclude with the statement “I have read and understood the statement provided to me and agree that the information is true and correct.”
- Ascertain if there were any witnesses and conduct interviews with all of them.
- Advise each person interviewed of the procedure being undertaken and establish whether he/she is prepared to testify in court should that situation arise. Note response.

f. Interview alleged offending owner of dog (or person responsible for the dog)

When satisfied that an attack or harassment offence has occurred, conduct a formal interview with the owner or person responsible for the dog at the time. Ensure that, before taking a statement, the dog owner is cautioned with the words:

“You do not have to say or do anything but anything you do say or do may be used in evidence, do you understand?”

This is required as the person being interviewed has a right to refuse to make a statement and needs to understand how this information is to be used. It is a requirement in the event of a prosecution in court.

Record the interview and add the statement “I have read and understand the statement provided by me and agree that the information is true and correct”. Ensure that it is signed.

Advise the dog owner of their obligations and responsibilities under the Act and the actions which may result from the investigation, including the possibility that one of four outcomes may result:

- No further action;
- Expiation and caution notice;
- Proposal to Declare the dog as ‘Dangerous’ or ‘Menacing’ under the Act; or
- Prosecution.

If the dog owner refuses to cooperate inform the owner that this will be recorded, the investigation will continue and Council may take legal action against them.

10. Officer findings and recommendation

Once the investigation has been completed, the authorised officer is to collate all information gathered and findings into an **Officer's Report**. Provide the Officer's Report to the appropriate manager to discuss what action Council will take. The Officer's Report should contain:

- Reasons for the officer's recommendation in respect of enforcement action;
- A timeline of the events which occurred;
- A summary of evidence gathered; and
- Any witness statements/ interview statements recorded during the investigation.

If a Dangerous Dog Declaration is being recommended, the Officer should follow Council's Dangerous Dog Declaration Procedure.

The consequences of a dog attack will usually include a combination of the following:

- The dog owner may be issued with an infringement notice or have a fine imposed by a court.
- The dog involved in the attack may be declared menacing or dangerous by Council.
- The dog involved in the attack may be seized and held by Council pending the outcome of any legal action against the owner. Daily costs and release fees will be applicable.
- If a dog attack is proven in court, a criminal conviction for the dog owner or person in charge of the dog at the time of the offence, or both, may result.
- Council may pursue all costs associated with the case including legal fees, pound costs and any associated costs such as veterinary or medical fees or damaged property on behalf of the victim of a proven dog attack. In some cases, the victim may pursue civil action against the accused for additional damages.
- The owner of the dog may be subject to a banning order preventing dog ownership for up to 10 years.
- A dog involved in an attack may be ordered by Council or a court to be destroyed.
- Serious dog attacks may result in imprisonment of the dog owner if the dog has previously been declared dangerous or is a restricted breed dog.

11. Finalising Investigation

After a dog attack has occurred and the investigation has been completed it is important to communicate the decision with all of the involved parties. This should be provided in written form to both the victim/s and dog owners.

All records, including outcome letters, should be saved in Council's digital records management system.

The incident may result in legal proceedings and/or review by VCAT. All reports, records and documents should be full and complete.

12. Related Council Policies

Hindmarsh Shire Council Enforcement Policy

Hindmarsh Shire Council Dangerous Dog Declaration Procedure

13. Resources

Domestic Animals Act 1994 (Vic)

14. DOCUMENT CONTROL

Hindmarsh Shire Council Dog Attack Procedure		Policy Category	Local Laws – Enforcement
Version Number	1.2	Procedure Status	APPROVED
Approved/Adopted By	CEO	Approved/Adopted on	05/01/2023
Responsible Officer	MGHS	Review Date	05/01/2026
Version History	Date	Version	Description
	20/09/2019	1.0	Approved version
	2/06/2020	1.1	Updated to include seizure of dog
	January 2023	1.2	Reviewed and updated (approved by Acting CEO)