

5.1.2 Dangerous Dog Declarations

Type:	Ranger Services – Animal Control
Legislation:	<i>Dog Act 1976</i> (as amended) <i>Dog Regulations 2013</i> (as amended)
Delegation:	DA21 Appointment of Authorised Officers
Other Related Document:	

Objective

The purpose of this policy is two-fold:

- (a) to provide guidance to authorised Town Officer's in relation to the procedures to be followed prior to the issuance of a Dangerous Dog Declaration.
- (b) to ensure that Dangerous Dog Declarations are made in a fair and impartial manner based on in depth investigations of alleged dog attacks either within the municipal boundaries or by dogs domiciled within the municipal boundaries.

Policy Statement

In accordance with the *Dog Act 1976* (as amended), Council has the responsibility for issuing Dangerous Dog Declarations under the following circumstances:-

Section 33E. Individual dog may be declared to be dangerous dog (declared)

- (1) A local government, or on behalf of the local government an authorised person or person specifically authorised by the local government for the purposes of this section either generally or in a particular case, may, by a notice in writing given in accordance with section 33F, declare an individual dog to be a dangerous dog (declared) if, in the opinion of the local government or that person —
 - (a) the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle; or
 - (b) the dog has, repeatedly, shown a tendency —
 - (i) to attack, or chase, a person, animal or vehicle even though no injury has been caused by that behaviour; or
 - (ii) to threaten to attack; or
 - (c) the behaviour of the dog meets other criteria prescribed for the purpose of this section.

Policy

The Town of East Fremantle will ensure that all reports of alleged dog attacks (both dog on human and dog on other animal) are investigated professionally, impartially and within as timely a manner as practical.

At the conclusion of the investigative process, the authorised investigating officer will submit a report to the Senior Ranger containing the following documentation if available:-

- (a) a written initial incident/occurrence report;
- (b) written statements from all injured parties who are willing to submit such statements;
- (c) written statements from witnesses who are willing to submit such statements;
- (d) written statements from the dog's owner should they be willing to submit such statements. Should the owner decline to be interviewed formally by the investigating officer or decline to submit any voluntary statement then a record of times and dates that such refusals occurred are to be reported in writing by the authorised investigating officer;
- (e) written records and photographs of all physical injuries or personal property damaged sustained by each injured party;
- (f) copies of all medical receipts for injuries sustained in the attack;
- (g) copies of all receipts for all personal property damage damaged in the attack;
- (h) written record of any voluntary surrender or euthanasia forms signed and submitted by the owner;
- (i) where the owner declines to voluntarily surrender the dog to Council for the term of the investigative process then a written record of Council seizure and impoundment notice issued under section 29(3)(a)(b)(d)(e) and *section 29(4)(5) of the Dog Act 1976 (as amended)*;
- (j) written record of any voluntary offer by the dog's owner to compensate injured parties for both reasonable medical costs and damaged personal items (e.g. Clothing, watches, shoes etc.);
- (k) copies of all incoming payments from the dog's owner in relation to medical and personal property damage sustained by dog attack victims;
- (l) copies of all Council outgoing medical and personal property disbursement payments to victims from funds received as per section "k" above;
- (m) any known mitigating factors in relation to the dog attack (e.g. alleged victim was seen by witnesses to be provoking the dog prior to the attack occurring);
- (n) what final outcome the injured parties feel would in their opinion be appropriate (after being advised of potential penalties available to the local government in line with the *Dog Act 1976* (as amended));
- (o) copies of any canine behavioural observation and test reports conducted by a trained and qualified behavioural assessor that was submitted by the dog's owner;
- (p) copies of any canine behavioural observation and test reports conducted by a trained and qualified behavioural assessor at the request of Council;
- (q) the investigating officer's final findings and penalty recommendations, based on the evidence available to him/her. Potential penalties could consist of any one or all of the following examples (e.g., dog infringement notices, Dangerous Dog Declaration and / or prosecution);

Once the Senior Ranger has reviewed and discussed all relevant documentation and recommended penalties with the investigating officer, the Senior Ranger will provide the responsible Executive Manager with all of the above listed documentation and a final recommendation in relation to penalties deemed appropriate in each case.

Where the Senior Ranger's recommended penalties are different from those of the investigating officer, the Senior Ranger will submit his/her reasons for the differing recommendation.

The responsible Executive Manager will review the documentation and make the final decision in relation to what level of penalties will be instituted in each case.

It should be noted that not all dog attack incidents will need a Dangerous Dog Declaration to be made.

Dogs deemed to require the issuance of a Dangerous Dog Declaration

Where it is deemed by authorised Council Officer's that a dog should be made subject to a Dangerous Dog Declaration, then the dog's owner must be given notice as per section 33F of the *Dog Act 1976* (as amended) which reads as follows:

Section 33F

- (1) The local government, or the person by whom the declaration was made on behalf of the local government, must give written notice declaring a dog to be a dangerous dog (declared) to the owner of that dog.*
- (2) A notice to be given under subsection (1) —*
 - (a) shall give reasons for the making of the declaration; and*
 - (b) shall specify that the owner has a right under this Division, to be exercised within not more than 7 days after the giving of the notice, either —*
 - (i) to lodge a written objection with the local government, with a subsequent right to apply to the State Administrative Tribunal for a review of the decision made by the local government on the objection; or*
 - (ii) to apply directly to the State Administrative Tribunal for a review, as to the declaration.*
- (3) Whether or not an objection is lodged or application for review is made, the declaration of a dog as a dangerous dog (declared) has effect 7 days after the giving of a notice under subsection (1).*

Purpose of a Dangerous Dog Declaration

The purpose of issuing a Dangerous Dog Declaration is sixfold:-

- (a) to compel the dog's owner to ensure that they comply with higher levels of containment and control of their dogs both at their home and when the dog is in a public place.
- (b) to heighten public safety in relation to the dogs containment, control and behaviour.
- (c) to heighten public awareness of the Dangerous Dog status of the dog when visitors/neighbours are in proximity to the dogs domiciled residence or when it is being walked in public places.
- (d) allow authorised officers to inspect the dog's domiciled premises regularly to ensure that owner is adhering to Dangerous Dog Declaration requirements.
- (e) allow authorised officers to identify the dog easily in public places and verify that both the dog's owner or person in charge of the dog are compliant with Dangerous Dog Declaration requirements in relation to the dog in a public place.
- (f) raise the penalties for breaches of both the *Dog Act 1976* (as amended) and issued Dangerous Dog Declaration conditions.

Potential costs incurred by Council in relation to dogs deemed to require the issuance of a Dangerous Dog Declaration

In considering whether to issue a Dangerous Dog Declaration on a dog currently under investigation by authorised officers, the Town may elect to employ the services of a trained canine behaviourist to conduct an independent behavioural assessment in relation to the dog.

The independent report will not only assist rangers in their investigation process, but may also be used in Court or the State Administrative Tribunal should the dog's owner request an appeal through either agency.

Responsible Directorate:	Executive Manager Corporate Services
Reviewing Officer:	Senior Ranger
Decision making Authority:	Authorised Officer as defined in the <i>Dog Act 1976 (as amended)</i>
Policy Adopted:	21/11/18
Policy Amended/Reviewed:	17/9/19
Former Policy No:	1.2.4