

DOG ATTACKS

GUIDELINES | MELTON CITY COUNCIL



PURPOSE

Being involved in a dog attack is a traumatic experience for everyone involved. Victims may experience physical trauma and long lasting psychological effects of an attack, and there may also be serious consequences for the dog owner, and the dog itself.

Prevention of attack is the best solution and although Council provides extensive education and preventative programs, unfortunately dog attacks still do occur in our community.

Council has the responsibility of ensuring that known aggressive dogs are managed in a way to prevent them from causing any further risk to the community.

The purpose of these guidelines is to provide information to residents and dog owners about what to expect when a dog is involved in an attack, including legal implications and the possible outcomes for the attacking dog.

DOMESTIC ANIMALS ACT 1994

In accordance with Section 29 of the Domestic Animals Act 1994 the following guidelines have been created to ensure that dog owners and members of the public who have been involved in a dog attack are aware of Council's processes for the investigation of dog attacks and the enforcement of dog attack legislation.

GUIDELINE OBJECTIVES

- To provide some context around the processes undertaken by Council when dealing with dog attacks and related offences such as dogs wandering at large.
- To ensure openness, transparency and consistency regarding the way Council investigates and deals with dog attacks.
- To provide authorised Council Officers and the general public with an overview of Domestic Animals Act legislation regarding dog attacks and related offences.
- To clarify the role and powers of authorised officers in relation to the investigation of dog attacks and the enforcement of relevant legislation.
- To provide members of the public with a basic understanding of the processes carried out by authorised officers whenever a dog attack occurs.

COUNCIL'S APPROACH TO DOG ATTACKS

- Dog attacks include dogs biting, rushing at or chasing a person or animal.
- Council encourages that all dog attacks be reported and commits to investigating all reported attacks to a conclusion.
- Dog attack investigations are initiated with the mindset that they may all result in a court case.
- The owner (or the person in apparent control of the dog at the time of the attack) will be held responsible for a dog attack.
- Penalties for dog attacks can include significant fines, criminal convictions, payment of council and victim costs, imprisonment and in some cases the dog being ordered to be destroyed.

WANDERING DOGS

It is an offence under Section 24 of the Act to let a dog wander on its own outside a property and when this occurs the owner may be issued with an infringement notice and required to pay a fine. Council may also issue orders pursuant to Section 26(2) requiring that dogs must be under effective control in any public place.

Council are committed to enforcing this legislation in order to reduce the chances of a dog attack occurring:

- a. Dog attacks are often caused by dogs not being secured to their property and wandering in the street, rushing out from poorly fenced properties, or exercised off-leash by their owner.
- b. Allowing a dog to wander can place it at risk of being lost, attacked or involved in an accident.
- c. Residents are entitled to enjoy their property without a dog entering it and possibly causing damage, creating a nuisance or chasing a person or another animal.
- d. The owner of any animals or birds kept for farming purposes is legally entitled to destroy any dog found at large near their livestock.

There are designated areas within the City of Melton where dogs may be exercised off-lead. Any dog attack which occurs in these off-leash areas will be subject to the same investigation and prosecution process as dog attacks which occur elsewhere.

SERIOUS INJURY

Section 3(1) of the Act specifies a serious injury as 'an injury requiring medical or veterinary attention in the nature of a broken bone, a laceration, the total or partial loss of sensation or function in a part of the body, or an injury requiring cosmetic surgery'.

Authorised officers will consider this definition along with any relevant medical advice to determine if the injury sustained is serious according to the Act and they will not debate their decision with members of the public.

If serious injury occurs as the result of a dog attack:

- a. the dog may be declared dangerous and the owner will subsequently be bound by the requirements outlined in Section 7 of this guideline.
- b. it increases the likelihood of a prosecution and the severity of the consequences for the owner.
- c. Council may destroy the dog pursuant to Section 84TA of the Act

INVESTIGATING DOG ATTACKS

For an investigation to commence, Council must receive notification stating the nature of the incident or event. Once this information has been received, an authorised Council Officer will contact the complainant to obtain further information, to establish if an offence has been committed under the Act. The officer will explain the investigation process and other information relevant to the alleged offence.

Enforcement options are limited if the complainant is not willing to provide an undertaking to give evidence in court.

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

- a. The dog owner may be issued with an infringement notice or have a fine imposed by a court.
- b. The dog involved in the attack may be declared menacing or dangerous by Council.
- c. 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.
- d. If a dog attack is proven in court, a criminal conviction for the dog owner or person in charge of the dog at time of the offence, or both, may result.
- e. 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.
- f. Council will not pursue legal action against the owner of an attacking dog on behalf of the victim to obtain reimbursement of damages only.
- g. The owner of the dog may be subject to a banning order preventing dog ownership for up to 10 years.
- h. A dog involved in an attack may be ordered by Council or a court to be destroyed.
- i. 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.

MENACING DOGS

Some offences are treated more seriously if a council has previously declared a dog as dangerous or menacing, or if the dog is a restricted breed.

Under Section 41A of the Act, Council may declare a dog to be a menacing dog if:

- a. the dog has rushed at, or chased, a person;
- b. the dog bites any person or animal causing injury to that person or animal that is not in the nature of a serious injury;
- c. the dog has been declared a menacing dog under a law of another State or Territory.

Under Section 41D of the Act, owners of dogs that have been declared menacing have a number of obligations. These obligations include notifying Council within 24 hours under certain circumstances, including if the dog has rushed at, or chased, someone, or if the dog goes missing. If the owner of a menacing dog fails to meet these notification requirements they may be issued with an infringement notice or prosecuted.

DANGEROUS DOGS

Under Section 34 of the Act, Council may declare a dog dangerous if it:

- a. has caused death or serious injury to a person or animal;
- b. is a menacing dog and the owner has been fined twice before for failing to muzzle the dog and keep it on a leash;
- c. has been declared a dangerous dog by another State or Territory;
- d. has been served with two infringement notices for rushing, chasing or non-serious bites.

Any person who acquires a dog which has previously been declared dangerous by any State or Territory is required to notify Council immediately. Failure to do so may result in an infringement notice or prosecution. This requirement also applies to owners of dangerous dogs which have been relocated between States or Territories.

IMPOUNDING DOGS

If an authorised officer takes the decision to, or is legally instructed to seize a dog, the dog will be impounded under the following conditions:

- a. Daily impound and release fees will be charged.
- b. If a dog is found to be unregistered the owner will be instructed to register the animal.
- c. In cases where dogs are not micro chipped, micro chipping will be carried out at the owner's expense.
- d. In cases where dogs are to be declared dangerous, any associated fees such as de-sexing will be carried out at the owner's expense.
- e. Impounded or seized dogs may only be visited by appointment and are evaluated on a case by case basis at Council's discretion.

All fees are reviewed annually and can be viewed on the Melton City Council website at melton.vic.gov.au

Any dog seized will remain in custody until the matter has been determined at court.

- a. Where an order for destruction has been made by the court, the dog will be euthanised.
- b. Pursuant to Section 84TA of the Act, SERIOUS INJURY, the dog may be euthanised.
- c. Where a dog is to be declared dangerous or menacing, the owner of the dog must comply with relevant state government regulations before the dog is released.

DOMESTIC ANIMALS ACT: RELATED OFFENCES

Whenever a dog attack occurs, authorised Council Officers will conduct a variety of background checks in relation to the animals and owners involved. As a result of these checks, a dog owner can often be charged with a variety of other domestic animal offences in addition to charges relating to the actual attack.

The following table references the Act to provide details of some of the more common additional offences which may arise if a dog is involved in an attack:

SECTION	DOMESTIC ANIMALS ACT OFFENCE DESCRIPTION
10	Failure to apply to register a dog or cat
10(2)	Failure to renew the registration of a dog or cat
20(1)	Registered dog or cat not wearing Council identification marker outside premises
21	Unregistered dog or cat wearing Council identification marker
22	Person other than owner removing, altering or defacing identification marker
23(4)	Dog or cat on private property after notice served
24(1)	Dog at large or not securely confined to owners premises during day time
24(2)	Dog at large or not securely confined to owners premises during night time
26(1)	Contravening Council order relating to presence of dogs and cats in public places
29(7)	Allow dog to rush or chase a person
37(2)(b)	Failure to notify Council of missing dangerous dog
38(1)	Dangerous dog not confined to residential premises
38(2)	Dangerous dog not confined to non-residential premises
41E	Not muzzling or controlling menacing dog
41EA	Keeping a restricted breed dog
41G	Fail to confine restricted breed dog

COSTS TO VICTIMS OF DOG ATTACKS

If a prosecution is successful, Council can ask the court for costs from the owner or the person in apparent control of the dog at the time of the attack. Typically these costs will be comprised of Council expenses and costs that may have been incurred by the victim of the dog attack such as veterinary or medical expenses. Complainants may also take civil action for damages, regardless of Council initiating a prosecution.

It is not the role of Council to recover costs on behalf of complainants for damages alleged to have occurred in a dog attack and it is not a consideration to be taken into account when authorised officers decide on the appropriate enforcement option. Under no circumstances will authorised Council Officers act as intermediaries in recovering costs, and prosecutions will not be initiated for the purposes of recovering costs. The decision to prosecute rests with Council, based primarily on the evidence and seriousness of the case.

OFFENCES RELATING TO AUTHORISED OFFICERS

Council is committed to ensuring the health, safety and wellbeing of its employees. Authorised officers responsible for enforcing animal management legislation have a right to do so without being subjected to harassment, obstructive behaviour or abuse.

The Act gives authorised Council Officers the authority to investigate and prosecute dog attacks incidents.

Part 7 of the Act provides detailed information regarding the role of authorised officers and the enforcement options available to the officers whilst carrying out their lawful duty.

In particular, this guideline highlights the following sections of the Act:

Section 76: Offence to refuse to give information or documents

A person must not refuse to or fail, without reasonable excuse, to comply with a lawful direction, order or a requirement of an authorised officer; or

refuse or fail without reasonable excuse, to give that person's name and place of residence; or

a person must not, without reasonable excuse, obstruct or hinder or attempt to obstruct or hinder an authorised officer in the discharge of his or her powers, duties or functions under this Act; or

a person must not, without reasonable excuse, refuse admission to an authorised officer exercising a power of entry under this Act or a person assisting an authorised officer in exercising a power of entry under this Act.

Section 74(2): Powers of authorised officers

An authorised officer who is exercising a power under subsection (1), (1A) or (1B) may at any reasonable time and by any reasonable means enter any building not occupied as a place of residence or any land or vehicle; or

search the whole or any part of any building, land or vehicle; or

inspect animals, enclosures or other goods; or

ask questions; or

seize, examine or take copies of, or extracts from documents; or

seize and remove any animal in accordance with Division 2 of Part 7A (of the Act).

REPORTING DOG ATTACKS

To report an attack on a person or animal/pet call Melton City Council on 9747 7200.

Alternatively a person can call the Dangerous Dogs Hotline on 136 186. This number is a state government hotline for reporting animal offences.

FINES AND PENALTIES

If a dog attacks a person or animal the owner (or the person in apparent control of the dog at the time of the attack) may be liable for thousands of dollars in fines, and may also have to pay compensation for any damage caused by the dog as ordered by the court.

- Penalty for non-serious dog attack is \$494 with the maximum penalty \$1,976.
- The maximum penalty for serious dog attack is \$7,904.

If you set your dog to deliberately attack a person or animal you can be sentenced to a maximum of six months in prison.

If your dog is already a declared dangerous or menacing dog, a trained attack or guard dog, or fits the restricted breed dog standard (registered or unregistered restricted breed dog) and attacks a person endangering their life or causing death, you may be charged under the Crimes Act and face possible imprisonment for 5—10 years.

NOTE

Where the owner of a dog is under the age of 18 years, the parent or guardian of that owner will be deemed the legal owner of the dog and subject to any penalties/prosecutions.

FURTHER INFORMATION

For further information, contact

- Animal Management Unit on 9747 7200.
- Visit Agriculture Victoria:
agriculture.vic.gov.au/pets/dogs/dog-attacks-dangerous-and-menacing-dogs/dog-attacks-faqs