

2 January 2024

This fact sheet has been prepared by the Light Regional Council (the Council) with the assistance of the Council's lawyers. Its purpose is to ensure information is readily available to the community about how the Council responds to reports of a dog attack and the complex considerations that inform investigation outcomes.

The Council understands that dog attacks are distressing to all parties involved. However, there are several steps involved in investigating a dog attack and then determining any appropriate action/s necessary because of a dog attack incident.

## **Reporting a dog attack**

The Council takes all reports of dog attacks seriously and, subject to the availability of information, will take reasonable steps to investigate attack incidents to determine what, if any, action needs to be taken.

In the event of a dog attack, where required you should seek medical or veterinary treatment as a priority. When safe to do so, the attack should be reported to Council so that an investigation can be started. If you encounter a dangerous situation involving a dog outside of Council's normal business hours (Monday to Friday, 9.00 am to 5.00 pm) please contact SA Police (SAPOL) for assistance.

To assist the Council in progressing an investigation, it is recommended you maintain a record of your own notes, including:

- date, time, and exact location of the attack;
- description or photos of the offending dog, including identification, breed, colour, sex and/or markings;
- description or photos of any owner or person responsible for the dog (e.g. if know, name, address, phone number, gender, age, and hair colour);
- details of any other persons who witnessed the incident;
- a description of the events leading up to the attack;
- photographs and records of any injuries.

Where veterinary or medical treatment has been received, copies of medical and veterinary records, including invoices, should be kept as evidence.

## **What happens when a dog attack is reported?**

In the first instance Council officers seek to identify the dog or dogs responsible for the attack. In some cases, the identity of the responsible dog may be unclear, in dispute or unknown. If this is the case, it will affect what actions the Council can take.

If the responsible dog is identified the Council's first priority is ensuring that reasonable steps are taken to avoid a repeat of the attack incident. This does not necessarily mean that a dog will be immediately seized by the Council following an attack. Whether or not seizure is appropriate is assessed on a case-by-case basis. If, for example, the Council is satisfied that the dog can be contained on the premises where it is kept then the Council may decide that seizure is not necessary.

Even if a dog has been seized by the Council following an attack, the dog may be returned to its owner once the Council is satisfied that any immediate risks to public safety have been satisfactorily addressed.

In progressing its investigation, Council officers will speak with witnesses and obtain statements. As there are two sides to every story, Council officers must also speak with the owner or person responsible for the dog that attacked. In the event of any inconsistencies in the evidence in the Council's possession, the Council will make findings of fact based on its assessment of the evidence and, where appropriate, consider any legal advice.

Whilst the Council will try to finalise an investigation as quickly as possible, in many cases a thorough investigation will take time to complete. Parties involved may also have rights of appeal which may delay the outcome.

### **Council's Options**

The Council may consider taking any of the following actions in response to a dog attack, if there is enough evidence to support the action:

- issue a warning;
- issue an expiation notice;
- issue a Control or Destruction Order under the Dog and Cat Management Act 1995 ("the Act"); or
- prosecution which may include seeking orders from the Magistrate Court.

### **Investigation Outcomes**

A decision on what action may be taken in response to an attack will depend on Council's careful consideration of the circumstances in question and the available evidence. Importantly, it is the Council that is responsible for assessing the evidence and determining what action it can reasonably take in respect of an alleged offending dog following a dog attack. The decision will always depend on the available evidence and the circumstances of the attack incident. The Council is guided by relevant Court and Tribunal authorities as appropriate.

In some cases, the evidence may not be sufficient to support an outcome that may be desired or expected by an affected party. For example, a victim of a dog attack might expect that a dog is automatically seized and/or then destroyed following an attack. However, such action may not be appropriate, and the evidence may not, in any event, be capable of supporting such action or be supported by the relevant Court.

Council officers may seek legal advice to help with the investigation. The considerations that will inform investigation outcomes include (but are not limited) to:

- whether the Council considers that the dog in question exposes the public, or other animals, to an appreciable risk of harm and if so, the degree of harm (noting all dogs can bite and cause harm);
- the circumstances in which the dog is disposed to present a risk of harm;
- any interventions that may be applied to mitigate the risk; and
- the dog's history and whether there has been an escalation of aggressive behaviours.

If, following a dog attack, a Control or Destruction Order is issued by the Council in respect of a dog, the owner of the dog can apply for a review of the Order through the South Australian Civil and Administrative Tribunal (SACAT). If such proceedings are instigated, they are between the Council and the applicant. The Council is not at liberty to notify any other person of the way in which the proceedings progress with the exception that, if the matter is listed for a hearing, the Council will contact witnesses who will be required to attend at SACAT and give evidence to enable SACAT to determine the correct and preferable decision.

### **Provision of Information**

A dog attack investigation is properly undertaken on a confidential basis by the Council. Information will not be given to a third party during an investigation, including a victim, so as not to prejudice the outcome of the investigation or any later enforcement action.

Whilst an investigation is occurring, the Council does not actively keep any party informed of its progress. The Council will communicate to parties once an investigation is finalised. To that end, any action taken by a Council will not usually be given to a third party except in exceptional circumstances and where disclosure is permitted by the law.

Information held by the Council in connection with a dog attack investigation is also confidential and members of the public are not entitled to access it. If you are seeking access to information relating to a dog attack investigation, then it is likely you will need to submit a freedom of information application to the Council.

For further information, please contact Council's Community Inspector or Compliance Coordinator on 8525 3200 or [light@light.sa.gov.au](mailto:light@light.sa.gov.au)

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