

Keep this booklet for future reference

Dogs, cats, neighbours & you



*A consumer guide to the
law about owning a dog or cat*

Produced by the Victoria Law Foundation

WHERE TO GO FOR HELP

Municipal councils are responsible for the day-to-day enforcement of the law (the *Domestic (Feral and Nuisance) Animals Act 1994* and *Domestic (Feral and Nuisance) Animals Regulations 2005*).

If you are unsure of your responsibilities as a dog or cat owner or if you have a problem with another person's dog or cat, contact your local council for advice and information, or to make a complaint.

This publication was produced by the Victoria Law Foundation and printed with the assistance of your council.

This is one in a series of booklets on local laws published by the Victoria Law Foundation.

Other titles are:

- *Parking, the law & you*
- *Neighbours, the law & you*

Contact your council for a copy of these booklets, or visit our website.

Victoria **Law Foundation**

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The material contained in this booklet is intended as a general guide only. It is not intended to be and should not be relied on as a substitute for professional legal advice.

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THE LAW AT A GLANCE

The law about dogs and cats is set out in the *Domestic (Feral and Nuisance) Animals Act 1994*. It gives local councils powers to control dogs and cats living within their boundaries.

The aims of the Act are to:

- promote the responsible ownership of dogs and cats; and
- protect people and the environment from feral and nuisance dogs and cats.

THE LAW FOR DOG AND CAT OWNERS

If you own a dog or cat, you must:

- register each dog and cat you own;
- keep your dog confined to your property or under control at all times;
- make sure your dog doesn't bark persistently;
- obey any council orders about having your dog on a leash or any council laws about disposing of your dog's droppings;
- stop your dog or cat being on other people's property without their permission;
- obey any council orders about keeping your cat confined to your property; and
- prevent your dog chasing or attacking people or other animals, including livestock.

Abandoning your dog or cat carries a very heavy penalty. You can be fined more than \$1,000.

Definition of owner

Under the Act, the term 'owner' includes not only someone who keeps a dog or cat, but also someone who has a dog or cat in his or her care for the time being. If you are under 17, your parent or guardian will be regarded as the owner of your dog or cat. In the case of a dog attack, any person who is apparently in control of the dog before the incident happened will be considered the owner of the dog and may be liable for the damage.

THE LAW FOR OTHER PEOPLE

Other people can object to:

- barking dogs or noisy cats;
- dogs or cats creating a health risk;
- dogs or cats being repeatedly on their property without their permission;
- dogs wandering outside their owners' premises;
- dogs being off-leash in an on-leash area;
- cats at large during cat curfew;
- dogs rushing at or chasing a person; and
- dogs attacking or biting a person or an animal.

THE LAW IN YOUR MUNICIPALITY

Most of the law is the same throughout Victoria. However, councils can make their own rules on certain points, such as whether dogs have to be on a leash or whether cats can roam freely. These rules are discussed on p.11.

If you're unsure what applies in your municipality, contact your council.

BREAKING THE LAW

You can be fined for breaking the law relating to dogs and cats. See pp.4–6 for offences and penalties.

Most offences are dealt with by an on-the-spot fine, issued by a council officer (much like the Infringement Notice you get for a traffic offence). The fines range from \$50 to \$200 approximately.

If the offence is more serious or if you keep committing the same offence, you may be prosecuted in the Magistrates' Court. The fines following prosecution are higher (ranging from \$100 to more than \$12,000, and even gaol) and the magistrate could order you to pay court costs and damages. In the case of a dog attack, your dog may also be destroyed.

You can also be sued separately for damages by a person who has suffered some injury or loss because of your animal's behaviour.

Ignoring your responsibilities as a dog or cat owner can cost you time, trouble and money.

OFFENCES

PENALTIES: EXPRESSED IN UNITS*

DOGS	On-the-spot fines	Maximum for first offence	Maximum for second offence
• Must be registered with council if over three months old	2	10	—
• Must wear identification marker when outside owner's premises	0.5	1	—
• Unregistered dog must not wear council identification tag	0.5	1	—
• Must not stray onto private property without permission once a Notice of Objection is issued by council ...	0.5	1	3
• Must not be found unsupervised outside owner's premises — during the day (until sunset)	1.5	3	—
— at night (until sunrise)	2	5	—
• Must be securely confined to owner's premises (i.e. gates shut and dog not able to leave the property) — during the day (until sunset)	1.5	3	—
— at night (until sunrise)	2	5	—
• Must not be in places where dogs are prohibited by council order (e.g. beaches, playgrounds) at certain times	1	2	4
• Must be leashed or otherwise restrained in public areas in accordance with council orders — doesn't apply to dogs working livestock, being shown or trained, or being used for hunting	1	2	4
• Must not — rush at or chase a person	1†	4‡	—
— bite or attack a person or an animal resulting in death or serious injury	—†	20	—
— bite or attack a person or an animal resulting in non-serious injury	2.5†	10	—
— be set or urged to attack, bite, rush at or chase any person or animal	—†	120; or 6 months imprisonment†	—
— be trained to attack, bite, rush at, chase or menace people or animals (unless dog is trained in the course of conducting domestic animal business on registered premises)	—†	60; or 3 months imprisonment‡	—
• Must not be a nuisance by being persistently noisy (e.g. barking)	0.5	1 and court order to stop noise	—
• You must stop the nuisance following a court order	1.5	3	—
• You must not abandon your dog	—	10	—
• Declared dangerous dogs, menacing dogs and restricted breed dogs must be permanently identified as prescribed by Regulations	—	5	—
• Declared dangerous dogs must wear prescribed collar	—	5	10
• Greyhounds outside owner's premises must be adequately muzzled and controlled by a chain, cord or leash	1.5	3	5
• Penalties for not controlling dangerous dogs — on the owner's premises	2	10	—
— outside the owner's premises	—†	5‡	10
• Penalties for not controlling menacing dogs outside the owner's premises	2	4	—
• Penalties for not controlling restricted breed dogs — on the owner's premises	1	5	10
— outside the owner's premises	—†	5‡	—

* Penalties are listed as penalty units. Under the *Monetary Units Act 2004* and the

Monetary Units Regulations 2004 most fees and fines are automatically indexed each financial year. (At 1 July 2008, 1 penalty unit = \$113.42.)

† Dog may be seized and you may be prosecuted.
‡ In addition, a court may order the dog to be destroyed and for you to pay council costs and damages to the victim.

CATS	On-the-spot fines	Maximum for first offence	Maximum for second offence
• Must be registered with council if over three months old	2	5	—
• Must wear identification marker when outside owner's premises	0.5	1	—
• Unregistered cat must not wear council identification tag	0.5	1	—
• Must not stray onto private property without permission once a Notice of Objection is issued by council	0.5	1	3
• Must be confined to owner's premises at times prescribed by council order	0.5	1	3
• Must not be in places from which cats are prohibited by council order (e.g. beaches, parks) at certain times	1	2	4
• Must be restrained in public areas in accordance with any council orders to that effect	1	2	4
• Must not be a nuisance by being persistently noisy (e.g. yowling)	0.5	1	—
• You must stop the nuisance following a court order	1.5	3	—
• You must not abandon your cat	—	10	—

*Penalties are listed as penalty units. Under the *Monetary Units Act 2004* and the *Monetary Units Regulations 2004* most fees and fines are automatically indexed each financial year. (At 1 July 2008, 1 penalty unit = \$113.42.)



1. LEGAL RESPONSIBILITIES OF DOG AND CAT OWNERS

REGISTRATION

You must register your dog and your cat with your local council, and then renew their registration annually. If your animal is unregistered you can be fined more than \$1,000. Under certain circumstances, the council may refuse to register your dog or cat.

After 1 May 2007 all dogs and cats registered with councils for the first time *must be microchipped* before registration. It is not compulsory for existing registered animals to be microchipped, although councils do have power to make microchipping compulsory for all dogs and cats in their area. As part of responsible pet ownership, all pet owners should consider microchipping their pets (see p.8).

Your council may also have a rule that your dog or cat must be *desexed* before they can be registered – check with your local council.

Once your dog or cat is registered, the council will send you a certificate and an identification tag showing the animal's registration number and the name of the council.

Your animal must wear its tag whenever it is off your property.

Reduced fees

All councils offer a pensioner concession of 50%. Councils must also offer a reduced registration for animals which are desexed, registered with an organisation specified in the Act, permanently identified by a microchip, or over ten years old.

Dogs kept for working livestock and dogs which have had obedience training from an approved organisation also attract the reduced fee. Fees are not reduced, however, if a dog is declared ‘dangerous’ or ‘menacing’ (see p.24) or if it is a restricted breed dog (see p.27).

Subsidy for desexing

Some councils help eligible people (including pensioners) with the cost of desexing through a vet subsidy scheme. Check with your council or vet.

Benefits of registration

If your dog or cat is lost or picked up as a stray, you will be notified within four days that the animal has been impounded, provided that it can be identified from an ID tag or a microchip.

If you don’t register your dog or cat and it is impounded, it may be destroyed before you can find and reclaim it. (You have only *eight days after seizure*.)

Even if your pet never gets lost, your registration fee helps councils to pay for animal control services which benefit the whole community – you included. These services include patrolling public areas and collecting stray and feral animals, operating pound services, investigating and taking action on complaints about nuisance animals, and prosecuting dog attacks and other offences.

Registration benefits you, your pet, other members of the community and other animals.

Microchip identification

You can have your pet permanently identified by a microchip implant which can be electronically scanned. This painless, one-off procedure involves having a microchip, about the size of a grain of rice, injected into the folds of loose skin at the back of the animal’s neck.

Vets will perform the procedure and all microchips must conform to the Regulations for permanent identification. This will ensure that the

chip can be ‘read’ properly to identify your dog or cat. The type of microchip required for declared menacing dogs, dangerous dogs and restricted breed dogs is set out in the Regulations.

Microchip identification is required before you can register your pet with your local council. Owners of lost dogs and cats that are identified by an ID tag or microchip must be notified in writing within four days of the animal entering a council pound or animal welfare shelter. Operators of council pounds and animal welfare shelters must scan any dog or cat entering their establishment within three days.

Microchipping is not a substitute for council registration. You are still legally required to register your pets annually with your council.

BARKING DOGS

Your neighbours can complain if your dog is often noisy or disturbs the peace unreasonably. A council officer will discuss the problem with you and offer advice on what you can do about it. If the problem continues and neighbours don’t think you are making a real effort to stop the dog barking, the council can prosecute and you may be fined.

How can I stop my dog barking?

Many people have success with anti-barking collars (which release a citronella spray when the dog barks). Electronic anti-barking collars are regulated under the *Prevention of Cruelty to Animals Act 1986*. However, even if you can condition your dog not to bark, you will still need to solve the underlying cause of its barking.

If your dog is barking a lot, it may be lonely, bored or not getting enough exercise. Consider what changes you can make to the dog’s routine.

If you can’t solve the problem yourself, you can take your dog to a trainer or to an animal behaviourist. There are some organisations which specialise in

stopping dogs barking excessively. Ask your council or local vet what help is available in your area.

WANDERING DOGS

It is an offence to allow your dog to wander on its own outside your premises. Your dog must be *securely confined* – that is, with escape-proof fencing, gates kept shut and visitors unable to accidentally let the dog out.

Most complaints to councils about dogs are about dogs wandering at large. Almost three-quarters of on-the-spot fines are in relation to dogs found unsupervised off their owner's property or not securely confined to the owner's premises.

Most dog attacks in public places are caused by dogs wandering in the street or rushing out from inadequately secured properties. (See p.22 for more information about dog attacks.) Even if your dog doesn't bite anyone, you can be prosecuted for your dog rushing at someone. Small dogs who rush out barking can be just as frightening as big dogs.

Not keeping your dog securely confined at home can create problems for other people and cost you money!

DOGS AND CATS ON OTHER PEOPLE'S PROPERTY

Your neighbours are entitled to the enjoyment of their garden without your dog or cat roaming around, possibly killing birds, digging up the garden or chasing their animals.

If neighbours ask you to stop your dog or cat coming onto their property *you must do so*. If your dog or cat strays onto your neighbour's land without

permission more than once, it can be seized by the neighbour or council officer. You will then be sent a Notice of Objection by the council. If your dog or cat strays again after this Notice, you can be fined or prosecuted by the council.

How can I stop my cat straying onto other people's property?

There are ways of keeping your cat at home. You can adapt your fences to make them harder to climb, for example, by placing floppy chicken wire along the top of the fence. An inward facing ledge, aluminium flashing or small gauge chicken wire angled into your property at the top of the fence may also work.

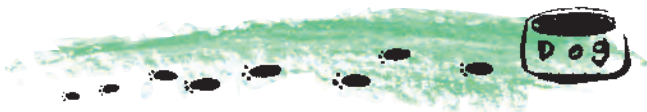
You can buy a 'cat house' for your garden or create an enclosure in a courtyard from specialised clear netting. (Look under 'Pet Shops Suppliers' in the Yellow Pages or contact the RSPCA or the Cat Protection Society for more information.) The Department of Primary Industry has produced the booklet *How to build cat proof fencing and cat enclosures* to help people design and build cost effective cat fencing and housing.

SPECIAL RULES FOR YOUR MUNICIPALITY

Your local council can make certain rules about dogs and cats in your municipality. These will vary from council to council. You will need to check with your local council what applies in your area.

On/off-leash areas

To balance the needs of dog owners and non-dog owners, councils can make an order that dog owners



have their dogs on a leash at all times when outside their property (or in certain areas). If your council has made such an order, there will also be areas, such as parks and reserves, where you are allowed to walk your dog off-leash. Your council can tell you where the off-leash areas are or give you a map of them. The areas do change often, so ensure you have up-to-date information. In some beachside areas, the on/off-leash hours vary from summer to winter.

Place and time restrictions

Councils can make an order that dogs or cats are not allowed in certain public areas or are allowed in those areas only at certain times.



Cat curfew

Councils can make an order specifying certain times of the day or night when cats must be confined to their owner's property. If they do so, you can be fined if your cat is found off your property at a time when cats are restricted to their owner's property. Your cat can be seized by the council and you would have to pay a fee to get it out of the pound.

Regardless of whether your council has imposed a curfew on cats, it is a good idea to keep your cat confined at night (see p.17 for reasons).

Councils may make an order just for a limited period in order to round up stray unowned cats and councils should tell the public in advance about the curfew. Some councils have imposed a permanent curfew on cats, which means that cats must be confined to the owner's property at all times.

**Check with your council
if they have place or time restrictions
on dogs and cats.**



Dog droppings

Dog droppings are often offensive to other people and cleaning up your dog's droppings helps prevent pollution of our waterways through stormwater drains.

Your council may have made a local law requiring dog owners to remove and dispose of droppings deposited by their dog in public places. Some councils require you to carry a container (such as a plastic bag, for carrying droppings) with you whenever you take your dog out. Check with your council what their requirements are. You can also find out if they have special bins for disposing of dog droppings.

Number of animals

Most councils have made a local law about the number of dogs or cats that may be kept on premises in the council's area. Commonly, you will be limited to two dogs and two cats and would need a permit to have any more. The exact number should be checked with your council.



2. RESPONSIBLE PET OWNERS' CHECKLIST

The *legal* obligations of owning a dog or cat are outlined in Section 1. Responsible pet ownership, however, goes further than meeting your legal obligations. Being a responsible owner means you also:

- choose your type and breed of pet carefully;
- take your pet to the vet regularly;
- desex your dog or cat if you don't plan to breed from it (or take other precautions to prevent unwanted breeding);
- give your dog or cat proper food, shelter and exercise;
- don't allow your dog or cat to be a nuisance to other people; and
- make sure your dog or cat is looked after when you go on holidays.

The Department of Primary Industry has produced codes of practice for the private keeping of dogs and cats which aim to provide minimum standards and best practice in nutrition, housing and general care for pets in the community. Copies can be found free of charge on the department's website (www.dpi.vic.gov.au/animalwelfare).

If you can no longer care for your dog or cat, make sure it has another home to go to or place it with an animal shelter.

1. Choose your dog or cat carefully

It is important to think about what sort of pet you want and how you will care for it. Dogs and cats usually live for ten years or more. Can you afford costs such as registration, vaccination, vet bills, food,

grooming, desexing and boarding when you are away? If not, think about other types of pets such as fish, birds or guinea pigs. Don't just choose on appearance – check what temperament and other traits the animal of that breed is likely to possess.

With cats, the main decisions are: Do you want a purebred or a domestic cat? Do you want a short-hair or a long-hair cat? Do you want a quiet, gentle cat or an active, playful one? If you want a purebred cat, you will need to consider which breed you want, as personality and temperament vary across breeds.

With dogs, you need to consider the area in which the dog is to be kept, given the size and temperament of the dog. Some breeds are not suited to suburban life. For example, blue-healers and kelpies are traditionally energetic working dogs which need a lot of space for running around and plenty of exercise; without these they become frustrated and territorial.

Even dogs normally considered docile can become aggressive if confined to too small a space, teased, handled roughly or not exercised regularly. So you need to consider your lifestyle and the age of your children when choosing a dog. Buy a dog you think you can handle and are prepared to look after properly.

Think carefully before you buy a dog as a companion for a child. If you buy a puppy for a three- or four-year-old, the dog will be fully grown in a year, and it may see the child as something it has to dominate, especially if it is not desexed.

2. Desex your dog or cat

Remember that a desexed animal is cheaper to register. It is a myth that allowing your dog or cat to have one litter helps it to mature or keeps it sane. If you don't intend to breed from your dog, it's sensible to have it desexed (or take other precautions such as having a secure enclosure for a dog on heat).

You should also have your cat desexed if you don't want to breed from it. Female cats which aren't desexed will produce kittens unless they're

confined for most of the breeding season (spring to autumn). Unless you're prepared to look after the kittens or find them a home, don't let your cat have a litter. Kittens must not be dumped and left to starve or contribute to the stray cat population.

Male cats which aren't desexed mark their territory with a strong-smelling urine which is unpleasant for you and your neighbours. They also fight more.

3. Train your dog

Take your dog for obedience training with an organisation registered with the council or approved under the Regulations (remember you'll get a reduced registration fee). Dogs are pack animals and need to learn that the owner is in charge.

A properly trained dog will be easier to handle and is less likely to attack or chase people or other animals. Socialise your dog to be with children and other animals, and train it to get used to cars.

4. Exercise your dog

Dogs need regular exercise. If they don't get enough, they have pent-up energy to release and are more likely to be aggressive. They are also more likely to bark a lot when you're not at home and be a nuisance to your neighbours. Take time to let your dog roam in off-leash areas. Playing in different surroundings, such as long grass, hilly areas or places with water, can increase your dog's enjoyment of life. This will help with excessive barking or other behavioural problems.



5. Walk your dog on a leash

For the safety of your dog, maintain proper control over it at all times when walking it. This means having the dog on a leash, unless you are in a park or other recreation reserve designated for off-leash

exercise. When the dog is off the leash, ensure that you can exercise control – keep it in sight or at a distance where it is able to hear you, and make sure it will come when you call it. Carry a leash with you so that you can place the dog on it if necessary.

6. Confine your cat at night

Most cats are used to wandering at night but with a bit of persistence you can train your cat to stay in after dark. Teach your cat that it won't be fed unless it's home by dusk, and once inside, provide it with food, water, warmth and kitty litter, and keep the doors and windows shut so that it can't get out.

There are many good reasons to confine your cat, but the main one is its safety.

- *The welfare of the cat*

A cat out at night can roam a long way. It is more likely to be hit by a car and to be injured in a fight with another cat. Most cat fights occur at night, as do the vast majority of car accidents involving cats (about 94 per cent). Diseases such as toxoplasmosis (which can affect humans), and feline enteritis and feline AIDS (which don't affect humans) are often contracted during cat fights.

- *Relations with your neighbours*

Keeping cats confined at night will mean less nuisance to neighbours from cats fighting, spraying, caterwauling and leaving droppings in their gardens.

- *Stray cat problem*

There is a growing stray cat population, which creates a nuisance and the spread of disease by cats which are not cared for or vaccinated. Keeping cats in at night will reduce the amount of breeding between domestic and stray cats, which will help keep the numbers of stray cats down.

- *Protection of wildlife*

Cats tend to do most of their hunting at night. If they are kept in, they will have less opportunity to injure birds and other wildlife.



3. DEALING WITH OTHER PEOPLE'S DOGS AND CATS

TALK TO YOUR NEIGHBOUR

Councils have limited resources and most of them will encourage you to try to solve minor problems yourself. It is difficult for councils to investigate complaints that aren't well founded or are simply part of a continuing hostility between neighbours. It is important to have reasonable expectations of normal animal behaviour – cats like to wander and dogs can be expected to bark sometimes. Don't be too quick to react to isolated incidents; wait and see if there really is a continuing problem.

If you do have a genuine problem with your neighbour's pet, start by discussing your concerns with your neighbour. Talk about it in a friendly and constructive way. Many people don't realise that their animal is being a nuisance. Try to find a mutually acceptable solution.

There may not be an immediate solution, so be prepared to be patient. It can take a while for someone to retrain their animal.

MAKING A COMPLAINT TO THE COUNCIL

If talking to your neighbour doesn't work, you can contact your local council. The council will pursue legitimate complaints, but to pursue the matter properly they will need your help. You should be prepared to:

- give your name and address to the council;

- put your concerns in writing to your neighbour in the case of an unwanted dog or cat on your property;
- keep records of the incidents (e.g. keep a diary of how often a cat comes into your garden or when you see a dog wandering on its own up the street);
- sign a Statutory Declaration of your complaint if the council asks you to do so; and
- be a witness if court prosecution becomes necessary.



BARKING DOGS

If your neighbour's dog barks a lot, speak to your neighbour about it. They may not know how much their dog is barking or that it is creating a nuisance. Under the law, barking is considered a nuisance only if it happens *persistently* or continues to such an extent that it *unreasonably* interferes with the peace or convenience of other people. Barking occasionally is not enough for a complaint.

If talking to your neighbour doesn't stop the barking, you can contact your council. They can contact the dog's owner to let them know there has been a complaint and will suggest ways in which the owner could solve the dog's barking problem.

If the barking continues, tell the council so that they can take further action. They may ask you to keep a diary of how often and for how long the dog barks – this will be useful evidence if a court prosecution becomes necessary. Councils may act on the complaint of one person, but it helps if there are other neighbours who are also bothered by the barking.



WANDERING DOGS

If a dog is wandering outside its premises, or is not properly confined to its property, you may decide to have a friendly chat with the dog's owner, especially if the dog isn't doing any harm. If this doesn't work, you should contact the council as roaming dogs can become a safety issue.

DOGS AND CATS ON YOUR PROPERTY

Under the Act, you and the council can take effective action when dogs and cats are on your property without permission.

You do not have to ask pet owners to prevent their dog or cat from entering or remaining on your property – but it is a good idea and may solve the problem in a quick and friendly way.

Under certain circumstances (see p.29), you may catch or trap a cat or dog found trespassing on your property, but you must immediately notify your council or the pound service provided by your council. If the animal is registered, the details should be recorded by the council before the animal is released or returned to its owner.

Your council may give or hire you a trap and explain how to use it – otherwise they will tell you where you can get one. If you catch or trap an animal, you must treat it humanely (so as not to breach the *Prevention of Cruelty to Animals Act 1986*) and hand it over to local council officers as soon as possible. If the animal is aggressive, try to confine it for council officers to deal with rather than

catching it. Don't risk injury to yourself by trying to handle an aggressive animal.

A dog or cat which can be identified will be released to its owners and the council will send them a Notice of Objection to the animal's presence on your property (with a copy to you).

If, after this Notice, the dog or cat enters your property again, it can be impounded and the owner can be fined and required to pay further pound fees.

If the animal isn't wearing an identification tag, it will be taken to the pound and, if not claimed within eight days, may be destroyed.

What can I do to stop animals coming onto my property?

As well as talking to the owner, there are several ways to discourage visiting animals.

Keeping your gates closed should keep visiting dogs out. Make sure none of your animal's food is left outside to entice other animals, particularly cats. You could also try the various products to repel animals which are available from nurseries and pet shops – citrus peel and naphthalene flakes can also be used around the garden.





4. AGGRESSIVE DOGS AND DOG ATTACKS

Bites from dogs cause approximately 260 admissions to public hospitals in Victoria per year, including about 100 children aged one to four. This figure does not include the many other people who are treated for injuries without being admitted to hospital, or who are bothered by dogs chasing or rushing at them.

THE FACTS

Any dog can attack. Most dog attacks in public places occur on the footpath or road bordering the attacking dog's property, when the dog is not securely confined. Following the rules of responsible pet ownership will help prevent your dog attacking someone (see pp.14–17).

By contrast, dog attacks on children occur mostly in their own home or another person's home. Dogs tend to attack or bite out of fear or in an attempt to dominate. Children are often vulnerable targets for a dog attack, even from a dog they know and love. They may provoke aggressive responses by inadvertently challenging the dog or intruding into its territory.

Most injuries to children are inflicted on the head or face. Always supervise your dog around children. Children should be taught not to put their faces close to a dog's mouth and not to hug dogs tightly or tease them. Teach your children not to pat a dog which is tied up, is left in a car, or is eating, and not to approach or pat a dog that is not with a person.

THE LAW

Dog owners are responsible for *any damage* inflicted on a person or an animal by their dog. This is much broader than dog bites – it can include injury caused by the dog rushing out and knocking someone over. It can also include trauma caused by being chased by a dog. It is an offence to urge a dog to attack, bite, rush at or chase any person or animal.

If your dog is aggressive, you could face either or both:

- prosecution in the Magistrates' Court (see below);
- a declaration that your dog is a menacing dog or a dangerous dog (see p.24).

Council officers may seize your dog and hold it while they take action against you. As the dog's owner you can surrender your dog to the council for humane euthanasia at this stage.

If your dog attacks or injures someone, you may be prosecuted and ordered to pay a fine and damages. Your dog may be destroyed.

PROSECUTION

If the dog owner is charged with an offence by the council or police, the case will be heard in the Magistrates' Court. If the council has seized the dog, they must hold the dog until the case is over and the magistrate's decision is made.

There are defences in the Act to protect your rights as well as the rights of your dog. You may be able to defend a prosecution if you can show that:

- the dog was being teased, abused or assaulted;
- another person or animal was trespassing on the premises where the dog was kept; or
- another person known to the dog was being attacked in front of the dog.

If the dog owner is found *not guilty*, the dog is returned and the court may order the council to pay the owner's costs.

If the dog owner is found *guilty*, the court can order the following penalties:

- a fine of more than \$1,000 (or more than \$12,000, and even gaol in the case of an attack by a dog that is declared or deemed to be a dangerous dog);
- court costs;
- the council's costs of keeping the dog until the court case;
- damages to the person attacked. The average is \$2,500–5,000, although there have been higher awards; and
- the dog to be destroyed. This will depend on the severity of the attack.

If the council has impounded the dog and is still holding it, they have power to destroy it if the owner is found guilty, even if the magistrate doesn't order the dog to be destroyed.



DECLARING DOGS 'MENACING' OR 'DANGEROUS'

Whether the council prosecutes you for your dog's aggressive behaviour or not, and regardless of the outcome of the prosecution, the council may also declare your dog a 'menacing dog' or a 'dangerous dog'. Either classification has serious consequences for how you must house and look after your dog.

'Menacing dog'

Councils have power to declare a dog menacing if it:

- has rushed at or chased a person; or
- has been declared a menacing dog by another State or Territory that has comparable legislation.

Rushing at a person means approaching a person within three metres in a menacing way – that is, snarling, growling or with raised hackles.

What the owner of a menacing dog must do

1. You must identify the dog with a microchip that conforms to the Regulations for permanent identification. The microchip identification number must be supplied to the council *within seven days* of the dog being declared a menacing dog.
2. You must notify the council *within 24 hours* if:
 - the dog rushes at or chases anyone;
 - the dog goes missing;
 - your address changes;
 - the place where the dog is kept changes; or
 - the dog has a new owner.
3. If your dog is outside your premises, you may be required to muzzle it to prevent it biting and/or have it on a chain, cord or leash, even in off-leash areas.

Penalties

If you don't comply with the notification conditions, you may be prosecuted by the council or police. The maximum penalty for not complying is more than \$1,000.

If you don't comply with the muzzling and leashing requirements, you can be fined more than \$400.

'Dangerous dog'

Councils have power to declare a dog dangerous if it:

- has caused death or serious injury to a person or an animal by biting or attacking ('serious injury' means an injury requiring medical or veterinary attention in the nature of a broken bone, or a laceration, or the total or partial loss of sensation or function in part of the body, or an injury requiring cosmetic surgery);
- is a menacing dog and the dog's owner has been fined twice for failing to muzzle and leash the dog; or
- has been declared a dangerous dog by another State or Territory that has comparable legislation.

A dog is automatically considered a dangerous dog (without councils having to declare it such) if it is kept as a guard dog for non-residential premises or it has been trained to attack or bite. The owner of such a dog must notify the local council that the dog is a dangerous dog.

What the owner of a dangerous dog must do

1. You must identify the dog with a microchip that conforms with the Regulations for permanent identification. The microchip identification number must be supplied to the council *within seven days* of the dog being declared a dangerous dog.
2. You must notify the council *within 24 hours* if:
 - the dog attacks or injures anyone;
 - the dog goes missing;
 - your address changes;
 - the place where the dog is kept changes; or
 - the dog has a new owner.
3. If your dog is outside your premises, it must be muzzled to prevent it biting and must be on a chain, cord or leash, even in off-leash areas.
4. You must keep the dog indoors or in an enclosure, which is constructed so that the dog cannot escape. You must construct the enclosure on your property regardless of whether your dog is kept in it or indoors. The Regulations specify such things as the size of the enclosure, the materials it should be made of and the need for a locked gate. Guard dogs do not have to be enclosed while guarding non-residential premises, but the fencing around the premises must comply with the Regulations.
5. You must display signs at all entrances to the premises warning that a dangerous dog is kept there. There is a particular dog sign that must be used.
6. The dog must at all times wear a red and yellow striped collar of the type prescribed by the Regulations.
7. The dog must be desexed unless the dog is a

guard dog guarding non-residential properties or is an attack trained dog.

Penalties

If you don't comply with any of these conditions you may be prosecuted by the council or police. The maximum penalty is more than \$500 for a first offence and more than \$1,000 for a second offence.

The procedure

If the council is planning to declare your dog menacing or dangerous, it must notify you and give you an opportunity to put your point of view both in writing and in person. The council will consider all the information given about the dog before making a declaration.

The council cannot declare your dog to be menacing or dangerous if you can show that its aggressive behaviour happened because:

- it was being teased, abused or assaulted;
- the attacked person or animal was trespassing on the premises where the dog was kept; or
- another person, known to the dog, was being attacked in front of the dog.

Once a declaration has been made, the council must send the owner a notice that their dog has been declared a menacing dog or a dangerous dog and giving reasons for that declaration. An appeal against a declaration can be made to the Victorian Civil and Administrative Appeals Tribunal (VCAT).

RESTRICTED BREED DOGS

As part of the council's registration process owners are required to declare whether their dog is a restricted breed dog. Even if an owner declares that their dog is not a restricted breed, the council's authorised officers have power to declare the dog to be a restricted breed *if in their opinion* the dog is one of the following breeds: Dogo Argentino, Japanese Tosa, Fila Brasileiro, Perro De Presa Canario (or Presa

Canario) or American Pit Bull Terrier (or Pit Bull Terrier).

From 2 November 2005, under the *Domestic (Feral and Nuisance) Animals Act 1994*, councils no longer have the power to register restricted breed dogs. These dogs can be registered only if they were kept in Victoria before 2 November 2005 and the dog is currently registered with the council as a breed other than a restricted breed dog.

What the owner of a restricted breed dog must do

1. You must identify the dog with a microchip which conforms to the Regulations for permanent identification. The microchip identification number must be supplied to the council *within seven days* of the dog being declared to be a restricted breed dog.
2. You must notify the council *within 24 hours* if:
 - the dog attacks or injures anyone;
 - the place where the dog is kept changes;
 - your address changes;
 - the dog is missing or dies; or
 - you sell the dog or transfer ownership to anyone else.
3. If you sell or transfer ownership of a restricted breed dog, you must ensure the prospective new owner is not under 17 and you must tell the person in writing that the dog is a restricted breed dog.
4. When the dog is off your premises it must be muzzled and leashed, even in off-leash areas.
5. There are prescribed minimum requirements about escape-proof fencing and warning signs for these dogs.
6. The dog must be desexed.

Penalties

If you don't comply with any of these conditions you may be prosecuted by the council or police. The maximum penalty is more than \$500 for a first offence and more than \$1,000 for a second offence.



5. POWERS OF COUNCILS

INVESTIGATING AND ENFORCING THE LAW

Council officers have wide powers under the Act. They can call on the police for help if necessary. If they believe there are reasonable grounds they can:

- enter and search land, vehicles or buildings (but not if it is a place of residence) without a search warrant;
- inspect animals or enclosures;
- ask questions;
- seize or examine documents;
- seize or remove animals;
- destroy animals in certain circumstances; and
- request persons to give their name and address.

POWER TO SEIZE A DOG OR CAT

A council officer can seize a dog or cat if:

- the owner has been found guilty of not registering the dog or cat and has not registered it within a month of being found guilty;
- it's a dangerous dog, the council has refused to register it and all appeals against this decision have failed;
- it's a dangerous dog and the owner hasn't complied with the provisions relating to dangerous dogs;
- the dog has rushed at or chased a person;
- the dog has bitten or attacked an animal or a person;
- the dog's owner has been convicted or is reasonably suspected of urging the dog to attack.

Authorised council officers can apply to the Magistrates' Court for a search and seizure warrant to enter any premises if the officer believes on reasonable grounds that the dog or cat is present on

the property and that the officer has the power to seize the dog or cat.

A council officer *or any other person* can seize a dog or cat if:

- the dog or cat has been on private property without permission on more than one occasion;
- the dog or cat is on private property without permission after a Notice of Objection has been issued by the council;
- the dog is found at large (i.e. not under effective control) outside the owner's premises or not securely confined to the owner's premises;
- the cat is found at large outside the owner's premises or not securely confined to the owner's premises, if the council has made an order that cats be confined during specified hours;
- a cat outside the owner's property without identification that appears to be over three months of age;
- the dog or cat is found in a place from which (or at a time when) the council has prohibited dogs or cats;
- conditions imposed by the council about restraint of dogs or cats in a public place have not been complied with (e.g. being off-leash in a public place where dogs are meant to be on-leash).

What happens after seizure?

An animal seized by a council officer will be placed in the pound. If the animal is seized by someone else, it must be taken as soon as possible to an authorised council officer or delivered to a person contracted by the council to house impounded animals.

If the animal's owner can be identified through a registration tag or a microchip, the owner must be notified within four days that their animal has been seized.

The owner can recover the animal if they:

- can prove to the council that they are the owner;
- pay any necessary registration fees; and
- pay the release fee within eight days of seizure.

If the animal isn't claimed within this time, the council can either find it a new home or destroy it.



POWER TO DESTROY A DOG OR CAT

The council can destroy a dog or cat that has been impounded if its owner does not claim it *within eight days*. This includes if the council has seized a dog or cat because:

- the owner has been convicted of failing to register it and has failed to apply for registration within one month of the conviction;
- the animal was on another person's property without permission; or
- the owner has been convicted because the dog or cat was on another person's property after a Notice of Objection.

The council can destroy a dog or cat that it has seized *without further delay* if:

- the cat is not identifiable and is wild, uncontrollable or diseased;
- the dog is a dangerous dog, the council has refused to register it and all appeals have failed;
- the owner of a declared dangerous dog or a restricted breed dog has been found guilty of not complying with the Act or Regulations relating to those dogs;
- the owner has been found guilty of an offence because the dog has attacked or bitten a person or an animal; or
- the owner has been found guilty of an offence because they have urged their dog to attack, bite, rush at or chase a person or an animal.

An authorised council officer can destroy a dog or cat *on the spot* if it is found at large in an area that

is classified as a conservation zone under a planning scheme under the *Planning and Environment Act* 1987 (formerly known as a sanctuary). The council or the owner of livestock (including birds) can also destroy a dog or cat found in a place where these animals or birds are kept.

HELP AND ADVICE

There are many organisations which can help you by giving information and advice on breeds, pet care, obedience training and specialised equipment. These include the larger animal welfare organisations, such as the RSPCA, dog and cat owners' associations, local obedience clubs, and private animal trainers or businesses which specialise in correcting behavioural problems.

Your council or local vet can direct you to organisations in your area or you can look in the Yellow Pages. Information can also be found on the responsible pet ownership website run by the Department of Primary Industry (www.pets.info.vic.gov.au).

The RSPCA, the Cat Protection Society and the Lost Dogs Home are good places to start looking for a pet, as they adopt out unclaimed animals which have been desexed, vaccinated and screened for suitability.



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DO YOU HAVE A DOG OR A CAT?

This booklet explains the law relating to ownership of dogs and cats. Ask your local council to organise someone to help you read it.

HAI UN CANE O UN GATTO?

Questo opuscolo illustra le leggi che riguardano i proprietari di cani e gatti. Chiedi al tuo Comune locale di fare in modo che qualcuno ti aiuti a leggerlo.

ΕΧΕΤΕ ΣΚΥΛΙ Ή ΓΑΤΑ;

Αυτό το ενημερωτικό φυλλάδιο εξηγεί το νόμο που αφορά την ιδιοκτησία σκύλου και γάτας. Ζητήστε απ' τη δημορχία σας να κανονίσει για κάποιο άτομο να σας βοηθήσει να το διαβάσετε.

QUÝ VỊ NUÔI CHÓ HOẶC MÈO?

Tập hướng dẫn này giải thích luật lệ liên quan đến việc nuôi chó và mèo. Nhờ Hội đồng Thành phố địa phương sắp xếp người giúp quý vị đọc tập sách này.

你家養狗或養貓嗎？

這本小冊子解釋了養狗、養貓的相關法律。你可請當地市政府找人協助你解讀這本小冊子。

هل لديك كلب أو قطة؟

يشرح لك هذا الكتيب القانون المتعلق بملكية الكلاب والقطط. اطلب من بلديتك المحلية الترتيب لشخص لمساعدتك في قراءته.

ДАЛИ ИМАТЕ КУЧЕ ИЛИ МАЧКА?

Оваа книшка го објаснува законот за сопственост на кучиња и мачки. Замовете во вашата локална општина да организираат некој да ви помогне да разберете што пишува во книшката.

KÖPEK YA DA KEDİNİZ VAR MI?

Bu kitapçık köpek ve kedi sahibi olma ile ilgili yasayı açıklamaktadır. Belediyenizden bu kitabı okumanıza yardımcı olması için bir kişi ayarlamasını isteyiniz.

İMATE LI PSA ILI MAČKU?

Ova će vam brošura objasniti zakone koji se odnose na vlasništvo nad psima i mačkama. Zamolite svoje mjesno općinsko vijeće da vam organizira pomoć osobe koja će vam je pomoći pročitati.

¿TIENE USTED UN PERRO O UN GATO?

Este folleto le explica la lei referida a la propiedad de perros y gatos. Pida a su municipalidad que consiga alguien que le ayude a leerlo.