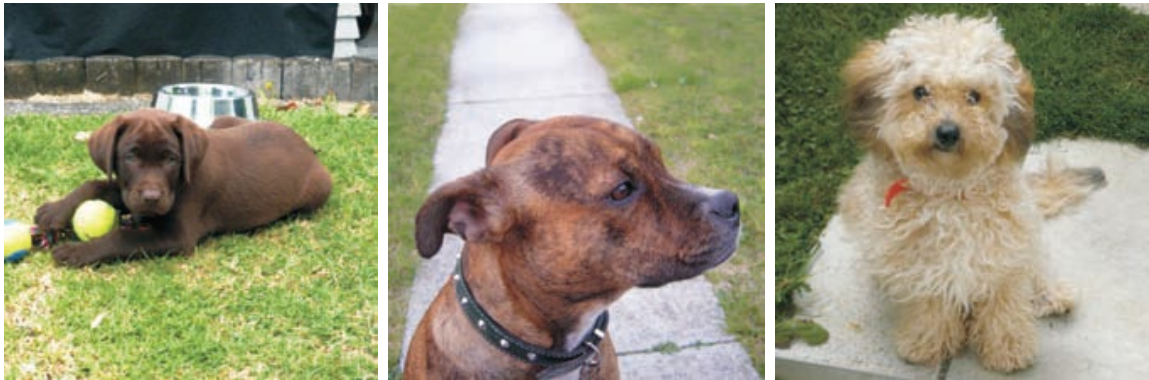




## Supplementary information to the Enforcement Guidelines under the Dog Control Act 1996



In 2015, the Rules Reduction Taskforce called for submissions from New Zealanders about rules they find annoying. Submissions from around the country noted difficulties in the dog registration process. In its report *The loopy rules report: New Zealanders Tell their stories*, the Taskforce called for 'better information and resources to help dog owners and councils to manage their responsibilities'.

While it is for councils to ensure dog owners understand their responsibilities, it is the Department's role to assist councils to understand their dog control responsibilities. The *Enforcement Guidelines under the Dog Control Act 1996* (the Enforcement Guidelines) were developed in 2009 for this purpose.

With assistance from local authorities, the Ministry of Primary Industries and the Royal New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA), we have developed supplementary information to be read with the Enforcement Guidelines. By providing this additional guidance, we aim to encourage certainty about council responsibilities under the Dog Control Act 1996. This document includes guidance about:

- online dog registration;
- the roles of councils and the RNZSPCA in animal welfare; and
- the implications of the Search and Surveillance Act 2012 for dog control officers.

We hope this information is helpful to you.

## Online dog registration

Paper-based processes can ensure legal certainty for councils and dog owners. However, many of us have come to expect that we can complete everyday tasks online, including routine transactions with local authorities.

Dog registration is an example of a paper-based procedure which was prescribed in legislation before the internet became a popular means of communicating written information. However, there is flexibility in current legislation to enable dog owners to provide dog registration and ownership information by online means.

### Dog registration and the Electronic Transactions Act 2002

Sections 36, 48 and 49 of the Dog Control Act 1991, require dog owners to provide registration and ownership information in writing. The prescribed dog registration form, states that the dog owner may post or deliver the completed form to the office of the relevant local authority. Together, these provisions require that the information be communicated to the council in writing, on a paper-based form.

The Electronic Transactions Act 2002 (the ETA) provides for paper-based legal requirements to be met by using electronic technology that is functionally equivalent. As a result, local authorities can accept dog registration and ownership information from a dog owner in writing, by email or via a web-based online form. For further information about registration, refer to Part 2.5 of the *Enforcement Guidelines under the Dog Control Act 1996*.

### Good practice considerations

- Online dog registration systems can be developed in house or purchased from a third party; and
- Some councils are already using online dog registration systems, including Hamilton City Council, Central Otago District Council and Christchurch City Council. These councils can provide advice about their systems.

## Animal Welfare

When a person is concerned about the welfare of a dog, the animal control team at the relevant council will often be the first port of call. In the first instance, it is common practice for councils to refer animal welfare matters to the nearest branch of the Royal New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA). However, the Dog Control Act 1996 (the DCA) contains specific animal welfare provisions, and local authorities have powers to enforce these.

## Role of local authorities

Section 54 of the DCA, requires owners to ensure that their dog receives proper care and attention and is supplied with proper and sufficient food, water, and shelter. Owners must also ensure that their dog receives adequate exercise. A breach of these basic welfare provisions in the DCA can amount to an infringement offence or a prosecution offence. For further information on enforcement, refer to Part 3 of the *Enforcement Guidelines under the Dog Control Act 1996*.

## Role of RNZSPCA

The Ministry for Primary Industries (MPI) and the RNZSPCA jointly enforce the Animal Welfare Act 1999 (the AWA) and ensure compliance with the minimum standards contained in codes of welfare. People who own or are in charge of dogs need to be aware the requirements of the AWA and relevant codes of welfare, such as the [Animal Welfare \(Dogs\) Code of Welfare 2010](#). This includes requirements to provide for the physical, health and behavioural needs of animals.

At this stage, standards contained in the codes of welfare are not directly enforceable. However, in light of amendments to the AWA in 2015, MPI can now create regulations to extend the RNZSPCA's powers to enforce minimum welfare standards.

## Good practice considerations

- A strong relationship between the council and the local branch of the SPCA is important to manage overlaps and differences in the welfare provisions under the DCA and AWA;
- Some welfare obligations in the DCA and AWA are the same, i.e. the obligation to provide a dog with proper and sufficient food and water. Low level offences can be addressed by the local authority. High level offences can be referred to the RNZSPCA;
- If an owner fails to provide adequate exercise, an infringement under the DCA is likely to be a more appropriate and proportionate response, than a prosecution under the AWA; and
- Local authority enforcement officers and animal shelter staff are subject to the obligations in the AWA, and the minimum standards in the Animal Welfare (Dogs) Code of Welfare 2010 and other relevant codes.

## Entry onto private property

To address dog safety concerns, animal welfare concerns, and nuisances caused by dogs, dog rangers and dog control officers may enter private property. Section 14 of the Dog Control Act 1996 (DCA) enables dog rangers and dog control officers to enter land or premises to inspect a dog and/or its living conditions, and if authorised, to seize and take custody of the dog. For further information on seizure and impounding, refer to Part 3.3 of the *Enforcement Guidelines under the Dog Control Act 1996*.

If the dog in question is inside a house, the search procedures under the Search and Surveillance Act 2012 (SSA) will apply. The SSA was enacted in 2012 to modernise and condense the laws found in over 69 different Acts relating to search, surveillance, and seizure, including the DCA. Its purpose is to “facilitate the monitoring of compliance with the law and the investigation and prosecution of offences in a manner that is consistent with human rights values”.

Sections 14, 56 and 57 of the DCA refer to [Part 4 of the SSA](#). Part 4 sets out the procedures for applying for a search warrant, issuance of a search warrant and carrying out search powers. Prior to amendment by the SSA, the DCA required that a dog control officer could only enter a house if authorised by a warrant given by a District Court Judge, and accompanied by a constable.

Dog rangers and dog control officers must now apply to an ‘issuing officer’ for a search warrant. This includes a High Court or District Court Judge, or other person such as a Justice of the Peace (JP), Community Magistrate or Registrar who is authorised to act as an issuing officer. However, a person cannot be the issuing officer if she or he is employed by, or elected to, the council which is applying for the search warrant. There is still a requirement for the dog ranger or dog control officer to be accompanied by a constable during the search. This is in the interests of the safety of the ranger or officer undertaking the search, the local authority, and the community generally.

A search warrant is not required to enter a house to seize or destroy a dog if a dog ranger or dog control officer is in fresh pursuit of a dog that:

- she or he has reasonable grounds to believe has committed an attack on a person or animal; and
- has been identified by a witness to the attack.

### **Good practice considerations**

- An effective working relationship between the council, issuing officer(s) and the New Zealand Police is important to ensure efficient and appropriate enforcement of dog control laws and bylaws, particularly where people and animals may be in danger; and
- dog rangers and dog control officers should be familiar with the procedures and information required to apply for a search warrant and to carry out a search, before the need arises. Staff at your local Police station may be able to assist.