

SOUTH WAIRARAPA DISTRICT COUNCIL

19 SEPTEMBER 2013

AGENDA ITEM C8

SOUTH WAIRARAPA DISTRICT COUNCIL CONTROL OF DOGS POLICY 2013 AND CONTROL OF DOGS BYLAW 2013

Purpose of Report

To obtain Council approval for the South Wairarapa District Council Control of Dogs Policy and Control of Dogs Bylaw 2013.

Recommendations

Officers recommend that the Council resolve to:

1. *Receive the information.*
2. *Adopt the South Wairarapa District Council's Control of Dogs Policy 2013 and Control of Dogs Bylaw 2013 as detailed in this report.*

1. Background and Discussion

In May 2013 Council reviewed the existing Control of Dogs Policy and Control of Dogs Bylaw.

A "Statement of Proposal" was approved for public consultation on the 15th May 2013 and this was publicly notified on the 10th June 2013. The submission period closed on the 12th July 2013. To ensure widespread notification of the draft policy and bylaw, every registered dog owner was sent a notice of the proposed amendments to the Policy and Bylaw.

Two submissions were received:

Name	What they had to say	Oppose /Support	Comments
J. Glyn-Jones	<p>Suggested that on all properties where a dog is located be fenced so the dog can run free with access to the house.</p> <p>Expressed a concern that dogs not on leads in Martinborough.</p>	Not stated.	<p>This matter is beyond the statutory scope of the Bylaw and Policy.</p> <p>Dogs off lead are an operational matter for Council to address under the Dog Control Act 1996.</p>

T and J Carr	Stated that the policy and bylaw are sensible and comprehensive. Expressed full support for a dog exercise area in Greytown.	Support	
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Neither submitter asked to be heard. Consequently there has been no requirement for the committee to meet and consider these submissions.

2. Recommendation

It is recommended that Council now resolve to adopt the Control of Dogs Bylaw 2013 and Control of Dogs Policy 2013 to take effect from the 1st October 2013.

Following this, Council will need to publicly notify the date that the Policy and Bylaw come into operation and where copies can be inspected and obtained pursuant to s157 of the LGA 2002.

3. Appendices

Appendix 1 - South Wairarapa District Council Control of Dogs Bylaw 2013

Appendix 2 - South Wairarapa District Council Control of Dogs Policy 2013

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**Appendix 1 – South
Wairarapa District Council
Control of Dogs Bylaw 2013**

SOUTH WAIRARAPA DISTRICT COUNCIL CONTROL OF DOGS BYLAW 2013

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New Zealand Legislation

Dog Control Act 1996

Local Government Act 2002

1 FOREWORD

This bylaw draws from the New Zealand Standard NZS9201:1999 - Part 12 Dog Control Bylaw. NZS9201 series are model bylaws covering various matters under local authority jurisdiction. Local authorities are empowered under the Local Government Act 2002 to make bylaws.

2 GENERAL

2.1 Short Title

- i) This Bylaw may be cited as the South Wairarapa District Council Control of Dogs Bylaw 2013.
- ii) This Bylaw repeals all existing South Wairarapa District Council control of dogs' bylaws.

2.2 Commencement

This Bylaw shall come into force on the 1st of October 2013.

3 SCOPE

The purpose of this bylaw is to set standards and controls that must be observed by dog owners. It concerns matters such as dogs in public places, wandering dogs, ownership of more than one dog, and nuisances caused by dogs.

4 INTERPRETATION

4.1

In this Bylaw unless the context otherwise requires:

Control	Means that the dog is not causing a nuisance or danger and that the person in charge of the dog has the dog under continuous surveillance and is able to obtain an immediate and desired response from the dog by use of a leash, voice commands, hand signals, whistles or other effective means.
Disability Assist Dog	Means the same as that specified in the Dog Control Act 1996 and includes a dog certified by one of the following organisations as being a dog trained to assist (or as being a dog in training to assist) a person with a disability: <ul style="list-style-type: none">a. Hearing Dog for Deaf People of New Zealandb. Mobility Assistance Dogs Trustc. New Zealand Epilepsy Assist Dogs Trustd. Royal New Zealand Foundation of the Blinde. Top Dog Companion Trustf. An organisation specified in an Order in Council made under section 78D of the Dog Control Act 1996.

Dog Owner	Means owner as defined in section 2 of the Dog Control Act 1996 and includes every person who: <ul style="list-style-type: none"> a. Owns the dog; or b. Has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner; or c. The parent or guardian of a person under the age of 16 years who: <ul style="list-style-type: none"> • Is the owner of the dog pursuant to paragraph (a) or paragraph (b) of this definition; and • Is a member of the parent or guardian's household and dependent on the parent or guardian; but does not include any person who has seized or taken custody of the dog under this Act or the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under this Act or the Animal Welfare Act 1999.
On a Leash	Means that the dog is kept under control by means of a leash, lead or chain which is secured or is held by a person so that the dog cannot break loose.
Public Place	Means public place as defined in section 2 of the Dog Control Act 1996 and includes: <ul style="list-style-type: none"> a. A place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or effect any person from that place; and b. Includes any aircraft, hovership, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.
Reserve	Means: <ul style="list-style-type: none"> a. Any land vested in the Council and declared as a reserve by resolution of the Council, under section 14 of the Reserves Act 1977; or b. Any park, domain or recreation area under the control or ownership of the Council; or c. Any reserve, park or recreation area under the control or management of the South Wairarapa District Council.
Urban Area	Means the area contained within any area zoned urban in the Wairarapa Combined District Plan unless otherwise stated.
Working Dog	Means the same as that in section 2 of the Dog Control Act 1996 and includes: <ul style="list-style-type: none"> (a) any disability assist dog: (b) any dog— <ul style="list-style-type: none"> i) kept by the Police or any constable, the New Zealand Customs Service, the Ministry of Agriculture and Forestry, the Ministry of Fisheries, or the Ministry of Defence, or any officer or employee of any such department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the department of State or that constable, officer, or employee; or ii) kept solely or principally for the purposes of

	<p>herding or driving stock; or</p> <p>iii) kept by the Department of Conservation or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that department; or</p> <p>iv) kept solely or principally for the purposes of destroying pests or pest agents under any pest management plan under the Biosecurity Act 1993; or</p> <p>iva) kept by the Department of Corrections or any officer or employee of that department solely or principally for the purposes of carrying out the functions, duties, and powers of that department; or</p> <p>ivb) kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that service solely or principally for the purposes of carrying out the functions, duties, and powers of that service; or</p> <p>ivc) certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or</p> <p>v) owned by a property guard as defined in section 9 of the Private Security Personnel and Private Investigators Act 2010 or a property guard employee as defined in section 17 of that Act, and kept solely or principally for the purpose of doing the things specified in section 9(1)(a) to (c) of that Act; or</p> <p>vi) declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.</p>
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4.2

Interpretations shall be as set out in the Dog Control Act 1996.

5 DOGS TO BE UNDER CONTROL AT ALL TIMES

The owner, or any person in charge or having control of any dog, shall keep such dog securely tied up or otherwise effectively confined or under his or her direct control in the areas controlled by Council.

6 SHELTER

Every owner of a dog shall ensure that the dog is provided with adequate shelter and that no suffering is caused to the dog by the manner of the shelter.

- i) Kennels are to be provided on a hard surface, provide shelter from the elements and be free from dampness.
- ii) Kennels are to be kept in a clean condition.
- iii) No owner of any dog shall allow a dog to be kept beneath the floor of any building.

7 DOG WELFARE

The occupier of any premise on which a dog is kept shall take all reasonable steps to:

- i) Ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter.
- ii) Ensure that the dog receives adequate exercise.

8 DISTANCE FROM ADJOINING PROPERTIES

No person shall confine, tie up or accommodate any dog on any land so that the dog is confined, tied up, or accommodated within a distance of two metres from the boundary of any adjoining land or premises. Council may grant an exemption where it is satisfied that the dog can be kept on the premise without any adverse effect.

9 AREAS WHERE DOGS ARE PROHIBITED AND AREAS WHERE DOGS MUST BE ON A LEASH

9.1

The owner of a dog shall not cause or permit the dog to enter or remain in or on any part of any street or public place designated as a prohibited area in Schedule A.

9.2

The owner of a dog shall not cause or permit the dog to enter or remain in or on any part of any street or public place unless the dog is being carried in a vehicle or is at all times on a leash.

9.3

In all public places, other than those in which dogs are prohibited, dogs must be under continuous control and supervision of a responsible person over the age of 12 years.

9.4

Nothing in clause 9 of this bylaw shall apply to:

- i) a working dog while it is working.
- ii) any dog which is confined completely within a vehicle or cage.
- iii) any dog taking part in an organised event, such as a dog show or dog training seminar, which has Council approval.

10 DOG EXERCISE AREAS

10.1

The Council may, by resolution, designate "dog exercise areas".

10.2

Providing the dog is kept under control at all times, a dog owner may exercise his or her dog without it being on a leash in any area designated as a dog exercise area in Schedule B.

11 SEIZURE OF DOGS NOT UNDER CONTINUOUS CONTROL

Any dog entering or remaining on any public place within the district controlled by Council, not being led by a chain, strap, or other efficient or effective contrivance as required by clause 9.2 hereof or without being kept under continuous control as required by clause 9.3 hereof may be seized and impounded by any person duly authorised by the Council.

12 SEIZURE OF DOGS ROAMING

Any dog found at large in any public place at any time in breach of clause 9 hereof, whether or not it is wearing a collar having the proper registration tag thereon or attached thereto as required by the Act, may be seized and impounded by any person duly authorised by the Council.

13 IMPOUNDING AND SUBSEQUENT DISPOSAL OF DOGS

13.1

The impounding of any dog pursuant to this bylaw, the payment of fees, and the subsequent disposal of any dog so impounded, shall be determined by the provisions of the Dog Control Act 1996.

13.2

As soon as practicable after any dog has been impounded, Council shall, in the case of a dog wearing a current registration label or disc or where the owner of the dog is known through other means, make contact with the owner. The dog so impounded will be released to the owner upon the owner paying to the Council the fees for the sustenance of the dog and impounding fees as set by resolution of Council.

14 DOGS CAUSING OR BECOMING A NUISANCE OR INJURIOUS TO HEALTH

14.1

The owner of the dog, or owner or occupier of any premises where any dog or dogs are customarily kept, shall take adequate precaution to prevent the dog or dogs, or the keeping thereof, from becoming a nuisance or injurious to health.

14.2

If in the opinion of the Council the dog or dogs, or the keeping thereof on premises, has become or is likely to become a nuisance or injurious to health, the Council, or any person duly authorised on that behalf by the Council may, by notice in writing, require the owner or occupier of the premises within a time specified in such notice to do all or any of the following:

- i) Reduce the number of dogs kept on the premises.
- ii) Construct, alter, reconstruct or otherwise improve the kennels or buildings or fencing used to house or contain such dog or dogs.
- iii) Require such dog or dogs to be tied up or otherwise confined.
- iv) Take such other action as the Council deems necessary to minimise or remove the likelihood of nuisance or injury to health.

14.3

Any person to whom notice is given under the preceding provisions of this clause who fails to comply with such notice within the time therein specified shall be guilty of an offence under this bylaw.

15 BARKING DOGS

No owner of any dog in the District or owner, or occupier of any premises shall suffer or permit such dog to bark in such a manner or for such a period as to cause a nuisance, be offensive or likely to be injurious to health.

16 DOGS FOULING PUBLIC AREAS

Where any dog defecates in any public place or on land or premises other than that occupied by the owner of the dog, that owner must remove the faeces forthwith and dispose of it in a way that does not cause a nuisance.

17 DISEASED DOGS

No person owning or having control or charge of any diseased dog shall take the dog or permit or suffer the dog to enter or remain in any public place or wander free and at large.

18 BITCHES ON HEAT

18.1

The owner of a bitch in season must keep it confined to the premises within a dog-proof enclosure for the duration of her oestrus cycle.

18.2

A dog so confined shall be regularly exercised.

19 LIMITATION AS TO NUMBER OF DOGS ALLOWED

19.1

No owner or occupier of any urban property shall allow more than two dogs over the age of three months to be kept on that property for more than fourteen days.

19.2

The owner of a dog, or the owner or occupier of the land or premise, may apply to Council for a permit to keep more than two dogs on any urban property.

19.3

If Council considers that more than two dogs can be kept on the property without adverse effect, a fee may be charged by the Council for the permit in accordance with Section 150 of the Local Government Act 2002.

19.4

A permit granted pursuant to clause 19.2 may be issued subject to such conditions as the Council considers appropriate to prevent adverse effects. Any breach of the conditions of any permit shall entitle the Council to withdraw the permit.

20 OWNERS OF MENACING DOGS

20.1

Dogs classified as menacing by behaviour shall be required to be neutered.

20.2

All dogs classified as menacing by breed shall be required to be neutered.

21 CONVICTION & FINES

Every person commits an offence who does anything prohibited under this bylaw or who fails, refuses or neglects to do anything to be done, according to this bylaw, and is liable to:

- i) The penalty provisions of section 242 Local Government Act 2002; or
- ii) Any other penalty pursuant to the Dog Control Act 1996; or
- iii) Be served with an infringement notice pursuant to section 66 of the Dog Control Act 1996.

22 POWER TO AMEND BY RESOLUTION

The Council may from time to time by resolution publicly notified:

- i) Add schedules.
- ii) Make additions or deletions from the schedules.
- iii) Substitute new schedules.

SCHEDULE A – AREAS WHERE DOGS ARE PROHIBITED

(Except in a vehicle)

- i) Any public building or public place, including any library building, swimming pool, recreation centre, under the control or management of the Council.
- ii) Any area developed or marked out as a sports field (not including any spectator area) during sporting events, or any outdoor court, skateboard park or cycle park.
- iii) On any area that is developed or marked out as a playground or contains children's play equipment.
- iv) Any cemetery.
- v) Within the camping areas listed in Schedule 2 or within the Te Awaiti area described in Schedule 1 of the South Wairarapa District Council Bylaw for Camping in Coastal Areas 2009.

SCHEDULE B - DOG EXERCISE AREAS

(Areas where a dog may be exercised off leash)

- i) Roberts Street Road Reserve (between Weld Street and Ferry Road) Martinborough.
- ii) Corner Johnston Street and Harrison Street West, Featherston (Part Sec 123 Featherston Suburban).
- iii) *Proposed area: Southern end of Cotter Street, Greytown (Lot 25 DP 455345, Pt Lot 4 DP 1187 and Sec 123 Moroa District).*

**Appendix 2 - South
Wairarapa District Council
Control of Dogs Policy 2013**

South Wairarapa District Council Control of Dogs Policy 2013

This policy remains in force until such time as Council in accordance with Section 10(8) Dog Control Act 1996 proposes any amendment in accordance with the special consultative procedures of the Local Government Act 2002.

1 INTRODUCTION

- 1.1 This policy is prepared in accordance with the requirements of the Dog Control Act 1996.
- 1.2 This policy sets out Council's position on the matters that Council has discretion over within the Dog Control Act 1996. Reference should be made to this Act for the matters which are mandatory.
- 1.3 This policy specifies the nature and application of all bylaws made under the Act and identifies public places where dogs may be given access; may be prohibited, or may be controlled.
- 1.4 This policy also includes details about the following:
 - i) Fees or proposed fees
 - ii) Owner education programmes
 - iii) Dog obedience courses
 - iv) Classifying owners as probationary
 - v) Disqualifying owners from owning dogs
 - vi) The issuing of infringement notices.
- 1.5 When adopting this policy Council had particular regard to:
 - i) The need to minimise danger, distress, and nuisance to the community generally.
 - ii) The need to avoid inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults.
 - iii) The importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs.
 - iv) The exercise and recreational needs of dogs and their owners.

- 1.6 Council recognises that the majority of dog owners in South Wairarapa are responsible and that most interaction between dogs and the public is positive.

2 POLICY OBJECTIVES

- 2.1 This Policy aims to give effect to the Dog Control Act by protecting the health and safety of the public whilst ensuring the well-being and welfare of dogs is protected through responsible dog ownership.
- 2.2 This objective is met by:
- i) Requiring the registration of dogs.
 - ii) Making special provision in relation to dangerous or menacing dogs.
 - iii) Imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person nor injure, endanger, or cause distress to any person.
 - iv) Imposing on owners of dogs obligations designed to ensure that dogs do not injure, endanger, or cause distress to any other dog, stock, poultry, domestic animal, or protected wildlife.
 - v) To make better provision in relation to damage caused by dogs.
 - vi) To provide for the exercise and recreational needs of dogs and their owners.

3 POLICY

3.1 Nature & Application of Bylaws

Council will endorse existing bylaws and amendments which are based on the NZ Standards Association Model General Bylaw.

3.2 Public Places where Dogs are to be controlled by Leash

Dogs are to be kept on a leash at all times in public places within the urban areas of the South Wairarapa District, including public parks, reserves, pensioner flats, transfer stations, recycling stations and also public reserves in rural areas under the control or management of the Council.

Dogs are not required to be kept on a leash in a designated dog exercise area where they are under continuous surveillance and effective control.

3.3 **Dog Exercise Areas**

The Council may, by resolution, designate dog exercise areas.

Council's policy is to provide dog exercise areas in Martinborough, Featherston and Greytown.

3.4 **Public Places where Dogs are to be Prohibited**

Dogs are prohibited from all children's play areas, sports grounds, swimming pools, cemeteries, public buildings under the control or management of Council and any other areas where dogs may pose a threat to the public.

3.5 **Classification of Dogs**

3.5.1 The Dog Control Act requires the Council to classify as menacing dogs, those belonging wholly or predominantly to one or more breeds or types listed in schedule 4, as listed below.

- i) Breed of dog:
 - Brazilian Fila
 - Dogo Argentino
 - Japanese Tosa
 - Perro de Presa Canario

- ii) Type of dog:
 - American Pit Bull Terrier¹

Or

Dogs that the Council considers may pose a threat to any person or animal because of observed or reported behaviour of the dog, or any characteristics typically associated with the dog's breed or type.

3.5.2 The Council's policy is to require that all dogs classified as menacing dogs be neutered in accordance with s33E(1) (b) of the Act within one month after receipt of notice of the classification. In the case of dogs classified as menacing by another council, that the dog be neutered within one month of registration with the Council.

3.6 **Classification of Owners**

The Dog Control Act provides for the Council to classify dog owners as probationary owners if they are convicted of certain offences under the Act.

A probationary owner may be required to undertake, at their own expense, a dog owner education programme or dog obedience course (or both).

¹ Any legislative amendments made to the list of dog breeds and dog types made subsequent to this policy shall be deemed to form part of this policy

A decision to classify an owner as a probationary owner can be appealed by the owner to Council.

The Council's policy will be to classify owners as probationary where provided for in the Act.

3.7 **Disqualification of Owners**

Council must disqualify a person from being the owner of a dog if that person is convicted of certain offences, unless Council is satisfied the circumstances of an offence do not warrant disqualification.

Where a person who is classified as a probationary owner and is convicted of certain offences the Council may disqualify that person from being the owner of any dog. The disqualification can be for any period up to a maximum of 5 years. A disqualified owner must dispose of any dog/s owned within 14 days.

Council's policy will be to classify an owner as disqualified for an appropriate period as provided for in the Act.

A decision to classify an owner as a disqualified owner can be appealed by the owner to Council.

3.8 **Dog Control Fees**

The Council will annually review its dog control fees to suit operational requirements. The structure of dog control fees will be aligned with the Annual Plan each year. The Council aims to self fund dog control operations from dog control fees, with the exception that from time to time the Council may approve a contribution from the general ratepayer base. All dogs over 3 months must be registered.

i) Neutering

The Council will continue to promote neutering of dogs by imposing a lower registration fee for spayed or castrated dogs.

ii) Late registration

A late registration penalty fee will be added for all dogs not registered by the end of the first week of August as set by the Council of the registration year. The penalty fee will be 50% of relevant registration fee, or as set by the Council.

iii) Rural dogs

It is recognised that rural dogs cause fewer dog control problems and therefore a differential between rural and urban fees will apply.

iv) Disability Assist dogs

Disability Assist dogs will not be charged a fee upon registration under the Dog Control Act.

3.9 Conviction and Fines

Every person commits an offence, who does anything prohibited, or who fails, refuses or neglects to do anything to be done according to the South Wairarapa District Council Control of Dogs Bylaw and is liable to:

- i) The penalty provisions of section 242 Local Government Act 2002; or
- ii) Any other penalty pursuant to the Dog Control Act 1996; or
- iii) Be served with an infringement notice pursuant to section 66 of the Dog Control Act 1996.

3.10 Issuing of Infringement Notices

The Dog Control Act provides for infringement notices for certain offences under the Act. Infringement notices can be served at the time of the offence on the owner as defined in the Act and generally the person in charge of the dog. The infringement requires an infringement fee to be paid or for the owner to request a court hearing in respect of the alleged offence.

3.11 Infringement Offences and Fees

Section	Description of offence	Infringement fee (\$)
18	Willful obstruction of dog control officer or ranger	750
19(2)	Failure or refusal to supply information or willfully providing false particulars	750
19A(2)	Failure to supply information or willfully providing false particulars about a dog	750
20(5)	Failure to comply with any bylaw authorised by the section	300
23A(2)	Failure to undertake dog owner education programme or dog obedience course (or both)	300
24	Failure to comply with obligations of probationary owner	750
28(5)	Failure to comply with effects of disqualification	750
32(2)	Failure to comply with effects of classification of dog as dangerous dog	300
32(4)	Fraudulent sale or transfer of dangerous dog	500
33EC(1)	Failure to comply with effects of classification of dog as menacing dog	300
33F(3)	Failure to advise person of muzzle and leasing requirements	100
36A(6)	Failure to implant microchip transponder in dog	300
41	False statement relating to dog registration	750
41A	Falsely notifying death of dog	750
42	Failure to register dog	300
46(4)	Fraudulent procurement of attempt to procure registration label or disc	500
48(3)	Failure to advise change of dog ownership	100
49(4)	Failure to advise change of address	100

Section	Description of offence	Infringement fee (\$)
51(1)	Removal, swapping, or counterfeiting of registration label or disc	500
52A	Failure to keep dog controlled or confined	200
53(1)	Failure to keep dog under control	200
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	300
54A	Failure to carry leash in public place	100
55(7)	Failure to comply with barking dog abatement notice	200
62(4)	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	300
62(5)	Failure to advise of muzzle and leashing requirements	100
72(2)	Releasing dog from custody	750

The Council's policy is to issue infringement notices where appropriate to promote the objectives set out in this policy.

3.12 Open and Controlled Dog Areas under Conservation and National Parks Acts

At this stage there are no areas gazetted under the Conservation and National Parks Acts. The Department of Conservation is preparing guidelines for local DOC branches for the creation of controlled and open dog areas. These areas will be determined and gazetted following public consultation.

3.13 Owner Education

Owner education is seen as an important part of the policy. Officers will work with dog owners, schools, and the community to:

- i. Inform and educate dog owners and the general public about responsible dog ownership by raising awareness through education programs, distributing information and the use of media.
- ii. Ensure complaints received are followed up by Officers with appropriate action taken.
- iii. Promote the availability of dog obedience classes.