

Practice Note: 1. October 2010

Establishing “reasonable belief”

Under section 84TA of the *Domestic Animals Act 1994* (the Act) a council may destroy a dog seized under this part if:

(1)(c) an authorised officer of the Council, at or after the time of seizure of the dog, reasonably believes that the behaviour of the dog has resulted, or is likely to result, if the dog were at large, in the commission of an offence under section 29.

Additionally

(2) In forming the reasonable belief referred to in subsection (1)(c), the authorised officer must have regard to any guidelines or practice notes approved by the Minister for the purposes of this section.

The Purpose of this Practice Note:

This Practice Note aims to:

- provide guidance on how to establish “reasonable belief” that the behaviour of the dog has resulted or is likely to result, if the dog were at large, in the commission of an offence under section 29 of The Act
- assist councils with a process for the decision making on the fate of a dog seized with the consideration of destruction under section 84TA

When can section 84TA be used?

Note that an authorised officer should consider the full holistic content of the Act in use of section 84TA and that Council may consider delegation of power to an authorised officer for destruction – this is to be a council decision.

Subject to subsection (6) a Council **may** destroy a dog seized under part 7A of the Act if:

(1)(a) the authorised officer of the Council who seized the dog held the reasonable belief at the time of the seizure that the owner of the dog would be guilty of an offence under section 24 or 26; AND

(1)(b) the dog is unregistered and the owner is not able to be identified from-

(i) a marker attached to, or a device implanted in, the dog’s body; or

(ii) any information received by the Council that is sufficient to enable identification of the owner; and

(1)(c) an authorised officer of the Council, at or after the time of seizure of the dog, reasonably believes that the behaviour of the dog has resulted, or is likely to result, if the dog were at large, in the commission of an offence under section 29.

The attached flow chart identifies the triggers for destruction under section 84TA.

How would an Officer gather Information to consider “reasonable belief”?

Forming reasonable belief includes gathering and recording information and review of both overt and previous actions, of the dog, to be considered when forming the decision that the behaviour of the dog has resulted, or is likely to result in the commissioning of an offence, under section 29 of the Act.

The attached template is to be used to assist the authorised officer in noting the observations at the time of (or leading) to the seizure of the dog.

The template will guide the officer to consider (and record):

- the behaviour of the dog (at and/or after seizure)
- if the dog has been involved in an offence under section 29 (evidence and witness’s)
- if the dog is likely to be involved in an offence under section 29
- if the dog is at large (As per section 24 or 26)

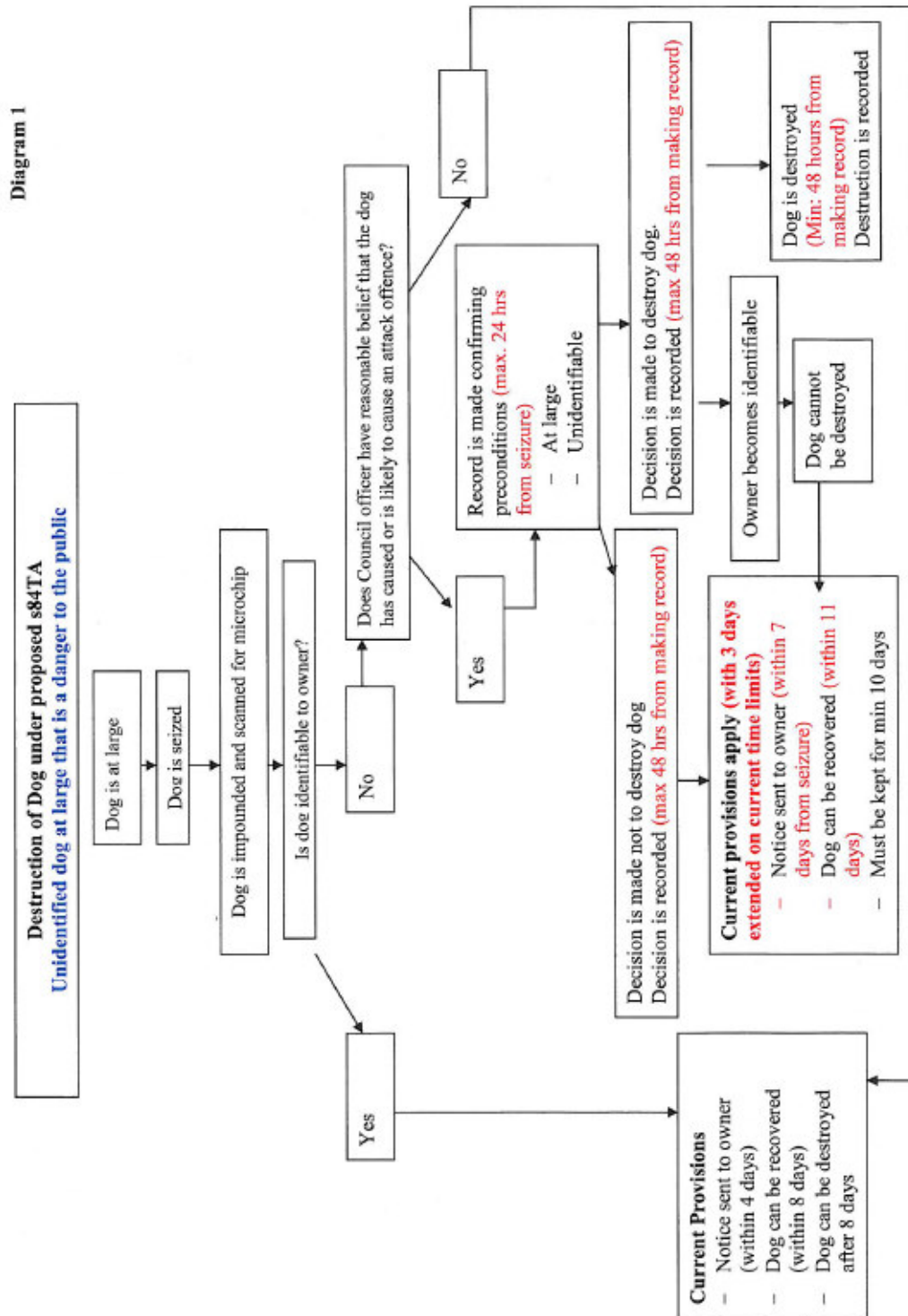
All observations on seizure should be recorded and council policy should clearly outline how the information was reviewed and considered in forming the final decision on the destruction of the dog.

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Template 1.

Establishment of “reasonable belief”

Belief (observation or witness info)	Y/N/n.a	Comment (describe incident or witness statement)
<i>Dog at Large</i>		<i>Section of Act (24 or 26)</i>
<i>Dog has acted in manner that would commission an offence under section 29</i>		<i>What subsection? What evidence</i>
Reasons to believe likely to cause offence:		
<i>Behaviour of dog:</i> <ul style="list-style-type: none"> • aggressive • barking • chasing/rushing at • cowering/licking lips • ears – up or down • hackles raised • physical size • response to commands • response to humans • response to other animals • rushing or chasing • showing fear • stance • teeth bared • urinating • other observations 		<i>Note observations or comments from witnesses</i>
<i>Environmental conditions:</i> <ul style="list-style-type: none"> • fireworks • storms • other conditions 		<i>Note observations or comments from witnesses</i>
<i>Location:</i> <ul style="list-style-type: none"> • farming area • school area • shopping centre • other area 		
Any evidence of owner?		<i>Preliminary observation and witness comments full check to be completed once assess later</i>
Any other comments or observations?		
Time (of incident)		
Date (of incident)		
Officer Name		
Officer Signature		