

Draft

Pets and Stray Animal Procedures

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1.0 Background.

The mock inspection carried out by HQN in May 2005, flagged up the issue of residents concerns around environmental issues (damage and nuisance) on their estates. To reduce the incidence of nuisance and improve the environment the attached procedure (Dealing with Pets & Stray Animals) is proposed.

2.0 Procedures

2.1 Problem Solving Matrix

For more details on when to take legal action refer to ASBAT Work Instructions Appendix 2A 'Problem Solving Matrix' which specifies the legal remedies/power or duty to deal with ASB and the appropriate agency with responsibility to lead on each type of legal action.

2.2 Definition of Pet Nuisance.

The following examples will be considered a nuisance

- Out of control
- Too many pets in council property
- Dogs not on lead whilst on estates road or any parts of any housing communal area
- Fouling on pavements and common parts of the estate including street properties
- Noise or smell from domestic pets
- Entering fenced play areas on estates.

2.3 Pets out of control.

In response to complaints about pet nuisance the Tenancy Management Officer will carry out a home visit within 10 days to establish the nature and extent of the problem. The TMO should arrange a visit immediately where the matter is considered an emergency. E.g. (Attacks on residents) Tenancy Management Officers who are visiting tenants with aggressive pets will be expected to be aware of their own personal safety.

If a pet is not controlled and appears aggressive Tenancy Management Officer should not enter the property

The Tenancy Management officer shall send letter PET/1 within 3 days of the aborted visit outlining the tenant's responsibilities and arrange a further appointment to visit the tenant.

Once the extent of the nuisance has been established the TMO shall send letter PET/2 to confirm the outcome of any visits and any agreement made with the tenant. The TMO will at the same time write to the complainant letter PET/3 with feedback on the initial complaint and enclose diary sheets (Existing template document) for recording any further incidents.

Where the problem persists the TMO shall invite the tenant into the office to sign an undertaking using DD 057/1 (existing template document) and warn the tenant that any failure to comply with the undertaking will be treated as a breach in the tenant's obligations under the tenancy agreement.

Where the tenant fails to control the offending pet after the undertaking has been signed the Tenancy Management Officer shall commence possession action on the grounds that the tenant has failed to comply with the conditions of the tenancy. The TMO shall follow the procedures for possession proceedings in Appendix 2C of the ASB Work Instructions and refer the matter to the Legal Department to draft a Notice of Seeking Possession .

The TMO will need to obtain witness statements from residents where appropriate. The complainant will normally be expected to give evidence in court along with any other witnesses. Officers will also be expected to act as witnesses as appropriate.

2.4 Multiple Pets

If the property is a flat or maisonette and does not have its own garden for exclusive use (this does not include communal gardens). The tenant must not keep more than one dog or cat (but not one of each)

The tenant may keep an additional dog or cat which they owned at the 1st April 1996 if they were a council tenant at the time.

Where it is brought to the attention of HfH that a tenant is keeping more than 1 pet and lives in a flat or maisonette the Tenancy Management Officer shall carry out a home visit within 10 days to establish the facts. If it is confirmed that the tenant is keeping more than 1 pet the TMO shall inform the tenant that this is not allowed under the conditions of their tenancy. The TMO shall advise the tenant

that they will have to remove the additional pet from the property . The TMO shall following up the visit within 5 days of the visit with letter PET/4) advising the tenant that they are in breach of their tenancy conditions and give the tenant 1 **month** to remove the additional pet from the property.

If after one month has elapsed and the tenant fails to remove the additional pet from the property the Tenancy Management Officer shall commence possession action on the grounds that the tenant has failed to comply with the conditions of tenancy. The TMO shall follow the procedures for possession proceedings in Appendix 2C of the ASB Work Instructions and refer the matter to the Legal Department to draft a Notice of Seeking Possession.

The Tenancy Management Officer shall make reasonable checks to establish whether the additional pet is still in the property after the Notice has expired before completing the Particulars of Claim to the Legal Department.

The Tenancy Management Officer will need to obtain witness statements from residents and act as witnesses in court where appropriate. The complainant will normally be expected to give evidence in court along with any other witnesses. If there is suspected abuse of a pet(s) the TMO shall report the matter to the Animal Warden/ RSPCA immediately. **When dealing with elderly /vulnerable tenants the TMO should exercise discretion and seek further advice from the TLTM if necessary.**

2.5 Fouling of Land.

Under the Dogs (Fouling of Land Act) 1996 local authorities could designate certain geographically defined areas of land in order to then be able to enforce or prosecute for breaches that took place on these particular pieces of land.

We have not listed, for this policy note, every piece of land which the Borough's has designated. If you have any queries as to whether a certain area of land comes within this Act you should seek advice from Environmental Services, initially the Enforcement Team.

These particular pieces of land could include:-

Some or all Pavements in certain defined areas

Some or all Parks and children's play areas in certain defined areas

Some or all Public rights of way in certain defined areas

Some or all publicly owned land and facilities in certain defined areas

Some or all Public Highways in certain defined areas

The TMO shall using Standard Memorandum (PET/6)) report all complaints received of animal fouling on designated land where owners commit an offence if they do not clear up faeces (Dog Fouling of Land Act 1996) direct to the Street Enforcement Service (Tel 5230 or 5240) within 5 days of the initial complaint.

The Street Enforcement Service have powers to tackle irresponsible dog owners who allow a dog to foul public land, and do not make provision for the removal of the waste. The TMO shall also at the same time report the matter to the Animal Warden.

Where evidence is obtained that clearly identifies a tenant the TMO shall at the same time of reporting the matter to the Enforcement Team write to the tenant using letter (PET/7)) within 5 days of any notification of enforcement action by the enforcement team and remind the tenant of their obligations under the tenancy agreement.

The Tenancy Management Officer shall write to the Enforcement Team within 3 months of the initial complaint in order to follow-up the initial complaint and determine whether the enforcement team has chosen to take action or otherwise.

At the same time the TMO shall carry out a full investigation into the matter including interviewing neighbours, Estates Services Officers and concierge Staff where appropriate. Where appropriate the TMO should consider the services of a professional witness and should liaise with the Anti-Social Behaviour Team in this respect.

IF the Enforcement Team confirms that the tenant has been convicted and possibly fined and had costs ordered against them in a Magistrates Court following the allegations of dog nuisance the Tenancy Management Officer shall write to the tenant to remind them of their tenancy conditions and monitor the situation. In the event of further pet nuisance consideration should be given as to whether further legal action for e.g. injunction proceedings, possession proceedings or an ASBO is appropriate

The Tenancy Management Officer shall follow the procedure for dealing with nuisance in appendix 2C of the Anti-Social Behaviour procedures and refer the matter to the ASBAT legal team for further action.

If the decision is to serve a Notice of seeking Possession and there are any further incidents after the Nosp has expired consideration should be given to whether legal action is now required. The Tenancy Management Officer shall liaise with the ASBAT legal Team in this respect and keep the complainant informed of any proposed action.

2.6 Dangerous dogs.

The Dangerous Dogs Act 1989 and 1991 gives the local authority and the police powers to deal with dangerous dogs. It is considered an offence to be in possession of a dog bred for the purpose of fighting or aggressive acts. The following dogs are identified as dangerous dogs:

Pit bull Terrier
Japanese Tosa
The Argentinean Brazillia a mastiff type
Fila Brasileiro

Where a dog is considered to be a dangerous dog the Tenancy Management Officer shall report the matter to the police or the Enforcement Team Animal Warden who has powers to deal with the matter.

If it is confirmed that the dog falls under the dangerous dog category, the Tenancy Management Officer will seek confirmation in writing from the Animal Warden and write to the tenant reminding them of their tenancy obligations under section 12 of the Tenancy agreement with regards to the Dangerous Dog Act. In the event of any further incidents possession may be considered and the Tenancy Management officer should seek the advice of the ASBAT legal Team in this respect.

2.7 Dog out of Control/Not on lead...

It is a condition of the Tenancy agreement that all dogs should be kept on a lead whilst on housing estates. Where it is reported that a dog is not on a lead on the estate and the tenant is identified the TMO shall write to the tenant using letter (PET/8) within 7 days of receiving a complaint and feedback to the complainant any proposed action using letter ()

If the problem persists the TMO should invite the tenant into the Area office to sign an undertaking (DD 057/1) and consider taking possession action where the tenant fails to comply on the grounds that the tenant has failed to adhere to the tenancy conditions

Where this type of nuisance is linked to other forms of anti-social behaviour on estates i.e. drugs, intimidation the TMO shall carry out a full investigation in line with the procedures for dealing with anti-social

behaviour. The Tenancy Management Officer shall liaise with ASBAT in this respect who will take the lead and carry out further investigations and refer the matter to the ASBAT legal Team who will advise on appropriate action e.g. ASBOs or injunctions.

ABC should be considered in low level cases and in extreme cases an ASBO should be considered. The Tenancy Management Officer should liaise with ASBAT in this respect

2.8 Noise and Smells From domestic pets.

Incessant Barking -The TMO should follow the procedures for dealing with noise nuisance (Refer to ASB Work Instructions) where complaints are received regarding incessant dog barking.

Smells- The TMO should report within 5 days all matters of foul smells to the Enforcement Team who has powers to act in the matter . The Enforcement team will aim to contact the tenant within 2 days of receiving the report. The Tenancy Management Officer shall liaise with the Enforcement Team and write to the tenant (PET/9) within 10 days of the visit by the Enforcement Team reminding them of their tenancy condition if appropriate...

If the smell is linked to pet nuisance the TMO shall take action as stated above and report the matter to the RSPCA at the same time of making the referral to the Enforcement Team.

Where the problem persists the TMO shall follow the ASB Work Instructions Procedures for dealing with nuisance

For vulnerable tenants the TMO should also consider using a multi-agency approach to resolve the problem and make a referral to the appropriate agency where the tenant is not currently receiving support.

2.9 Neglected / Abused Pets.

Where there is suspected neglect or abuse of any type of animal the Tenancy Management Officer shall contact the Animal Warden immediately who has powers of prosecution. The TMO should also arrange joint visit/ access as appropriate. The TMO should also report the matter to the RSPCA. If the tenant is vulnerable the TMO shall adopt a multi-agency approach and involve the appropriate agency if necessary.

2.10 Stray Animals

The Environmental Protection Act 1990 imposes a duty on Director of the local Environmental Health Service to take responsibility to capture stray dogs within the local district.

The Tenancy Management Officer shall report any complaints received regarding a stray animal to the Animal Warden immediately on (0208 489 5230 or 5240)

2.11 Evictions.

In cases of evictions including rent arrears the Tenancy Management Officer/Income Officer shall contact the Animal Warden at least 1 week prior to the eviction to make arrangements to attend where the presence of a pet animal could jeopardise the eviction. An order should be raised through the Customer Service Admin Team for the services of the Animal Warden.

3.0 Legal Remedies for Animal Nuisance.

These should be considered where the nuisance is ongoing and the perpetrator refuses to change their behaviour or where a serious breach of tenancy conditions occurs.

Injunctions- These should be considered first before any other type of legal action and is much quicker than possession proceedings. Consideration may also be given to seeking an Anti-Social Behaviour order in extreme cases.

Possession proceedings- the nuisance would have to constitute anti-social behaviour in order to reach the point that consideration of possession proceedings.

4.0 Tenancy Agreement- Section 12

1. You must ensure that any domestic pet is kept under control
2. If your flat or maisonette does not have its own garden for your exclusive use (this does not include communal gardens). You must not keep more than one dog or cat (but not one of each). You may keep an additional dog or cat which you owned at 1st April 1996, if you were a council tenant at the time.
3. You must comply with the requirements of the Dangerous Dog Act 1991.
4. Dogs must be kept on a lead whilst on estate roads or in any other part of the communal parts of any housing estate.
5. Dogs must not be allowed to foul pavements or verges of estate roads or any part of the communal parts of any Council Housing Estate.

6. Dogs must not be allowed to enter any fenced play-areas of any Council housing estate.

5.0 Leaseholders

There are specific clauses in the lease which directly refers to pets and therefore leaseholders are also required to make sure that any domestic pet is kept under proper control both inside and outside their home. Where reports involving a leaseholder's pet is received the TMO shall follow the above procedure and take appropriate action where leasehold conditions are breached...

6.0 Leasehold Conditions

7.0 Consultation

The following groups were consulted:

Working Party consisting of Housing managers /NHM
Legal
ASBAT
Enforcement Team

Tenants & Estate Management Residents Panel -the draft policy was presented to the Tenants & Estate Management Residents Panel on the 7 March 2006. Comments around linking the procedures to Anti-social behaviour especially where dogs are used in drug related/intimidation of residents incidents. This has now been incorporated into the procedures. It was also suggested that a leaflet was produced following the introduction of the new procedures. This is a project to be undertaken at a later date.

8.0 Other Local Authorities.

South Ayrshire council – has an Estates Management policy around Animals and has produced a code of conduct for dog owners. Tenants in multi-story flats are not permitted to keep dogs and usually will be given 4 weeks to remove animal or face possession proceedings. Section 49 of the Civic Government (Scotland) Act 1982 allows the district court to make an order requiring the person to take steps to prevent continuous annoyance. In extreme instances an ASBO is considered in dealing with cases involving pets.

Camden Council - deals with the issues of pets under its Nuisance and harassment procedures. They aim to maintain a lot of personal contact with the tenant in the initial stages of the complaint . In terms of leaflets around pet nuisance leaflets were produced in the past however, nothing current.