



NOTICE OF MEETING

Notice is hereby given the Hearings Panel will be held in the Council Chamber, First Floor, Te Hīnaki Civic Building, 101 Esk Street, Invercargill on Tuesday 15 August 2023 at 1.00 pm

Cr D J Ludlow (Invercargill City Council)
Cr L F Soper (Invercargill City Council)
CR T Boyle (Invercargill City Council)

MICHAEL DAY
CHIEF EXECUTIVE

Hearing Panel to Hear Dog Complaint

Council Chambers, Level One, 101 Esk Street, Invercargill

15 August 2023 01:00 PM

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BEFORE THE HEARINGS COMMITTEE

IN THE MATTER of the Dog Control Act 1996

BETWEEN Danuta Helena Jadwiga Boniface
Appellant

AND **INVERCARGILL CITY COUNCIL**
Respondent

**IN RESPECT OF AN OBJECTION TO THE DISQUALIFICATION
FROM OWNING DOGS**

Held in the Council Chambers, Civic Administration Building
15 August 2023

APPELLANT	Danuta Boniface, the owner of <i>Argos and Zara</i>
NAME OF DOGS	<i>Argos and Zara</i>
SITE OF INCIDENT	The area proximate to 20 Hardy Street, Invercargill. <i>Appendix 1</i> is an aerial photograph of the site where the incident occurred.
DATE OF INCIDENTS	Incident date of each infringement: <ul style="list-style-type: none">▪ 5 December 2022▪ 31 January 2023▪ 14 May 2023
RESPONSIBLE OFFICER	Melissa Palmer, Animal Control Officer is a warranted officer pursuant to Section 11 of the Dog Control Act 1996 (Warrant No. 2023/01).
REPORTING OFFICER	Gillian Cavanagh, Manager – Environmental Services is a warranted officer pursuant to Section 11 of the Dog Control Act 1996 (Warrant No. 2022/88).
PROCESS	<p>The three incidents leading to disqualification from dog ownership occurred on 5 December 2022, 31 January 2023 and 14 May 2023. Because of the third incident the dog <i>Argos</i> was impounded on 14 May 2023; <i>Zara</i> was impounded on 30 June 2023.</p> <p>On 5 December 2022, <i>Argos</i> was picked up and impounded as a result of a complaint about a wandering dog in the Hardy/Wellington Street area.</p> <p>Due to the dogs menacing classification, a property inspection was completed before the dog was released. The dog was released on 13 December 2022 and infringement notice 5811 issued for failing to comply with classification as menacing, section 33EC(1).</p> <p>On 31 January 2023, <i>Argos</i> was picked up and impounded as a result of a complaint about a wandering dog in the Hardy/Wellington Street area.</p> <p>Due to the dogs menacing classification, a property inspection was completed before the dog was released. The dog was released on 13 December 2022 and infringement notice 5818 issued for failing to comply with classification as menacing, section 33EC(1).</p> <p>On 14 May 2023, <i>Argos</i> was picked up and impounded as a result of a complaint about a found dog in Chapman Street.</p>

On 14 May 2023 infringement notice 6504 was issued for failing to comply with classification as menacing, section 33EC(1).

As this was the third infringement for failing to comply with classification as menacing (Section 33EC(1)) in a continuous 24 month period the Animal Control Officer prepared an investigation report setting out the options under the Dog Control Act 1996.

The following options were considered:

- Infringing for failure to control under section 52(2)(b) of the Dog Control Act 1996, this has a penalty of \$200 per dog
- Prosecute under section 57(1)(a) of the Dog Control Act 1996
- Disqualification from dog ownership under section 25 of the Dog Control Act 1996
- Probationary owner under section 23 of the Dog Control Act 1996.

On 12 June 2023, the Manager – Environmental Services, acting under authority delegated by the Council, decided that the following actions were to be undertaken:

- Disqualification from dog ownership under section 25 of the Dog Control Act 1996 for a period of five years.

On 12 June 2023, the Notice of disqualification from Dog Ownership was served on the appellant.

OBJECTION

On 26 June 2023, the appellant requested a Hearing to consider the Manager – Environmental Services decision to issue a notice of disqualification from dog ownership.

To enable the Hearings Panel to consider the objection under section 26 of the Act, the panel shall consider:

- (a) the circumstances and nature of the offence or offence in respect of which the person was disqualified; and
- (b) the competency of the person objecting in terms of the responsible dog ownership; and
- (c) any steps taken by the owner to prevent further offences; and
- (d) the matters advanced in support of the objection; and
- (e) any other relevant matters.

1. THE INCIDENT

After three incidents of *Argos* found wandering over a 6-month period and taking into account the history of the dog owner, Danuta Boniface was served a notice of disqualification from dog ownership for a period of five years.

Argos and *Zara* both classified as menacing by deed.

2. BREACHES OF THE DOG CONTROL ACT 1996

It is my conclusion that the following offences have occurred:

- *Argos* was not confined or under control, as required by Section 52A of the Act
- Failure to comply with classification as menacing, as required by Section 33E of the Act

3. THE INVESTIGATION

3.1 Evidence

3.1.1 Menacing Classification

Argos and *Zara* were classified as menacing by deed after a dog attack on 26 November 2020. The dog attack involved both dogs attacking another dog as its owner and her son walked it on lead. There was a second attack before a witness intervened to help. The dogs were able to attack as they were out wandering at the time.

The outcome of the investigation into the dog attack was:

- The dogs were classified as menacing under Section 33A of the Act
- The appellant was infringed under Section 52A (failure to keep dog controlled or confined) of the Act.

The appellant disputes the menacing classification and the lack of a hearing to receive an objection. Council within the required timeframe received no objection to the classification and this was confirmed with the appellant at the time.

3.1.2 Wandering Incidents

Argos has been impounded for wandering on four occasions between 5 December 2022 and 14 May 2023. Each incident has been due to a complaint from people in the Hardy/Wellington Street area, with complainants suggesting this is an ongoing issue.

Infringement have been issued to the appellant for three of the four incidents. Because *Argos* is classified as menacing, each infringement is for failing to comply with the menacing classification. If the dog were not classified the infringement would be for failing to keep dog controlled or confined (section 52A of the Act).

3.1.3 Decision to Disqualify

An investigation report (*Appendix 4*) considered the options available to council after the third infringement. The report noted the appellant has had multiple opportunities from previous incidents to rectify the

situation; this included property inspections; verbal education and warnings; and the infringement notices.

The decision was made to disqualify the appellant based on the three infringements in a continuous 24-month period and the documented history of council's interactions with appellant as a dog owner.

4. THE OBJECTION

On 26 June 2023 the Council received correspondence from the appellant (*Appendix 2*) requesting a Hearing to be convened to consider overturning the decision by the Manager – Environmental Services.

5. HISTORY OF THE OFFENDING DOG AND OWNER

5.1 Registration details

Dog Name	Ref No	Breed	Colour	Desexed	Address	Owner	Reg Class
Zara	30189	German Shepherd X	Black and Tan	Yes	20 Hardy St Invercargill	Danuta Boniface	Menacing Desexed
Argos	32553	Rottweiler X	Black and Brindle	Yes	20 Hardy St Invercargill	Danuta Boniface	Menacing Desexed

5.2 Assessment of the dog's behaviour

Animal Control Officers have provided the following assessments of *Argos* and *Zara* while they at the Animal Care Facility.

Argos – is friendly, playful and approachable with people; he has shown aggression towards other dogs. He does show tendencies to guard areas that he becomes familiar with e.g. front area when exercising and playing with *Zara*.

Zara – has shown aggression towards other female dogs when we had her on heat, otherwise she fine with people and playful as well. Does show tendencies to guard areas that she becomes familiar with e.g. front area when exercising and playing with *Argos*.

5.3 Previous offences

The tables below show the RFS/complaint, infringement, impoundment and classification history of all dog's owner by Danuta Boniface.

Argos and *Zara* have 71 RFS/complaints over a period of nine years, seven infringements and 12 impoundments.

The infringements specific to this hearing are 6504, 5818 and 5811. These infringements relate to RFS 393782, 387661 and 384927.

5.4 Dog owner's history

The tables below show the history of council's interactions with Danuta Boniface as a dog owner; this includes 112 dog-related RFS/complaints, 7 infringements, 15 impoundments, the classification of *Argos* and *Zara* as menacing by deed and disqualification of Danuta Boniface as an owner.

Analysis of all RFS/complaints by type:

- Dog attacks - 3
- Barking - 68
- Dangerous/Menacing - 1
- Found/Wandering - 17
- Other misc. - 23

Table of Infringements

Notice No.	Date	Reference	Offence Type	Dog(S)
6504	14/05/2023	1957/2023-GREEN	Fail to Comply Classification as Menacing/33EC(1)	Argos
5818	31/01/2023	1957/2023-GREEN	Fail to Comply Classification as Menacing/33EC(1)	Argos

5811	5/12/2022	1957/2023- GREEN	Fail to Comply Classification as Menacing/33EC(1)	Argos
5294	26/11/2020	2102/2021- BLUE	Fail to Keep Dog Controlled or Confined/52A	Argos
5293	26/11/2020	2101/2021- BLUE	Fail to Keep Dog Controlled or Confined/52A	Zara
6141	6/04/2020	6120/2020- YELLOW	Fail to Comply with Bylaw/20(5)	Zara
4775	1/12/2017	6034/2017- BLUE	Fail to Keep Dog Controlled or Confined/52A	Zara

Table of RFS/Complaints

Request No.	Request Status	Request Type	Date Received	Dog(s)
393782	Dog Impounded (yes owner)	Dog Found	14/05/2023	Argos and Zara
387661	Dog Released	Dog Wandering / Fouling Complaint	31/01/2023	Argos
386110	Dog Released	Dog Found	8/01/2023	Argos
384927	Dog Released	Dog Wandering / Fouling Complaint	5/12/2022	Argos
343514	Actioned	Dog Barking Complaint	25/02/2021	Argos and Zara
337949	No Action Required	Dog Enquiries	29/11/2020	Argos and Zara
337864	Actioned	Dog Found	27/11/2020	Argos and Zara
337838	Returned to Owner	Dog Attacking Animal	26/11/2020	Argos and Zara
337836	No Action Required	Dog Barking Complaint	26/11/2020	Argos and Zara
337696	Actioned	Dog Barking Complaint	25/11/2020	Argos and Zara
337682	Actioned	Dog Barking Complaint	25/11/2020	Argos and Zara
337629	Actioned	Dog Barking Complaint	25/11/2020	Argos and Zara
337619	Actioned	Dog Barking Complaint	25/11/2020	Argos and Zara
337618	Actioned	Dog Barking Complaint	25/11/2020	Argos and Zara
337221	Actioned	Dog Barking Complaint	19/11/2020	Argos and Zara
336838	Actioned	Dog Barking Complaint	13/11/2020	Argos and Zara
331556	Actioned	Dog Barking Complaint	4/09/2020	Argos and Zara
328741	Actioned	Dog Barking Complaint	26/07/2020	Argos and Zara
322611	Actioned	Dog Barking Complaint	7/05/2020	Argos and Zara

322582	Actioned	Dog Barking Complaint	7/05/2020	Argos and Zara
322580	Actioned	Dog Barking Complaint	6/05/2020	Argos and Zara
322579	Actioned	Dog Barking Complaint	6/05/2020	Argos and Zara
322030	Actioned	Dog Barking Complaint	24/04/2020	Argos and Zara
321539	Actioned	Dog Barking Complaint	6/04/2020	Argos and Zara
321519	Actioned	Dog Barking Complaint	6/04/2020	Argos and Zara
316262	Actioned	Dog Barking Complaint	27/01/2020	Argos and Zara
316260	Actioned	Dog Barking Complaint	27/01/2020	Argos and Zara
314045	Actioned	Dog Barking Complaint	18/12/2019	Argos and Zara
312134	Dog Released	Dog Enquiries	23/11/2019	Argos and Zara
312130	Actioned	Dog Barking Complaint	23/11/2019	Argos and Zara
292388	Actioned	Dog Barking Complaint	11/03/2019	Argos and Zara
276163	Actioned	Dog Barking Complaint	13/08/2018	Argos and Zara
276115	Actioned	Dog Barking Complaint	11/08/2018	Argos and Zara
275924	Actioned	Dog Barking Complaint	9/08/2018	Argos and Zara
275922	No Action Required	Dog Barking Complaint	9/08/2018	Argos and Zara
270364	Actioned	Dog Barking Complaint	24/05/2018	Argos and Zara
260952	Actioned	Dog Enquiries	18/01/2018	Argos and Zara
260948	Dog Released	Dog Barking Complaint	17/01/2018	Argos and Zara
260783	Actioned	Dog Barking Complaint	16/01/2018	Argos and Zara
258215	Dog Released	Dog Wandering / Fouling Complaint	1/12/2017	Zara
258212	Dog Released	Dog Wandering / Fouling Complaint	1/12/2017	Zara
255872	Actioned	Dog Enquiries	1/11/2017	Argos and Zara
246872	Actioned	Dog Enquiries	29/06/2017	Argos and Zara
245957	Actioned	Dog Barking Complaint	18/06/2017	Argos and Zara
241049	Actioned	Dog Barking Complaint	10/04/2017	Argos and Zara
236540	Actioned	Dog Wandering / Fouling Complaint	13/02/2017	Argos and Zara

225259	No Action Required	Dog Enquiries	24/08/2016	Argos and Zara
210463	Actioned	Dog Miscellaneous Animal Complaint	12/02/2016	Argos
210302	Actioned	Dog Miscellaneous Animal Complaint	10/02/2016	Argos
199041	Actioned	Dog Barking Complaint	25/08/2015	Zara
198595	Actioned	Dog Barking Complaint	19/08/2015	Zara
195363	No Action Required	Dog Miscellaneous Animal Complaint	9/07/2015	Zara
195117	Actioned	Dog Barking Complaint	7/07/2015	Zara
194253	Actioned	Dog Enquiries	25/06/2015	Zara
193933	Actioned	Dog Enquiries	22/06/2015	Zara
193716	Actioned	Dog Barking Complaint	18/06/2015	Zara
193326	Actioned	Dog Barking Complaint	12/06/2015	Zara
193310	Actioned	Dog Barking Complaint	12/06/2015	Zara
193254	Actioned	Dog Barking Complaint	12/06/2015	Zara
193233	Actioned	Dog Barking Complaint	11/06/2015	Zara
193199	Actioned	Dog Barking Complaint	11/06/2015	Zara
193197	Actioned	Dog Barking Complaint	11/06/2015	Zara
193196	Actioned	Dog Barking Complaint	11/06/2015	Zara
191958	Actioned	Dog Barking Complaint	25/05/2015	Zara
191931	Actioned	Dog Barking Complaint	24/05/2015	Zara
189449	Actioned	Dog Barking Complaint	18/04/2015	Zara
188400	Actioned	Dog Enquiries	30/03/2015	Zara
188159	Actioned	Dog Barking Complaint	26/03/2015	Zara
184353	Actioned	Dog Barking Complaint	4/02/2015	Zara
183352	Actioned	Dog Enquiries	22/01/2015	Zara
175629	Dog First letter sent	Dog Barking Complaint	22/09/2014	Zara
172660	Actioned	Dog Wandering / Fouling Complaint	12/08/2014	Hugo
172367	Actioned	Re-Registration (Form Only)	8/08/2014	Rolly and Bella
163377	Actioned	Dog Enquiries	8/04/2014	Bella
159930	Actioned	Dog Wandering / Fouling Complaint	18/02/2014	Rolly and Bella
159750	Actioned	Dog Barking Complaint	17/02/2014	Rolly and Bella
159429	Actioned	Dog Barking Complaint	11/02/2014	Bella
158991	No Action Required	Dog Miscellaneous Animal Complaint	4/02/2014	Rolly and Bella
158659	Actioned	Dog Barking Complaint	31/01/2014	Rolly and Bella
157442	Actioned	Dog Miscellaneous Animal Complaint	14/01/2014	Rolly
155768	Dog Impounded (no owner)	Dog Wandering / Fouling Complaint	9/12/2013	Bella

Hearing Panel to Hear Dog Complaint - Report - Objection to Disqualification as an Owner

150841	Destroyed	Dog Dangerous / Menacing Complaint	3/10/2013	Rolly and Bella
149043	Actioned	Dog Barking Complaint	6/09/2013	Rolly and Bella
148954	Actioned	Dog Wandering / Fouling Complaint	6/09/2013	Rolly and Bella
146246	Returned to Owner	Dog Wandering / Fouling Complaint	2/08/2013	Bella
144378	Actioned	Dog Barking Complaint	16/07/2013	Rolly and Bella
144235	Actioned	Dog Barking Complaint	15/07/2013	Rolly and Bella
142127	Actioned	Dog Enquiries	17/06/2013	Bella
142045	Dog Released	Dog Wandering / Fouling Complaint	17/06/2013	Bella
136818	Actioned	Dog Barking Complaint	5/04/2013	Rolly and Bella
136433	Actioned	Dog Wandering / Fouling Complaint	28/03/2013	Rolly
132942	Actioned	Dog Barking Complaint	11/02/2013	Rolly and Bella
122699	Actioned	Dog Registration (Form Only)	6/09/2012	Rolly and Bella
122533	Returned to Owner	Dog Wandering / Fouling Complaint	5/09/2012	Bella
115693	Actioned	Dog Barking Complaint	12/06/2012	Bella
112752	Actioned	Dog Barking Complaint	1/05/2012	Rolly and Bella
112543	Dog Warning Letter sent	Dog Wandering / Fouling Complaint	27/04/2012	Rolly and Bella
111946	Completed	Dog Barking Complaint	19/04/2012	Rolly
107994	Completed	Dog Barking Complaint	17/02/2012	Rolly and Bella
106329	Dog Third letter sent	Dog Barking Complaint	23/01/2012	Rolly and Bella
105831	Actioned	Dog Barking Complaint	16/01/2012	Rolly and Bella
105661	Dog First letter sent	Dog Barking Complaint	11/01/2012	Rolly
104646	Actioned	Dog Enquiries	16/12/2011	Bella
99671	Completed	Dog Attacking People	4/10/2011	Bella
97846	Completed	Dog Attacking People	6/09/2011	Bella
96565	Actioned	Dog Registration (Form Only)	18/08/2011	Bella
96426	Completed	Dog Barking Complaint	17/08/2011	Bella
93558	Actioned	Dog Barking Complaint	18/07/2011	Poppy
81957	Actioned	Dog Change of Owner (Form Only)	15/02/2011	Poppy
81870	Completed	Dog Barking Complaint	14/02/2011	Bella
80470	Dog First letter sent	Dog Barking Complaint	25/01/2011	Poppy
65265	Actioned	Dog Change of Owner (Form Only)	31/05/2010	Poppy

Table of Impoundments

Impound No.	Date	RFS Reference	Description	Dog(s)
154952	30/06/2023	393782	Dog Impoundment	Zara
154911	14/05/2023	393782	Dog Impoundment	Argos
154794	31/01/2023	387661	Dog Impoundment	Argos
154763	8/01/2023	386110	Dog Impoundment	Argos
154732	5/12/2022	384927	Dog Impoundment	Argos
153989	27/11/2020	337864	Dog Impoundment	Argos
153990	27/11/2020	337864	Dog Impoundment	Zara
153426	23/11/2019	312134	Dog Impoundment	Argos
153428	23/11/2019	312134	Dog Impoundment	Zara
152195	17/01/2018	260948	Dog Impoundment	Argos
152196	17/01/2018	260948	Dog Impoundment	Zara
152130	1/12/2017	258212 258215	Dog Impoundment	Zara
4180	8/04/2014	150841	Dog Impoundment	Rolly
4179	8/04/2014	150841	Dog Impoundment	Bella
3736	16/06/2013	142045	Dog Impoundment	Bella

Table of Classifications

Number	Date	Description	Dog(s)
DO/2023/20	16/05/2023	Disqualified Owner	Argos and Zara
MEN/2020/45	23/12/2020	Menacing classification – deed	Argos
MEN/2020/46	23/12/2020	Menacing classification – deed	Zara

5. CONSIDERATION OF THE DOG CONTROL ACT 1996

Relevant sections of the Dog Control Act 1996 are appended as *Appendix 6*.

Relevant part of the Act

25 Disqualification of owners

- (1) A territorial authority must disqualify a person from being an owner of a dog if—
 - (a) the person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months; or
 - (b) the person is convicted of an offence (not being an infringement offence) against this Act; or
 - (c) the person is convicted of an offence against Part 1 or Part 2 of the Animal Welfare Act 1999, section 26ZZP of the Conservation Act 1987, or section 56I of the National Parks Act 1980.
- (1A) Subsection (1) does not apply if the territorial authority is satisfied that the circumstances of the offence or offences are such that—
 - (a) disqualification is not warranted; or
 - (b) the territorial authority will instead classify the person as a probationary owner under section 21.
- (2) For the purposes of subsection (1)(a), a person must be treated as having committed an infringement offence if—
 - (a) that person has been ordered to pay a fine and costs under section 375 of the Criminal Procedure Act 2011, or is deemed to have been so ordered under section 21(5) of the Summary Proceedings Act 1957; or
 - (b) the infringement fee specified on the infringement notice in respect of the offence issued to the person under section 66 has been paid.
- (3) A disqualification under subsection (1) continues in force for a period specified by the territorial authority not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.
- (4) If a person is disqualified under subsection (1), the territorial authority must, as soon as practicable, give written notice in the prescribed form to the person of that decision.

Comment

The owner of *Argos* and *Zara* has an obligation under the Act to control their dogs and ensure they do not cause a nuisance to other people. Four incidents of wandering in a short period of time would indicate the owner of *Argos* and *Zara* is not able to meet the requirements to properly contain dogs that are classified.

7. RECOMMENDATION

It is my recommendation that the disqualification for dog ownership imposed on Danuta Boniface be upheld. The reasons for my recommendation are:

1. *Argos* has a history of wandering, with four incidents since December 2022.
2. Danuta Boniface has demonstrated she is not meet the obligations of dog owners as required by Section 5 of the Act; specifically Section 5(1)(b) to ensure that the dog is kept under control at all times.
3. Danuta Boniface has demonstrated she is not able to meet the requirements of confining and controlling dogs with a menacing classification. Specifically Section 33E(1)(a) that the owner “must not allow the dog to be at large or in any public place or in any private way, except when confirmed completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction.”

Gillian Cavanagh

MANAGER – ENVIRONMENTAL SERVICES

APPENDICES

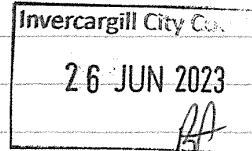
- Appendix 1** Aerial Photograph of 20 Hardy Street, Invercargill
- Appendix 2** Objection to Disqualification from Dog Ownership
- Appendix 3** Notice of Disqualification from Dog Ownership
- Appendix 4** Investigation Report
- Appendix 5** RFS Details for incident infringements leading to disqualification
- Appendix 6** Dog Control Act 1996 (relevant sections only)



Dania Bielecki-Boniface
20 Hardy St,
Invercargill 9812
ph. 027 945 2888

Attention Please:

Gillian Cavanagh,
Manager,
Environmental Services,
I.C.C.



Dear Madam,

OBJECTION TO DISQUALIFICATION
OF DOG OWNERSHIP

GROUNDSE INCLUDE, BUT NOT LIMITED TO
THE FOLLOWING, AS HAD IT NOT BEEN FOR
THE "MENACING CLASSIFICATION" IN THE FIRST
INSTANCE, THE SUBSEQUENT NOTICE OF
DOG DISQUALIFICATION WOULD NOT EXIST.

1. I have always previously disputed the "Menacing Classification" to which I wrote submissions which do not appear to have been at all considered, nor have I had a response to them despite numerous requests.
2. The "Menacing Classifications" and the "Dog Owner Disqualification" cannot be viewed in isolation as they are both correlated, so I wish to object to both the process and the decisions for all the reasons I have previously stated in writing, verbally and more recently sent by txt to Jo Cockcroft.
3. I maintain that the "menacing classifications"

2.

for either each individual dog or oddly, "jointly" were fundamentally flawed, based on false premises, as the reason they "left" my property on the first occasion was instigated by a persistent, repeat offender who lawlessly released my dogs as she often threatened. Police are well aware of the ongoing problems and they have served her with a trespass order.

4. I do not believe a proper or thorough investigation occurred as the circumstances which led to Argos and Zara, don't seem to have been considered. To spare repetition, please refer to my earlier submissions in this regard.

5. Argos and Zara were confined and contained within an enclosure that they could not escape from without unlawful human interference. A "kase human" penetrated my property and even removed the secure fasteners and restraints from the enclosure itself, plus a new dog collar.

6. I had my dogs controlled and contained within my property in such a way that only the behaviour of a dishonest and vigilante-style offender would even consider to endanger the lives of my dogs or cause a potential traffic fatality by setting them loose. I took all reasonable steps as a responsible dog owner, but this was extreme behaviour that was beyond my control.

7. In the absence of any evidence to the contrary, it appears that, according to what was stated, an encounter with a grandmother

walking her grandchild and dog she, picked up in her arms, resulted in a superficial scratch and a tear to her clothing.

The degree seemed to be very minor but, despite my request, no evidence was actually offered. Just an unsubstantiated statement.

8. There was no credit that both Argos and Zara were 100% incident-free, despite extensive socialisation and daily dog-park excursions.

9. Both are well-socialised, gentle friendly, obedient, placid dogs, well-trained and not in the least aggressive.

What Argos displayed was normal canine behaviour when a person picks up a dog in their arms. A dog's instinct is to want to reach it.

10. It was never established, objectively, if Argos' intent was accidental or deliberate. He escalated immediately to "menacing" jointly with Zara.

An aggressive dog will continue. He did not continue, not even when he was kicked. Zara did not retaliate either.

11. Lack of objectivity, breed bias and a very hardlined decision was made, inconsistent and discriminatory to both dogs.

Unjustly and unfairly, they were both jointly charged as "menacing".

This is a manifestly excessive response and over-reaction to one encounter.

12. The decision was opinion-based and fear-based, rather than evidence-based

4.

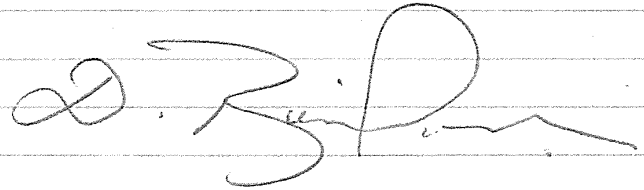
in a fair and reasonable, impartial manner.

13. Health and safety, my well-being is largely dependant on my relationship with Agos and Zara.

Together and raised since puppies, they are very compatible, companion dogs and the classification of "menacing" is a misnomer, a fallacy and an extreme over-reaction.

14. It is a blatant "Mis-classification."

A miscarriage of Justice for Agos + Zara.
Please refer to all the previous typed and handwritten material supplied.





Licence No: DO/2023/20
Ref: 02898363.doc

NOTICE OF DISQUALIFICATION FROM DOG OWNERSHIP (Section 25, Dog Control Act 1996)

Name: Danuta Helena Jadwiga Boniface
Address: 20 Hardy Street,
INVERCARGILL 9812

This is to notify you that you have been disqualified under Section 25 of the Dog Control Act 1996 from owning any dog.

25 Disqualification of owners

- (1) A territorial authority must disqualify a person from being an owner of a dog if—
- (a) the person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months; or
 - (b) the person is convicted of an offence (not being an infringement offence) against this Act; or
 - (c) the person is convicted of an offence against [Part 1](#) or [Part 2](#) of the Animal Welfare Act 1999, [section 26ZZP](#) of the Conservation Act 1987, or [section 56I](#) of the National Parks Act 1980.
- (1A) Subsection (1) does not apply if the territorial authority is satisfied that the circumstances of the offence or offences are such that—
- (a) disqualification is not warranted; or
 - (b) the territorial authority will instead classify the person as a probationary owner under [section 21](#).
- (2) For the purposes of subsection (1)(a), a person must be treated as having committed an infringement offence if—
- (a) that person has been ordered to pay a fine and costs under [section 375](#) of the Criminal Procedure Act 2011, or is deemed to have been so ordered under [section 21\(5\)](#) of the Summary Proceedings Act 1957; or
 - (b) the infringement fee specified on the infringement notice in respect of the offence issued to the person under [section 66](#) has been paid.
- (3) A disqualification under subsection (1) continues in force for a period specified by the territorial authority not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.
- (4) If a person is disqualified under subsection (1), the territorial authority must, as soon as practicable, give written notice in the prescribed form to the person of that decision.

This follows:

- Three infringements that were issued to you within a continuous period of 24 months.

The disqualification will apply from 12 June 2023 until 12 June 2028.

Section 25(4)

A summary of the effect of the disqualification and your right to object is provided overleaf.

A handwritten signature in blue ink, appearing to read 'Gillian Cavanagh', with a long horizontal stroke extending to the right.

.....
Gillian Cavanagh
MANAGER – ENVIRONMENTAL SERVICES

12 June 2023

.....
(Date)

*For the purposes of the Dog Control Act 1996, you are the owner of a dog if:

- you own the dog; or
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.

EFFECT OF DISQUALIFICATION

Section 28, Dog Control Act 1996

You are required to dispose of every dog owned by you within fourteen (14) days of the date of this notice.

However, you may not dispose of a dog:

- to a person who resides at the same address as you; or
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified.

You may have possession of a dog only for the purpose of:

- preventing it from causing injury, damage, or distress; or
- returning, within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you:

- fail to dispose of every dog owned by you within 14 days of this notice; or
- at any time while disqualified, become the owner of any dog; or
- dispose of a dog owned by you:
 - to a person who resides at the same address as you; or
 - in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended.

You will also commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under Section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO DISQUALIFICATION

Section 26, Dog Control Act 1996

You may object to the disqualification by lodging a written objection with the Invercargill City Council setting out the grounds on which you object. There is a fee of \$750.00. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard. No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within fourteen (14) days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until the Invercargill City Council has determined the objection.

There is a further right of appeal to a District Court if you are dissatisfied with the decision of the Invercargill City Council on your objection.

Schedule form 3: substituted, on 1 November 2004, by regulation 3 of the Dog Control (Prescribed Forms) Amendment Regulations 2004 (SR 2004/354).

12 June 2023

Danuta Helena Jadwiga Boniface
20 Hardy Street,
INVERCARGILL 9812

Dear Danuta

NOTICE OF DISQUALIFICATION OF DOG OWNERSHIP

Please find enclosed a notice disqualifying you from dog ownership under Section 25(1)(a) and (3) of the Dog Control Act 1996.

This is due to the most recent wandering complaints for *Argos* wandering on Chapman Street, Invercargill.

Three infringements have been issued to you within a continuous period of 24 months. This means that the Dog Control Act requires Council to disqualify you from dog ownership.

If you have any further questions about this matter please do not hesitate to contact Animal Services at the Invercargill City Council on (03) 211 1777 quoting the above request number.

Yours sincerely



Gillian Cavanagh
MANAGER – ENVIRONMENTAL SERVICES

INVESTIGATION REPORT

REPORT TO	Manager of Environmental Services
REPORT FROM	Melissa Palmer
14 MAY 2023 - DISQUALIFICATION DUE TO WANDERING – CHAPMAN STREET, INVERCARGILL	
Date:	22 May 2023

1.0 EXECUTIVE SUMMARY

On the 14th of May 2023 at approximately 7:45am [redacted] advised Customer Services at Invercargill City Council of a dog she found wandering and locked inside of her car at [redacted]. At 8:15am Armourguard went and collected the dog. The dog was described as a Rottweiler X type dog, Black and brindle and had a microchip that linked to a menacing dog named *Argos*. This is his fourth wandering incident within the last six months. The owner in question is Danuta Helena Jadwiga Boniface from 20 Hardy Street, Invercargill. We are seeking to disqualify Boniface as a dog owner under Section 25 of the Dog Control Act 1996.

2.0 RECOMMENDATIONS

I recommend the following:

- Disqualify Danuta Helena Jadwiga Boniface as a dog owner under Section 25 of the Dog Control Act 1996.
- Inform Danuta Helena Jadwiga Boniface of the outcome of the investigation.

3.0 CHRONOLOGY OF THE INCIDENT.

- 14 May 2023 at approximately 7:45am – [redacted] advised Customer Services at Invercargill City Council of holding a dog that was wandering in her car at [redacted].
- 8:15am – Armourguard arrived and collected the dog. Described the dog as Rottweiler X type dog, Black and brindle and had a microchip that linked to *Argos*, a menacing dog, and impounded *Argos*.
- 15 May 2023 at approximately 8:30am – Boniface called through Customer Services at Invercargill City Council and spoke with ACO 65 regarding *Argos* at the pound. Phone call ended before any fees or other information could be advised.
- 17 May 2023 – Infringement issued for failure to comply with the menacing classification of a dog under Section 33EC.

4.0 INVESTIGATION

- On 14th of May 2023 at approximately 8:15am *Argos* was collected for wandering and impounded for the 4 fourth time within a six month period. Boniface has now received her third infringement within a 24 month period and is now eligible for Disqualification under Section 25 of the Dog Control Act 1996.

5.0 OFFICER'S FINDINGS

5.1 History of the dog(s)

10/02/2016 – Miscellaneous complaint – Registration follow up
12/02/2016 – Miscellaneous complaint – Registration and microchip follow up
24/08/2016 – Enquiry – Dog registration
13/02/2017 – Wandering/Fouling – Skinny dog, Fouling complaint, Verbal Education
10/04/2017 – Barking – Verbal advising
18/06/2017 – Barking – Owner used same excuse as previous complaint, verbal.
29/06/2017 – Enquiry – Owner called through re barking above.
01/11/2017 – Enquiry – Owner called re registration and warning given
16/01/2018 – Barking – Referred to 18/01/2018 dogs removed.
17/01/2018 – Barking – SPCA involved, dogs impounded, investigation
18/01/2018 – Enquiry – Referred to 17/01/2018
24/05/2018 – Barking – Complainant called re barking, owner not contacted
09/08/2018 – Barking – Referred to other complaints on 09/08/2018
09/08/2018 – Barking – Follow up unknown referred to 11/08/2018
11/08/2018 – Barking – Referred to 09/08/2018 RFS
13/08/2018 – Barking – SPCA checked dogs, unknown follow up from Animal Control.
11/03/2019 – Barking – Conversation with owner who was possibly moving at the time.
23/11/2019 – Barking – Afterhours Contractor uplifted dog under S15.
23/11/2019 – Enquiry – Police called about abandon dog's welfare issue lean/underweight.
Dog was seized under S15 and S55 (1) (b). Unclean kennel, no clean water access etc.
SPCA got involved with the welfare side then dogs were released back to owner.
18/12/2019 – Barking – Closed as couldn't get a hold of complainant
27/01/2020 – Barking – Bark log issued
27/01/2020 – Barking – Bark log not returned
06/04/2020 – Barking – Referred to other RFS 06/04/2020
06/04/2020 – Barking – Afterhours Contractor spoke to owner, no further follow up known.
24/04/2020 – Barking – Owner awaiting call back.
06/05/2020 – Barking – Referred to RFS on the 07/05/2020
06/05/2020 – Barking – Referred to RFS on the 07/05/2020
07/05/2020 – Barking - Referred to RFS on the 07/05/2020
07/05/2020 – Barking – Animal Control Officers sighted unclean kennels and vocal dogs,
report was sent to the Team Leader and SPCA removed dogs from property.
26/07/2020 – Barking – On going monitoring by Animal Control
04/09/2020 – Barking – Unknown follow up from Animal Control, Complainant stated barking
stopped after calling but had been barking nonstop half an hour before calling.
13/11/2020 – Barking – SPCA following up on property, SPCA believed dogs were not being
exercised. Animal Control decided to close as the barking had no further information and was
more of a welfare concern.
19/11/2020 – Barking – SPCA still visiting for welfare, barking not really followed up but
complaints have been advised to call when they are barking for Animal Control to go and
listen and infringe if needed.
25/11/2020 – Barking – Hedgehog was in enclosure, build-up of bones and smell of faeces.
SPCA notified. Bark logs were sent out.
25/11/2020 – Barking – Referred to other RFS on the 25/11/2020
26/11/2020 – Barking – Dogs were impounded for wandering, suspected fed up neighbour
has let them out but no evidence. Complaints came in for them wandering since 11pm the
night of the 26/11/2020.
26/11/2020 – Dog attack – Dogs were classified as menacing and inspection of property
completed.
27/11/2020 – Dog Found – Dogs were impounded for wondering, SPCA was still following up
on the property, report was signed off and dogs could be released, Owner was hard to get a
hold of and a letter was sent regarding collection of the dogs, Owner became difficult
regarding the payment of the dogs and dogs were released back to owner on the 07/01/2021

29/11/2020 – Owner called regarding getting specific information around the circumstances etc. on who removed her dogs from her property as she was going to police regarding a trespass order no information was supplied.

25/02/2021 – Barking – Animal Control went to the property straight away and no barking heard but a random unknown lady abused them for not doing anything. No further information around follow up.

05/12/2022 – Wandering/Fouling – Inspection, Fees paid and infringement S33EC issued.

08/01/2023 – Wandering/Fouling – Impounded, fees charged, ACO 64 wiped infringement.

31/01/2023 – Wandering/Fouling – Inspection, Fees paid and infringement S33EC issued.

14/05/2023 – Dog found – (this investigation is still ongoing but infringement S33EC issued)

5.2 Registration details

Name of dog	Ref No.	Breed	Colour	Age	Gender	Desexed	Owner	Reg Class
Argos	32553	Rottweiler X	Black/Brindle	7 years 11 Months	Male	Yes	Danuta Helena Jadwiga Boniface	Menacing Desexed
Zara	30189	German Shepherd X	Black/Tan	9 years 2 Months	Female	Yes	Danuta Helena Jadwiga Boniface	Menacing Desexed

5.3 Risk Assessment matrix

High risk as Boniface has shown she has been unable to prove that she can contain a classified dog appropriately as we have had *Argos* four times within a five month period.

5.4 Assessment against the Dog Control Act 1996 and other legal matters

I have considered the following options:

- Infringing Danuta Helena Jadwiga Boniface for failure to control under section 52(2)(b) of the Dog Control Act 1996 (which has a penalty of \$200.00 per dog).
- Prosecuting Danuta Helena Jadwiga Boniface under section 57(1)(a) of the dog Control Act 1996
- Disqualify Danuta Helena Jadwiga Boniface under Section 25 of the Dog Control Act 1996.
- Seek to make Danuta Helena Jadwiga Boniface as a probationary owner under Section 23 of the Dog Control Act 1996.

6.0 CONCLUSION

I believe that disqualification of dog ownership for Boniface is the only outcome as Boniface has shown, repetitively, that she is unable to adhere to the higher standards of owning a classified dog and has dismissed liability for previous wanderings with very limited evidence. Boniface has been given multiple opportunities for previous incidents where property inspections, verbal education and warnings and infringements were given in order to allow Boniface to rectify the situation. Through this history Boniface has shown disregard to these warnings and therefore should be disqualified.

Probationary:

Pros – disqualified for 2 years, can request to undertake training

Cons – can own the already registered dogs but get rid of any unregistered

Disqualification

Pros – disqualified for 5 years, cannot own any dog in this period

Cons – monitoring to ensure that she doesn't get any dogs in her possession

Due to the extensive history of police, SPCA and Animal Control I believe we should disqualify as that means Boniface will not be allowed to own any dog for 5 years and would be more appropriate than a probationary owner as she has shown she is unable to properly contain classified dog and is clearly unfit to care for the dogs as Argos when collected for wandering has lost weight after gaining it when last at the pound and Boniface is always making excuses and never seems to try and fix the issue even with all the warnings and education surrounding the history.

RECOMMENDATION

I recommend the following:

- Disqualify Danuta Helena Jadwiga Boniface as a dog owner under Section 25 of the Dog Control Act 1996.
- Inform Danuta Helena Jadwiga Boniface of the outcome of the investigation.

Melissa Palmer

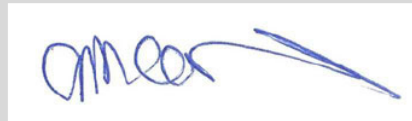
ANIMAL CONTROL OFFICER

DECISION

I agree with the recommendations of the Officer



Jo Cockroft
TEAM LEADER



Gillian Cavanagh
MANAGER

Date 12 June 2023

ED05 DOG WANDERING / FOULING COMPLAINT

Request No:384927

Date Received: 5 December 2022

Time Received: 16:00:10

Dog Owner Details

Danuta Helena Jadwiga Boniface
20 Hardy Street, INVERCARGILL
Argos / Ref No. 32553

Complaint Details

Owner name (if Known) and address	
Complainants Address	
Is it a Dog?	Yes
Dog Breed	large
Dog Colour	Black
Dog Sex	
Puppy, adult or older dog	
Not a Dog - What animal and how many	
Date and time seen?	
Any further relevant information	
Assisting Officer	

Request Notes

05-Dec-2022 16:00:41 JULIEI

reports of a large black dog wandering around 20 Hardy Street - wellington street are

05-Dec-2022 16:50:07 SAMP

ACO 62 and 65 went and picked up dog on wellington street. Impounded. Dog is classed as menacing pet. \$100 impoundment and infringement for failure to abide by menacing classification. Impound notice dropped off at 4:13pm

06-Dec-2022 13:47:52 SAMP

Owner called CS who put through call to ACO 62 at 12:06pm today. Owner was told that it will be \$100 for impoundment, and an infringement under S33E(2) when Argos is released. Also that a property inspection is to occur before we can release Argos to them. She said that she could have the inspection done at 4:30pm today and we agreed. Argos not to be released until inspection and payment made. Owner was told that we close at 5pm and that payments cannot be done after 4:30pm. Owner was told that she would have to pay at 101 Esk Street.

06-Dec-2022 17:23:21 SAMP

ACO 62 and 65 went and inspected the property for Argos. There is gaps under the enclosure that is likely how he got out. Owner said they will be putting mesh on it to block the gap and prevent him from getting out. ACO 62 told owner that it will be \$20 a day sustenance charge for however long he stays with us but cannot be any longer than 7 days otherwise dog becomes ICC property. Owner said she can have the mesh done by thursday at the latest. Will have to reinspect before release and charge sustenance.

09-Dec-2022 11:25:25 SAMP

On the 07/12/2022 at 3:19pm ACO 62 confirmed via text to owner that they will need to let us know when the enclosure is fixed and that \$20 a day sustenance will be charged and need to be paid plus a re-inspection before Argos can be released.

09-Dec-2022 11:26:46 SAMP

On the 08/12/2022 at 5:20pm ACO 62 texted owner to follow up on if a re-inspection can happen so Argos can be home before weekend. Owner texted back at 10:03am today and said inspection can happen today and asked how much the sustenance will be and what invoice quote she could give to ICC.

ACO 62 responded to say sustenance as of today will be \$80 and to quote impound 154732 and reinspection to occur before 4pm today.

09-Dec-2022 15:09:08 SAMP

At 2:51pm Owner called through CS and spoke to ACO 62 and has realised that Argos may chew through the netting. She wants to reinforce the bottom gap and is happy to pay the extra days. Booked inspection for 2pm Monday and she can collect Argos if inspection passes and sustenance is paid.

13-Dec-2022 11:56:34 MELISSAP

Inspection was completed and approved by ACO 62 and 63 at 3:30pm on the 12/12/2022 and was told the sustenance needs to be paid and dog to be collected from ACF. CS advised ACOs of owner paying the sustenance and dog was released to owner at 5pm.

Closing

ED05 DOG WANDERING / FOULING COMPLAINT

Request No: 387661

Date Received: 31 January 2023

Time Received: 18:57:00

Dog Owner Details

Danuta Helena Jadwiga Boniface
20 Hardy Street, INVERCARGILL
Argos / Ref No. 32553

Complaint Details

Owner name (if Known) and address	
Complainants Address	
Is it a Dog?	Undecided
Dog Breed	
Dog Colour	black
Dog Sex	
Puppy, adult or older dog	
Not a Dog - What animal and how many	
Date and time seen?	
Any further relevant information	
Assisting Officer	

Request Notes

31-Jan-2023 18:57:15 NIKIS

, no collar, wondering dog

Dog colour- black

31-Jan-2023 19:00:26 NIKIS

its on going issues from the

police has been involved in this issues

31-Jan-2023 19:36:07 ARMOURGUARD

Picked up dog @1900, dog no chip or collar, rottie Male X, taken to pound in kennel 13, left pound @1930

Regards

01-Feb-2023 13:18:46 SAMP

Tried calling owner at 11:20am no answer and no option to leave a voice message.

Impound notice dropped off at 11:38am at 20 Hardy Street.

Dog is microchipped and registered as a menacing dog. Argos has been impounded before and owner will be charged full fees of \$150 impoundment, \$20 a day sustenance, plus an infringement under S33EC(1) for failure to comply with the menacing classification. A property inspection is also required to take place before release.

02-Feb-2023 10:28:16 SAMP

Owner called through CS and i advised owner that it will be \$150 impoundment plus \$20 a day sustenance and that a property inspection is required before release as well as an infringement for failure to comply with the menacing classification. Owner has booked the property inspection for 3:30pm today.

02-Feb-2023 16:30:26 SAMP

ACO 62 and 64 went and looked at the property and the enclosure is suitable for housing the dogs and the owner advised us that she sometimes puts the dog in the kennel and lock it when she is at work. Advised owner that if she receives another infringement within the 12 months she can be disqualified as an owner. The kennel is very suitable for the dog and has locks to prevent him from escaping and strong mesh but is also big enough for him to move around with ease. Property inspection passed as the dog would not be able to escape the kennel when locked inside. CS called at 4:24pm to advise that the owner has paid the fees over the phone. I asked about sustenance and if it was charged and they said they charged \$175 But should have been \$190. Unsure how this was charged.

03-Feb-2023 10:00:34 SAMP

At 4:46pm Owner came and collected dog and was handed an infringement

07-Feb-2023 10:57:17 AMYB

dog payment was 15.00 short. i have written this off as unsure how we have got to that amount. Unsure if CS has access to impound records to add in correct date.

ED11 DOG FOUND

Request No:393782

Date Received: 14 May 2023

Time Received: 07:39:00

Dog Owner Details

Danuta Helena Jadwiga Boniface
20 Hardy Street, INVERCARGILL
Argos / Ref No. 32553
Danuta Helena Jadwiga Boniface
20 Hardy Street, INVERCARGILL
Zara / Ref No. 30189

Complaint Details

Location of Dog	
Required to be picked up from the above address?	Yes
Comments on pick up (ie location, tied up etc)	
Dog Registered? If yes, have you completed details	Undecided
Is dog a Puppy, Adult or old dog	
Dog Breed	
Dog Colour	
Dog Sex	
Dog Markings	
Have you contacted animal control	Undecided
Any other relevant information	
Assisting Officer	

Request Notes

14-May-2023 07:45:05 MARCP

Has found a rotweiller type of dog.She has it locked inside her car.

14-May-2023 08:49:59 ARMOURGUARD

Picked dog up 0815, rottie x, brindle and black male, chip 982000356753898, dog is classed as menacing, taken to pound, in kennel 26, given food and blankets.Regards

15-May-2023 16:37:03 MELISSAP

ACO 65 received a call via customer service at 8:30am this morning. Dunata Boniface was enquiring if we had Argos in the pound. I advised her that he was here. She went on to ask where he was collected from and I said the Chapman street area. She replied that this was very weird as he didn't usually go far from home, she also said there had been a commotion in the street and she would tell me about that later as she had a funeral to attend and a few things to do. She then hung up before I could say anything further.

16-May-2023 15:56:47 MELISSAP

15/05/23 ACO 65 received a voicemail message from Dunata at 4:23pm stating that she would be in touch today regarding collecting Argos after 4:30pm as she has work.

16-May-2023 16:13:46 MELISSAP

ACO 65 infringed Dunata Boniface for failure to comply with the effects of classification of dog as menacing dog S.33E(2)

16-May-2023 16:53:52 MELISSAP

ACO 65 received a call via customer service from Dunata.She said she was not going to get here today as she had been held up at work. I advised her that as this is her third offence for failing to comply with the menacing classification that we were discussing next steps in how we would be proceeding with Argos. She went on to tell em that she had written an objection to their classification in the first place and that the other times Argos was out, there are police files for as there was foul play involved. She asked to speak to our Team Leader regarding the whole situation so I have given her the contact details for Jo to get in touch tomorrow to discuss this further. She said she will call at 9am.

17-May-2023 16:38:51 MELISSAP

ACO 65 and 63 dropped off an impound notice and the infringement to 20 Hardy street.

22-May-2023 11:01:22 MELISSAP

ACO 65 received a call via customer service at 9:37am from Dunata Boniface. She said she hadn't been able to get in contact with Jo but did call through customer service and left a message for Jo to call back but did not give a date and time for this call. She said she had received an impound notice stating the fees that were required to collect Argos. I advised her that this was delivered on

Wednesday but as the situation was still under investigation regarding the disqualification we could not guarantee the outcome and that she would need to discuss this further with our Team Leader Jo. She advised that the previous incidents of wandering were not her fault and that she had put forth an objection to the menacing classification and never had a reply. I advised her that I could not find anything in our system to show records of this objection. She asked who our environmental director was and if it was Pam, I advised that Gillian was our environmental manager but was also unsure of what she was asking. She then said she had work and could not continue the phone call and would call Jo after work. I advised her that we close at 5pm.

25-May-2023 09:17:29 JOYCEH

Owner has paid the \$150 impound fee for Argos.

26-May-2023 09:46:02 MELISSAP

At approximately 4pm on 25/05/23 ACO 62 received a call via customer service from Dunata Boniface. She was enquiring about menacing classifications. She wanted to clarify when she could request a review of the menacing classification as she believed it was 2 years. I advised her that that is the Biennial inspection for classified dogs and that due to the updated bylaw of 2022, she could request a review in writing to our management for review of the classification. She asked if she sends this to Gillian Cavanagh who is the environmental director, I advised that that is incorrect, she is Environmental, who manages parking, health and animals so the request needs to be sent to our Team leader Jo Cockroft. I also advised her that reviews include no previous history for any complaints in the last 12 months, on time registration payments and no infringements. She thanked me and ended phone call. No enquiry as to collecting Argos from the pound.

26-May-2023 17:03:38 JOC

24/5/23 The dog owner rung me. Concerned about the cost of the impoundment because we had kept her dog so long. I explained because we were doing an investigation she would only be charged the impounding fee until the investigation was complete. I did explain that we were investigating the possibility of disqualifying her as an owner because this was her 3rd infringement in less than 24 months. She said that only this time of the dog getting out may have been her fault but every other time has been because someone had let the dog out and that the police knew all about it. She also said that she did not understand why her dog had a menacing classification. She also said that she had objected to it at the time but no one ever got back to her. I can not find anything so far that shows me there was an objection put through from the dog owner

07-Jun-2023 12:41:33 MELISSAP

Report submitted to TL and GC for review

13-Jun-2023 09:34:43 MELISSAP

12/06/23 ACO 65, 63 and 62 delivered the disqualification letter to 20 Hardy street at 4:43pm.

23-Jun-2023 17:02:05 JOC

Danuta has rung today she is going to object to the disqualification. she said she will be in on Monday with a letter to object. She felt that the letter was not in her mailbox until Thursday but I explained it was delivered on Monday as it is in the notes. She said she will have a letter here by 4.30 on Monday

30-Jun-2023 11:11:18 MELISSAP

TL received a call from Danuta, she advised that we can collect Zara the other dog from Hardy street/wellingotn street at 4:30pm today. She will be held at the ACF with Argos while the hearing is being organised for the objection to her disqualification.

03-Jul-2023 11:11:23 MELISSAP

30/06/23 4:30pm, ACO 62 and 63 met Danuta Boniface at 20 Hardy street where she handed over Zara for us to hold with Argos at the pound while the disqualification investigation is still in progress.

Relevant Sections of the Dog Control Act 1996

5 Obligations of dog owners

- (1) The obligations imposed on dog owners by this Act require every owner of a dog—
 - (a) to ensure that the dog is registered in accordance with this Act, and that all relevant territorial authorities are promptly notified of any change of address or ownership of the dog:
 - (b) to ensure that the dog is kept under control at all times:
 - (c) to ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter:
 - (d) to ensure that the dog receives adequate exercise:
 - (e) to take all reasonable steps to ensure that the dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means:
 - (f) to take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person:
 - (g) to take all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife:
 - (h) to take all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person:
 - (i) to comply with the requirements of this Act and of all regulations and bylaws made under this Act.
- (2) Nothing in this Act limits the obligations of any owner of a dog to comply with the requirements of any other Act or of any secondary legislation regulating the control, keeping, and treatment of dogs.

25 Disqualification of owners

- (1) A territorial authority must disqualify a person from being an owner of a dog if—
 - (a) the person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months; or
 - (b) the person is convicted of an offence (not being an infringement offence) against this Act; or
 - (c) the person is convicted of an offence against Part 1 or Part 2 of the Animal Welfare Act 1999, section 26ZZP of the Conservation Act 1987, or section 56l of the National Parks Act 1980.
- (1A) Subsection (1) does not apply if the territorial authority is satisfied that the circumstances of the offence or offences are such that—
 - (a) disqualification is not warranted; or
 - (b) the territorial authority will instead classify the person as a probationary owner under section 21.
- (2) For the purposes of subsection (1)(a), a person must be treated as having committed an infringement offence if—
 - (a) that person has been ordered to pay a fine and costs under section 375 of the Criminal Procedure Act 2011, or is deemed to have been so ordered under section 21(5) of the Summary Proceedings Act 1957; or
 - (b) the infringement fee specified on the infringement notice in respect of the offence issued to the person under section 66 has been paid.
- (3) A disqualification under subsection (1) continues in force for a period specified by the territorial authority not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.
- (4) If a person is disqualified under subsection (1), the territorial authority must, as soon as practicable, give written notice in the prescribed form to the person of that decision.

26 Objection to disqualification

- (1) Every person disqualified under section 25—
 - (a) may object to the disqualification by lodging with the territorial authority a written objection to the disqualification; and
 - (b) shall be entitled to be heard in support of the objection.
- (2) An objection under this section may be lodged at any time but no objection shall be lodged within 12 months of the hearing of any previous objection to the disqualification.
- (3) In considering any objection under this section, the territorial authority shall have regard to—
 - (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and
 - (b) the competency of the person objecting in terms of responsible dog ownership; and
 - (c) any steps taken by the owner to prevent further offences; and
 - (d) the matters advanced in support of the objection; and
 - (e) any other relevant matters.

- (4) In determining any objection, the territorial authority may uphold, bring forward the date of termination, or immediately terminate the disqualification of any person and shall give written notice of its decision, the reasons for it, and the right of appeal under section 27 to the objector.

27 Appeal to District Court

- (1) Any person who has lodged an objection under section 26 and is dissatisfied with the decision of the territorial authority may, within 14 days of the date on which notice of that decision is, under section 26(4), given to that person, appeal to the District Court against that decision.
- (2) The District Court, in hearing the appeal, shall consider the matters specified in section 26(3) and any submission by the territorial authority in support of its decision, and may uphold the determination, bring forward the date of termination, or immediately terminate the disqualification.

28 Effect of disqualification

- (1) Subject to this section, if a person is disqualified from owning a dog under section 25 the person must,—
- (a) within 14 days of the date on which notice of the decision is given to the person, dispose of every dog owned by the person; and
 - (b) not subsequently be in possession of a dog at any time, except for the purpose of—
 - (i) preventing a dog from causing injury, damage, or distress; or
 - (ii) returning, within 72 hours, a lost dog to the territorial authority for the purpose of restoring the dog to its owner.
- (2) Every dog disposed of under subsection (1)(a)—
- (a) shall be disposed of in a manner that does not constitute an offence against this or any other Act; and
 - (b) shall not be disposed of to any person who resides at the same address as the person disqualified.
- (3) Where any person has, within 14 days after the date on which the notice of disqualification under section 25(4) is given to that person, lodged an objection under section 26, subsection (1) of this section shall apply in relation to that person as if the reference in that subsection to section 25(4) were a reference to section 26(4).
- (4) Where any person has, within 14 days after the date on which the notice under section 26(4) is given to that person in respect of an objection to which subsection (3) of this section refers, lodged an appeal under section 27, subsection (1) of this section shall apply in relation to that person as if the reference in that subsection to the date on which the notice under section 25(4) was given to that person were a reference to the date of the decision of the District Court on that appeal.
- (5) Every person commits an offence and is liable on conviction to a fine not exceeding \$3,000 who—
- (a) fails to comply with subsection (1); or
 - (b) fails, in disposing of a dog under subsection (1), to comply with subsection (2); or

- (c) at any time while disqualified under section 25, becomes the owner of any dog in terms of this Act; or
 - (d) disposes or gives custody or possession of any dog to any person, knowing that person to be disqualified under section 25.
- (6) Where any person is convicted of an offence against paragraph (a) or paragraph (c) of subsection (5), the territorial authority may extend the period of disqualification of that person until a date not later than 5 years after the date on which the offence occurred.
- (7) Where any person fails to comply with subsection (1), any dog control officer may seize any dog owned by that person and, for that purpose, may, at any reasonable time, with all persons he or she calls to his or her assistance, enter onto the land or premises, including any dwellinghouse, of the owner of the dog.

Menacing Dogs

33A Territorial authority may classify dog as menacing

- (1) This section applies to a dog that—
 - (a) has not been classified as a dangerous dog under section 31; but
 - (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—
 - (i) any observed or reported behaviour of the dog; or
 - (ii) any characteristics typically associated with the dog's breed or type.
- (2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.
- (3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—
 - (a) the classification; and
 - (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
 - (c) the right to object to the classification under section 33B; and
 - (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.

33B Objection to classification of dog under section 33A

- (1) If a dog is classified under section 33A as a menacing dog, the owner—
 - (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
 - (b) has the right to be heard in support of the objection.
- (2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
 - (a) the evidence which formed the basis for the classification; and
 - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - (c) the matters relied on in support of the objection; and
 - (d) any other relevant matters.
- (3) The territorial authority must, as soon as practicable, give written notice to the owner of—
 - (a) its determination of the objection; and
 - (b) the reasons for its determination.

33C Dogs belonging to breed or type listed in Schedule 4 to be classified as menacing

- (1) A territorial authority must, for the purposes of section 33E(1)(a), classify as menacing any dog that the territorial authority has reasonable grounds to believe belongs wholly or predominantly to 1 or more breeds or types listed in Schedule 4.
- (2) If a dog is classified as menacing under subsection (1), the territorial authority must immediately give written notice in the prescribed form to the owner of—
 - (a) the classification; and
 - (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
 - (c) the right to object to the classification under section 33D.

33D Objection to classification of dog under section 33C

- (1) If a dog is classified as a menacing dog under section 33C, the owner—
 - (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
 - (b) has the right to be heard in support of the objection.
- (2) If an owner objects to the classification, he or she must provide evidence that the dog is not of a breed or type listed in Schedule 4.
- (3) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
 - (a) the evidence which formed the basis for the classification; and
 - (b) the matters relied on in support of the objection; and
 - (c) any other relevant matters.
- (4) The territorial authority must, as soon as practicable, give written notice to the owner of—
 - (a) its determination of the objection; and
 - (b) the reasons for its determination.

33E Effect of classification as menacing dog

- (1) If a dog is classified as a menacing dog under section 33A or section 33C, the owner of the dog—
 - (a) must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
 - (b) must, if required by the territorial authority, within 1 month after receipt of notice of the classification, produce to the territorial authority a certificate issued by a veterinarian certifying—
 - (i) that the dog is or has been neutered; or

- (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
 - (c) must, if a certificate under paragraph (b)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).
- (2) [Repealed]
- (3) [Repealed]
- (4) [Repealed]
- (5) Subsection (1)(a) does not apply in respect of any dog or class of dog that the territorial authority considers need not be muzzled in any specified circumstances (for example, at a dog show).

33EA Menacing dog classification to extend over New Zealand

- (1) Every classification as a menacing dog under section 33A or 33C is in force throughout New Zealand.
- (2) This section is for the avoidance of doubt.

33EB Territorial authority (other than classifying authority) may require neutering of menacing dog

- (1) This section applies if—
 - (a) a dog is classified by a territorial authority as a menacing dog under section 33A or 33C; and
 - (b) the territorial authority does not require it to be neutered under section 33E(1)(b); and
 - (c) the dog is later registered with any other territorial authority.
- (2) No later than 1 month after the dog is registered with the other territorial authority, that territorial authority may require, by written notice, the owner of the dog to produce to the territorial authority a certificate issued by a veterinarian certifying—
 - (a) that the dog has been neutered; or
 - (b) that for reasons that are specified in the certificate, it will not be in a fit condition to be neutered before a date specified in the certificate.
- (3) The owner must produce the certificate to the territorial authority no later than 1 month after receiving the notice.
- (4) If a certificate under subsection (2)(b) is produced to the territorial authority, the owner of the dog must produce to the territorial authority, no later than 1 month after the date specified in that certificate, a further certificate under subsection (2).

33EC Offence to fail to comply with section 33E(1) or 33EB

- (1) Every person who fails to comply with section 33E(1) or 33EB commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- (2) If a person fails to comply with section 33E(1) or 33EB, a dog control officer or dog ranger may—
 - (a) seize and remove the dog concerned from the person's possession; and
 - (b) retain custody of the dog until—
 - (i) the dog control officer or dog ranger is satisfied that the person has demonstrated a willingness to comply with section 33E(1) or 33EB (as the case may be); or
 - (ii) the dog is disposed of under section 71A.

33ED Territorial authority to classify certain dogs as dangerous or menacing

- (1) A territorial authority must classify a dog as a dangerous dog under section 31 or a menacing dog under section 33A if—
 - (a) the owner of the dog has been convicted of an offence against section 57(2) or 57A(2)(a); and
 - (b) no destruction order for the dog has been made by the court concerned.
- (2) Subsection (1) applies unless the territorial authority is satisfied that the circumstances of the attack, rush, or startle by the dog (being the circumstances relating to the offence for which the owner was convicted)—
 - (a) were exceptional; and
 - (b) do not, in the territorial authority's opinion, justify classifying the dog as dangerous or menacing.

33F Owner must advise person with possession of dangerous or menacing dog of requirement to muzzle and leash dog in public

- (1) This section applies to an owner whose dog has been classified as—
 - (a) dangerous under section 31; or
 - (b) menacing under section 33A or section 33C.
- (2) If the dog is in the possession of another person for a period not exceeding 72 hours, the owner must advise the person of the requirement to comply with section 32(1)(b) or section 33E(1)(a), as the case may be (which relate to the requirement to muzzle and leash the dog in public).
- (3) Every person who fails to comply with subsection (2) commits an offence and is liable on conviction to a fine not exceeding \$500.

52A Control of dog on owner's property

- (1) This section applies when a dog is on land or premises occupied by its owner.
- (2) The owner of a dog must, at all times, ensure that either—
 - (a) the dog is under the direct control of a person; or
 - (b) the dog is confined within the land or premises in such a manner that it cannot freely leave the land or premises.
- (3) Every person commits an offence and is liable on conviction to a fine not exceeding \$3,000 who fails to comply with subsection (2).
- (4) If a person fails to comply with subsection (2), a dog control officer or dog ranger may—
 - (a) seize and impound the dog; and
 - (b) for the purposes of paragraph (a), enter, at any reasonable time, the land or premises (except a dwellinghouse) owned or occupied by the owner of the dog.