



Stray Dog Policy

Date of Issue: January 2020

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1.0 Introduction

- 1.1 The Environmental Protection Act (1990) (EPA) referred to as ‘The Act’ appoints an officer “for the purpose of discharging the functions for dealing with stray dogs found in the area of the authority”.

2.0 The principle

- 2.1 Mid Devon District Council is responsible for the seizure and transport of stray dogs:
- Patrolling the District and enforcement of dog fouling legislation;
 - Encouraging responsible dog ownership through presentations and talks;
- 2.2 Members of the public who find a stray dog are required by the Environmental Protection Act 1990 to either return to its owner, or report it to the local authority. The finder will be contacted within an hour. Mid Devon District Council does supply a collection service during normal working hours¹ and will endeavour to collect the dog by the end of the day.

3.0 The legislation and process

- 3.1 The current legislation requires a dog in a public place to be fitted with a collar and tag bearing the name and address of the owner (see also microchipping policy). Where a stray dog has a form of identification, or the owner of the dog is known, the District Officer will make every effort to return the dog to its rightful owner. However, if the owner cannot be contacted a ‘notice of seizure’ (s.149 (3) & (4) EPA 1990) will be issued. The notice specifies that the dog has been seized, retained at kennels and that it is liable to be disposed of if it is not claimed within seven clear days from the date of the notice.
- 3.2 The owner of a stray dog is ‘not entitled’ to the return of the animal until they have paid all the expenses incurred and a further prescribed sum (s149 (5)EPA 1990). Should the dog not be claimed or the owner declines to pay the sums outstanding, the ownership of the dog is legally transferred to the Council after seven clear days. The Council is then entitled to sell or re-home the dog (except for the purposes of vivisection) or to have it humanely destroyed.

3.3 Seizure of a dog

- 3.3.1 The Environmental Protection Act 1990 specifies that in each case, a dog seized as a stray is required to be detained and a notice of seizure served upon the owner (where known). In addition, the policy of Mid Devon District Council is that, on the first occasion that a dog is seized, the District Officer

¹ Normal working hours between 9am – 17:00pm Monday to Friday

will make all reasonable efforts to identify the owner and return it to them before taking it to the kennels. The District Officer carries a scanning device to identify dogs fitted with a microchip. If the address of the owner is identified, the District Officer will either visit or telephone. If contact is made, the dog will be returned to the owner.

3.4 Returning a dog

3.4.1 A dog will only be returned to an address if there is someone able to receive the dog; it will not be left at an unoccupied property, for example where the owner is out or with any person under the age of 18 years of age.

3.4.2 Mid Devon District Council currently insists on cash or debit/credit card for the full amount (statutory fee, handling fee, kennelling fees, plus any veterinary costs incurred) **before a stray dog is released to a claimant**. Once all fees are paid the District Officer will arrange to deliver the dog back to the owner. The owner will be required to be at home to receive the dog and sign for its receipt.

3.5 Kennelling Fees

3.5.1 Kennelling fees charged by the contractor plus an additional administration fee need to be paid.

3.6 Out of Hours

3.6.1 Stray dogs will be collected out of hours until 6pm if the dog is detained e.g. in a garden or with the finder. Patrols for stray dogs will not be carried out between the hours of 5pm and 11am except in special circumstances. After 6pm details of the finder will be taken by the Council's Emergency out of Hours service and arrangements will be made with the registered kennels for the dogs to be collected from a designated collection point. The dog will remain in the care of the kennels overnight and the District Officer will endeavour to make arrangements the following day to reunite the dog with the registered owner.

3.7 Recovery

3.7.1 Stray dogs will be returned to the owner during office hours to enable payment to be made. Alternatively the owner can collect the dog from the Council's offices at Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP.

3.7.2 Detained dogs will not be released by Mid Devon District Council until all costs incurred are paid in full. During office hours payment can be made in person at one of our community offices via debit/credit card or cash. Alternatively payment can be made on line at <https://www.middevon.gov.uk/do-it-online/miscellaneous/pay-for-it-online/>

3.8 Unclaimed Strays

3.8.1 Stray dogs are held for a minimum period of seven clear days following seizure, or following service of a notice of seizure, whichever is the latest. After this period, ownership of the dog reverts to Mid Devon District Council.

3.8.2 Section 149(6) of the Environmental Protection Act 1990 entitles Mid Devon District Council to deal with unclaimed stray dogs in one of three ways:

- By selling it or giving it to a person who will, in his opinion, care properly for the dog;
- By selling it or giving it to an establishment for the reception of stray dogs; or
- By destroying it humanely and by a qualified veterinary surgeon

No dog shall be sold or given for the purposes of vivisection.

3.8.3 Once transferred to Mid Devon District Council or re-homed to a new owner, the former owner of a stray dog has no legal claim for the return of the animal.

3.8.4 The details of the person to whom ownership is transferred by Mid Devon District Council are required to be recorded on a public register. Under normal circumstances, the majority of unclaimed strays are re-homed and therefore it is this information which is recorded in the public register, rather than any subsequent new owner. The register is available for public inspection.

4.0 Penalties and Payments

4.1 Mid Devon District Council currently insists on cash or card payments for the full amount (statutory administration fee, handling fee, kennelling fees, plus any veterinary costs incurred) in line with the contractor's fees before a stray dog is released to a claimant.

5.0 Contact details

5.1 Lost or found dogs – telephone Customer First, 01884 255255 (*24 hours a day*)



Microchipping Procedure

Date of Issue: January 2020

Review date: January 2029

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1.0 Introduction

- 1.1 On the 6th April 2016 it became compulsory for all dogs to be microchipped. This move was welcomed by many including Mid Devon District Council District Officers.
- 1.2 The permanent identification of dogs through microchipping not only has the benefit of allowing lost and stolen dogs to be re-united with their owners quickly but will encourage responsible ownership, deter dog theft and help tackle puppy farming and the associated problems.
- 1.3 Microchipping also has a number of animal welfare benefits including the swift contact of owners by veterinary surgeons for emergency procedures (for example dogs that have been involved in road accidents), easy identification of dogs in properties in emergency situations so that dogs and owners can be moved and reunited quickly and the easy identification of owners involved in animal cruelty complaints.
- 1.4 Alongside Mid Devon District Council's statutory function to seize stray dogs, District Officers also work closely with Mid Devon District Councils Licensing Department, Neighbourhood Officers and the Police.

2.0 Legalisation

- 2.1 The Microchipping of Dogs (England) Regulations 2015 come into force on the 6th April 2016 and are made under section 12 of the Animal Welfare Act 2006. These Regulations will provide for the compulsory microchipping of dogs, the recording of a dog's identity and keeper's contact details on a database.
- 2.2 Under the Regulations a keeper means:
 - 2.2.1 In relation to an assistance dog:
 - Until the dog ceases working as an assistance dog, the body responsible for its training and allocation;
 - After the dog has ceased working as an assistance dog, the person with whom it normally resides;
 - 2.2.2 In relation to a new born puppy:
 - The owner of the bitch which gave birth to it;
 - 2.2.3 In relation to any other dog:
 - the person with whom it normally resides.

2.3 Obligation to microchip dogs

2.3.1 From the 6th April 2016, every keeper of a dog that has not been implanted with a microchip by that date and where the dog is older than 8 weeks and not a certified working dog under the Animal Welfare Act 2006 must ensure that it is microchipped.

2.3.2 However this does not apply where a Secretary of State approved certificate has been completed by a veterinary surgeon stating that a dog should not be microchipped for health reasons (this also applies to imported dogs who must otherwise be microchipped within 30 days of being imported). The certificate must state the period for which the dog will be unfit to be microchipped. A dog is deemed to be microchipped where the implanted chip complies with requirements detailed in the Regulations and where these details are recorded on a database by a database operator as specified within the Regulations.

2.4 Change of keeper

2.4.1 From 6th April 2016, where a dog is transferred to a new keeper, the new keeper must (unless the previous keeper has already done so) record their full name, address and contact telephone number (if any) and any change in the dog's name with the database on which the dog's details are recorded.

2.4.2 From 6th April 2016, no keeper may transfer a dog to a new keeper until it has been microchipped unless a certificate has been issued stating that the dog should not be microchipped for reasons of the animal's health.

2.5 Offences

2.5.1 Offences that will relate to Mid Devon District Council enforcement role are –

2.5.2 Failure to transfer a dog to a new keeper without a microchip (unless a certificate has been issued stating that the dog should not be microchipped for health reasons)

2.5.3 Failure to comply with a notice served by an authorised person requiring dog to be microchipped within 21 days

2.5.4 Obstructing an authorised person who is arranging for the dog to be microchipped, recovering the cost of doing so and/or taking possession of a dog for the purposes of microchipping.

2.6 Time limits, Penalties and Appeals

2.6.1 The above offences are punishable on summary conviction (Magistrates) by a fine not exceeding level 2 (£500) on the standard scale with a 6 month time limit upon discovery of an offence to commence a prosecution).

2.7 Appeals

- 2.7.1 A keeper may appeal to the First-tier tribunal against a notice served requiring the keeper to have the dog microchipped within 21 days.

3.0 The Procedure

- 3.1 In order to enforce the Microchipping of Dogs (England) Regulations 2015 it is proposed that the Mid Devon District Council District Officers are authorised in writing by the Local Authority as “authorised persons” in their roles as District Officers.

- 3.2 In accordance with the Regulations as authorised persons, Mid Devon District Council District Officers upon receiving a complaint about a dog that is not microchipped but is required to be so or where a stray dog is picked up and found to have no microchip but is required to have one then the following procedure will be followed:-

- 3.2.1 Serve on the keeper a Notice requiring them to have the dog microchipped within 21 days. A keeper may appeal against this notice.

- 3.2.2 Where the keeper has failed to comply with the Notice, arrangements will be made for the dog to be taken into possession to (a) check whether the animal has been microchipped and (b) to arrange microchipping of the dog with an approved implanter.

- 3.2.3 A written warning will be issued to the keeper advising them that failure to comply with the Notice is an offence under the Regulations. The letter will also state that (a) the dog is being taken into possession and (b) give details of the microchipping appointment.

- 3.2.5 If a dog is taken into possession and removed from the keeper’s property to be microchipped then a Notice will be issued to the keeper which will then be returned to the Mid Devon District Council’s District Offices when the dog is returned to the keeper.

3.3 Change of Keeper

- 3.3.1 In accordance with the Regulations it is proposed that where it is found that a dog has been transferred to a new keeper without a microchip (unless a certificate has been issued stating that the dog should not be microchipped for health reasons) then the following procedure will be followed:

- A written warning will be issued reminding the keeper of their responsibilities under the Regulations including the penalties for failure to comply.

3.3.2 Where a second complaint is received about the same keeper, the keeper will be invited in to attend an interview carried out under the Police and Criminal Evidence Act 1984. Where there is evidence to suggest that an offence has been committed the case will be forwarded to the Mid Devon District Council Legal Department for consideration.



Collar and Tag Procedure

*(To be read in conjunction with
Microchipping Procedure)*

Date of issue: January 2020

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8. Appendix 2

1.0 Introduction

1.1 Mid Devon District Council as the local authority has a statutory function to seize stray dogs. It is noticeable that dogs coming into the custody of the District Council are rarely those that are wearing a collar and tag.

2.0 The legislation

2.1 The Control of Dogs Order 1992 came into force on 1 April 1992 and is made under section 13 of the Animal Health Act 1981. This Order is executed and enforced by officers of Mid Devon District Council.

2.2 Article 2 (Wearing of collars by dogs) states that:

2.2.1 Every dog, whilst on a highway or in a place of public resort, shall wear a collar with the name and address of the owner inscribed on the collar, or on a plate or badge attached to it.

2.2.2 This does not apply to the following:

- Any packs of hounds
- Any dog while being used for sporting purposes
- Any dog while being used for the capture or destruction of vermin
- Any dog while being used for the driving or tending of cattle or sheep
- Any dog while being used on official duties by a member of Her Majesty's Armed Forces or Her Majesty's Customs and Excise or the police force for any area
- Any dog while being used in emergency rescue work
- Any dog registered with the Guide Dogs for the Blind Association.

3.0 Offences

3.1 The owner of a dog or the person in charge of a dog who, without lawful authority or excuse, proof of which shall lie on him/her, causes or permits the dog to be on a highway or in a place of public resort not wearing a collar as prescribed in article 2, shall be guilty of an offence under the Animal Health Act 1981.

3.2 Any dog in respect of which an offence is being committed under this Order may be seized and treated as a stray dog under section 149 of the Environmental Protection Act 1990.

4.0 Time limits and Penalties

- 4.1 Section 71A of the Animal Health Act 1981 (Time limits) states that time limits for offences are within the period of 3 years starting with the date of the commission of the offence and within the period of 6 months starting with the day on which evidence that the prosecutor thinks is sufficient to justify the proceedings comes to his knowledge.
- 4.2 Section 75 of the Animal Health Act 1981 states that a person guilty of an offence to which this section applies is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 Criminal Justice Act 1982 on the standard scale or to both.

5.0 Procedure

- 5.1 The Animal Health Act 1981 gives Mid Devon District Council the power to pursue a prosecution against those who fail to comply with The Control of Dogs Order 1992.
- 5.2 Where a dog is seen without a collar or tag attached to it bearing details of the owner, as required by article 2 of The Control of Dogs Order 1992, the owner will be served with a Collar and Tag Notice.
- 5.3 This Notice gives the owner/person in charge of the dog 7 working days from the date of the Notice to provide evidence to Mid Devon District Council that a collar and/or tag bearing the owner's name and address has been purchased. Upon presentation of the collar and/or tag, the Notice must be completed by the inspecting officer and no further action will be taken.
- 5.4 A record should be made of the service of this Notice and a copy kept on file.
- 5.5 Should the owner/person in charge fail to provide evidence within this time then a further Notice must be served with a letter as detailed in Annex 2 giving the owner/person in charge of the dog a further 7 working days to produce evidence of a collar and/or tag.
- 5.6 Failure to produce a collar and/or tag on this occasion will result in an investigation being carried out into why the owner/person in charge has failed to present a collar and/or tag to Mid Devon District Council.
- 5.7 The owner/person in charge shall be invited to attend an interview carried out under the Police and Criminal Evidence Act 1984 and where there is evidence to suggest that an offence has been committed, the case should be forwarded to Mid Devon District Council's Legal service for consideration.

Annex 1

	Street Scene Services Phoenix House Phoenix Lane Tiverton Devon EX16 6PP Tel: 01884 255255
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Ref:

Name:

Address:

At...(insert time)....hrs on....(insert date)....a....(insert description of dog)....owned by you/in your charge, was seen/found straying in....(insert location)....

The dog did not have a collar or tag attached to it bearing details of the owner as required by Article 2 of The Control of Dogs Order 1992.

Consideration will be given to prosecuting you for failing to comply with this requirement unless within 7 days of service of this Notice you attend the Mid Devon District Council office as above with a collar and/or tag bearing the owner's name and address (telephone number will suffice).

Signed: MDDC Officer:	Date:
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For office use only:

MDDC office - TAG SEEN AND CHECKED AS BELOW

Details on the tag: _____

Signed: MDDC Officer: (print name)	Date:
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Annex 2

INSERT ADDRESS

Street Scene Services
Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
www.middevon.gov.uk

Our Ref: **INSERT NOTICE REF**

Contact:

Telephone 01884 255255

Email: streetscene@middevon.gov.uk

Street Scene Services

INSERT DATE

Dear Sir/Madam

ANIMAL HEALTH ACT 1981

THE CONTROL OF DOGS ORDER 1992

I write following on from our conversation on **(insert date)** when I issued you with a Notice under the above Order requiring you to present a collar and/or tag bearing your name and address (telephone number will suffice) for your dog. This Notice was served upon you following on from your dog **(insert name, sex, colour and breed description)** who was **seen/found/handed** into the custody of Mid Devon District Council on **(insert date)** without a collar and/or tag as required under The Control of Dogs Order 1992.

To date this Notice has not been complied with. I therefore enclose a further Notice requiring you to present a collar and/or tag bearing your name and address (telephone number will suffice) to Mid Devon District Council within 7 days of the date of the Notice. Failure to produce a collar and tag by this date may result in further enforcement action being taken.

I must take this opportunity to remind you that every dog while in a highway or in a place of public resort shall wear a collar with the name and address of the owner inscribed on the collar or on a plate or badge attached to it.

The owner of a dog or the person in charge of a dog who, without lawful authority or excuse, proof of which shall lie on him, causes or permits the dog to be in a highway or in a place of public resort not wearing a collar as prescribed in article 2 of The Control of Dogs Order 1992 shall be guilty of an offence under the Animal Health Act 1981.

Contravention of The Control of Dogs Order 1992 is an offence against the Animal Health Act 1981. Upon conviction a Magistrates Court can order a fine of up to £5,000 and/or a term of imprisonment of up to 6 months.

Should you wish to discuss the contents of this letter please contact a Dog Warden on the above telephone number.

Yours sincerely

Street Scene Services