



## **Stray Dog Policy**

**Date of Issue: January 2020**

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## **1.0 Introduction**

- 1.1 The Environmental Protection Act (1990) referred to as 'The Act' provides that every local authority shall appoint an officer (the Officer) "for the purpose of discharging the functions for dealing with stray dogs found in the area of the authority".
- 1.2 The Officer may delegate the discharge of his functions to another person but he shall remain responsible for securing that the functions are properly discharged.
- 1.3 Mid Devon District Council has appointed [District Officers (DO)] Delegation of functions/duties has been made to District Officers under the Act

## **2.0 The principle**

- 2.1 Mid Devon District Council (MDDC) 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 should either return it to its owner, or report it to the local authority. The finder will be contacted within an hour. MDDC does supply a collection service during normal working hours<sup>1</sup> and will endeavour to collect the dog by the end of the day.

## **3.0 The legislation and process**

- 3.1 Where the officer or a DO has reason to believe that any dog found in a public place or on any other land or premises is a stray dog, he or she shall (if practicable) seize the dog and detain it, but, where he or she finds it on land or premises which is not a public place, only with the consent of the owner or occupier of the land or premises. 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 been seized under the Act and has a form of identification, or the owner of the dog is known, the (DO) will serve on the owner a statutory notice in writing stating that the dog has been seized and where it is being kept and stating that the dog will be liable to be disposed of if it is not claimed within seven clear days after the service of the notice and the amounts for which he/she would be liable are not paid. The amounts for which the owner is liable is the expenses incurred by reason its detention and a further amount prescribed by regulations
- 3.2 The owner of a stray dog is 'not entitled' to the return of the animal until they have paid the amounts owing. Should the dog not be claimed or the owner

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<sup>1</sup> Normal working hours between 9:00am – 17:00pm Monday to Friday

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.

#### **4.0 First occasion of a dog being found stray**

4.1 Where a stray dog is found and the owner is known or can be easily identified MDDC will consider on the first occasion that a dog is found, identifying the owner and returning the dog to them without cost to the owner before formal seizure of the dog takes place under the Act. DO's carry a scanning device to identify dogs fitted with a microchip. If contact is made, the dog will be returned to the owner. This will not be the case where the authority has had to place the dog in kennels and subsequently attracted costs, in this circumstance the owner will be liable to repay the costs incurred by the authority

#### **5.0 Returning a dog**

5.1 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.

5.2 MDDC currently insists on payment via 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.

#### **6.0 Kennelling Fees**

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

#### **7.0 Out of Hours**

7.1 Stray dogs will be collected until 6pm. Outside of these working hours the finder will need to take the dog to a local vet service or to meet with the kennelling facilities. Resource for stray dogs will not be available between the hours of 5pm and 10am 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. .

## **8.0 Recovery and Payments**

- 8.1 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.
- 8.2 Detained dogs will not be released by MDDC until all costs incurred are paid in full (statutory administration fee, handling fee, kennelling fees, plus any veterinary costs incurred) in line with the contractor's fees. During office hours payment can be made via the telephone to Customer Services (01884 255255) or payment can be made on line at <https://www.middevon.gov.uk/do-it-online/miscellaneous/pay-for-it-online/>

## **9.0 Unclaimed Strays**

- 9.1 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 MDDC. The Officer may cause a dog detained under this Act to be destroyed before the expiration of the seven clear days above where he or she is of the opinion that this should be done to avoid suffering
- 9.2 Section 149(6) of The Act entitles MDDC 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.

- 9.3 Once transferred to MDDC or re-homed to a new owner, the former owner of a stray dog has no legal claim for the return of the animal.
- 9.4 The details of the person to whom ownership is transferred by MDDC 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.
- 9.5 The Act requires the Officer to ensure any dog detained under the Act to be properly fed and maintained.

## **10.0 Contact details**

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

## Appendix A - Microchip procedure



# Microchipping Procedure

Date of Issue: January 2020

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## **1.0 Introduction**

- 1.1 On the 6th April 2016 it became compulsory for dogs to be microchipped.
- 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 (MDDC's) statutory function to seize stray dogs, District Officers also work closely with MDDC's Licensing Department, Neighbourhood Officers and the Police.

## **2.0 Legislation**

- 2.1 The Microchipping of Cats and Dogs (England) Regulations 2023/468 (the "Regulations") revoke and replaced previous regulations made in 2015.
- 2.2 Under the Regulations a keeper means:
- 2.3 In relation to an assistance dog (within the meaning of section 173 of the Equality Act 2010):
  - while the dog is training to work, or is working, as an assistance dog, the body responsible for the dog's training and allocation
  - After the dog has ceased working as an assistance dog, the person with whom it normally resides;
- 2.4 In relation to a new born puppy:
  - The owner of the bitch which gave birth to it;
- 2.5 In relation to any other dog:
  - the person with whom it normally resides.



### **3.0 Obligation to microchip dogs**

- 3.1 Every keeper of a dog which is older than 8 weeks and not a certified as a working dog under the Animal Welfare Act 2006 must ensure that it is microchipped.
- 3.2 Where a keeper imports a dog, the keeper must ensure that it is microchipped within thirty days of its entry into England, regardless of its age.
- 3.3 However this does not apply for as long as a veterinary surgeon certifies (“Vet Certificate”) on a form approved by the Secretary of State, that the dog should not be microchipped for reasons relating to the health of the animal.) A certificate issued must state the period for which the cat or the dog will be unfit to be microchipped.

### **4.0 Database**

- 4.1 Where a keeper is under an obligation to ensure that a dog is microchipped, the keeper must make sure that the dog or cat is registered on a databases that meets the government standards.
- 4.2 The details that the keeper must record on a database are—
- (a) the full name and address of the keeper;
  - (b) if the keeper is also the breeder of that dog, that fact;
  - (c) if the keeper is the breeder of that dog and is licensed by a local authority under regulation 4 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018— (i) the breeder's licence number; and (ii) the name of the local authority which issued the licence;
  - (d) the original name or identification number given to the dog;
  - (e) the contact telephone number (if any) for the keeper;
  - (f) any other name given to the dog by the keeper if that name is different to the dog's original name;
  - (g) the sex of the dog;
  - (h) the breed of the dog, or a description if it is a cross-breed;
  - (i) the colour of the the dog;
  - (j) the date of birth of the dog to the best of the keeper's knowledge;
  - (k) the unique number of the microchip implanted in the dog.

"breeder" means any keeper of a bitch which whelps, whether or not they carry on a business as a breeder of dogs.

### **5.0 Change of keeper**

- 5.1 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.

- 5.2 No keeper may transfer a dog to a new keeper until it has been microchipped unless a Vet Certificate is in force for that dog..
- 5.3 Powers of “authorised persons”
- 5.4 In order to enforce the Regulations District Officers are authorised in writing by the Council as “authorised persons” in their roles as District Officers.
- 5.5 A District Officer may, on producing the relevant written authorisation or another official identity document, take possession of a dog without the consent of its keeper for the purpose of checking whether the dog is microchipped.
- 5.6 Where a dog has not been microchipped and a Vet Certificate is not enforce , the District Officer may—
- (a) serve on the keeper of the dog which has not been microchipped a notice requiring the keeper to have the dog microchipped within 21 days;
  - (b) where the keeper of the dog has failed to comply with a notice the District Officer may
    - (i) take all necessary steps to arrange for the dog to be microchipped without the consent of the keeper; and
    - (ii) recover from the keeper any costs associated with doing so.

## **6.0 Offences**

- 6.1 Offences that will relate to MDDC enforcement role are –
- 6.2 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)
- 6.3 Failure to comply with a notice served by an authorised person requiring dog to be microchipped within 21 days
- 6.4 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.

## **7.0 Time limits and Penalties**

- 7.1 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).

## **8.0 Appeals**

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

- 8.2 An appeal suspends the effect of the notice appealed against until the appeal is determined or withdrawn.
- 8.3 On appeal the First-tier Tribunal may cancel, confirm or vary the notice appealed against.

## Appendix B - Collar and Tag Procedure



## Collar and Tag Procedure

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

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## **1.0 Introduction**

1.1 Mid Devon District Council (MDDC) as the local authority has a statutory function to seize stray dogs.

## **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 MDDC 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 MDDC 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.

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 MDDC's Legal service for consideration.

## Appendix 1 - Notice

	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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## Appendix 2 - Letter



**INSERT ADDRESS**

**Street Scene Services**  
Phoenix House  
Phoenix Lane  
Tiverton  
Devon  
EX16 6PP  
[www.middevon.gov.uk](http://www.middevon.gov.uk)

Our Ref: **INSERT NOTICE REF**

Contact:  
Telephone 01884 255255  
Email: [streetscene@middevon.gov.uk](mailto:streetscene@middevon.gov.uk)

**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