



Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office is accredited by Community Legal Centres Australia Inc.

ACT Government

By email: communityengagement@act.gov.au

Dear Sir/Madam

Feedback on the Draft Code of Practice for the Welfare of Dogs in the ACT

Thank you for the opportunity to provide a submission to the public consultation on the Draft Code of Practice for the Welfare of Dogs in the ACT (**Code**).

Our comments on the Code are set out below.

About the Animal Defenders Office

The Animal Defenders Office (**ADO**) is a nationally accredited community legal centre that specialises in animal law. The ADO is incorporated in the Australian Capital Territory (**ACT**), and is a member of Community Legal Centres Australia Inc. The ADO's office is located in the ACT.

Further information about the ADO can be found at www.ado.org.au.

General comments

The ADO supports the Code, subject to our specific comments set out below.

Specific comments

The ADO's comments on specific provisions in the draft Code are set out in the following table.

Draft Code (provision)	Comments
Introduction—Compliance with the Code	
Code p3	The ADO supports the Code being made under section 23 of the Animal Welfare Act 1992 (AW Act). The ADO notes that in the sentence '<i>...Animal Welfare Act 1992 and the Domestic Animals Act 2000</i>', the words 'and the' should not be italicised

Relation to other Codes	
Code p4	“It also specifies that a person responsible for an animal has a duty to care for that animal (section 6B of the <i>Animal Welfare Act 1992</i>) including providing food, water, suitable accommodation, access to veterinary care when required and allowing and enabling the display of normal behaviours.” The ADO submits that this sentence misstates the law. Section 6B of the AW Act was amended in 2019 and the duty of care was removed: <i>Animal Welfare Legislation Amendment Act 2019</i>. “The <i>Domestic Animals Act 2000</i> sets out requirements such as annual registration, cat containment, permits to keep multiple cats, desexing requirements and identification of cats.” The ADO queries whether the references exclusively to cats are relevant in a code of practice about dogs.
Definitions for this Code	
Code p6	“carer means is the person in charge of the dog and can be, for example, a dog owner, commercial dog walker, or person who is looking after a dog on behalf of an owner.” There is a typographical error in the above definition (highlighted).
	“sentient means – (a) Being able to subjectively feel and perceive the world around them; and (b) have intrinsic value and deserve to be treated with compassion and have a quality of life that reflects their intrinsic value.” The ADO submits that this definition should read: ‘sentient, in relation to animals, means...’, as the proposed definition refers to ‘them’ and ‘their’, which have no meaning without a point of reference such as ‘animals’.
1.3 Identification	
S1.3.1	“The <i>Domestic Animals Regulation 2001</i> requires dogs that are at least 12 weeks old must be identified by a microchip.” There appears to be a missing word in the above sentence: “requires [that] dogs...”
S1.3.4	The ADO strongly supports the proposed mandatory standard that prong collars or similar aversive collars must not be used.
1.4 Desexing/sterilisation	
G1.4.2	The ADO supports the inclusion of G1.4.2, as the ADO often encounters the (mistaken) belief by dog keepers that desexing will alter the behaviour of a pet dog.

G1.4.4	<i>“Note: Under section 15B of the Animal Welfare Act 1992, it is an offence to allow a dog that contravenes a breeding standard to breed. A person who breeds in the ACT must have a breeding licence and the licence will specify that a person must comply with breeding standards.”</i> Re ‘...a dog that contravenes a breeding standard to breed’ – the ADO submits that this part of the sentence is poorly worded and the meaning is unclear (how can a dog contravene a breeding standard?). Section 15B(4) of the AW Act makes it an offence for a person to allow a female dog to breed in a way that contravenes a breeding standard.
1.5 Training and socialisation	
G1.5.1	“Dogs should be trained by an accredited training provider.” The ADO queries the reference to ‘accredited training provider’ and notes that the dog training industry is unregulated and there is no obvious or industry-wide ‘accreditation’. It would be more helpful if the Guideline referred to ‘experienced trainer’.
G1.6.2 and first ‘Note’ to G1.6.3	The ADO submits that together these provisions provide crucial information and suggests that the information provided in the note be incorporated into a guideline eg ‘Puppies should be socialised between 5-16 weeks’, especially as the note uses language such as ‘It is essential that...’, which suggests a mandatory requirement.
1.7 Control and supervision	
Chapeau	“Dogs can cause serious injury to people, other animals, and can damage the environment and/or property.” The ADO suggests the above text is missing a conjunction and should read ‘to people [and] other animals’.
S1.7.2	“Dogs must not be able to freely roam outside their owner/person in charges property.” This provision is missing an apostrophe: ‘person in charge[‘]s’
S1.7.5 First note	The information about ‘The location of designated on-leash and off-leash areas...’ is not related to ‘obedience training’ in the first sentence. The ADO submits that it should be a separate note.
G1.7.2 Note	<i>“Retractable or flexi leashes should be selected with care and is only...”</i> This should be ‘...are only’ (ie ‘leashes’).
1.9 Keeping of multiple dogs	
S1.9.1	This proposed Standard is ambiguous and potentially misstates the law. Section 18(1)(b) of the <i>Domestic Animals Act 2000</i> (ACT) (DA Act)

	makes it an offence if a person keeps a dog on the premises, and there are more than 3 dogs kept on the premises by the person or another person, and no one holds a multiple-dog licence. The Standard also contains a typographical error: 'license' should be 'licence'.
1.10 Persistent Barking	
S1.10.2	"The dog must be at least 12 months of age." It is unclear what this refers to eg the dog must be at least 12 months of age to do what?
S1.10.6	"...and bark reduction is a last resort to euthanasia." The ADO does not support debarking for the reasons set out in the Code. The ADO submits that this is the only situation in which debarking should be considered and even then, the dog's quality of life if debarked should be very carefully considered.
3.1 General	
S3.1.1	It is not clear what 'human contact' means. For example, is it different from 'interaction with people including...[etc]', as referred to in the fourth dot point? The ADO submits that as the term occurs in a Standard, it should be defined. It is also not helpful to have dot points in a standard. The ADO submits that these should be numbered for ease of reference and clarity.
3.2 Companionship	
S3.2.1	"Dogs are social animals and must not be kept alone for long periods of time." It is not clear what 'kept alone' means. For example, does it mean alone from humans and/or other dogs or companion animals? While this is given further context in G3.2.2, it might be helpful to specify it in the Standard (eg 'must not be deprived of the company of humans or dogs for long periods of time'). Otherwise would being with or near one of the 'small' companion animals be enough to meet proposed S3.2.1? It is also not clear what 'long periods of time' means. Does it, for example, have the same meaning as in S3.3.1 ie 'more than 2 hours'? If so (or if not), this should be clarified.

3.3 Tethering	
S3.3.1-6	The ADO agrees with these standards although the ADO submits that tethering should be only a last resort eg where the carer has to leave a dog in an emergency and for a short period of time.
3.5 Outdoor enclosures	
S3.5.3	The ADO strongly supports this mandatory standard, both for its own sake and also because it reflects current ACT law (AW Act s 6F).
4 Exercise	
Mandatory standards	The ADO submits that the standards in this part of the Code should be augmented with standards that support and reinforce s 6B(1)(g), (h), (i) and s 6F AW Act.
G4.2	Does the recommendation that ‘dogs over the age of six months may benefit from a minimum of 30 minutes once daily’ comply with the requirements of s 6F AW Act? If so, this should be explained.
5 Hygiene	
S5.2	The ADO supports this Standard and accompanying Guidelines as reinforcing and assisting with the interpretation and application of animal welfare offences in s 6B of the AW Act especially s 6B(1)(e).
6.2 Disease and ill health	
S6.2.1	The ADO supports this Standard and accompanying Guidelines as reinforcing and assisting with the interpretation and application of animal welfare offences in s 6B of the AW Act especially s 6B(1)(c).
7.1 Vehicles	
S7.1.3	“All dogs must be secured by installing a harness to restrain the dog.” Should this standard be qualified with ‘At all times during transport’ (as per S7.1.1)? Otherwise it is too broad and could potentially apply simply to ‘all dogs’ whatever the context.
S7.1.4	“protect against unauthorised release of animals” The word ‘unauthorised’ is an odd choice. While presumably referring to the animal welfare and nature conservation offences of abandoning or releasing animals, it would require explanation of these offences. The ADO suggests that an alternative such as ‘unintended’ may be preferable.
7.3 Food, water and exercise during transport	
S7.3.1	“In extremes of temperature, breaks provided will need to be more frequent.”

	It is not clear why the term ‘must’ has not been used in this sentence. Is the phrase ‘will need to’ have the same effect? If so, for consistency should ‘must’ be used? If not, what does it mean and is it appropriate for a mandatory standard?
7.5 International travel	
G7.5.3	“...the Department of Agriculture, Fisheries and Forestry...” Given the frequency with which Government agencies change their name, should a generic description be used here, also one that specifies the jurisdiction eg ‘the Commonwealth department responsible for agriculture’.
8 Breeding	
Chapeau	“The <i>Domestic Animals Act 2000</i> specifies that a dog breeders’ licence is required.” The ADO submits that this sentence should use language consistent with the legislative provision referred to, and should cite the provision eg ‘...specifies that a breeding licence is required to breed a litter from a dog (AW Act s 72)’. “It is an offence to breed in breach of a breeding standard (Section B, <i>Animal Welfare Act 1992</i>).” ‘Section B’ should be ‘section 15B(4)’.
S8.1	“A registered veterinarian must be consulted to obtain information on health, nutrition, and birth procedures and every reasonable action taken to avoid heritable defects.” Who should consult the veterinarian? The ADO submits that the passive should be avoided, and the Standard should specify who is responsible for meeting this standard. Avoiding heritable defects is an important issue in and of itself and should be the subject of a separate and stand-alone standard. The ADO submits that this Standard should be split into two separate standards.
S8.3	“...Persons planning to breed dogs should carefully assess their own lifestyles. ...” The ADO notes that this part of the Standard uses the word ‘should’ and submits that it would be better in a Guideline.
G8.4	“Breeding of dogs with exaggerated features...” The ADO submits that breeding of these dogs, eg brachycephalic breeds should be prohibited due to welfare concerns. The ADO strongly submits

	that G8.4 should be removed and substituted with a standard that prohibits the breeding of these kinds of dogs with inherent traits that cause pain and suffering.
9 Unwanted dogs	
S9.1	“It is recognised that there will be times when a person(s) will be unable to keep and/or care for their dog any longer.” The ADO submits that this introductory text would be better in an introduction to Part 9 rather than incorporated in the Standard itself. Avoiding heritable defects is an important issue in and of itself and should be the subject of a separate and stand-alone standard. The ADO submits that this Standard should be split into two separate standards.
G9.1	The ADO queries whether ‘surrender’ is the right term in G9.1. It implies ownership but is used here with reference to ‘unowned’ animals. Another phrase should be used eg ‘find a home for’. See the wording in Part 10 – what is the difference in terms of scenarios between G9.1 and G10.1 or G10.4? Also, can veterinarians check registrations, or only microchip details?
G9.2	The ADO strongly opposes the inclusion of G9.2. Such a guideline would encourage convenience killing and contribute to the high rate of killing healthy dogs simply because they have not been rehomed. Moreover, the guideline that ‘it may be necessary to have [the dog] euthanised by a registered veterinarian’ is so vague that, on its own, is worthless. When would it be ‘necessary’? The ADO also objects to the use of the term ‘euthanising’ in G9.2 as animals put down because they ‘cannot be rehomed’ are almost always healthy and are not suffering to the point where it is cruel to keep them alive.
10 Lost dogs	
G10.1	“...if known possible.” Is there a word missing here?
G10.4 Note	“Dogs brought in as strays are held by animal welfare shelters for seven (7) days for their owners to be reached.” What is the legislative authority for this statement? If the DA Act s 66, the ADO notes that this applies only to a dog ‘seized’ under that Act and only gives the registrar the power to ‘sell or destroy’ the dog after the stipulated holding period.

	“In limited circumstances where dogs are unable to be medically treated or rehabilitated does ethical euthanasia become an option as registered animal welfare organisations uphold the highest ethical obligations to ensure each dog has quality of life, free from pain and suffering.” What is the point of this Note? The Code cannot and should not purport to represent the views and conduct of all animal welfare shelters. The ADO recommends that this part of the Note be removed or changed to a Guideline that recommends how animal welfare shelters should conduct themselves in this context.
11.1 Dangerous dogs	
Chapeau	“A decision regarding the classification of a Dangerous Dog is based on its behaviour and not on its breed.” The ADO strongly supports this statement.
S11.1.1	This Standard seems merely to state the law and therefore is not necessary in the Code. “Owners/persons in charge of dangerous dogs are also encouraged...” It is not appropriate for a Standard to contain suggestions or actions that persons are ‘encouraged’ to do given that Standards contain mandatory requirements. The ADO submits that S11.1.1 should be removed or changed to a Guideline.
SS11.1.2-4	As SS11.1.2-4 merely replicate what is already mandated in the DA Act, the ADO submits that they be removed as Standards and at most included as Notes reminding owners of their obligations under the DA Act.
S11.1.4	The reference to ‘exercise’ in S11.1.4 is inappropriate, as the Standard appears to apply to when a declared dangerous dog is simply in a public place, not when they are exercising in one.
G11.1.1	What does ‘double gated’ mean? Requirements for enclosures for declared dangerous dogs should be very clear as the obligation to erect an enclosure can be extremely stressful for dog owners.
11.2 Attacks on stock	
GG11.2.1-2	“A decision regarding the classification of a Dangerous Dog is based on its behaviour and not on its breed.” The ADO does not support the inclusion of 11.2. It is inappropriate and does not fit with the rest of the Code as it is not about the welfare of dogs (and uses the second-person form of address which is inconsistent with the rest of the Code). The ADO submits that 11.2 should be removed.

11.4 Assistance dogs	
Chapeau	Should this sentence commence with an article ie '[The] definition...'?
G11.4.1	“A person accompanied by an accredited assistance dog has the same right of access to...” This statement applies to all assistance dogs, not just ‘accredited’ assistance dogs. Under s 9(2) of the <i>Disability Discrimination Act 1992</i> (Cth), an ‘assistance animal’ does not have to be ‘accredited’ (eg s 9(2)(c)).
G11.4.3	The ADO submits that G11.4.3 should be removed as it refers only to one type of assistance animal and one provider organisation. There are other organisations that train assistance animals eg Minddog Australia.
G11.4.4	The ADO submits that G11.4.4 potentially misstates the law as the dogs described could be regarded as an assistance animal under s 9(2) of the <i>Disability Discrimination Act 1992</i> (Cth) if appropriately trained (rather than accredited).
12 Humane killing	
G12.2	The ADO does not support G12.2 on the grounds that it would encourage convenience killing. The ADO submits that G12.2 should be removed.

Thank you for taking these submissions into consideration.

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