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can find home.

## Companion Animals Act 1998

# GUIDELINE FOR TEMPERAMENT ASSESSORS

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## 1. Introduction

The purpose of this document is to provide guidelines and information to those persons approved by the Director General of the Department of Local Government to conduct temperament assessments within the provisions of the Companion Animals Act 1998 (the Act) and the Companion Animals Regulation 1999 (the Regulation).

References in this guideline to a “temperament assessor” means a temperament assessor approved by the Director General of the Department of Local Government under section 5 of the Act.

### 1.1 Summary of Relevant Legislation

Section 5 of the Act defines an approved temperament assessor to mean “a person or body approved for the time being by the Director-General to carry out temperament assessments in relation to dogs for the purposes of Division 6 of Part 5.

Under Division 6, Part 5 of the Act a council is able to declare a dog to be a restricted dog for the purposes of the Act if the council is of the opinion that the dog is one of the breeds or kinds of dogs listed under section 55(1) (a) to (d) (a “restricted breed”) or is a cross-breed of a restricted breed. The council is required to give the dog’s owner a notice of the council’s intention to declare the dog to be a restricted dog.

The restricted breeds as listed under section 55(1) are:

- (a) American pit bull terrier or pit bull terrier
- (b) Japanese tosa
- (c) dogo Argentino
- (d) fila Brasileiro
- (d1) any other dog of a breed, kind or description whose importation into Australia is prohibited by or under the Customs Act 1901 of the Commonwealth
- (e) any dog declared by a council under Division 6 of this Part to be a restricted dog
- (f) any other dog of a breed, kind or description prescribed by the regulations for the purposes of this section.

After 28 days following the issuing of a notice of intention, the council may declare the dog to be a restricted dog, but not if the owner provides the council with a written statement by an approved breed assessor to the effect that the dog is not of a restricted breed or a cross-breed of a restricted breed.

If the dog is, however, identified as a cross-breed of a restricted breed, the council cannot proceed with the declaration if the owner provides the council with a written statement by an approved temperament assessor to the effect that the dog is not a danger to the public and is not likely, without provocation, to attack or bite any person or animal.

A written statement by an assessor for the purposes of Division 6 cannot be challenged and any assessor who provides any such written statement does not incur any civil or criminal liability for doing so.

The declaration by a council of a dog to be a restricted dog is final and is not subject to any review or appeal.

## 1.2 Notice of Intention to Declare a Dog to be a Restricted Dog

The Director General has approved a form of Notice for the purposes of Division 6, Part 5 of the Act. A PDF copy of the approved form “Notice of Intention to Declare a Dog to be a Restricted Dog” may be viewed at the Department’s website:

<http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Forms/06-30%20Form.pdf>

Under section 58A(1) a council may declare a dog to be a restricted dog if the council is of the opinion that a dog is either:

- (a) a breed or kind of dog referred to in section 55(1) (a)-(d) (“restricted breed”), or
- (b) a cross-breed of a restricted breed.

A notice of intention to declare a dog to be a restricted dog must set out the requirements that the owner has to comply with, both while a restricted dog declaration is pending and if a declaration is subsequently made. The notice must also set out the procedures associated with obtaining either a breed assessment or temperament assessment in relation to the dog.

If the owner of the dog decides to proceed with obtaining the relevant assessment(s), he or she has 28 days from the giving of the notice to undertake the procedures set out in the notice. However, the council may, at the owner’s request, extend the 28-day period because of extenuating circumstances.

The owner of the dog may decide to do nothing in which case the council may proceed to declare the dog to be a restricted dog. Once a declaration is made, the owner must comply with the control requirements for restricted dogs set out under the Act.

## 1.3 When is a Temperament Assessment Conducted?

A temperament Assessment is conducted **ONLY** when a breed assessor has established that the dog concerned is a **cross-breed** of a restricted breed.

In order for the dog not to be declared to be a restricted dog, a temperament assessment must establish that the dog is not a danger to the public and is not likely, without provocation, to attack or bite any person or animal.

If the owner decides **NOT** to proceed to obtain a temperament assessment then the council may declare the dog to be a restricted dog.

If a temperament assessment establishes that the dog is **not** a danger to the public and is **not likely**, without provocation, to attack or bite any person or animal the council **cannot** make a restricted dog declaration. The issue is finalised by:

- the addition of the temperament assessor’s number (“TA number”) to the dog’s record on the NSW Companion Animals Register (“the Register”) and,
- a “pass” is recorded on that record.

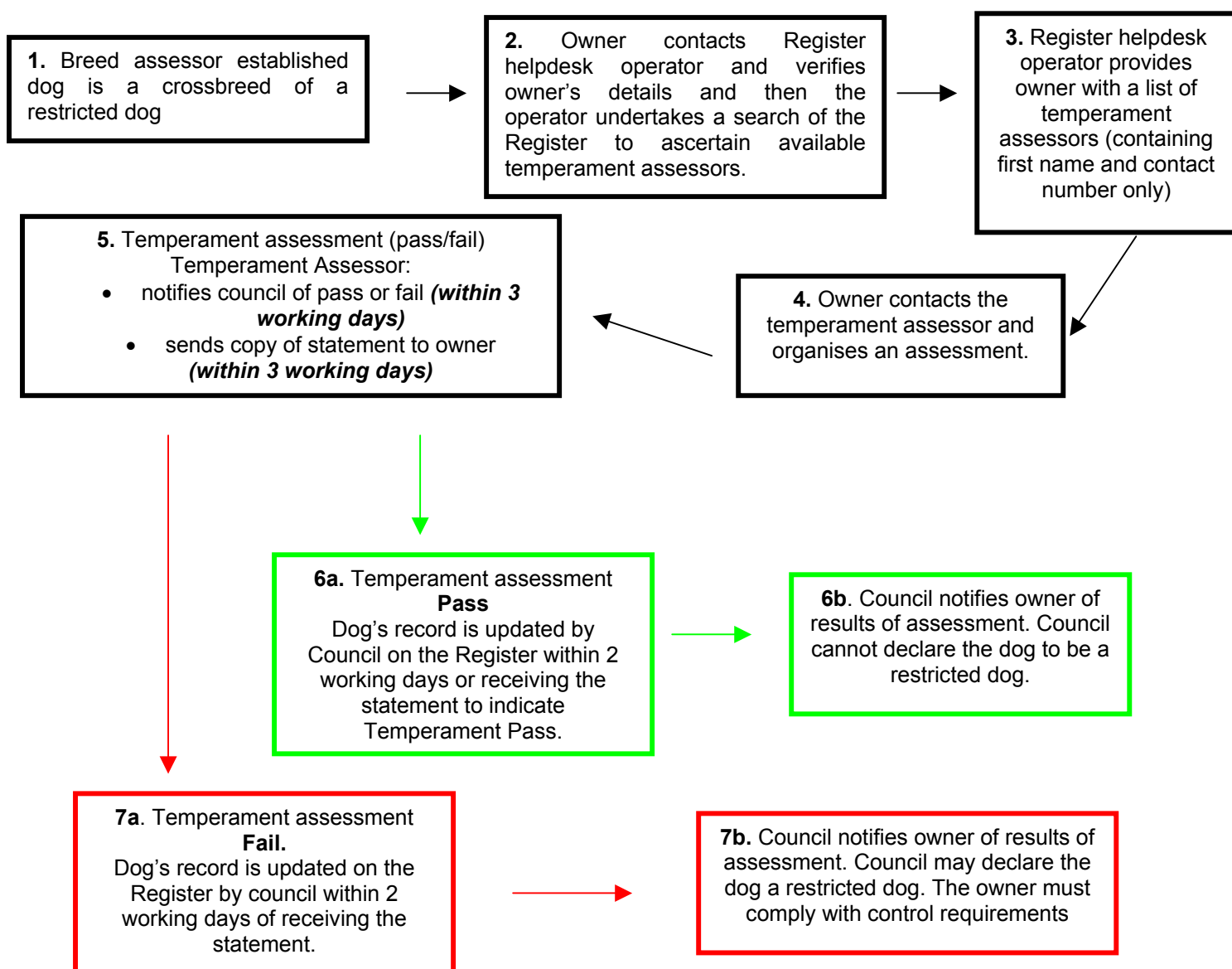
If the temperament assessment process establishes that the dog **is** a danger to the public and **is likely**, without provocation, to attack or bite any person or animal:

- the TA number is entered on the Register
- council may proceed with the declaration , and
- a “fail” will be recorded against its record on the Register

**A 28 day statutory time limit applies to the owner that decides to proceed with obtaining the relevant assessments (unless an extension is granted to the owner by the council). Therefore, temperament assessors should immediately respond to requests from owners to conduct assessments and endeavour to complete assessments as soon as possible.**

The following flowchart provides an overview of the temperament assessment process.

#### 1.4 Outline of Temperament Assessment Process



## **2. Applying to become an approved temperament assessor**

Persons interested in applying to become an approved temperament assessor should contact the Companion Animals Helpdesk on 1300 134 460. The Helpdesk Operator will forward them a temperament assessor application package.

Applicants should carefully read the material and complete the temperament assessor application form. They should then return this form, along with any necessary supporting information and a cheque or money order for \$100 (the application fee) made out to:

**NSW Companion Animals Register  
Locked Bag 3030  
NOWRA NSW 2541**

### **2.1 Application fee**

The \$100 application fee is compulsory and non-refundable, even if the application is unsuccessful. If the \$100 fee is not included with the application, the application will not be considered.

The application fee is receipted and an interim response sent acknowledging the application and fee paid.

### **2.2 Approval Process**

Companion Animals Unit staff check the application and contact those applicants who are required to supply further information.

Complete applications are passed on to the Temperament Assessment Advisory Committee. The committee has been established by the Director General to provide advice and recommendations regarding temperament assessment, including recommendations regarding temperament assessors.

### **2.3 Assessor Criteria**

The Advisory Committee has determined that for a temperament assessment to be considered valid, certain criteria must be met or assessed. These criteria are outlined below.

Accordingly, those individuals applying for approval as temperament assessors must clearly demonstrate to the Committee that they are competent to assess temperament and behaviour in dogs and how their assessment method adheres to these criteria.

The principles outlined below are considered to be accurate predictors of whether the dog is a danger to the public and is likely, without provocation, to attack or bite a person or animal.

These criteria are based on advice received by the Temperament Assessment Advisory Committee from dog temperament experts.

### **2.3.1 Criteria for Temperament Assessors**

Applicants must be able to demonstrate their ability to meet the following criteria:

1. Experience in implementing temperament assessments
2. Supporting evidence of any relevant formal qualifications
3. Demonstrated expertise in animal behaviour management
4. Membership of professional organisations relevant to this application
5. Proof of access to a multi-read microchip scanner
6. Description of the temperament assessment procedures to be applied in order to determine that the dog is not a danger to the public and is not likely, without provocation, to attack or bite any person or animal
7. Description of the methods of record keeping to be employed to ensure compliance with legislative requirements regarding privacy and confidentiality.

### **2.4 Notification of Approval**

The Advisory Committee reviews and assesses applications received by the Department. Recommendations are then made to the Director General.

If an application is successful the applicant will be notified and sent an information package containing the following:

- Approval letter and Temperament Assessment number (TA00XX)
- Guideline for Temperament Assessors
- A book of Temperament Assessment Statement forms
- Temperament Assessment Checklist

Any approval granted may be subject to conditions.

If the application is unsuccessful the applicant will receive a letter notifying them of the outcome and advising why the application was unsuccessful.

### **2.5 Renewal of Approval to Assess Temperament**

Approval to conduct temperament assessments for the purposes of Division 6, Part 5 is valid for a period of three (3) years.

Following the three-year period, an assessor will have a further 28 day period in order to submit a fresh application with an administration fee, to seek approval to continue to perform temperament assessments for the purposes of the Act.

It is the assessor's responsibility to ensure their TA number does not become invalid.

## **3. Procedures to be followed when conducting a temperament assessment**

### **3.1 The Temperament Assessment Process**

The dog owner will contact the temperament assessor to arrange a temperament assessment. The assessment is conducted at the owner's own expense (see item 4.8 below for information on costs and fees).

The temperament assessor must provide the owner with an overview of the process including:

- Documents or paperwork to be provided by the owner (for example; microchip paperwork, veterinary paperwork, obedience certificates or information that would assist in the temperament assessment process)
- documentation/statements to be provided by the temperament assessor
- scanning for verification of microchip
- the cost of assessment including travelling cost (if any), and
- the process the temperament assessor will use to determine the outcome of the temperament assessment.

### 3.2 Prior to the Assessment

**The owner should be advised that, if a dog is ill or injured, it may affect the outcome of a temperament assessment. In order to ensure that pain from injury or illness does not unduly affect the assessment, owners may wish to provide to the assessor a certificate of health for their dog, from a veterinarian, issued within 10 days prior to the temperament assessment.**

Before an assessment can be undertaken the temperament assessor must

- a. Sight an official *Notice of Intention to Declare Dog to Be a Restricted Dog* that has been issued to the dog owner by a NSW council, and signed by a council officer. The date of issue on the Notice of Intention should not be more than 28 days prior to the date of the assessment.

**PLEASE NOTE:**

- If the dog owner fails to provide this information, the Temperament Assessment **cannot** take place.
- If the date of issue of the Notice is more than 28 days prior to the date of assessment, the temperament assessor should contact the council officer who has signed the Notice to ascertain whether the council has granted an extension to the dog owner.
- Assessments conducted on dogs that have **not** been issued with such a notice are invalid, as they have not been performed in accordance with the processes outlined under Division 6 of Part 5 of the Act.
- **NSW councils cannot process invalid temperament assessment statements.**

- b. Verify the identity of the animal being assessed by using a multi-read microchip scanner and compare to documentation provided by the owner.

The Department also strongly recommends that temperament assessors take at least one (1) photograph of the dog they are assessing. A print out of this photograph should be attached to the temperament assessor's records for the animal.



### 3.3 Criteria for the Temperament Assessment Process

The assessor must address the following criteria when conducting a temperament assessment:

#### 3.3.1 Dog must be assessed in:

- a neutral environment that is consistent with the environment where the dog is ordinarily kept (for example, if the dog is normally kept in a rural environment it should not be assessed in a high density suburban environment with excessive traffic noise or visual stimuli etc).
- a controlled area free from unreasonable distraction and influence.

#### 3.3.2 Dog must be assessed against the following:

- behaviour towards strangers
- handling/restraint
- resource guarding
- visual stimuli
- auditory stimuli
- chase response.

#### 3.3.3 Dog does not show unreasonable reactivity or potential aggression towards the above criteria and towards other animals.

### 3.4 Required Documentation

#### 3.4.1 The Temperament Assessment Statement

On completion of a temperament assessment, the assessor must fill out the temperament assessment statement form in full. These statements are in-triplicate and must be handled as follow:

- Yellow copy - council copy (to council within 3 working days of assessment)
- Pink copy – owner’s copy (to owner within 3 working days of assessment)
- White copy - temperament assessor’s copy (to be retained by the assessor in accordance with State Records policy on document management).

The temperament assessor must notify both the owner and the council of the outcome of the temperament assessment within three (3) working days of the assessment using the temperament assessment statement form.

#### 3.4.2 The Temperament Assessment Checklist

The temperament assessor **must** also complete the approved Temperament Assessment Checklist, which is supplied with the temperament assessor’s approval letter. The checklist may be photocopied as required, and additional copies downloaded from the department’s website at:

[http://www.dlg.nsw.gov.au/dlg/dlghome/dlg\\_InformationIndex.asp?areaindex=CA&index=304](http://www.dlg.nsw.gov.au/dlg/dlghome/dlg_InformationIndex.asp?areaindex=CA&index=304) - Forms

The checklist document contains specific details of the assessment. It must be signed and dated by the assessor and must include the assessor’s approved TA number.

The temperament assessor **must** attach a copy of the checklist to the Temperament Assessment Statement form and distribute in accordance with the process described above in item 3.4.1.

The Department reserves the right to audit the records of approved temperament assessors as necessary and may, from time to time, request access to these documents.

## **4. Responsibilities of Approved Temperament Assessors**

### **4.1 Privacy and Confidentiality - Assessors Responsibilities**

Under section 89 of the Act it is an offence to intentionally allow a person to have access to information held by a temperament assessor other than in the lawful exercise of functions under the Act, for example by disclosing any information to an unauthorised person regarding information obtained during the temperament assessment process.

Temperament assessors will be collecting, recording, storing and disposing of personal information gathered from individuals as part of the temperament assessment process. These activities must be undertaken in keeping with the overarching principle of consideration for the privacy of individuals and in keeping with the provisions of this guideline.

Temperament assessors must not collect, access, attempt to access, allow other people to access, record or use personal information except as is necessary for the temperament assessment process under the Act, Regulation or Guideline.

Personal information held by temperament assessors because of their activities under the Act, Regulation or Guideline must be promptly provided to the individual to whom it relates at their request. Authorised identifiers must require proof of identity to be presented before providing this information.

Section 58F(1) of the Act provides that any person (other than a council) who is authorised by, or under this Act to identify or register companion animals may, despite any other Act or law, provide any information (including the person's opinion as to the temperament of a dog) to a council that may result in any action being taken by the council under Division 6, Part 5 of the Act.

### **4.2 Liability**

Under section 58E a temperament assessor does not incur any criminal or civil liability in respect of anything done or omitted to be done in good faith by the assessor in connection with carrying out an assessment of a dog's temperament for the purposes of Division 6, Part 5 of the Act.

### **4.3 Privacy and Confidentiality - Department of Local Government responsibilities**

The Department of Local Government is responsible for updating and maintaining all information relating to temperament assessors.

If a dog owner decides to obtain a temperament assessment, the council will advise the owner to call the Register helpdesk on 1300 134 460. The helpdesk operator will provide the owner with contact information for approved temperament assessors. It is the responsibility of the owner to contact a temperament assessor to arrange a date, place and time for the assessment.

The Register helpdesk ensures privacy with respect to the temperament assessor's personal information. Access to information relating to temperament assessors is restricted to users of the Register with level 4 access (Companion Animals Unit staff).

Only the assessor's first name and contact number may be released. No other assessor information contained on the Register is released publicly under **ANY** circumstances.

#### **4.4 Records Management**

The temperament assessor must establish and maintain a records management program for the white copies of the temperament assessment statement form, or the information contained in the form that ensures that the confidentiality of the information is maintained.

The records management program must be capable of retrieving specified white copies of the form, or the information contained in the form, on request. It is recommended that forms or records be capable of being retrieved based on microchip number or on a description of the animals' species and breed. It is not adequate that forms or records are accessible only by owner's name.

Temperament assessors must comply with all reasonable requests from the Department of Local Government or authorised officers of a local council for access to individual copies of the form and/or the information contained in them.

Where a temperament assessor has transferred information into their own records and the records management system complies with these requirements, it is no longer necessary to ensure retrieval of physical copies of the form for the purposes of access to information. However provisions relating to the retention of the form, protection of confidentiality and destruction still apply.

A record may be in such a form that information can only be produced or made available from it by means of the use of particular equipment or information technology (such as computer software). In this case the temperament assessor is responsible to ensure that the information remains able to be produced or made available for at least two years from the date of assessment.

#### **4.5 Secure Disposal of Information**

The form and/or any other written personal information acquired during the temperament assessment process must be securely disposed of. This means disposing of the information in a way that protects against loss, unauthorised access, use, modification or disclosure and against all other misuse. It is suggested that the documents be shredded.

## 4.6 Loss or Destruction of Information

In the case of suspected loss or unintended destruction at any time of any copies of the form, and any other written personal information acquired during the completion of 'temperament assessment', the temperament assessor must take all reasonable steps to recover the information or to ensure that the information has been properly disposed of.

In the case of loss or unintended destruction of the form within the 2-year period, the temperament assessor must immediately notify the Department of Local Government at the earliest opportunity or within 14 days.

In the case of loss or unintended destruction within the 2-year period the temperament assessor must comply with all reasonable requests by the Department to contact the relevant owners of the animals and to take any other steps necessary to ensure the integrity of the information on the Register.

## 4.7 Your Contact Details

It is the responsibility of temperament assessors to notify the Department of Local Government about any change in address or contact details as soon as possible.

Temperament assessors must notify the Department direct, by fax on (02) 4428 4199 or by email to [pets@dlg.nsw.gov.au](mailto:pets@dlg.nsw.gov.au), quoting the temperament assessor number issued by the Department.

## 4.8 Costs and Fees

Section 58C(4)(b) of the Act provides that the owner of the dog is liable to pay for any costs associated with obtaining a written statement from an approved temperament assessor for the purposes of this section.

Consideration should be given by the assessor to setting a fee for conducting temperament assessments that is reasonable and affordable to the dog owner, while at the same time providing appropriate remuneration for the expert advice provided by the assessor.

## 4.9 Conflict of Interest

A conflict of interest exists when you could be influenced, or a reasonable person would perceive that you could be influenced by a personal interest when carrying out a public duty.

In light of this, and in the interest of independence and accountability, temperament assessors **MUST NOT** accept an assessment booking if the dog owner is a relative, friend or person known to them.

Temperament assessors perform a specific function under the Companion Animals Act 1998. Their role is to assess the temperament of animals in accordance with the requirements of Section 58C (2). This involves a once only temperament assessment, which is distinct from any other temperament assessment function an assessor may perform. No on-going contact should be had with the owner of an assessed animal

(beyond supplying the owner with a copy of the assessment statement and checklist within 3 working days).

It should also be noted that under normal circumstances council officers should not be present when a temperament assessment is conducted. This is to avoid any potential conflict of interest that may arise from such a situation. An example of an extraordinary circumstance in which a council officer may be required to be present at an assessment is when the dog is impounded at the time of assessment.

## **5. Further Information**

Full copies of the Act and the Regulation can be viewed on the NSW Government's legislation website at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au). Copies of legislation may also be purchased from *Salmat: Print on Demand*, Level 3 McKell Building, 2-24 Rawson Place Sydney NSW 2000, telephone 1300 656 986.

Copies of various *Frequently Asked Questions* publications, brochures, posters and other information relating to the Act may be downloaded from the Companion Animals page on the Department's website at [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au). Other relevant information including a full list of NSW councils and council contact details may also be obtained from that site.

A full list of NSW councils and their contact details is available on the Department's website at [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au).

### **5.1 Temperament Assessment Statement forms**

Books of (triplicate) temperament assessment statement forms may be obtained, free of charge, by contacting Salmat (NSW Government contracted printers) by fax (02) 9743 8603, or phone (02) 9743 8777.

In order to obtain these forms an approved temperament assessor must provide their TA number and current contact details.

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