

Notice is given that an ordinary meeting of the Animal Control Subcommittee will be held on:

Date: **Wednesday 24 April 2024**
Time: **2.00pm**
Meeting Room: **Tasman Council Chamber**
Venue: **189 Queen Street, Richmond**
Zoom conference link: <https://us02web.zoom.us/j/82031234475?pwd=UThhRXFnOERWYmVCcUhRaG1naUZuQT09>
Meeting ID: 820 3123 4475
Meeting Passcode: 341707

Animal Control Subcommittee

AGENDA

MEMBERSHIP

(Quorum 2 members)

Contact Telephone: 03 543 8510
Email: shane.bruyns@tasman.govt.nz
Website: www.tasman.govt.nz

AGENDA

1 OPENING, WELCOME, KARAKIA

2 REPORTS

2.1 Disqualification from Dog Ownership 4

3 CONFIDENTIAL SESSION

As this meeting is considering a appeal to a disqualification, there is a right to appeal to the District Court. Therefore, the public will be excluded for deliberations on this matter in accordance with the Local Government Official Information and Meetings Act 1987 (48(1)(d)) – To deliberate in private in a procedure where a right of appeal lies to a Court against the final decision.

4 CLOSING KARAKIA

2 REPORTS

2.1 DISQUALIFICATION FROM DOG OWNERSHIP

Decision Required

Report To:	Animal Control Subcommittee
Meeting Date:	24 April 2024
Report Author:	Shannon Gourley, Administration Officer Regulatory
Report Authorisers:	Shane Bruyns, Regulatory Manager
Report Number:	RACS24-04-1

1. Purpose of the Report / Te Take mō te Pūrongo

- 1.1 To explain the process and reasoning behind the imposition of the “Disqualification from Dog ownership” and allow the Subcommittee to decide on whether this is the appropriate action in the circumstances.

2. Summary / Te Tuhinga Whakarāpototo

- 2.1 Lisa Wiblin has pleaded guilty under the Animal Welfare Act 1999, section 12(b) on 28 April 2023 – (Summary of facts and confirmation attached)
- 2.2 Under s25(1)(c) of the Dog Control Act 1996 (the Act), a territorial authority must disqualify a person from being an owner if the person is convicted of an offence against or Part 1 or Part 2 of the Animal Welfare Act 1999.
- 2.3 A letter of disqualification and a timeline of events was sent from Council on 14 December 2023 to Lisa Wiblin to advise disqualification would be in place for five years till 13 December 2028.
- 2.4 Under Section 26(1) of the Act - Objection to disqualification. An objection to disqualification from dog ownership was received via email to Adrian Humphries and a physical copy posted to the Council on the 27 December 2023.
- 2.5 Once notified of disqualification Lisa actively rehomed her dogs, taking numbers from twenty-one registered dogs at her property to four registered dogs, as at 10 April 2024.
- 2.6 Under s25(1A) of the Act, and in line with their delegations, the Committee can decide:
- To uphold the decision on disqualification, or
 - That disqualification is not warranted; or
 - That the territorial authority will instead classify the person as a probationary owner under section 21.

3. Recommendation/s / Ngā Tūtohunga

That the Animal Control Subcommittee

- 1. receives the Disqualification from Dog Ownership report RACS24-04-1; and**
- 2. pursuant to section 25(1)(c) of the Dog Control Act 1996 upholds the decision to disqualify Ms Lisa Wiblin from being a dog owner**
OR
- 3. pursuant to section 25(1A)(a) of the Dog Control Act 1996 is satisfied that disqualification is not warranted,**
OR
- 4. pursuant to section 25(1A)(b) of the Dog Control Act 1996 decides to classify Ms Lisa Wiblin as a Probationary Dog owner.**
- 5. Notes that the decision of the subcommittee will be recorded in the minutes and that a formal decision will be released as soon as practicable.**
- 6. Notes that Ms Wiblin has the right of appeal to the District Court under section 27 of the Dog Control Act 1996.**

4. Background / Horopaki

- 4.1 The Council was made aware that Lisa Wiblin was prosecuted on the 28 April 2023 of an offence against Section 12(b) the Animal Welfare Act 1999.

Section 12(b) Animal Welfare offences

A person commits an offence who, being the owner of, or a person in charge of, an animal,—

- (a)
- (b) *fails, in the case of an animal that is ill or injured, to comply, in relation to the animal, with section 11*

- 4.2 It is understood that Ms Wiblin plead guilty to these charges.
- 4.3 Council has disqualified Lisa Wiblin from dog ownership on 14 December 2023 under section 25(1)(c) of the Act.

Section 25 Disqualification of owners

- (1) *A territorial authority must disqualify a person from being an owner of a dog if—*
 - (a)
 - (b)
 - (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.*

- 4.4 There is a discretion under section 25(1A) of the Act not to disqualify a person from ownership if the disqualification is not warranted or the territorial authority instead classifies them as a probationary owner.
- 4.5 Staff’s decision was that disqualification is warranted. This is supported by the previous welfare concerns noted and property checks.

5. Analysis and Advice / Tātaritanga me ngā tohutohu

- 5.1 Staff recommend that the disqualification stands and that Ms Wiblin be disqualified for up to five years.
- 5.2 The reason for this is to ensure that the welfare of animals is maintained and in consideration of the timeline of interaction that Council staff have had with Ms Wiblin in relation to her animals. This is outlined in the Timeline **Attached** to this report.
- 5.3 If council made Ms Wiblin a probationary owner this would allow other person(s) residing at the property to own dogs and that welfare issues could continue.
- 5.4 Disqualification would ensure no dog would be able to be registered at the same address for up to 5 years.

Considerations for the Committee

- 5.5 When considering Ms Wiblin’s objection the Committee is required by section 26 of the Act to 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

The Committee’s decision should specifically address these points.

6. Options / Kōwhiringa

6.1 The options are outlined in the following table:

Option		Advantage	Disadvantage
1.	To uphold the Disqualification of ownership	The welfare of animals is protected.	Ms Wiblin will be unable to be a dog breeder for this time.
2.	To Classify as a Probationary owner	No more dogs could be registered to that owner within a 24 Month period from the Offence date.	Not able to replace existing dogs, There is a 24 month limit. The classification does not apply to household members meaning someone else in the household could continue to breed animals.

Option		Advantage	Disadvantage
3	Rescind the Disqualification of owner	Owner can continue to own dogs and breed.	Animal welfare issues could continue.

6.2 Option 1 is recommended.

7. Legal / Ngā ture

7.1 The following is the relevant excerpts from the Dog Control Act 1996

Section 25 of the Act

Disqualification of owners

- (1) *A territorial authority must disqualify a person from being an owner of a dog if—*
- (a)
 - (b)
 - (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.*

Section 26 of the Act

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.*

Section 28 of the Act –

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.*

Section 23 of the Act

Probationary owners

- (1) *Classification as a probationary owner shall, unless earlier terminated by the territorial authority, continue until 24 months after the date of the offence or, as the case may be, the date of the third infringement offence, in respect of which the classification was made.*
- (2) *No person who is for the time being classified as a probationary owner shall be capable of being the registered owner of any dog unless that person was the registered owner of that dog on the date of the offence or, as the case may be, the date of the third infringement offence, in respect of which the classification was made.*

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.*

8. Communication / Whakawhitiwhiti Kōrero

- 8.1 A letter of disqualification was sent on 14 December 2023 to Lisa Wiblin with an accompanying letter explaining the disqualification and the territory authority role under the Dog Control Act 1996, together with a copy of a timeline of events over the years from Council records.

9. Conclusion / Kupu Whakatepe

- 9.1 The Council has a responsibility to make sure that the necessary requirements under the Dog control Act 1996 are met, staff believe the disqualification should be upheld however ultimately it is the decision of the Committee.

10. Next Steps and Timeline / Ngā Mahi Whai Ake

- 10.1 The Council must as soon as practicable, give written notice to the person of that decision.

11. Attachments / Tuhinga tāpiri

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7. ↓	Court Record 28 April 2023	23
8. ↓	Charging Document	24



Our reference: PRV001563

9 May 2023

Adrian Humphries
Tasman District Council

By Email only: Adrian.Humphries@tasman.govt.nz

Dear Adrian,

PRIVACY ACT REQUEST - Re: WIBLIN, Lisa

1. I refer to your email dated 4 May 2023 where you made a request for third party information held by the SPCA. You requested information held by SPCA relating to the SPCA prosecution of Lisa Wiblin.

2. In particular, you requested:

“... Following your successful Court case against Lisa Wiblin, we need to comply with the Dog Control Act and decide whether we will classify her as a Probationary Owner or Disqualify her from Dog ownership. In order to make his decision we would like to see copies of any information considered by the Court. I understand that this is public information as it was provided to the Court ...”

3. Although not expressly made as such, we have treated your request as a request for third party information pursuant to the Privacy Act 2020.

SPCA | Level 1, 3047 Great North Road, New Lynn | PO Box 15349, New Lynn, Auckland 0640, New Zealand

Telephone 09-827 6094 | Fax 09-827 0784 | Email info@spca.nz | Web www.rnzspca.org.nz

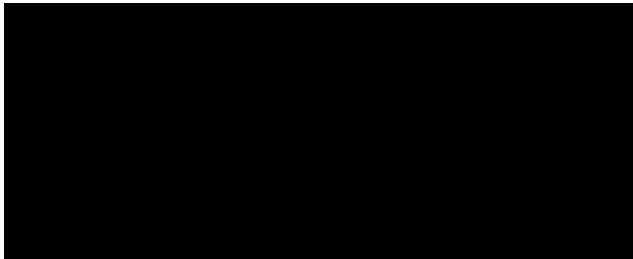
Patron Her Excellency The Right Honourable Dame Patsy Reddy | GNZM, QSO, DStJ | Governor-General of New Zealand



We have considered your request and provide the following response.

4. As an agency for the purposes of the Privacy Act, the SPCA must not disclose a person's personal information that we hold unless we are satisfied that a principle 11 exception applies in the circumstances and disclosure can be justified on the relevant ground.
5. Having properly considered the circumstances and undertaken an assessment of your request we are satisfied that there are reasonable grounds to believe that the requirements of principles 11(1)(a) and 11(1)(d) have been met.
6. We **attach** to this letter the summary of facts to which Ms. Wiblin plead in the recent prosecution. We can also advise that the sentence handed down by the Court was:
 - a. \$1001 reparation for vet expenses
 - b. A fine of \$300
 - c. A contribution of \$150 to SPCA's legal fees
 - d. Forfeiture of the dog Joy

Yours sincerely



Inspectorate Team Leader

SPCA - v- WIBLIN

<u>CHARGE(S):</u>	Offence:	Failed in the case of an animal that was ill or injured, to ensure the animal received treatment that alleviated any unreasonable or unnecessary pain or distress being suffered by the animal.
	Act/ Section:	Animal Welfare Act 1999, section 12(b)
	Penalty:	12 months' imprisonment and/or \$50,000 fine

SUMMARY OF FACTS

Introduction

1. On 21 January 2022 the defendant, Ms. Lisa Wiblin, a breeder of Pomeranian dogs, presented one of her breeding females, a cream coloured, 2 year old Pomeranian known as "Joy" for veterinary examination.
2. Joy had recently had a litter of puppies, and the prospective purchaser of one of the puppies had requested that Joy undergo veterinary examination.
3. At this examination, Ms. Wiblin said that Joy had sustained an injury to her right front leg on approximately 26 December 2021, when she had jumped off a chair. Ms. Wiblin had applied a toilet roll splint for the period of a week.
4. The veterinarian found the lower leg had excessive lateral movement and crepitus (crunching) in the carpal joint. X-rays were performed which revealed a healing fracture of both the radius and ulna.
5. Joy was sent home on pain relief and Ms. Wiblin was given instructions to return Joy to the clinic for a re-examination two weeks later, but Ms. Wiblin did not return Joy to the clinic, consequently a report was made to SPCA on 9th February 2022.

6. On 14 February 2022, a search warrant was executed at the property of Ms Wiblin and Joy was seized. Veterinary examination revealed:
 - a. Joy should have received immediate veterinary care following her injury.
 - b. Joy still had a gait abnormality and mild lameness of the affected leg (likely due to pain).
 - c. Joy had a deformity of the limb at her wrist, which presented as an abnormal inwards angle of the limb at the wrist, and there was a palpable thickening where the bone had formed a callus.
 - d. Due to the incorrect healing of the joint, it was likely that Joy would develop degenerative joint disease, and this would have long term consequences.
 - e. Joy required ongoing pain relief and management of her condition.
 - f. The fractured leg would have caused Joy pain for some time and appropriate intervention would have resulted in a much better outcome, preventing the deformity to the leg and its long term consequences.
7. When interviewed, Ms. Wiblin said that she thought Joy had sprained or bruised the bone badly and acknowledged that she would have been in pain.
8. She had not sought veterinary treatment and had splinted Joy's leg by putting a bandage and toilet roll firmly around it. Joy had three-week-old puppies' at the time of the injury, so she had kept her in her crate with her puppies.
9. She overlooked taking Joy to the vets sooner and had no excuse for it, and admitted that whilst Joy had improved, she was still limping four weeks later.

