

Agenda for a hearing by Commissioners of the Regulatory Subcommittee for Waikato District Council to be held via Audio Visual Conference on **FRIDAY, 25 MARCH 2022**, commencing at **9.30am**.

Information and recommendations are included in the reports to assist the Subcommittee in the decision-making process and may not constitute Council's decision or policy until considered by the Subcommittee.

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GJ Ion
CHIEF EXECUTIVE

To	Regulatory Subcommittee
Report title	Objection to Menacing Dog Classification - Caine Smart

1. Purpose of the report

Te Take moo te puurongo

Providing the Regulatory Sub-Committee background on the classification of a menacing dog to enable them to hear the objection received and subsequently determine whether to uphold the classification.

2. Executive summary

Whakaraapopotanga matua

Section 33A of the Dog Control Act 1996 (“the Act”) allows Waikato District Council (“Council”) to classify a dog as menacing if the dog is considered to pose a threat to a person or other animal due to observed or reported behaviour (sections 33A and 33B of the Act annexed as Appendix 1).

“Luna-May”, a female black and tan, Rottweiler, aged 4 years 7 months, at the time owned by Caine Mason-Kelehe Smart (Mr Smart), and known as Luna, was involved in an incident on 25 November 2021 where Luna rushed Haley Broughton (Ms Broughton), her son and her nephew.

Luna was free to leave her property and the rushing happened on Jellicoe Avenue, Tuakau in a public place. As a result of this, an infringement and a menacing classification were issued.

In accordance with section 33B of the Act, Mr Smart has objected in writing to the menacing classification within the statutory time frame.

Council believes the behaviour displayed by Luna during the reported incident is concerning and without substantial behavioural correction poses an ongoing risk to the safety of the public.

Council also acknowledges the desire of Mr Smart to have the dog re-homed to a more experienced owner, which is commendable. Council has been advised that since the incident and whilst awaiting the hearing, Luna has now been rehomed.

Council submits that regardless of rehoming, Luna should remain classified as menacing. The menacing classification is the only means by which Council can make any future owners throughout the country aware of the current behaviours, noting further adoptions could happen at any time or stage outside of our district, with no way to be sure any required training would be provided, or indeed if provided, be successful in reducing the risk Luna poses.

3. Staff recommendations Tuutohu-aa-kaimahi

That the Regulatory Sub-Committee confirms that, having considered the objection and all the evidence provided, the Classification of Luna under section 33(A)(1) of the Dog Control Act 1996 be upheld.

4. Background Koorero whaimaarama

On 25 November 2021, Council After Hours service received a complaint from a member of the public, Ms Broughton. Ms Broughton was walking with two children when a black/brown Rottweiler chased the children from behind. Ms Broughton was on a public footpath at the time of the incident. (Service Request annexed as Appendix 2).

Ms Broughton screamed and shooed the dog away from the children. The call centre operator who took the call, could hear the children in the background and has recorded into the Service Request what she could hear in the background at the time of the call (in Appendix 2, page 2).

Officer Moore received the job from the call centre. Officer Moore's statement and pocketbook notes relating to this matter are annexed as Appendix 11. Officer Moore rang and spoke with the complainant to confirm what had happened. Officer Moore then attended the property she suspected the Rottweiler had come from, 11 Jellicoe Avenue Tuakau. This dog owner explained that his dog had been inside the house all evening. Officer Moore explained that she was following up on a rushing complaint and was gathering information. She then returned home.

The next day on 26 November 2021, Officer Moore contacted Ms Broughton and compared the description of the attacking dog with the dog at 11 Jellicoe Avenue Tuakau. Officer Moore concluded that the Rottweiler at 11 Jellicoe Avenue did not commit the offence. Officer Moore then visited 31C Jellicoe Avenue, Tuakau and the dog owner, Mr Smart admitted that it was his dog that had committed the offence.

On 29 November 2021 Officer Moore obtained a Witness Statement from Mr Smart regarding the incident. (Witness Statement annexed as Appendix 3). Mr Smart explains the behaviour exhibited by Luna as play behaviour. Mr Smart believes the behaviour of Ms Broughton led to Luna playing a game of chase.

On 7 December 2021 Officer Twiss took a witness statement from Ms Broughton. (Witness Statement annexed as Appendix 4). In this statement Ms Broughton describes the behaviour exhibited by Luna that led to her feeling the children were threatened.

On 21 December 2021, Officer Moore referred the incident to the Team Leader of Animal Control, who holds delegation to make decisions around enforcement action, including classifying a dog menacing under the Act (Decision Making Criteria annexed as Appendix 5)

The decision was made to classify Luna as menacing, and Council issued a notice of menacing classification dated 21 December 2021 and posted the notice to the dog owner Mr Smart. (Classification annexed as Appendix 6). A section 52(A) infringement was also issued on 21 December 2021 (Infringement annexed as Appendix 7).

Following receipt of the notice of menacing classification, on 23 December 2021 Mr Smart lodged a written objection to the dangerous classification with Council. (Objection annexed as Appendix 8). Council received the written objection within the prescribed 14-day objection period.

Having received Mr Smart's written objection to the menacing classification, the objection now needs to be determined in accordance with section 33B of the Act (sections 33A and 33B of the Act annexed as Appendix 1).

5. Discussion and analysis

Taataritanga me ngaa tohutohu

The evidence provided by Ms Broughton by way of witness statement confirms that the dog showed aggressive rushing behaviour towards Ms Broughton and the two children while they were on a public footpath. Council considers that this behaviour is a danger to the public.

In Mr Smart's objection, he argues that Luna was being playful, but he does admit the incident took place. Mr Smart has taken responsibility for the situation and is clear that he does not believe that Luna would exhibit any aggressive behaviour towards people.

Council commends the actions of Mr Smart to ensure that Luna is rehomed to an owner in a better position to provide for Luna's requirements. Mr Smart has confirmed with Officer Moore that Luna has already been rehomed out of Mr Smart's care into the Auckland City Council area (Appendices 9 and 10). The concern held that a menacing classification would prevent rehoming appears on the face of it to no longer be accurate.

Council also notes that in his objection, Mr Smart explains that he had always made it a priority to have Luna muzzled when walking on a lead, due to Luna's anxiety and her not being good around other dogs.

Council notes that the legal effect of the menacing classification (refer Appendix 6) is simply to formalise the wearing of a muzzle as a legal requirement whilst in a public place, and to require Luna to be desexed.

Another benefit of the menacing classification is also to inform any future adoptive owners, in other territorial authority jurisdictions, of the history of Luna, to ensure appropriate precautions are taken wherever in the country Luna might be.

On balance, Council believes that the menacing classification remains appropriate for Luna.

5.1 Options Ngaa koowhiringa

The Committee has two options in considering the objection to the menacing classification:

1. Uphold the classification of the dog as menacing; or
2. Rescind the classification.

This menacing classification will reduce the risk posed to any member of the public by requiring Luna to be muzzled when in public. The position of the Animal Control Team on behalf of the Council is that the evidence substantiates the classification of Luna as menacing under the Act. *Option 1 is recommended.*

If the Regulatory Subcommittee rescinds the classification, there is a risk that further breaches of the Act will occur, and members of the public could be further threatened or even harmed. *Option 2 is not recommended.*

6. Attachments Ngaa taapirihanga

Appendix 1 – Section 33A and 33B of the Dog Control Act 1996

Appendix 2 – Service Request received 25 November 2021

Appendix 3 – Witness Statement (Mr Smart)

Appendix 4 – Witness Statement (Ms Broughton)

Appendix 5 – Decision Making Criteria

Appendix 6 – Classification

Appendix 7 – Infringement

Appendix 8 – Objection to Menacing Classification

Appendix 9 – Officer's pocketbook notes detailing conversation regarding Luna's new home

Appendix 10 – Written confirmation from Mr Smart that Luna has been rehomed

Appendix 11 – Officer Moore's statement and pocketbook notes

Date:	25 March 2022
Report Author:	Tracey Oakes, Animal Control Team Leader
Authorised by:	Sue O'Gorman, General Manager Customer Support

Menacing dogs

Heading: inserted, on 1 December 2003, by [section 21](#) of the Dog Control Amendment Act 2003 (2003 No 119).

33A Territorial authority may classify dog as menacing

- (1) This section applies to a dog that—
 - (a) has not been classified as a dangerous dog under [section 31](#); but
 - (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—
 - (i) any observed or reported behaviour of the dog; or
 - (ii) any characteristics typically associated with the dog's breed or type.
- (2) A territorial authority may, for the purposes of [section 33E\(1\)\(a\)](#), classify a dog to which this section applies as a menacing dog.
- (3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—
 - (a) the classification; and
 - (b) the provisions of [section 33E](#) (which relates to the effect of classification as a menacing dog); and
 - (c) the right to object to the classification under [section 33B](#); and
 - (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of [sections 33EA](#) and [33EB](#) if the owner does not object to the classification and the dog is moved to the district of another territorial authority.

Section 33A: inserted, on 1 December 2003, by [section 21](#) of the Dog Control Amendment Act 2003 (2003 No 119).

Section 33A(3): amended, on 1 November 2004, by [section 10](#) of the Dog Control Amendment Act 2004 (2004 No 61).

Section 33A(3)(c): amended, on 28 June 2006, by section 13 of the Dog Control Amendment Act 2006 (2006 No 23).

Section 33A(3)(d): added, on 28 June 2006, by section 13 of the Dog Control Amendment Act 2006 (2006 No 23).

33B Objection to classification of dog under section 33A

- (1) If a dog is classified under [section 33A](#) as a menacing dog, the owner—
 - (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
 - (b) has the right to be heard in support of the objection.
- (2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
 - (a) the evidence which formed the basis for the classification; and
 - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - (c) the matters relied on in support of the objection; and
 - (d) any other relevant matters.
- (3) The territorial authority must, as soon as practicable, give written notice to the owner of—
 - (a) its determination of the objection; and
 - (b) the reasons for its determination.

Section 33B: inserted, on 1 December 2003, by [section 21](#) of the Dog Control Amendment Act 2003 (2003 No 119).

Request details for DOGS1160/22

Request Number	DOGS1160/22	Priority
Date Received	25/11/2021	Completed On
Source	AftHours	Resp Workgroup
Status	P	Raised By
Group	DOGSCRM	Resp User
Category	DogAggCurr	Call Back?
Process Counter	546655	

Related Property & Customer DOGS1160/22

Property Address	Jellicoe Avenue	
Home Telephone		Mobile Telephone [REDACTED]
Caller Name	Haley Broughton	
Caller Address		
Caller Email	[REDACTED]	

Request Details

Description

Resolution Description

Resolution Details

Medium

26/11/2021

Dogs

CCRUZ001

AMOOR001

False

Work Telephone

[REDACTED]

Dogs Aggression - Current

Hayley and kids were walking when a black/brown rotti chased the kids from behind. Hayley screamed and shooed the dog away. Neighbours went out and taken the dog away but not sure where it belongs. Hayley sad it maybe from the property on the bend of Jellicoe Avenue, near 17 so looking at the map probably 28 Jellicoe Avenue. No injury, no bite, the kids are traumatized, crying on the background and i can hear the kid say "he could have died" so Hayley is doing her best to comfort her 8 and 7yo kids chased by this dog. Phoned ACO to advise.

Completed

25/11/21 rang and spoke with comp she and her 2 kids were waking along jellicoe ave towards town when a rotti ran up from behind them aggressively trying to get her 2 kids she had to yell and scream to get the dog away. The rotti didnt make contact but did get the kids clothes. Male come out and grabbed the dog.

9.50pm arrived at 11 Jellicole ave spoke with male D/O who said his rotti had been in side all evening. Explained that we are just following up on a rushing and gathering information at this point. Male rotti with tail brown leather collar.

26/11/21 rang comp kids still upset, comp described rotti multi coloured collar white/dark, tall, teenage doesn't match the rotti from 11 jellicole ave.

Visitered 31c jellicole ave male D/O there said it was his rotti that had rushed at the lady and kids.

29/11/21 D/O did witness statement, Comp to do witness statement on friday with amanda T

21/12/21 Luna has been classified as menacing for her behaviour infringement also issued.

Memo Details



District Office 11
 Private Bag 544 15 Galileo Street ☎ 07 824 8633
Ngaruawahia 3742 Facsimile ☎ 07 824 8091
Huntly Area Office 142 Main Street ☎ 07 828 7551
Raglan Area Office 7 Bow Street ☎ 07 825 8129
Tuakau Area Office 2 Dominion Road ☎ 0800 492 452

OFFICE USE ONLY
 CRM: Doys 160922
 Person ID: 166974
 Dog ID: 152269

Witness Statement

Section 82 of the Criminal Procedure Act 2011

Statement of: Caine Mason – Kelenc Smart Date of birth [REDACTED]
 Address: [REDACTED] Contact Number: [REDACTED]

Date of Statement: 29.11.21 Time of Statement: 3.08pm

I am making this statement to **Waikato District Council** as a complaint of an offence against the **Dog Control Act 1996** or the **Waikato District Council Dog Control Bylaw 2015**. ****Statement from owner of the dog being complained about****

*****Please read the back page before completing this Witness Statement*****

The incident occurred on 25.11.21 at about 8pm am / pm
specify the date give the time of day event happened

The incident happened at On Jellicoe Avenue, around bend towards the top end of the street.
Address of where the incident occurred

The dog involved was a Female Rottweiler X – Medium sized (as compared to other Rottweilers her age) Standard looking Rottweiler just smaller and leaner body.
Her name is Luna – she is 1 year 8 months.
description of dog – breed, colour, sex, size, collar, tag etc. See last page for further information

The dog is kept at [REDACTED]
give the address where the dog is kept

I know the dog is from this address because

I am the owner.

.....
Have you seen it there before? Did you see it go back there?

What were you doing? And who were you with? (Walking running cycling etc) My partner and I were taking our 1 year old daughter out to the front property to play on her remote control ride on car. Unfortunately, as we opened the gate and Luna took the opportunity to bolt out. I quickly tried to grab Luna but she had already gone. She first went to my neighbours house however quickly swung around up our long driveway – Once I got to the top of the driveway she saw me and again bolted. Absolutely lost all focus and ran. I was running to but could not keep up. I saw on the corner 3 kids walking (at the time I thought it was children, mostly due to the way they all reacted) Luna would have actually ran passed them all – she did run past them all for a moment but when the children screamed she almost U turned around and went back to them. For a moment while screaming they ran. Of course Luna thought it was a game and to chase. I could see her from where I was, her getting down on her two front legs with her backside up. Known as the play stance. By this time I had got there (Note that it would have been less than 10 seconds from when Luna had reached them that I got there). One boy was terrified hiding behind the powerline foundation crying calling for me to help. I got to the mother who had her younger son between her body shielding him. I said “it’s okay, she’s excited, calm down”. Again, thinking they were children. This was this moment I realised one of them was an adult when she replied to me “don’t tell me to calm down”. By this point 3 or 4 of the neighbours had come out. It was when a neighbour close came out her gate that Luna got distracted and ran to her. Whilst this was happening the mother was yelling “Somebody control your dog”. Over and over in a panic. When Luna ran towards the neighbour coming out the gate it was now that I managed to catch Luna. **It’s a bit fuzzy what was said exactly by the lady with her children because as you could imagine it’s not a really nice memory to have** While I had Luna the mother was walking in circles back and forward pointing at Luna “Someone come get your dog, this dog needs to be restrained” Etc Etc. I admitted instantly and said she was mine and how sorry I was. She replied “Not cool man, not cool”. I asked her “Did she get them?”. “She said no, but she would have”. Now it’s at this moment that one of the neighbours started talking to me about “you have to be careful” etc etc – I wasn’t really paying attention to her. There was a Rotty across the road being walked and Luna was hard to hold onto at this point – specially with all

the people around etc – another neighbour came out and approached the mother asking what was happening and she was still yelling etc. At this moment I thought it was best to get Luna out of the situation. Because she is a small Rotty X I picked her up and just walked her home.

.....
.....
.....

Where/when did you first notice the dog? (Where was it? What was it doing? How far away from you was it?) Luna came up behind them as they were walking in the same direction. They only noticed her once she was running past them.

What was the dog doing when you first noticed it? (What was its attitude like?)
They would have noticed her when she ran past – she would have been excited to be free. Running from me.

How/When/Where did the dog approach you?
The dog approached them when they screamed when she was running past – Luna swung around.

Was it wearing a muzzle? No. Usually she is always in a muzzle due to her anxiety and aggression with other dogs.

What was the dogs behaviour? (Barking, snarling, growling, lunging, attempting to bite etc) ...
From what I could see from the distance when she first reached them. And noting I was only 10 seconds or even less behind her. She swung around and thought it was a game when they ran for that moment. She was getting down on her two front legs (play stance). Obviously I wasn't close enough to hear if she was growling etc. But I don't doubt she was growling. When Luna is

at home playing with our other Rottie Cleo they growl and nip eachother. Also anyone who owns a Rotty knows you do not play rough house with them because they are super rough. If Luna thought this was an invite to rough house with her she could have nipped – but as the owner has admitted Luna (allegedly) only got clothing – now I don't know if that was through biting, from what I could see, I could only see her jumping on them so it could have been through claws.

Did the dog make contact? Who/what did it make contact?

She allegedly made contact with one of the child's clothing.

If the dog has made contact – Where on the body? What injuries were caused? Was medical or veterinary treatment sought and if so what was done?

Unsure

Was it with its owner? Was it on a lead or not under control? What action did they take?

Not on lead or muzzled due to her getting out by surprise. Action taken was to get her back by hand and deal with the situation calmly. I.e there was no abuse or fighting on my half.

.....

.....

.....

.....

What action did you take? (During and after the incident?)

She eventually told her child to stop running. She put her younger boy between her and began to yell for help and shoo Luna away while yelling at her.

.....

.....

.....

.....

What impact has this event had on your mental wellbeing?

I could imagine the children are very upset. They looked terrified and I feel awful about that. I'm sure they will have a long time until they can trust dogs.

.....

.....

.....

.....

Are you concerned for your safety or the safety of the community because of the actions of this dog? -

Luna is no threat to society – we have learnt the lesson to be more careful so she doesn't get out. Even so – no aggression towards people.

.....

.....

.....
.....
Any further detail you would like to add?

What happened was not nice for the children and I am truly sorry to those boys. I really hope in time they will heal and trust animals. I've come to the conclusion that either the mother has no experience with dogs or she has had an incident with a dog when she was younger. I say this because I don't think she dealt with the situation very well at all.

The anger towards me I understand – I have my own young daughter and I would feel the same way. However, if a stray dog had run passed me with my daughter it would have never come to the fiasco that it did, I would have dealt with it much different but also I understand that not everyone has the knowledge of what to do, and I also understand that it was completely our fault that she was out in the first place.

Luna is currently in training with Jess Beer – a certified trainer. The reason why we put her in training is obedience problems (being a young dog) and she has had issues with aggression towards other dogs. NOTE: Other dogs only. I have plenty of nieces, nephews and my own daughter and she has NEVER shown aggression towards them. Even people – she has never ever shown aggression towards people. Our trainer has let us know that Luna shows signs of anxiety and the idea was if the training didn't work that she was actually going to be medicated.

Since this situation has happened my partner and I have decided that Luna is unfortunately too much for us to handle – we love her and want to give her the best chance she can have with someone who has more experience with her breed.

We have submitted her to Rottweiler Rescue however they won't take her on if she has a "danger to society" certificate on her.

We are pleading that Luna be given a second chance to be rehomed and loved – the mistake of us leaving a gate open, she shouldn't have to suffer for that mistake but also the HUGE misunderstanding of her behaviour been mistaken for aggression by a stranger.

Please note we are also willing to provide any further information in regard to our trainers professional report on Luna.

[Lined area for text entry]

I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it may be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to **be false** or intended by me to mislead.

Signed: Caine Smart.....
.....
(Informant)

Date: 29.11.21.....

Signed .....
.....
(Witness - ACO)

Date: 29.11.21.....

Information on completing a Witness Statement

Thank you for taking the time to complete a Witness Statement. It is important that you complete this form with as much detail as possible so that the Animal Control Officer (ACO) dealing with the case is well informed and can take the most appropriate enforcement action. Without this statement it is likely that the ACO will be unable to take any action with the owner of the dog or the dog itself. This statement is an important and necessary piece of evidence.

Please include in your statement -

- Your full details.
- The **date** and **time** of the incident.
- Where the dog lives and how you know this.

A detailed description of the dog(s) -

- **Colour** – (include any patches etc.).
- **Size** – small, medium, large.
- **Gender** (if known).
- If the dog was wearing a collar/tag.
- **Length of coat** – smooth, medium, longhaired.
- **Breed** - an option is to say what **type** of dog it is like if you are unsure of the exact breed.
- **Body type** – stocky, skinny, tall, short.
- **Face shape** - pointed or floppy ears, long or short nose, floppy jowls etc.
- Any other distinctive details you noticed.

Also, in your account of the incident include –

- The location of the incident.
- How the incident came about.
- How you came to be in contact with the dog - When and how did you first notice it? Where was the dog?
- The dog's behaviour – Was it growling, barking, lunging, attempting to bite?
- If the dog has bitten – Where? When? What the injuries are. Was medical or veterinary treatment sought and if so what was done??
- Was the owner of the dog or anyone else present? If so, what action did they take regarding the incident?
- Was anything said by anyone?
- What action you took - What did you do during and after the incident?
- Where did you last see the dog? Did it run off? If so, in what direction?
- How did the incident come to a conclusion?

It is important that you initial or sign each page of the statement, and date it.

If you have any questions please contact
an Animal Control Officer at the Waikato District Council, (07) 824-8633.



District Office
 Private Bag 544 15 Galileo Street ☎ 07 824 8633
 Ngaruawahia 3742 Facsimile ☎ 07 824 8091
Huntly Area Office 142 Main Street ☎ 07 828 7551
Raglan Area Office 7 Bow Street ☎ 07 825 8129
Tuakau Area Office 2 Dominion Road ☎ 0800 492 452

OFFICE USE ONLY

CRM: Dogs 116972
 Person ID: 166974
 Dog ID: 152269

Witness Statement

Section 82 of the Criminal Procedure Act 2011

Statement of: Hayley Broughton Date of birth: [REDACTED]
 Address: [REDACTED] Contact Number: [REDACTED]

Date of Statement: 3/12/21 Time of Statement: 11:32 am

I am making this statement to Waikato District Council as a complaint of an offence against the Dog Control Act 1996 or the Waikato District Council Dog Control Bylaw 2015.

The incident occurred on 25/11/21 at about 7:41 am/pm
specify the date give the time of day event happened

The incident happened at Jellicoe ^{Ave} ~~Rd~~ - outside # 7
Tuakau
Address of where the incident occurred

The dog involved was a Black/Tan Rottweiler male
medium build
looked like young Adult
description of dog - breed, colour, sex, size etc.

The dog is kept at 7 A Jellicoe Ave
Tuakau
give the address where the dog is kept

I know the dog is from this address because

The Dog owner came out of the house
at 7 A Jellicoe Ave. He also admitted he
owned the Dog.

on the 25/11/21 at 7:41 pm I was walking along Jellicoe Ave with my son and nephew. We were walking towards town on the right hand side of the road. As I walked past 11 Jellicoe Ave I heard their dog bark. The owner silenced the dog, I noticed their gate was shut.

We walked another 3 metres, all of a sudden I heard the kids screaming. They had been walking behind me. I swung around to see what was happening, the kids were already picked up under my arm by the time I had turned. I saw a medium sized Rottweiler rushing towards the kids. It wasn't barking but it looked aggressive. I pulled my son behind me, my nephew ran behind a tree. I was scared it was going to bite my son. I started screaming at the dog, it launched itself at me snapping at the air. It did that about 2 times before anybody came. I saw a man and lady come out of the house at 7A Jellicoe Ave. They both casually came out of the open gate on the property. The man told me to calm down and casually came over and said

..... Witness Initials

Something like what do you want me to do. I told him to get the dog. The dog was still rushing at me even with the owner being there. He walked up to the dog and headed it towards the black fence at the neighbors property. Once he had it cornered he grabbed it. I asked if it was his dog. He said it was his. He then scooped it up. I told him that wasn't cool. He then carried it off down the road. His partner asked if we were ok. At this stage the fireman up the road had come down with a Hocky bat. He saw it was all under control and he left. The neighbor had come out and said the owner had told her the dog wasn't good with other dogs and that it mustn't be good with kids either. once we got home I gave my son a hug.

That's when I realised he had dog sllobber on his T shirt and bag. That made me worried and I cried as it could have easily been a dog bite. I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it may be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signed:  Haley-Breygner Date: _____
(Informant)

Signed:  Date: 7/12/21
(Witness - ACO)

Classification Decision Making Criteria

Owner ID: 166974

Dog ID: 152269

CRM : DOGS1160/22

<p><u>OWNER RESPONSIBILITY</u> <i>(How did they react? Did they stop the dog? Were they present? Have they offered to help the victim in any way? Was the dog leashed?)</i></p>
<p>Dog not on lead, dog owner unable to stop Luna witnessed the hole event. No help offered</p>
<p><u>HISTORY</u> <i>(Any history in Council Database)</i></p>
<p>No history</p>
<p><u>SERIOUSNESS OF THE INCIDENT</u> <i>(Was contact made? Was the attack prolonged? What injuries were sustained?)</i></p>
<p>Dog made contacted kids clothing. No skin contact</p>
<p><u>VICTIMS VIEWS</u> <i>(Impact of the incident on the Victim, and/or ongoing effects of the incident?)</i></p>
<p>Victim's and kids very upset/ scared. Kids to scared to walk on Jellicole Ave Kids scared of dogs now</p>
<p><u>EVIDENCE</u> <i>(Witness statement provided? Dog identified?)</i></p>
<p>Witness statement taken</p>
<p><u>REGISTRATION COMPLIANCE</u> <i>(Was the dog registered at the time? If not, have they registered it since?)</i></p>

Yes registered at the time
PROPERTY <i>(Is the property suitable to contain this dog?)</i>
Property looks well fenced, unfortunately dog was able to slip past as owner open up the gate. A double door gate system would be a good idea to install.
MITIGATING RISK <i>(How the dog owner thinks they can mitigate this sort of behaviour in the future? Physical steps the dog owner has taken?)</i>
Luna is currently in Obedience training luna has aggression issue with other dogs. Since this situation has happened the dog owner is looking at rehoming luna as she is to much for them to handle.
ACO REASONING BEHIND CLASSIFICATION
Due to the behaviour displayed by Luna the dog poses a risk to public safety. The victims have been deeply impacted emotionally from this experience and while the attack wasn't severe, it has taken a toll on the victim and their family.

OUTCOME

Discussion between ACO and Team Leader

- Dog Seized/Impounded Yes/No
- Menacing Classification Yes/No
- Dangerous Classification Yes/No
- Infringement Yes/No
- Prosecution Yes/No

Signed (ACO)


Date 21/12/21

Check List

- Witness Statement
- Officers Statement
- Sworn Evidence (If Dangerous)
- Classification
- Copy of signed classification in ECM
- Classification hand delivered or delivered by registered post

Name: Caine Mason-Kelehe Smart

Address: [REDACTED]

Address

Address

TOWN ADDRESS

Dog name: Luna-May

Breed: Rottweiler

Gender, Colour: Female Black and Tan

NOTICE OF CLASSIFICATION OF DOG AS MENACING DOG

Section 33A, Dog Control Act 1996

This is to notify you that this dog has been classified as a menacing dog under section 33A(2) of the Dog Control Act 1996.

This is because reported behaviour of the dog leads us to believe that it may pose a threat to public safety; being any person, stock, poultry, domestic pet, or protected wildlife.

A summary of the effect of the classification and your right to objection is provided overleaf.



Tracey Oakes
Animal Control Team Leader

21/12/2021

Date

*For the purposes of the Dog Control Act 1996, you are the owner of a dog if-

- you own the dog
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependant on you

Effect of classification as menacing dog

Section 33E, 33F and 36A, Dog Control Act 1996

You—

- (a) must not allow the dog to be at large or in any public place or in any private way (except when confined completely within a vehicle or cage) without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
- (b) must, produce to Waikato District Council, within 1 month after receipt of notice of the classification, a certificate issued by a registered veterinary surgeon certifying—
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- (c) where a certificate under paragraph (b)(ii) is produced to Waikato District Council, produce to Waikato District Council, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with all of the matters in paragraphs (a) to (c) above.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (c) above. The officer or ranger may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

As from 1 July 2006, you are also required for the purpose of providing permanent identification of the dog, arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Waikato District Council in accordance with reasonable instructions of the Waikato District Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement—

- within 2 months from 1 July 2006 if your dog is classified as menacing on or after 1 December 2003 but before 1 July 2006;

or

- within 2 months after the dog has been classified as menacing if your dog is classified as menacing after 1 July 2006.,

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of classification as a menacing dog are provided in the Dog Control Act 1996.

Right of objection to classification under Section 33A

Section 33B, Dog Control Act 1996

You may object to the classification of your dog as menacing by lodging with Waikato District Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of your objection and will be notified of the time and place at which your objection will be heard.

INFRINGEMENT NOTICE

(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)



NUMBER: L95034
SR No. : DOGS1160/22

Territorial Authority
Waikato District Council
15 Galileo Street, Ngaruawahia
Ph: (07) 824 8633
Fax: (07) 824 8091

Caine Mason-Kelehe Smart



	Forenames	Surname		
Name of Owner:	Caine Mason-Kelehe Smart		Person ID:	166974
Date of Birth:	[REDACTED]		Animal ID:	152269

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date:	25/11/2021	Time:	7:41:00 PM	Day of Week:	Thursday
Road/Street:	Jellicoe Ave	Locality:	TUAKAU		

OFFENCE COMMITTED

	Infringement Fee (\$)	Offence Code
Failure to keep dog controlled or confined	\$200.00	S52(A)

Additional Details of Offence (if any):	Infringement Fee payable
	\$200.00
Reg No or Description of Dog:	
Licence:	Breed: Rottweiler
Sex: Female	Primary Colour: Black

PAYMENT OF INFRINGEMENT FEE

The infringement fee is payable within 28 days after: (earliest date notice delivered personally or posted)	21/12/2021	ACO:	25
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Please note that if you have been served with this Infringement Notice for failing to register a dog, payment of the infringement does not include the dog registration fee. You will still need to register your dog without delay and failing to do so may result in the issue of further infringement notices.

Infringement fee may be paid to:

WAIKATO DISTRICT COUNCIL
15 Galileo Street, Private Bag 544, Ngaruawahia
Or to the any of the following Waikato District Council Area Offices
Huntly 154 Main Street
Tuakau 2 Dominion Road
Raglan 7 Bow Street
Cheques or money orders should be "NOT TRANSFERRABLE".

IMPORTANT: PLEASE READ THE SUMMARY OF RIGHTS PRINTED OVERLEAF

SUMMARY OF RIGHTS

1. This notice sets out an alleged infringement offence. In terms of section 2 of the Dog Control Act 1996, you are liable as the owner of a dog if—
 - . you own the dog; or
 - . you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
 - . you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.

Payments

2. If you pay the infringement fee within 28 days of the issue of this notice, no further action will be taken. Payment may be made at places indicated on the front of this notice.

Defences

3. You have a complete defence against proceedings if the infringement fee was paid to Waikato District Council at any of the places for payment shown on the front page of this notice before or within 28 days after you were served with a reminder notice. Note that late payment or payment at any other place will not be a defence.

Further action

4. If you wish to—
 - (a) raise any matter relating to the alleged offence for consideration by the Waikato District Council; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9 below); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9 below),—

you should write to Waikato District Council at the address shown on the front page of this notice. Any such letter should be personally signed.
5. You have a right to a court hearing. If you deny liability for the offence and request a hearing, Waikato District Council will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless it decides not to start court proceedings).

Note that if the court finds you guilty of the offence, costs will be imposed in addition to any penalty.
6. If you admit the offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter—
 - (a) ask for a hearing; and
 - (b) admit the offence; and
 - (c) set out the written submissions you wish to be considered by the court.

Waikato District Council will then file your letter with the court (unless it decides not to commence court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

Note that costs will be imposed in addition to any penalty.

Non-payment of fee

7. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless Waikato District Council decides otherwise).
8. If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, Waikato District Council may file the reminder notice, or provide particulars

of the reminder notice for filing, in the court and you will become liable to pay **costs in addition to the infringement fee**, under section 21(5) of the Summary Proceedings Act 1957.

Queries/correspondence

9. When writing or making payment please include—
 - (a) the date of the infringement; and
 - (b) the infringement notice number; and
 - (c) the identifying number of the alleged offence and the course of action you are taking in respect of it; and
 - (d) your address for replies.

Notice of liability for classification as a probationary owner or a disqualified owner

If you commit 3 or more infringement offences (not relating to a single incident or occasion) over a period of 24 months, Waikato District Council may classify you as—

- . a probationary owner; or
- . a disqualified owner.

You will be treated as having committed an infringement offence if you—

- . have been ordered to pay a fine and costs under section 375 (1)(b) of the Criminal Procedure Act 2011, or are treated as having so been ordered under section 25(5) of the Summary Proceedings Act 1957; or
- . pay the infringement fee specified in the infringement notice. Probationary ownership starts from the date of the third infringement offence in the 24 month period. Unless terminated earlier by Waikato District Council, probationary ownership runs for a period of 24 months. Disqualification as a dog owner starts from the date of the third infringement offence in the 24 month period. The length of disqualification is determined by Waikato District Council but may be no longer than 5 years.

Consequences of classification as a probationary owner or disqualified owner

During the period a dog owner is classified as a probationary owner, the person—

- . must not be or become the registered owner of any dog except a dog that the person was the registered owner of at the time of the third infringement offence; and
- . must dispose of every unregistered dog the person owns.

During the period that a person is classified as a disqualified owner, the person—

- . must not own or become the owner of any dog; and
- . must dispose of all dogs the person owns; and
- . may have possession of a dog only for certain purposes (eg, returning a lost dog to the territorial authority).

A person may object to being classified as a probationary or disqualified owner by lodging a written objection with Waikato District Council. There is a further right of appeal to a District Court, if a disqualified person is dissatisfied with the decision of Waikato District Council.

Full details of classification as a probationary owner or a disqualified owner, and the effects of those classifications, are provided in the Dog Control Act 1996.

Note:

Full details of your rights and obligations are in section 66 of the Dog Control Act 1996 and section 21(10) of the Summary Proceedings Act 1957.

All queries and all correspondence regarding this infringement notice must be directed to Waikato District Council at the address shown.

Tracey Oakes

From: Alexandra Moore
Sent: Wednesday, 5 January 2022 10:26 am
To: Tracey Oakes; Amanda Davis
Subject: Caine Smart dispute letter
Attachments: Luna May.docx

Get [Outlook for Android](#)

From: Caine Smart [REDACTED]
Sent: Thursday, 23 December 2021, 5:07 pm
To: Alexandra Moore
Subject: Re: Witness Statement

Good afternoon,

Thanks for helping me with this. I have attached my dispute letter - I addressed it to Tracey Oaks as this is the person who signed the letter.

If this isn't the email to send this to are you able to please point me in the right direction?

Kind regards,
Caine Smart

Get [Outlook for Android](#)

From: Caine Smart
Sent: Tuesday, December 21, 2021 9:21:26 AM
To: Alexandra Moore [REDACTED]
Subject: RE: Witness Statement

Perfect!
Thank you so much.

Kind regards,



Waikato District Council

Tracey Oaks – Animal Control Team Leader

To whom it may concern,

I have recently received a letter from the Waikato District Council in regards to our family dog Luna. A notice to classify her as a menacing dog. I would like to dispute this title.

Luna has been with us since she was a puppy – when we got Luna my partner was 6 months pregnant, and we already had a 2-year-old Rottweiler with us. So as you can imagine Luna only had 3 months or so training with us until baby was born and then on most of the attention was put on to our baby. Because of this Luna has had lack of training – and still been under 2 she is still considered a puppy in regards to her rottweiler breed. She gets over excited and is a jumper.

Luna isn't the best with other dogs, because of this we always made it a priority to have her muzzled when walking her on lead – just in case other dogs off lead would approach her. She is very wary of other animals and in fear sometimes snaps. The only other animal that she is generally okay with is our other Rotty (her sister).

We decided to get a personal trainer in a couple of months ago to help us out a bit – the training was coming along well and Luna has seemed to calm down. I have a full report explaining Luna – in the report it does tell us that Luna could be possibly suffering from anxiety. When she is off the property at times she becomes quite anxious and sketchy of her surroundings. Again this is something that we were working on which was coming along quite well – Luna began to focus more on her surroundings, enjoying her walks – not so anxious.

The unfortunate day that Luna slipped passed us through our gate was myself and my partner's mistake. When she got out the gate all progress with her training, we had done had gone out the window. She completely lost focus and just ran. I chased her a good while down the street and had her in my view the whole time. When I saw the mother with her 2 children up ahead for a moment, I was relieved because I thought perhaps Luna would get distracted by them. For a moment Luna looked as though she was going to run directly past but swung around when one of the children got a fright and screamed. Now from this moment – what I could see was Luna trying to be playful. She was getting down on her two front legs and jumping up at them (the play stance). One of the boys ran behind a pole while Luna focused on the mother and her other son. She was yelling and waving her hands etc to get her away. Luna thought this was a big game. Now allegedly Luna ripped a hole in one of the boys clothing. IF she did this, it would have been because Luna was jumping up on them, not because she was biting. I have no doubt in my mind that if a Rottweiler wanted to aggressively bite a person, it would without hesitation. Luna has NEVER EVER been aggressive to any child. I have a one-year-old daughter at home and she is gentle. I have nieces and nephews all under the age of 8, the worst she will do is jump up on them out of excitement.

From there I eventually got Luna – I apologised sincerely to the mother, I felt awful that Luna had terrified her children and I really do hope in time the children will again trust dogs. The mother wasn't having it – which I understood, I would be angry as well in the same position. Having dogs and a child I can see from both perspectives. HOWEVER. I must say I do think that the mother escalated the situation. I understand that not everyone has the knowledge on dogs and what to do if one approaches you. I am approached by dogs quite often on the street with my daughter and never have reacted the way she did, in panic. I also have to ask the question – would she have reacted the

same if a fluffy Labrador ran passed – Luna being the breed she is, I think unfair judgement is passed on her all the time.

Since the incident happened. My partner and I have decided that Luna needs a new forever home, perhaps a family with no other animals, and a person who has experience with the breed, someone who has plenty of time to put the training in. We were going to pass her onto Rotty Rescue to rehome her but they will not take her if she has this menacing title. We have found it very difficult to find her a home with the obedience issues let alone a menacing title. We are pleading that Luna doesn't get given this title so that she can have the second chance she deserves with a new family. Luna shouldn't suffer from consequences of our honest mistake. I truly believe she is a good, gentle dog that has slight issues that can be altered in training. None of those issues being aggression towards people – I can't stress this enough!

I have contacts that can be almost like a character reference for Luna – plenty of family members and friends who frequently I visit with Luna and they visit us. The trainer – who can give the full report on Luna's behaviour, the breeder... Who owns Luna's mother and knows the father – they both hold no aggression in their family line and out of all the litters, there have never been any aggressive dogs.

Lastly I think it is also worth noting that while walking my other dog Cleo on the 08.12 the mother of the children drove past me in her car yelling abuse. "F**k you, still walking that dog after what it did". She said a couple other things, but I couldn't really hear what she was saying. I just stood there, listening. The last thing she said was "I hear you have a baby, I hope you dog f**ken gets it". When she said this I walked towards the car to talk to her she then again swore at me and drove off. How a mother can say that to another parent about their child I have no idea, given any situation this is not okay. A police report was filed as I fear that she will approach my partner while walking my other Rotty and baby on the street. I genuinely believe, based on that this isn't a mother who is wanting an "unsafe" dog off the street, this is a person who is angry and is wanting to get some sort of revenge. She does not care about the safety of others.

I look forward to meeting with whoever I need to and will happily answer any further questions and read this letter. I would also like to say – even if we were given the terms of the menacing title being removed if Luna is passed on to her new forever home to a much more suitable person. We would be okay with that, that's all we want is Luna to have her new home.

4/3/22

Dogs 1160/22

12.12pm

Cainin Smart

12.12pm

4m

about microchip details

for luna-may

95301000 452853

Wainmouken

Cainin Smart called me back and has given me luna-may microchip and new owner details

Cainin Smart said luna-may is enjoying her new home out on the farm lots of space to run around. luna-may settled in really well.

From: [Alexandra Moore](#)
To: [Sarah Bourke](#)
Subject: Email chain between Caine Smart and myself
Date: Friday, 4 March 2022 8:31:48 am
Attachments: [image001.png](#)
[image002.png](#)
[image003.jpg](#)
[Luna May.docx](#)

From: Caine Smart [REDACTED]
Sent: Monday, 10 January 2022 11:28 am
To: Alexandra Moore [REDACTED]
Subject: Fwd: Witness Statement

Good morning,

Just checking if this had been received or if I am meant to email it on to someone else or call someone else.

Please let me know. :)

Also for your info Luna has been rehomed on a farm in Waimauku. The new owner is aware of everything and understands that I am disputing the menacing title.

Kind regards,
Caine Smart

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From: Caine Smart [REDACTED]
Sent: Thursday, December 23, 2021 5:07:20 PM
To: Alexandra Moore [REDACTED]
Subject: Re: Witness Statement

Good afternoon,

Thanks for helping me with this. I have attached my dispute letter - I addressed it to Tracey Oaks as this is the person who signed the letter.

If this isn't the email to send this to are you able to please point me in the right direction?

Kind regards,
Caine Smart

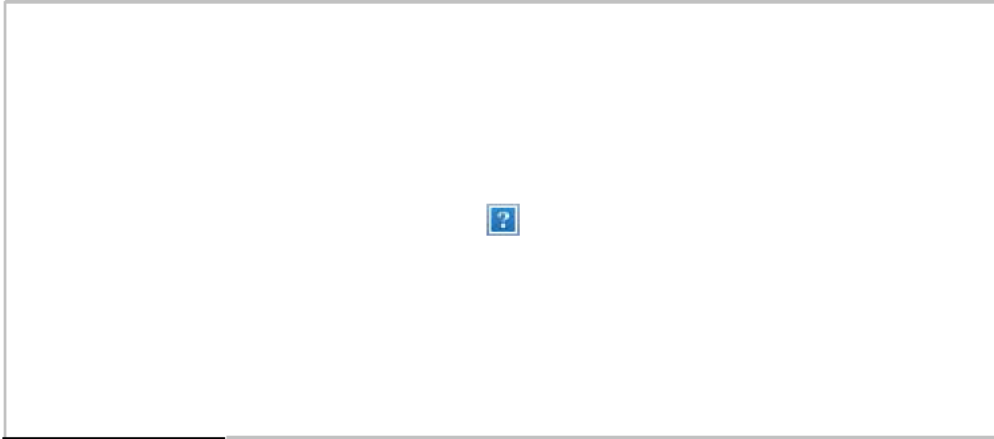
Get [Outlook for Android](#)

From: Caine Smart
Sent: Tuesday, December 21, 2021 9:21:26 AM
To: Alexandra Moore [REDACTED]
Subject: RE: Witness Statement

Perfect!

Thank you so much.

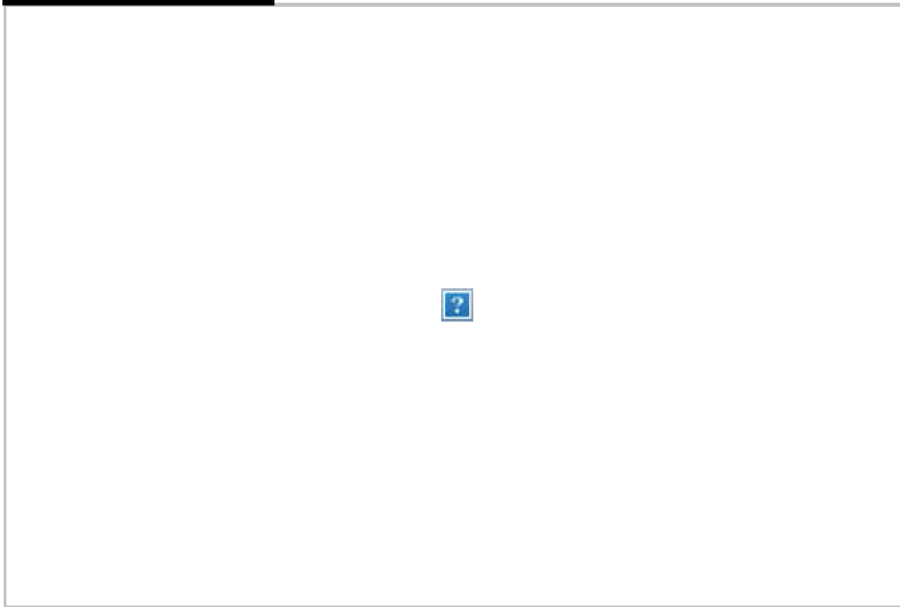
[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED] Moore [REDACTED]

Sent: Tuesday, 21 December 2021 9:17 AM

To: Caine Smart [REDACTED]

Subject: RE: Witness Statement

CAUTION: This email originated from outside the organization. Do not click

links or open attachments unless you recognize the sender and know the content is safe.

Hi Caine

Yes, it was me that spoke with you yesterday.

Yes, you can object to the classification. You will have 14 days to object in writing once you receive your notice of menacing classification.

It's all explained in the notice of menacing classification that I am sending out to you today

Kind regards

Ally ACO25

Animal Control Officer

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

! **Nama waea** 07 824 8633 | **Waea puukoro:** 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Caine Smart [REDACTED]

Sent: Monday, 20 December 2021 11:43 am

To: Alexandra Moore [REDACTED]

Subject: Re: Witness Statement

Hi there,

Sorry was it you I spoke to today?

If so thank you for following up with us, first of all.

I did just have one more question for you.

I was wondering if we could dispute the title of "menacing". If yes, how would we go about that?

Kind regards,

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From: Alexandra Moore [REDACTED]

Sent: Thursday, December 9, 2021 11:55:10 AM

To: Caine Smart <[REDACTED]>

Subject: RE: Witness Statement

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Canin

That's a good idea to report it. I will let my team leader know about the police report.

From: Caine Smart <[REDACTED]>

Sent: Thursday, 9 December 2021 11:49 am

To: Alexandra Moore <[REDACTED]>

Subject: RE: Witness Statement

Don't worry Alexandra,

I have just reported the incident and let them know that Waikato District Council have the details due to the on gong investigation with Luna.

Thanks and sorry to bother.

Look forward to having an update on Luna's situation in the near future.

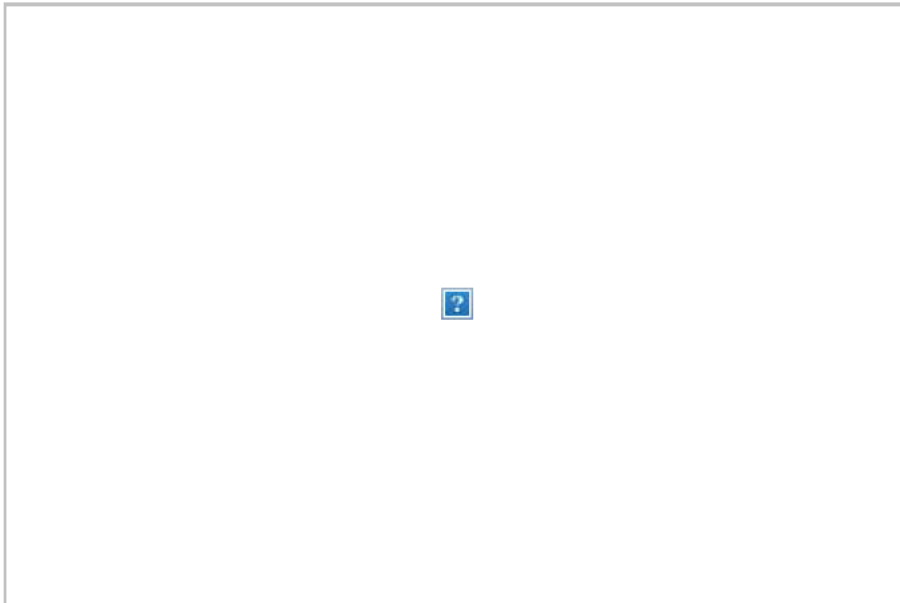
Kind regards,



[REDACTED]

[REDACTED]

[REDACTED]



From: Caine Smart

Sent: Thursday, 9 December 2021 11:01 AM

To: Alexandra Moore [REDACTED]

Subject: RE: Witness Statement

Hi Alexandra,

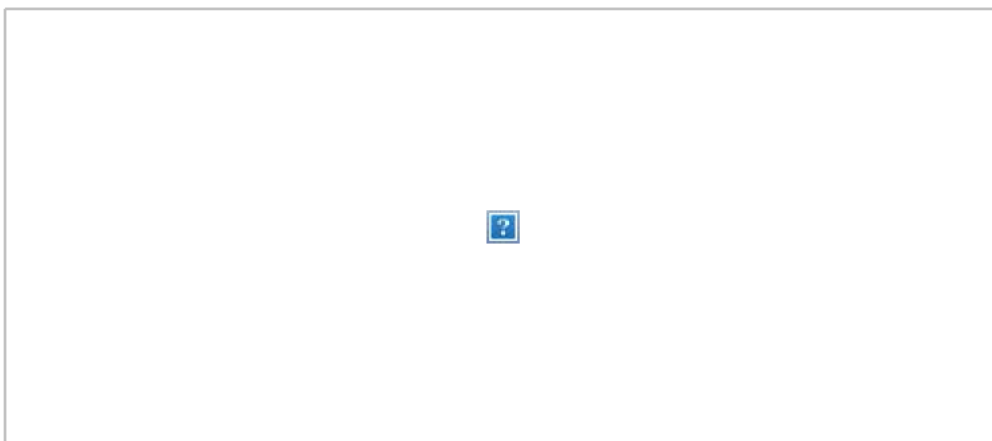
I understand that.

But what I'm asking is – when I call the police to report the incident and let them know that you (Waikaito Council) have her details,

Are you at liberty to provide her details to the police when they ask for them?

Because obviously I don't have her details or know who she is, but because of the incident you have all her details.

Kind regards,

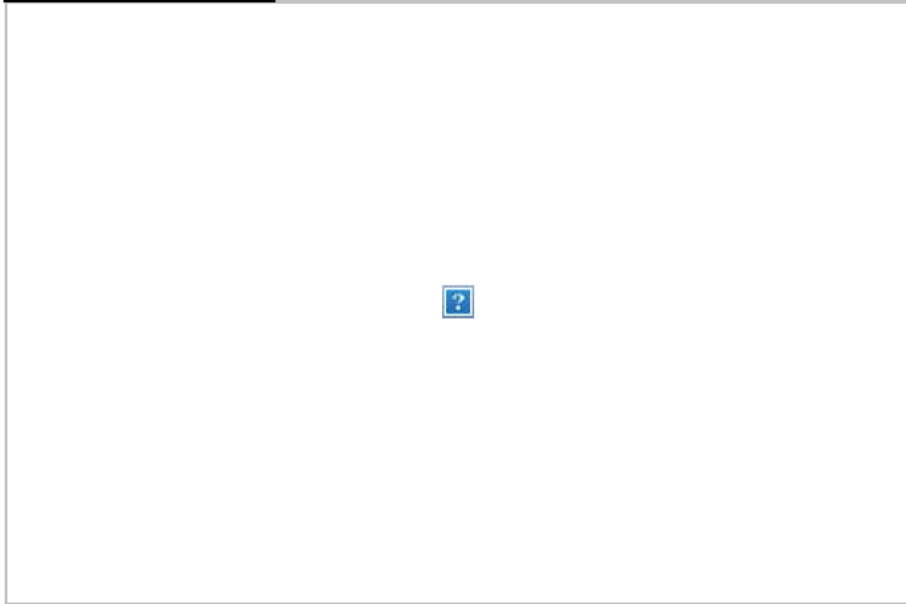


[REDACTED]

[Redacted]

[Redacted]

[Redacted]



From: Alexandra Moore <[Redacted]>
Sent: Thursday, 9 December 2021 10:56 AM
To: Caine Smart <[Redacted]>
Subject: RE: Witness Statement

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Caine,

Sorry to hear about this incident. That would be a police matter.

Kind regards

Ally ACO25

Animal Control Officer

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

! Nama waea 07 824 8633 | Waea puukoro: 0800 492 452

Poutaapeta Mahi: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Caine Smart <[REDACTED]>
Sent: Wednesday, 8 December 2021 7:21 pm
To: Alexandra Moore <[REDACTED]>
Subject: Re: Witness Statement

Sorry that should be:

My question to you is: I would like to file a harassment report with the police and if I let the police know what is going on, and that you have the details of this person, would you be at liberty to provide her details to the police.

Get [Outlook for Android](#)

From: Caine Smart <[REDACTED]>
Sent: Wednesday, December 8, 2021 7:16:44 PM
To: Alexandra Moore <[REDACTED]>
Subject: Re: Witness Statement

Good evening Alexandra,

Hope everything is coming along well with this? Eager to get Luna re-homed.

I would like to report something - not sure if it at all matters to Animal Control or Waikato Council.

I was walking my dog Cleo (our other roddy) today just now and the lady drove past and recognized me. She stopped the car in the middle of the road about 8 meters ahead. Cleo was sniffing so I had stopped and was just standing there. I couldn't understand most of what she was saying "F**k this and f**k that". What I did hear was "You still walking that f**king dog after what happened". Then she said something about kids and said "I see you have a baby, I hope it F**king gets it". I assume she meant our dog gets our baby.

It was now that I started walking towards her car to talk to her. She then yelled "f**k you" pulled the fingers and drove off.

I had said nothing the whole time, clearly she didn't realize it was our other dog but also wouldn't have mattered to her I guess.

My question to you is I would like to file a harassment report with the police and I let the police know what is going on and that you have the details of this person would you be at liberty to provide her details to the police.

Also while I have you, any update on Luna?

As well as Rotty Rescue awaiting an update we have the breeder looking for a new home for her.

Kind regards,
Caine Smart

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From: Caine Smart
Sent: Friday, December 3, 2021 10:17:18 AM
To: Alexandra Moore <[REDACTED]>
Subject: RE: Witness Statement

Thanks for reply,
Good to hear that you got in contact so the process can start.

Thanks for taking care of this.

Kind regards,
Caine Smart

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Original Message-----
From: Alexandra Moore <[REDACTED]>
Sent: Friday, 3 December 2021 10:15 AM
To: Caine Smart <[REDACTED]>
Subject: Re: Witness Statement

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Caine

Thank you for your email.

Understandly a very stressful time for you and your family.

Unfortunately it can be a long process to gather all the correct information for the investigation. The other witness statement is been taken today.

I will be in contact once the investigation has finished.

[REDACTED]

From: Caine Smart [REDACTED] >

Sent: Friday, December 3, 2021 9:08:37 AM

To: Alexandra Moore <[REDACTED]>

Subject: RE: Witness Statement

Hi Alexandra,

I was wondering if you had yet got the statement from the lady?

If not I am wondering how long would we wait for her to do her statement before the incident was voided?

Obviously as you are aware we have to wait for her statement to come through or for it to be voided before Rotty Rescue will consider taking Luna on.

It's quite stressful for us in the mean time having poor Luna here on the fear that she is going to get out again even though we are being careful the thought does make us anxious.

Look forward to your reply. ??

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Caine Smart

Sent: Monday, 29 November 2021 4:01 PM

To: Alexandra Moore [REDACTED] >

Subject: RE: Witness Statement

Hi Alexandra,

Thank you for sending this through to me. Please see attached my statement of what happened.

Excuse any spelling errors – I tried to type this up quickly while at work. ??

As discussed Rotty Rescue are waiting on the outcome of what happens with Luna.

This will determine if they will or won't take her on.

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Alexandra Moore

[REDACTED]

Sent: Monday, 29 November 2021 2:32 PM

To: Caine Smart [REDACTED]

Subject: Witness Statement

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Caine,

I've attached the witness statement for you to fill out, please read the last page before starting the statement. Any questions please don't hesitate to call me.

Kind regards

Ally ACO25

Animal Control Officer

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

‡ Nama waea 07 824 8633 ‡ Waea puukoro: 0800 492 452 Poutaapeta Mahi: Private Bag 544,
Ngaruawahia 3742 Waahi Mahi: 15 Galileo Street, Ngaruawahia

[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Officers Statement – ACO 25, Officer Moore

On the 25th of November 2021 a service request DOGS1160/22 was logged via the Waikato District Council After Hours Call Centre. This request was assigned to me ACO 25. The request was logged as a Current attack. This is **Appendix 2** of the committee agenda.

On the 25th of November 2021 I called the victim Haley Broughton (Hayley), she did not answer her phone so I left a voice message. I called a second time, still no answer so I left another voice message. I called a third time and Hayley answered her phone.

Haley explained that her and her two kids had been rushed by a Rottweiler on Jellicoe Ave. The Rottweiler did make contact with one of her kids clothes but didn't make contact with their skin.

I asked Haley if she knew where the Rottweiler had come from, she believed it had come from a property on the bend on Jellicoe Ave. I told Haley Broughton I would be visiting the property tonight to seize the dog and conduct an investigation. I called ACO23 who was the on-call officer for South to attend the property with me. As I was waiting for ACO 23 to pick me up from my house I had a look on the Council PnR system by searching for "Rottweiler on Jellicoe Ave". I found a Rottweiler at number 11 Jellicoe Ave and I wrote the address, rottweiler details and dog owners' name in my pocketbook. All of my pocketbook notes on this matter are **attached** to this statement.

ACO 23 arrived to pick me up we drove up to Jellicoe Ave in Tuakau. We arrived at number 11 Jellicoe Ave and parked at the front gate, it was dark at this stage. I couldn't see a Rottweiler on the property or hear any dogs barking. ACO 23 and I didn't want to enter the property in the dark as there was very poor lighting, we could see the house was to the back of the property and a second gate in front of the house. ACO 23 tooted the horn, no one came out. I looked on NDD for the dog owners contact phone number and I called both Dog owners phone numbers numerous times but no one answered. A male came out and greeted ACO 23 and me at the gate. I got out of the truck and introduced myself and ACO 23 I then explained that a Rottweiler had rushed out of a property at a lady and her two kids near this address 11 Jellicoe Ave. The male was adamant it wasn't his dog. His Rottweiler had been inside all night. I explained that I am just following up on the details provided to me by the victim. I told the male at this stage I am conducting an investigation and if it does turn out to be his Rottweiler that rushed at the lady and 2 kids then I will be taking some sort of enforcement action infringement and possibly menacing classification. The male understood and was happy to comply. He asked if we wanted to see his Rottweiler I said yes, and he brought him out to the front gate he was as big male with a tail and a brown leather collar on.

On the 26th of November 11.02am I called Haley to check on her and the kids and to gather some more information. Haley said both the kids are still very upset and scared it was a rough night trying to console them. I asked Haley Broughton if she could describe what the Rottweiler looked like. Haley said it was young, male, big head and had a tail I asked if the dog had a collar on Haley said yes, the collar had 2 colours possibly white/ blue. I asked Haley if there were any distinctive landmarks from where the Rottweiler had come from. Haley said yes, a tall back fence and a green sign saying "Abby way" in the carport. I took notes in my pocketbook. I asked Haley if the Rottweiler had come from number 11 Jellicoe Ave, she said no that dog was behind the fence. I asked Haley if she would like to do a witness statement so that I can take some sort of enforcement action, she agreed. I asked ACO 11 to take the witness statement for me ACO 11 agreed. I ACO 25 searched on google maps street view on Jellicoe Ave for a property with a black fence and a property with a carport to identify the property number I found a carport at 44 Jellicoe Ave and a black fence at 46 Jellicoe Ave and wrote it in my pocketbook. I looked up both addresses in PnR but both addresses

didn't have a Rottweiler on the property. I then Searched for a Rottweiler on Jellicoe Ave in PnR 4 entries came up. I eliminated two of the entries and the last two entries were for 31c which recorded two female Rottweilers on the property. I attended 31c Jellicoe Ave with ACO 23 we arrived at the property at 12.44pm. Knocked on the door, a male answered I introduced myself and ACO 23. I explained that a Rottweiler had rushed at a lady and her kids last night, 25 November 2021 the male Caine Smart (Caine) confirmed that yes it was one of his Female Rottweilers called Luna-May that had gotten out of their property and chased a lady and her kids. Caine understood the seriousness of the situation and took full responsibility for what had happened. I told him at his stage I am conducting an investigation and he could be receiving infringements and possibly menacing classification. Caine Smart told me Luna has been going to behaviour training as they have had issues with her and there other Rottweiler fighting. They are also looking at possibly rehoming Luna-May. Caine has asked if he can do a witness statement, I said absolutely I will email one through to you. I have put notes in my pocketbook of our conversation. Visited 11 Jellicoe Ave with ACO 23 and talked with Male advised his Rottweiler does not match the description and I will be taking no further action. Male very happy.

29 November 2021 emailed Caine a witness statement to fill out. Received witness statement back from Caine, which is at **Appendix 3** of the committee agenda.

31 November 2021 Haley did witness Statement with ACO 11. This is at **Appendix 4** of the committee agenda.

3rd December 2021 received email form Caine asking for an update and letting me know that he has reached out to Rottweiler rescue to take Luna- May. I emailed back explaining it can be a long process and I will be in contact once a decision has been made. This correspondence can be seen in **Appendix 10** of the committee agenda.

8th December 2021 received an email from Caine letting me know he had, had a confrontation with a female on Jellicoe Ave when he was out walking Luna-May he believes it's the female victim that his dog Luna-May had rushed at. I advised him to contact the police. This correspondence is included in **Appendix 10** of the committee agenda.

20th December 2021 I called Caine to advise that I will be issuing Luna- May with a Menacing Classification and an infringement. This is recorded in my pocketbook notes.

21 December 2021 received an email from Caine asking if he can contest the Menacing Classification. I emailed him back and said yes you can contest the menacing classification within 14 days of receiving the menacing classification. Menacing classification for Luna- May issued and sent via tracked mail. A copy of this classification is included as **Appendix 6** of the committee agenda.

23 December 2021 received an email form Caine with a menacing dispute letter which is at **Appendix 8** of the committee agenda.

5th of January 2022 I forwarded the dispute letter for Luna- Mays menacing classification to Tracey Oakes and Amanda Davis.

10th January 2022 received an email from Caine following up that I had received the Menacing classification dispute letter and updating me that Luna-May has been rehomed to a farm in Waimauku and that the new owner is aware of everything and understands that he is disputing the menacing title. This chain of correspondence is at **Appendix 10** of the committee agenda.

11th January 2022 I emailed Caine back saying yes, I have received the dispute letter and I have forward it on to my Team Leader.

On 4 March 2022 I spoke with Caine to confirm Luna's microchip details and the new owner's details. See pocketbook notes in the committee agenda at **appendix 9**.

Signed by Officer A. Moore, ACO 25:

A handwritten signature in black ink, appearing to be 'A. Moore', written in a cursive style.

Date: 8/3/2022

Annexure – pocket book notes.



Rotti male 1.7 grs

Whirikoken

owner:



2 colors collar white/blue/ ^{Edge} ~~50~~
Rotti male. ~~Tall~~ young

obby way green fence # 44

Tall black fence 46

17

~~17~~ ~~17~~ Jellicole also 46
~~17~~ Jellicole Ave 66

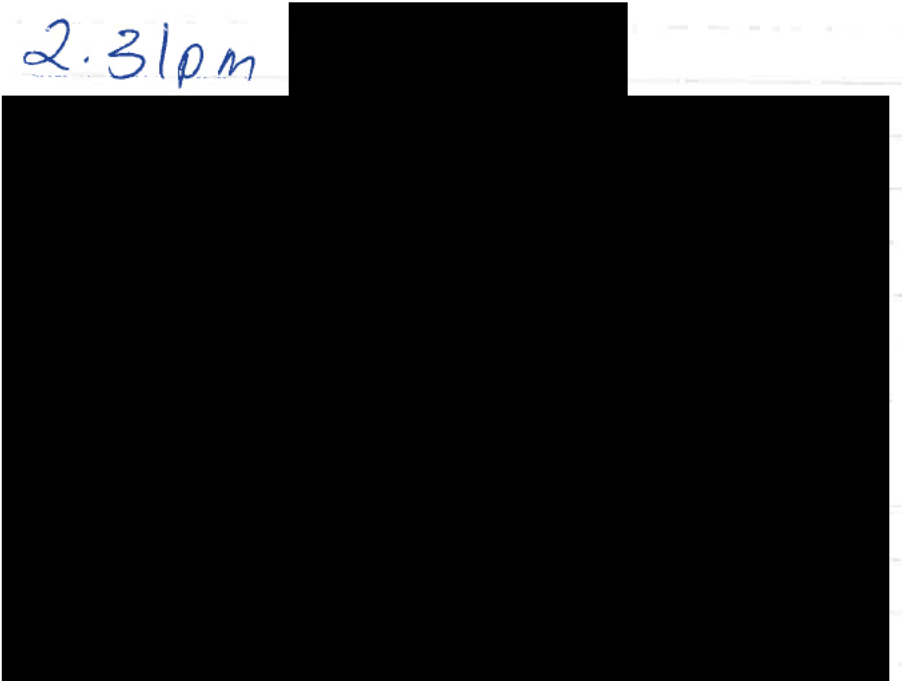
26/11/21 12:44pm



-12.53pm

Luna 1.8 years
Owner apologetic at the time.
Caine Smart
Owner admitted and accepts
responsibility.

2.31pm



26/11/21

male D/O confirmed it was his female Rotti that had rushed out at the lady & kids.

He said the Rotti had ~~run~~ slipped through the gate when they were taking her daughter out for a walk. Male D/O ran after the Rotti and ~~was~~ ~~rushed~~ ~~at~~ ~~the~~ ~~lady~~ ~~and~~ ~~kids~~.

He grabbed his dog and said sorry and quickly took her home.

D/Os have been having issues with the young Rotti. She is currently in training for aggression. D/O are looking at possibility rehoming her to Rotti & rescue. 2 Rottis on property they have had a fight in the past. Explained that we are currently carrying out an investigation for the rushing. They will receive

infringements and possibly
classification. D/O are very sorry
and shocked at what their dog
had done. fully they fully
understand the seriousness of the
situation & take full responsibility
for what has happened.

Witness happy to give statement.

D/O filled out witness statement