

HASTINGS DISTRICT COUNCIL

**Report and Decision of the Hastings District Council through its
Hearings Committee**

Hearing held in the Council Chambers Hastings District Council

on Thursday 14 April 2016

(HDC TRIM ref:CG-13-12-00102)

OBJECTION:

This is an objection by Belinda Vearer against the dog owner disqualification issued under section 26 of the Dog Control Act 1996 (DCA) for a period of 5 years expiring on 2 February 2021.

RESOLUTION:

Resolved by the Hearings Committee at the Hearing held on the 14 April 2016 that the appeal objecting to the disqualification under section 26 of the Dog Control Act 1996 be **DECLINED**. The full decision and reasons are set out below.

PRESENT:

Hastings District Council Hearings Committee

Councillor M Lester, Chairperson

Councillor R Heaps

Councillor G Lyons

In Attendance:

John Payne – Manager Animal Control, Hastings District Council

Christine Hilton (Committee Secretary)

1. The Application

The objector seeks a decision from Council under section 26(3)(c) of the Dog Control Act 1996 (DCA) to immediately terminate the 5 year disqualification imposed upon her on 3 February 2016.

2. Summary of Submissions

The Committee received both written and verbal submissions from the objector and Mr Payne spoke to his report.

The following is a summary of the submissions considered by the Committee.

2.1 Applicant's Evidence

Ms Vearer:

- In her evidence she asked the Committee to remove the disqualification in order to allow her to retain the two dogs which she presently owns, being "Lola" and "Victor".
- She described the dogs, being a Shitzu and a Chinese Crested dog, as being sweet, gentle and loving and very much a part of the family and in particular, being company for her child and her two grandchildren.
- She submitted that all dogs in her ownership had always been desexed, registered and microchipped.
- She further submitted that since the events which led to prosecution and conviction under section 58 of the DCA, she has taken steps to renew a gate onto her property, has put padlocks on gates to the property and has also provided a pet gate on her front door.
- In summarising her position, she regarded herself as a responsible dog owner with two small dogs and she advised the Committee that they are not a danger to the public.

Mr Payne's evidence

- Mr Payne's report to the hearing was taken as read.
- In his report Mr Payne outlined the background of the events which led to the two prosecutions under section 58 of the DCA relating to dogs causing serious injury. He also outlined the sentences imposed by the court on 2 February 2016 and the fact that the dogs involved in the attacks had been surrendered and destroyed.
- He stated that on 3 February 2016 following the court decision, the notice of disqualification from dog ownership under section 25 of the DCA was issued by the Hastings District Council.
- In Mr Payne's opinion the five year period of disqualification was appropriate due to the severity of the attacks on 3 October 2015.
- Mr Payne further advised the Committee that under section 26(4) of the DCA the Committee has power to:
 - (a) Uphold the disqualification

- (b) Bring forward the date of termination
- (c) Immediately terminate the disqualification

- The Committee asked Mr Payne if they had the authority to impose conditions relative to the retaining of the two dogs “Lola” and “Victor” during the period of the disqualification, while still retaining the requirement that the objector be disqualified from obtaining ownership of any further dogs.
- In response to this question from the Committee, Mr Payne advised that under the DCA there is no power to imply conditions and to do so would be ultra vires to the Act (DCA).

3. Committee Deliberation

During the deliberations and in reaching their decision the Committee considered the matters contained in section 26(3) a) to e) of the DCA.

The Committee reviewed the evidence of the parties and noted in particular the severity of the offences committed by the dogs owned by the objector. The Committee also noted the evidence of the objector stating that in her opinion she was a responsible dog owner and that since the offences she had installed further security measures to her property.

Having considered all the evidence the Committee were of the opinion that despite the measures taken by the objector, the period of disqualification imposed was appropriate and the severity of the offences outweighed the remedial steps taken by the objector.

4. Committee’s Decision

It is the decision of the Committee that the objection by Ms Belinda Vearer to immediately terminate the 5 year disqualification under section 26 of the Dog Control Act 1996 be **DECLINED**.

5. Reasons for the Decision

1. The Committee considered that the serious nature of the events leading up to the convictions imposed upon the objector justified the imposition of a 5 year dog owner disqualification.
2. That the Committee were bound by the provisions of section 26(4) of the DCA and were unable to consider the imposition of conditions relating to the possible retention of the dogs “Lola” and “Victor”.

6. Right of Appeal

Under section 27 of the DCA any person who has lodged an objection under section 26 of the DCA and is dissatisfied with the decision of Council 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.

CG-13-12-00102

M Lester
Chair of Hastings District Council Hearings Committee

Dated: 14 April 2016

HASTINGS DISTRICT COUNCIL

**Report and Decision of the Hastings District Council through its
Hearings Committee**

Hearing held in the Council Chambers Hastings District Council

on Thursday 14 April 2016

(HDC TRIM ref:CG-13-12-00105)

OBJECTION:

This is an objection by Kayla Bremner against the dog owner disqualification issued under section 26 of the Dog Control Act 1996 (DCA) for a period of 2 years expiring on 2 February 2018.

RESOLUTION:

Resolved by the Hearings Committee at the Hearing held on the 14 April 2016 that the appeal objecting to the disqualification under section 26 of the Dog Control Act 1996 be **DECLINED**. The full decision and reasons are set out below.

PRESENT:

Hastings District Council Hearings Committee
Councillor M Lester, Chairperson
Councillor R Heaps
Councillor G Lyons

In Attendance:

John Payne – Manager Animal Control, Hastings District
Council
Christine Hilton (Committee Secretary)

1. The Application

The objector seeks a decision from Council under section 26(3)(c) of the Dog Control Act 1996 (DCA) to immediately terminate the 2 year disqualification imposed upon her on 3 February 2016.

2. Summary of Submissions

The Committee received both written and verbal submissions from the objector and Mr Payne spoke to his report.

The following is a summary of the submissions considered by the Committee.

2.1 Applicant's Evidence

Ms Bremner:

- In her evidence she asked the Committee to remove the disqualification imposed upon her.
- She described the dogs, being a Shitzu and a Chinese Crested dog, owned by her mother with whom she resides, as being sweet, gentle and loving and very much a part of the family and in particular, being company for her two children.
- She outlined the work that she has done as a rescuer in Paws Rescue and Rehabilitation, and that she has fostered many dogs and pups of various breeds.
- She referred to "Rascal", the dog which was a party to the attack leading to her conviction, as a dog which she had rescued. She advised he had been taken to puppy school and had two classes at K9.
- She further submitted that since the events which led to prosecution and conviction under section 57A of the DCA, her mother had taken steps to renew a gate onto her property, has put padlocks on gates to the property and has also provided a pet gate on her front door.
- In summarising her position, she regarded herself as a responsible dog owner and she advised the Committee that at present she does not intend to own another dog.

Mr Payne's evidence

- Mr Payne's report to the hearing was taken as read.
- In his report Mr Payne outlined the background of the events which led to the two prosecutions under section 57A of the DCA relating to dogs rushing at persons. He also outlined the sentence imposed by the court on 2 February 2016 and the fact that the dog involved in the attack had been surrendered and destroyed.
- He stated that on 3 February 2016 following the court decision, the notice of disqualification from dog ownership under section 25 of the DCA was issued by the Hastings District Council.
- In Mr Payne's opinion the 2 year period of disqualification was appropriate due to the severity of the attack on 3 October 2015.

- Mr Payne further advised the Committee that under section 26(4) of the DCA the Committee has power to:
 - (a) Uphold the disqualification
 - (b) Bring forward the date of termination
 - (c) Immediately terminate the disqualification
- The Committee asked Mr Payne if they had the authority to impose conditions relative to the retaining of the two dogs “Lola” and “Victor” during the period of the disqualification, while still retaining the requirement that the objector be disqualified from obtaining ownership of any further dogs.
- In response to this question from the Committee, Mr Payne advised that under the DCA there is no power to imply conditions and to do so would be ultra vires to the Act (DCA).

3. Committee Deliberation

During the deliberations and in reaching their decision the Committee considered the matters contained in section 26(3) a) to e) of the DCA.

The Committee reviewed the evidence of the parties and noted in particular the severity of the offence committed by the dog owned by the objector. The Committee also noted the evidence of the objector stating that in her opinion she was a responsible dog owner and that since the offence further security measures have been placed on her mother’s property where she resides.

Having considered all the evidence the Committee were of the opinion that despite the measures taken by the objector, the period of disqualification imposed was appropriate and the severity of the offence outweighed the remedial steps taken by the objector.

4. Committee’s Decision

It is the decision of the Committee that the objection by Ms Kayla Bremner to immediately terminate the 2 year disqualification under section 26 of the Dog Control Act 1996 be **DECLINED**.

5. Reason for the Decision

The Committee considered that the serious nature of the event leading up to the conviction imposed upon the objector justified the imposition of a 2 year dog owner disqualification.

6. Right of Appeal

Under section 27 of the DCA any person who has lodged an objection under section 26 of the DCA and is dissatisfied with the decision of Council 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.

CG-13-12-00105

M Lester
Chair of Hastings District Council Hearings Committee

Dated: 14 April 2016