

Operational Programs

Assistance Animals Procedures

December 2011



NSW Police Force

Title: Assistance Animals Procedures
Subject Assistance Animals Procedures
Command responsible: Operational Programs
Available to: Restricted
Authorisation: Deputy Commissioner, Field Operations
Publication date: December 2011
Current version number: 2 (as at 25 June 2012)
Review date: December 2014
Document number: D/2011/144892
ISBN Number: 978-1-921309-07-6

Copyright of this document is vested in the Commissioner of Police. © 2011.

MODIFICATION HISTORY

Version approval date	Summary of changes
December 2011	New document
June 2012	Correction of language in Point 6

Table of Contents

- Table of Contents 4
- Scope 5
- Procedures 7
 - 1. Identifying an assistance animal..... 7
 - 2. Assistance animals in police stations 7
 - 3. Searching a person with an assistance animal..... 8
 - 4. Assistance animals in custody..... 8
 - 5. Transport of assistance animals..... 9
 - 6. Assistance animals in public places 9
- Appendix: Assistance animals flowchart..... 11

Scope

These procedures cover the NSWPF position on interacting with people accompanied by an assistance animal. People with a disability have a right to be accompanied by an assistance animal while in public space. Refusal to accommodate a person with a disability who is accompanied by an assistance animal could be considered a breach of discrimination law.

These procedures must be followed by all NSWPF employees. Police officers have dual responsibilities to people accompanied by assistance animals:

- to ensure that they respond appropriately to people accompanied by an assistance animal; and
- to ensure that they do not aid or abet discrimination by another person against a person with an assistance animal.

The following definitions apply in this document:

Assistance Animal

An assistance animal is a dog or other animal that has been:

- a. accredited under a law of a State or Territory that provides for the accreditation of animals trained to assist a person with a disability to alleviate the effect of the disability; or
- b. accredited by a prescribed animal training organisation; or
- c. trained:
 - i. to assist a person with a disability to alleviate the effect of the disability; and
 - ii. to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.¹

Assistance animals are not the same as companion animals or pets. The animal must have been specifically trained to alleviate the effects of the disability (for example, guide dogs or hearing dogs). Under Commonwealth and NSW discrimination law, the term 'disability' is inclusive of mental illness. Any kind of animal is able to be an assistance animal, it is not limited to dogs.

Public space

Commonwealth and NSW laws allow people with a disability to be accompanied by an assistance animal on public transport and in any public space, including buildings.² Public space means any building or place open to or used by the public, and any public transport. This includes all NSWPF buildings, police stations, office buildings, restaurants, shopping centres, the airport, airplanes, trains, buses, ferries and taxis.

¹ Section 9(2), *Disability Discrimination Act 1992* (Cth)

² Section 8, *Disability Discrimination Act 1992* (Cth) and Section 59, *Companion Animals Act 1998* (NSW)

Assistance animals do not have to be allowed to access public places if:

- it is reasonably suspected that the animal has an infectious disease and may be a danger to public health;
- where the animal is considered to be aggressive or dangerous;
- where no evidence can be produced to show that the animal is an assistance animal (see below, Procedures).

Procedures

1. Identifying an assistance animal

There is no requirement for assistance animals to be trained or registered by any official organisation. Despite this, it is not discriminatory to require a person to produce evidence that an animal is an assistance animal or that the animal has been trained to meet standards of hygiene and behaviour in public places.³ This evidence could include:

- an identification tag, jacket, harness or medallion worn by a guide dog, hearing dog or registered assistance dog;
- an assistance animal permit issued by RailCorp;
- written evidence from a doctor that the animal alleviates the effects of the disability, and written evidence that the animal has been trained.

If the person does not produce any evidence that the animal is an assistance animal, it does not have to be treated as one.

If you are unsure whether you are dealing with an assistance animal, ask the person open questions to determine why they are accompanied by the animal. For example, “Why have you brought this animal with you here today?” If you are in doubt, you can ask the person “Is this an assistance animal?” and ask the person to produce evidence. Once you have made a decision regarding whether or not the animal is an assistance animal, the reasons for the decision should be recorded in your notebook or on COPS. Should you determine that the animal is not an assistance animal, a supervisor should also be contacted.

2. Assistance animals in police stations

If police determine that an animal is an assistance animal, it should be allowed to accompany the person with a disability at in all NSWPF buildings, including police stations and offices, unless there is a good reason not to, being where:

- police reasonably suspect that the animal has an infectious disease and may be a danger to public health;
- where the animal is considered to be aggressive or dangerous;
- where no evidence can be produced to show that the animal is an assistance animal.

If you determine that the animal cannot continue to accompany its owner at the police station due to one of the abovementioned reasons, the animal should not be abandoned. You must arrange, in consultation with the animal’s owner, for it to be collected by:

³ Section 54A(5) of the *Disability Discrimination Act 1992 (Cth)*

- a friend or family member of the owner;
- an organisation that trained the animal;
- the RSPCA; or
- a local vet.

It is not discriminatory to require the animal to stay under the control of the person or another person on behalf of the person with the disability.⁴ Owners of assistance animals are liable for any damage caused by the animal.⁵

Arrangements should be made to provide water for the animal and to take the animal outside for toileting, only after you have obtained permission of the owner. Do not provide the assistance animal with any food or medication. If the owner specifically requests that you give the assistance animal food or medication, which is provided to you by the owner, make a clear note in your notebook what was given to the assistance animal and that it was at the owner's direction.

3. Searching a person with an assistance animal

When searching a person accompanied by an assistance animal, police may wish to search the animal. If this is to occur, you should tell the person that you will be searching the animal separately. Any harness or jacket on the animal can be removed and must be replaced after the search. In circumstances where the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)* applies, this Act will also apply to assistance animals.⁶

4. Assistance animals in custody

Offenders with a disability should not be separated from their assistance animal unless there is a good reason, such as:

- police suspect the animal has an infectious disease;
- police suspect the animal may become aggressive or dangerous;
- the offender fails to restrain the animal;
- the animal is being taken outside for toileting purposes, with the permission of the owner;
- the offender requests that the animal be collected by another person.

When making a decision about what to do with an assistance animal, police should consider the safety of police, the offender, the animal, other people in custody and any other person present at the police station. Decisions about where to accommodate a person with an assistance animal in custody should be made in

⁴ Section 54(A)(2) of the *Disability Discrimination Act 1992 (Cth)*

⁵ Section 54A(7) of the *Disability Discrimination Act 1992 (Cth)*

⁶ See section 21 of *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)* and the power of police officers to search the person "and anything in the possession of or under the control of the person".

accordance with normal custody considerations outlined in the Code of Practice for CRIME. Reasons for decisions around arrangements for assistance animals should be recorded in the custody record.

As stated above, assistance animals should not be abandoned. If you make a decision that the assistance animal cannot remain with the offender, you must arrange for it to be collected, as set out above at Point 2.

Corrective Services NSW does not currently have a policy concerning assistance animals. However, it is also bound by anti-discrimination laws. If an offender with an assistance animal is being remanded, Corrective Services should be consulted regarding the assistance animal and, if necessary, alternative arrangements should be made for the animal as outlined above at Point 2.

5. Transport of assistance animals

Most assistance animals are able to travel in the footwell of a car or in the back of a truck. When making a decision about transporting an assistance animal, consider the safety of the animal, the person with a disability and any other people. You should consult with the person accompanied by the assistance animal as to the appropriate means of transport for the animal. It is not discriminatory to refuse to transport the animal in the manner requested by the owner if the request is unreasonable or, in your reasonable opinion, poses a danger to the animal, the person or police officers. If such a decision is made, it must be recorded in your notebook and a supervisor must be contacted.

Again, the assistance animal must not be abandoned and alternative transport arrangements must be made or the assistance animal must be collected as outlined above at Point 2.

6. Assistance animals in public places

Police may be called to disputes concerning assistance animals in public spaces, particular relating to assistance animals being allowed on public transport or in restaurants. It is an offence for a person to deny an assistance animal entry to a public place, building or public transport. It is also unlawful to aid and abet another person in discriminatory conduct against a person with an assistance animal,⁷ and police must be careful to avoid engaging in such conduct.

If you are called to a dispute involving access for a person accompanied by an assistance animal, you should be clear about the reasons given for the assistance animal being denied entry. If it appears the reasons are not based on the permitted

⁷ Section 52, *Anti-Discrimination Act 1977* (NSW)

exclusions outlined above at Point 2, this may amount to discrimination on the part of the person refusing access. In such circumstances you should inform the person that a person with a disability is entitled to be accompanied by an assistance animal in public space. Police cannot force the person to allow access to the assistance animal, however police are also authorised officers under the *Companion Animals Act 1998* and are able to issue a penalty notice to a person for refusing entry to an assistance animal.⁸ Penalty notices in the usual form can be issued if police are of the view that there is no reasonable basis to exclude the assistance animal.⁹

People with assistance animals can apply for an 'assistance animal permit' from the RailCorp Passes and Concessions Office, which allows them to take their animal on public transport, including trains, buses, ferries and taxis. More information on this is available at: http://www.cityrail.info/travelling_with_accessible_services/animals. Should such a permit be produced and there is a continued refusal of access of the assistance animal, police should always issue a penalty notice.

⁸ Section 5(1) and 60, *Companion Animals Act 1998* (NSW)

⁹ NSW Police Force – P23M Miscellaneous Fixed Penalty Handbook

Appendix: Assistance animals flowchart

