

# SPCA Policy Brief

23<sup>rd</sup> December 2021

## Prolonged Dog Tethering and Confinement

Proposed Amendment to the Animal Welfare (Care and Procedures) Regulations 2018



# Key messages

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- > This is a policy brief from SPCA to provide information on prolonged tethering and confinement of dogs in New Zealand and recommend an amendment to the Animal Welfare (Care and Procedures) Regulations 2018.
- > Prolonged tethering and confinement of dogs is a significant animal welfare issue in New Zealand. In the 2020/2021 year SPCA received approximately 1,489 complaints related to prolonged tethering or confinement and lack of shade/shelter, representing 18 % of the total complaints we receive about dogs.
- > Prolonged tethering and confinement leads to ongoing welfare harms due to the animal's inability to express normal patterns of behaviour, including exercise, socialisation and threat avoidance.
- > These dogs are more likely to bark excessively and exhibit aggressive behaviour, presenting an ongoing risk to public safety.
- > When Regulations 13 (dogs must have dry and shaded shelter) and 47 (collars and tethers) were consulted, the discussion document released by the Ministry for Primary Industries indicated that the intention was to improve welfare for dogs that are habitually kept to a confined area because the available enforcement tools were ineffective.
- > SPCA considers that the regulations have not adequately addressed the concerns identified. We continue to need to use a huge amount of resourcing to attempt to address this common example of animal welfare offending.
- > SPCA considers that if the prolonged tethering and confinement of dogs continues, it risks undermining public trust in the effectiveness of animal welfare inspectors and the animal welfare system.
- > An amendment to the Animal Welfare (Care and Procedures) Regulations 2018 would assist animal welfare inspectors to enforce the Act.
- > Working together with MPI to address the welfare of tethered and confined dogs is one of the highest priorities for the SPCA and appreciates their engagement on this issue.



# Consequences of prolonged tethering and confinement of dogs

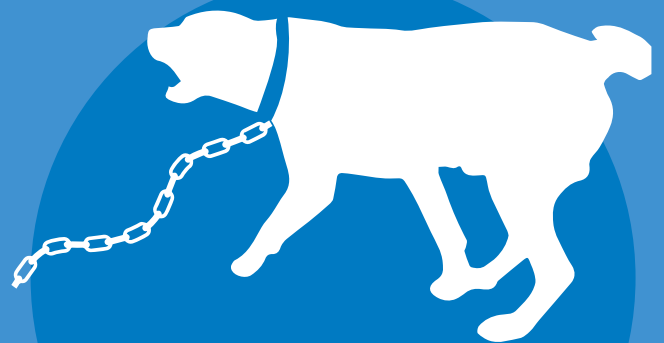
## MENTAL SUFFERING



## PHYSICAL HARMS and danger



## DANGER AND NUISANCE to communities



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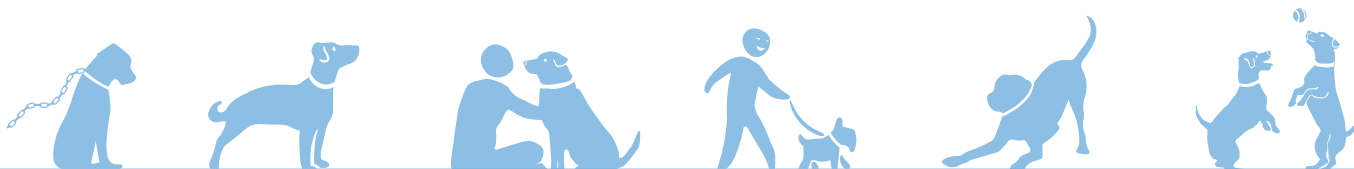
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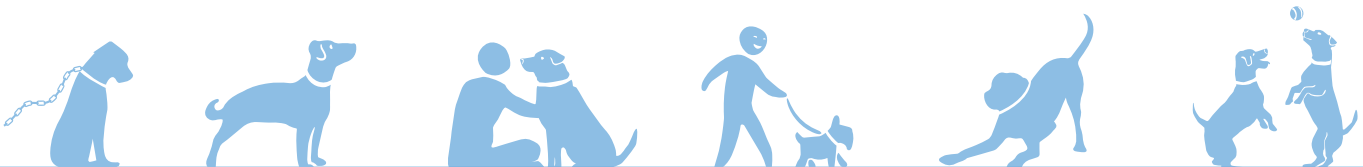
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# The prolonged tethering and confinement of dogs is a significant animal welfare issue in New Zealand

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1. Tethering or chaining a dog describes the tying of a dog with a rope, line, or chain to a fixed stationary point. Close confinement of a dog describes a situation where a dog is left in an enclosure that provides insufficient space to meet their physical, health and behavioural needs. As described in the Code of Welfare for dogs, prolonged containment or tethering can have a significant negative impact on the physical and mental health of dogs.
2. It is important to note that SPCA is not raising a concern about dogs that are intermittently or occasionally confined or tethered. Working dogs are often kept in kennels, and some dog owners who may not have the resources to provide a securely fenced area instead may choose to use a tether for periods of the day.
3. The practice that SPCA is concerned about is the prolonged tethering and confinement of dogs, i.e. situations where there is little or no evidence of the dog ever being let off the tether or out of the enclosure.
4. While it is difficult to gather accurate numbers, this is an issue that our inspectors deal with daily, and we believe it is safe to say that there are thousands of dogs in New Zealand that are subjected to prolonged tethering or confinement.
5. Dogs are the second most popular companion animal in New Zealand, with 34 % of households home to an average of 1.4 dogs (Companion Animals New Zealand, 2020). There are a total of 851,000 dogs across the country. Thirteen percent, which equates to 114,000 dogs in New Zealand, are considered outdoor only. Two-thirds are considered to be both indoor and outdoor dogs, which equates to 568,000 dogs and a fifth (170,000) are indoor only.
6. The “outdoor only” dogs are likely to be the primary sufferers of prolonged tethering and confinement.
7. In 2020/21 SPCA received a total of 14,276 animal welfare complaints. 10556 (74 %) related to concerns animals’ physical, health and behavioural (PHB) needs weren't being met. There were 6041 PHB complaints in relation to dogs of which 1489 (25 %) related to either suspected Regulation 13 breaches and/or no exercise concerns.
8. Prolonged tethering or confinement of dogs places restrictions on physical comfort, escape and threat avoidance, urination/defecation behaviour, social behaviour, and ability to exercise. Consequently, this practice results in significant welfare compromise.

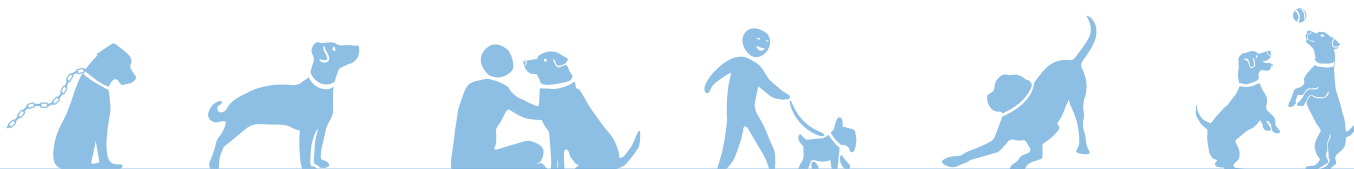


9. Affective experience is the subjective/emotional/mental experiences perceived by the animal which can be positive, negative or neutral. The Animal Welfare Act recognises animals as sentient beings, meaning New Zealanders have a legislative responsibility (as well as a duty of care) to prevent mental suffering in animals. As such the animal's affective experiences must be taken into consideration as part of an assessment of their overall welfare state.
10. The behavioural restriction that prolonged tethering or confinement imposes on a dog may result in the experience of a number of negative affective states, including but not limited to: anxiety, fear, boredom, loneliness, frustration, depression, malaise, thermal discomfort/distress (too hot/too cold), hunger/thirst, pain (where there is collar injury), and olfactory discomfort (from the build-up of faeces/urine) (Ledger et al., 2018). These affective experiences in combination with the chronic nature of long-term tethering and confinement likely result in significant mental suffering.
11. Prolonged tethering or confinement of dogs is associated with increased risk of nuisance behaviours such as excessive barking and serious public health issues such as increased risk of aggressions and dog bites (Patronek et al., 2013; Shillabeer, 1991; Takáčová et al., 2021).

## An amendment to the Animal Welfare (Care and Procedures) Regulations 2018 would assist animal welfare inspectors to intervene

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12. Prosecutions under the general provisions of the Act are resource intensive and generally only appropriate for serious levels of offending.
13. When the 2018 Animal Welfare Regulations were consulted, the discussion document released by the Ministry for Primary Industries indicated that the intention was to improve welfare for dogs that are habitually kept to a confined area because the available enforcement tools (minimum standards) were ineffective (Ministry for Primary Industries, 2016). However, the final wording of Regulation 13 does not address the issue of prolonged and unreasonable tethering. Rather, it is focused on environmental requirements such as shelter, water and sanitation.
14. SPCA has suggested that the Ministry proposes a new regulation that can serve the purpose of preventing the unreasonable and unnecessary distress caused by the practice of prolonged tethering or containment.

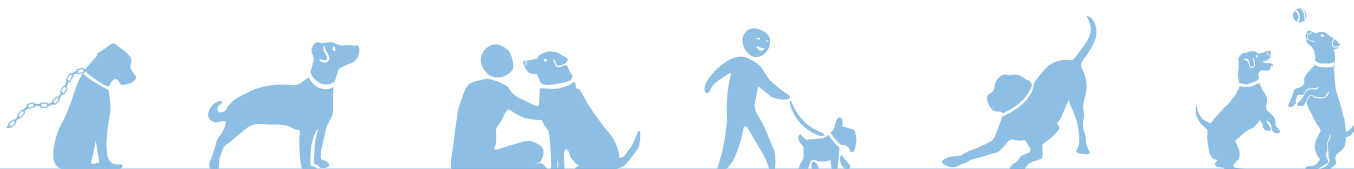


15. The current legislative and regulatory framework restricts our ability to mitigate the suffering of the majority of these animals. Most dogs subjected to prolonged tethering or confinement have access to shelter that is compliant with the existing regulation for providing a dry and shaded shelter. They also generally have access to water and are able to defecate a sufficient distance away from their lying area to be compliant.
16. However, in many cases there is evidence of prolonged tethering or confinement to that area. This evidence can take the form of a heavily worn ground surface, numerous holes dug into the surrounding earth, bite and gnaw marks on surrounding vegetation or the kennel, and a tether or enclosure that is either locked or showing signs of not having been released recently. There may also be behavioural or physical signs of prolonged confinement such as Council reports of excessive vocalisation, overgrown nails or muscle wastage. Our inspectors may have evidence from neighbours who can hear or see the dog in the same place for long periods.
17. Over the past 2 years SPCA has focused on how various investigative strategies might assist our inspectors to address these cases. This has included assessment of surveillance warrants and other means of filming tethered dogs in order to reach the evidential threshold required for a prosecution.
18. We have also engaged with internationally recognised forensic behaviour and welfare experts and invested in upskilling our inspectors to consider mental suffering of animals when gathering evidence for prosecutions.
19. The fact that these forms of resource-intensive and technically challenging investigation tools are being considered for such a common issue that should be easier to resolve shows the problems inherent in the current legislative framework. This inherent difficulty in resolving this welfare issue via the Act results in large numbers of dogs being forced to remain in situations that are technically compliant with the regulations but which cause great physical and mental suffering.
20. A regulation which directly addresses the prolonged tethering and confinement of dogs would allow animal welfare inspectors to intervene in cases of prolonged tethering and confinement before it gets to the stage of considering a prosecution.

## Drafting of a new regulation

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21. With regards to wording, SPCA's submission on the 2018 regulations advocated for a time limit to be placed on the tethering or confinement of dogs. We no longer believe this would be the appropriate response. Timeframes are inherently difficult to confirm and proving or disproving compliance would be a barrier to enforcement.

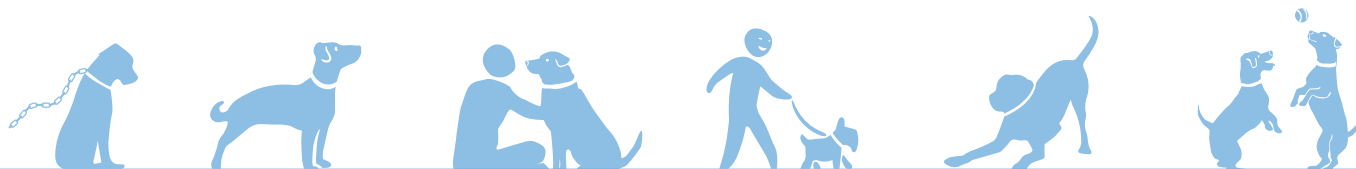


22. Other jurisdictions have taken the approach of stipulating a time frame or requirement for daily exercise in legislation addressing tethering and need for exercise outside of enclosures (for examples, see [Appendix 1](#)). However, this approach does not appear to have been effective in addressing the issue of prolonged tethering and confinement (Gleeson, 2020).
23. A practical solution is a regulation that provides indicator signs consistent with prolonged tethering and confinement that inspectors would be able to directly observe.
24. We see this working in a similar manner to Regulation 14 (Dogs left in vehicles) which requires inspectors to determine whether two discrete conditions exist – shade-seeking behaviour and one or more of three signs consistent with heat stress. Where an inspector observes the appropriate indicator conditions, they are able to form a reasonable belief that the dog is being cared for inappropriately and that a breach has occurred.
25. See [Appendix 2](#) for some example indicators.
26. SPCA advises that all dogs, including working dogs, have similar physical, health and behavioural needs, and considers that a new regulation should apply equally to any dog in New Zealand.

## Failing to ensure that animal welfare inspectors have the right tools to address offending risks undermining public trust in New Zealand’s animal welfare system

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27. SPCA is an approved organisation under the Animal Welfare Act 1999, with responsibility for enforcing the provisions of the Act and regulations in partnership with MPI. Both agencies employ fully warranted animal welfare inspectors appointed by the Director-General of MPI under the Act. SPCA currently employs ~60 inspectors. SPCA has been working in a law enforcement capacity under the Act for many years with a long-standing reputation for responsible and reasonable compliance and enforcement outcomes.
28. New Zealanders have high expectations of our animal welfare system. When a concerned member of the public calls our inspectorate about a tethered or confined dog who is suffering, they expect our inspectors to be able to intervene.
29. In most cases, inspectors are limited in their compliance approach. When infringements are issued, they usually relate to the provision of water and shelter which, while useful, does not address the underlying concern (that dogs are confined or tethered for prolonged periods).



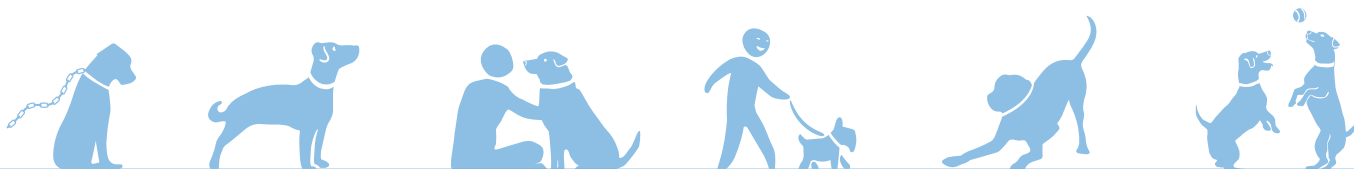


30. It is becoming increasingly common for independent charities or members of public to attempt to deal with tethered or contained dogs themselves rather than report them to the SPCA.
31. SPCA is concerned that there is a falling level of trust in the effectiveness of warranted animal welfare inspectors and an increasing risk of 'vigilante' action.
32. SPCA suggests that this situation may have arisen because the current regulations are not addressing the animal welfare issues that they were intended to.

## Prolonged tethering and confinement must be addressed with urgency

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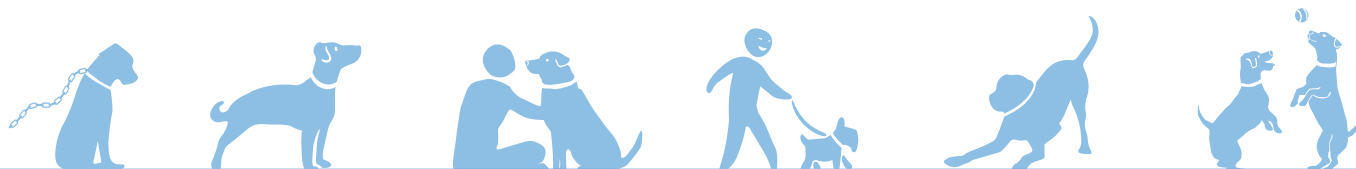
33. It is SPCA's understanding that changes to regulations for dog welfare are unlikely to be considered until the code of welfare for dogs is reviewed.
34. The National Animal Welfare Advisory Committee's plan for reviewing codes of welfare states that the code of welfare for dogs will not be reviewed for at least 5 years, and potentially up to 10 years (NAWAC, 2020).
35. This timeline is far too long, especially when the code of welfare is already 11 years old. Public awareness of animal welfare issues is growing and this is leading to an escalation in the number of complaints received year by year.
36. This concern is shared by many New Zealanders, as well as by many other rescue organisations. We note that a petition to '**ban the life chaining of dogs**' recently closed with over 12,000 signatures.
37. SPCA has raised the issue of prolonged tethering or confinement with the Ministry for Primary Industries and NAWAC consistently over a number of years, including when submitting on the dog code; in its submission on the animal welfare regulations in 2016; at workshops for proposed regulations in 2015 and 2017; and in liaison meetings with MPI since the 2018 regulations were implemented.
38. We now recommend that further action is taken so that the Animal Welfare (Care and Procedures) Regulations 2018 adequately addresses the risk of confined dogs, as well as protecting New Zealand's reputation.
39. SPCA looks forward to further engagement from MPI on this recommendation.



# Appendix 1

## Australian Legislation Relating to Tethering and Exercise

State	Legislation	Details
Australian Capital Territory	<a href="#">Animal Welfare (Welfare of Dogs in the ACT) Code of Practice 2010</a>	<p><b>Tethering</b> Tethering dogs for long periods or on a regular basis should only be used as a last resort. If tethering is the only option for confining the dog within the premises, a running chain (also known as a run line or tether line) should be used with due consideration given to safety preventing hanging or entanglement problems. A run chain (commonly available at pet supply outlets) should be used with a double swivel chain to prevent tangling. Regular off chain exercise must be provided, as per Section 5. If tethering is the only long-term prospect for confining the dog, owners should seriously re-think whether it is appropriate for them to keep a dog at this time. Puppies should not be tethered until accustomed to walking on a collar and lead.</p> <p><b>Outdoor enclosures</b> Where dogs are confined in outdoor enclosures, they should be exercised for at least one hour daily.</p>
New South Wales	<a href="#">Tethering of Animals Policy 2017</a>	<p>Section 10 of the Act makes it an offence for a person to tether, or, where the person is in charge of the animal, authorise the tethering of an animal for an unreasonable length of time, or by means of an unreasonably heavy or unreasonably short, tether.</p> <p><b>Time</b> As part of good animal welfare practices, pet dogs, ponies, horses, and donkeys should be released from tethers for a minimum of 2 hours in every 12 hour period.</p>
South Australia	N/A	N/A



**Tethering of dogs**

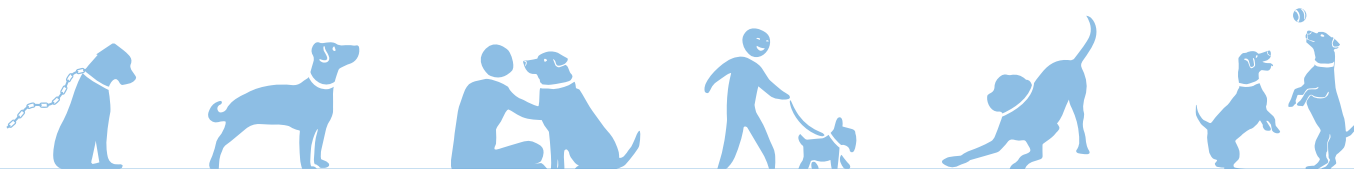
(1) Subject to **subregulation (2)**, a person with care or charge of a dog must not tether the dog for a continuous period of more than 30 minutes unless – (a) the dog shows acceptance of being tethered and is not distressed as a result of the tethering; and (b) the dog is being supervised while tethered; and (c) the dog has access to water and weatherproof shelter while tethered; and (d) the tether is fitted with a swivel that was inspected, to ensure it was in working condition, before the dog was tethered; and (e) the dog is provided with daily exercise off the tether in accordance with these regulations.(2) Despite **subregulation (1)**, a person must not tether any of the following dogs: (a) puppies that have not attained the age of 4 months; (b) bitches in season; (c) bitches that are in the advanced stages of pregnancy. (3) A person must not tether a dog to a moveable object, or adjacent to a fence, in a manner that places it at risk of injury or death by hanging.

**Tethering of dogs at facilities**

A person with care or charge of a dog at a facility must not tether the dog for a continuous period that exceeds 3 hours

**Exercise requirements**

(1) A person with care or charge of a dog must ensure that the dog is provided with a reasonable opportunity for exercise for at least 60 minutes in total each day. (2) In addition to **subregulation (1)**, a person in charge of a facility must ensure that each dog that is more than 6 months of age at the facility – (a) as part of the total period of daily exercise specified in that subsection, is provided with the opportunity for exercise at least twice a day for a period of no less than 10 minutes each time; and (b) is not being exercised with an incompatible dog. (3) **Subregulations (1)** and **(2)** do not apply to a dog if – (a) a veterinary surgeon has provided written advice that the dog is not to undertake such exercise; or (b) the person with care or charge of the dog can provide satisfactory evidence that – (i) the dog has not been exercised due to an injury or illness that requires the dog to be rested; and (ii) the period without exercise does not exceed 3 days; or (c) the dog is being held at a pound within the meaning of the **Dog Control Act 2000** and



has not been held at the pound for a period exceeding 7 days. (4) A person with care or charge of a dog must ensure that any exercise the dog is provided with the opportunity to undertake, as required under this regulation, is appropriate after taking into account the characteristics of the dog.

## Victoria

### Code of practice for the tethering of animals (Revision 2)

### Code of Practice for the Private Keeping of Dogs

#### Dogs

- > The site must provide a minimum tether radius of 3 metres allowing 6 metres of run.
- > Dogs less than 4 months old should not be tethered.
- > Bitches in season must not be tethered where entire males may have access.
- > Bitches about to give birth must not be tethered.
- > Tethered dogs must have ready access to a kennel, shed or other protection from the elements and for sleeping. The kennel should be of an appropriate size for the particular animal and must not cause a threat of entanglement.
- > As a guide, working farm dogs should be let off tethers at least two hours per day during daylight hours. It is recommended that wherever possible all other dogs that are tethered should be released under supervision for 2 hours in every 12 hours.
- > Dogs must not be tethered adjacent to a fence in a manner that places them at danger of death by hanging.

#### Housing

The area a dog is confined to must have secure fencing that the dog cannot get over, under or through.

Where dogs are housed in enclosures or restricted areas they must meet the minimum size requirements as listed in Appendix 4.

Enclosures need to allow dog(s) to move around freely, to urinate and defecate away from the sleeping and eating areas and be cleaned daily so that enclosures are free of faeces. Vehicles must not be used as permanent housing for dogs. Each dog must have its own sleeping area and food bowl. Dogs must be given adequate daily exercise outside of enclosures.



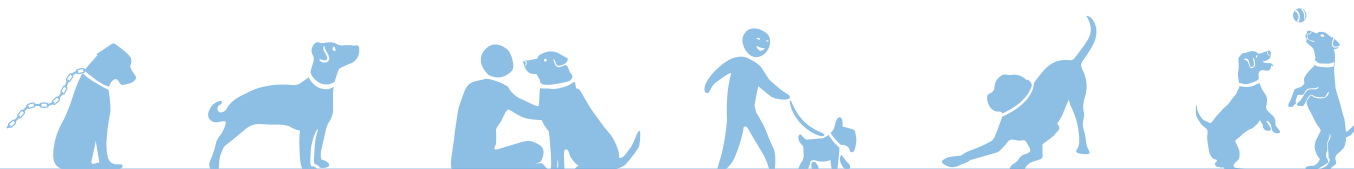
### Tethering of dogs

S5.1 A dog must not be tethered in a way that may cause an unreasonable risk of harm to the dog, including attaching a dog: (a) to an object that could be moved under any exertion by the dog; (b) adjacent to a drop or fence in a manner that puts the dog at risk of injury or death by hanging; (c) using choke chains or other devices which tighten around the neck; or (d) outdoors in extreme weather conditions

without adequate shelter. S5.2 A dog must not be tethered for more than 30 minutes unless: (a) the dog has been trained to accept tethering; (b) all devices used are appropriate for the individual dog; (c) the dog is regularly supervised; (d) the tether is fitted with a swivel and is checked daily. S5.3 Pregnant bitches of more than seven weeks gestation, whelping bitches and lactating dams with puppies must not be tethered. S5.4 The use of a tether to confine a dog must be discontinued if the dog displays signs of distress associated with tethering.

### Exercise

S11.1 A dog must receive exercise that is appropriate to the dog's individual characteristics, health, and level of fitness, and sufficient to maintain the health and welfare of the dog.



# Appendix 2

## Example Indicators of Prolonged Tethering or Confinement

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### Primary indicators

**Dog is tethered to a fixed stationary object via a tether in a manner which restricts movement and expression of normal behaviour**

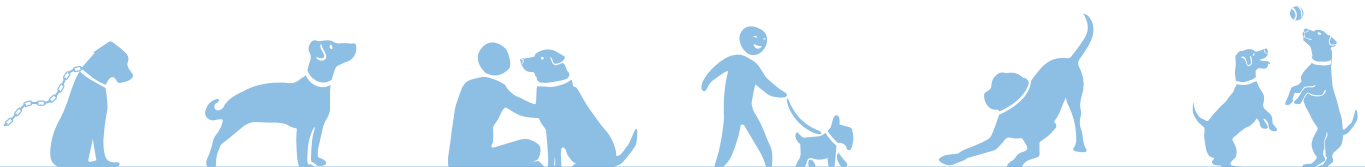
### Secondary indicators

- > Heavily worn ground surface at the extremity of the tether
- > Collar or tether that is either locked or showing signs of not having been released recently (e.g. physically difficult to remove, requires cutting, attached with locked padlock)
- > Evidence of excessive barking, stereotypic behaviours, over-grooming or self-mutilation, or pronounced aggression or fear
- > Evidence of overgrown nails
- > Coprophagy (eating faeces) or toileting in lying or eating areas

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**Dog is housed in kennel/ run enclosure which restricts movement and expression of normal behaviour**

- > Heavily worn ground surface along edges of run
- > Kennel/run that is either locked or shows signs of not having been opened recently (e.g. physically difficult to open, rusted shut, weeds growing up against door/ opening)
- > Teeth/claw marks on kennel/run
- > Evidence of excessive barking, stereotypic behaviours, over-grooming or self-mutilation, or pronounced aggression or fear
- > Coprophagy (eating faeces) or toileting in lying or eating areas



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