

Have You Got A Dog Noise Problem?

What can Council do

Barking complaints fall under the Dog and Cat Management Act 1995 (the Act) which is South Australia State legislation.

The Dog and Cat Management Act creates an offence for the owner or person in control of a dog, if the dog creates a noise by barking persistently that unreasonably interferes with the peace comfort or convenience of a person.

It is not illegal for dogs to bark. It is a council investigators role to assess evidence and determine if barking is both persistent, and unreasonable. In order for a reliable assessment, it is essential that diaries and all evidence are detailed and accurate. This includes an accurate identification of the location of the barking dog. A guess or assumption is not satisfactory.

In some cases, a person making a complaint will be required to give evidence in a court of law and be subject to cross examination. This would be if council took enforcement action that was contested by the dog owner. Any action that council takes under the Act can be contested or appealed in a court.

Anonymous complaints cannot be actioned.

Formal complaints often escalate issues between neighbours and Council encourages people attempt to resolve the problem privately before making official reports where possible. This can be by talking to the dog owner yourself or you can leave an anonymous letter advising of your concern.

If council is provided with sufficient evidence, then a council officer can speak with the dog owner about the alleged complaint.

In many cases, the investigator will find two opposing versions of events. For this reason a council officer may be required to seek corroboration of a complaint by another neighbour. They may also record their own observations and make use of a specialised electronic recording device in order to substantiate a complaint.

Nuisance barking complaints are difficult to deal with for several reasons:

- Each individual person will have a different view as to what is a noise nuisance. This will vary from the location of the dog to the complainant, noise tolerance level of the complainant and the type and length of barking.
- Information supplied by the complainant is based on the personal recollection of how the barking affects that individual.
- Barking behaviour may be difficult to address and may take time to resolve.
- The barking behaviour in some cases, can be natural and reasonable for the environment.

Some examples of nuisance barking can be:

A dog that:

- regularly barks at every person or dog passing the property or using part of the street, with barking continuing for a prolonged period of time;
- regularly barks, howls or whines for periods in excess of 10 or 15 minutes when the owners are absent or ignoring the dog;
- aggressively rushes, jumps and barks the fences;
- regularly barks during the night;
- regularly barks at the neighbours;
- barks excessively for no apparent reason.

In certain situations the complainant's actions can worsen the dog's barking. This can be caused by:

- verbally abusing the dog in an aggressive manner;
- hitting the dog or the fence;
- hosing or throwing objects at the dog;
- teasing the dog through the fence (by children or neighbour).

The complainant should consider doing everything within their power to ensure that they or something/someone within their control is not the cause of the nuisance barking.

The barking nuisance will be considered in isolation of all other matters and not used as a form of revenge or retaliation against a neighbour. Council will not engage in discussions around relationship breakdowns between neighbours but instead remain focused on the dog nuisance aspect only.

Essential steps for Council to proceed

The accuracy of information relating to the reason, time, date and duration of barking is crucial if the matter finally needs to go to court. If information collected is not accurate or legitimate, legal action may be lost. Video or audio taping of dog barking by a complainant is usually not admissible in court as it may have been manipulated.

Correct identification and location of the dog barking is essential. Noise can and will travel in different directions. Ensure the location of the barking dog is correct and consider all neighbouring dogs.

To help you, please find enclosed a barking complaint sheet which you are required to fill in when the barking occurs. **Do not** try to remember at the end of each day or night as this will lead to mistakes in the accuracy of the diary. The diary is a legal document that could become evidence in court, as such, be sure to complete the entry correctly.

Guidelines for completing the Nuisance Dog Diary are printed on it.

Unless the diary and cover are completed and signed and the statement section completed and signed, we may not proceed further with any investigations or action.

Additionally, for any formal action to be undertaken, it is helpful if the complaint is substantiated by another adjoining or nearby resident who is experiencing the same problem. Once the diary is complete, the investigating officer will make enquiries in this regard. If the complaint cannot be substantiated, we may not take any formal action. This is because we need a minimum standard of evidence to prove a case to a court if needed.

So, what happens from here?

Once you have filled out the diaries, return them to Council.

If it is determined that there may be a breach of the law then an officers first point of call is to discuss the allegation and patterns with the dog owner and allow them opportunity to remedy the issue before the matter proceeds further. If there is improvement or remedy then the process ends here.

If there is no improvement or action on the dog owner's part, Council will approach adjoining or nearby residents and the dog owner either in person, by letter or both. The dog owner will be advised that Council is investigating the complaint further. We will also contact you at this point.

Depending upon the nature of the problem it may take some time to correct a habit of the dog. We will contact you again after about 14 days to see if the problem still exists (this allows time for behaviour correction).

What happens if the unreasonable barking continues?

Council Officers will follow the same procedure with or without the cooperation from the dog owner. While there is a higher chance of a quicker resolution if all parties co-operate, council is still able to investigate and proceed with action regardless of input on the dog owners behalf.

Possible outcomes and actions available to Council include the issuing of expiations and service of an order (a legal document) on the dog owner to take reasonable steps to abate the noise.

In either case, the dog owner has a right of appeal, and opportunity to indicate their intentions.

Council may also give you and other complainants further diary sheets to fill out during this period. It is very important that you do so as this may have to be produced as evidence later on. **If we do not receive all the diaries, or if they are not completed, we may not be able to proceed any further.** Generalised entries such as "Barking all day" or "Barking 6.00 am to 11.00 am" can not be relied on by council.

Legal Action

If things have not improved, the Council will consider taking legal action. Legal action is not automatic and depends on our assessment of each case. Should court action be necessary, then you may need to appear in court as a witness.

If you do not wish to do this, then Council cannot proceed any further.

It may also take some time to obtain a hearing date at the court. During this period you must keep an up to date record of the noise and the effect it has on you.

Should court action be successful, then Council will ask that the court orders the dog owner to seek some special help (usually from a vet or other qualified person) to correct their pet's problem. We may also request that the magistrate to consider other specific conditions for orders as needed under the circumstances. Council can make requests but it is the courts final decision.

If you have any problems in physically being able to complete this form, please advise the officers when you received these forms.

If you have any further questions please contact the Community Inspector, Monday to Friday 8.30am – 5.00pm on 8525 3200.

Anonymous Letter to Dog Owner

Dear Neighbour

You may not be aware, but your dog is barking in a way that is disturbing me/us and causing a nuisance.

As I was uncertain what to do, I contacted the Light Regional Council and it was suggested that I provide you with information so you can investigate what may be causing the problem barking and have the opportunity to find an effective solution.

The barking is occurring as follows:

Date	Time	What Happened

You may find information on the Dog & Cat Management Board website <http://gooddogsa.com/barking-dogs> helpful. You can also contact Council on 8525 3200 and ask for the Community Inspector to contact you and help you to resolve the matter.

Thank you for your cooperation.

Application to Council re barking dog problem

1. Applicant's Details

Given Name _____

Family Name _____

Street Address _____

_____ Postcode _____

Postal Address _____

_____ Postcode _____

Home Telephone _____ Business Telephone _____

Mobile _____

Email _____

2. Dog Description

Address dog(s) kept at _____

_____ Postcode _____

Owner's Name _____

1st type of dog _____ Colour _____

2nd type of dog _____ Colour _____

3. Barking dog details

Describe the dog's barking and why it is a nuisance to you (use the checklist below to assist you)

<ul style="list-style-type: none"> • How often does the dog bark? • How long does the barking continue for? • What sort of noise does the dog make? • Does it bark at certain times of the day? • Does it bark in response to passers-by or other stimulus? 	<ul style="list-style-type: none"> • Where is the barking in relation to your property? • Does the barking interfere with any of your normal activities? • Does the barking impact on your health or wellbeing. In which way? • How does the barking impact on other members of your household?
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Have attempts been made to approach the dog owner to discuss the matter?

Yes. How? _____

No. Why? _____

How long do you estimate that this problem has been going on for _____

4. **Declaration**

I hereby declare that all particulars given by me in this application are true and correct and I am willing to attend court and give evidence if needed.

Signature _____

Date _____

COUNCIL USE ONLY

Date interview conducted _____ Date statement taken _____

Date other neighbours surveyed _____

Response from survey _____

Expiation numbers # _____ # _____

_____ # _____

Complaint _____

Enforcement order (if applicable) Barking Dog Order

Date _____ Delivery type (eg post) _____

Reg. Post No _____

Proposed order issued _____

Compliance order issued _____

Appeal lodged _____

Court action _____

Authorised officer

Signature _____ Date _____

Barking Dog Diary Kit

It is important that this diary is accurately completed with actual dates, times and description of barking and its impact on you.

Example

Date	Start	Finish	Description	Reason (if known)	Impact
20/05/2010	8.00 am	8.15 am	Loud barks	Children going to school	Interrupted phone call
20/05/2010	8.30 am	9.00 am	Continued high pitched wailing	Owner left to go to work	Upset because dog obviously upset
20/05/2010	10.05 am	10.10 am	Loud barks	Bird flying overhead	Frustrated at and for dog
20/05/2010	10.20 am	11.25 am	Protracted, intermittent barking	Not known	Annoyance and irritation

This may seem excessive but remember your diary may need to be presented with your testimony before a court of law or appeal as accurate evidence of the dog's nuisance behaviour. The dog owner, council officer and a court of law will expect as much detail as possible to try and resolve any complaint.

Barking Dog Diary

Believed location/s of dog(s) barking: _____

Compliance Officer Investigating: _____

Date	Start	Finish	Description	Reason (if known)	Impact

I certify that the above recordings are a true record of personal observations. I am willing to appear in Court to give evidence as a witness to the truth of this record if required to do so.

Name: _____

Address: _____

Signature: _____

Date: _____

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Date	Start	Finish	Description	Reason (if known)	Impact

I certify that the above recordings are a true record of my personal observations. I am willing to appear in Court to give evidence as a witness to the truth of this record if required to do so.

Name: _____ Phone No (Optional): _____

Address: _____

Signature: _____

Date: _____