

NUISANCE BARKING DOG COMPLAINTS

The law that we work with...

A dog barking persistently can be a breach of the law. Owning or keeping a dog in the community is controlled by State legislation - the *Dog and Cat Management Act 1995* (the Act). This is what Council uses to deal with dog barking complaints. The owner of a noisy dog can be in breach of this Act, if the noise unreasonably interferes with the peace, comfort or convenience of a person.

Section 45 of the Act states:

“A person who owns or is responsible for the control of a dog is guilty of an offence if the dog (either alone or together with other dogs, whether or not in the same ownership) creates a noise, by barking or otherwise, which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of a person.”

Under the Act, there is no set level or amount of barking which makes the dog a nuisance. To decide whether the owner is in breach of the law - we need to know:

- How often the dog barks,
- How long it barks for and
- Information about the effect the barking has on you.

What we need from you...

The information that you provide is essential to us. Council relies upon you, as a person affected by the noise, to provide the detailed information we need to clearly establish whether the dog is a nuisance within the meaning of the law and which will allow us to act on your behalf. Please note that under the Act it is not an offence for a dog to bark. An offence only occurs if the noise unreasonably interferes with the peace, comfort or convenience of a person. This is why Council is acting on your behalf.

We need you to complete a Nuisance Dog Complaint Form and a written record (diary) of how often and for how long the dog barks over an initial period of seven days.

This diary will allow us to decide whether there is a level of nuisance that we can and need to act upon. This information may also help our Dog Management Officers to determine why the dog is barking, which means we can help the dog owner to develop strategies to stop it.

We will not contact the dog owner until after we have received your initial diary. When we contact the owner we will not advise the owner who made the complaint maintaining your confidentiality.

What we will do...

This depends on the information you have given us. If your diary shows that the dog only barks occasionally or at irregular times, that is probably not enough for us to class the dog as a nuisance and take your complaint further.

If we can clearly establish that the noise is persistent and it is an unreasonable interference to you (and probably others), we have reasonable grounds to act. One of our Dog Management Officers will contact the dog owner(s) to advise them that a complaint has been received and to let them know how much barking their dog has been doing recently. We will discuss strategies with them and make suggestions and inform them that they will need to take action to prevent their dog from barking excessively. They will also be informed about the relevant law (the Act), Council's powers and the procedure that Council will be using should they let the problem continue. We normally give them around two weeks to put these strategies in place and ask for your patience while they are doing so.

We will contact you and let you know what strategies the dog owner is taking to alleviate the problem. We will also send you another diary, which you will need to keep, if this is necessary, i.e. if the dog continues to bark excessively and continues to interfere with your peace, comfort or convenience.

Problem solving...

Often, many dog owners are unaware that their dog may be a nuisance to their neighbours. Our aim is to have the nuisance stopped quickly and efficiently and in an informal and neighbourly manner as possible.

At the end of the two weeks we will contact you again to obtain further feedback. If the problem is resolved, we are happy to have been of assistance to you. If not, we shall continue dealing with the dog owner until it is. At this stage Council may survey nearby residents to see if they are also experiencing a problem with the dog. We may also have our Dog Management Officers observe the particular dog and gather evidence. However, this evidence is only applicable if a resident is at home at the time and the barking is interfering with that person's peace, comfort or convenience.

If the owner appears to be unwilling or unable to prevent the dog from barking excessively, then Council may have to take appropriate legal action under the Act. This may include issuing an expiation or a Control (Barking Dog) Order. However, in order to be able to do this, Council will need you to testify in Court, should the dog owner dispute the expiation or appeal against the Order.

Peace and quiet at last...

We know all of this information may seem a bit daunting.

Our aim is to have the nuisance barking stopped quickly and efficiently and in an informal and neighbourly manner as possible and this outcome can be only achieved with your full cooperation.

If you have a genuine problem with a barking dog, we are genuine in seeking to resolve the problem with you.

Enquiries: 8229 9999
Email: mail@holdfast.sa.gov.au

Noise Nuisance Diary Sheet Examples

UNACCEPTABLE EXAMPLE OF DIARY

<i>Date</i>	<i>Noise started at(am/pm)</i>	<i>Noise finished at(am/pm)</i>	<i>Note your location, reasons for barking, if known, and any action taken by the dog owner</i>	<i>No. of barks</i>
1/11/23	8.00AM	5.00PM	Various	Many
2/11/23	2.30PM	8.00PM	Various	Too many
3/11/23	10.00AM	4.00PM	Various	Excessive
ETC....				

****NOTE****

The above example is **not acceptable**, because it is not specific enough and it is not likely that a dog would bark continuously over the lengths of time indicated, e.g. for 9 hours between 8.00am and 5.00pm.

ACCEPTABLE EXAMPLE OF DIARY

<i>Date</i>	<i>Noise started at(am/pm)</i>	<i>Noise finished at(am/pm)</i>	<i>Note your location, reasons for barking, if known, and any action taken by the dog owners</i>	<i>No. of barks</i>
1/11/23	8.05AM	8.10AM	People walking past	20
1/11/23	8.21AM	8.27AM	Unknown	50
1/11/23	8.42AM	8.55AM	Hanging out washing	35
1/11/23	9.15AM	9.20AM	People walking past	### ### ### IIII
1/11/23	9.40AM	9.49AM	Unknown	### ### ### ### ###
1/11/23	2.00PM	2.07PM	Getting into car	5
1/11/23	2.18PM	2.23PM	People walking past	20
Etc.... for the days following				

****NOTE****

The above example is **acceptable**, because it is very specific and gives a clear indication of how much the dog barks. Also, reasons for the barking are noted, where known – this can help when working with the dog owner to find out solutions to the problem.

Complaint Form Nuisance Created By A Dog

Dog and Cat Management Act 1995

To: Registrar,
Dog Management,
City of Holdfast Bay

1. Pursuant to Section 51 of the *Dog and Cat Management Act 1995* (the Act)

I _____ (name of applicant)

of _____ (address of applicant)

Telephone No. Home _____ Mobile _____

Apply for an order with respect to the dog described below.

2. Description of Dog

Name _____ Breed _____

Colour _____ Sex _____

Age _____ Other _____

Address where dog located _____

Name of person to whom you believe the dog is registered or who owns or who is responsible for the dog: _____

3. Have you discussed this matter with the owner of the said dog: YES / NO please circle

4. Details of response: _____

5. Where are you located or what are you doing when the dog is causing a nuisance: _____

6. I am prepared to give evidence in court if required (if you are not prepared to give evidence in court, then Council is very limited in the action it can take.) YES / NO please circle

7. Signature of Applicant: _____ Date: _____

