

Dealing with dog/s that create a noise nuisance

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Introduction

Dogs are an important part of our local community, but dogs that bark excessively can become a source of irritation for neighbours and others. Our best friend can, if it barks continually, become an intrusion and creates friction between neighbours.

City of Whittlesea receives numerous complaints regarding nuisance noise from dogs. Approaching the dog's owner in a neighbourly manner and discussing your concerns with them sometimes easily resolves this type of complaint.

The dog's owner may not realize that the barking is causing an annoyance.

- The dog may only bark excessively when the owner is not home.
- The owner may not hear the barking from various areas within the house
- The owner may be a very sound sleeper and not woken when the dog barks.

Whilst it is acceptable for a dog to bark to warn its owner of an intruder, it is the owner's responsibility to train the dog not to bark at 'normal' occurrences such as possums, cats or birds.

Neighbourhood communication

Neighbours can solve barking problems by communicating to each other their concerns and needs. Neighbours can assist by identifying the reasons for excessive barking and noting what is happening in the area when the dog is barking.

Try the following steps to attempt to resolve the issue in a neighbourly manner:

1. Approach the dog's owner when the problem arises and state your case clearly and politely. If the dog owner is unapproachable or you are not comfortable approaching them, try placing the "Dear Neighbour" letter contained in this booklet into their letterbox or if you are uneasy with this, post it to them.
2. If the neighbour takes no action or does not agree that a problem exists, you should contact the Department of Justice which funds a dispute settlement service for people who find themselves in a situation of dispute or conflict with another person. This service uses mediation as a way of settling neighbourhood disputes without expensive legal action. It is a private and free service. The service offers specially trained mediators who will help you both find a workable solution.

Dispute Settlement Centre
4th Floor, 456 Lonsdale Street
Melbourne 3000

Phone: 9603 8370 Fax: 96038355
Email: dscv@justice.vic.gov.au

In most cases communication between neighbours should be sought prior to lodging a complaint with Council.

Your legal requirements for court action

Council can only do what is stated in the Domestic Animals Act 1994. The only way to abate the nuisance noise completely is to go to the Magistrate Court and obtain a Court Order.

To take a complaint to court '**You**', as the complainant, are required to provide all the information as it is '**You**' and not Council who will have to convince a Magistrate that the noise is a nuisance.

To do this '**You**' must keep a comprehensive diary over a period of time to show the patterns of the dogs barking behaviour. Remember, in a court of law the evidence you give may be subjected to cross-examination.

Council will only advise you that the matter proceeds to court if:

- It is fully established that there is a case to answer
- All avenues for reconciliation of the problems are exhausted; and
- There is sufficient evidence available to prove the case "**beyond reasonable doubt**"

Council will not get or be involved in any domestic dispute between neighbours. If this appears to be the situation, Council will inform you to pursue your own legal action on this matter.

Lodging a complaint with Council

To lodge a complaint with Council you must first show that '**You**' have either spoken with your neighbour or have tried to resolve the problem with them in some other manner.

The procedure for lodging a barking dog complaint with Council is as follows:

- identify the correct address of the alleged offending dog/s;
- complete the 'Nuisance Noise Complaint Form'
- keep a diary of the dog's barking habits for a period of 14 days, noting the date, time, weather conditions and duration of barking, and any reasons why the dog may be barking, as well as the effect the noise nuisance may be having on you.
- once the diary is completed, forward to Council the complaint form and your completed fourteen (14) day diary signed by you.
- continue to keep a recording of the dog's habits for a further month. This will monitor whether the problem continues or improves as a result of any action taken.

Council action

Council Officers will:

- Examine the diary entries to establish barking patterns and to try to determine whether there is a case for further investigation or action.
(It is important that the completed Nuisance Noise Complaint Form and the initial 14 Day Diary entries are returned to Council ASAP so as to assist in processing the complaint promptly.)
- May contact other neighbouring properties with a survey to see if anyone else has a problem.
- If a noise nuisance is established will advise the dog owner of the complaint, discuss possible solutions and inform them of their responsibilities. The Officers will assist and work with the dog's owner until they believe that the owner has done everything possible to help correct the nuisance behaviour.

Council will only proceed in proposing the taking of court action if:

1. the owner of the dog is not complying with Council's request, and
2. the dog is a problem, and
3. the owner of the dog has exhausted all avenues to resolve the problem, and
4. the complainant is prepared to attend at the Magistrates Court and provide the evidence to the Court that there is a nuisance.

It is important to that you understand that you as the complainant **must** prove there is a problem at court.

If you are unable to provide the necessary evidence and information required, Council will have no alternative but in terminating any action and close the complaint.

Dear neighbour,

You may not be aware but your dog is currently causing a noise nuisance in the surrounding neighbourhood by its barking.

I have discussed my situation with City of Whittlesea which has suggested that as a first step, I should contact you in writing and express my concern about this noise nuisance, so as to allow you the opportunity to rectify and abate the situation without recording an official complaint with the Council.

On the back of this letter is some information that may be of assistance to you in resolving the problem.

Your co-operation at this stage is all that is needed to avoid this matter progressing any further and involving the Council.

A concerned neighbour

Some simple tips for reducing barking

- Make sure that you do not reward your dog for barking too much. Don't let the dog inside or give it attention when it barks. Instead, give the dog attention when it is quiet.
- If the dog is barking at people or noises on the other side of a fence, move the dog to another part of the yard, or put up a barrier to keep the dog away from that area.
- If the dog barks at regular disturbances such as children walking to school or rubbish trucks, keep the dog inside or in an enclosed area at these times.
- If the dog races along a path or fence barking at passing distractions, put barriers or obstacles in the dog's way to slow it down.
- Ensure that the dog has adequate exercise and obedience training.
- Make sure that the dog has food, water and shelter from the weather.
- If the dog is barking through gaps and cracks in the fence, fill them in.
- If the dog is barking at people it can see passing by, try blocking the dog's view.
- An anti-barking collar may be useful for some, but not all, barking dogs, contact the local pet store for further information, or speak to your Vet for further information.
- Teach the dog to stop barking on command. When the dog is barking give a firm command such as 'cease' and call the dog to you. Praise the dog when it stops barking. If the dog will not listen to you, it will need obedience training.

Remember, dogs bark for many reasons. If these simple tips do not help you, please seek further advice.

Documents that must be returned to Council

Nuisance noise complaint form

This document along with the initial 14 day diary entries must be completed in full, signed and returned to the City of Whittlesea for evaluation.

COMPLAINANTS NAME:

ADDRESS:

.....

CONTACT NUMBERS:

HOME: **MOBILE:**

BUSINESS **EMAIL:**

ADDRESS OF OFFENDING DOG/S:

.....

.....

DESCRIPTION OF DOG/S

.....

Have you verified the address where the noise nuisance is coming from?

YES/ NO

Have you contacted and discussed the noise nuisance with the neighbours?

YES/ NO

If required are you prepared to appear at the Magistrate Court

YES/ NO

I, the undersigned, lodge a formal complaint with the City of Whittlesea that in my opinion the dog/s described above create a noise nuisance to such a degree that it unreasonable interferes with my peace, comfort or convenience in my premises.

SIGNED: **DATED:**

Privacy statement:

Council is collecting the personal information on this form for the purpose of gathering information applicable to this complaint. The information will be used for investigating the complaint and will not be disclosed to any other party except as required by law. If you fail to provide the information, no action can be taken in regards to this complaint.

How to complete a barking dog diary

You are required to document the times the dog is barking as accurately as you can when you are home.

It is required that all the entries are as detailed as possible for the Officers to evaluate.

If this matter proceeds to Court it will assist the Magistrates in making their decision if the recorded evidence presented along with your verbal evidence gives a full descriptive report of the alleged noise nuisance the dog may be creating.

Throughout the entire period of the investigation you will be required to continue documenting the times the dog is creating a nuisance, this will allow the Officers to see if the barking has increased or decreased.

EXAMPLE OF REQUIRED DIARY ENTRIES

Date	Time		Barking for how long?	Possible explanation for nuisance noise (People walking past, weather, other animals, sirens etc.)
	Start	Finish		
1/02//09	3:00pm	3:02pm	2 Minutes	Nobody in street
1/02/09	3:10pm	3:13pm	3 Minutes	Man walking past
1/02/09	3:18pm	3:18pm	1 Minutes	Nobody around
1/02/09	3:30pm	3:32pm	2 Minutes	Children in street
1/02/09	4:00pm	4:05pm	5 Minutes	Children riding bikes
1/02/09	4:20pm	4:25pm	5 Minutes	Helicopter overhead
1/02/09	4:35pm	4:38pm	3 Minutes	Cat on fence
1/02/09	4:50pm	4:56pm	6 Minutes	Car in area revving engine
1/02/09	5:03pm	5:06pm	3 Minutes	Neighbours coming home
1/02/09	5:13pm	5:30pm	17 Minutes	Neighbours in backyard with dog

This may seem excessive, but remember, you may be required to present this diary before a Magistrate as accurate and concise evidence.

Once completed for the first 14 days, forward your completed & signed 'Nuisance Noise Complaint Form' and Diary Entries ASAP to:

**Animal Management Unit
City of Whittlesea Locked
Bag No 1 BUNDOORA
MDC 3083**

