

WA Contract Ranger Services

BARKING DOGS PROCEDURE

Introduction

Dogs bark for many reasons. Sometimes it's a warning; sometimes it's a sign of excitement or affection, and sometimes it due to unhappiness or boredom. Whatever the reason, it can be a nuisance for people living nearby.

For some residents there is nothing more frustrating than a dog that barks incessantly, day or night. If the barking goes unchecked it can become an intrusion that leads to tension and friction between neighbours.

This barking dog procedure has been developed as a means of providing a set process to administer barking dog complaints from residents within the Councils we service. The intent of the procedure is to provide a step-by-step process, including timeframes for follow up that ensure complaints are handled consistently and in a timely manner from conception through to resolution.

The successful resolution of a barking dog complaint relies on the full and timely participation of the complainants and of the dog owner.

This procedure has been written on the understanding that it is natural for dogs to bark and that there needs to be some level of tolerance within the community to barking dogs. To be considered a nuisance the barking must be proven to occur to a level not usually habitual in dogs.

The WA Contract Ranger Services cannot progress barking dog complaints without first having the necessary evidence from the complainants supporting their allegation of a nuisance. This evidence will be in the form of diaries and signed complaint forms that satisfy the requirements of the Dog Act 1976.

Dog owners who choose not to participate may be issued with a Nuisance Abatement Order requiring that person to prevent the behaviour that is alleged to constitute the nuisance by a time specified in the order.

It is the dog owner's responsibility to ensure their dogs do not bark incessantly and if they do, that appropriate steps are taken to abate the nuisance – penalties apply.

This procedure will ensure the principles of natural justice are applied and that complainants and dog owners are provided with an opportunity to resolve the complaint as early as possible in the process. This can only be achieved with the full cooperation of all parties.

Complainants will be required to keep a series of diaries and to sign a formal complaint as evidence of the nuisance barking. Whilst complainants' details will remain confidential, if the matter progresses to Court complainants will be required to attend Court as a witness.

When signing the formal complaint, the complainant is indicating a willingness to appear in Court as a witness to the complaint.

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The Western Australian Dog Act 1976

Section 38 of the Western Australian Dog Act 1976 states:

(1) For the purposes of this section, a dog is a nuisance if the dog —

(a) makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any place; or

Penalty: Where the dog is a dangerous dog - \$10,000 and a daily penalty of \$500.

Otherwise, \$5,000 and a daily penalty of \$500.

Or

Modified penalty of \$200 or \$400 where dog is declared dangerous.

(b) is shown to be allowed to behave consistently in a manner contrary to the general interest of the community; or

(c) makes a noise, by barking or otherwise, that exceeds —

(i) a prescribed noise level measured by a prescribed method over a prescribed period of time; or

(ii) a prescribed number of times of occurrence during or over a prescribed period of time.

The barking must be to the degree or extent not normally habitual in dogs, and

complainants will be required to keep a series of diaries as evidence of nuisance barking. A claim that the barking is having a disturbing effect on the complainant is to be supported by medical evidence.

(2) A person may lodge a complaint in a prescribed form with an authorised person, alleging that a dog is a nuisance. (Form 7)

If the complainant is able to provide another signed complaint form from a separate household, it will assist the Council / Ranger to substantiate the complaint.

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Step 1

Dog owners often are not aware of their dog's nuisance barking as this may occur when no one is home. Complainants are encouraged to contact their neighbour (the dog owner) at this stage to try and resolve the matter amicably.

Following receipt of a complaint of nuisance barking the WA Contract Ranger Services Ranger will provide the complainant with a copy of the Barking Dog Procedure (this document) and a seven-day diary. After the completion of the Diary, the complainant will submit it to the Shire Administration office for the Rangers collection.

If the diary is not completed or does not support the complaint of nuisance barking the Council / Ranger will be unable to take any further part in the matter.

Step 2

If the diary supports the complaint of nuisance barking the Ranger will contact the dog owner to arrange a public relations visit to discuss the complaint. A letter will also be provided to the dog owner detailing the complaint (details of the complainants will remain anonymous) and the times the nuisance barking is alleged to have occurred. This will be the first opportunity for the dog owner to abate the nuisance if not previously contacted by the complainant.

Step 3

At this point of the complaint the Ranger will provide the complainant(s) with another 7 Day Diary to be completed by the complainant(s) and retrieved from them after completion but within 14 days to assess if the dog owner is taking action to prevent the barking. This will be the second opportunity for the dog owner to abate the nuisance.

If the complainant(s) do not provide signed complaint forms or do not complete the diaries to a standard that supports the complaint of nuisance barking, the Ranger will consider the matter is closed.

Step 4

On receipt of the signed complaint forms and diaries (supporting the complaint of nuisance barking) the Ranger will serve an Order on the owner of the dog that will include a schedule providing details of the nuisance (days/times). Following the serving of the Order the dog owner will have 14 days to abate the nuisance. This will be the third opportunity for the dog owner to abate the nuisance.

Concurrently with the serving of the Order on the dog owner the Ranger will speak to the complainant advising them the Order has been served. Complainants will also be issued with a 14-day diary as a means of determining whether or not the nuisance has been abated within the 14-days. This will be retrieved after completion and within 20 days.

All complainants are required to complete the 14-day diary. If they are not completed the Council / Ranger will consider the nuisance has been abated and will write to the complainant and dog owner advising the matter has been resolved.

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Step 5

The Ranger will review the 14-day diaries to determine whether or not the noise has been abated. If the Ranger considers the noise has been abated to a level that would not be considered a nuisance under the provisions of the Dog Act 1976, the Ranger will write to the complainant and the dog owner advising the matter has been resolved.

If the noise has not been abated and the nuisance barking continues, the Ranger may issue an infringement in accordance with Section 38 (1) of the Dog Act 1976 – the modified penalty for the offence is \$200 or \$400 if the dog is declared dangerous.

If following the issuing of an infringement the nuisance has still not been abated, the Ranger will institute Court proceedings against the dog owner. If the matter proceeds to Court the complainants will be required to attend Court to give evidence as a witness. The Ranger will not prosecute or pursue the matter in Court without the full support of the complainants by the serving of written evidence on which the prosecution will rely.

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Information to Complainants

Dog nuisance complaints are often difficult to resolve for a number of reasons:

1 Barking is very subjective with many different interpretations as to what is a nuisance. As a result, the degree of annoyance varies with the location of the dog and the tolerance of the complainant.

2 Examples of possible nuisance include:

(a) barking at medium to high level of passing traffic of people or dogs and the barking continuing for some time after the passer-by has gone;

(b) barking regularly during the hours of darkness;

(c) barking, whining and/or howling for regular periods in excess of 15 minutes when the owners are absent, or are inside the house and the dog is outside; or

(d) barking associated with other behavioural problems (e.g., tail chasing).

3 It is extremely difficult to collect reliable and permanent evidence of the frequency and loudness of a dog's barking. The diaries completed by the complainant, their recollection of the dogs barking and how it affects them, will often decide whether legal action is won or lost.

4 A barking complaint may be one aspect of an ongoing feud between two or more neighbours. It is important that the dog nuisance be considered in isolation and does not become part of any wider dispute.

5 The suspected dog may not be responsible for all the barking in the neighbourhood. The complainant must be certain they have identified the correct dog and that it is that dog creating the nuisance.

6 Barking can often disrupt people's lives and most complainants want immediate action to resolve the problem. The process for managing and administering the nuisance can be lengthy and requires the support of complainants in providing the evidence required for the City to become involved. Without the necessary evidence in the required format, the City cannot act on the matter.

7 Dogs may not engage in nuisance barking when their owners are home. Often dog owners are not aware of the nuisance barking because they are not at home when the dog barks, and/or the dog is not barking when they arrive home.

8 It is important that the dog owner is approached as soon as the dog becomes a nuisance; early action means treatment is more likely to be effective. They should be informed as to when the dog is barking and how it affects their neighbours. The complainant should be courteous, informative and supportive of any suggestions to rectify the problem. However, if the dog owner fails to accept there is a problem, then a complaint should be lodged with the Council immediately.

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Information to Dog Owners

Before any action is taken, the Council requires a reasonable level of proof that a dog is creating a nuisance by barking. The dog owner may not believe their dog is barking excessively and may be affronted at the thought a neighbour has complained to the Council. However, what the dog owner should understand is that someone has felt sufficiently annoyed to lodge a complaint and that the Council has an obligation to investigate it.

The decision to infringe, prosecute or take no action lies with the Council / Ranger and will be made following a thorough investigative process. It is imperative that the dog owner cooperates and focuses their attention on taking proactive and constructive action to resolve the nuisance (if proven) rather than focusing on who made the complaint.

The Council and Ranger will not provide details of complainants, only the specific allegations. However, should the matter proceed to Court complainants will be required to give evidence in support of prosecution arising from their complaint.

A dog owner may be able to verify or refute a complaint by:

1 Checking with nearby neighbours to establish when and how often the barking may occur and whether it is a nuisance to other neighbours. If you have a personal relationship with one or more of your neighbours, it maybe they have not mentioned anything in the past for fear of upsetting you or spoiling the relationship.

2 Leaving home and returning, without the dog noticing, at the times the nuisance barking is alleged to be occurring. It is recommended this practice be repeated a number of times to either confirm or refute the claim, or to establish a pattern to the barking.

3 Having an independent neighbour or neighbours keep a diary of your dog's barking, asking them to observe and report if there is a trigger to the barking. These observations and recordings may:

(a) establish the duration, time and nature of the barking;

(b) confirm there is indeed a problem that needs to be addressed;

(c) match the barking to a regularly occurring event in the neighbourhood; and

(d) determine whether the actions of a third party (neighbours, children, local youth) are causing the barking to occur (photographic or video evidence, or a willingness to provide a witness statement would assist).

4 Discretely boarding the dog at another location for a few days. A signed receipt from a boarding kennel or statutory declaration from the person boarding the dog should be obtained and provided to the Shire as evidence.

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One or more factors may contribute to nuisance barking. These include:

1 Inappropriate confinement – prolonged, sudden or inappropriate restraint (tethering or confinement) without exercise or attention.

2 Fence line distractions – a dog kept behind a barrier such as a front or back fence may bark at visual or auditory stimuli such as passers-by, other animals or family members it cannot reach.

3 Attention seeking – dogs may seek attention by whining, barking, pawing or pushing against their owners. Usually, they have learnt that in the past these behaviours gain attention.

4 Separation anxiety – many dogs are anxious when separated from their owner or another dog and may bark to cope with the stress of separation. Such barking often occurs just after the owner has left home, continues for extended periods and/or may be accompanied by whining or howling. Separation anxiety is found frequently in nervous or timid dogs but also in dogs that are demanding of their owner's attention when home.

Dogs need to be corrected for inappropriate barking and distractions when their owners are home. An effective verbal correction helps to break the habit and teaches the dog that the correct behaviour is not to bark, or to bark for a short time and stop. Exercise and play in isolation will not stop a dog from barking but may provide an active release for the dog's energy.

When Rangers carry out their initial public relations visit to the dog owner to discuss a barking dog complaint, they will briefly discuss some options for managing the nuisance. It should be understood however, that although the Rangers do deal with dogs on a daily basis, they are not experts in dog behaviour.

The Council highly recommends that dog owners seek the professional advice of their local vet, a dog behaviourists or the RSPCA to discuss how they can best manage their dog's nuisance barking.

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Dog Barking Facts & Myths

MYTH	FACT
A dog that always barks is a good watch dog	Dogs that bark excessively are often ignored by neighbours and dismissed as a nuisance
My dog does not bark when I am home so therefore it does not bark when I am out	Dogs bark for many reasons including anxiety and isolation – most nuisance complaints relate to dogs barking when their owners are not home
Sterilisation will stop my dog from barking	There is no direct relationship between sterilisation and barking except where dogs are barking at dogs of the same sex, or when a male dog senses a female dog in season nearby
It is natural for dogs to bark	While barking is one of the dog's main forms of communication, it is not normal for a dog to bark persistently or for long periods of time
Dogs only bark when teased, bored or when they are not exercised	Excessive barking is one symptom of an underlying problem. To resolve nuisance barking the cause has to be found and the problem treated. Possible causes of barking include but not limited to: inappropriate confinement, fence line distractions, attention seeking, and separation anxiety
Dogs bark because they are lonely and need another dog for company	Getting a second dog does not usually prevent or solve the barking problem
The dog is barking because it is the wrong breed for the environment	Although excessive barking may be more likely to develop in some breeds than others, it can occur in any breed or gender of dog with most habitual barkers having learnt that barking can be rewarding

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FORM SEVEN (7)

WESTERN AUSTRALIA DOG ACT 1976 s.38(3)

COMPLAINT AS TO A NUISANCE CREATED BY A DOG

TO⁽¹⁾

TAKE NOTICE that a dog, believed to be a ⁽²⁾ _____

has created a nuisance by ⁽³⁾ _____

The dog is believed to be owned by ⁽⁴⁾ _____

and is ordinarily kept at ⁽⁵⁾ _____

and I, ⁽⁶⁾ _____ Phone : _____

of _____

request the Council and Ranger to institute proceedings if the nuisance does not stop, and undertake:

- (a) to give full information to the Council and Ranger as to this matter;
- (b) to appear in court and give evidence as a witness to the truth of this complaint.

Dated this _____ day of _____ 20 _____

Name (Print) _____

Complainant Signature _____

1. Insert name and address of Council
2. Insert breed or kind of dog, and where possible its sex and identifying mark.
3. Describe details of the alleged nuisance, including the kind of nuisance and, where possible, the dates and time on or between which the nuisance occurred, and where the dog was at the time of the nuisance.
4. State name and address of the persons believed to be the owner.
5. State, if known, where the dog is ordinarily kept.
6. Insert the name and address of the complainant.

NOTE: A FORM (7) IS TO BE COMPLETED AND SIGNED BY EACH COMPLAINANT.

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Details of Complainant

Name _____

Address: _____ Postcode: _____

Mobile: _____ Phone: _____

Details of Dog/Dogs

Address: _____ Postcode: _____

	Description/Breed	Name (if known)
Dog 1:	_____	_____
Dog 2 (if applicable):	_____	_____
Dog 3 (if applicable):	_____	_____

Notes:

1. Your accuracy in recording the nuisance barking is extremely important.
2. The information you provide is a legal record and as such may be given as evidence should the matter proceed to Court.
3. The Council / Ranger will not divulge your personal details to the dog owner however; if the matter proceeds to Court you will be required to give evidence as a witness.
4. The diary is to be completed over seven (7) consecutive days.
5. Rangers will make arrangements by contacting you to collect the completed diary from you in approximately 10 days.
6. If the diary is incomplete or does not support your complaint of nuisance barking the Council will be unable to take any further part in this matter. This will not preclude you from submitting further requests in the future.
7. Please ensure that you indicate when you believe the peak nuisance barking times are occurring in order to give the investigating Ranger an idea of when the alleged barking is at its worst.

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Please indicate which dog or dogs you believe are responsible for the nuisance barking (dogs listed at page 1):

Dog 1

Dog 2

Dog 3

All

Unsure

I understand that the information provided by me in this diary may be used as evidence in a Court of law in the event that the Council takes legal action against the dog owner. I hereby declare the information above is a true and accurate record of my nuisance barking complaint. I further acknowledge that should this matter proceed to Court that I may be required to give evidence as a witness and that I will do so.

Signature

Printed Name

Date