



# Barking Dog Complaints

## THE LEGISLATION

Owning or keeping a dog in the community is controlled by state legislation—the Dog & Cat Management Act 1995. A dog barking consistently may constitute a breach of this legislation.

Under the Act there is no set level or amount of barking which constitutes a nuisance but to make an assessment Council officers need to know:

- How often the dog barks
- How long the barking is for
- Information about how the barking is effecting you

This information is used to commence investigations to ascertain whether there is a breach of requirements.

## DEALING WITH THE ISSUE

All dogs make noise at some time but if you are concerned about the level of noise a dog is making, try to resolve the issue by speaking to the owner in the first instance. Most dog owners are responsible and are willing to work with their neighbours to resolve any concerns. If you approach them in a friendly manner you may be able to reach a solution without having to take further action.

## COMPLAINTS

Should you make a complaint to Whyalla City Council, you will need to complete a Animal Complaint Form and provide detailed information about the problem. You will be asked to describe the dog's barking and why this is a nuisance to you.

## WHAT WE WILL DO

Once Council receives a Animal Complaint Form we will make contact with the dog owner informing them we have received a written complaint and provide them with the opportunity to take action to modify the behaviour of the dog(s) over the next seven days.

Based on the information you have provided on the complaint form we may give the owner advise on methods that could be effective in controlling their dog.

## PROBLEM SOLVING

If you advise us that the problem still exists after the seven days you will be asked to start a noise diary. The diary is important for Council to obtain an accurate record of what normally happens. It helps us decide whether there is a level of nuisance we can act on.

Refusal to complete this form when requested by a Council officer will result in Council taking no further action in relation to your complaint as we will have insufficient evidence to proceed with investigations.

If the times recorded are occasional or irregular, it may not be enough to class the dog as a nuisance and take the complaint further. However, if it can be established that the noise is persistent and is an unreasonable interference, Council would have reasonable grounds to act further.

The information in your diary will also help us work out why the dog is barking and how to address it. We will be able to offer more specific advise to the owner on training, housing and other methods likely to assist in controlling their dog. We will notify the owner that Council is continuing to monitor the situation and again request action within seven days.



## WIDER ENQUIRIES

If the barking continues and there is sufficient evidence from your diary and our observations that a nuisance exists, Council officers will negotiate a plan of action with the owner with specific actions and timelines to rectify the nuisance.

If further evidence is necessary to ascertain whether a nuisance exists Council will survey nearby residents to ascertain whether they are experiencing a problem with the dog(s) barking. A weekly noise diary will be issued to residents who make a formal complaint.

We will also request that you continue with your own diary for another week.

Council officers will then review the information from all sources to determine whether formal enforcement action will and can be taken.

## ENFORCEMENT

If the problem remains unresolved the owner may be issued with an Expiation Notice and a Notice of Intent, requiring them to satisfactorily remedy the problem, otherwise a formal Control (Barking Dog) Order will be imposed upon them.

A Control Order is a mandatory requirement for the dog owner to take whatever action Council decides is reasonably necessary to restrain the dog and rectify the problem.

Residents will be asked to complete a Control Order Diary for 14 days to monitor compliance with the Order.

If the Order is breached, the diaries will provide evidence required to take the matter to court. When an owner is found guilty the court has the ability to:

- Impose a fine
- Impose strict controls on the owner of the dog
- Remove the dog temporarily or permanently.

Please note that dog owners have the right of appeal against the imposition of an Order or any other legal action. In this case you may be required to give evidence in court.

## CIVIL ACTION

Any person can institute civil proceedings against a dog owner in court. However, this course of action can only be handled by the complainant and cannot be handled by Whyalla City Council.

## CONTACT

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