

Nuisance barking 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. This is what Council uses to deal with dog barking complaints. The owner of a noisy dog can be in breach of this Act.

Briefly, section 45A of the Act stated: That the person responsible for the control of a dog which "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" is guilty of an offence.

Under the Act, there is no set level or amount of barking which makes the dog a nuisance - we need to know:

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

Then we can decide whether the owner is in breach of the law.

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 first. Most dog owners are responsible and are willing to work with their neighbours. If you approach them in a friendly manner you may be able to reach a solution without having to take further action.



Remember that dog owners may not be aware that their dog is causing a nuisance if they are not at home when the barking occurs.

Council's Barking Dog Kit provides advice on your options for dealing with a barking dog, including ways to approach your neighbour. For a copy of the free kit contact Council, phone 8416 6333.

Complaints

Should you make a complaint to the City of West Torrens, you will need to complete an application form for the abatement of a barking dog, and provide detailed information about the problem. You will be asked to describe the dog's barking and why it is a nuisance to you.

What we will do

Once Council receives an application form for the abatement of a barking dog, we write to the dog owner letting them know we have received a written complaint and give them the opportunity to modify the behaviour of their dog(s) during the next 7 days.

Based on the information you have given us in your application form, we may give the owner advice on the methods that could be effective in controlling their dog.

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Problem solving

If you advise us that the noise problem still exists, we will ask you to start a weekly barking dog diary. The diary is important for Council to get an accurate record of what normally happens. It helps us decide whether there is a level of nuisance that we can act on. If the times recorded are occasional or irregular, it may not be enough to class the dog as 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.

The information in your diary will also help us to work out why the dog is barking and how to stop it. We will be able to offer more specific advice to the owner on training, housing and other methods likely to control their dog. We will also notify the owner that Council is continuing to monitor the situation and again request action within 7 days.

Wider enquiries

If the barking continues and there is sufficient evidence from your diary and from our own observations that a nuisance exists, Council officers will visit the dog owner to advise them of the next step. Where possible, we will negotiate an action plan with the owner with specific actions and timelines to rectify the nuisance.

At the same time, Council will survey the nearby residents to see if they are experiencing a problem with the dog's barking. A weekly barking dog diary will be issued to residents who make

a formal complaint. We will also ask you to continue with your own diary notes for another week. Council will then review 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 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 control order. If the order is breached the diaries will be provided to the evidence required to take the matter to court. When an owner is found guilty, the court has the ability to:

- issue a fine
- impose strict controls on the owner of the dog
- remove the dog temporarily or permanently.

Note that dog owners have the right to 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 a court. However, this course of action can only be handled by the complainant and cannot be handled by the City of West Torrens.

Complaints and grievance procedures

If you believe that the City of West Torrens has not handled the matter in accordance with the Dog and Cat Management Act, please contact us. We will seek to resolve any problems. Owners may request a formal review of the decision. The review will be carried out by a person not directly involved in handling the issue.

Owners retain the right at any time to refer the matter to their local elected member, local member of State Parliament or the State Ombudsman's Office for an investigation.

State Ombudsman

95 Grenfell Street, Adelaide SA 5000.

Post: PO Box 3651, Rundle Mall SA 5000.

Phone: 8226 8699

Web: ombudsman.sa.gov.au