

BARKING DOG PROCEDURE

TABLE OF CONTENTS

INTRODUCTION.....	1
THE DOG ACT 1976.....	2
GENERAL PROCEDURE FOR A DOG BARKING COMPLAINT.....	3
INFORMATION TO COMPLAINANTS.....	4
INFORMATION TO DOG OWNERS	5
DOG BARKING FACTS AND MYTHS	7
SAMPLE OF NEIGHBOUR LETTER	9
RS10 – COMPLAINT AS TO A NUISANCE CREATED BY A DOG (Form 7).....	11
RS11 – DETAILS OF COMPLAINANT.....	12

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, sometimes it can be a nuisance.

From 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 City of Greater Geraldton (The City). 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 City cannot progress barking dogs complaints without first having the necessary evidence from the complainants supporting their allegations 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*.

Without evidence The City cannot progress dog barking complaints.

Dog owners who choose not to participate may be issued with an 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 complainant's 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.

THE DOG ACT 1976

Western Australian Legislation Section 38 of the *Dog Act 1976* states:

- (1) For the purpose 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 on a prescribed form with an authorised person, alleging that 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 City to substantiate the complaint.

DISCLAIMER

The City is currently waiting on advice from the Department of Local Government, on how to measure noise levels by a prescribed method over a prescribed period of time.

GENERAL PROCEDURE FOR A DOG BARKING COMPLAINT

The main objective of this procedure is to satisfactorily resolve dog barking complaints as early as possible in the process. The City will work with the complainants and the dog owner to achieve this however the responsibility for providing evidence of nuisance barking rests with the complainants and the responsibility for abating the nuisance (if proven) rests with the dog owner.

STEP 1

Dog owners often are not aware of their dogs nuisance barking as this may occur when no one is home. Complainants are encouraged to contact their neighbours (the dog owner) at this stage to try and resolve the matter amicably. Sample of neighbour letter - Page 8.

The City will send the complainant a copy of the Barking Dog Procedure (this document) and a seven day diary. Rangers will make arrangements to collect the seven day diary from the complainant within 28 days.

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

STEP 2

If the diary supports the complaint of nuisance barking The City Rangers may conduct a door knock in the area to obtain more evidence. In the process of the door knock, if any of the neighbours wish to also make a complaint the ranger can provide them with a barking dog pack. As another Barking Dog Procedure (this document) and a seven day diary is completed by a separate household, it can be used to substantiate the complaint. Rangers will make arrangements with the complainants to collect the complaint forms and diary within 28 days.

If the diary supports the complaint of nuisance barking The City will contact the dog owner to discuss the complaint. A letter will also be provided to the dog owner detailing the complaint and the times the nuisance barking is alleged to have occurred (*details of the complainants will remain anonymous*).

This will be the first opportunity for the dog owner to abate the nuisance.

STEP 3

Once The City have spoken with the dog owner, they will contact the original complainant and provide them with a 14 day diary for the recording of evidence of any further nuisance barking.

On receipt of one (or more) signed Barking Dog Procedure (this document) and any seven day completed diaries (and if the diaries supports the complaint of nuisance barking) by any of the separate household neighbours The City will contact each of the complainants and provide them each with a 14 day diary for the recording of evidence of any further nuisance barking. The diary will be in the same form as the seven day diary but for 14 days.

At this time The City will speak to the dog owner advising that complaints (*details of the complainants will remain anonymous*) have been received and that the complainants will be completing 14 day diaries. *This will be the second opportunity for the dog owner to abate the nuisance.*

Rangers will make arrangements to collect the 14 day diaries from the original complainant and other complainants within 28 days.

If the complainant(s) do not provide signed a complaint form or do not complete the diaries to a standard that supports the complaint of nuisance barking, The City will not investigate the matter any further.

STEP 4

On receipt of the signed complaint form and 14 day diaries (supporting the complaint of nuisance barking) The City 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 City will speak to the complainant advising them the Order has been served. Complainants will also be issued with another 14 day diary as a means of determining whether or not the nuisance has been abated within the 14 days.

Rangers will make arrangements to collect the 14 day diaries from the original complainant within 28 days.

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

STEP 5

The City will review the 14 day diaries to determine whether or not the noise has been abated. If The City 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 City 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 City may issue any 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 City 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.

INFORMATION TO COMPLAINANTS

Dog nuisance complainants 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 suggestion to rectify the problem. However, if the dog owner fails to accept there is a problem, then the complaint should be lodged with The City immediately.

INFORMATION TO DOG OWNERS

Before any action is taken, The City 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 City. However, what the dog owner should understand is that someone has felt sufficiently annoyed to lodge a complaint and that The City has an obligation to investigate it.

The decision to infringe, prosecute or take no action lies with the City and will be made following a thorough investigation 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 City 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 may be 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 and 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. During this time you may request The City to make enquiries with the complainants to determine if they heard the dog during the time the dog was absent. A signed receipt from a boarding kennel or statutory declaration from the person boarding the dog should be obtained and provided to The City as evidence.

One or more factors 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 owners 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 City's Rangers do deal with dogs on a daily basis they are not experts in dog behaviour.

The City 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.

DOG BARKING FACTS AND MYTHS

MYTH	FACT
A dog that always barks is a good watchdog.	Dogs that bark excessively are often ignored by neighbours and dismissed as a nuisance.
My dog does not bark when I am home 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 not 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 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 problems. To resolve nuisance barking the cause has to be found and the problem treated. Possible causes of barking included 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.

Dear Neighbour,

I am unsure if you are aware, but I would just like to let you know that your dog is barking quite a lot when no-one is home.

Having had a dog myself I can understand that sometimes we dog owners "switch off" and are not always aware of the fact that our dog is barking.

In wanting to keep up good neighbourly relations I thought I would write to you first rather than send the ranger around. It trust this issue can be resolved without having to go any further.

Regards

A concerned neighbour

TRIM Reference: _____



COMPLAINT AS TO A NUISANCE CREATED BY A DOG

FORM 7 Western Australia Dog Act 1976 s.38(3)

TO CITY OF GREATER GERALDTON

TAKE NOTICE that a dog, believed to be a ⁽¹⁾

Has created a nuisance by ⁽²⁾

The dog is believed to be owned by ⁽³⁾

And is ordinarily kept at ⁽⁴⁾

And I ⁽⁵⁾ Name: _____

Address: _____

Phone Number: _____

Mobile Number: _____

Email Address: _____

Request the City of Greater Geraldton to institute proceedings if the nuisance does not stop, and undertake:

- a) To give full information to the City of Greater Geraldton as to this matter;
- b) To appear in court and give evidence as a witness to the truth of this complaint.

Complainant

Signature: _____

Date: _____

1. Insert breed or kind of dog, and where possible its sex and identifying mark.
2. 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.
3. State name and address of the persons believed to be the owner.
4. State, if known, where the dog is ordinarily kept.
5. Insert the name and address of the complainant.

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



TRIM Reference: _____

DETAILS OF COMPLAINANT

COMPLAINANT

Name: _____

Address: _____

Phone Number: _____ Mobile Number: _____

Email Address: _____

DETAILS OF DOG/S

Address: _____

	Description/Breed	Name <i>if known</i>
Dog 1:	_____	_____
Dog 2: <i>if applicable</i>	_____	_____
Dog 3: <i>if applicable</i>	_____	_____

NOTES

1. Your accuracy in recording the nuisance barking is extremely important.
2. The information you provide is a legal record and such may be given as evidence should the matter proceed to Court.
3. The City 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 28 days, if the diary is ready for collection prior to the 28 days, please contact Ranger Services on 9956 6600.
6. If the diary is incomplete or does not support your complaint of nuisance barking the City will be unable to take any further part in the 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.



DECLARATION

I understand that information provided by me in this diary may be used as evidence in a Court of Law in the event that the City 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.

Printed Name: _____

Signature: _____ Date: _____

