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DOG AND CAT MANAGEMENT BOARD INFORMATION SHEET # 4

IS063

Responsible Officer: FPO

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Next Review Date: July 2016

My dog is noisy....

As a dog owner, you are responsible for the care and well being of your pet. We sometimes forget that our dogs can affect other people's lives as well as our own, unfortunately the effect is not always a positive one.

Often, we are not aware of the problems our dogs are creating for others until someone complains. Complaints due to excessive noise are amongst the most frequent received by Councils. Your dog is your responsibility and you must ensure that it is safe and well behaved at all times.

A dog continually barking or howling is extremely irritating and as a result an expiation (fine) can be applied under the Dog and Cat Management Act, 1995 if a complaint is lodged with Council. Generally Council Officers observe that if the dog (either alone or together with other dogs whether or not in the same ownership) 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, an offence has occurred under Section 43 Part 11 of the Act.

What happens if my dog is noisy and Council becomes involved?

There are several ways Council can handle a complaint regarding noisy dogs. They are:

- Settle the complaint informally through mediation;
- Issue a fine notice;
- Issue barking dog orders;
- Prosecution;
- Seize the dog;
- Advise Civil Action.

Councils' have the ability to handle a complaint informally if they feel that the action is appropriate. Not all noise nuisances require action under the provisions of the Act. For example, most owners are willing to work with the Council to resolve the issue. Most Council Officers know that it would not be appropriate to take action against an owner without giving them the opportunity to fix the problem first.

What could happen if I am unable or unwilling to comply with requests during the mediation process?

If the Council Officer is unable to resolve the complaint informally with you, they will conduct a full investigation of the situation. The investigation will include talking to other surrounding neighbours that may also be affected by your dog's noise.

Diary sheets will be provided to the person complaining, adjoining neighbours and also yourself. Information collected from these sheets is vital and every care must be taken to ensure the sheets are completed correctly otherwise they may not be admissible as evidence. If the diary sheets substantiate the unreasonable noise of the dog, Council may choose to issue you with a fine for the offence.

What are the next steps if the problem persists and I refuse to comply?

Councils have the ability to issue "Control (barking dog) Orders" to help ensure dog owners control their dog in a specific manner. This can be done in addition to a fine, but in most cases Councils will issue an order in place of a fine. Once the Council has established the authenticity of the complaint, a letter of explanation will be sent to the dog owner allowing between 7 and 21 days to rectify the problem. If the problem is not corrected, Council will proceed to issue a letter of intention to issue a controlling order in accordance with the provisions of the Act.

If the order is implemented, and subsequently contravened by the dog and owner, Council will take steps to give effect to the order. This action is very serious and should not be taken lightly. Most contraventions lead to prosecution in a Court of Summary Jurisdiction.

Councils have the ability to instigate an immediate prosecution against a dog owner that persistently allows their dog to create a noise nuisance. If a person is found guilty of the offence the Courts have the ability to issue a fine, impose strict controls on the owner of the dog and if necessary, remove the dog from the property temporarily or permanently.

If urgent action is necessary, the Council has the ability to obtain instruction from a Magistrate to seize the dog and hold it in an approved pound. The Council will then proceed to have the matter heard in Court. If your dog is seized, action will commence within 7 days. This course of action is at the discretion of the Council and is only considered as a last resort.

What happens when all parties have exhausted all avenues to resolve the problem through the provisions of the Dog and Cat Management Act?

Residents have the right to take civil action against a dog owner to alleviate a noise nuisance. This action is instigated through a Court of Summary Jurisdiction. If a complainant is not satisfied with the action that Council is able to take, they have the right to further pursue the matter civilly. The complainant, not the Council, must instigate this action.

If however, the complainant believes that Council has not handled the matter in accordance with their obligations to do so under the Act, the complainant may lodge a complaint with the State Ombudsman's Office who will conduct a separate investigation of Councils response to the issue.

Conclusion

Dogs bark for a variety of reasons. There are several triggers that should be investigated if someone complains about your dog barking. They are:

- Discomfort or illness;
- Boredom or loneliness;
- Lack of adequate food and water;
- The kennel and its location may not be right;
- Changes to the dogs usual lifestyle;
- A lack of exercise;
- A lack of training;
- Discomfort from fleas or worms;
- Children playing nearby;
- Night lights and shadows at night;

- Strange noises on windy nights;
- Fireworks and thunderstorms;
- High altitude planes or wailing sirens.

As you can understand, Councils take noise nuisances very seriously. Co-operate with your Council and the matter can be dealt with without legal action being necessary. Council Officers will assist you with information about reducing dog noise problems. They may also refer you to a trained expert to help when appropriate.

Handy Phone Numbers:

Yorke Peninsula Council – Phone during normal working hours:

Maitland Office:	8832 0000
Minlaton Office:	8853 3800
Yorketown Office:	8852 0200
Warooka Office:	8854 5055

Bark Busters: 1800 067 710 (internet address: www.barkbusters.com.au)

Animal Welfare League – 8268 4188

RSPCA – 8231 6931 (After Hours Emergency: 8231 2120)

Produced in conjunction with Council by the Dog and Cat Management Board of SA



For more information, check out the Dog and Cat Management Boards website at www.dogsncats.com.au