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## DOG AND CAT MANAGEMENT BOARD INFORMATION SHEET # 5

IS064

Responsible Officer: FPO

Issue Date: 25/07/2011

Next Review Date: July 2016

## My neighbour has a noisy dog...

Every dog owner is responsible for the care and well being of their pet. People sometimes forget that dogs can affect other people's lives as well as their own, unfortunately the effect on others is not always a positive one.

Often, people do not become aware of the problem their dog is creating for others until someone complains. Complaints due to excessive noise are amongst the most frequent received by Councils.

A dog continually barking or howling is extremely irritating and can attract an expiation (fine) 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 is my first step in trying to deal with my neighbours noisy dog?**

As stated earlier, people often are not aware their dog is creating a problem until a complaint is received. If at all possible, the first step should be to try to come to a compromise with the dog owner yourself. If approached properly in a non-threatening manner, often a suitable solution can be achieved which also helps to maintain good neighbourly relationships.

If for whatever reason you are unable to do this, contact Council and lodge a complaint.

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 happens if the mediation process fails?**

If the Council Officer is unable to resolve the complaint between yourself and the dog owner informally, they will commence a full investigation of the situation. The investigation will include talking to other surrounding neighbours that may also be affected by the noise of the dog.

Diary sheets will be provided to yourself, adjoining neighbours and also the dog owner. 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 should the matter end up in Court. It should be pointed out at this stage that if you are not willing to fill out the diary sheets, Council cannot take the matter further. You as the complainant must be prepared to attend Court to give evidence if necessary.

If the diary sheets substantiate the unreasonable noise of the dog, Council may choose to issue the dog owner with an expiation for the offence.

## **What other powers are available to Council to force the dog owner 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 at which you may be required to attend to give evidence.

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 neighbour's 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?**

You are able to take civil action against a dog owner to alleviate a noise nuisance if all avenues available to the Council have been exhausted. This action is instigated through a Court of Summary Jurisdiction. If you are not satisfied with the action that Council is able to take, you have the right to further pursue the matter civilly. You, not the Council, must instigate this action.

If however, you believe that Council has not handled the matter in accordance with their obligations to do so under the Dog and Cat Management Act, you may lodge a complaint with the State Ombudsman's Office who will conduct a separate investigation of Council's actions regarding the issue.

## Conclusion

Dogs bark for a variety of reasons. There are several triggers that the owner of a noisy dog should investigate if someone complains about their dogs barking. They are:

- **Discomfort or illness**  
*If you believe that the dog is being mistreated, it is an RSPCA matter and they can be contacted on the number provided below.*
- **Boredom or loneliness**
- **The kennel and its location may not be right**  
*Perhaps its kennel is too close to your border meaning that every time something happens in your backyard, the dog next door becomes excitable or agitated.*
- **Changes to the dogs usual lifestyle**
- **A lack of exercise**
- **A lack of training**
- **Discomfort from fleas or worms**
- **Children playing nearby**  
*Children must be taught how to behave around dogs. As much as dogs are a part of our families, they are still pack animals and they need to understand their place in the family structure. Children need to learn from an early age, how the dog perceives certain things that they do. **Refer DCMB Information Sheet No. 6 – Do's and Don'ts with Kids and Dogs .....***
- **Night lights, shadows and cats out at night**  
*Perhaps the problem is caused by another neighbours cat! If so and you know who owns the cat, perhaps they could be asked to keep the cat indoors at night.*
- **Strange noises on windy nights**
- **Fireworks and thunderstorms, high altitude planes or wailing sirens**  
*Dogs can be desensitised to these noises. Some Councils and/or the local vet may be able to provide audio tapes with these noises on, which can be played to the dog in a controlled environment to teach it that the noise will not hurt it.*

## Handy Phone Numbers:

Yorke Peninsula Council – Phone during normal working hours:

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

Bark Busters: 1800 067 710 (internet address: [www.barkbusters.com.au](http://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



For more information, check out the Dog and Cat Management Boards website at [www.dogsncats.com.au](http://www.dogsncats.com.au)