



## Dealing with a Barking Dog

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# Introduction

Hepburn Shire Council (Council) works with residents to resolve barking dog complaints, however, these are usually complicated matters which require additional considerations. We need sufficient evidence to:

- substantiate beyond reasonable doubt that a person is failing to prevent their pet from being a nuisance
- identify the exact property where the dogs are barking
- clearly identify which dog is barking (in the case of a property having more than one).

The dog owner may not realise that the barking is causing an annoyance to other people.

- The dog may only bark excessively when the owner is not home.
- The owner may not hear the barking from various areas within the house.
- The owner may be a very sound sleeper and not woken when the dog barks.

**Once you choose to make a complaint, you must be willing to provide your evidence at court.**

Barking dog complaints are complex, require your participation, and can be a drawn-out process. Approaching the dog's owner first in a neighbourly manner can sometimes easily resolve this type of complaint.



# Why dogs bark

Dogs bark for many reasons, and even though they appear to be 'barking for no reason' they are usually trying to communicate something to their owner or anyone who is willing to pay attention.

The following list provides some of the main reasons why dogs bark:

- Lack of exercise
- Insufficient human companionship
- Hunger or thirst
- Change to family structure/separation anxiety (can lead to destructiveness, howling or escaping)
- Boredom or lack of stimulation (mental and/or physical)
- Inadequate yard space
- Inadequate shelter from weather conditions
- Medical conditions (illness/discomfort)
- Movement outside the dog's property
- Disturbances/provocation.

Dogs are also known to bark to alert their owners of trouble, such as an intruder entering the property. Remember, a dog's idea of an 'intruder' may differ to that of the owner. It could include cats, possums, other dogs, or even birds flying around the property.

## What is nuisance barking?

The Domestic Animals Act (DAA) 1994 (the Act) considers it an offence if barking is:

'... persistent continuous noise to such an extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises' [DAA 1994, S32 (2)(b)].

This means there is no minimum or maximum to this, the key is persistent and continuous. A single event of barking does not represent a nuisance.

## For example:

- If a dog barks for 10 minutes at 9:00am, and then stops and is not heard again, we would not consider this to be a nuisance.
- If a dog barks for 5 minutes, at 9:00am, then again at 9:15am, 9:23am, 9:30am, etc., the barking appears to be persistent and continuous, and may be considered to be a nuisance.

# Talk to your neighbour

Neighbours can help each other to resolve barking problems by communicating their concerns and needs to each other.

Neighbours can assist by identifying the reasons for excessive barking and noting what is happening in the area when the dog is barking. Most owners may not even be aware their dog is barking.

A neighbour may be able to offer to exercise a dog when its owner is unable to due to work commitments, illness or other reasons. Approach your neighbour and offer this service. It will also help build your relationship with the dog. By obtaining the name of the dog, you are also able to assist in the control of the noise.

As mentioned earlier, the owner of the offending dog may not know the animal is causing a nuisance.

Try the following steps to attempt to resolve the issue in a neighbourly manner:

1. Approach the dog owner when the problem arises and state your case clearly and politely. They may not be aware of the barking situation. Provide the dog owner or keeper with a copy of the diary contained in this brochure.
2. If the dog owner is unapproachable or you are not comfortable approaching them, try placing the 'Dear Neighbour' letter contained in this brochure into their letterbox.
3. If your neighbour takes no action or does not agree that a problem exists, you could contact the Department of Justice which funds a Dispute Settlement service for people who find themselves in a situation of dispute/conflict with another person. This service uses mediation as a way of settling neighbourhood disputes without expensive legal action. It is a private and free service.

Dispute Settlement Centre of Victoria  
4<sup>th</sup> Floor, 456 Lonsdale Street Melbourne, VIC 3000

Phone: 9603 8370

Email: [dscv@justice.vic.gov.au](mailto:dscv@justice.vic.gov.au)

Web: [www.justice.vic.gov.au](http://www.justice.vic.gov.au)

If the above options are not successful, residents should contact the Community Safety team at Hepburn Shire Council on (03) 5348 2306.

In most cases, neighbours can resolve the issues themselves prior to lodging a complaint with Council.

# Dear Neighbour Template

If the dog owner is unapproachable or you are not comfortable approaching them, try placing the 'Dear Neighbour' letter contained in this brochure into their letterbox.



Date:        /        /

Dear Neighbour,

You may not be aware, but your dog is currently causing a noise nuisance in the neighbourhood by barking.

I have discussed this problem with Hepburn Shire Council, who have suggested that as a first step, I express my concern to you, to allow you the opportunity to rectify the situation without recording an official complaint.

On the back of this letter is some information that may be of assistance to you in resolving the problem.

Your cooperation at this stage would be much appreciated to avoid this matter progressing any further.

Regards,

# Your Neighbour.

PS. Your dog appears to bark at the following times:

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The following list provides some of the main reasons why dogs bark:

- Boredom or lack of stimulation (mental and/or physical)
- Change to family structure/separation anxiety (can lead to destructiveness, howling or escaping)
- Hunger or thirst
- Inadequate yard space or shelter
- Medical conditions
- Movement outside the dog's property
- Disturbances/provocation

## Tips for reducing barking

- Tell your dog to stop barking.
- Make sure your dog has food, water, and shelter from the weather.
- Ensure that your dog has adequate exercise and time socialising.
- Take your dog to a veterinarian if it is sick or injured. It is important to rule out medical reasons before making any attempts to modify a dog's behaviour.
- Ensure your dog has toys, bones and treats to keep them entertained when you are not home.
- If your dog is barking at people or noises on the other side of a fence, move your dog to another part of the yard, or put up a barrier to block your dog's view.
- If your dog barks at regular disturbances, such as children walking to school or rubbish trucks, keep your dog inside or in an enclosed area at these times.
- Attend accredited dog obedience training.
- If nothing else is working, you may wish to consider purchasing a soundwave anti-barking machine, citronella anti-barking collar, or other device to minimise barking.

Dogs bark for many reasons, and if these tips do not help you, you may wish to seek further advice by talking to your vet, animal behaviouralist or trainer.



# Legal requirements for court action

If you wish to formally lodge a complaint with Council, you need to acknowledge that you are lodging an allegation of an offence under the Domestic Animals Act 1994. The submission of a diary is no different from attending a police station and making a statement. These logs/diaries represent a legal document, and must be completed accurately and in good faith, and you must be willing to defend this evidence in court.

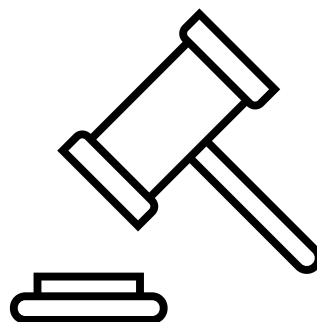
It is important you keep a comprehensive diary over the course of the investigation that shows the patterns of the dog's barking behaviour. Remember, in a court of law, the evidence you give may be subject to cross-examination.

Council will consider taking the matter to court if:

- a nuisance as defined by the Domestic Animals Act 1994 has been established.
- all avenues available to Council to rectify the nuisance have been exhausted and the dog continues to be a problem, and
- you are prepared to give evidence at court.

The success of any court action relies on the assistance of the complainant. If relevant information and evidence is not provided, Council is unable to pursue the matter.

**Community Safety Officers deal with nuisance barking on a case-by-case basis. Council maintains a neutral position during the investigative process and will not assist where complaints form part of an ongoing civil dispute.**



# What are the next steps?

- If you wish to proceed with your nuisance complaint, please return **Parts B and C** of the animal nuisance kit (provided below).
- Once **Parts B and C** have been received, Council will further investigate the matter and a decision will then be made based on the available evidence as to whether or not legal action should be commenced.
- A letter will be forwarded to the occupiers of the subject property notifying them that a complaint has been lodged with Council. They will be advised of the obligations and responsibilities of a pet owner.

**Part A** contains some general information and provides a guide to the procedures that Council will follow in relation to your complaint.

**Part B** is a questionnaire that you are requested to complete, along with Part C, a diary of times and events, and mail to Community Safety, PO Box 21, Daylesford, VICTORIA, 3460.

**No action will be considered unless sufficient evidence to sustain a charge before a Magistrates' Court is available. If the matter is brought before a Magistrate, the complainant may be required to give evidence in court highlighting the frequency of the barking or similar noise, where the offending animal(s) is being kept and the ways in which the noise is affecting them.**

If Council elects to take no further action, you will be advised in writing of that decision and the reason(s) for that decision.

# PART A

## Statutory Provisions

The law governing Nuisance Animals is found in the Domestic Animals Act 1994. This Act was proclaimed to take effect from 10 April 1996.

The relevant section of the Act is reproduced for your information:

### **32 Dogs or cats creating a nuisance**

- (1) The occupier of any premises where a dog or cat is kept or permitted to remain must not allow that animal to be a nuisance.

Penalty: 1 penalty unit.

- (2) A dog or cat is to be regarded as a nuisance for the purpose of this section—

(a) if it injures or endangers the health of any person; or

(b) if it 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 any person in any other premises.

- (3) If a person is convicted of an offence against this section, the court may order that person to take that action (if any) to abate the nuisance which is specified in the order.

- (4) A person must comply with an order made against him or her under subsection (3).

Penalty: 3 penalty units.

It is important to understand that an offence under this Act must be proven “beyond reasonable doubt” before any penalty can be imposed.

Council will, wherever possible, attempt to curb the nuisance by negotiation and providing advice to the owner of the animal(s) concerned.

Where this is unsuccessful, legal action will be considered.

## PART B

I (insert your full name) \_\_\_\_\_

of (insert your residential address): \_\_\_\_\_

Phone number/s: \_\_\_\_\_

Email address: \_\_\_\_\_

Postal address: \_\_\_\_\_

am lodging a complaint about nuisance animals that are being kept at the below address:

\_\_\_\_\_  
\_\_\_\_\_

The animals concerned are (describe the animals):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The animals cause a nuisance by (describe the nuisance):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following persons may also be in a position to assist Council in this matter (other witnesses):

\_\_\_\_\_  
\_\_\_\_\_

I am/am not (Circle whichever does apply) prepared to give evidence to support the complaint should it be necessary.

Signature:

Date:

\_\_\_\_\_

\_\_\_\_\_

## PART C

### Barking Dog Diary

If you wish to proceed with your complaint, you should immediately commence a diary of events that will form the basis of further action by Hepburn Shire Council Officers.

This Diary should be maintained for at least two weeks.

It must be accurate (you should record significant events as they occur).

Only record those events relating to nuisance animal(s).

Entries must be legible.

A diary entry should be brief but informative.

#### Example:

Date	Time Start	Time Finish	Total Time	Your location	Impact and/or Cause
20/06/24	3:30pm	3:40pm	10 Minutes	Kitchen	Children in street
20/06/24	3:53pm	4:05pm	12 Minutes	Backyard	Stressed
20/06/24	5:00pm	5:05pm	5 Minutes	Living Room	Couldn't hear TV
21/06/24	7:38am	7:45am	7 Minutes	Bedroom	Woken up
21/06/24	7:58am	8:08am	10 Minutes	Backyard	Rubbish truck

Commence the Diary on the reverse of this page and attach any additional pages required.

This may seem excessive, but remember, you may be required to present this diary before a Magistrate as accurate and concise evidence. It is also important to note how the barking is affecting you at the various times of the day.

When requested by the investigating Officer, forward completed **Barking Dog Diary** to:

**Mail:** Community Safety Team  
Hepburn Shire Council  
PO Box 21 Daylesford 3460

**Email:** [Communitysafetyteam@hepburn.vic.gov.au](mailto:Communitysafetyteam@hepburn.vic.gov.au)

For further information, phone Hepburn Shire Council on 03 5348 2306.

**Signature:** \_\_\_\_\_ **Date:**     /     /

# Barking dog diary

Dog(s) description: \_\_\_\_\_

Dog(s) address: \_\_\_\_\_

\*Please photocopy this blank form, in case more entries are required to record barking.

Date	Time Start	Time Finish	Total Time	Your location	Impact and/or Cause

I hereby acknowledge that this statement is true and correct and I make it in the belief that a person making a false statement in the circumstances is liable to the penalties of perjury.

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

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Dog(s) address: \_\_\_\_\_

\*Please photocopy this blank form, in case more entries are required to record barking.

Date	Time Start	Time Finish	Total Time	Your location	Impact and/or Cause

I hereby acknowledge that this statement is true and correct and I make it in the belief that a person making a false statement in the circumstances is liable to the penalties of perjury.

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_