



Dealing with Barking Dogs

Barking Dogs Kit

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HOW TO GET THE RESULTS

WESTERN AUSTRALIA DOG ACT 1976

Division 4 – Control of nuisance

Section 38 - Nuisance

- (1) For the purposes 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
 - (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.
- (2) A person may lodge a complaint in a prescribed form with an authorised person, alleging that a dog is a nuisance.
- (3) If an authorised person is satisfied that a dog is a nuisance as alleged in a complaint, the authorised person may issue an order to a person liable for the control of the dog requiring that person to prevent the behaviour that is alleged to constitute the nuisance by a time specified in the order.
- (4) An order has effect for 6 months after the day on which it is issued.
- (5) A person to whom an order is issued must comply with the order during the period in which it has effect.

Penalty:

- (a) for an offence relating to a dangerous dog —
 - (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
 - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;
 - (b) for an offence relating to a dog other than a dangerous dog, a fine of \$5 000.
- (6) This section does not apply to a dog while that dog is kept at an establishment licensed as an approved kennel establishment under section 27.

[Section 38 inserted by No. 18 of 2013 s. 46.]

STEP 1 - WHAT CAN YOU DO?

We will always encourage good neighbour relations. Unfortunately dog issues left unaddressed can result in these relations becoming strained. The first step should be an approach from you in the spirit of maintaining these good neighbourhood relationships.

It is important that you approach the dog owner as soon as the barking becomes a problem. In the vast majority of cases if you approach the dog owner in a courteous, informative and neighbourly fashion, you can work together to solve the barking issue.

Explain the situation to your neighbour. They may not even be aware of the dog barking. It could be occurring during the time the owner is away, or they may have become desensitised to the noise and not be aware of the effect it is having on others.

Do this with the aim of getting the issue resolved amicably. Avoid finger pointing or accusing anybody of failed responsibility, neglect or the like. Some recent dates and times or recordings of the dog barking may help to prove your concerns.

Should you be unable to approach your neighbour directly, then write them a polite note. State the effects the barking is having on you, along with some specific dates and times of the barking to assist them. This letter should not be anonymous as this may lead to ill feelings. Keep a copy of this letter for future reference.

Give it time for the problem to settle. Try to give feedback to the owner to help them in their attempts. If you can keep an accurate log of the problem dates, times, duration and the effect it has on you, this will help the owner to work on how best to deal with the problem and minimise its occurrence. This information may also be required if a Ranger has to be involved at a later stage.

STEP 2 - WHAT THE SHIRE CAN DO TO HELP?

Should your approach fail to get some results in a reasonable amount of time, sometimes all that may be required is for a Ranger to get involved.

The Ranger will visit the dog(s) owner and explain the situation and give dates and times of the barking problem. In some instances the dog(s) owner might not believe there is a problem or not realize what their dog(s) get up to when they are out or at work.

To assist us, we initially require some basic information such as the correct house number, days, times and what may be triggering the barking. Convincing a dog owner to change their pet's habits is not easy and the more information we have the easier and quicker we can help you.

The Ranger can also provide limited advice on barking issues and how they may be resolved.

There is a legal process for ongoing unresolved issues and this will be discussed with them (see the heading “The Legal Process”).

The Ranger will assess the desire of the dog owner to help with this matter and may either:

1. Give you some feedback as to what the dog owner will be doing and let the issue progress. This allows the dog owner time to resolve the problem.
2. They may also be given fourteen (14) days to start effective training techniques or acquire anti barking training devices.
3. Issue a “Nuisance Abatement Notice”. This notice is the start of a legal process that will require further information from you. Information required will be the fully completed Form 7 (the official dog nuisance complaint form) and commencement of the dog barking diaries. Ranger Services will advise you of this process and the requirements.

With any method, initially it may result in some changed behaviours in the dog including a potential increase in barking. It is important that you continue to monitor and note date, times and durations of barking.

STEP 3 - THE LEGAL PROCESS

What if the dog owner does not cooperate?

Should the personal approach and or the visit from Ranger Services not result in solving the barking issue within a reasonable time frame, then the *Dog Act 1976* allows for the local government to commence action against a dog owner.

As with any legal process, it could be up to the courts to determine the issue. As such you may be requested to attend court and give evidence. If you are unable or unwilling to do this, we will not be able to commence any legal process.

To comply with legislation and begin the legal process we need the following from you:

1. A completed Form 7 - This is our authority to commence action, and
2. Any evidence you have gathered so far. Including recordings, notes, and diaries.

With this evidence, a Ranger will then explain the situation to the owner. They will go through dates, times and duration in an attempt to establish the reasons why there is an issue. Your personal details will be removed from any paperwork.

The Ranger will provide the owner with limited advice on noise abatement and offer them some contacts to get professional assistance. The legal process for unresolved issues will be explained to them.

Depending on the response to this approach, the Ranger can either issue;

1. an official written warning to the owner or person in charge of the offending dog(s),
2. an infringement notice to the dog owner or person in charge of the offending dog(s),
3. a six (6) month "Nuisance Abatement Notice". This will require further evidence to be gathered in the form of bark dairies; or

For more serious continuing issues, we may commence court action against the dog owner or person in charge of the dog(s). Legal action is not automatic and will depend on an assessment of each case. This also will require further evidence to be gathered in the form of bark diaries.

The paperwork

The Form 7 and Bark Diaries assist in the legal requirement to prove that the dog(s) is either,

- i. Injurious or dangerous to health,
- ii. Creating a noise that is persistent or continues to a degree that is not considered a normal dog habit and has a disturbing effect on a person, or
- iii. Behaving consistently in a manner contrary to the general interests of the community.

In this pack you have been provided with the paperwork needed for taking the legal path. There is enough for you, another person from your household and an independent person not of your household to complete.

1. FORM 7 – Please fill this out fully and accurately and return to us as soon as possible.
2. BARK DIARY – This needs to be filled out accurately and fully, each diary is generally recorded over a 14 day period. You may need to complete more than 1 diary over the period of the investigation.
3. NUISANCE ABATEMENT NOTICE – This will be issued to a dog owner that is not resolving a barking issue in a timely manner. This notice officially requires the person responsible to abate the nuisance with a given time frame. If they fail to abate the issue, then the local government may instigate court action or deregistration of a dog. You will be notified once the abatement notice is issued. To ascertain if the barking has reduced or not, we will need you to start and complete a further bark diary for that period.

How to complete a bark diary

Please remember the Bark Diaries are legal documents and will be presented in court as evidence if needed. As such they need to be neat, accurate, precise and unemotional; do not leave blanks. They must be completed by the complainant in the following manner:

Date

The date of each instance is to be recorded. Dittos are not acceptable.

Barking time from and to

The time that the barking started and ceased is to be recorded. Even if it is for 10 minutes every 20 minutes, each occurrence must be recorded.

Cause of barking if known

When the dog is heard barking, check to see if there is any identifiable cause. The causes help to determine strategies to break the barking habit. Do not generalize such as “dog bored” “mongrel dog”. Use real causes such as;

- Dog is tied up,
- The postman going past,
- Children teasing the dog.

The specific effects that the barking had on you

The effect that the barking had on you is an important requirement and is a condition of any complaint. Again, avoid generalising such as “it annoyed me”. This needs to be specified in words such as:

- Kept me awake
- Woke me up
- Prevented my studying
- I had to close the windows on a hot day
- Woke the baby

Once the diary has been completed and you have checked it for accuracy, signed and dated it, please return it to the Shire either in person at Shire of Broome Administration Office, 27 Weld Street or by post to Shire of Broome, PO 44, Broome WA 6725.

IN SUMMARY

1. Make a personal diary of the time, date and effect the barking has on you,
2. Contact the dog owner with the aim of helping them resolve the barking issue,
3. Allow them a reasonable amount of time to resolve – give them feedback,
4. If the problem persists:
 - a. Contact the Ranger who will talk with the dog owner;
 - b. The Ranger may either talk with the owner and;
 - i. Give a verbal request to the owner and then ask you to monitor, or
 - ii. May start the legal process and issue a “Nuisance Abatement Notice”
 - c. Before the legal process starts, the person or people affected will be required to return a Form 7 (form attached)
 - d. Once “Form 7” is received, rangers may issue an “Nuisance Abatement Notice”
 - i. Then you will need to fill in a bark diary
 - ii. Return diaries to the Ranger Services Administration Officer
 - e. Ranger Services will provide a copy of the evidence to the dog owner (excluding your details)
 - f. Ranger Services may take legal action based on evidence you provide

THINGS TO REMEMBER

If the dog owner co-operates you should notice a difference. Some treatment strategies will unfortunately result in a temporary increase in barking while the dog adjusts. Please be aware of this.

Convincing a dog owner to change their pet’s habits is not always easy, and the more information we have the easier it is to help you resolve the issue.

All documents can be produced as evidence in court and must be filled out correctly and fully. Please call the Rangers if you are having trouble filling out the diary or Form 7.

Supplying incorrectly filled in documentation or poor evidence may result in the process having to start again or the complaint not proceeding.

Legal action is not automatic and depends on an assessment of each case. You can contact the Shire of Broome Ranger Services on 9191 3456 for advice or help.

FORM SEVEN (7)
WESTERN AUSTRALIA
DOG ACT 1976 (AS AMENDED)



COMPLAINT AS TO A NUISANCE CREATED BY A DOG

TO⁽¹⁾: Shire of Broome
PO Box 44
BROOME WA 6725

TAKE NOTICE that a dog, believed to be a⁽²⁾ _____

has created a nuisance by⁽³⁾ _____

The dog is believed to be owned by⁽⁴⁾ _____

and is ordinarily kept at⁽⁵⁾ _____

and I,⁽⁶⁾ _____

of _____

request the Council to institute proceedings if the nuisance does not stop, and undertake: to give full information to the Council as to this matter; to appear in court and give evidence as a witness to the truth of this complaint.

Dated this _____ day of _____ 20____

Complainant Signature _____

(1) Insert name of Council

(2) Insert breed or kind of dog, and where possible its sex and identifying mark.

(3) 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.

(4) State name and address of the persons believed to be the owner.

(5) State, if known, where the dog is ordinarily kept.

(6) Insert the name and address of the complainant.

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

DOG BARKING DIARY

Complainant's full name: _____, certify that the above is true and correct to the best of my ability.

Signature: _____ Date: _____

Date (DD/MM/YY)	Start time	End time	Cause of barking (if known) and specific effect/impact that the barking had on you

I, _____, certify that the above is true and correct to the best of my ability.

Signature: _____ Date: _____