



BARKING DOG INVESTIGATION PROCESS

INTRODUCTION

This pamphlet outlines ways for residents to deal with nuisance barking dogs. There are laws that apply to Nuisance barking in NSW under the Companion Animals Act 1998, and the steps within this pamphlet can help to rectify the situation. The Hills Shire Council is committed to creating the best possible community environment for its residents and hopes this information will help mitigate potential conflict between dog owners and neighbours.

INTRODUCTION

There can be many reasons why a dog barks. Some of the reasons dogs bark can be

- Territorial
- Playfulness
- provoked intentionally or unintentionally by humans, wildlife or other domesticated pets
- hungry or thirsty
- boredom
- being neglected
- sickness or poor diet
- attention seeking or communication
- lack of space or exercise
- separation anxiety.

If you feel as though a neighbour's dog is barking as a result of neglect or abuse, you should contact the RSPCA Inspector on (02) 9770 7555 or through the RSPCA website at www.rspcasnsw.org.au

WHAT SHOULD I DO IF MY NEIGHBOUR'S DOG IS BARKING?

If your neighbour's dog is barking and causing a nuisance, your first step should be to approach them - they may not realise the barking is causing a nuisance. Maybe leave them something in writing advising them of the problem if you think they are unapproachable or not home often.

Alternatively, you could use the services of a Community Justice Centre. This government-funded centre provides free mediation sessions for residents having problems with issues such as barking dogs, fences etc.

The Community Justice Centre (CJC) is located at Level 1 & 5 Parramatta Justice Precinct 160 Marsden Street, Parramatta NSW 2150. The CJC can be contacted on 1800 990 777 or through their website www.cjc.nsw.gov.au

BARKING DOGS AND THE LAW

Under the Companion Animals Act 1998 nuisance barking is defined as

- a dog that 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 other premises.

The Community Safety Team at the Hills Shire Council has several tools to assess and make determinations of nuisance barking. During the course of an investigation into nuisance barking allegations, council officers aim to determine if nuisance barking is evident beyond reasonable doubt.

If council officers are satisfied that an offence has been committed under the Companion Animals Act 1998 Section 32A, then a Notice of Intention to Declare the dog a nuisance may be issued. Upon receiving representations from the owner, the Manager of Regulatory Services will make a determination if a Nuisance Order is to be issued.

LODGING A FORMAL COMPLAINT

If all else fails, you can lodge a formal complaint with Council. Once lodged, Council will notify the owner of your complaint and will provide them with information on barking dogs and the law.

To lodge a complaint, visit Council's website and fill in a compliance and enforcement e-request providing as much detail as possible (including hours in which the dog barks, the breed of dog, what action has been taken etc.) along with your details. Alternatively you can call Council's customer services officers on 9843 0555.

Council will not provide your personal details to the public under any circumstance. We are legally bound by legislation.

INVESTIGATION PROCESS (FIRST COMPLAINT)

1. Upon receipt of a complaint, a Council Officer from the Community Safety Team will send a notification letter to the owner(s) of the alleged barking dog(s) via post or email. The officer will use standardised templates and will provide the relevant factsheets in conjunction with the notification letter to the owner(s).
2. A Council Officer will notify the complainant via email, post or phone advising them of the action taken. Complainants will be provided with a factsheet and a barking survey to complete.
3. The task can then be closed at this time and re-opened in the future should the complainant provide feedback in the form of a signed barking survey or diary.
4. The complainant then must give the owner of the dog two weeks to attempt to rectify the issue

INVESTIGATION PROCESS (SECOND COMPLAINT)

1. Upon receipt of a signed barking dog survey or diary over a two week period, Council Officer from the Community Safety team will speak with the owner(s) of the dog(s) in question and explain that a second complaint has been received. They will outline the barking complaint process, the owners' rights and responsibilities and provide advice on how to rectify the situation.
2. A Council Officer will then contact the complaint and provide them with feedback from the owner in relation to the complaint.

3. Once feedback has been received and any evidence provided by the complainant has been assessed, the investigating officer can elect to do the following
 - a. If the feedback/evidence provided suggests that the barking is not considered a nuisance, no further action will be taken.
 - b. If the feedback/evidence provided suggests that the barking may be considered a nuisance, an active investigation will commence by the Council Officer.
4. Over the course of the investigation the Council officer will advise the complainant what evidence (if any) is required to assist the investigation. The officer will also perform patrols when practicable in order to gather further evidence. This will allow the officer to assess the complainant's claims. Complainants may be asked to provide further logs and supporting sound/ video files of barking instances during the monitoring period.
5. After the monitoring period has finished the investigating officer can elect to do the following
 - a. If the evidence collected suggests that the barking is not considered a nuisance, no further action will be taken (in some cases further monitoring will be required).
 - b. If the evidence collected suggests that the barking is considered a nuisance a Notice of Intention to declare the dog(s) a Nuisance will be issued to the owner.
6. Upon receiving a Notice of Intention to declare their dog(s) a nuisance, an owner has 18 days to respond to council. Once all the evidence has been considered the Manager of Regulatory Services will make a determination and both the complainant and owner will be advised in writing.
7. If an order is made for nuisance barking, it will remain in force for six (6) months. During this time any further instances of nuisance barking can be recorded and documented by residents and Council Officers. If nuisance barking is established fines may be issued to the owner of the dog. Repeated instances of barking may result in court action being taken by Council against the owner.

PRIVATE LEGAL ACTION

Individual private action through a Local Court is available to any individual and it may be suggested by Council's Community Safety Officers that a complainant should consider such an avenue. Such private or civil action taken by a complainant has the burden of proof based on the "balance of probabilities".