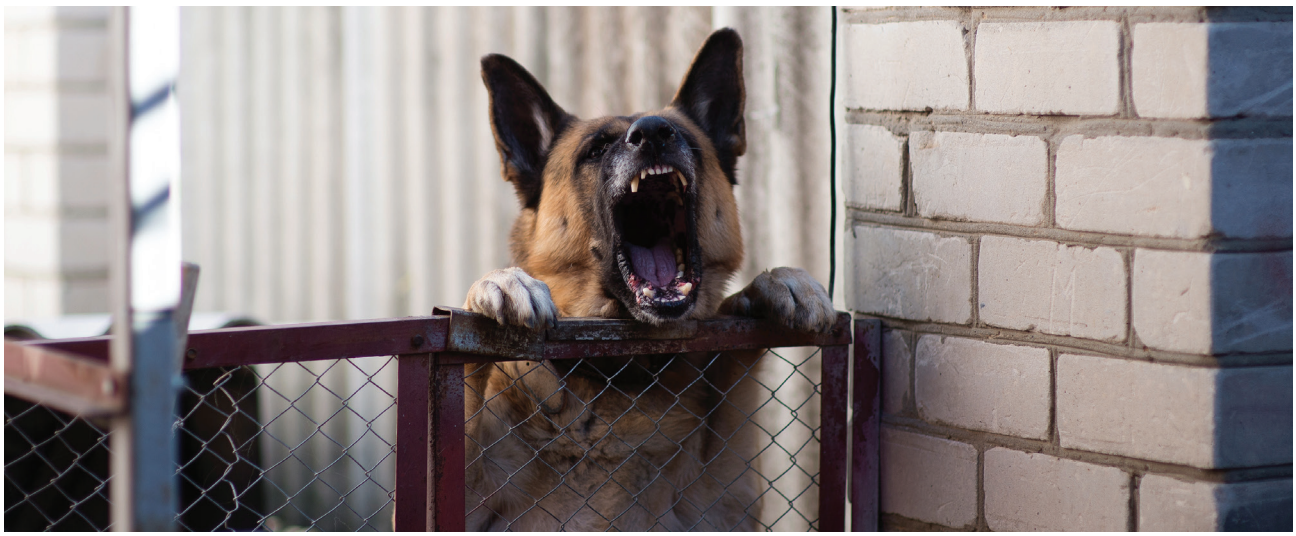
NUISANCE DOG RESOLUTION GUIDE

CITY OF BALLARAT



The City of Ballarat's Animal Services Team have developed this guide to assist residents to reach a resolution in a timely manner regarding a nuisance being caused by a dog allegedly barking.

A City of Ballarat authorised Animal Management Officer ("AMO") will be responsible for investigating an alleged dog barking nuisance and will rely on the information provided by the dog owner, the resident/s being aggrieved by the nuisance along with surrounding residents to ensure a balanced and fair investigation is conducted.

This guide is to inform you of our current policies and procedures, the investigation process and to provide education to the dog owner to assist with determining any behavioural issues that the dog/s may be expressing or that the owner may need to implement as a responsible pet owner.

During the investigation, the AMO will also check on the registration of all animal/s at the property and detect if there are excess dogs that may require an excess animal permit pursuant to the City of Ballarat's Community Local Laws 2017. If an excess animal permit is required, an application form will be provided to the dog owner along with education around the responsible keeping of animals in excess of the allowed number in a residential area.

When investigating an alleged nuisance, the AMO relies on the provisions of the *Domestic Animals Act 1994* ("the Act") specifically section 32(2), which refers to a dog or cat being regarded as a nuisance if; *it injures or endangers the health or any person or 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.* See except below:

DOMESTIC ANIMALS ACT 1994 SECT 32
Dogs or cats creating a nuisance

(1) The occupier of any premises where a dog or cat is kept or permitted 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 pupose 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 degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.

Our aim is to resolve the nuisance so that all parties can resume the peace and quiet enjoyment of their residence as soon as possible however, in some instances, the matter may be required to be brought before a Magistrate. The person/s being aggrieved by the dog will be required to give evidence in such cases and the dog owner could be ordered to abate the nuisance or receive a punitive penalty (infringement), or both.

Noise diaries will be required as evidence of the nuisance. It is important that the complainant/s report the affect the nuisance is having based on the definition listed above (section 32 of the Act) and are willing to give evidence if required to support the alleged nuisance in Court.

It is important that the aggrieved person/s understand that the AMO will request multiple diaries to be completed over the course of the investigation. The first diary to be completed is a 14 day noise diary (page 5 of this document). If required, the AMO will advise when to complete the further 28 day diary and/or additional diaries.

Page 3 of this guide – **Barking Dog Investigation Fact Sheet** - explains the procedure in which the AMO will investigate the matter, the steps involved and the role of the dog owner and aggrieved person/s in the process.

BARKING DOG INVESTIGATION FACT SHEET

Noise complaint received:
Nuisance dog noise diary sent to customer

Customer returns 14-day diary:
AMO calls customer to talk through next steps. AMO will check registration, excess animals etc.

AMO visits alleged barking dog owner and educates owner about the barking:
Owner has two weeks to resolve the nuisance. AMO sends nuisance dog resolution guide to dog owner.

After two weeks AMO calls customer to see if barking has reduced
If the nuisance starts again within a six-month period, start process again here

NO - Barking has not reduced

AMO will talk to the dog owner and issue a notice to comply (NTC) to stop the noise within 14 days
Further education will be provided to the dog owner.

AMO will collect evidence to verify the nuisance:

- A door knock of the area will be conducted and statements may be taken as evidence
- AMO will conduct sit offs at specified times near the property
- A sound recording device may be issued to customer if necessary
- Additional diaries may be required if AMO cannot verify nuisance barking.

If the nuisance cannot be verified:
AMO will let the customer know that they have been unable to verify the offence, and no further action can be taken. Customer is advised to take civil action on their own behalf.

If the nuisance can be verified:
A 28-day noise diary will be issued to customer. Another NTC will also be issued to the dog owner.

YES - Customer satisfied with reduction in barking

Customer notified that the complaint is closed. **AMO will send a closure letter.**

If the matter recommences within a six-month period, the investigation may recommence.

Further reports of nuisance after a six-month period will require an additional 14-day diary.

Customer notices reduction in amount of barking and is satisfied with result

Customer returns 28-day diary:
If the barking has not reduced, AMO will present all evidence to prosecution panel to see if the matter should go to the Magistrate's Court. If the panel does not agree there is enough evidence for a successful prosecution, the matter will be closed and advice given to the customer about civil action.

AMO will prepare a brief for court proceedings

Summons issued to appear at the Magistrate Court

BARKING DOG INVESTIGATION FACT SHEET

Why do dogs bark?

Barking is a normal behaviour for dogs and is one way they communicate with the world.

To resolve a nuisance barking complaint it is important to distinguish between stimulated and nuisance barking.

Stimulated barking

When a dog barks in a direct response to a stimulus it is known as stimulated barking. This part of normal dog behaviour and is typically not considered a nuisance unless it continues for an extended period of time or frequently occurs at an unreasonable time of day.

Examples of stimulated barking:

- Barking in response to the presence of another dog or person
- Barking at birds , possums or other wildlife
- Barking in response to loud noises such as heavy machinery or doors closing
- Excited barking from playing with a person or other dog

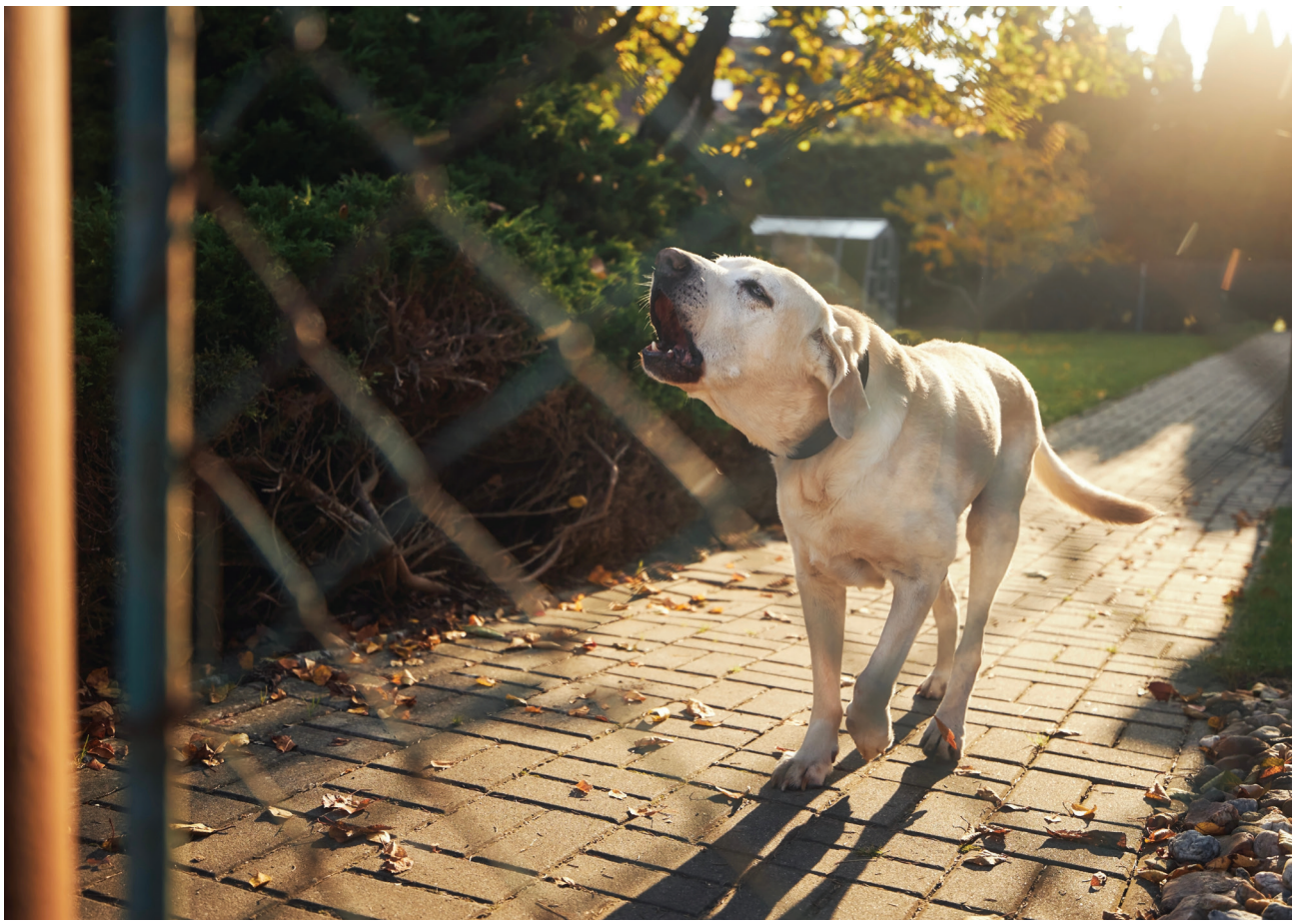
Nuisance barking

Dog barking can be regarded as a nuisance if it unreasonably interferes with the peace, comfort or convenience of any person.

Whether or not the barking is considered reasonable depends on the duration, time of day and the cause of the barking.

Examples of nuisance barking:

- Barking for long periods of time due to boredom or stress
- Barking that begins as stimulated barking but continues for an unreasonable amount of time
- Barking that frequently occurs at an unreasonable time of day, such as late at night or early in the morning.



BARKING DOG
NUISANCE COMPLAINT

The first step is to talk to your neighbour as early as possible and try to resolve the problem good-naturedly.
If this is unsuccessful, please complete the first report of nuisance dairy (14 days) and return to us for investigation.

Have you contacted the dog owner?

◯ **Yes** ◯ **No**

Comments:

Full name: .....

Address: .....

Contact number: .....

I wish to lodge a complaint of a nuisance dog at: (address)

The nuisance affects me because:

I wish to have the City of Ballarat's Animal Management team investigate this matter.

◯ **I am willing** ◯ **I am not willing**

to give evidence in the Magistrate Court of Victoria/Victorian Civil and Administrative Tribunal.

Should you decide **not** to go to court and give evidence, the City of Ballarat can provide education to the dog owner, but cannot investigate the matter any further if the nuisance continues.

BARKING DOG INVESTIGATION FACT SHEET

If you have a dog in your neighbourhood who is causing issues with its barking, a City of Ballarat authorised Animal Management Officer can investigate.

When investigating an alleged nuisance, our AMOs follow the *Domestic Animals Act 1994.*
Section 32 of the Act states a dog of cat is a nuisance if:

- It injures or endangers the health of any person or if it creates a noise, by barking or otherwise, which persistently occurs; or
- Continues to such a degree of extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.

It is important that you report the affect the nuisance is having based on the definition in the Act and are willing to give evidence in Court if needed.

You may need to keep multiple diaries as part of the noise complaint investigation. The first diary is a 14 day noise diary. If needed, the AMO will let you know when to complete the 28 day diary or a further 7 day diary.

There may be times when a matter can't be resolved quickly and needs to be before a magistrate. The person/s being aggrieved by the dog will need to give evidence and the dog owner could be ordered to abate the nuisance, remove the dog, receive a punitive penalty, or both.

Please refer to the Barking Dog Investigation Flowchart on page 3 of this guide shows how our AMOs investigate the noise complaint, the steps involved and the role of the dog owner and affected person/s in the process.

NUISANCE DOG NOISE DIARIES

Please complete the following noise log sheet before submitting this form. More specific times and durations of nuisance will allow the AMOs to work with the dog owners to attempt to abate the nuisance.

*Please note: Backdated entries will **not** be accepted.*

Date	Time noise started	Duration	Your location	Location of dog	Describe how the noise unreasonably interferes with the peace, comfort, or convenience of persons at the property?
Example: 1/1/23	2:03am	4 mins	Bedroom	Inside garage	Wakes up my 3-month-old son while he is sleeping in the nursery
Example: 2/1/23	9:30am	3 mins	Study	Barking at pedestrian through fence	Interrupts my phone calls while working from home
Example: 3/1/23	11:21am	5 mins	Kitchen	Backyard	Wakes up my child having a nap in bedroom
Day 1 Date:					
Day 2 Date:					
Day 3 Date:					

NUISANCE DOG NOISE DIARIES

Date	Time noise started	Duration	Your location	Location of dog	Describe how the noise unreasonably interferes with the peace, comfort, or convenience of persons at the property?
Day 4 Date:					
Day 5 Date:					
Day 6 Date:					
Day 7 Date:					

NUISANCE DOG NOISE DIARIES

Date	Time noise started	Duration	Your location	Location of dog	Describe how the noise unreasonably interferes with the peace, comfort, or convenience of persons at the property?
Day 8 Date:					
Day 9 Date:					
Day 10 Date:					
Day 11 Date:					

NUISANCE DOG NOISE DIARIES

Date	Time noise started	Duration	Your location	Location of dog	Describe how the noise unreasonably interferes with the peace, comfort, or convenience of persons at the property?
Day 12 Date:					
Day 13 Date:					
Day 14 Date:					

All information on this statement must be completed and signed before returning it to the Animal Management team.

I believe the information given to be true and correct:

Signature: **Date:**

....

Please return the completed noise diary (including page 5) to City of Ballarat by uploading it to the corresponding e-service request or by emailing info@ballarat.vic.gov.au alternatively you can post it to PO Box 655 Ballarat 3353.

Your personal information is being collected by City of Ballarat for the purpose of processing your noise collection diary. Your information will be stored in Council's Customer Database and used to identify you when communicating with Council and for the delivery of services and information. For further information on how your personal information is handled, refer to Council's Privacy Policy at ballarat.vic.gov.au

For more information
visit ballarat.vic.gov.au

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