

# Nuisance Dog Complaints

## **What powers do the council have to deal with my complaint?**

Latrobe Council administer the Dog Control Act 2000 and the Latrobe Council Dog Management Policy.

## **What is a Nuisance Dog?**

Section 46(3) of the Dog Control Act 2000 states a dog is a nuisance if:

- a) it behaves in a manner that is injurious or dangerous to the health of any person; or
- b) it creates a noise, by barking or otherwise, that persistently occurs or continues to such an extent that it unreasonably interferes with the peace, comfort or convenience of any person in any premises or public place.

## **How do I complain about a nuisance dog?**

Under Section 47(2) of the Dog Control Act 2000, a formal complaint must be submitted to Council to facilitate investigation into the nuisance. This includes filling in the 'Barking Dog Complaint Form' and filling in the 'Barking Dog Record / Diary' over a two week period.

## **Will Council act on my complaint?**

Yes. The matter will be referred to a Compliance Officer who will investigate the complaint. After speaking with you and reviewing the complaint the officer will monitor the dog for a short time to gain an understanding of the possible causes of the nuisance. The officer may also perform a number of tests to determine what may be stimulating the dog to be a nuisance. This information may assist the owner to manage the issue. Council may also conduct a survey of households that may be affected by the nuisance.

## **Will Council speak with the owner of the dog?**

Yes. The officer will speak with the owner of the dog and advise them that a complaint has been made about their dog. The officer will provide the owner with an information pack detailing the resources available. The officer may also advise the owner to abate the nuisance. In many cases an Abatement Notice will be issued requiring the owner to abate the nuisance. The abatement period may be from seven to 21 days.

## **Why have you not demanded the owner to stop the nuisance immediately?**

Council will issue an Abatement Notice to allow the property owner reasonable time to abate, or remove, the nuisance. Often dog owners are unaware of the problem, particularly when the barking occurs when the owner is at work. Some dog owners employ the services of dog behaviour specialists to help with the nuisance and it may take some time to achieve a positive outcome. In some cases there is a requirement for additional fencing or barriers to be built where the dog is sight stimulated.

## **What happens after the abatement period?**

The Compliance Officer will be in contact with you shortly after the abatement period has expired to ascertain if the nuisance has been abated. If the nuisance has abated the owner will be notified. In the event that the nuisance has not abated Council will monitor the dog at various times to build a case for prosecution under Section 46 of the Dog Control Act 2000.

If there is sufficient evidence to prosecute the owner then an Infringement Notice may be issued. A fine not exceeding 5 penalty units can be applied. One penalty unit is currently \$154. In some cases Council may choose to proceed directly to court.

Council will continue to monitor the situation and may issue further infringement notices/court action where appropriate. It is important that the complainant notifies council of any reoccurrence of the nuisance.

## **Can the owner plead 'not guilty' to the Infringement Notice?**

Yes. The matter is then put before the courts. You may be called as a witness in the matter.

Will Council tell the owner my name? No. Your name and address will not be revealed to the owner unless the matter is prosecuted and is heard before the court. In this case you may be called as a witness and your details would be available to the defence.

**Why can't Council just impound the dog?**

The Council has no power to impound a nuisance dog. An order can be made by a court under Section 49 of the Dog Control Act 2000 for the dog to be removed from the property or destroyed. However, due to the excessive time that it takes for matters to be heard before the court, this is generally only used when all other actions have been exhausted.

**Should I expect the nuisance to stop within the abatement period?**

Generally, most owners take appropriate action within a very short period and the dog is no longer a nuisance. Often a dog owner is simply unaware of the nuisance and can take simple steps to abate the nuisance.

On occasions an owner of a nuisance dog may choose to do nothing or actually increase the level of nuisance. In this case the matter can become prolonged and may extend into many months if the case proceeds to court. Difficult matters have been known to continue past six months, though these cases are rare.



# Barking Dog Complaint Form

This document and the barking record / diary must be completed in full, signed and returned to Latrobe Council within seven days of completion (please PRINT all details).

Complainant's Name: \_\_\_\_\_  
(Your Name)

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

\_\_\_\_\_  
(Your Address)

Contact Phone: \_\_\_\_\_  
(Home) (Work) (Mobile)

Address of Offending Dog(s): \_\_\_\_\_

Description of Dog(s): \_\_\_\_\_  
(Colour and Breed of Dog/s)

Have you verified where the barking is coming from? YES / NO

Have you seen the dog/s barking? YES / NO

Have you spoken to the dog/s owner/s about this problem? YES / NO

Have you discussed this problem with your neighbours? YES / NO

If YES, are they prepared to support your claim? YES / NO

If YES, please supply their name and address and contact details below:

Witness Name: \_\_\_\_\_

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

Contact Phone: \_\_\_\_\_

## Statement of Complaint

I, the undersigned, wish to lodge a formal complaint with the Latrobe Council in relation to the dog(s) described above which bark persistently to such a degree that it unreasonably interferes with my (peace), (comfort) or (convenience) in my premises. (Please strike out items not applicable in brackets)

Signature of Complainant: \_\_\_\_\_ Date: / /

## Privacy Statement

Completion of this form may require the disclosure of personal information. The intended recipients of this information are officers of the Latrobe Council in order to advance the purposes of this form and to carry out Council business. The Personal Information Protection Act 2004 and Council's Privacy Policy regulate the use of this information, which will not be disclosed to any other party, except with your permission or if required or authorised by law. You may make application to access or amend personal information held by Council by contacting the Customer Service Desk on 64 214650. Should you not provide the information sought, Council will not be able to process this form.



# Barking Dog Record / Diary

## How to complete a barking dog diary

Your accuracy in recording the nuisance barking is of extreme importance as it may be presented as evidence in court.

Please create a detailed diary over a two-week period as the example indicated below and attach the diary to the Barking Dog Complaint Form.

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

Date	Time Barking Started	Time Barking Stopped	Intermittent (I)* Continuous (C)*	Barking For how Long?	Reason for barking (Person walking past, weather, another animal etc.)

\*Intermittent-con-continual barking, start then stop

\* Continuous – continual non-stop barking

This may seem excessive, but remember, you may be required to present this diary before a magistrate as accurate and concise evidence.

I acknowledge that above barking record / diary is true and correct

\_\_\_\_\_  
Signed

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

<b>Date</b>	<b>Time Barking Started</b>	<b>Time Barking Stopped</b>	<b>Intermittent (I)* Continuous (C)*</b>	<b>Barking For how Long?</b>	<b>Reason for barking (Person walking past, weather, another animal etc.)</b>

\*Intermittent-con-continual barking, start then stop  
\* Continuous – continual non-stop barking

I acknowledge that above barking record / diary is true and correct

Signed \_\_\_\_\_