



Resolving Animal Noise Nuisances In Your Community

Introduction

Council recognises the important roles pets play in people's lives through providing companionship and security. Sometimes an animal's activities may be causing a negative impact on others in the community, unbeknownst to the animal's owner.

Communication is the key to preventing such problems from escalating and also to help maintain community amenity. This guide can assist in resolving concerns between neighbours over issues related to dog noise.

Please be aware that Council is not trying to evade its responsibilities in respect of enforcement of its Local Laws. The most positive outcomes in these types of matters come about through constructive communication between the affected parties. Council's involvement should be seen as a last resort to resolve a neighbourhood matter as opposed to the initial response. Please be advised that addressing these types of issues can be a lengthy process.

Please note there is a difference between an annoying noise and a noise nuisance as defined under Council's local laws.

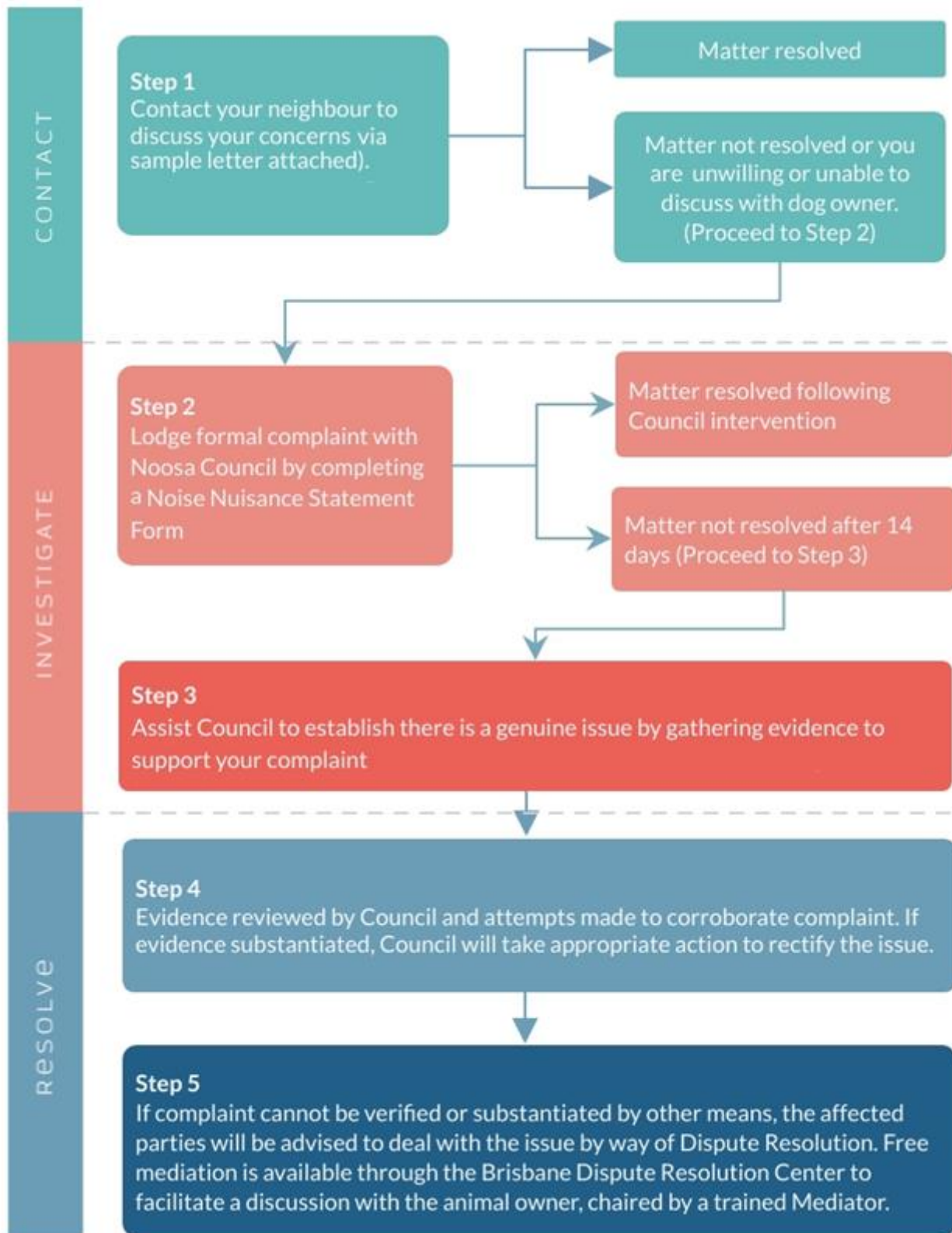
In this document:

'Customer' means the person making the complaint

'Owner' means the owner or keeper of the dog.

Resolution process

The flowchart below outlines the process to follow in the instance of an animal related dispute.



Step 1: Contact your neighbour*

In many cases a pet's owner may not be aware that their animal's behaviour could be having an adverse effect on neighbouring properties. Often the behaviour may be occurring whilst the owner is absent and therefore unaware.

First, try talking to your neighbour about the issue. There is a letter contained in this pack which you can use as a guide for contacting your neighbour in writing.

Ultimately the most positive outcomes in these types of issues come about through respectful and constructive communication between the affected parties.

Patience and tolerance from both parties is important whilst attempting to resolve these issues. Animal noise nuisances often come about from underlying behavioural issues in the animal which cannot be fixed overnight.

**NOTE: If Step 1 is not viable options, the customer may lodge a formal complaint by submitting a Dog Noise Nuisance Statement Form to Council as per Step 2.*

Step 2: Formal Complaint (Dog Noise Nuisance Statement Form)

It is essential that this complaint is lodged in writing using the Dog Noise Nuisance Statement Form, providing as much detail as possible to enable Council to investigate further. Council has included a copy of the Dog Noise Nuisance Statement form in this package. Please complete all fields and return a copy to Council.

Upon receipt, a council officer will assess the information and make contact with both the customer and the dog owner. Officers will assess the underlying cause of the animal behaviour, whilst ensuring that the dog owner is reminded of their obligations under law to ensure their animal does not cause a noise nuisance. It is important that the dog owner is given a reasonable amount of time to address any identified issues. Council has a solutions focused approach to these types of matters and in most cases positive outcomes are achieved from this intervention. If however the issue remains unresolved after 14 days, the complaint will proceed to Step 3.

Please note that Council is committed to the privacy principles within the *Information Privacy Act 2009*. In protecting confidentiality, Council will ensure that the details of the customer, the investigation and related decisions will be kept confidential. While every attempt to protect confidentiality will be made, there may be occasions when disclosure of details of a customer may be legally required.

Although anonymous complaints will be recorded, further action may not be possible depending upon the level of information provided. Due to privacy reasons Council will not be able to provide information or feedback in regards to anonymous complaints, even if you were the original customer.

Step 3: Gather evidence

If steps 1 and 2 do not achieve the desired outcome, you will be required to assist Council by gathering sufficient evidence of a suitable quality. The evidence will then be assessed for suitability by Council's Authorised Officer's prior to any further action being taken.

Why evidence is required - The Burden of Proof Rests with Council

Before Council's Officers' can take enforcement action against the owner of a barking dog for causing a noise nuisance, Officers' must be satisfied there is sufficient evidence to prove all elements of the offence and determine that the barking is coming from a particular property.

Barking can be regarded as a noise nuisance under local law if in the authorised officer's opinion, it unreasonably interferes with the quality and enjoyment of a neighbour's property. For example, a dog's continuous barking may cause a noise nuisance if, in an authorised officer's opinion, it's barking unreasonably disrupts or inhibits any normal activity that is ordinarily carried out in nearby premises including:

- holding a conversation
- sleeping
- watching television

Please note that in the event that your complaint is not corroborated by an independent party residing in the neighbourhood or by a Council Officer, Council may not be in a position to take further action in relation to the matter.

Council must be able to corroborate your complaint. This may involve surveying of other residents in the area or conducting 'listening posts'. If Council cannot corroborate your complaint through these methods, further action against the owner of the barking dog may not be possible

Before Council will make a decision to commence legal proceedings against a dog owner for a barking noise nuisance, Council must be satisfied that there is sufficient evidence to establish the offence beyond any reasonable doubt.

Step 4: Action by Council

If a complaint is made, but the person making the complaint is unwilling to assist in providing the evidence requested above, and Council has not been able to substantiate the complaint allegation, it is unlikely the investigation will be able to progress further.

If sufficient evidence has been established to prove an offence is being committed by the animal owner, potential action may include:

- issue of an Action Notice; and/or
- issue of Penalty Infringement Notice (fine); and/or
- Issue a Compliance Notice pursuant to Noosa Council's Local Laws
- Prosecute the owner of the dog in Noosa Magistrates Court.

Council has certain legal responsibilities to uphold its Local Laws and devolved State Government Legislation and may prosecute individuals in appropriate circumstances where Council is satisfied on the evidence that:

- an unlawful noise nuisance is occurring, and

- it will likely be successful in prosecuting the dog owner; and
- it is in the interest of the community to spend public money on the action; and
- No reasonable defence for the animal noise nuisance has been provided by the animal owner

Please note that in respect of prosecuting the owner of the subject dog, **this action is not usually undertaken** and will be determined on a case-by-case basis. In respect of prosecuting offenders, Council may decide not to spend public money on court action if it is not in the community's best interests.

Step 5: Facilitated discussion

If steps 1 through 4 do not achieve the desired outcome, you may undertake mediation facilitated by the Queensland Government Brisbane Dispute Resolution Centre.

Mediation involves you attending a face-to-face meeting with your neighbour and one (1) or two (2) mediators. The mediators act as an impartial third party to guide you through a structured mediation process. They help you decide what you want to achieve and keep the discussion on track, ensuring both sides get a fair hearing.

The solution is one that you and your neighbour agree upon. It is not imposed on you by anyone else. When you reach an agreement, the mediators write it down and read it back to you so you're both clear about what you've agreed.

Mediation for neighbourhood disputes is free, completely confidential and independent of Council. You can arrange for mediation yourself. The contact details for the Brisbane Dispute Resolution Centre appear below.

Phone: (07) 3239 6007
Website: www.qld.gov.au
Address: 363 George St, Brisbane City QLD 4000

Formal Complaint

Dog Noise Nuisance Statement Form – Complaint Information

I,(full name) of
(address)

in the State of Queensland, declare that I wish to lodge a formal complaint with Noosa Shire Council in relation to a barking dog noise nuisance. The details of the nuisance are set out below and are true and correct in all respects to the best of my knowledge.

Required information – please provide as much detail as possible
Dog details (number of dogs, breed, colouring, name etc.).
Address where dog is kept.
Can you identify where the dog is normally kept within the property (ie inside house/ front or back yard)?

Times of the day or night the barking dog noise nuisance is occurring. (Must be specific dates and times)

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Frequency and duration of the barking dog noise nuisance at those times.

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Can you see the dog barking? (if not, how can you confirm the offending dog)

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Are the owners' home when the barking occurs and what may be causing the barking?

How long has it been a problem?

Do you believe the owners take any action when the dog barks and if so how?

Details of how the barking dog noise nuisance is unreasonably disrupting the amenity and enjoyment of your premises

Details of any steps you have already taken to address the issue with the owner of the barking dog. (Please attach any relevant correspondence including the date, times and how often you have spoken to the dog owner).

Provide any further evidence you wish Council to consider in relation to your complaint.

Please attach any diagrams or photographs to illustrate the general location of the barking dog in relation to your residence.

By lodging this formal complaint with Noosa Shire Council I acknowledge:

- i) I may be requested to submit audio/ visual evidence to Noosa Shire Council to substantiate any complaint for this matter to be progressed further. This evidence must be of an unprovoked nature.
- ii) I am aware that without the submission of audio/ visual evidence of a suitable quality to substantiate my complaint, Council may not be in a position to take action against the owner of the subject animal.
- iii) I understand I may be requested to gather community support in the form of the Neighbourhood Noise Nuisance Support Survey Form.
- iv) Council may also conduct a survey of other residents in the neighbourhood to corroborate my complaint. In the event that my complaint is not corroborated by an independent party residing in the neighbourhood or by a Council Officer conducting surveillance of the area, Council may not be in a position to take further action in relation to the matter.
- v) I am prepared to act as a witness in any legal action instigated by Noosa Shire Council against the owner of the subject animal. I am prepared to attend a Magistrate Court to do so.

Signature: Date:

Address:

Contact Telephone Number:

Email:

Dear Friend/Community Member/Neighbour

I am not sure if you are aware but I need to let you know that your dog/s have been barking a lot when you are not home.

I thought it would be the right thing to do to bring this to your attention in the first instance so you can address the problem.

It is not my intention to be difficult; however the barking has genuinely become a problem for us that is impacting our daily lives.

Thank you in advance for trying to find a solution.

(Option 1) If you require any further feedback in relation to any methods to address the barking, I am happy to assist. My name is XX and I live at XXX

(Option 2) Regards, a Concerned Friend/Community Member/Neighbour



BARKING DOG Fact Sheet

Domestic Animal Noise Nuisance

Under Noosa Council Local Law 2 Animal Management, owners are responsible for ensuring their animals don't cause a nuisance by making excessive noise that disrupts or inhibits any normal activity ordinarily carried out in nearby properties. A nuisance may occur if (in the opinion of an Authorised Officer) there is sufficient evidence to support the observation that others are being affected by the activity of the offending animal.

Resolving the Nuisance

STEP 1

Contact your neighbour to discuss – either by personal approach or letter. (Please see Barking Dog process on Council's website or obtain a copy by calling customer service on 5329 6500).

STEP 2

Lodge a formal complaint with Council. Fomal complaint forms are available on council's website at www.noosa.qld.gov.au or by calling our customer service team on 5329 6500.

STEP 3

If barking is not resolved after initial investigation, you may be required to assist Council to establish there is a genuine issue by gathering evidence to support your complaint.

After Council receive a complaint

Not all noise may constitute a noise nuisance as defined under the Local Law. If we are unable to determine that a noise nuisance exists, no further action will be taken. However, if the Officer is satisfied that there is a noise nuisance occurring, the following action may include:

- Issue of an Action Notice; and/or
- Issue of Penalty Infringement Notice (fine); and/or
- Issue a Compliance Notice pursuant to Noosa Council's Local Laws;
- Prosecute the owner of the dog in Noosa Magistrates Court (only considered in exceptional circumstances).

Examples of a Noise Nuisance

Examples of a noise nuisance:

- Noise that, in the opinion of the officer, unreasonably disrupts a person from:
 - o Holding a conversation
 - o Sleeping
 - o Watching television

Tips for Neighbours

If your neighbour has a noisy animal, take the time to talk to them as they may be unaware their animal is causing a nuisance. Your feedback could help them understand and resolve any problems that may be contributing to their behaviour.

Understanding Dog Behaviour

Barking is a natural behaviour for dogs and is one of the ways they communicate. However, if barking is excessive or occurs for long periods of time during the day or night, it has to be addressed.

On-going barking is often a symptom of another problem, taking time to understand what makes dogs bark is the first step towards solving the problem, both for the dog and the neighbours.

Why Dogs Bark

Dogs may bark if:

- Lonely, bored or frustrated
- Stress from being separated from their owner
- A learnt behaviour to get what they want
- Seeking attention
- Scared of people, objects and/or other animals
- Feels that their territory is being threatened
- Stimulated from playing
- Unwell

Ways to Reduce Barking

Barking may be improved through several small behavioural and environmental changes. Council recommends dog owners seek the advice of an expert such as your vet, a dog behaviouralist or a dog trainer.

