#  DOG/S THAT CREATE A NOISE NUISANCE

# Information Package for Neighbours

**Contents:**

[Introduction 2](#_bookmark0)

[Neighbourhood communication 2](#_bookmark1)

[Your legal requirements for court action](#_bookmark2) 3

[Lodging a complaint with Council](#_bookmark3) 3

[Council action](#_bookmark4) 4

Dear Neighbour letter 5

[Some simple tips for reducing barking 6](#_bookmark5)

[Nuisance Noise Complaint Form 7](#_TOC_250000)

[How to complete a barking dog diary 11](#_bookmark6)

# Introduction

Dogs are an important part of our local community, but dogs that bark excessively can become a source of irritation for neighbours and others. Our best friend can, if it barks continually, become an intrusion and create friction between neighbours.

Mildura Rural City Council receives numerous complaints regarding nuisance noise from dogs. Approaching the dog’s owner in a neighbourly manner and discussing your concerns with them can often be the quickest and most effective way to resolve this type of complaint.

The dog’s owner may not realise that the barking is causing an annoyance. For example:

* The dog may only bark excessively when the owner is not home
* The owner may not hear the barking from various areas within the house
* The owner may be a very sound sleeper and not woken by the barking

Whilst it is acceptable for a dog to bark to warn its owner of an intruder, it is the owner’s responsibility to train the dog not to bark at ‘normal’ occurrences such as possums, cats or birds.

Under the Domestic Animals Act 1994 Section 32:

1. The occupier of any premises where a dog or cat is kept is permitted to remain must not allow that animal to be a nuisance.

Penalty: 1 Penalty unit.

1. A dog or cat is to be regarded as a nuisance for the purposes of this section-

b. 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.

# Neighbourhood communication

Neighbours can solve barking problems by communicating to each other regarding their concerns and needs. Neighbours can assist by identifying the reasons for excessive barking and noting what is happening in the area when the dog is barking.

Try the following steps to attempt to resolve the issue in a neighbourly manner:

* 1. Approach the dog’s owner when the problem arises and state your case clearly and politely. If the dog owner is unapproachable or you are not comfortable approaching them, try placing the “Dear Neighbour” letter contained in this booklet into their letterbox or if you are uneasy with this, post it to them.
	2. If the neighbour takes no action or does not agree that a problem exists, you should contact the Department of Justice which funds a dispute settlement service for people who find themselves in a situation of dispute or conflict with another person. This service uses mediation as a way of settling neighbourhood disputes without expensive legal action. It is a private and free service. The service offers specially trained mediators who will help you both find a workable solution. The contact details below are provided for Mildura Rural City Council:

**Dispute Settlement Centre - Justice Service Centre**

59 Madden Avenue, MILDURA VIC 3500

Phone: (03) 5021 6100

Email: disputes.loddonmallee@justice.vic.gov.au

In **ALL** cases resolution should be attempted by communication between neighbours or via mediation prior to lodging a complaint with Council.

 **Your legal requirements for court action**

Council is able to act within the guidelines of the Domestic Animals Act 1994. To stop the nuisance noise completely, a Court Order must be obtained through the Magistrate’s Court.

To take a complaint to court you, as the complainant, are required to provide all the information as it is you,and not Council who will need to convince a Magistrate that the noise is a nuisance. Council is simply here to facilitate progressing the matter to court on your behalf.

To do this you must keep a comprehensive diary over a period of time to show the patterns of the dog’s barking behaviour. Remember, in a court of law the evidence you give may be subjected to cross-examination.

The matter can only proceed to court if Council has been able to fully establish:

* **there is a case to answer**
* **all avenues for reconciliation of the problems are exhausted;**
* **there is sufficient evidence available to prove the case “beyond**

 **reasonable doubt”; and**

* **You are prepared to attend the Magistrates’ Court to give verbal evidence. If you are not prepared to attend court then you will be required to undertake action via your own solicitor without Council involvement.**

**Council will not be involved in any domestic dispute between neighbours. If this is appears to be the situation, Council will inform you to pursue your own legal action on this matter. The Dispute Settlement Centre can also assist you with these matters.**

**Lodging a complaint with Council**

To lodge a complaint with Council you must first show that youhave either spoken with your neighbour or have tried to resolve the problem with them in some other manner.

The procedure for lodging a barking dog complaint with Council is as follows:

1. Identify the correct address of the alleged offending dog/s.
2. Complete the ‘Nuisance Noise Complaint Form.’
3. Keep a diary of the dog’s barking habits for a period of 14 days, noting the date, time, weather conditions and duration of barking, and any reasons why the dog may be barking, as well as the effect the noise nuisance may be having on you.
4. Once the diary is completed, forward to Council the complaint form and fourteen (14) day diary signed and completed by you.

In person – 108 Madden Avenue, MILDURA VIC 3500

Email: mrcc@mildura.vic.gov.au address the details attention to Civic Compliance Department

1. Continue to keep a recording of the dog’s habits for a further month. This will monitor whether the problem continues or improves as a result of any action taken.

**Council Action**

**Once you have taken the necessary steps to lodge a complaint with Council, our Officers:**

* Will examine the diary entries to establish barking patterns and to try to determine whether there is a case for further investigation or action.

*It is important that the completed Nuisance Noise Complaint Form and the initial 14 Day Diary entries are returned to Council ASAP so as to assist in processing the complaint promptly.*

* May also survey people from neighbouring properties to see if they are experiencing the same issue.

If evidence of a noise nuisance is established, Council will advise the dog owner of the complaint, discuss possible solutions and inform them of their responsibilities. Our Officers will assist and work with the dog’s owner until they believe that the owner has done everything possible to help correct the nuisance behaviour.

**Council will only propose court action if:**

* + 1. the owner of the dog is not complying with Council’s request; and
		2. the dog is a problem; and
		3. the owner of the dog has exhausted all avenues to resolve the problem; and
		4. the complainant (you) is prepared to attend at the Magistrates Court and provide the evidence to the Court that there is a nuisance.

It is important to that you understand that you as the complainant **must** prove there is a problem at court.

If you are unable to provide the necessary evidence and information required, Council will have no alternative but to terminate any action and close the complaint.

***Documents that must be returned to Council***

# Nuisance noise complaint form

***This document along with the initial 14 day diary entries must be completed in full and signed on every page and returned to the Mildura Rural City Council.***

***Please select Yes or No for the following questions:***

|  |  |
| --- | --- |
| **YES / NO** | ***Are you prepared to attend court to give verbal evidence if required?*** |
| **YES / NO** | ***Have you verified the address where the noise nuisance is coming from?*** |
| **YES / NO** | ***Have you contacted and discussed the noise nusience with the neighbour or contacted the Dispute Settlement Centre to attempt reconciliation?*** |
| **YES / NO** | ***Is a copy of this evidence attached eg. Letter from Dispute Settlement Centre?***  |

**If you have answered YES to ALL questions please continue with your complaint.**

**If you have answered NO to ANY question do not continue with your complaint and proceed by way of your own solicitor.**

**COMPLAINANTS NAME: …………………………………………………………………. ADDRESS: …………………………………………………………………………………..**

**…………………………………………………………………………………………………**

**CONTACT NUMBERS:**

**HOME: ……………………………….. MOBILE: ………………………………………….. BUSINESS …………………………… EMAIL: ……………………………………………. ADDRESS OF OFFENDING DOG/S:………………………………………………………**

**…………………………………………………………………………………………………..**

**DESCRIPTION OF DOG/S ………………………………………………………………….**

**…………………………………………………………………………………………………..**

**I, the undersigned, lodge a formal complaint with Mildura Rural City Council that in my opinion the dog/s described above create a noise nuisance to such a degree that it unreasonable interferes with my peace, comfort or convenience in my premises.**

**SIGNED: ……………………………………… DATED: ……………………………….**

***Privacy Collection Statement:***

*Mildura Rural City Council collects Personal and or Health Information for municipal purposes as specified in the Privacy and Data Protection Act 2014.  The information collected in this form is used only for the purposes specified (primary purpose) and is not passed on to third parties.  Council may disclose this information but only if authorised or required by law.  Council may not be able to process your request unless sufficient information is given.  Should you need to change or access your personal details, or you require further information regarding Council’s Privacy Policy please contact Council’s Privacy Officer.*

**Provide, if possible, a summary of how the dog/s that are creating a nuisance, effects your lifestyle, you may also provide doctor certificates or any other documentation in support of your complaint that you consider may assist in this matter**

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**How to complete a barking dog diary**

You are required to document the times the dog is barking as accurately as you can when you are home.

Entries should be as detailed as possible for Council Officers to evaluate. Please note that no dog barks “continuously” for hours on end. Diary entries of this nature will void your complaint.

If this matter proceeds to Court it will assist the Magistrates in making their decision if the recorded evidence presented along with your verbal evidence gives a full descriptive report of the alleged noise nuisance the dog may be creating.

Throughout the entire period of the investigation you will be required to continue documenting the times the dog is creating a nuisance. This will allow the Officers to see if the barking has increased or decreased.

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

Once completed for the first 14 days, forward your completed & signed ‘Nuisance Noise Complaint Form’ and Diary Entries ASAP to:

Via Post:

Civic Compliance Department

Mildura Rural City Council

PO Box 105

MILDURA VIC 3500

Email: mrcc@mildura.vic.gov.au

In Person:

108 Madden Avenue, MILDURA VIC 3500

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| N**AME AND ADDRESS OF DIARY-KEEPER****Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |  | **ADDRESS OF NUISANCE NOISE** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Date** | **Start time** | **Finish time** | **Barking for how long?** | **Possible explanation for nuisance noise**(People walking past, weather, other animals, sirens etc.) |
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|  N**AME AND ADDRESS OF DIARY-KEEPER****Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |  | **ADDRESS OF NUISANCE NOISE** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Date** | **Start time** | **Finish time** | **Barking for how long?** | **Possible explanation for nuisance noise**(People walking past, weather, other animals, sirens etc.) |
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| **NAME AND ADDRESS OF DIARY-KEEPER** **Bill SMITH (PERSON MAKING THE COMPLAINT)** **1 Mary Rd, Suburb****Phone Number: 03 5018 ####** |  | **ADDRESS OF NUISANCE NOISE****(ADDRESS OF BARKING DOG)****3 Mary Rd, Suburb** |
| **Date** | **Start time** | **Finish time** | **Barking for how long?** | **Possible explanation for nuisance noise**(People walking past, weather, other animals, sirens etc.) |
| 31/10/18 | 3:00pm | 3:02pm | 2 Minutes | Nobody in street |
| 31/10/18 | 3:10pm | 3:13pm | 3 Minutes | Man walking past |
| 31/10/18 | 3:18pm | 3:18pm | 1 Minutes | Nobody around |
| 31/10/18 | 3:30pm | 3:32pm | 2 Minutes | Children in street |
| 31/10/18 | 4:00pm | 4:05pm | 5 Minutes | Children riding bikes |
| 2/11/18 | 4:20pm | 4:25pm | 5 Minutes | Helicopter overhead |
| 2/11/18 | 4:35pm | 4:38pm | 3 Minutes | Cat on fence |
| 2/11/18 | 4:50pm | 4:56pm | 6 Minutes | Car in area revving engine |
| 2/11/18 | 5:03pm | 5:06pm | 3 Minutes | Neighbours coming home |
| 2/11/18 | 5:13pm | 5:30pm | 17 Minutes | Neighbours in backyard with dog |
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**I confirm the above entries are true and accurate as per my observations.**

**Your Signature: MUST BE SIGNED Date: MUST BE DATED**

**Dear Neighbour,**

I’m writing to advise that we are currently experiencing an ongoing noise disturbance in the neighbourhood due to barking dogs. I believe that your dog may be contributing to this issue.

The Mildura Rural City Council have suggested that as a first step, I should contact you in writing to express my concern, to ensure you are first made aware of the issue and also given the opportunity to rectify the situation.

Enclosed is some information from Council, which may be of assistance to you in resolving problematic barking.

Your co-operation at this stage is all that is required to avoid this matter progressing any further and involving the Council.

Thank you in advance for your understanding and cooperation.

Yours sincerely,

**Neighbour**

**Some simple tips to reduce barking**

* Make sure that you do not reward your dog for barking too much. Don’t let the dog inside or give it attention when it barks. Instead, give the dog attention when it is quiet.
* If the dog is barking at people or noises on the other side of a fence, move the dog to another part of the yard, or put up a barrier to keep the dog away from that area.
* If the dog barks at regular disturbances such as children walking to school or rubbish trucks, keep the dog inside or in an enclosed area at these times.
* If the dog races along a path or fence barking at passing distractions, put barriers or obstacles in the dog’s way to slow it down.
* Ensure that the dog has adequate exercise and obedience training.
* Make sure that the dog has food, water and shelter from the weather.
* If the dog is barking through gaps and cracks in the fence, fill them in.
* If the dog is barking at people it can see passing by, try blocking the dog’s view.
* An anti-barking collar may be useful for some, but not all, barking dogs, contact the local pet store for further information, or speak to your Vet for further information.
* Teach the dog to stop barking on command. When the dog is barking give a firm command such as ‘cease’ and call the dog to you. Praise the dog when it stops barking. If the dog will not listen to you, it will need obedience training.
* Dogs bark when bored so ensure they are occupied at all times. A large raw bone will often help distract your dog.

**Remember, dogs bark for many reasons. If these simple tips do not help you, please seek further advice from your vet or a dog training professional**