



Resolving Animal Related Noise Issues in Your Neighbourhood



This page has been intentionally left blank



Introduction

Pets are an important part of people's lives as they enhance wellbeing through companionship and security. Unfortunately, not all pet owners are aware when their pets' activities are having a negative impact on their neighbours.

This guide has been developed as a tool to resolve concerns between neighbours over animal related issues without immediate Gympie Regional Council intervention. Prevention of these issues by communication within the community can go a long way towards preserving relationships.

It is important to note that Council is not trying to evade its responsibilities in respect of enforcement of its Local Laws however, Council's involvement should be seen as a last resort to resolve a neighbourhood matter as opposed to the initial response.

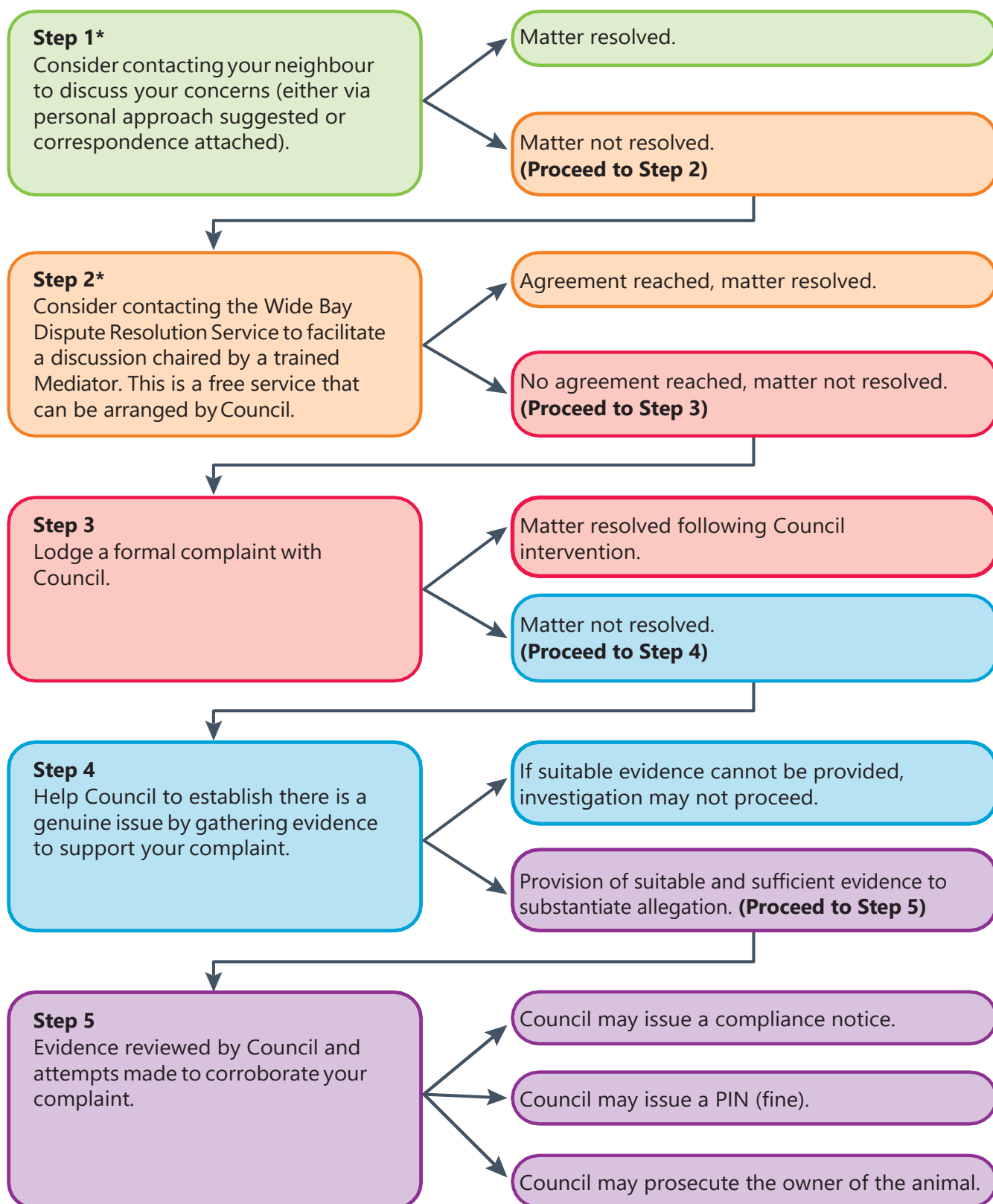
In this document:

'Customer' means the person making the complaint

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

Resolution process

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



Step 1: Contact your neighbour*

Don't assume the animal's owner knows there is a problem. Many pets exhibit unfavourable behaviour while their owner is absent.

Contact your neighbour about the issue. Making contact in person is a good start to a good resolution. If you are not comfortable approaching your neighbour, you can drop the letter contained in this pack into their mailbox.

Introduce yourself to your neighbour and their pet, particularly if they, or you, are new to the neighbourhood. This may alleviate possible issues with their pets and make any conflict resolution easier.

Work on what you can change and not what you can't.

Remain positive and respectful while dealing with your neighbour.

Step 2: Facilitated discussion*

If you have attempted talking to your neighbour and this has not worked or the situation has deteriorated too far, mediation facilitated by the Queensland Government Wide Bay Dispute Resolution Centre may help.

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 or alternatively Council can arrange this on your behalf. The contact details for the Wide Bay Dispute Resolution Centre appear below.

Phone (07) 3738 7000 or 1800 017 288 (toll free outside Brisbane)
Email: drc.wb@justice.qld.gov.au
Postal address: PO Box 3340, Hervey Bay DC QLD 4655
Address: Level 1, Brendan Hansen Building, 50-54 Main Street, Pialba QLD 4655
Operating hours: Monday – Friday, 9:00am – 4:30pm

If you require assistance in arranging mediation, please contact Council's Regulatory Services Branch on 1300 307 800.

NOTE: If circumstances suggest that Steps 1 and 2 are not viable options, as per Step 3, residents may lodge a formal complaint with Council.

Step 3: Lodge a formal complaint with Council

Should you wish to lodge a complaint with Council, it is preferred that this complaint is lodged in writing providing as much detail as possible to enable Council to investigate further. For your assistance, Council has included a formal complaint form in this package. Council will investigate formal complaints as received.

Should you choose to lodge a complaint anonymously, please note that whilst the complaint will be recorded, your complaint may not be actioned depending upon the level of information provided.

Further, if a complaint has been recorded anonymously on Council's database, due to privacy reasons Council cannot provide information in respect of whether or not an investigation into the matter has been undertaken or any other updates, even if you were the original customer.

Usually, correspondence of a general nature advising of the concerns and suggested actions will be sent to the animal owner when a complaint has been received. Correspondence is also usually issued to the customer advising that the concerns will be or have been investigated.

Please note that Council is committed to the privacy principles of 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.

Step 4: Gather evidence

If Council's initial intervention does not achieve the desired outcome, you will be required to gather sufficient evidence of a suitable quality and submit same for Council's consideration prior to any further action being taken.

Please see the Evidence Gathering attachment for information.

Step 5: Action by Council

If there is sufficient evidence of a suitable quality provided to Council and Council can corroborate your complaint, potential action that may be taken includes:

- issue of a Compliance Notice pursuant to Council's Local Law and/or a Direction Notice under the *Environmental Protection Act 1994*; and/or
- issue of Penalty Infringement Notice (fine); and/or
- prosecute the owner of the animal in Gympie Magistrates Court.

Please note that in respect of prosecuting the owner of the subject animal, this action is usually not 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.

Formal Complaint – CRM# _____

Animal Noise Nuisance – Complaint Information

I,(full name)

of(address)

in the State of Queensland, declare that I wish to lodge a formal complaint with Gympie Regional Council in relation to an animal 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.

Information required	Details
Animal Details (dog details, number of dogs, breed, colouring, name etc.).	
Address where animal is kept including approximate distance from the general location of the noise to your residence.	
Times of the day or night the animal noise nuisance is occurring.	

Information required	Details
Frequency, duration and intensity of the animal noise nuisance at those times.	
Details of how the animal noise nuisance is unreasonably interfering with the amenity and enjoyment of your premises.	
Details of any steps you have taken already to address the issue with the owner of the animal.	
Provide any further information you wish Council to consider in relation to your complaint.	



Attach any diagrams or photographs to illustrate the general location of the animal noise in relation to your residence.

By lodging this formal complaint with Gympie Regional Council I acknowledge:

- i) I may be requested to submit audio, visual evidence to Gympie Regional Council to substantiate any complaint for this matter to be progressed further.
- ii) 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) Council may 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 by conducting surveillance of the area, Council may not be in a position to take further action in relation to the matter.
- iv) I am prepared to act as a witness in any legal action instigated by Council against the owner of the subject animal. I am prepared to attend a Magistrate Court to do so.

Signature: Date:

Contact Telephone Number:

Email:

Evidence Gathering

Why evidence is required

Before Council can take enforcement action against the owner of an animal for causing a noise nuisance, Council must be satisfied there is sufficient evidence to determine that:

- the noise is coming from a particular property, rather than various animals at different properties; and
- the nature, frequency, duration and intensity of the noise coming from a particular property is such that a reasonable person would genuinely hold the view that the noise constitutes a nuisance.

Animal noise can amount to a nuisance if it is unreasonably interfering with the quality and enjoyment of a neighbour's property. For example, a dog's barking may cause a noise nuisance if it's barking disrupts or inhibits activity normally ordinarily carried out on residential premises including:

- sleeping;
- holding a conversation;
- watching television;
- listening to the radio or other recorded material; or
- reading and other quiet recreation.

Before Council will make a decision to commence action against an animal owner for noise nuisance, Council must be satisfied that there is sufficient evidence to be confident that a Magistrate will make a finding that the offence is proven beyond a reasonable doubt.

Council must further be able to corroborate your complaint and may do so by conducting a survey of other residents in the area. If Council cannot corroborate your complaint by an independent neighbour or by a Council Officer undertaking surveillance of the area, Council may not be in a position to take further action against the owner of the animal making the noise.

What evidence should I provide?

The best evidence that can be obtained is evidence from an affected person which provides details of the frequency, duration and intensity of the barking coming from a particular property. This evidence ideally will include the following.

Audio visual recordings

The key points to note are:

- It is not necessary to record hours of noise but recordings must be of a length reasonable enough to establish that the noise is causing a nuisance. It is sufficient if the recording can establish, having regard to the location of the recording device and the animal, that the noise is unreasonably interfering with the quality and enjoyment of your premises.
- Recordings taken from inside of your house are likely to be of more importance than recordings made from your garden.
- Audio visual recordings should be accompanied by details of the time that the recording was made and a diagram or plan showing the location of the animal in relation to your residence, including distances as accurately as possible.
- It is important that the animal is recorded without the animal being aware of your presence so that it is not being provoked or prompted to the noise.

Completing an Animal Noise Log

Upon request, Council will provide you with an Animal Noise Log. This is a document in which you record information about the time and frequency of noise nuisance. The key points to note are:

- The more detailed the information, the better.
- The log should be maintained for a minimum period of one (1) week and up to a maximum period of one (1) month.
- The log should be detailed enough to be presentable as supporting documentation to other verifiable evidence such as audio, visual recordings and statements of evidence.

Providing a witness statement

A statement is an extremely important piece of evidence. It is an opportunity for you to set out clearly how the noise nuisance affects your life and how it interferes with your daily activities.

The provision of a witness statement from you will generally mean that Council has stronger prospects of successfully taking enforcement action against the animal owner for noise nuisance than if you do not provide a statement.

The statement will need to include such information as:

- a description of the animal(s) such as breed, colouring and markings and its name;
- the approximate distance from where the animal is to your residence, including the rooms affected in particular;
- times of the day or night the animal is making noise and the frequency of the noise at those times;
- details of how the animal noise is unreasonably disrupting or inhibiting the activities you ordinarily carry out in your residence and on your land;
- identifying the times and locations of the audio and/or video recordings taken and details of the audio and/or video equipment used; and
- any other matters you consider relevant to your complaint.

A Council Officer will obtain this statement from you as part of the investigation.

Important Note: Severe penalties (including imprisonment) apply for making false or misleading statements.

In addition, it will be easier for Council to be satisfied that an animal is causing a noise nuisance if Council also has evidence from other adjoining or neighbouring residents. This will corroborate and strengthen the evidence overall.

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's Role

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:

- i) an unlawful noise nuisance is occurring, and
- ii) it will likely be successful in prosecuting the animal owner; and
- iii) it is in the interest of the community to spend public money on the action.

Council will undertake certain investigations to verify and corroborate complaints where it is able to do so.

If a complaint is made, but the person making the complaint is unwilling to assist in providing the evidence discussed above, then Council is unlikely to be in a position where it is able to progress the matter further.

Resolution of complaints will be dependent on the quality of the evidence obtained during the investigation and for animal noise nuisance's corroboration of the complaint.

Dear Resident

You may not notice or know your dog is doing this, but your dog is currently causing a noise nuisance in the neighbourhood by barking excessively.

I am giving you this letter in the hope that you will seek training/ways of changing your dog's behaviour.

I will wait a while to see if anything changes before I make a complaint to Council as I am not trying to be a difficult neighbour, however it has genuinely become a problem for us that is disrupting our daily lives.

You may wish to consider contacting an animal behaviourist for special advice to control your dog's barking.

Thank you in advance for trying to find a solution to this problem.

Regards

A Concerned Resident