

Dog barking



How to deal with the problem

You have contacted the Council because noise from a neighbour's dog barking or noise from another type of animal in their care is giving you cause for concern.*

*Throughout this guidance leaflet we will talk about noise from dog barking but this advice may also apply to other annoying or dangerous creatures which are under control of another person and which give rise to annoyance such as noise from geese or other domesticated birds.

YOU MAY WISH TO TRY AND REMEDY THIS PROBLEM BY ONE OF THE METHODS LISTED BELOW:

 **Talking to your neighbour** calmly to advise them that noise from their dog barking is concerning you. Many people who contact the council with regard to dog barking are uncomfortable with doing this, as they do not want to fall out with their neighbour or for their neighbour to know that they are complaining. However, by speaking to the dog owner, the matter can be brought to their attention and addressed, without the dog owner feeling that they have been complained about to the authorities. For a number of reasons, it may not be possible for to speak to your neighbour. If this is the case, you may wish to put your complaint to them in writing, in polite terms, pointing out that the dog barking is causing annoyance and asking them to takes appropriate action. It is good practice to keep copies of correspondence for future reference.

If you would like some help to approach your neighbour about this issue, our Anti Social Response Advisors can offer mediation for neighbour disputes. They can be contacted on 0300 123 1382.



 **Formal action under the Civic Government (Scotland) Act 1982.** Section 49 allows aggrieved individuals to apply to the Justice of the Peace Court to make an order requiring the owner of any creature, causing annoyance to take steps to prevent this occurrence. This application is by way of a Petition to the court and a hearing takes place in which you will be required to present your case in court before a Justice of the Peace. If, after the hearing, the Court is satisfied that, by barking, the dog is giving you reasonable cause for annoyance, the court may make an order requiring the person keeping the dog to take such steps to prevent the annoyance from continuing. To take such an action, you will require to prepare a Petition and serve it on the owner / keeper of the dog. Contained within this pack are details of how to prepare a Petition, including a sample form for guidance, and helpful hints and tips about evidence you may provide in court to support your case. In addition, blank forms which you can use to submit a Petition to the Justice of the Peace Court are included.

If you wish this assistance please telephone 01236 856300 or contact us on line at www.northlanarkshire.gov.uk

SAMPLE

Form of Petition

FORM 32.2

Form of application under section 49 of the Civic Government (Scotland) Act, 1982

IN THE JUSTICE OF THE PEACE COURT OF SOUTH STRATHCLYDE/ DUMFRIES AND GALLOWAY

Application under section 49 of the Civic Government (Scotland) Act, 1982

By (here insert the name of the complainer's name and address)

Mr John Smith, 10 High Street, Cumbernauld

From (here insert the respondent or dog owners name and address)

Mr Joe Bloggs, 14 High Street, Cumbernauld

HUMBLEY SHEWETH:

1. That the complainer is resident at (complainers address)

10 High Street, Cumbernauld

2. That the respondent occupies at premises at

14 High Street, Cumbernauld

being in the vicinity of (complainers address)

3. That at those premises (respondent's name)

Mr Joseph Bloggs

Keeps (identify the creature and the circumstance in which it is kept)

A Doberman pincher, named Kyle, in a kennel, with a run, in his back garden.

4. Describe in detail one or more paragraphs the circumstance in which it is alleged the creature is causing annoyance.

The dog barks continually during the day while Mr Bloggs is at work and there is no one at home. Because it is in the garden and can see passers by it barks every time someone passes the garden. We are on a busy road and there are lots of people passing our homes which leads to lots of barking. Tyhis problem is also causing some of my other neighbours cause for concern.

5. MAY IT THEREFORE please the court to order service of a copy of this application on the said (respondent's name)

Mr Joseph Bloggs

6. to fix a date for the hearing of this application no earlier that 14 days after such service; and thereafter to make an order on (respondent's name)

Mr Joseph Bloggs

to take within such period as may be specified in the order such steps (short of destruction of the creature) as may be so specified to prevent the continuation of the annoyance.

IN RESPECT WHERE OF (signature of applicant)

John Smith

Form of Petition



FORM 32.2

Form of application under section 49 of the Civic Government (Scotland) Act, 1982

IN THE JUSTICE OF THE PEACE COURT OF SOUTH STRATHCLYDE/ DUMFRIES AND GALLOWAY

Application under section 49 of the Civic Government (Scotland) Act, 1982

By (here insert the name of the complainer's name and address)

From (here insert the respondent or dog owners name and address)

HUMBLEY SHEWETH:

1. That the complainer is resident at (complainers address)

2. That the respondent occupies at premises at

being in the vicinity of (complainers address)

3. That at those premises (respondent's name)

Keeps (identify the creature and the circumstance in which it is kept)

4. Describe in detail one or more paragraphs the circumstance in which it is alleged the creature is causing annoyance.

5. MAY IT THEREFORE please the court to order service of a copy of this application on the said (respondent's name)

6. to fix a date for the hearing of this application no earlier that 14 days after such service; and thereafter to make an order on (respondent's name)

to take within such period as may be specified in the order such steps (short of destruction of the creature) as may be so specified to prevent the continuation of the annoyance.

IN RESPECT WHERE OF (signature of applicant)

Guidance Notes

This guidance is designed to help you complete a Petition to the Justice of the Peace court in respect of Section 49 of the Civic Government (Scotland) Act 1982. The form of petition uses some necessary legal language. To help you understand all aspects of the form the following words are explained below:

The Complainer described in the form is you.

The Respondent is the person about whom you are complaining i.e. the owner or the keeper of the dog.

Premises in this petition, refers to the home address of the dog owner.

Your task in preparing the petition and presenting it to the Justice of the Peace Court is to prove to the Justice that the dog in question is causing you annoyance. Section 4 of the Petition form enables you to give the details of the circumstances which are causing annoyance. You are not required to use the proforma provided in this pack but your Petition must follow this layout. For legal reasons all information in section 4 must come before section 5. If you have a lot of information that will not fit into the allocated space in section 4 you may note that this section is continued on a separate sheet and attach this to the form providing these details

You should then make a copy of your Petition and send the original to the Clerk of the Court, Justice of the Peace Court. The addresses for the relevant Courts are given below:

For Cumbernauld, Kilsyth, Coatbridge and Airdrie areas Airdrie Sherriff Court, Graham St, Airdrie, North Lanarkshire ML6 6AB. Telephone 01236 751121

For Bellshill, Harthill, Shotts, Motherwell and Wishaw areas Hamilton Sherriff Court, 4 Beckford Street, Hamilton, ML3 0BT. Telephone 0300 790 0035.

To give you a chance to see what a completed Petition form will look like a sample form has been included in the pack where a fictitious Petition is being made by a Mr John Smith against a Mr Joseph Bloggs.

What happens when I have submitted my form to the justice of the peace court?

The court will notify you when a date and time has been set for your hearing. It will advise that you will require to attend the hearing to present your case. If you intend to provide witnesses to support your petition then they must be present in court for that date and time. It may be that the hearing will not proceed on that day due to legal processes and you may be asked to return at a date when all the legal requirements have been completed.

The Court Will Provide You With

- A. An Order of Court Fixing a Hearing. You should make a copy of this Order for your own records.
- B. A Citation for the respondent requiring them to attend court.

You must:

1. Complete the citation by filling in the name of the respondent, the date and signing it.
2. Send the completed citation; together with the Order; and a copy of your petition

These must be sent to the respondent at least 14 days before the hearing date by recorded delivery and first class post in the court envelope provided. This ensures that, the Post Office will return the documentation directly to the Court if undelivered.

When you have done this, you will require to return your original petition to the court with the recorded delivery slip, which proves that you have posted the order, petition and citation to the respondent. This recorded delivery slip should be attached firmly to the citation. These documents should be returned to the court either by recorded delivery and first class post or in person, by you.

N.B. before doing this it is a good idea to keep a copy of all these documents for your own records.

You should note that:

-  Any party involved in this procedure may consult or be represented by a Solicitor. This will probably involve expenses to that party as LEGAL AID WILL NOT BE GRANTED.
-  The courts can not award expenses to either party.
-  There is no right of appeal from the decision of the Court in respect of the petition.

Should the Court find in your favour and grant an Order against the respondent with which he/she then fails to comply, the respondent will be prosecuted and if convicted, may be fined up to £1000.

What Evidence Can I Present In Court

Witnesses e.g. neighbours, visitors to your home who can give details of the level, times and duration of dog barking.

-  Video evidence
-  Audio recordings
-  Reports prepared by Authorised Officers from Pollution Control
-  A diary of dog barking. This should include the date, time and duration of the barking and how it affects you. You may wish to use the dog barking diary included in this pack to record these details.

Dog barking Diary

Address:

[illegible]



Is your dog barking too much?

It's normal and natural for dogs to bark. But when barking happens a lot, or goes on for a long time, it can be annoying and upsetting for your neighbours. If you're out a lot, or you're used to the noise, you might not realise just how bad it is. This leaflet is designed to help you work with your neighbours to sort out any problems caused by your dog barking without having to involve the authorities. It will also help you to understand why your dog barks, and tell you about some practical steps you can take to stop or cut down the barking.

Research into noise issues shows that problems are most likely to be solved when people discuss things calmly and work out a solution between them. If you can't do this, the council may have to get involved and you could face some serious penalties.

Talking it over

If the noise your dog is making is upsetting your neighbours, the first step is to talk things over with them. Stay calm, and try to see it for their point of view: perhaps they're working shifts, or have got a baby or small children. Bear in mind that they might be worried about whether the dog is ok and remember, you might not know how serious the problem is if your dog is barking more when your not at home.

Understanding the problem

Ask your neighbour to tell you exactly when your dog is barking, and for how long. If you're out a lot, ask them to note down the times when the barking happens. If you're in, make a note yourself. Think about using a web cam or video camera to find out what your dog is doing when you're not there, or try as "set up" – pretend you're going out for the day, then wait outside the door to see what your dog does. If it starts barking and howling, go back in and tell it firmly to be quiet. Punishing your dog will only make things worse.

Working out what is causing your dog to bark

is the key to finding the correct solution which will work for you and your dog. Possible cause may be boredom, loneliness, lack of exercise, lack of stimulation, hearing and seeing people passing by your home. Remember too that stopping your dog barking means changing their behaviour. This takes time and requires patience and persistence.

First steps

There are some simple steps you can take straight away to cut down the amount of noise your dog is making. This will help calm the situation between you and your neighbours, and give you time to work out why your dog is barking.

-  If your dog barks at things outside in your yard or garden, don't let it go outside on its own. Keep it away from windows, so it can't see people or other animals.
-  If your dog barks at the same time every day, for instance when people in the house are going to work or school, try to keep it busy at that time. For example, you could take it for a walk.
-  Try to keep your dog calm. If it barks when it's excited, don't play with it at anti-social times such as very late at night.
-  If your dog's barking and you're in a flat or semi, try to keep it away from any walls you share with your neighbours.
-  Don't let your dog outside if it barks to be let in.
-  See if you can get a friend or relative to look after your dog when you go out, or take it with you.
-  Make sure your dog gets some exercise before you go out. A tired dog barks less.

Longer term solutions

Some general rules

Be consistent. Every time our dog is quiet when it would normally have barked, praise it or give it a treat. When it barks, tell it firmly to be quiet.

You also need to remember that your dog is part of the family. If it only barks when you leave, bring it inside. Leave some toys or chews, and put the radio on quietly. If your dog is distressed, keep it inside with you whenever you're at home – dogs are pack animals and they need company.

Tackling specific problems

Problem: Your dog is clingy, and howls or whines when left alone

Solution: A vet, animal behaviourist or animal welfare officer may be able to tell you how to help your dog get used to being on its own.

Problem: Your dog is frightened. It may look scared (ears back, tail low) have trouble settling or keep trying to hide.

Solution: If your dog likes hiding, make a den for it. If it is scared of noise, mask it by putting the radio on quietly. If it is frightened of other people or animals, shut the curtains or doors. Think about talking to a vet, animal behaviourist or animal welfare officer.

Problem: Your dog guards his territory by barking at people, animals or cars.

Solution: Keep your dog away from the front of the house or flat. Screen your windows. If it starts barking outside, call it in straight away. You could ask a vet, animal behaviourist or animal welfare officer about behaviour therapy.

Problem: Your dog is barking to get attention.

Solution: Look at your dog, then look away to show you are not going to respond. Don't give it any attention – or anything else – whilst it is barking. Try deliberately ignoring it for 20-30 minutes two or three times a day, and get everyone in the house to do the same. Doing this for 15 minutes before you go out can help stop your dog barking when you leave. A vet, animal behaviourist or animal welfare officer may be able to give you advice.

Problem: You went out without taking your dog for a walk, and its barking through frustration.

Solution: Wear different clothes for walking your dog. Leave your dog's lead where it can see it. So that if you're leaving without taking the lead the dog will know that it is not going with you.

What not to do

- 🐾 Don't punish your dog. It might mistake it for attention, and it could also make it more anxious.
- 🐾 Don't use mechanical devices – like anti-bark collars – it could make the dog even more anxious
- 🐾 Don't get a second dog unless you are sure it is going to make your dog feel more secure, not less.

Keep your neighbours informed about what you're doing to stop the barking – by doing this they will know that you are taking their concerns seriously.

If the problem doesn't get resolved

If you don't take steps to solve the problem, and your local authority receives complaints about the noise your dog is making it can advise your neighbour to apply to the Justice of the Peace Court under the Civic Government (Scotland) Act 1982 asking the court to place an order on you requiring you to reduce the noise from your dog barking. If, when granted, you fail to keep your dog quiet you will be liable to a fine, on conviction, of up to £1000.

