

# Barking dog procedures

Malcolm Bennett

## INTRODUCTION

Barking dogs is definitely not a new problem for Councils, however, recent publicity has ensured that the matter maintains a high profile in the public arena. Whilst community education has ensured that the general public is better informed in these matters it also identifies that people are perhaps less tolerant of nuisance dogs.

For dog owners education is ongoing, with many owners attending socialisation and training classes with their new pups. Rangers work closely with animal behaviourists, veterinarians and training groups, particularly in areas such as barking and nuisance dogs.

Resolving barking issues to the satisfaction of all parties remains a problem for many local councils given that barking is very subjective with many interpretations as to what constitutes a nuisance. The degree of annoyance can vary with the location of the dog, and the tolerance of the complainant. It is extremely difficult to collect reliable consistent evidence relating to the frequency and loudness of a dog's barking, unless you are the person directly affected. Such a complaint may in some cases, be just one aspect of a neighbourly dispute. It must be stressed to the complainants that the standard of evidence submitted is a true and accurate account of the times and duration of the alleged nuisance.

Dog owners are seldom bothered by their own dog's barking and are often unaware that their dog is causing a nuisance to neighbours. Some dog owners find it difficult to accept that their dog barks excessively. This may be because the dog only barks when the owners are out and stops when they return home or decreases barking to a more acceptable level.

Over the years the definition of a 'nuisance' has been cause for concern for Rangers and dog owners alike: 'what is a nuisance', 'when can I serve an abatement notice', 'how many complaints do I need', and so on.

The Western Australian Dog Act 1976 states:

### Nuisance

38(1)] A dog shall not be a nuisance either of itself or together with other dogs, whether or not in the same ownership.

38(1)(a) Where it is shown that a dog is a nuisance in contravention of subsection (1) the occupier of the premises where the dog is ordinarily kept or ordinarily permitted to live, commits an offence against that subsection unless he proves that he took all reasonable precautions and exercised all due diligence to avoid the contravention.

Penalty: \$2000, where the dog is a dangerous dog \$4000.

Daily Penalty: \$200, where the dog is a dangerous dog \$400.

38(2) A dog shall be taken to be a nuisance for the purposes of this section if:

(a) it is injurious or dangerous to the health of any person,

(b) it creates a noise, by barking or otherwise, which persistently occurs or continues to a degree or extent not normally habitual in dogs and has a disturbing effect on the state of reasonable physical, mental, or social well-being of a person; or

(c) it is shown to be allowed to behave consistently in a manner contrary to the general interest of the community, but not otherwise.

38(3) Where 3 persons, of whom at least 2 occupy different premises, are prepared to sign and do sign a complaint in the prescribed form alleging the existence of a nuisance created by a dog, the local government may serve on the occupier of the premises in which that dog is kept, a notice requiring him to abate the nuisance within 14 days, and if the nuisance is not so abated the local government may institute proceedings for an offence against subsection (1).

*(Section 38, amended by No. 23 of 1987's 31; No. 14 of 1996 S.4; No. 24 of 1996 S.16)*

The above were some of the issues recognised through the Joint Metropolitan Animal Control Committee (JMACC) at their quarterly meetings when Rangers raised their concerns in relation to resolving nuisance complaints.

The formulation of lobby groups across the Perth Metropolitan area, calling for changes to the Western Australian Dog Act 1976, in particular section 38 relating to nuisance barking, has raised the profile of barking dogs and the perceived lack of action by the local Council. The committee identified a need to assess the processes that Councils were using to investigate barking dog complaints.

At the May 2001 JMACC meeting a sub committee was formed and charged to investigate the existing procedures presently in use with the aim of developing a more uniform procedure for adoption by all metropolitan Councils' for the investigation of such complaints.

Whilst it was identified Councils' were investigating nuisance complaints, the sub committee found that there were differing standards and inconsistencies in the procedures adopted for the investigation of the complaints, ranging from the basic interpretation of the Dog Act down to and including, the advice complainants were being given.

Many complaints were kept open for far too long, with no finalisation, no cut off period. It was apparent Rangers were not prepared to make the decision 'just in case' there was a re-occurrence of the nuisance.

The aim of the sub committee was to develop a uniform procedure with clear guidelines.

The guidelines adopted were to:

- investigate nuisance complaints,
- educate customers of the need for good evidence,
- educate customers of the need for accurate and timely diaries; ie first seven days,
- provide the dog owner with accurate information as to when the dog is alleged to be causing a nuisance,
- provide the dog owner with avenues for professional remedial advice if appropriate,
- offer practical advice to the dog owner in resolving the problem,
- give the investigating officer complete ownership of the task,
- finalise the complaint in writing to the satisfaction of all parties within an acceptable timeframe.

The sub committee developed a procedure that it believed would be beneficial to Rangers investigating nuisance complaints.

It was moved at the November 2001 meeting that the procedure be trialed for a period of six months, with a three month update presented to the February 2002 meeting of JMACC. It was resolved that the Cities of Gosnells, Nedlands and Swan use the procedure for this trial period.

The City of Gosnells provides the following information:

The procedure was given to the Ranger services staff for implementation on the 26 November 2001 with the clear instruction that the procedure was to replace any existing procedures for the investigation of barking dogs, for a period of no less than six months.

The initial response from Rangers was one of negativity, in particular the perception that the procedure was cumbersome and lengthy. As the trial process commenced this was to prove unfounded, in fact to the contrary. The staff reported at the fortnightly team meetings that they were finding the process a valuable education tool in respect to the complaint kit, to the customer/complainant, and the letter to the customer/dog owner.

All letters in the procedure may be modified accordingly to suit the needs of an individual Council. However it is recommended that alterations be kept to a minimum in the interests of uniformity.

#### **Statistics 26 November 2001 to 26 November 2002**

- **301** kits were sent out in response to complaints received,
- **300** of which were finalised in line with phase one of the process,
- **236** of which were finalised **within 2 to 4 weeks** of the date the complaint kit was posted,
- **15** repeat complaints from the process pre November 2001 dealt with under the new process, (some of these are attributed to a serial complainer)

- **12** of which were finalised in line with phase one of the new process,
- **2** show cause letters were issued (in line with phase three). A prosecution followed on one of the complaints whereby the dog owner entered a guilty plea. The second was resolved by the dog owner accepting the evidence provided and engaging an agency to assist in the training of the dog with the complainants co-operation.

### **Education**

The complaint kit sent to the customer/complainant and the letter to the customer/dog owner, letters 1 and 2, have proven to be an educational asset in as much that the information sent to both parties is informative with regard to legislation and advisory with regard to suggested avenues to seek advice.

Rangers have identified that once the respective letters are received it creates a positive line of communication, in particular, inviting either party to contact the investigating officer for advice or clarification.

The initial correspondence quotes a service request number and the name of the case officer. This has proven to be a positive initiative in that the customers have direct contact with the investigating officer. The officer has ownership of the individual task from beginning to end. It was found that, providing the person taking the initial call explained the requirements of the process, highlighting the need for accurate diarised evidence, the customer/complainant felt positive at the prospect of achieving a satisfactory outcome.

### **Vexatious complaints**

A reduction in the amount of vexatious complaints became evident during the trial period, this was attributed to the customer/complainant having to be more accountable, as the procedure requires them to provide accurate information to enable the case officer to advise the customer/dog owner of the allegations.

### **Feedback**

Customer feedback has been positive, customers appreciate the advice provided in the initial letters whether it be legislative requirements or advice on animal behaviourists. Any negative comments have been attributed to persons not wishing to provide the necessary evidence and in certain cases a 'tit for tat' complaint of a vexatious nature.

### **SUMMARY**

The procedure has proven to be a valuable tool in the City of Gosnells. Our customer feedback has been positive, officers feel confident in that they have a procedure that clearly outlines the stages and they can keep the customer informed stage by stage.

The procedure offers:

- clear transparent guidelines for officers in dealing with barking dog issues,
- an educational aid for complainants and dog owners.

Through our continuous improvement processes it is intended to further develop the complaint kits to more of an information/education kit.

The issue of dealing with barking dogs has been a matter of concern for Rangers for many years, this is supported by the amount of confusion displayed by Rangers, with regard to the interpretation of certain aspects of the Dog Act 1976. As a result of this, a sub-committee of JMACC was formed with the specific task to research and report on the methodology used by individual Council's in the barking dog matters.

It is common knowledge within the industry that individual Council's and officers have, over the years interpreted the Act to suit their individual policies and procedures. These various interpretations have served to confuse the customer and Rangers alike.

Customers are better educated now which may be attributed to Council's adopting a more consistent process of dealing with these issues. For those officers who have been in the industry for many years it has been another step in the learning curve in embracing legislation and its various interpretations.

The process was recognised for a best practice award at the 2002 West Australian Local Government Awards presentation evening, with an award being presented to the three Council's instrumental in the formulation of the process, the City of Gosnells, the City of Nedlands and the City of Swan.

This was also seen as an example of Councils working together for the benefit of the community.

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Mal Bennett moved to WA in 1983 and commenced employment as a Quarantine Officer at the Animal Quarantine Station Byford. In 1985 he started his career as a Ranger, during which time he has experienced the majority of tasks required of a modern day Ranger. He has been able to utilise and adapt his people and animal skills gained from his years as a lecturer in equine management and as a Nationally Accredited Equestrian Coach to the Rangers role successfully. As the Co-ordinator of Ranger Services at the City of Gosnells Perth Western Australia, Mal is responsible for a team of 5 Rangers and an Admin Officer. The City is situated 18 kilometres south of the Perth CBD and is the fifth largest local authority by population in Western Australia and covers an area of 127 square kilometres. With a population of 86,000 which is authoritatively projected to increase by 25% over the next 5 years, the City is one of the fastest growing in Australia .