

10 January 2020



Dear 

I refer to your e-mail of 4 December 2019 requesting information about Council's enforcement of the Dog Control Act, and about stationary and moving vehicle offences under the Land Transport Act Road User Rules and associated legislation.

Responses to your request are provided below.

Dog Barking.

1. What criteria does the Council and/or its Animal Management Officers, dog control officers or dog rangers use to decide whether or not the barking of any dog is loud?

As per the Dog Control Act 1996, officers must have reasonable grounds to believe that the barking constitutes being a nuisance, created by persistent loud barking or howling. We make that assessment based on complaints received, undertaking a neighbourhood canvas, and/or use of a bark record diary or a barking recording device. This information allows the investigating officer to better determine whether the barking constitutes being a nuisance.

2. What criteria does the Council and/or its Animal Management Officers, dog control officers or dog rangers use to decide whether or not the barking of any dog is persistent?

As for question 1. above.

3. What criteria does the Council and/or its Animal Management Officers, dog control officers or dog rangers use to decide whether or not the barking of any dog is creating a nuisance pursuant to Section 55(1) Dog Control Act 1996?

As for question 1. above.

4. What criteria does the Council and/or its Animal Management Officers, dog control officers or dog rangers use when deciding whether or not to issue an abatement notice pursuant to Section 55(1)(b) Dog Control Act 1996?

Our officers have set guidelines that assist them in determining whether the issuance of an abatement notice is warranted. Those guidelines are attached for your information.

5. What criteria does the Council and/or its Animal Management Officers, dog control officers or dog rangers use when deciding whether or not to issue an infringement notice or commence a prosecution for any offence related to dogs?

Please refer to the guidelines attached.

6. Does the Council require that evidence used to justify enforcement action arising from a barking dog complaint, be collected by a staff member of or contractor to the Council, rather than provided by a complainant?

Council does not require that the evidence be collected by staff members/contractors but an officers independent finding is preferable to that of a complainant.

7. Does the Council require evidence from a bark recording device prior to issuance of an abatement notice or removal of a dog pursuant to Section 55 Dog Control Act 1996?

While Council does not require evidence from a bark recording device, independent evidence provided from a bark recording device tends to be more conclusive than that of the complainant, a signed statement from a complainant is sufficient.

8. Does the Council have a policy governing how its response to repeated barking complaints about a particular address is escalated (e.g. education after first complaint, warning after second, bark recording after third, etc)? If so, please provide details of that policy.

Please refer to the guidelines attached

9. Please provide details of any policies governing the Council's response to barking dog complaints – investigation, enforcement, abatement notices, removal of dog, bark recording, bark surveys, infringement notices, prosecution, identification of non-compliant owners, escalation of enforcement following repeated complaints. If those policies are documented in writing, please provide a copy of such.

Please refer to the guidelines attached.

10. For each of the years 2015, 2016, 2017 and 2018:

◦ How many barking complaints were received by the Council in that year?

2015 (890)

2016 (859)

2017 (879)

2018 (876)

◦ On how many occasions in that year was it determined pursuant to Section 55(1) Dog Control Act 1996 that a nuisance had been created by the persistent and loud barking or howling of any dog?

◦ On how many occasions in that year was a bark recording device used?

◦ On how many occasions in that year was an abatement notice issued pursuant to Section 55(1)(b) Dog Control Act 1996?

Your request for this information is declined under section 17(f) of LGOIMA that the information requested cannot be made available without substantial collation or research.

Our systems do not hold this information in a format that will easily allow us to provide it to you. The only way this information could be provided is to read through each of the 3,504 complaint's file notes individually.

◦ On how many occasions in that year was an infringement notice issued pursuant to Section 55(7) Dog Control Act 1996?

None

Enforcement of Stationary Vehicle Offences

11. What evidence does the Council require before issuing a stationary vehicle infringement (e.g. a parking ticket) in respect of a vehicle?

That there is sufficient evidence to indicate an offence has occurred. Evidence may include that the vehicle has been parked for a period of time exceeding the maximum stay period eg pay and display and restricted parking. In the case of an unlicensed vehicle, that the license label indicates it is expired, and a vehicle registration check confirms that the licence label has expired and there are no exemptions.

12. Does the Council require the evidence be collected by a parking officer rather than being supplied by a member of the public? If so, what are the reasons for that policy?

All evidence supporting an offence must be obtained by the officer.

13. What is the Council's policy pertaining to reliance on photographs and/or videos provided by members of the public as evidence to substantiate that a stationary vehicle offence was committed?

Photographic or Video evidence provided by a 3rd party is not used when issuing Infringements.

14. For the purposes of evaluating evidence in support of a stationary vehicle infringement, does the Council consider a photograph of the vehicle clearly showing its registration plates to be sufficient evidence of the identity of the vehicle, or is there a requirement for further details (such as VIN) to be collected?

A photograph taken by a parking officer of the registration plate on a vehicle is sufficient as long as that plate matches the physical description of the vehicle.

15. Does the Council issue moving vehicle infringements, for example for illegal use of a bus lane or violation of a multiple occupancy restriction? If so, what evidence is gathered by the Council to prove the identity of the offending vehicle and by whom is it gathered?

No, Council does not issue moving vehicle infringements. This is a police matter.

16. Please provide details of any policies and procedures for collection of evidence and issuance of infringements in respect of both stationary and moving vehicle offences.

Council do not issue moving vehicle infringements. Parking Officer Guidelines are attached.

17. Does the Council store evidence gathered in respect of stationary or moving vehicle offences under chain of custody procedures? If so, please provide details of those procedures and how the

Council can prove that evidence such as photographs have not been altered between the time of the offence and the time evidence is presented in court.

Evidence is stored electronically and securely in a software programme called TicketOr. Body worn camera footage to be used in a prosecution is stored securely for seven years in accordance with the storage of evidence legislation requirements.

As some information requested has been declined you are advised that you have the right to seek a review of this decision by the office of the Ombudsman.

Regards

A handwritten signature in blue ink, appearing to read 'N. Savigny', with a stylized, cursive script.

Natalie Savigny

Governance Support Officer