

Form of Petition

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 continue 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 Court is:

Justice of the Peace Court
St. James Street
Paisley
PA3 2HW

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 cannot 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 the Community Safety Office.
- 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.