

# NOISE CONTROL POLICY

Effective from 28 October 2015

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## Purpose

The purpose of this policy is to:

- Define Council's policy towards noise control in order to reduce the increasing trend of noise complaints.

Ensure that Council's noise control responsibilities are discharged in a manner that is fair, transparent and legally defensible.

## Scope

This policy applies to all Council staff and staff of Contractors employed to undertake noise control duties.

## Definitions

**District Plan** means the Invercargill City District Plan.

**Enforcement Officer** means a Council employee or an employee of a Contractor to whom a warrant of appointment has been issued by the Council.

**Excessive noise** means excessive noise as defined by Section 326 of the Resource Management Act 1991.

**Unreasonable noise** means noise that exceeds a reasonable level. Unreasonable noise usually relates to noise from ongoing activities such as a business or industry.

## Objectives

Council wishes to achieve the following objectives through this policy:

To minimise and manage public nuisance caused by excessive noise.

To discharge Council's responsibilities and service in a manner that is fair, transparent, consistent and legally defensible.

## Background

The Invercargill City Council has a statutory responsibility under the Resource Management Act 1991 for noise control within its district. Council as a Territorial Authority has a duty to investigate complaints being made about noise being emitted from premises (residential and commercial), including noise made by machinery or equipment.

Pursuant to Section 23 of the Health Act 1956, Council has a duty to deal with any noise which it considers to be a statutory nuisance. In dealing with a noise nuisance Council will predominantly use the excessive noise provisions in the Resource Management Act 1991.

Noise control is administered by the Environmental Health Department of the Council. Council has warranted staff that control noise as Enforcement Officers for the purposes of the Resource Management Act 1991.

Council has noticed a trend of repeat or recidivist offenders, and has determined to take firm action against noise makers that cause a statutory nuisance.

## Excessive Noise

Excessive noise will be managed and controlled by Enforcement Officers. Enforcement Officers will use their professional judgement and follow the procedures detailed in the Noise Control Policy - Procedures for Implementation Document.

It is Council's intention that all noise complaints will be attended by an Enforcement Officer within one hour of Council receiving the complaint.

**Not Excessive** – If the noise is assessed as “Not Excessive” but is considered “Borderline” by the Enforcement Officer, the Enforcement Officer will pay a courtesy visit to the owner/occupier and advise them that the noise is borderline and recommend that the levels be monitored and reduced.

**First Complaint** – Following the first complaint the Enforcement Officer will issue the owner/ occupier who is responsible for causing the excessive noise with an Excessive Noise Direction. The owner / occupier will be informed that if the Excessive Noise Direction is ignored or breached the Enforcement Officer, with the assistance of the Police, may enter the premises and seize or render inoperable the source of the noise.

The Enforcement Officer will request an immediate reduction in the noise level to a reasonable level. If the Excessive Noise Direction is not complied with within approximately 5 – 15 minutes, the seizure process will be followed.

**Second Complaint** – If a second visit is required and on the second visit the Enforcement Officer assesses that the excessive noise is continuing, the Enforcement Officer will, with the assistance of the Police, enter the property and seize or render inoperable the source of the noise.

The Enforcement Officer will also issue the owner/ occupier with a \$500 infringement notice.

**Habitual Offender** – If a third Excessive Noise Direction is issued to the same property within a three month period, then the offender will be advised that any further breach of excessive noise may result in an Abatement Notice being served. Breach of the Abatement Notice will result in a \$750 infringement fine.

## Seized Equipment

The offender may make formal application for the return of their seized goods. The request must include a copy of the notice received by the owner stating that the equipment was seized. The offender will also have to provide proof of identity prior to the return of the seized goods.

Council will charge for the return of the seized goods at the rate established in Council's Schedule of Fees and Charges.

Council will hold seized equipment until the return fee has been paid and a declaration form completed.

Council reserves the right to refuse to return seized items, if the return of the item is likely to lead to a resumption of excessive or unreasonable noise.

## Unreasonable Noise

Unreasonable noise typically involves noise from a business or industry, but this may not always be the case.

Where a complaint of unreasonable noise is received by Council, the Environmental Health Department will:

- Undertake detailed and measured assessments using noise control meters, environmental surveys, and complaint monitoring to assess compliance with the District Plan rules.
- Council may seek expert assistance where necessary. The cost of doing so may be recovered from the offender.
- In circumstances where effective resolution of noise complaints is not achieved in the first instance the Council will undertake further monitoring and if needed facilitate mediation between the parties.
- Continuing non-compliance may result in enforcement action by Council, this could include the use of statutory enforcement options such as an Abatement Notice.

## Unsubstantiated and Anonymous Complaints

Generally Council will not accept anonymous complaints, however this may be assessed on a case by case basis.

Where it is ascertained that no breach of standards in the Resource Management Act 1991 or the District Plan have occurred, and there is no need for further investigation, the Council will inform the complainant in writing.

Further investigation of the complaint will not be undertaken unless new evidence or information is provided.

Where the complaint involves an unsubstantiated low frequency noise, Council will forward the complaint to Public Health South.

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| <b>Revision History:</b>                  | 2012, October 2015  |
| <b>Effective Date:</b>                    | 28 October 2015   |
| <b>Review Period:</b>                     | This policy will be reviewed every three (3) years unless earlier review is required due to legislative change, or is warranted by another reason requested by Council. |
| <b>New Review Date:</b>                   | October 2018  |
| <b>Associated Documents / References:</b> | Resource Management Act 1991.<br>Resource Management Infringement Offences Policy 2015.<br>Noise Control Policy - Procedures for Implementation Document.               |
| <b>Supersedes:</b>                        | 2012 Noise Control Policy   |
| <b>Reference Number:</b>                  | A1445031  |
| <b>Policy Owner</b>                       | Director of Environmental and Planning Services   |