



NOISE CONTROL POLICY

Effective from 1 July 2022

Purpose

The purpose of this policy is to:

- To minimise and manage public nuisance caused by excessive noise.
- 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 in the eyes of a fair and reasonable person. Unreasonable noise usually relates to noise from ongoing activities such as a business or industry.

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 Services Department of the Council. Council has warranted staff and contractors that control noise as Enforcement Officers for the purposes of the Resource Management Act 1991.

Council has determined to take firm action against repeat or recidivist offenders that cause a statutory nuisance.

Noise Not Covered By This Policy

There are situations where we cannot help as the type of noise is specifically covered or controlled by other legislation.

The most common situations include:

- Barking dogs – Dog Control Act, contact Council Dog Control
- Noisy vehicles on the road – Traffic Regulations, contact NZ Police
- Noise within the workplace – Health and Safety in Employment Act, contact OSH
- Noise between tenants with the same landlord – Residential Tenancies Act, contact your landlord

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 issued with an Abatement Notice. Any subsequent breach of the Abatement Notice will result in a \$750 infringement fine.

Seized Equipment

The Resource Management Act 1991, section 336 specifies the provisions for returning seized property to the owner. The person 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. Under section 336 (5-6) if the seized equipment is not claimed within six months of date of seizure, or proceedings to return the equipment have not been lodged to the Environment Court, the equipment can be disposed of in the appropriate manner.

Unreasonable Noise

Unreasonable noise typically involves noise from a business or industry. Where a complaint of unreasonable noise is received by Council, the Environmental Services 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.

Noise in your Neighbourhood

Everybody should expect some degree of noise in their neighbourhood from time to time. We do not regulate everyday activities such as mowing lawns, building construction, road repairs etc. While such noise may be a nuisance to you temporarily, provided the hours of operation are reasonable, we may not respond to such complaints.

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, there is no need for further investigation. Further investigation of the complaint will not be undertaken unless new evidence or information is provided.

Revision History:	2012, 2015
Effective Date:	1 July 2022
Review Period:	This policy will be reviewed every six (6) years unless earlier review is required due to legislative change, or is warranted by another reason requested by Council.
New Review Date:	August 2028
Associated Documents / References:	Resource Management Act 1991 Invercargill City District Plan 2019
Supersedes:	2015 Noise Control Policy (A1445031)
Reference Number:	A3885996
Policy Owner:	Manager – Environmental Services