

Local Nuisance and Litter Control Act 2016

Factsheet 11 – Nuisance (Noise)

Noise may become a nuisance if it intrudes into people's awareness or is heard against their wishes. An introduced noise that disturbs a person's everyday life or working environment can be very annoying or harmful, affecting their wellbeing.

What is noise nuisance?

Noise is generally accepted as being any sound that a person doesn't want hear, with the result that it becomes a nuisance to an individual. Local noise nuisance can originate from a number of different residential, commercial or industrial sources such as:

- construction or demolition works
- air conditioning compressors
- domestic pool pumps and spas
- indoor venues / outdoor events
- refrigeration equipment
- power tools and other machinery (mowers, power tools, leaf blowers, compressors, impacting tools, mulchers)
- bird scaring devices
- rubbish collection, street and vegetation maintenance

Living near commercial or industrial premises can create extra noise in the neighbourhood. Although some noise may be unavoidable, it can often be controlled using improved work practices and other mitigation options.

Can noise nuisance affect the community?

Noise can negatively affect health and wellbeing. As well as hearing loss, excessive or continuous noise may cause anxiety, stress, high blood pressure, sleep deprivation, distraction, lost productivity, and a general reduction in the quality of life.

The actual loudness of a sound is only one component of the effect it has on people. Other frequency, tonal and vibration components need to be considered as does time and place, duration, source of the sound, and whether the listener has any ability to limit the impact of the noise.

How can noise nuisance be reduced or mitigated?

There are many actions a person can take to reduce the risk or prevent noise nuisance altogether. Some of these are described over:

Select a quieter alternative: When buying equipment or appliances, consider the expected noise level and where possible give some thought to purchasing the quietest option.

Location: Where practical, locate noisy appliances as far away as possible from neighbours (especially away from sensitive areas like bedrooms). Avoid placing noisy equipment near noise reflective surfaces like walls or fences (especially corners) and use noise absorbing features (such as plants or baffles) to hide the equipment and reduce noise output.

Work: Particularly when using power tools, work as far away as possible from neighbours if it's likely to be noisy. Remember that avoiding 'line of sight' between noisy equipment and other people will reduce the noise they hear.

Be a good neighbour: When taking on a project that has the possibility of creating noise likely to disturb your neighbours take the time to talk to them first before you begin. Find out what concerns they may have and ask them for suggestions about solving any problems. In many cases an agreement can be reached that satisfies everyone's needs.

What is the law with regard to noise nuisance?

It is an offence under the *Local Nuisance and Litter Control Act 2016* (the Act) to cause a noise nuisance and penalties apply. If a matter is ongoing, councils can issue the person causing the nuisance with a Nuisance Abatement Notice, which specifies a certain period within which the offender must rectify the problem. Such notices may also be issued orally in the first instance if the matter is considered severe enough. Council also has the power to expiate an offence by way of an on-the-spot-fine. A council's enforcement approach, such as issuing of expiations, warnings, requests to cease an activity, will depend on the circumstances and the council's enforcement policy.

If a nuisance is emanating from an industrial premises, it may be a site that is licensed by the Environment Protection Authority (EPA) and therefore not within the council's jurisdiction. These matters can be referred directly to the EPA.

What are the penalties related to causing a noise nuisance?

A person who carries on an activity intentionally or recklessly and with the knowledge that local nuisance will result is guilty of an offence:

- Body corporate - Maximum penalty: \$60,000
- Natural person - Maximum penalty: \$30,000

A person who carries on an activity that results in local nuisance is guilty of an offence:

- Body corporate - Maximum penalty: \$20,000
- Natural person - Maximum penalty: \$10,000
- Expiation fee: \$500.

Penalties may also be applied in circumstances where a person refuses to comply with the direction of an authorised officer or provides a false report about a matter.

When should a noise nuisance be reported?

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is emanating from, as they may not be aware that they are causing a nuisance. Concerns should be raised and discussed, and suggestions provided to resolve problems - simple solutions can often be found that satisfy everyone.

Generally, councils will only become involved if an issue within the community (e.g. between neighbours) cannot be resolved or if the nuisance is a broad-scale issue involving multiple parties.

What does a council consider when investigating a noise nuisance?

An authorised officer, when determining whether noise is a nuisance must, in forming their opinion, take into account the following:

- In the case of fixed machine noise (e.g. air conditioner, pool pump) generated on domestic premises, that the noise has travelled from the domestic premises to a habitable room, or an outdoor courtyard or entertainment area, on neighbouring premises; or
- In the case of noise other than fixed machine noise generated on domestic premises, that the noise has travelled from the domestic premises to neighbouring premises between the hours of:
 - 8pm and midnight on any day; or
 - midnight and 9am on Sunday; or
 - midnight and 8am on any other day.
- In the case of construction noise—the noise has travelled from the location of the construction activity to neighbouring premises—
 - on any Sunday or public holiday; or
 - after 7pm or before 7am on any other day.
- In the case of waste collection noise, that the noise has travelled from the place at which it was generated to neighbouring premises:
 - before 9am or after 7pm on any Sunday or public holiday; or
 - after 7pm or before 7am on any other day.
- In the case of noise from a street or tree maintenance machine being used in a public place, that the noise has travelled from the public place to neighbouring premises:
 - before 9am or after 7pm on any Sunday or public holiday; or
 - after 7pm or before 7am on any other day.
- In all cases, it must be taken into account if the level, nature or extent of the noise (including its volume, pitch, vibrational frequency, prevalence or frequency of occurrence) is such as to constitute an unreasonable interference with the enjoyment of the neighbouring premises by persons occupying those premises.

Are there any exemptions to the local nuisance laws?

The Act allows councils to consider the granting of an exemption from local nuisance-causing activities upon application. Applications must, however, be accompanied by a nuisance management plan describing the steps that will be taken to prevent, minimise or address any adverse effects on the amenity value of the area concerned and also describing that exceptional circumstances exist to justify the granting on an exemption.

Exemptions may be reasonable for short-term activities - such as festivals, events or major construction activities - where some level of noise or other local nuisance is likely to be unavoidable. Councils can apply strict conditions to ensure that an applicant does everything reasonable to minimise the impact of the nuisance. All exemptions are published on the council's website. See Factsheet 19 for more information.

In Schedule 1 of the Act, there are a number of circumstances declared not to be a nuisance. In the case of noise, this includes (but is not limited to):

- noise from fireworks displays
- noise from sporting activities at a sporting facility
- noise from public infrastructure works
- noise principally consisting of music and voices at domestic premises
- noise from barking dogs
- noise from vehicles, aircraft and railways
- noise from premises licenced under the Liquor Licencing Act 1997
- noise from normal activities undertaken at a school, kindergarten or place of worship

More information

This fact sheet is one of a range designed to increase your awareness and understanding of the requirements of the *Local Nuisance and Litter Control Act 2016*. Please see other fact sheets for further information about the Act.

Disclaimer

This publication is a guide only and will not necessarily provide adequate information relevant to every situation. Whilst it seeks to explain your possible obligations in a helpful and accessible way, it is likely that some detail may not be captured. It is important, therefore, that where necessary you make your own determination as to whether you should seek legal advice.