

# Guidelines for Assessing Noise Nuisance

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These Guidelines are for use by council officers and are also for the information of the wider community. They provide a 'Noise Nuisance Checklist' to help council officers assess noise complaints in residential settings, where noise created on one property, including construction noise, may be adversely affecting people on surrounding properties. They can also be applied in situations where the noise from recreational motor vehicles and vessels on private or public land and waterways (e.g. trail bikes and jet skis) may be affecting residential premises.

These Guidelines are not directly enforceable; however, they may be used to assess whether a noise is unreasonable and is causing an 'environmental nuisance' as defined under Section 53 of the *Environmental Management and Pollution Control Act 1994* (EMPCA), or may be an offence under the *Noise Regulations 2016*.

## Any Noise May Be Unreasonable

Section 53 of EMPCA allows for the following factors to be considered when assessing whether a noise is unreasonable, and may be causing an environmental nuisance:

- Its volume, intensity or duration;
- The time, place and other circumstances in which it is emitted; and
- Whether it is, or is likely to be, audible in a habitable room in any other residential premises.

It is important to recognise that noise created at any time of the day or night, including outside the 'Prohibited Hours of Use' given in Schedule 1 of the *Noise Regulations 2016*, can still be determined as unreasonable, as can noise from equipment not listed in the Regulations.

## Noise Measurement and Audibility

Depending on the circumstances, a 'nuisance' assessment may involve measurement of noise levels using a noise meter and recording equipment. However, Section 53A of EMPCA allows a council officer to form their own view of whether a noise is audible within a residence without having to enter that property or take noise measurements.

In most cases, noise measurements would only be one part of a broader assessment that would consider the issues listed below. These issues form the basis for the questions given in the subsequent 'Noise Nuisance Checklist':

- the location of the noise source
- the loudness of the noise, especially compared with other noise in the area

- its audibility at certain locations
- the time and duration of the noise
- other characteristics
- whether it is typical for the area
- how often it occurs
- the number of people affected
- its reported effects on people

### **Noise Nuisance Checklist\***

The checklist below is a guide for council officers to make a systematic assessment on whether a noise is causing an environmental nuisance. This checklist is not exhaustive and it is not intended that all the questions are answered 'yes' before a noise can be considered a nuisance. Supporting notes should be taken to clarify the answer given to each question.

#### **Q1: Is the noise loud relative to other noise in the area?**

(This establishes that the noise is likely to be heard by neighbours. Its volume alone may be annoying. An example would be music being played at a very high volume in a residence so it can be heard over very noisy activity outside, such as construction work. The noise may also be loud relative to the background noise. An example would be loud fireworks set off late at night. Noise measurements using a sound level meter would help to determine how loud the noise is relative to the background noise level in the area.)

#### **Q2: Does the noise have characteristics that make it particularly irritating?**

(The presence of tones, impulses or fluctuations in volume can make people more likely to react to the noise. These can be judged subjectively but noise measurements will help to quantify the extent of these characteristics. Examples might be screeching sounds from poorly maintained equipment or a 'beeper' alarm that uses a pulsed sound made up of one or two alternating frequency tones, usually higher-pitched, that are louder than the background noise in the area.)

#### **Q3: Does the noise occur at times when people expect to enjoy peace and quiet?**

(People usually expect their surroundings to be quieter during the evening and at night. Talk to the complainants about how the noise affects them to see if it is interfering unreasonably with their comfort at home. Is it regularly disturbing their sleep, making it difficult to have a conversation, study, read or hear the TV? Noise that regularly disturbs sleep is likely to be considered offensive by complainants and this should be taken into account in your assessment.)

#### **Q4: Is the noise unusual for the area?**

(Where noise from an activity that is causing nuisance is new or unusual for an area, people are more likely to react. Look at the typical uses of the area and determine whether the activity is consistent with the local planning scheme. An example might be a community event with amplified music affecting a residential area that has not traditionally been affected by such events. An unusual noise source could be a private workshop/garage that someone starts to use for a home-based business such as furniture restoration or car repairs.)

**Q5: Does the noise occur often?**

(Noise can be more annoying when it occurs frequently. Examples might be a leaf blower used every morning or a band that practises frequently without regard to the impact on neighbours.)

**Q6: Is more than one person or family affected by the noise?**

(Only one person needs to be affected by the noise for it to be deemed offensive. However, talking to other neighbours likely to be exposed to the same noise about how it affects them may assist in deciding what action to take..)

**Q7: Is the duration of the noise longer than might be expected for that activity, location or time of day?**

(An example could be a student practising a music instrument after school. If the practice lasts for several hours, it is reasonable to ask whether this is appropriate for a residential area, or whether the practice should take place in a school music room or other controlled environment.)

\*Note – The EPA Division gratefully acknowledges that this checklist is based on the ‘Offensive noise test: Checklist of considerations’ given in the NSW EPA’s ‘Noise Guide for Local Government 2013, Part 2 – Noise Assessment (<http://www.epa.nsw.gov.au/resources/noise/130127NGLGPart2.pdf>)