

After-Hours Noise Complaints Policy

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1. TITLE

After-Hours Noise Complaints Policy

2. OBJECTIVE

To outline the principles that will inform the provision of a limited after-hours service to effectively manage and seek resolution of ongoing noise complaints, enabling Council to fulfil its obligations regarding the administration of enforcement of breaches pursuant to Council's Community Local Law 2019, Environmental Protection (Residential Noise) Guidelines 2018, *Environment Protection Act 1970*, *Public Health and Wellbeing Act 2008* and the *Planning and Environment Act 1987*.

3. BACKGROUND

Local Councils in Victoria are responsible for investigating complaints relating to the following types of noise:

- from constructions sites, residential and commercial premises;
- that breach the *Environment Protection Act 1970*;
- that breach Council's Community Local Law 2019;
- that constitutes a public health nuisance; and
- that breach a planning permit condition.

Specific noise requirements are set out in regulations, legislation, guidelines and planning permit conditions which provide authority for Council to investigate and act on noise complaints.

Most noise complaints are effectively resolved through Council's current processes during regular business hours. However, there is a very minimal amount of complaints that become problematic to resolve as it is difficult to gather enough evidence to substantiate the allegation given the alleged noise is occurring after-hours. This Policy addresses those types of cases.

4. DEFINITIONS AND ABBREVIATIONS

Term	Meaning
Council	Glen Eira City Council
After-hours complaint	a noise complaint received from a member of the public which is occurring outside of normal shift hours.
Government agencies	Department of Human Services, Victoria Police, emergency services.
Authorised Officer	a person appointed by Council to be an Authorised Officer under section 224 of the Local Government Act 1989
Private land	means any land which is not Council Land

5. POLICY

5.1 Limited Service

Council will provide a limited service to manage ongoing after-hours noise complaints.

5.2 Identification of complaints which require investigation after-hours

Council will investigate ongoing after-hours noise complaints as part of a planned inspection or call-out arrangement where there is a reoccurrence of the issue and prior interaction with the person responsible for the noise has failed. The following types of noise complaints will be investigated:

- construction site/development;
- animal;
- residential (emitted by domestic spa and swimming pool pumps, air conditioners and heating equipment).

The following criteria will be used in determining to commence an after-hours investigation:

- complaint must be ongoing or persistent complaints have been received regarding the same noise;
- if the noise reported involves an animal and the noise is occurring outside the hours of 7am to 8pm Monday to Friday and 9am to 8pm Saturdays, Sundays and Public Holidays, and the complainant has indicated that the noise emitted interferes with their peace, comfort or convenience;
- the complaint has been investigated during regular business hours and the investigating Authorised Officer believes that the matter is ongoing, and that Council and the complainant would benefit from conducting further investigation after-hours;
- the Authorised Officer needs to investigate the noise after-hours to be able to 'form the view' that an offence has occurred as the supporting evidence provided via other means is insufficient; and
- the Authorised Officer needs to investigate the noise after-hours to satisfactorily resolve and complete the investigation.

5.3 Collaboration with the Victoria Police

Where Council is unable to resolve or safely investigate or issue enforcement action in relation to a complaint, Council will work with government agencies including but not limited to, Victoria Police, in the following circumstances:

- when two Council Officers are unable to attend the after-hours complaint;
- where the government agency has additional powers and can deal with the complaint in a more efficient, safe and effective manner;
- where Council Officer safety is compromised;
- to hand-deliver an 'Abatement Notice' and/or an infringement notice after-hours;
- where the accused or property is known to police;
- where the government agency has advised Council to not attend without their presence;
- where Council has been unsuccessful and government agency intervention is appropriate to resolve the complaint (for example, if access to a dwelling is required).

6. HUMAN RIGHTS CHARTER COMPATIBILITY

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

7. ASSOCIATED INTERNAL DOCUMENTS

Council Report – After-Hours Noise Complaints Policy
Councillors' Code of Conduct
Council's Fraud and Corruption Policy
Council's *Protected Disclosure Act 2012* Policy and Procedures
Victorian Ombudsman *Councils and complaints – A Good Practice Guide*, 2015

8. EXTERNAL REFERENCES/RESOURCES

Charter of Human Rights and Responsibilities Act 2006
Glen Eira Community Local Law 2019
Environment Protection Act 1970
Environment Protection (Residential Noise) Regulations 2018
Public Health Nuisance Council Policy
Public Health and Wellbeing Act 2008
Planning and Environment Act 1978
State Environment Protection Policy (Control of Noise from industry, Commerce and Trade) No. N1
State Environment Protection Policy (Control of Music Noise from Public Premises) No. N2