

15 December 2022

Ashleigh Fedorenko

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Tēnā koe Ashleigh

Request for Information – Local Government Official Information and Meetings Act (LGOIMA) 1987

We refer to your official information request dated 16 November 2022, as follows:

- 1. What is the process and procedure the Hutt City Council uses when receiving noise complaints for determining to apply sections 327 and 328 (in particular s328(4)) under the Resource Management Act 1991 (Act)?*
- 2. What assessment is carried out to determine entry to a property where the occupier is not present, and whether any alternative actions can be taken to resolve the noise complaint without requiring entry without notice into the property?*
- 3. What due diligence is carried out prior to entering a property to notify the occupier and contact them to give notice in accordance with s327 of the Act before resorting to applying 328(4)(b) of the Act?*
- 4. The Hutt City Councils threshold for reasonably attempting to identify the occupier of the property prior to entry in accordance with s328(4) of the Act.*
- 5. If the identity of the occupier and location of the occupier has been identified, what is the due diligence and responsibility of the council to notify the occupier of the noise complaint and to issue notice in accordance with s327 of the Act?*

Your questions are responded to below:

What is the process and procedure the Hutt City Council uses when receiving noise complaints for determining to apply sections 327 and 328 (in particular s328(4)) under the Resource Management Act 1991 (Act)?

Excessive noise is that which is likely to unreasonably interfere with the peace, comfort, and convenience of any other person. It is enforced by noise control officers contracted to the Council.

When a complaint about excessive noise is logged with Hutt City Council, the complainant is advised to call back after 30 minutes to confirm if the noise is still occurring, although this can be waived for properties on our waiver list.

If the second call confirms that the noise is continuing, a noise control officer will be sent to the address to assess the situation. If the officer considers the noise to be excessive, an Excessive Noise Notice will then be served on the occupier of the property from which the noise originates.

If the noise is not reduced to a reasonable level after the Excessive Noise Notice has been served, or the dwelling is unoccupied, police assistance will be sought to enter the dwelling and disable or seize the equipment. These measures are carried out under the provisions of the Resource Management Act 1991.

It is Council's policy to recover the costs associated with calling out a locksmith if needed to gain entry into a dwelling.

What assessment is carried out to determine if entry is needed to a property if the occupier is not present, and are there any alternative actions that can be taken to resolve the noise complaint without requiring entry without notice into the property?

The same process as described above applies. However, if the noise is created by a security alarm, the noise control officer is required to make attempts to contact the owner or security company.

Obtaining contact details for a property owner or occupier is not always easy. During daytime hours, the officer can obtain contact details that are held on record with the Hutt City Council and attempts will be made to contact them. If this contact is successful, the occupier will be given a reasonable amount of time to disable the alarm themselves (typically an hour). If contact is unable to be made with the occupier, an Excessive Noise Notice will be issued.

Again, if the notice is not complied with, police are called to assist with disabling or seizing the offending equipment. If entry to a dwelling is required, a locksmith will be engaged to make entry to the building in the presence of police. A Notice of Entry will be left in a prominent place in the property, along with the Excessive Noise Notice.

Outside normal business hours, noise control officers do not have access to the Council's records for property ownership due to privacy considerations. If the property is unoccupied, police assistance will be sought directly to enter the property and disable or seize the equipment.

What due diligence is carried out prior to entering a property to notify the occupier and contact them to give notice in accordance with s327 of the Act before resorting to applying 328(4)(b) of the Act?

As described above.

What is the Hutt City Council's threshold for reasonably attempting to identify the occupier of the property prior to entry in accordance with s328(4) of the Act.

As described above.

If the identity of the occupier and location of the occupier has been identified, what is the due diligence and responsibility of the council to notify the occupier of the noise complaint and to issue notice in accordance with s327 of the Act?

If the occupier and their location are identified, the noise officer (or during business hours, a Council officer) will make all reasonable attempts to contact the occupier as above.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that this letter may be published on the Council's website.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Susan Sales', written in a cursive style.

Susan Sales
Senior Advisor, Official Information and Privacy