

Control of Pollution Act Guidance

What is a Section 60 Notice?

A Section 60 is an abatement notice under the Control of Pollution Act (CoPA) that is served by the Council to the person responsible for the noise requiring specific controls to be put into place to minimise noise and vibration. It is often also called a Section 60 Prohibition Notice.

What is a Section 61 Notice?

A Section 61 is a formal agreement between the contractor and the Council. This agreement has to be applied for before work commences and allows the contractor and Council to agree, for example noise levels and hours of work. It protects the contractor from Council Action under Section 60. It is often also called as a Section 61 Consent Notice. The Council has 28 days to consider an application under S61.

Section 60 Notice

A CoPA Section 60 Notice may be issued by Council instructing the Contractor to operate the site in a particular way to minimise nuisance to neighbouring properties, before any complaint has been received and even before any noise has been made. The Notice may include the specifying/changing of:

- site working hours,
- boundary noise limits,
- plant or equipment selections or
- site working methods.

These conditions may be imposed at any time without consultation with the Contractor or Developer. Also, any Section 60 Notice can be readily superseded by further more stringent conditions, which would be considered if justified complaints are received.

Action to be taken if a Section 60 Notice is imposed:

An appeal may be lodged in the Magistrates Court within 21 days of the Notice being served. You can contact the Pollution Control Team Pollution.Enquiry@newham.gov.uk and arrange a meeting to discuss the project, type of construction, construction methods and plant involved, planned vehicle movements for deliveries and cart away etc, with the proposed programme. It may possibly be agreed that a short intensive period of construction, with longer working hours may be deemed to be less of a nuisance, than a prolonged project.

It is essential to:

- Keep the Pollution Control Team informed of your work's progress, the dates and times of any particularly disruptive activities and the contact details of a named person.
- Encourage the Pollution Control Team to contact you with any public complaints that arise. This will give you the opportunity to address those complaints before formal action is taken against you.

- Give the Pollution Control Team the site managers and EMs mobile phone numbers, so should a complaint arise from the public contact can be with the site to find out the situation and discuss the problem.
- Keep everyone updated as to what to expect, copy the Pollution Control Team in on any information provided to local residents
- Give notice of when there are likely to be noisy operations being carried out.

Section 61 Notice

A Section 61 may be applied for prior to the commencement of the works. The advantage of this type of agreement is that once the consent has been given, provided the terms are adhered to, the Council cannot take action against the contractor or impose a section 60 Notice. A Section 61 Notice requires more input from the Contractor (or Developer), and may require the assistance of an Acoustic Consultant to prepare an application to the Council. A Section 61 Agreement provides the Contractor (or Developer) with a legally binding level of protection against action under Section 60.

The Council will give consent if your proposals are reasonable.

Your consent must contain details of:

- the work you want to undertake
- the location of your work
- your proposed working hours
- the method of work
- the steps you will take to minimise noise

Once a Section 61 Agreement has been submitted, the Council must make its decision and inform the applicant within 28 days.

“Best Practicable Means”

The Council will specify that “Best Practicable Means” be used on-site. This makes it the Contractor’s responsibility to ensure the proposed procedure is the quietest viable option. The Control of Noise (Code of Practice for Construction and Open Sites) Order 2002, with British Standard BS5228 Code of Practice (Parts 1, 2 and 4) for noise and vibration control on construction and open sites; provides accepted recommendations and guidance that should be followed.

Other conditions the Council may impose:

Two other probable conditions not already discussed that the Council may wish to impose are:

- Noise and Vibration Monitoring be undertaken at stipulated locations around the site for the duration of the project.
- Regular liaison meetings between the Council, Local Residents and the Contractor. During such meetings the residents can be kept up to date with the project and can be forewarned of any future operations likely to result in high noise or vibration levels.

Failure to comply with a prohibition notice, may lead to receiving a caution, and failing to heed this you are likely to face a prosecution and fined

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