
ENFORCEMENT

ENFORCEMENT

The following are general guidelines to the enforcement approach which will normally be taken by the Council. They do not constitute rules or invariable procedures or policies. They do not replace or limit the Council's discretion or responsibilities under the *Act*, and they do not themselves constitute specific decision-making criteria applied by the Council.

Under section 84 of the *Act* the Council is required to observe and, to the extent of its authority, enforce the observance of its *Plan*. The Council has a discretion as to how it enforces its *Plan*. It may do so by persuasion, by prosecution, by enforcement order, by abatement notice, by combinations of those means, and in some circumstances by other means which become available.

The Council's response to relevant breaches of the provisions of the Resource Management Act and/or the District Plan will depend upon the particular circumstances - including for example the nature of the breach, the effects of the breach, and the conduct and attitude of those responsible for the breach.

1. In respect of a significant breach of a *Natural Areas* Rule, the Council's response will normally be immediate - with a view to taking appropriate action to have the activity cease as soon as possible. Generally it will be the approach of the Council to initiate prosecution action for significant breaches in such cases - with or without other measures.
2. In respect of a significant breach of a rule relating to noise, odour, vibration, air discharges, *dust* or **safety**, the Council's response will also normally be immediate with appropriate action taken to have the activity cease as soon as possible. Prosecution action may be initiated.
3. Where a significant breach is occurring and continuing in relation to any rule concerning the erection or alteration of *buildings*, the Council's response will again normally be immediate with action taken to have the activity cease as soon as possible. Again, prosecution may be initiated.

4. In relation to breaches of rules relating to *signs*, the Council may:
 - (i) if the *sign* is on property such as a *road* or a park owned by the Council, remove the *sign* immediately;
 - (ii) if the *sign* is on property owned privately, take action in accordance with 5(i)-(iii) below.
5. In the case of a breach of any rule not covered by 1-4 above, and in respect of breach of conditions of *resource consents*, the following procedure may be utilised:
 - (i) An investigation will be carried out by the Council as soon as possible.
 - (ii) If the investigation substantiates the complaint of breach, the *site* owner and/or person responsible for the breach will be contacted, advised of the breach, and asked to remedy the breach within a specified time.
 - (iii) If suitable action is not taken to remedy the breach within the appropriate period, further enforcement action may follow e.g. a prosecution, abatement notice and/or enforcement order or interim enforcement order application.

Where it is unclear whether the activity constitutes a breach of a rule, a declaration from the Planning Tribunal may be sought under section 311 of the *Act*.

In relation to noise issues a separate procedure is available in some instances under section 327 of the *Act*. This allows a direction to be issued for the reduction of excessive noise. If the direction is not complied with the noise source can be removed or made inoperable. Such actions must be taken by the police or in conjunction with the police.