



**Hinckley & Bosworth
Borough Council**

Forward timetable of consultation and decision making

Finance and Performance 13 March 2023

Wards affected: All Wards

ENVIRONMENTAL HEALTH (POLLUTION) – NOISE NUISANCE

Report of Director Community Services

1. Purpose of report

1.1 To inform Finance and Performance committee on the work of the Environmental Health (Pollution) Service relating to noise nuisance.

2. Recommendation

2.1 That Finance and Performance endorse the report.

3. Background to the report

STATUTORY NUISANCE

3.1 The main piece of legislation dealing with noise is statutory nuisance contained in Part III of the Environmental Protection Act 1990. It provides local authorities with powers to deal with complaints about noise nuisance. As well as dealing with existing problems, these controls also cover nuisance that is expected to occur or recur.

3.2 The main Statutory Nuisances that are investigated are related to noise but can also include such nuisances as smoke, light and odour.

3.3 A statutory noise nuisance is commonly described as one which is materially interfering with the use and enjoyment of someone's home.

3.4 In 2014 The Anti-social Behaviour Crime and Policing Act introduced the Community Protection Notice (CPN). If it is ascertained that behaviour from a premises is having a continuous, detrimental effect on the community a CPN may be served. Failure to comply with such a notice is a criminal offence

which can result in the issue of a £100 Fixed Penalty Notice (FPN) or summary prosecution.

- 3.5 CPN's have been used to address nuisance, primarily because it provides the power to issue FPN's which provide a deterrent/punishment to those causing a nuisance without the need for costly prosecutions.

INVESTIGATION PROCEDURE

- 3.6 When individuals complain about noise the team has a duty to investigate and determine whether or not a statutory nuisance exists. Initially log sheets of when a complainant is being disturbed are submitted, followed by officer observations. If a nuisance does exist the service must serve an abatement notice or for noise nuisance can take another equivalent action e.g. issue a CPN if it will have the same effect as serving an abatement notice. This may require the nuisance to be stopped altogether or limited to certain times of the day. Failure to comply with an abatement notice can result in prosecution or works in default e.g. officers silencing burglar alarms or seizing noise making equipment (under a warrant from the magistrates court). Failure to comply with a CPN could result in prosecution; works in default can only occur following a court order after conviction.
- 3.7 In addition to taking the type of formal action described above, informal methods for dealing with complaints will always be considered first and an incremental approach to enforcement adopted.
- 3.8 Nuisance investigations carried out by the team are often not simple interventions but involve multi-agency partnership in an attempt to reach a suitable result for all parties. Often, those with vulnerable characteristics are the perpetrators of the nuisance and although they are expected to comply with the law, in certain circumstances, dealing with a case in a different way and following the advice from our colleagues in the health service, can often result in a conclusion to the case without criminalising the individual through court action.
- 3.9 Leicestershire authorities have committed to using the Sentinel database as the main recording system for anti-social behaviour (including nuisance) across Leicestershire.
- 3.10 The use of Sentinel is a tool for recording anti-social behaviour which allows the multi-agency resolution of cases and the protection of the community's most vulnerable. This is the main objective of HBBC's endeavour team. Environmental Health (Pollution) is fully committed to Endeavour and the use of Sentinel. The Sentinel system allows other agencies and departments e.g. Police and the Anti-social Behaviour Team of HBBC to see actions taken on cases that may require a multi-agency investigation.
- 3.11 If an investigation has been undertaken by the service and it has found no evidence to suggest a statutory nuisance exists, under Section 82 of the Environmental Protection Act 1990, an individual can complain directly to the Magistrates Court about an alleged nuisance. It is worth noting that the Court

is likely to expect a complaint to have been made to the Local Authority before considering a case brought under Section 82.

NOISE NUISANCE

- 3.12 Neighbour noise is a major source of disturbance to many people and can have a significant impact on quality of life and the local environment. This noise can cause disturbance to those living nearby when it becomes intrusive and interferes or disrupts them as they go about their normal activities in their home.
- 3.13 Excessive noise can seriously harm human health and interfere with people's daily activities at school, at work, at home and during leisure time. It can disturb sleep, cause cardiovascular and psychophysiological effects, reduce performance and provoke annoyance responses and changes in social behaviour.
- 3.14 It is inevitable that we all make noise to some extent as we go about our daily activities, but consideration is the key to making sure our noise does not disturb others.
- 3.15 At this point it is important to note that not all noise made by a neighbour that can be heard within a neighbouring property is going to be one that can be investigated by the team. Normal domestic noise like hoovering and lawn mowing, although noisy, are part and parcel of domestic living (unless the activities are being undertaken at unreasonable times). Other activities such as closing doors, running up stairs and talking may be audible next door but again are reasonable behaviour and so unless there is an element of unreasonableness or malice to the activities e.g. repetitive banging of doors or prolonged periods of raised voices, there is very little the team can do. Residents living in attached properties need to accept that they will hear their neighbours from time to time. It is when this becomes excessive or abnormal that the service can get involved.

NOISE MONITORING AND THE NOISE APP

- 3.16 During the course of a noise investigation, evidence can be gathered by officer observations or by installing a noise monitor within the complainant's property. The noise monitor is operated by the complainant who turns it on when they are being disturbed. The noise monitor records both the audio and the decibel level of the noise.
- 3.17 In addition, the Service has signed up to the NoiseApp, a mobile phone noise recording system that allows complainants to record, upload and send noise recordings to the Service for review. The NoiseApp is a worthwhile evidence collection tool especially where the noise occurs out of office hours or is intermittent. It is not an advanced recording system and so would be used to support a case rather than determine the need for enforcement action which would usually only occur following officer observations or noise monitoring.
- 3.18 The Service operates a 24/7 out of hour's callout service for those cases that have resulted in a notice being served. This allows officers to gather evidence and pursue prosecution as required.

FIGURES

3.19 The number of service requests relating to noise received over the last 6 years can be seen below.

	16/17	17/18	18/19	19/20	20/21	21/22	TOTAL
Noise - Bells	0	0	0	1	0	0	1
Noise - Alarms	27	27	30	41	28	35	188
Noise - Animals	10	13	7	6	22	18	76
Noise - DIY	7	10	18	14	15	17	81
Noise - Dogs	212	180	213	163	145	176	1089
Noise - Fireworks	1	0	1	0	0	0	2
Noise – Low Frequency	3	4	2	5	5	6	25
Noise - Machinery	27	28	31	36	45	35	202
Noise - Music	148	109	127	168	174	157	883
Noise - Other	49	47	85	65	102	96	444
Noise - Party	17	9	29	13	47	42	157
Noise – PA System	4	2	0	1	3	0	10
Noise - People	130	121	105	106	151	113	726
Noise - Plant	13	8	6	11	26	4	68
Noise - TV	5	18	14	16	17	11	81
Noise - vehicle repairs	10	5	5	4	7	2	33
Noise - Vehicles	33	13	35	15	19	12	127
Noisy Shooting	1	0	1	2	3	1	8
Noisy boats	0	0	0	0	1	0	1
Total	697	594	709	667	810	725	4202

Note: Noise Other includes such sources as birdscarers, commercial deliveries, air-con/extractor units and building work.

- 3.20 The above demonstrates that the number of service requests for noise has remained steady over the last 6 financial years; however, it is clear to see that the numbers do fluctuate from year to year.
- 3.21 Of note from the table above is the significant increase of complaints in 2020/21. This is owing to the pandemic lock-downs as everyone was at home when they would normally be at work and so were exposed to noise sources that they would not normally have known were present. In addition, the increase in home-working led to an expectation that environmental noise should not be present at a level that could disturb their work.

ENFORCEMENT

- 3.22 One noise prosecution was taken in 2017/18. A noisy neighbour, who continued to disturb fellow residents in a block of flats despite official warnings to stop, was fined £1,100 by Leicester magistrates.
- 3.23 The court was told that the noises included hammering, the use of power tools, loud music, shouting and singing both in the evenings and late at night. The noise would often occur on the landing of a block of flats and, as a consequence, affected many residents.
- 3.24 Informal efforts by the service to control the noise failed and so noise monitoring equipment was installed in a neighbouring property. This showed that the noise was having a continuous and detrimental effect on residents. As a consequence, a Community Protection Warning was served which was soon breached and a CPN was served in April 2017. The notice was breached several times and so the council decided to prosecute the offender.
- 3.25 The majority of the time informal interventions are sufficient to address the issues or, if not, formal notices could remedy the situation without the need for prosecution.
- 3.26 The following enforcement notices were served each year.

	16/17	17/18	18/19	19/20	20/21	21/22
Noise – Abatement Notice	10	14	10	21	7	1
Noise – Community Protection Notice	0	7	7	7	1	0

- 3.27 A Noise Abatement Notice is served if a noise is deemed to have passed the 'test' owing to e.g. frequency, duration and nature. Additionally, a Community Protection Warning and then a Community Protection Notice if the warning is not complied with, can be served. CPN's can be enforced through fixed penalty notices which could then avoid the need to go to court (as long as the FPNs are paid).

- 3.28 All officers within the team have undertaken mediation training. This promotes the use of more informal measures to ensure compliance with environmental legislation.

THE TEAM

- 3.29 The service is provided through 1 Senior Environmental Health Officer, 1 Environmental Health Officer, 2 Technical Officers, 1 Technical Assistant, 1 part time Dog Warden and 1 Apprentice (Regulatory Compliance).

- 3.30 Environmental Health Officers are graduates in Environmental Health and also hold the Institute of Acoustics Diploma in Noise Control. The Technical Officers and Technical Assistant have completed the Institute of Acoustics Certificate of Competency in Environmental Noise Measurement. All officers have many years experience of investigating noise complaints and receive regular continuing professional development training as required.

LEICESTERSHIRE BEST PRACTICE GROUP

- 3.31 The Senior Environmental Health Officer of the service currently holds the post of the Chair of the Leicestershire Environmental Protection Best Practice Group. The group is represented by officers of all Environmental Protection/Pollution teams from Local Authorities in Leicestershire. The intention of the group is to share and promote best practice on environmental protection matters (including noise nuisance) throughout Leicestershire.

4. Exemptions in accordance with the Access to Information procedure rules

- 4.1 The report can be taken in open session.

5. Financial implications [MT]

- 5.1 None arising from the report.

6. Legal implications [ST]

- 6.1 None. (Please see body of report.)

7. Corporate Plan implications

- 7.1 The noise service will help contribute towards the Councils priority ambitions helping people to stay 'healthy, active, in work and protected from harm'. As can be seen from the above, noise especially can have significant impact upon health.

8. Consultation

- 8.1 None.

9. Risk implications

- 9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 The following significant risks associated with this report/decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Reputation from negative press coverage of local campaigns	Ensure positive messages emphasised in campaigns	Simon Smith
Reputation from negative press coverage from enforcement	Ensure enforcement carried out competently and proportionately and in accordance with Enforcement Policies	Simon Smith
Knowledge and skills of staff	Ensure adequate training given to enforcement staff	Simon Smith
Adequate staff to deal with enquiries/enforcement activities	Ensure appropriate staff resources available to deal with demands of service	Simon Smith
Legal compliance	Ensure actions in compliance with Central Government Policy	Simon Smith

10. Knowing your community – equality and rural implications

- 10.1 No implications as noise investigation and enforcement is carried out consistently across the whole Borough.

11. Climate implications

- 11.1 Climate implications of this service are limited. Officers do use their own vehicles and one council leased van to undertake site visits as required. Visits are only undertaken when email or phone call is not possible and visits are grouped together where possible to limit mileage.

12. Corporate implications

- 12.1 By submitting this report, the report author has taken the following into account:
- Community Safety implications

- Environmental implications
 - ICT implications
 - Asset Management implications
 - Procurement implications
 - Human Resources implications
 - Planning implications
 - Data Protection implications
 - Voluntary Sector
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Background papers:None

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