

EXETER CITY COUNCIL

SCRUTINY COMMITTEE - COMMUNITY 2 SEPTEMBER 2008

REVIEW OF THE COUNCIL'S ARRANGEMENTS TO RESPOND TO NOISE COMPLAINTS

1. PURPOSE OF THE REPORT

- 1.1 Scrutiny Committee Community on 4 September 2007 supported the adoption of an action plan to improve our response to noise complaints and asked for an update in September 2008. This report discusses progress.

2. BACKGROUND

- 2.1 The Environmental Protection Act 1990 (EPA90) places a duty on the Council to investigate and take appropriate action in respect of statutory nuisances. A statutory nuisance is not merely an annoyance but either something that is prejudicial to health, or relates to the use of a property in such a way that it has a significant and detrimental impact on a neighbouring occupier's enjoyment of their property. As is the case with most local authorities, the type of nuisance complained about most in Exeter is noise nuisance.

- 2.2 The sources of noise can be varied, from dogs barking to shouting and DIY, but the most common noise complained about is amplified music. There are a number of factors, which must be taken into account when judging whether noise amounts to a statutory noise nuisance, these include:

- **volume** – if someone can distinguish the lyrics of a song being played loudly next door, then it will often be considered intrusive;
- **noise frequency** – a repetitive bass beat, although relatively low in volume, can penetrate structures such as walls more easily and be particularly intrusive;
- **time of day** – music played at 1pm will be tolerated more so than at 1am, as background noise levels are very much reduced and most people are asleep;
- **duration** – a very short burst of loud noise may be tolerated (eg 10 minutes of DIY drilling in the early evening) whereas a longer burst may be found to be intrusive (eg 3 hours of drilling);
- **frequency** – a one-off party may be tolerated, but a regular noise problem every weekend can be intolerable;
- **intent** – in some cases the perpetrator is intentionally wishing to create a nuisance problem in order to cause upset and annoyance.

- 2.3 To assess whether a statutory noise nuisance exists, an officer must consider the above factors in the light of the evidence obtained. The best evidence is an officer witnessing the noise whilst inside the complainant's house. Evidence from officers (eg Environmental Health Officer, Environmental Health Technicians, Housing Officers and Community Patrollers), the complainants themselves and recording devices such as MATRON (a digital recorder sampling sound through a noise meter) can be used. However, it is of fundamental importance that the officer can justify evidence of a statutory nuisance being caused, as service of an Abatement Notice is an enforcement process that can place substantial restrictions on a person, with severe penalties for non-compliance.

Noise Complaints received

- 2.4 Since October 2006 all calls logged by the council's 24 hour Control Centre were recorded on the Environmental Health M3 database, giving a far more reliable picture of noise incidents from that date. Data for the number and type of noise complaints for the 12 month period 1 April 2007 – 31 March 2008 is detailed in Appendix 1.
- 2.5 The data indicates that:
- Domestic noise is the main source of noise complaint received by the Council, (Graph 1)
 - The number of complaints per month is fairly consistent with peaks in August and October – the latter peak may be due to the return of University students and therefore identifies the potential for working with the University to increase student awareness regarding noise and the impact they can have on the community, (Graph 2)
 - Friday and Saturday appear to be the busiest time for noise complaints, (Graph 3)
 - 628 late night complaints were made to the Control Centre over a 12 month period; of these 23% of the total (144 complaints) were received between 00:00 and 03:00, (Graph 4)
 - Graph 5 indicates that on average between 5/6 complaints a week are received by the Control Centre during the hours that staff are unavailable to respond to complaints (00:00-08:00).

3. REVIEW OF SERVICE IMPROVEMENTS

- 3.1 Areas for potential service improvements were reviewed, the Action Plan, (attached at Appendix 2), details the outcomes from the review and progress thus far.

Community Patrol Improvements

- 3.2 A number of noise review workshops have been held involving Environmental Protection staff, the Community Patrollers and Control Centre staff, all of whom are involved in the noise service provided by the Council. The purpose of the workshops was to discuss the processes involved at all stages of the investigation of noise complaints and identify improvements. Key improvements implemented are highlighted below and all are detailed in Appendix 2:
- Customer standard response sheets have been provided for both Control Centre staff and the Community Patrol, this ensures that consistent information is received from, and given to customers when they contact the service.
 - The procedural manual outlining the process for both out of hours and in hours response to noise has been updated, with greater emphasis on engagement with complainants at the time of the complaint.
 - The Patrollers have been given training to enable them to gather the evidence out of office hours to help the Senior Environmental Protection Officer (SEPO) assess if the level of noise witnessed is a statutory nuisance. A “triage” system has been introduced to identify those complaints which require more detailed investigation and/or formal action. Those cases where the noise has been witnessed by the Community Patrol and is considered to be excessive are brought to the attention of the SEPO on the next working day.
 - Standard letters have been drafted for the Patrollers to give to the ‘noise-maker’ at the time of their visit; this will be used for previously unregistered complaints where the Patrollers have requested the level of noise to be reduced and represents the first step in our investigation process.

- A system has been set up to identify cases where notices have been served to ensure that Patrollers give priority to complaints relating to these cases, this will ensure that good evidence is collected quickly, which in turn will result in swifter, more decisive action being taken.
- 3.3 The above has resulted in a clearly defined role for all those staff involved in the noise service which has resulted in a more consistent and transparent approach to dealing with noise complaints. Furthermore, there is in place a clearly defined process, from the receipt of the initial complaint through to its investigation and resolution, which has resulted in swifter and more decisive action being taken with cases.

Joint review of Environmental Health Services and Housing Services

- 3.4 The purpose of this part of the review was to examine the way that noise complaints relating to Council tenants were investigated with a view to strengthening the processes and procedures. It involved examining the IT used by both services to determine if the integration of systems could lead to improvements, a procedure and literature review, and a review of the role and responsibility of officers in both services.
- 3.5 Whilst the Environmental Health (EH) Service has the duty to enforce Section 80 of the Environmental Protection Act 1990, Housing Services have a role to ensure compliance with local authority tenancy conditions relating to noise nuisance. Furthermore environmental health staff can work with housing colleagues by providing evidence and technical inputs into applications for Anti-social Behaviour Orders, possession orders and injunctions where noise nuisance is cited in the justification for seeking the order or injunction. The appointment of a housing solicitor has facilitated and improved the formal process.
- 3.6 The following improvements have been implemented:
- Access for out of hours staff to both the EH M3 system and the Housing Academy system has been established, to enable cross-referencing.
 - Single points of contact (SPCs) within EH and Housing have been identified and monthly meetings scheduled to discuss cross-service cases.
 - M3 has been configured to provide information on incidents reported which is discussed at the monthly SPCs meetings. This enables repeat complaints to be identified which may be better dealt with by EH staff using the statutory nuisance provisions of the Environmental Protection Act 1990 rather than tenancy legislation, thus leading to a speedier conclusion/resolution of complaints.
- 3.7 The above improvements have resulted in a more co-ordinated approach towards dealing with noise complaints relating to Council tenants. Roles have been clearly defined and the monthly meetings using information from the IT systems has led to a more efficient and speedy conclusion of complaints, with the most appropriate action being taken by the relevant service. Further work is taking place to improve and strengthen this collaborative working.

Procedure and Evidence Review

- 3.8 A number of improvements have been made in this area some of which have already been mentioned above (eg customer standard response sheets for staff and the updating of the procedural manual). In addition, the procedure for the installation of the noise recording equipment, MATRON, and forms completed by complainants have been reviewed and amended. Furthermore two new MATRON systems have been

purchased which have the ability to capture recordings of noise for a period before and after the complainant has either switched the recording on or off. This is particularly useful for the investigation of complaints where the noise source is intermittent.

- 3.9 Greater and more effective use of the Community Patrol has streamlined and simplified the investigation process. Patrollers are now better equipped to gather good evidence when they visit out of hours and there is a system in place to flag those complainants which need to be progressed via formal action. Whilst it is recognised that the Patrollers cannot fulfil the role of an Environmental Health Officer, they have made significant progress towards providing an effective and efficient out of hours noise response.
- 3.10 During 2007/08 a total of nine notices were served which related to six premises/vehicle. Four of the notices related to domestic noise from four premises, one notice related to a vehicle alarm and four related to commercial noise from one premises. In addition, officers have worked with colleagues from Housing Services and Registered Social Landlords (RSLs) where anti-social behaviour legislation has been used to tackle problems. To date one Anti-social Behaviour Contract (ABC) has been issued by an RSL and the landlord has applied for Notice Seeking Possession if the tenant breaches the EPA notice and/or the ABC.
- 3.11 In the first quarter of 2008/09 three notices (two domestic noise and one car alarm) have been served, and one of the domestic noise complaints is being prepared for prosecution for a breach of the notice. With regard to the other domestic noise notice, officers are working with Housing Services to provide evidence to support an application for an Anti-social Behaviour Order. As well as an increase in the number of notices served, there has been a step change in the way that complaints are investigated from receipt to resolution, and a notable increase in the quality of evidence gathered by the Community Patrollers; this is anticipated to translate into greater enforcement action in future months.

Review of Out of Hours Service

- 3.12 The Table below details the average number of noise complaints received per week by time period.

Table 1. Average Number of complaints received per week by time period

	2006/7	2007/8	2008/9*
00:00 - 03:00 (Calls taken by Control Centre)	4	3	4
03:00 - 08:00 (Calls taken by Control Centre)	1	2	3
Office Hours	6	9	13
Calls responded to by Community Patrol	10	14	15

* Only includes the first quarter of 2008/09

- 3.13 With the greater emphasis towards improving our out of hours response and the up-skilling of the Patrol, officers now provide a more reactive 'blue-light' response to complaints during the hours they are on duty. Patrollers will respond to complaints received up to midnight and if there is a need work overtime to complete their investigation they have now been given the discretion to work beyond midnight.

- 3.14 The possibility of extending the late night coverage provided by the Community Patrol on certain nights, is currently being explored. The true demand for such a service is not sufficiently known at this point in time. Operating a pilot scheme over the short-term to gauge customer demand would assist in informing any proposal to widen the out of hours cover to respond to noise.

Detailed review of processes relating to noise and customer satisfaction survey including benchmarking with comparator Councils

- 3.15 This has involved improvements to the management processes of our noise service. M3 has been used to generate a number of monitoring reports which can be used to improve the monitoring and management of the noise service. Reports are used to monitor progress of complaints and also identify persistent complaints which can be used during the monthly meetings with Housing Services.
- 3.16 Since October 2007 a total of 202 customer satisfaction survey forms have been sent to customers who have used the noise service, the survey post-dates many of the improvements which have been initiated as a result of the review. An analysis of the responses is detailed in Appendix 3. Whilst only 25 forms have been returned the responses are reasonably encouraging with a majority of our customers confirming they were kept informed of the progress of their complaint (64%); 76% strongly agreed that we dealt with their complaint in a timely manner; 80% felt that all our staff showed professionalism and courtesy, and they were able to contact the service they required with ease.

Noise Focus Group

- 3.17 As part of the review process, in June members of the public who had used our noise service were invited to attend a Noise Focus Group, which was facilitated by the Council's Community Consultation Officer. 30 service users were invited and on the evening 13 people attended, all of whom had made a service request between December 2007 – May 2008.
- 3.18 The key issues raised by the Group were:
- **Community Patrol** - *"The birth of the Community Patrol was the best thing that's happened"* - *"The Community Patrol were absolutely smashing"* but there was frustration at their limited hours and the perception that they had limited powers to deal with problems. The comment was also made that the CPs did not always come into the property and sometimes assessed the situation from a van outside.
 - **Environmental Protection Officers** – Comments seemed to centre on differences between what complainants saw as a noise nuisance and the officers' interpretation. In particular there seemed to be a problem with sporadic domestic noise such as doors banging.
 - **Housing** – One group member confirmed that by talking to Housing this had solved the problem, whilst others felt that the Council was "too soft" on tenants.
 - **The investigation process** - There was frustration that the process was slow, cumbersome and placed too much emphasis on the complainant gathering evidence, keeping logs etc. Some people said that they had not been kept adequately informed about what was going on. There was a feeling that the information given out by agencies was either inadequate or contradictory.
 - **The University** - About half of the attendees reported problems with nearby houses in multiple occupation. They felt that the main cause of nuisance was student parties. People reported that these parties often went on all night and that large numbers attended them. Some of the group members said that they

had contacted the university who had written to the students in question. There was a desire that the university should take preventative action so that students did not cause problems.

- **Police** - It was felt that the police were not interested in dealing with noise related problems unless there were additional factors involved, such as a potential breach of the peace.

3.19 The outcome of the session was summarised as follows:

“It would be unreasonable to assume that the cases of the people who attended the group represented a complete cross-section. However, it was notable that none of the people who attended seemed to have had a satisfactory resolution to their case. Some had had some respite but no long term resolution. Some had experienced noise nuisance for many years, others had given up complaining. Although some cases related to problems with a single property, others related to noise nuisance in the area generally, especially in areas of housing in multiple occupancy, where nuisance (usually in the form of late night parties) could come from any one of a number of houses, making an effective solution more difficult.”

Group members suggested the following solutions:

- Council to be tougher on its tenants.
- Council agencies (Community Patrol and Environmental Health) to be tougher on offenders.
- University to use their security staff to respond to out of hours nuisance from students.
- University to fine students who breach code of conduct.
- Better information available, to make clear who to contact and what rights a complainant has.
- Better liaison between landlords and Council and more landlord accountability for tenants.
- Possible use of laws on public broadcasting to take action against offenders.
- Better communication with complainants at all stages of the process.
- Exeter City Council to allow less multiple occupancy in houses.

This was a very useful exercise and has identified a number of actions which can and are being taken forward:

- Environmental Health and Housing Officers are working closely together to improve our response to noise complaints from Council tenants, and the Community Patrol is being used more effectively in the evidence gathering process in order to enable appropriate action to be taken.
- Discussions are underway with the University in order to tackle noise complaints arising from the University student population in the City and the potential for improving the management of student lets by landlords, by the introduction of an Accreditation Scheme. The university has recently appointed a Community Liaison Officer to help take preventative action.
- During Noise Action Week, May 2008, a press release was issued publicising the Council's noise service and the updated web pages on noise were re-launched.
- The Private Sector Housing section raised awareness of the problem of noise from tenants via the quarterly Landlords Newsletter.

Wavelength 17

- 3.20 The 17th Wavelength Panel Questionnaire was used as an opportunity to ask a number of questions regarding the Council's Noise Service. A copy of the questionnaire can be found on the Council's website <http://www.exeter.gov.uk/index.aspx?articleid=8153> .

The feedback was as follows:

- Panellists were asked if they were aware of the Council's noise nuisance services. The majority (76.7%) were aware of Environmental Health but fewer (41.2%) knew about the Community Patrol service.
- Just under half of respondents had experienced noise nuisance but only a small percentage (18.4%) had contacted the council about it. The main reasons for not contacting the council were not knowing what the service could do, not knowing how to contact them or not being aware of the service.
- Overall satisfaction with the two services was just over 50%.
- The main cause of noise nuisance was loud music or TV from a dwelling (59.1%), followed by people being noisy in the street.

This indicates a lack of knowledge of the noise service that the Council provides and the need to raise public awareness of the existing service.

Benchmarking

- 3.21 Six local authorities from the Exeter Benchmarking Group were contacted – Oxford, Bedford, Carlisle, Lancaster, Canterbury and Lincoln – to determine whether or not they provided an out of hours noise service. Three did and three did not.
- 3.22 The table below summarises the level of service provided:

Table 1. Level of Out of Hours Service provided by 6 LAs in Exeter's Benchmarking Group

Name of Local Authority	Population	OOH service Y/N	Number of staff	Voluntary/ Contractual	Hours operated	Direct Costs for 2007/08
Oxford	149,100	Y	7	C	10:00-08:30 plus 24hr on weekend	£79,676
Canterbury	135,278	Y	10	V+C	18:00-06:00 Fri-Mon	£16,862 plus mileage
Bedford	147,991	Y	10	C	21:30-02:30 Fr-&Sat 24/7 call out to noisy parties	£35,000
Exeter	119,600	Y	10	C	07:00-00:00 7 days a week	Within existing service provision
Lincoln	82,824	N	X	X	X	X
Carlisle	100,739	N	X	X	X	X
Lancaster	138,000	N	X	X	X	X

- Oxford had one officer on duty to respond, but would not visit first time requests for service before 23:00, would send a standard letter to first time calls between 23:00-01:00 and visit all calls after 01:00. During 2007 they received 1565 calls.
- Bedford would respond with two officers and receive between 3,000-4,000 calls per year, the service is under review for 2009/10.
- Canterbury will respond to alarms, parties which disturb the neighbourhood (3 or more calls) or anything referred to them by the Police. During 2007/08 they received 254 calls but only visited 13 of these complaints.

This indicates a varied level of service, which appears to be reflected in the cost of the service. The Community Patrol in Exeter provides a wide range of other services, they open parks/cemeteries, check play equipment in play areas, and deal with low level anti-social behaviour throughout the city, in addition to dealing with a wide range of complaints for all Council services which will include the investigation of noise complaints out of hours. Therefore, the costs for dealing with noise complaints out of hours up until midnight are absorbed within the provision of the Community Patrol service as a whole. The costs for the services in Oxford, Canterbury and Bedford are over and above the service provided by each local authority.

Further enhancements to the service for consideration

- 3.23 The review of the noise service should be viewed as work in progress. Improvements have been made and systems and working arrangements will continue to be reviewed and enhanced; feedback from Customer Satisfaction surveys will be assessed and where appropriate improvements to the service will be made. Opportunities for publicising the service will continue to be explored.
- 3.24 Further development work with Housing Services will be undertaken and once consistent and transparent systems have been implemented these will be taken forward and developed with RSLs.
- 3.25 Opportunities for mobile working for the Community Patrollers is being explored; the use of mobile technology should enable the Patrol to access office systems whilst in the field which, in turn, will lead to more efficient data handling.
- 3.26 Partnership working with the University to tackle noise from the student population is being developed via the University Liaison group. This includes sanctions imposed by the University where justifiable complaints are identified, and the potential for improving the management of student lets by Landlords by the introduction of an Accreditation Scheme, as well as the work to be undertaken by this University's new Community Liaison Officer.
- 3.27 Whilst the Police do not have an enforcement role with regard to statutory noise nuisance, they do receive a number of complaints from the public relating to noise. There will be further work with the Police to examine how each organisation deals with noise and to consider the development of joint working arrangements to provide an improved response.
- 3.28 Officers will use the Noise Focus Group as a sounding board when changes to procedures or documentation are considered to ensure that a customer perspective is embedded.

3.29 An extension of the hours of out of hours cover will be explored to see if a service can be provided beyond midnight on certain nights of the week.

4. RECOMMENDED that

- 1) Scrutiny Committee Community notes the improvements to the Council's noise service and the further improvements under development.

HEAD OF ENVIRONMENTAL HEALTH SERVICES

COMMUNITY & ENVIRONMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

National enforcement priorities for local authority regulatory services – Peter Rogers 2007

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