

SECOND REVIEW IN 2012/13 – POSSIBLE REVIEW TOPICS

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SUMMARY

To enable the Committee to consider a briefing note on 'Control and Enforcement of Noise Nuisance' (see Annex A) and a verbal presentation from officers on Pest Infestation' in order for the Committee to decide on a second review topic and agree the issues Members wish to include in their second review.

INFORMATION

At the Committee meeting on 15 November 2012, Members discussed two potential review topics for their second review. These were:

- Pest Infestation/ Waste Management
- Control and Enforcement of Noise Nuisance

The Committee requested officers to prepare a briefing note/make a presentation in order to provide further information which would assist Members to decide on their second review topic.

BRIEFING NOTE/VERBAL PRESENTATION

- A briefing note in respect of the topic on the Control and Enforcement of Noise Nuisance is attached (see Annex A) and;
- A verbal presentation will be provided by officers at the meeting in respect of Pest Infestation/ Waste Management for Members' consideration.

SUGGESTED COMMITTEE ACTIVITY

1. To consider the briefing note and verbal presentation and ask any further questions of officers
2. To agree the second review topic
3. Subsequently, to agree the programme and the scheduling of witness sessions and amend or update the work programme accordingly.

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SECOND POSSIBLE REVIEW TOPIC 2012/13 – BRIEFING NOTE

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CONTROL AND ENFORCEMENT OF NOISE NUISANCE

The current arrangements for dealing with noise nuisance are broadly divided between:

- noise arising from premises such as factories, construction sites, railways, licensed premises and other commercial undertakings, which are dealt with by the Environmental Protection Unit and
- noise arising from domestic premises which is dealt with by the Anti-Social Behaviour Investigations Team

The reason for this allocation is that whilst both teams use Noise Abatement provisions under the Environmental Protection Act 1990 section 79 ("noise emanating from a premises so as to be prejudicial to health or a nuisance"), noise from commercial enterprises may also require action under the Control of Pollution Act 1974 and the remedial measures necessary to abate the nuisance may require the specialist intervention of Environmental Health Officers.

Noise nuisance which occurs during office hours on weekdays will be responded to on an as needed basis by EPU or ASBIT officers. The normal procedure is for an initial report to be taken by the Customer Contact Centre, taking full details and assessing whether the nuisance is part of a pattern of persistent nuisance or a single event. Persistent nuisance will be determined by asking the reporter to complete record sheets of when the nuisance occurred and what is the effect on the reporter. Single events of noise nuisance may be investigated immediately but it is more likely that a pattern of persistent nuisance will need to be established before Council officers attempt to witness the noise in person.

The concept of statutory noise nuisance is that enforcement action in the form of a Noise Abatement Notice would only be taken if the noise is penetrating and intrusive and would need to make normal activities such as sleeping, reading or watching television very difficult or impossible.

The normal approach if a statutory noise nuisance is identified is for Council officers to serve a Noise Abatement Notice. A Noise Abatement Notice may also be served if the nuisance was witnessed by a reliable witness who is capable of making an accurate judgement about whether the nuisance met the statutory nuisance level and is willing to appear if court if necessary to substantiate this (ie if the Notice is appealed). The existence of the Notice will then be logged for priority response if there is a report of a

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breach of the Notice. If a breach is witnessed a case will be prepared for prosecution in the Magistrate's Court under Environmental Protection Act 1990 s.80.

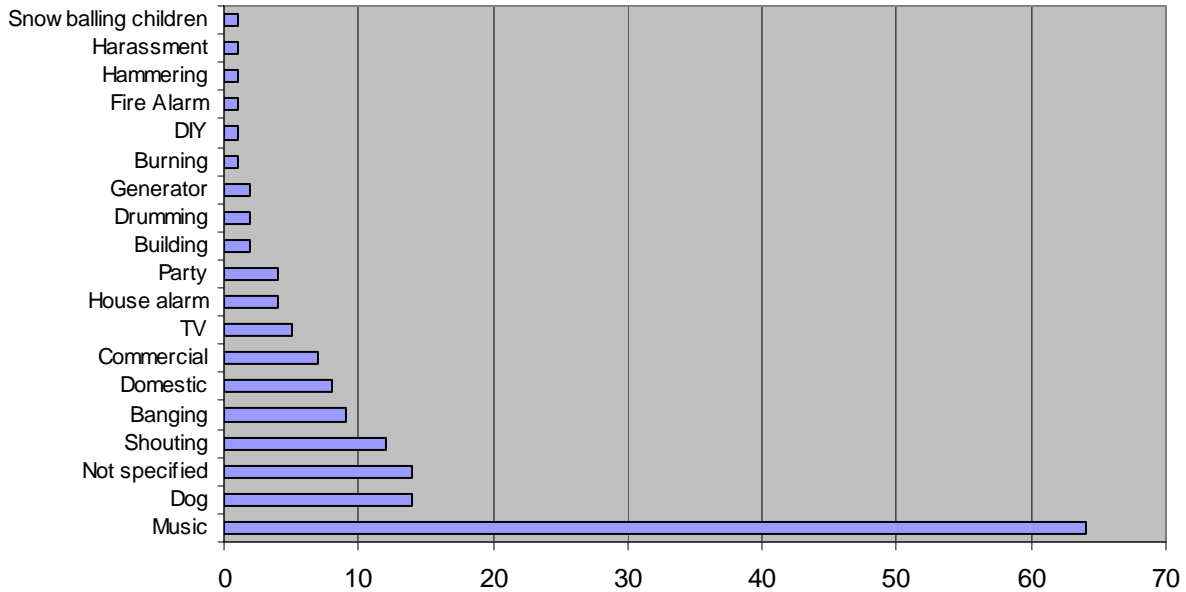
Other types of noise which are a nuisance to residents but do not reach this statutory threshold, would be dealt with in other ways. Advice will be given to the householders about sound proofing or design improvements which may be possible. Encouragement will be given to make behaviour changes which may resolve the situation (for example not using the washing machine at night). Advice will be given that ultimately these are matters for the households concerned to resolve between them and there is no legal action the Council can take to force landlords, tenants or home owners to install sound proofing or change their domestic behaviour.

Many nuisances occur in the evenings or at weekends. The Council's current arrangement is to provide an out of hours service through the Anti-Social Behaviour Investigations Team who will carry out initial inspections of noise from commercial as well as domestic premises out of hours. Two officers work four evenings per week from Thursday to Sunday. The hours of work are:

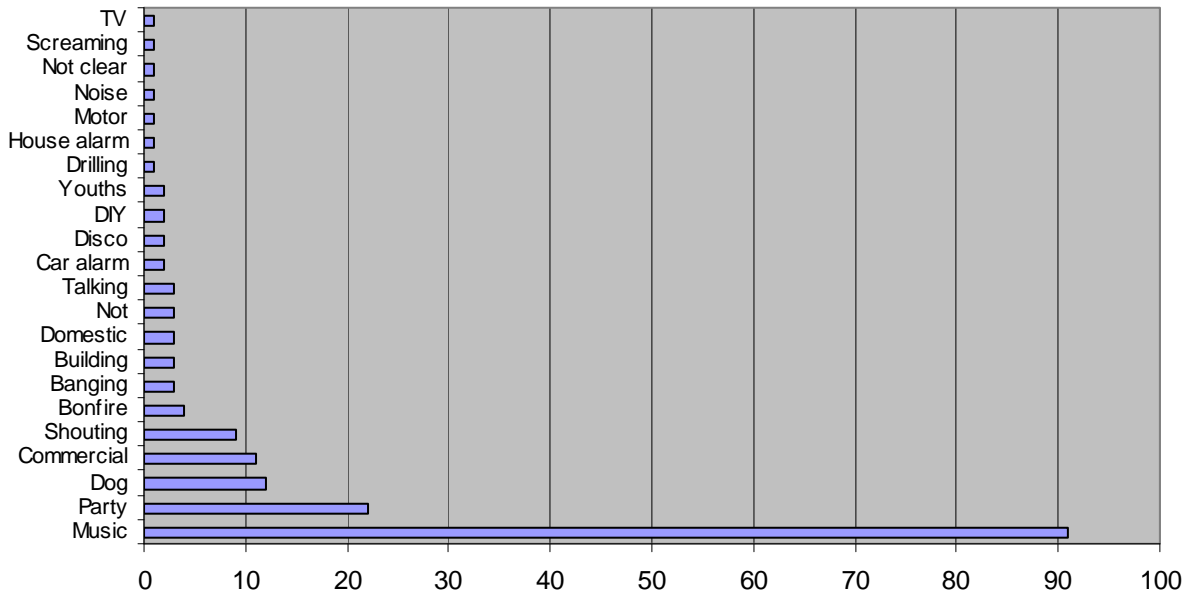
- Thursday 5pm to 2am (responding to calls from 8pm)
- Friday and Saturday 6pm to 3am (responding to calls from 9pm)
- Sunday 4pm to 1am (responding to calls from 7pm)

Over two four week periods in February and June this year the volume of calls varied from 180 in the summer to 153 in the winter, but the trend is towards the daytime in the winter and evening in the summer. Of the 180 summer time calls, 122 were within the times the out of hours team were available to respond and out of the 153 winter calls, 78 were within the active time period.

Types of out of hours reports February



Type of report June



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The benefits of this arrangement are:

- The Council can provide a response to night time noise from parties or other anti-social behaviour involving noise. The usual response is to prioritise the calls received via the out of hours call centre and visit the most urgent addresses. If noise nuisance is witnessed, warnings are given with requests to turn the volume down, or noise abatement notices are served. Patrols may be undertaken to attempt to witness previously reported noise nuisance from hi-fi or barking dogs.

The weakness of the arrangement is:

- Only a partial service is provided leading to residents' dissatisfaction – there is no service Monday to Wednesday or after the officers' shift finishes. The officers ability to prevent noise during a night shift is limited in the sense that first they need to witness a noise nuisance and serve a noise abatement notice on the person responsible, wait to witness a breach of the notice, obtain a warrant from magistrate to seize the equipment, arrange police support to enter the premises, seize the equipment and bring the party to a halt. The opportunities to do the latter are rarely in place. In most cases where a breach of a previously served abatement notice is witnessed, a court summons is arranged during office hours (ie after the event).