



Draft Noise Management Guide

**Guidance on the Creation and Maintenance of
Effective Noise Management Policies and Practice
for Local Authorities and their Officers in Scotland**

October 2005
Paper 2005/24



Scottish Executive Environment Group

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ISBN: 0-7559-2752-4

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St Andrew's House
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Produced for the Scottish Executive by Astron B43513 10/05

Published by the Scottish Executive, October, 2005

Further copies are available from
Blackwell's Bookshop
53 South Bridge
Edinburgh
EH1 1YS

The text pages of this document are printed on recycled paper and are 100% recyclable.

Acknowledgements

The Scottish Executive and REHIS gratefully acknowledge the following for their contribution to the preparation of this guide:

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Professor Francis McManus of Napier University provided expert opinion on all legal aspects.

Ms Linda Story Ms Susan Gilroy and Mr Duncan McNab of the Scottish Executive's Air, Noise and Nuisance Team.

Abbreviations

ABC	Acceptable Behaviour Contracts
ACPO	Association of Chief Police Officers
ADR	Alternative Dispute Resolution
ASBO	Anti-Social Behaviour Orders
BAT	Best Available Techniques
BPM	Best Practicable Means
CIEH	Chartered Institute of Environmental Health
CPA	Care Programme Approach
DAT	Digital Audio Tape
Defra	Department for the Environment, Food and Rural Affairs
DETR	Department for Transport Local Government and the Regions
EA	Environment Agency
ECHR	European Convention on Human Rights (ECHR)
EH	Environmental Health
EHO	Environmental Health Officer
EHT	Environmental Health Team
EPA	Environmental Protection Act 1990
FTE	Full Time Equivalent
IoA	Institute of Acoustics
IPPC	Integrated Pollution Prevention and Control
JP	Justices of the Peace
LA	Local Authority
LGA	Local Government Association
LPSA	Local Public Service Agreement
MOU	Memorandum of Understanding
NAZ	Noise Abatement Zone
NMG	Noise Management Guide

NOSP	Notice of Seeking Possession
NNO	Noise and Nuisance Officer
NSCA	National Society for Clean Air and Environmental Protection
ODPM	Office of the Deputy Prime Minister
PAN	Planning Advice Note
PEL	Public Entertainment Licence
PPC	Pollution Prevention and Control
PPR	Public Performance Reporting
PSA	Public Service Agreement
REHIS	Royal Environmental Health Institute of Scotland
RIPSA	Regulatory Powers (Scotland) Act 2000
RSL	Registered Social Landlords
SEPA	Scottish Environment Protection Agency
SNMG	Scottish Noise Management Guide
WHO	World Health Organisation

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Consultation letter

24th October 2005

Dear Sir/Madam

Consultation on the draft Scottish Noise Management Guide

I enclose a copy of a Consultation paper entitled *Consultation on the draft Scottish Noise Management Guide* relating to guidance on the creation and maintenance of effective noise management policies and practices for Local Authorities and their officers in Scotland.

This guide has been produced to assist Local Authorities throughout Scotland to make decisions on the development of robust policies and how policies can be effectively implemented across the range of noise functions for which they are responsible.

The specific aim of the Scottish Executive, supported by Royal Environmental Health Institute of Scotland (REHIS), was to produce a guide that will help local authorities to develop a common approach and consistency towards enforcement of the relevant statutory provisions as these relate to community noise.

It has never been the intention that every Local Authority should adopt every aspect of this Guide. The Guide recognises the wide diversity of Local Authorities across Scotland. It is anticipated that local authorities will need to carefully consider the contents, select those parts that are pertinent to the needs and circumstances of their district and ignore those elements that they do not consider relevant.

The Guide is intended to be a dynamic document and will be reviewed periodically to ensure its currency. It is designed to be practical and accessible to all users and in particular it aims:

- To encourage Local Authorities to develop noise policies and practices to meet their statutory obligations, informed by an objective assessment of the needs and circumstances of the communities and businesses in their district;
- To provide examples of 'good practices' in dealing with noise issues, drawn from the very real experiences of a cross section of Local Authorities across Scotland, as an aid to sharing experience and knowledge; and



- To encourage Local Authorities to critically review their noise services, including the allocation of resources to this function, within a Best Value framework (or any appropriate alternative model) and to determine where improvements can be made, having due regard to the particular needs and circumstances of their areas.

Responding to this consultation paper

We are inviting written responses to this consultation paper by **20th January 2006**. The invitation to comment extends to every part of the paper and comments are welcome on any aspect. However, to assist the Department's analysis of responses, consultees are asked to use the response form provided. **Please send your response to:**

noise@scotland.gsi.gov.uk

or

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1-G Dockside
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Edinburgh
EH6 6QQ

This consultation, and all other Scottish Executive consultation exercises, can be viewed online on the consultation web pages of the Scottish Executive website at <http://www.scotland.gov.uk/consultations>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

Access to consultation responses

We will make all responses available to the public in the Scottish Executive Library and on the Scottish Executive website by 20th February 2006. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website. A respondent information form which will help ensure we handle your response appropriately is attached to the response form.



The Environment Group is part of the Scottish Executive Environment and Rural Affairs Department

*SE Approved
Version 1.1*

Response Form for the Consultation on the draft Scottish Noise Management Guide

1. Are you satisfied with the contents of this Guidance?

2. Is there anything in the Guidance you are dissatisfied with?

3. Are there any additional good practices you feel should be included in the guidance?

4. Do you have any views on the most appropriate mechanism to keep the guide up to date and to share good practices?

RESPONDENT INFORMATION FORM

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
- (a) as an individual go to Q2a/b and then Q4
- (b) **on behalf of** a group/organisation go to Q3 and then Q4

INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. Where *confidentiality is not requested*, we will make your response available to the public on the following basis (please tick **one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

- 3 The name and address of your organisation *will be* made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4 We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No

1. OVERVIEW

1.1. Aims

This guide has been produced to assist Local Authorities throughout Scotland to make decisions on the development of robust policies and how policies can be effectively implemented across the range of noise functions for which they are responsible.

The specific aim of the Scottish Executive, supported by REHIS, was to produce a guide that will help local authorities to develop a common approach and consistency towards enforcement of the relevant statutory provisions as these relate to community noise.

It has never been the intention that every Local Authority should slavishly adopt every aspect of this Guide. Instead the guide recognises the wide diversity of local authorities across Scotland, in terms of population density, rural and urban character etc, which means in turn that noise problems themselves may vary considerably in number, type, complexity and scale between even broadly similar local authorities. Consequently, it is anticipated that local authorities will need to carefully consider the contents of this guide and select those parts that are pertinent to the needs and circumstances of their district, ignoring those elements of the guide that they do not consider relevant. In so doing, the objective of providing noise services that are appropriate to each individual Local Authority and the communities and businesses that they serve should be achieved.

The Guide is intended to be a dynamic document and will be reviewed periodically to ensure its currency. It is designed to be practical and accessible to all users and in particular it aims:

- to encourage local authorities to develop noise policies and practices to meet their statutory obligations, informed by an objective assessment of the needs and circumstances of the communities and businesses in their district;
- to provide examples of 'good practice' in dealing with noise issues, drawn from the very real experiences of a cross section of local authorities across Scotland, as an aid to sharing experience and knowledge. What constitutes "good practice" can vary from authority to authority depending on local circumstances and needs. The examples of "good practice" provided in this guide are drawn from many different local authorities across the whole of the UK, and as a consequence reflect the interpretation of legislation and the needs and circumstances of the particular authority that devised them. These examples of "good practice" are provided as models for consideration by other noise service managers for adoption either unchanged or as a reference for developing different **bespoke** systems, procedures and practices tailored to the needs and circumstances of their own authority; and
- to encourage local authorities to critically review their noise services, including the allocation of resources to this function, within a Best Value framework (or any appropriate alternative model) and to determine where improvements can be made, having due regard to the particular needs and circumstances of their areas.

1.2. Application and Scope

This Guide is primarily aimed at managers of local authority Environmental Health Services throughout Scotland who are responsible for enforcing statutory controls with regard to Community Noise.

The Guide may also be useful to other local authority departments concerned with this function and by other professionals engaged in this field of work, e.g. environmental health officers employed by the Scottish Environmental protection Agency (SEPA). The scope of the guide is intended to address:

- neighbour and neighbourhood noise (including noise in the street*);
- commercial and industrial noise, including construction site noise;
- public entertainment noise; and
- recreation and leisure noise.

*In this context “noise in the street” only includes noise from vehicles, machinery and equipment, and excludes noise from traffic and persons.

This guide is not intended to address operational transportation noise, as control of noise from these sources is generally beyond the remit of the legislation available to local authority noise service managers. Nevertheless, Noise Service Managers may well have a role to play in providing advice with respect to the impacts of new roads and specific traffic management measures. In this context their interaction with Transportation Managers and Highways Engineers will be key in ensuring that transportation noise does not unduly affect those living in close proximity to transportation corridors. With respect to railways there are no controls that specifically relate to noise from railways other than the powers within the Control of Pollution Act 1974 and the Environmental Protection Act 1990 Sections 80 and 82 where construction noise is an issue.

Whilst care has been taken to make this guide as wide reaching and as comprehensive as possible, the guidance cannot address every particular circumstance and eventuality. Instead it provides a broad framework to inform the scoping of noise services to address the noise problems that may arise within a local authority’s district.

As mentioned in Section 1.1, not all elements of the guide will be equally applicable to every local authority and some elements of the guide will be more appropriate compared to others. The intention is for the Guide to provide a broad framework that is instructional when local authority noise service managers are designing, operating and evaluating noise services appropriate to the needs and circumstances of their district.

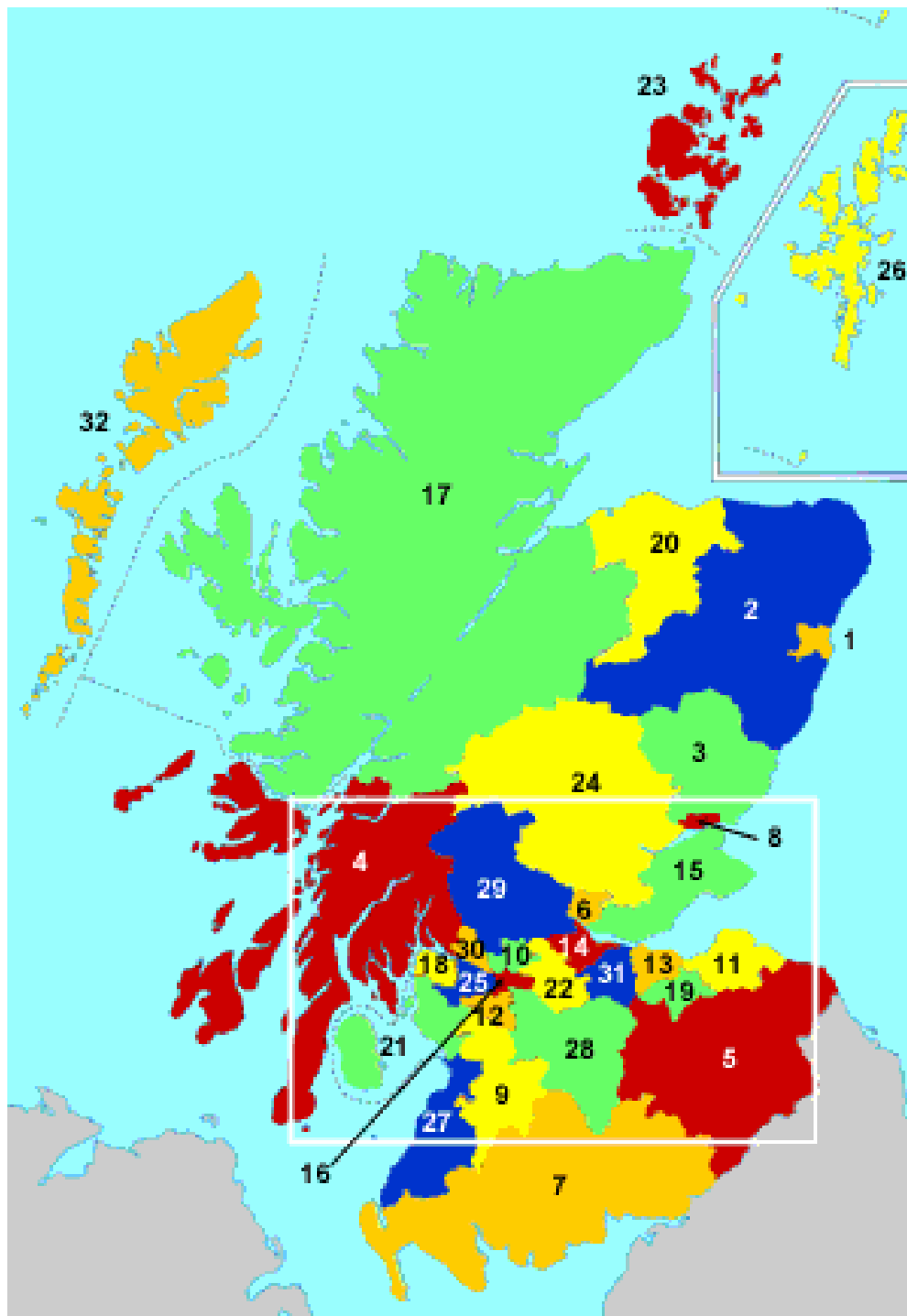
There are a wide variety of Local Authority types within the thirty-two Authorities within Scotland. By the very nature of their location, the demographics of the Authority and the size of the resident population, there will be differing demands on their noise services. **Table 1** identifies the population (Source: 2001 Census) by reference to **Figures 1 and 2**, which illustrate the very large differences in the areas of the Local Authorities. This results in a wide range of population densities from 0.13 people /hectare in Argyll & Bute to 32.93

people/hectare in Glasgow City. This difference in area served can in itself result in less centralised services and potentially a disparity in the way in which the service is delivered even within the same Authority.

Table 1 - Population Data for Scotland

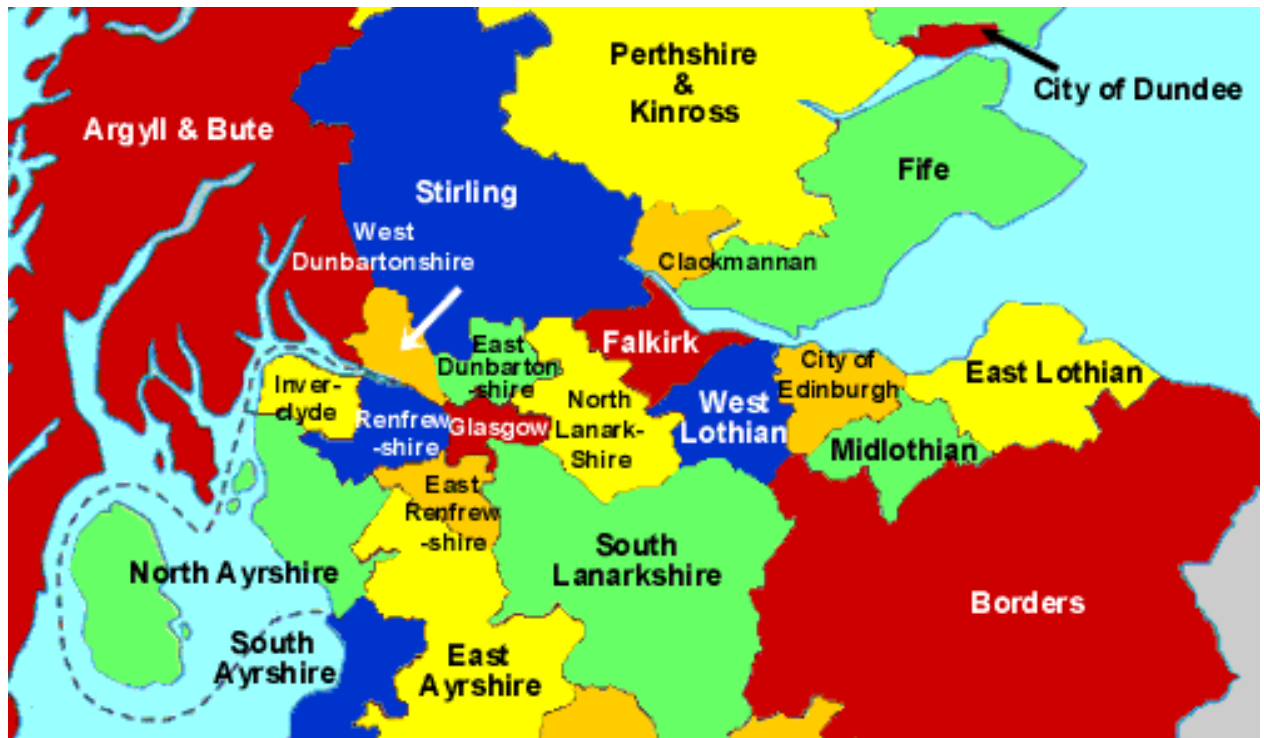
Map Reference	Population Size (No. of People)	Map Reference	Population Size (No. of People)
1.	212,125	17.	208,914
2.	226,871	18.	84,203
3.	108,400	19.	80,941
4.	91,306	20.	86,940
5.	106,764	21.	135,817
6.	48,077	22.	321,067
7.	147,765	23.	19,245
8.	145,663	24.	134,949
9.	120,235	25.	172,867
10.	108,243	26.	21,988
11.	90,088	27.	112,097
12.	89,311	28.	302,216
13.	448,624	29.	86,212
14.	145,191	30.	93,378
15.	349,429	31.	158,714
16.	577,869	32.	26,502

Figure 1 - Map of Scotland with Identified LA Areas



Map Reference	Local Authority	Map Reference	Local Authority
1.	City of Aberdeen	17	Highland
2.	Aberdeenshire	18	Inverclyde
3.	Angus	19	Midlothian
4.	Argyll & Bute	20	Moray
5.	Scottish Borders	21	North Ayrshire
6.	Clackmannanshire	22	North Lanarkshire
7.	Dumfries & Galloway	23	Orkney Islands
8.	City of Dundee	24	Perth & Kinross
9.	East Ayrshire	25	Renfrewshire
10.	East Dunbartonshire	26	Shetland Isles
11.	East Lothian	27	South Ayrshire
12.	East Renfrewshire	28	South Lanarkshire
13.	City of Edinburgh	29	Stirling
14.	Falkirk	30	West Dunbartonshire
15.	Fife	31	West Lothian
16.	City of Glasgow	32	Western Isles

Figure 2 - Detailed LA Areas within Box of Figure 1



1.3. Status and Aspirations

This guide is published jointly by the Scottish Executive and REHIS and its contents provide outline guidance and advice on how a local authority may fulfil its statutory functions in the field of community noise.

The document is also available electronically on the Scottish Executive and REHIS web sites www.scotland.gov.uk/consultations/current. It will also be supported by a discussion forum on the REHIS web site to receive record and resolve queries relating to the interpretation and application of the guide and other noise enforcement matters during the first year following its publication. The intention is the Guide is a dynamic document and that it will be reviewed on a periodic basis to ensure its continuing currency and reference.

Whilst this document is not an 'approved' code under section 71 of the Control of Pollution Act 1974, nevertheless it does provide authoritative advice on what constitutes good practice for local authorities in fulfilling their statutory duties in the field of community noise (for the purposes of this report noise should be taken as including the effects of vibration). Whilst in practice the guide may be used as a standard against which ultimately to assess the performance of a local authority in the discharge of its statutory functions with regard to noise, the document does not seek to set specific objectives or performance targets for local authority noise services. Instead local authorities should develop their own objectives, policies and performance targets in conformity with General Performance Indicators for Noise developed by Audit Scotland (www.accounts-commission.gov.uk/performance/index.htm). It is equally important for authorities to develop systems to monitor and review their noise services in order

to identify any areas where under-performance might arise and where improvement may be possible.

Compliance with this guide does not necessarily confer statutory immunity and it remains the responsibility of each local authority to make its own arrangements to comply with its legal obligations and to seek legal and technical advice on meeting its statutory duties, in the context of its needs and circumstances and those of the communities and businesses in its district, and of any individual case under consideration. It will be the case that Authorities will need to have regard to legal precedents and cases which emerge over time. This will inform in a dynamic way how services should be provided and the extent to which procedures and protocols might need to be amended with the passage of time.

2. BACKGROUND

2.1. Introduction

Noise affects most of us at some time, with all the attendant consequences for disruption to our work, home life or recreational activities. It is well understood that noise can disrupt people's activities and rest by interfering with speech, study, leisure or sleep. However, it is also established that the individual response to noise can vary considerably, and that non-acoustic factors can significantly influence how individuals react to the same noise.

The proposition that noise levels overall are increasing appears to be a perception common among the general public, though scientifically validated evidence to support such a view has not been established. Just as important as any real or perceived change in noise levels over time, is the apparent change in public expectations over the last decade as to what local authority noise services can and should deliver. Public expectation appears to have shifted significantly in the last decade, sometimes placing challenging demands on local authorities that are difficult to meet or which may clash with other priorities and statutory responsibilities. A selection of the range of difficulties perceived by some Scottish local authorities in delivering effective noise services include:

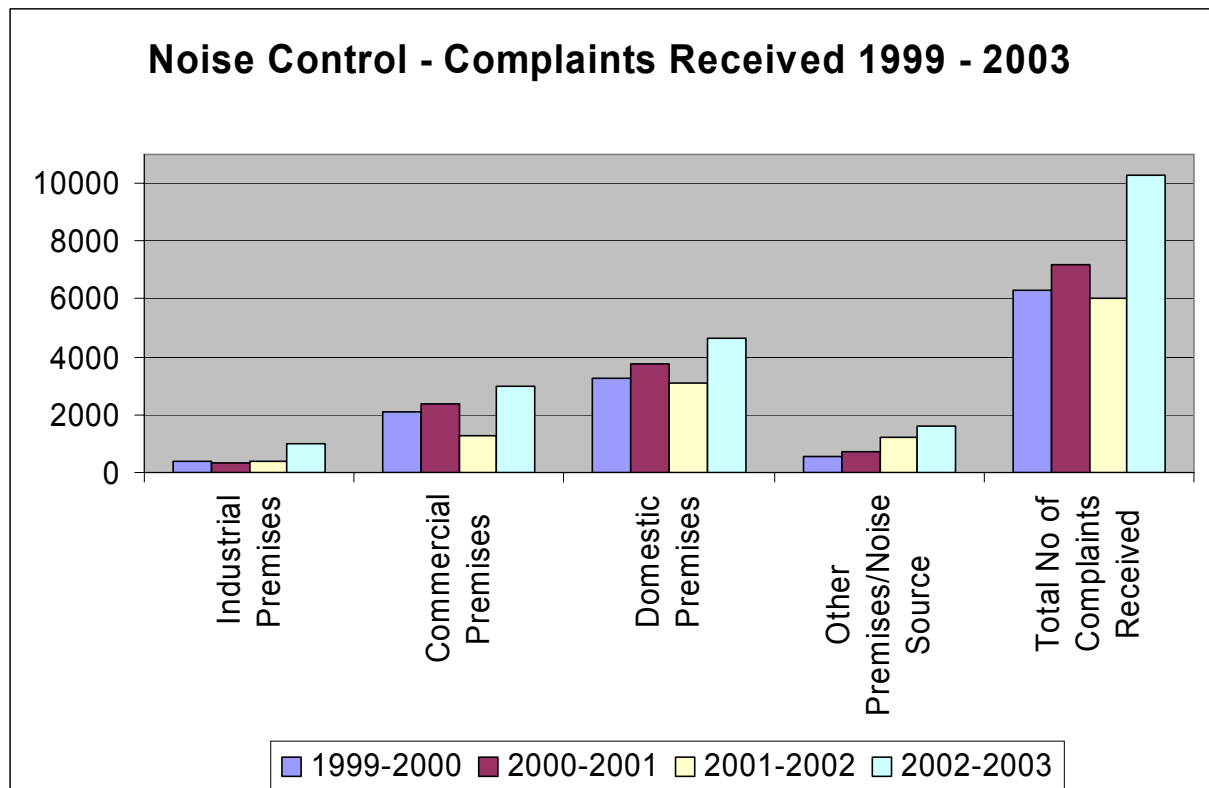
- restrictions in funding;
- lack of resources (personnel and equipment);
- ineffective statutory powers to address specific noise problems;
- absence of effective liaison and working systems between Environmental Health Departments and other local authority departments, the Police, SEPA and other external agencies.

The problem of neighbourhood and neighbour noise in our towns, cities and in the countryside, remains a major social phenomenon and continues to present local authorities with one of their most exacting and demanding challenges. The latest UK National Noise Attitude Survey [Ref: 1999/2000 National Survey of Attitudes to Environmental Noise, BRE, 2002 – www.defra.gov.uk/environment/noise/nas9900/index.htm] conducted on behalf of Defra and the Devolved Administrations, indicated that whilst 69% of respondents were generally satisfied with noise levels in their environment, some 8% of respondents said their home life was spoilt either 'quite a lot' or 'totally' by noise. In Scotland, whilst the general responses were not significantly different to those results for the whole of the UK, it was interesting to note that 50% less people reported noise as being in their top five environmental problems than those reported for the UK as a whole.

The scale of the problem is also reflected in the annual statistics on noise complaints collated by REHIS, which appear to have stabilised over the last few years at a high level and which show little sign of diminishing, as **Figure 3** demonstrates. The figures for 2002/2003 represent a 100% return from the Local Authorities in Scotland and therefore can be taken to be representative of the scale of the problem of noise nuisance in Scotland. Whilst the recorded overall number of complaints and the relative proportions attributable to different sources have

remained fairly constant for the past four years, domestic (neighbour) noise is consistently the cause of the majority of complaints, as **Figure 3** also indicates.

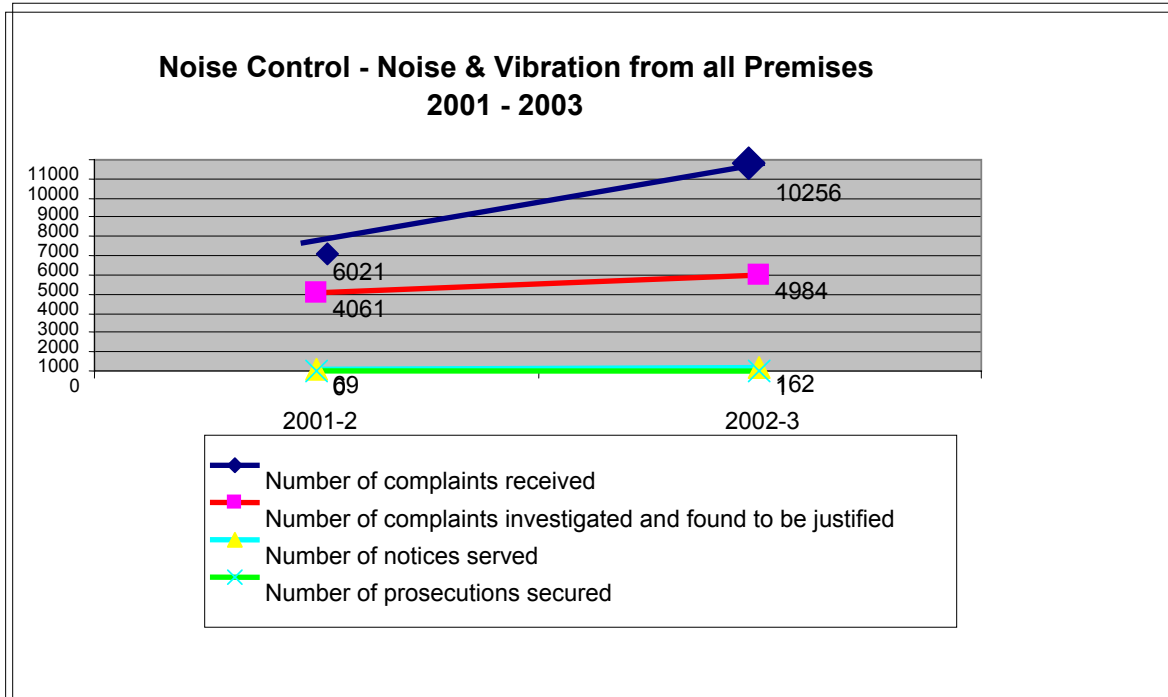
Figure 3 - Numbers of Noise Complaints received by Scottish LA's 1999 to 2003



Source REHIS

One of the most surprising discrepancies can be found in the relatively small proportion of noise complaints investigated that were found by local authorities to be justified, which for all complaints received for the years 2001/2 and 2002/3 was 67% and 49% respectively - see **Figure 4**.

Figure 4 - Relationship between Action Taken and Total Numbers of Noise Complaints Received by Scottish LAs 2001 to 2003



Source REHIS

Whilst anecdotal evidence and the experience of many enforcement officers indicates that a proportion of complaints can be frivolous, unfounded, malicious or could never be confirmed as a statutory nuisance, the findings of the 2003 MORI research into neighbour noise on behalf of Defra, suggests that as many as 1 in 5 of the complainants surveyed had unreasonable expectations of peace and quiet.

(See www.defra.gov.uk/environment/noise/mori/). However, lack of tolerance or the over-sensitivity of complainants cannot be the only explanation for the gap between the numbers of complaints and the small proportion of statutory nuisances established.

Other possible explanations include:

- the seemingly wide variation in the definition of a complaint used by different local authorities, and
- the differences in the type, structure and scope of noise services provided by different local authorities.

Both of these explanations are likely to further confound the recorded statistics to a greater or lesser extent.

Additionally, there is concern that the gap may be influenced by an emerging imbalance between what local authorities can practicably achieve, and by what the public at large increasingly comes to expect. It is hoped that this imbalance will, to a large extent, be

redressed by the new powers provided by the Anti-Social Behaviour Act 2004 available to local authorities to control neighbour noise.

The National Noise Incidence Study 2000/2001 (United Kingdom) [Ref: BRE report for Defra and the Devolved Administrations, 2002] (see www.defra.gov.uk/environment/noise/nis0001/index.htm), showed that measured changes in external ambient and background environmental noise levels between 1990 and 2000 were small and there appears to be no conclusive evidence to indicate that levels of environmental noise are rising. Consequently, the corresponding increase in noise complaints between 1990 and 2000 is open to interpretation and lends support to the observation regarding the public's growing intolerance and people's higher expectations regarding a quieter environment. However, the National Noise Incidence Study 2000/2001 was focussed on long-term environmental noise outdoors and did not consider the dominant source of complaint to Local Authorities, which is relatively short-term domestic noise experienced by the sufferer indoors. As a result, increases in the incidence and impact of domestic noise cannot be ruled out as factors influencing the marked increase in noise complaints between 1990 and 2001/2002. It should be noted that Scotland was not included in the 1990 survey and it is therefore not possible to be sure that the changes in noise level in Scotland are small, although there is no reason to suppose this is not the case.

The factors behind the sustained incidence of high levels of public complaint can be speculated as including:

- the public's increased awareness of local authorities' duties to investigate complaints and of their powers to control noise;
- the greater availability to the public and the public's habitual use of powerful sound systems;
- changing social attitudes and lifestyles;
- deficiencies in the residual sound insulation properties of tenement buildings, exacerbated by the growing trend of householders to install laminated flooring.

The factors that may lead an individual to complain about noise are known to be varied and complex. It is evident that it is not simply the level of noise itself that triggers adverse reactions; a host of individual, cultural, attitudinal, lifestyle, demographic and situational factors are likely to influence how a person reacts to a given noise level exposure and what, if any, health effects they may suffer. Research undertaken by the Building Research Establishment (BRE) ([Ref BRE Report CR 153/97 "Investigation of Domestic Noise Complaints" (see www.defra.gov.uk/environment/noise/domestic/index.htm) has identified the following noise source factors which influence the degree of disturbance attributable to a noise:

- the volume (perceived loudness) of the noise
- the duration of the noise
- the time of day that the noise occurs
- the inability of the complainant to control the noise
- the sporadic or unpredictable nature of the noise

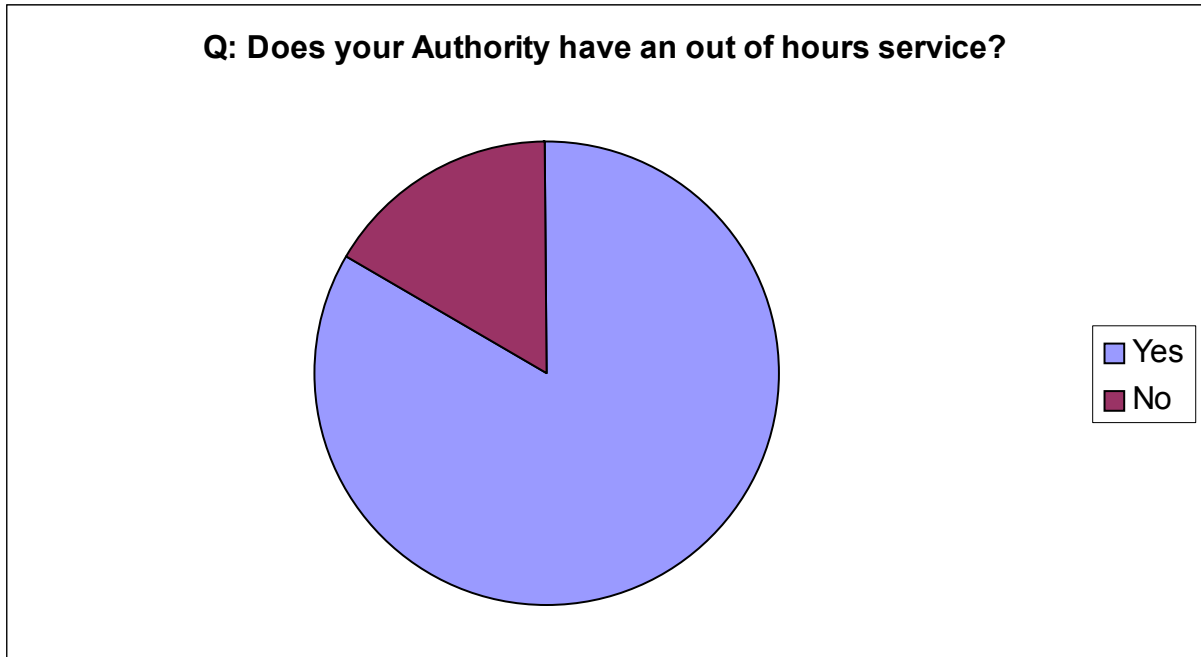
- the tone of the noise, including low frequency components.

Neighbour (a.k.a. domestic) noise, in the guise of music, parties, televisions, raised voices, dogs barking, DIY etc, remains by far the largest single category of noise complaint made to local authorities throughout Scotland. MORI research in 2003 on behalf of Defra into neighbour noise throughout the UK, which included Dundee, Edinburgh and Thirsk (see www.defra.gov.uk/environment/noise/mori/) provides interesting reading and useful background information for those concerned with making difficult decisions on the scoping, resourcing, management, operation and review of local authority noise services. The conclusions of the study included the following:

- “Many people – close to two in three (63%) – hear noise from their neighbours to some extent. Fewer are actually annoyed by it, although annoyance occurs among just fewer than half (46%) of those who hear noise, or close to one in three (29%) among the population as a whole;
- Neighbour noise is, therefore, a problem that can arise under certain circumstances and in specific ‘risk areas’. These risk factors include high density housing, rented accommodation (in both the social and private sectors), areas of deprivation, and urbanity. In contrast, the profile of those less concerned by neighbour noise is consistent with circumstances which would be expected to limit exposure, for example detached housing, high home ownership, and residence in rural/suburban locations in some of the least deprived areas nationally;
- The top priority from the public’s perspective in a noise incident is time;
- In terms of responding to the initial complaint and the time it takes to resolve the dispute;
- There is a strong sense, among noise sufferers and stakeholders alike, that the process is laborious and difficult, with repeated warnings but no satisfactory outcome;
- Face-to-face contact with the council or police when the complaint is made, alongside feedback on what has been done about it, is desirable and can significantly improve client satisfaction with the service received;
- There is very little awareness of local noise services, which is an area for immediate attention.”

The process of receiving, recording, investigating and as far as possible resolving (whether formally or informally) the invariably increasing caseload of noise complaints is a significant management task. As a result there is an increasing trend for local authorities to adopt more flexible and responsive noise services that go beyond the traditional 9 to 5 weekday office hours as **Figure 5** illustrates.

Figure 5 - Authorities In Scotland with an 'Out Of Hours Service' Identified from Questionnaire Returns



The increasingly large numbers and wide variation in the profile of noise complaints received by local authorities, underlines the importance of a flexible approach to the design and delivery of effective noise services, with the expectation that local needs can be addressed in a sustainable way. Consequently, local authority noise services should be managed and operated on the basis of an objective assessment of need so that as many complaints as possible can be investigated and resolved as quickly as is practicable; utilising the resources allocated as effectively as possible, within the exigencies of the authority's other priorities and statutory duties.

2.2. Local Authority Feedback

The consultation exercise with Local Authorities as part of developing this Noise Management Guide revealed a wide range of issues and concerns that need to be addressed. These are discussed in greater detail below.

As part of the development of a Scottish Noise Management Guide (SNMG) a questionnaire was designed to obtain information from all those Local Authority Environmental Health Service managers working in Scotland with responsibility for noise issues. The purpose of the questionnaire was to collect as much relevant information with respect to the following:

- Noise/Noise Enforcement Policy
- Management Strategies and Procedures
- Practical Considerations

- Review Process
- Challenges and Key Issues
- Features and structure of a Noise Management Guide

The questionnaire was circulated to all Local Authorities in Scotland with a request to provide feedback on all appropriate parts of the questionnaire. At the same time a request was made to provide any examples of 'good practice' or success stories where they existed.

In total, some 32 questionnaires were distributed and 18 responses were received i.e. an overall response rate of 56%. A brief description of the most pertinent findings, together with corresponding observations as relevant, is given below. Responses are cross-referenced to the question numbers for ease of reference and commentary provided where appropriate with an analysis of the response.

2.2.1. Management Strategies and Procedures

In addressing noise matters does your Authority have any policy/guidance documents that all authorised officers are expected to comply with?

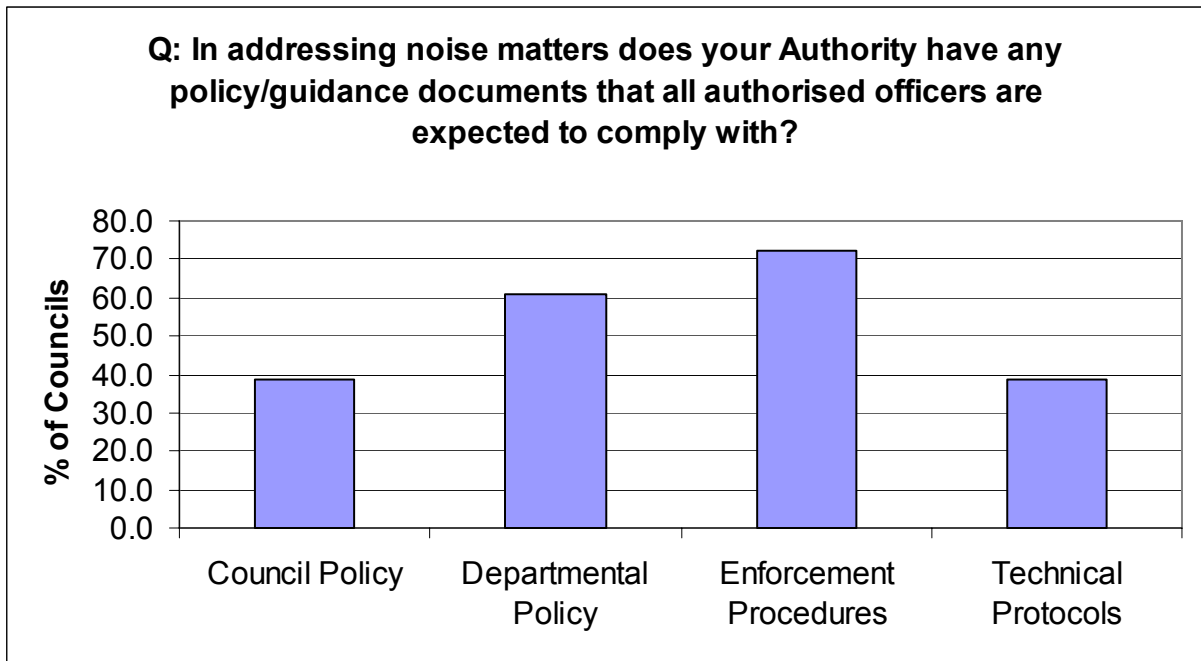
Not all LAs appear to have policy/guidance documents dealing with noise that their authorised officers comply with. It would seem essential to the operation of a noise service that a minimum policy should be in place, not least in order to ensure that the members approve the service protocols and standards.

If yes, which of the following applies?

Council Policy
Department Policy
Enforcement Procedures
Technical protocols

It can be seen from the analysis in **Figure 6** that of those LAs who responded whilst only approximately 39% have a Council Policy most have a Departmental Policy or an enforcement and/or technical protocol to assist Officers in carrying out their noise function.

Figure 6 - Range of Policies, Procedures and Protocols



Which of these elements are addressed in any of the aforementioned documents?

A long list of service elements was provided. This is reproduced below.

- | | |
|--|------------------------------------|
| Advice (Private Prosecution) | Noise Awareness/Publicity |
| Alternative Dispute Resolution | Obtaining a Sheriffs Warrant |
| Building Control | Out of Normal Hours Service |
| Complaint Handling | Record Keeping |
| Complaint Resolution (Definition) | Resources (Equipment) |
| Customer Care | Resources (People) |
| Delegated Authority | Safety (Risk Appraisal/Assessment) |
| Diary Sheet (Time and Event Log) | Scope of Service |
| Drafting of Statutory Notices | Seizing Equipment |
| Evaluation - Service/Performance Standards | Service of Statutory Notices |

Formal Cautions/Interviews	Special Needs/ Mental Health Issues
Gathering Evidence	Stakeholder Issues (including Equal Opportunities, Ethnicity Monitoring)
Informal Action or Warning	Training
Inter-agency Working e.g. Police, Environmental Agency	Use of ASBOs (Anti-social Behavioural Orders)
Inter-department Working Practices/Procedures	Use of Planning Control System
Landlord/Tenant Aspects	Other (Please specify)

Where policy/guidance documents were in place, many were found to address relatively few of the issues identified.

How do you ensure the competency of field officers for implementing the policy/procedures?

In ensuring the competency of field officers, selection and training were almost always identified. However, requirements for appropriate qualifications were often not identified, although this may be because Local Authorities were content with the more general qualification of a Degree/Diploma in Environmental Health.

Specifically, with regard to on-site noise measurement work, are officers routinely subjected to audiometric examination?

11% of the authorities that responded carried out audiometric testing of the officers involved in noise measurement. It may well be the case that very few of the authorities have been challenged as to the hearing capabilities of their enforcement officers and therefore do not see the need for routine hearing tests. However, it should be noted that standard audiometric testing can be obtained for as little as £25/person and may therefore be a sensible precaution against any potential challenges within the Courts with respect to the suitability of an enforcement officer to determine nuisance.

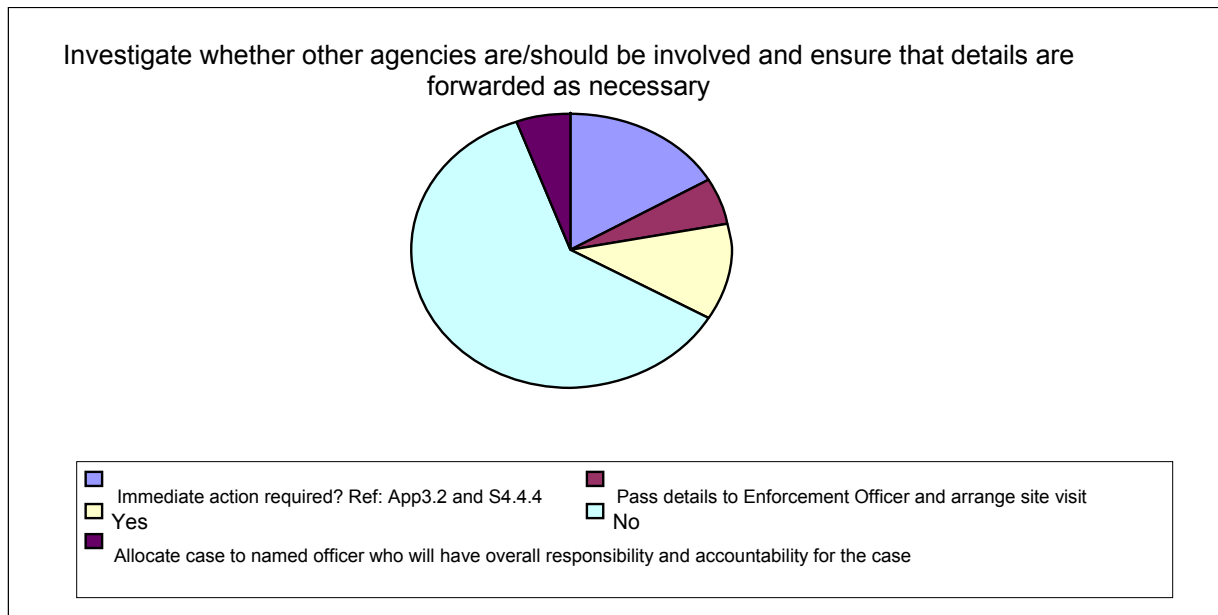
2.3. Practical Considerations

This section covered practical issues such as the type of ‘Out of Hours ‘ noise service that operated, if any; the type of equipment used, and collaboration with other authorities and services.

Does your Authority presently provide an ‘out of hours’ service to deal with noise?

A wide range of approaches were identified with Glasgow providing a 'premier service' with three full-time officers covering the out of hour's period.

Figure 7 - Range of Out Of Hours Service

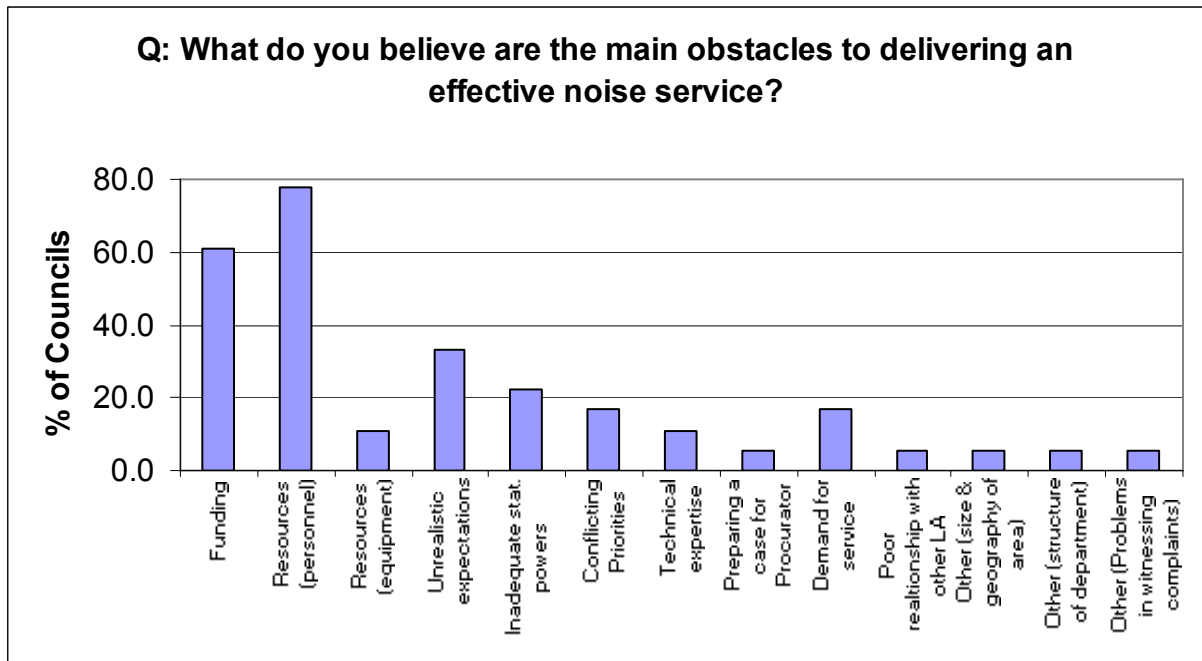


What do you believe are the main obstacles to delivering an effective noise service?

The answers covered a range of topics ranging from funding, inadequate statutory powers and relationships with other departments and agencies. The three primary responses were personnel resources, funding and unrealistic expectations of the complainants. Other responses were of a much smaller percentage and therefore considered not to be particularly significant.

The funding and personnel resources obstacles could most appropriately be addressed by an informed review of the service. This should ensure that overall resources are commensurate with the demands on the service and with member and public expectations. There is a regularly reported difficulty with respect to the public expectation of what the service is able to provide. The provision of appropriate information about the service, its functions and statutory requirements with an education programme may well result in reduced calls on the service to deal with noise issues outside of their remit.

Figure 8 - Main Obstacles to Delivering an Effective Noise Service



2.4. Review

A series of questions on the challenges to the Local Authorities and the difficulties facing local authorities in the execution of their noise service were asked. 67% of authorities responded that they had experienced difficulties when seeking information and the Data Protection Act was often cited as an obstacle.

2.5. Key Noise Issues and Related Matters

Surprisingly, relatively few Local Authorities i.e. 33% have a formal process in place whilst only 28% of these then review their policies and procedures in the light of these trends.

33% of the responses considered that other Government advice and policies resulted in the inadvertent creation of noise problems. Additional explanation included:

- The pressure, despite the advice in PAN 56, for the development of residential housing adjoining roads.
- The development of brown field sites often in conflict with PAN 56.
- The proximity of residential and commercial developments.
- Concerns were expressed regarding extended opening hours for licensed premises.

- Encouragement for housing within town centres (flats over shops) has led to an increase in complaints about anti-social behaviour and noise from commercial premises (pubs, clubs and takeaways).
- Lack of clear coherent simple standards for creating public expectation of what their neighbour should or shouldn't be doing.

Key areas and challenges identified included the following:

- ensuring that the competency of field officers is appropriate to the requirements of a noise service recognising the scale of the service required and specific demographics of an area
- determining the correct level of Noise Service and providing appropriate justification based on meeting legal requirements in dealing with requests for the 'service' and the public expectation of service levels and response
- ensuring that the service is dynamic in responding to requests for service and by adapting to achieve customer satisfaction
- responding to the ever increasing requirements of new legislation in providing a robust service, e.g. Regulation of Investigatory Powers (Scotland) Act, Anti-Social Behaviour Orders
- providing an effective noise service where funding is, as with all LA services, a legitimate constraint and recognising that resources are frequently unavailable to meet what in some cases may be the unrealistic and time consuming expectations of the public
- obtaining information in order to deal effectively with noise issues when constrained by the perceived requirements of the Data Protection Act
- analysing noise trends and tailoring the noise service to meet those trends
- ensuring that proper weight is given to noise in the light of conflicting requirements, e.g. new residential development in city centres and existing dwellings located in the vicinity of premises requiring Licences
- ensuring that personnel are kept up to date with all appropriate developments in the noise aspects of their work including new legislation, case law, etc.
- ensuring that noise service clients have ready access to information to help them identify the best possible solution to their noise problem.

2.6. Development of the Noise Management Guide

In researching this guide, the authors drew upon the substantial experience gained in developing a similar guide for local authorities in England, Wales and Northern Ireland. The specific consultation for this guide provided quality feedback from local authority Environmental Health Services across Scotland which revealed a variety of issues and concerns.

As part of the development of this NMG a questionnaire was circulated to all local authority Environmental Health Service managers in Scotland with responsibility for noise services. The

purpose of the questionnaire was to collect as much relevant information with respect to the following matters:

- LA Management Strategies and Procedures
- Enforcement Policies
- Customer Satisfaction Surveys
- Practical Considerations
- Out of Hours Services
- Liaison Arrangements
- Alternative Dispute Resolution procedures
- Use of ASBO's
- Service Review Process
- Challenges and Key Issues
- Trends in Noise Caseloads
- Features and structure of a Noise Management Guide

References

- Defra, 1999/2000 National Survey of Attitudes to Environmental Noise, produced by BRE, 2002
- Defra, The National Noise Incidence Study
- BRE Report CR 153/97 Investigation of Domestic Noise Complaints
- Defra Final Report Neighbour and Neighbourhood Noise – Phase 1 A Review of European Legislation and Practices produced by Environmental Resources Management (ERM) March 2002 and Phase 2 Research into Neighbour and Neighbourhood Noise in England, Scotland, Wales, northern Ireland and Other Countries in the EU, 2003 (see www.defra.gov.uk/environment/noise/erm)
- NMG – Questionnaire Survey Report, 2003
- MORI Social Research Institute – Neighbour Noise: Public Opinion Research to Assess its Nature, Extent and Significance, 2003 - www.defra.gov.uk/environment/noise/mori/
- REHIS published Noise Statistics for Scottish Local Authorities 1999 to 2002

3. LOCAL AUTHORITY NOISE MANAGEMENT FRAMEWORK

3.1. Local Authorities' Roles and Responsibilities

The statutory duties placed upon a Local Authority in Scotland by the Environmental Protection Act 1990 (EPA) and relevant to organising its noise service are:

- the duty to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under s.80 (the s.79(1) - Preventative Investigation Duty)
- the duty to take such steps as are reasonably practicable to investigate a complaint of a statutory nuisance made by a person living in its area (the Section 79(1) -Responsive Investigation Duty; and
- the duty to serve an abatement notice where the Local Authority is satisfied that a statutory nuisance exists or is likely to occur or recur in the area of the authority (the s.80 (1) Statutory Nuisance Duty).

'Under s43 (1) of the Anti-Social Behaviour (Scotland) Act 2004 where a local authority receives a complaint from an individual that excessive noise is being emitted from relevant premises it is under a duty to investigate the matter. If the officer of the local authority is satisfied that noise is being emitted from the relevant property during the noise control period and the noise either would or might exceed the permitted level, the officer may serve a warning notice-s43(3).If a warning notice has been served in relation to noise from relevant property any person who is responsible noise which exceeds the permitted level commits an offence-s45(1).

Under s46 where a relevant officer has reason to believe that an offence is being or has been committed under s45 he can serve on the person a fixed penalty notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

Under s47 where a warning notice has been served in respect of noise which is emitted from relevant property and an officer of the local authority has reason to believe that at any time in the period noise which is emitted from the relevant property has exceeded the permitted level as measured from a relevant place, the officer may seize and remove any equipment which appears to be being or to have been used in the emission of the noise-s46(2).

Under s 54 of the Civic Government (Scotland) Act 1982 any person who sounds or plays any musical instrument or sings or performs or operates any radio or television receiver, record player, tape recorder or other sound-producing device so as to give any other person reasonable cause for annoyance and fails to desist on being required to do so by a constable in uniform commits an offence.

If a constable reasonably suspects that an offence has been committed the constable is empowered to enter the relevant premises and seize the relevant equipment –s54(2A)

In addition the implementation in 2000 of the Human Rights Act 1998 has influenced Local Authority responsibilities. Section 6 of the Human Rights Act 1998 makes it unlawful for Local

Authorities to act in a manner, which is incompatible with the rights contained in the European Convention on Human Rights (ECHR). These rights extend to both the noise victim and noisemaker. The key principle of the Human Rights Act 1998 is that wherever possible there should be compatibility with the Convention rights. This principle covers actions and any failure to act by the Local Authority.

The convention rights with the most significance for Local Authority noise services include:

- Article 6 – Right to a fair trial.
- Article 7 – No punishment without law.
- Article 8 – Right to respect for private and family life.
- Article 1, First Protocol – Right to peaceful enjoyment of possessions

However it is important to understand that the Act, like the ECHR, aims to ensure that not just the rights of an individual, but everyone's, rights are properly respected. This means that one individual's rights will often have to be balanced against another's or the wider interests of the community as a whole. For example, the property rights of a person causing persistent noise nuisance may need to be balanced against the rights of the victims of the nuisance to a private life.

Some of the Convention rights are absolute e.g. Articles 6 and 7, whereas some are limited or qualified e.g. Article 8 and Article 1, First Protocol. For example, combating crime, promoting public health and the protection of the rights and freedoms of others are several reasons why Local Authorities might need to limit the rights of an individual.

Interference with qualified rights is only permissible in the following circumstances:

- A. has its basis in law; e.g. Control of Pollution Act '74, Environmental Protection Act'90, Noise and Statutory Nuisance Act' 93. And
- B. is done to secure a permissible aim set out in the relevant Article, for example for the prevention of crime, or for the protection of public order or health, or the protection of rights to privacy, and the rights and freedoms of others; and
- C. is necessary in a democratic society; which means it must fulfil a pressing social need, pursue a legitimate aim and be proportionate to the aims being pursued

3.1.1. Proportionality

The aforementioned points are important tests to see if interference by a Local Authority in an individual's rights is allowed under the ECHR, for example by restricting noise victims access to an effective noise service (Article 8) or entering a noise makers premises and seizing noise making equipment (Article 8 and Article 1, First Protocol). At first sight both these scenarios appear to contravene ECHR. However, of critical importance is the proportionality condition in test C above. This means that, even if a particular policy or action that interferes with a Convention right pursues a legitimate aim, such as providing a noise service within allocated resources; or the seizure or noise making equipment to secure abatement of on-going noise nuisance or to prevent recurrence of a noise nuisance. This will not justify the interference if the means used to achieve the aim are excessive in the circumstances. Fundamentally, even if

there is a pressing social need and the Local Authority has the relevant powers and sufficient reasons for carrying out (or not carrying out) a particular action against (or in line with) the ECHR rights of an individual. They must ensure that they are taking action in a way which is the minimum needed to achieve the objective without overly interfering with the rights of the noise victim or offender.

Any interference with a Convention right should be carefully designed to meet the objective in question and must not be arbitrary or unfair. In this context, making decisions on the provision of noise services informed by an objective assessment of need and guided by written policies, procedures, practice notes and enforcement policies approved by members can be very helpful in ensuring and demonstrating that Local Authority actions comply with the Human Rights Act 1998. As such documentation can be used to ensure and demonstrate that the Local Authorities actions are not arbitrary or unfair and that Local Authorities are not abrogating their duties or using “a sledgehammer to crack a nut”.

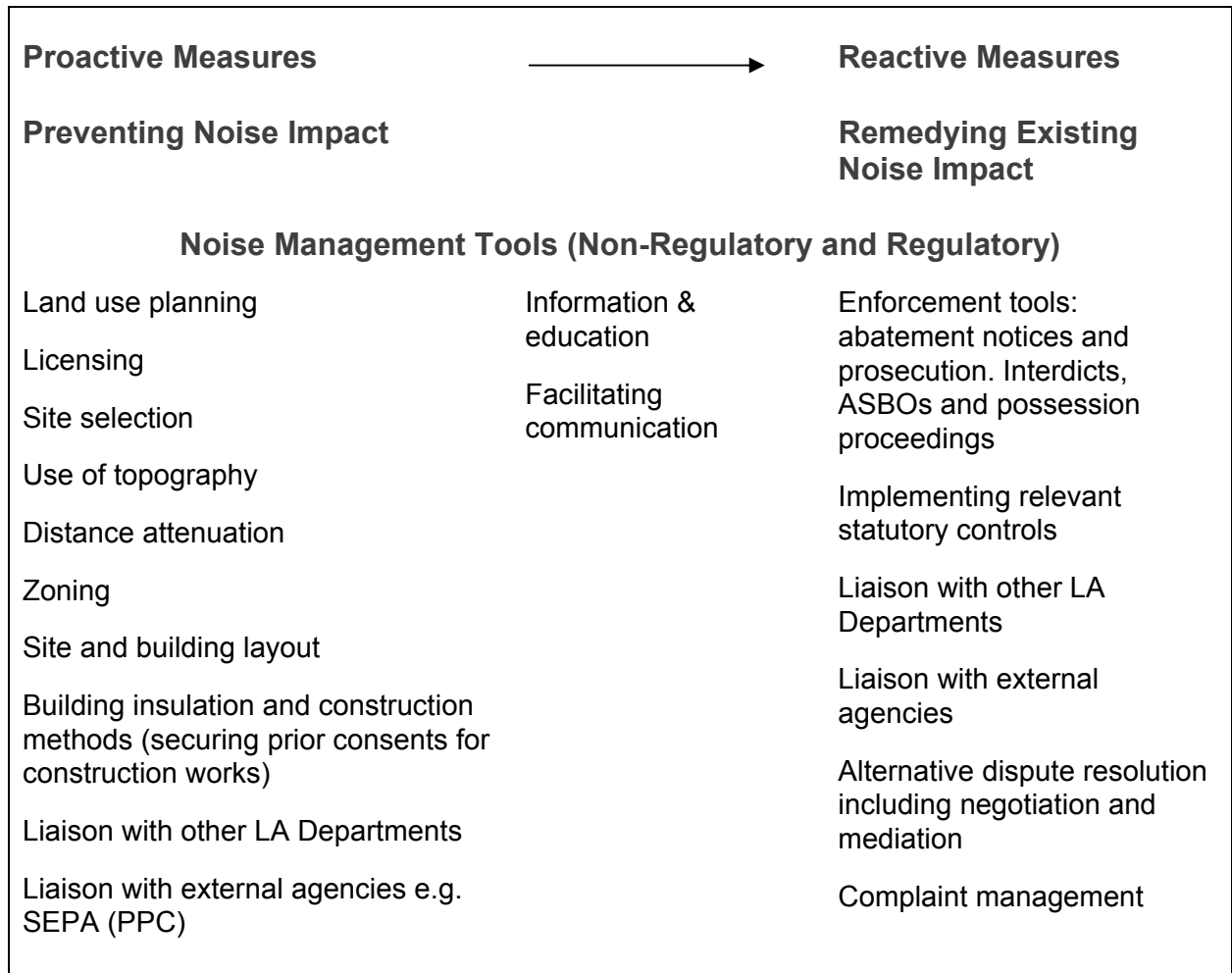
The response of any individual to noise is inherently subjective and can depend on specific circumstances; such as time of day, the type of activity being interfered with, attitude to the noise source or noise maker, age of the listener and perceived need for the noise. This can make it difficult, if not impossible, to determine a measured noise level or standard level of noise service provision that is satisfactory to all people in every circumstances. Consequently, it is important to ensure frameworks exist to ensure that Local Authorities undertake independent and consistent assessments of noise problems, the outcomes of which can be justified and sustained if challenged by either the noise maker, the noise victim, or both. These frameworks should attempt to balance the rights of individuals to conduct legitimate activities that may create noise and their responsibility to consider the effects of the noise they create, and any unreasonable interference with other people’s rights to “quiet and peaceful” enjoyment of their land and their “personal comfort”. In this context, the public is increasingly reliant on Local Authorities for assistance in resolving noise problems. As a result, Local Authorities are encouraged to adopt a holistic approach to tackling community noise problems. In practice, this involves the development of corporate policies and procedures designed to address the noise issues in both a pro-active and a reactive manner through the implementation of statutory and non-statutory powers, see section 3.4 below.

3.2. The Holistic Approach to Noise Control

A successful noise management strategy needs to be both proactive and reactive, see **Figure 9**.

- At one end of the spectrum is prevention using long-term strategic approaches that aim to avoid or restrict potential noise impacts before they occur. Land use planning, licensing and pollution prevention and control legislation have key roles to play in helping to prevent potential adverse noise impacts, both at the strategic level for an area overall and at a tactical level for specific projects.
- At the other end of the noise management spectrum is the need to react to noise problems when they have occurred. Powers contained in the Control of Pollution Act 1974, the Environmental Protection Act 1990, the Anti-Social Behaviour Act 2004 provide the main tools to deal with these problems at a local level.

Figure 9 - Noise Management Spectrum*



*Table modified from New South Wales Environment Protection Agency's Noise Guide for Local Government

Note: Liaison with external agencies and other Local Authority departments can be a proactive or a reactive measure.

3.3. Assessment of Local Need

Good practice suggests that a robust and objective assessment of all the current and anticipated demands likely to be placed upon a local authority noise service in the foreseeable future, is necessary in order to quantify, in precise terms, the type of service required. An effective assessment might include the following:

- a review of data collected, to include the manner in which data is recorded, to ensure it is fair and accurate.
- an objective assessment of how the current service is promoted and publicised to the local community.

- A survey of local stakeholders' opinions on the adequacy and efficacy of the present service and canvassing views on areas where the service could be extended or improved. Stakeholders that could be consulted include; members of the Council, residents panels, social landlords including the Local Authority, residents and tenants groups, local community groups, local chamber of commerce and business groups, previous noise complainants and noise perpetrators.
- an analysis of trends in noise data collected, such as the number of complaints recorded for each of the categories of noise, e.g. domestic, commercial, construction, industrial, leisure etc.
- an assessment of the number of repeat complaints about the same problem as a proportion of overall complaint numbers for each noise type. This can be a useful indicator of the need for a review of the effectiveness of the outcomes of the current service.
- an assessment of the distribution and the nature of the complaints, in terms of time of day and the days of the week the most noise problems occur; and any seasonal or geographic trends in complaint rates. This information can be critical in determining the demand for a service overall and when it should be provided i.e. the need for an out of hours service, on which nights, at which times, where and at what periods of the year?
- A cost-benefit assessment of the merits of the service adopting the noise provisions of the Anti-Social Behaviour Act 2004 and what measures need to be put in place to make the service effective, including a review of staff training needs.
- an analysis of the current performance of the service in terms of time scales for initial response and for resolution of cases— see definition in Section 4. Comparisons can then be made against any performance indicators or adopted standards which the Local Authority may wish to measure itself against or move towards.
- an assessment of current levels and outcomes of statutory enforcement activity, in terms, for example, of numbers of statutory nuisances established, the number of statutory notices issued, number of nuisances abated – both formally by service of notice etc. and informally by arbitration/mediation/negotiation; the number of seizures of noise making equipment or abatement of nuisances in default; the number of prosecutions instigated and the number of successful prosecutions.
- a review of the existing arrangements for liaising with the local police service in terms of how the two services presently interface with each other; how reliable and co-operative the police service is in responding to calls for assistance e.g. entering premises, seizing equipment, service of Fixed Penalty Notices etc; whether there is a need to establish more formal working arrangements, i.e. through ratifying a joint Memorandum of Understanding.
- an objective evaluation of the performance of the service against other comparable service providers e.g. using benchmarking exercises as part of a 'best value' or similar review.
- an assessment of the balance of resources deployed reactively and pro-actively. For example, by assessing the extent to which the service is actively pursuing noise prevention measures by working corporately within the town and country planning and

licensing processes, as part of the Local Authority's corporate responsibilities, as a public sector landlord, and in partnerships to tackle anti-social behaviour.

It is ultimately for elected members to shape the noise service within the context of any overarching political aspirations they may hold for the service and other competing statutory duties and priorities for resources. This inevitably leads to difficult judgments and decisions on the apportionment and allocation of finite resources, especially where the overall cumulative demand upon resources to meet all identified service needs may, in practice, exceed the resources available. Such decisions form part of the burden of management responsibility for senior officers and members of the local authority. If challenged, such decisions can be readily justified and may ultimately be more sustainable when the decision-making process incorporates a quantified assessment of the need for noise services and the resource requirement for meeting all or varying proportions of that need.

When making difficult decisions on allocation of limited resources, the importance of public consultation cannot be over-emphasised. The ODPM has produced guidance on Enhancing Public Participation as part of the Modernising Local Government programme; a summary of this guidance, with links to the detailed advice is available on the ODPM web site at:

www.odpm.gov.uk/stellent/groups/odpm_localgov/documents/page/odpm_locgov_023831.hcs

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Example of Good Practice – Public Consultation on Noise

Residents Panel Survey October/November 2002

Results of Noise & Nuisance Questionnaire

Residents Panel consultation surveys are carried out by the Council four times a year. The October 2002 questionnaire contained specific questions covering noise and nuisance. From a total of 708 completed questionnaires (a response of 58%) 146 residents identified noise as the environmental problem with which they were most personally concerned. This was then subdivided into the noise source that bothered, annoyed or disturbed them, covering the various transportation noise sources; building, construction and demolition and road works; neighbour noise, both within the home and outside; entertainment noise; and industrial noise. Residents were asked to rank the top five most annoying noise sources. The table below details the score for each source of noise.

	Score
Road traffic	1912
Building, construction, demolition, renovation or road works	1747
Neighbours inside their homes, e.g. parties, music	1385
Aircraft	1127
Other people nearby	707
Other entertainment or leisure, e.g. pubs, restaurants	522

Any other noise	381
Other commercial premises (including refuse collection from commercial premises)	343
Trains or railway stations	336
Community buildings, e.g. churches, community centres	172
Sports events	116
Factories or works	100
River or canal work	46

Although traffic noise is not strictly relevant in the context of this guide, evaluating transport noise alongside other noise complaints can prove persuasive when pursuing funding for a “noise service”.

In this case, noise from road traffic was the most annoying type of noise, followed by construction, demolition, renovation or road works, then noise from neighbours inside their homes.

As part of the survey the residents’ sensitivity to noise was also questioned, with most residents responding around the middle of the scale between being not sensitive at all, and being very sensitive. Further detailed questioning related to response to noise within the home, at different times of the day and night, and any consequent actions taken to deal with noise.

Source: Royal Borough of Kensington & Chelsea

On an annual basis REHIS gathers and publishes statistics relating to nationwide noise complaints and enforcement activity. This data is based on voluntary returns requested from all Scottish local authorities. These 'noise statistics' are used by both REHIS and the Scottish executive to evaluate trends in noise complaints and to help identify areas where local authorities may be experiencing problems.

3.4. Developing Noise Strategies, Policies and Procedures

As a prelude to the establishment of noise services that can meet the needs of the community, it is recommended that local authorities have a written policy, strategy and subordinate procedures and practices in place which set out in clear, unambiguous terms how the service is to be scoped, organised and delivered.

The Scottish Executive and REHIS both acknowledge that the generation of written policies etc. can often incur a significant short-term investment in time and effort, which can temporarily divert staff from other matters in hand. However, the medium to long- term benefits of having documented policies in place are clear and can be summarized as:

- defining the corporate, departmental and sectional remit, roles and responsibilities for the noise service;
- defining the remit, roles and responsibilities of the individual staff charged with providing the noise service;
- the establishment and monitoring of service standards and performance;
- the management of customer expectation;
- the promotion of consistency and effectiveness of the service;
- providing support and guidance for field staff;
- identifying and implementing improvements in operational costs and efficiencies ;
- reducing the incidence of operational failures,
- dealing effectively with challenges to the service.

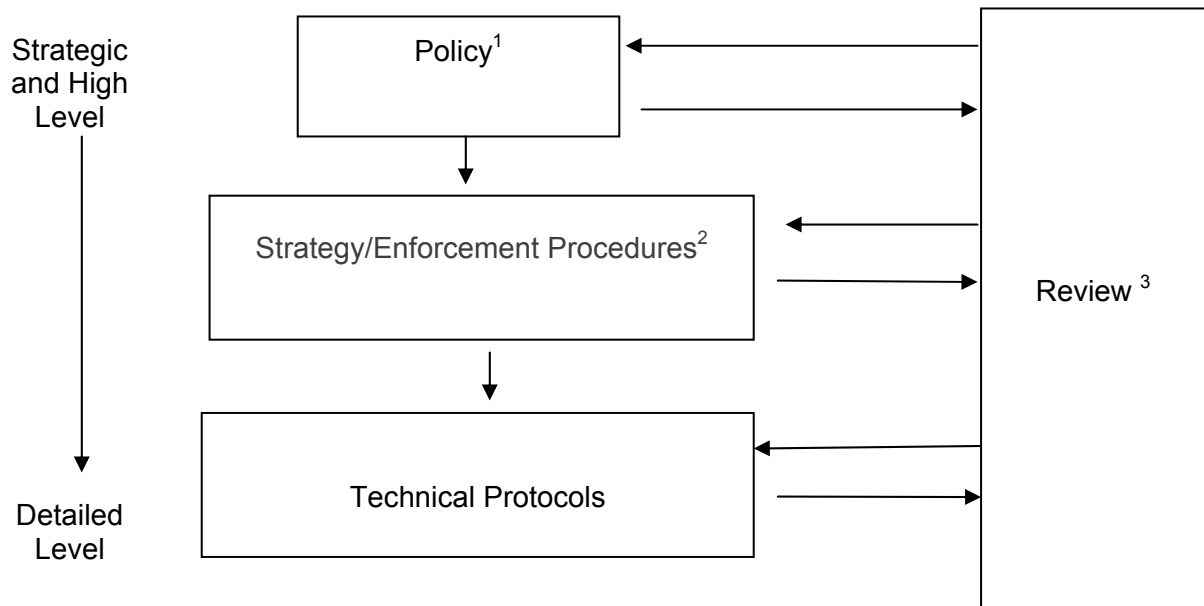
As a guide, it is suggested that the following elements should be addressed in any written policy, strategy and subordinate procedures and practices for noise services:

- details of the legal context in which the service operates;
- the optimum (and minimum) resources allocated to the service, including a description of the organisational structure, including named individuals;
- details of how the service assures the competence of its authorised officers, including professional and technical qualifications, experience and developmental training, etc;
- a detailed description of the scope of the service, including provision for responding to service requests out of hours;
- a digest of service standards, including relevant performance indicators and targets, where these have been developed;
- a practical definition of what constitutes 'resolution' of a complaint;
- a noise enforcement policy incorporating details of the enforcement concordat;
- a review of stakeholder issues, including equal opportunities, ethnic monitoring and customer feedback;
- service level agreements and procedures for liaison with different local authority departments e.g. housing, planning, social services, legal
- procedures for liaising with external agencies such as the Police, SEPA, Highways Agency etc.
- a set of detailed, procedural guidance notes outlining how the service intends to achieve consistency in dealing with a variety of matters, such as:
- dealing with complaints where poor sound insulation is a contributing factor

- consultations on new planning applications
- consultations on new applications or renewals of premises licences
- consultations on IPPC authorisations with SEPA
- recording and tracking the progress of service requests
- responding to complaints regarding building and vehicle intruder alarms
- responding to complaints regarding building works and construction sites
- responding to complaints regarding domestic noise
- gathering evidence and applying objective tests to interpret its significance by the use of sound measuring apparatus and by cross-referencing to published technical guidance and standards, where appropriate
- obtaining Sheriffs' Warrants to enter premises
- seizing equipment
- drafting and serving statutory abatement notices, including a transparent system for delegating authorised powers to officers
- preparing cases for submission to the Procurator Fiscal's Office
- performing and recording health and safety risk assessments of specified tasks
- the role of alternative disputes resolution mechanisms in resolving noise problems
- dealing with individuals with special needs, e.g. mental health problems.

The procedures described above may form part of the noise service's quality management system and it is recommended that key elements of the strategy i.e. Policy and strategy/enforcement procedures are subject to elected members' scrutiny and approval and that the strategy be formally adopted by the authority, thereby ensuring corporate status and commitment. A suggested hierarchy of documents is presented in **Figure 10**. These matters are discussed more fully in Chapter 4, Delivering the Service.

Figure 10 - Hierarchy of Noise Management Guide Documents



1 Member sign-off

2 Member sign-off (optional)

3 Assessment of Need (Statistical Analysis/Service Evaluation)

Example of Good Practice – Edinburgh City Council

Extract from Enforcement Policy – Noise Section

The policy is based on the following key principles:

- that the enforcement activity will be based on the risk to health and the severity of nuisance, annoyance and the level of disturbance
- that there is a commitment to having regard to relevant guidance and the enforcement concordat of support for inter-authority liaison group mechanisms and the relevant professional bodies for resolving inconsistencies
- by identifying by qualification and/or experience the various enforcement decision maker and the limits of their authorization
- clearly communicating the status of any requirement being statutory or informal
- identifying circumstances appropriate for taking informal and formal actions and for the issue of Notices
- identifying the criteria for submitting reports to the Procurator Fiscal.

Formal Enforcement Action

The decision to initiate formal enforcement action may be made by an authorized officer who meets the following criteria:

- (a) is an environmental health officer and has a minimum of 6 months experience in noise and vibration
- (b) is an enforcement officer who possesses the Institute of Acoustics Diploma in Noise and Vibration

3.4.1. Preventative Strategies

When seeking to address potential noise impacts, prevention is not only preferable to providing a reactive service to complaints, but is also a discrete statutory duty under s.79 (1) Environmental Protection Act. Resolving noise problems after they occur may not be possible and is often more time consuming, difficult and more costly than preventing them happening in the first place. It is better to anticipate and avoid, or mitigate potential noise impacts as early as possible in the planning and design process of any new scheme, development or activity.

Example of Good Practice – Pro-active Initiatives

A good example of a pro-active initiative involves the Council's noise service working actively to seek out nuisances and working in a co-ordinated way with planning and licensing officers on joint enforcement initiatives by:

- Carrying out post planning permission monitoring of compliance with conditions and joint enforcement action with the planning department.
- Pro-actively patrolling high-risk locations for nuisances.
- Inspecting all licensed premises e.g. entertainment establishments, massage parlours, night cafes etc, and prior to granting or renewal of licenses.
- Carrying out joint enforcement action with licensing.

Source: City of Westminster

3.4.2. Land Use Planning

In most planning cases where noise is a material consideration, a noise impact assessment (noise survey) should be an integral part of the process for making land use planning decisions. Advice on the need for such a survey should be sought at the earliest possible stage of the planning process. Effective land use planning decisions can help prevent or mitigate potential noise impacts. By avoiding the co-location of noise-sensitive and noise-producing premises, noise problems can often be prevented. Where this is not possible noise controls need to be incorporated into new noise-producing developments, and mitigation measures may be prudent for new noise sensitive developments (including residential development, schools, hospitals, nursing homes, hotels and places of worship).

See *Planning Advice Note PAN 56 Planning and Noise* which describes how the land use planning regime deals with noise issues.

A local authority's Town and Country Planning powers do not usually fall directly within the remit of most EHOs. However, the Environmental Health Service is usually the department of a local authority where any expertise in noise and noise impacts resides. Consequently, EHOs are encouraged to work constructively and corporately within the land use planning regime; the Environmental Health Service should contribute to a Local Authority's town and country planning functions by providing professional and technical support and expert advice, which may include:

- drafting policies relating to noise for the local authority's Local Plan;
- assessing the localised noise impacts of new development proposals by vetting planning applications and drafting, where appropriate, relevant planning conditions and informatives;
- contributing to the process of scoping Environmental Impact Assessment reports for major development projects;
- contributing to the decision making process by preparing or contributing to Committee reports and attending planning service committees where necessary;
- providing technical input into the assessment of compliance with planning conditions, as these relate to noise, and contributing to the planning enforcement process.

See **Appendix 3.15**, which sets out a model procedure for Environmental Health Services to deal with planning applications.

Examples of Good Practice – Town Planning

A number of environmental health services throughout Scotland have established excellent liaison arrangements with their counterparts in the town planning service.

In Edinburgh the service receives in the region of 5000 planning referrals per year and has a team of dedicated officers devoted exclusively to vetting planning applications for major developments. One post is funded by planning application fees generated.

In Aberdeen the service has a planning liaison officer who acts as a direct interface with the planning service; the officer advises on the circumstances where a noise impact study needs to be undertaken and represents environmental health at all planning service committee meetings.

In Dundee regular scoping meetings are held between EHOs, planners, applicants, agents and other relevant parties.

In Falkirk the environmental health service has recently started to use Road Noise 2000 software to develop noise contours of the district.

In Glasgow EHOs had an input to developing noise policies for the Glasgow City Plan.

3.4.3. Licensing

Licensing (Scotland) Act 1976

In a similar way to town and country planning, noise problems associated with public entertainment can be prevented or greatly reduced by assessing the potential noise impacts from venues at the application or renewal stages under the Licensing (Scotland) Act 1976.

The Environmental Health Service should contribute to the licensing process by providing professional support, technical and expert advice, which may include:

- drafting policies relating to noise for the Licensing Board.
- assessing the noise impacts of existing licenses where complaints are raised or when new licence proposals or applications for variations to licences are made; and drafting relevant licence conditions or objecting to the granting of new, varied or renewed licences, where appropriate.
- contributing to the decision making process by preparing or contributing to reports and attending Licensing Committees where necessary
- providing a technical input into the assessment of compliance with licence conditions, as these relate to noise, and contributing to the licensing enforcement process.

Example of Good Practice

Dundee City Council

Noise Control from Licensed Premises

Previously musical entertainment noise complaints were investigated in isolation by the receiving agency and it was recognised that a partnership approach would be more effective. The roles of Tayside Police, Environmental Health and the Licensing Board were re-examined and over several months various approaches were trialed before the partners agreed to a workable system and a Memorandum of Understanding (MOU) was signed between Tayside Police and Dundee City Council

Matters of musical entertainment noise disturbance are investigated by each agency upon receipt by them and matters dealt with in legally appropriate manner by each.

Police officers are encouraged by their line managers to submit reports of each investigation to the Divisional Licensing police officers who in turn forward the information to the EHOs.

Consistency and continuity of personnel is important and points of contact limited in both the police and the City Council (2 divisional licensing police and 2 EHOs).

EHOs reporting and collating information on behalf of the Licensing Board have made

themselves known to all police station sergeants and liaison sergeants and Divisional Licensing police officers in Dundee and vice versa.

Encouraging these inter-agency work co-operatives has led to the service expanding beyond what was originally agreed in the MOU.

Police officers and EHOs will now arrange joint visits to problem premises, liaise closely and meet regularly to discuss problem premises. Calling cards for EHOs are distributed by police officers when attending such complaints and on occasion police officers will monitor the noise breakout from licensed premises and report this back to the EHOs.

Training sessions have been held to raise awareness and promote co-operation among police officers, particularly station and liaison sergeants and some police inspectors and EHOs.

NB: see **Appendix 6** for details of Memorandum of Understanding between Dundee City Council and Tayside Police

3.4.4. Pro-active Initiatives

Local Authority environmental health services are encouraged to be imaginative and innovative in the development of their noise services. Examples of pro-active initiatives include:

- a number of authorities now have dedicated web sites detailing a range of information including descriptions of the scope of the service; how to make a complaint; specific initiatives such as policies on restricting construction site activities to control noise; and publicising successful prosecutions etc.
- each year many local authorities contribute to the raising of the awareness of noise issues by participating in the NSCA's National Noise Awareness Day.
- several local authorities have found that improved advertisement and promotion of their noise services has led to a significant increase in uptake.
- Many environmental health services participate in a 'joined up' approach to administering services e.g. through membership of Anti-Social Behaviour Working Groups etc.

3.4.5. The Role of Other Local Authority Departments in Providing Noise Services

Whilst each Local Authority has overall corporate responsibility for a wide range of noise services, the provision of specific services is often the responsibility of several departments, not just the Environmental Health service. Often the solution to a particular noise issue will require input and liaison between different sections of the Local Authority. Consequently, noise service managers should aim to establish formal mechanisms, reinforced by informal communication networks that define the roles and responsibilities of each Department, and promote co-operative working between the different sections of the Council with responsibilities for noise services, to ensure that the corporate duties and the policies of the Local Authority are satisfied.

Generally, other Local Authority Departments with responsibility for noise services include:

Local Authority Building Control

Ensure compliance with Part E of the Building Regulations relating to sound insulation between, and reverberation in the common parts of, new and converted residential buildings; and acoustic conditions of schools.

Local Authority Housing Services

Those Local Authorities who have retained direct ownership and management of their own housing stock will have common law, contractual (through the tenancy agreement) and statutory duties to deal with noise nuisance caused by their tenants/lease holders. Compliance with these duties is usually the responsibility of the Local Authority's Housing Department; however good practice and negative Ombudsman reports suggest that effective lines of communication and liaison with the Environmental Health Department will assist in successfully discharging the corporate responsibility for these duties e.g. Environmental Health staff can provide the Housing Department with evidence for injunctions, possession proceedings, or Anti-Social Behaviour Orders (ASBO's) against tenants/leaseholders who cause nuisance etc. In order to ensure efficient communication and liaison, many Local Authorities have found it useful to establish a formal service level agreement between their Housing and Environmental Health Departments, including a written protocol that sets out the different roles and responsibilities of each department and how they can best work together to fulfil their legal duties. Some Environmental Health Departments have found that the additional expenditure of resources that a collaborative policy requires, can be compensated for by re-charging their Housing Department for the additional noise services provided to their tenants, over and above the basic noise service to which all residents are entitled.

Good Practice – Liaison protocol with the Local Authority Housing Department

Re. Neighbour Noise Complaints from Council Tenants

In most cases a complaint referral to the Environmental Health Team (EHT) will follow some kind of investigation by the Housing Dept.

What EHT will expect to see in the referral papers

- The complainant has been interviewed and informal remedies, such as mediation have been explored and discounted, or tried and failed.
- Interview with alleged perpetrator and at least two attempts/letters inviting the alleged perpetrator to meet and discuss the allegations.
- Full case notes and any relevant history concerning vulnerability of either party.
- Copy of the Noise Incident Form (NIF) giving details of the complainant, the noise events, the alleged source of the noise, prior history and of any witnesses.
- Noise dairies have been kept or alternatives if complainant has been unable to complete dairies
- If possible some independent evidence has been gathered, this can be a report for the

Weekend Noise Service, caretaker or other council officer, other neighbours etc.

- Copy of the referral form (not all cases papers) should be sent to the Service Level Agreement Monitoring Officer, in the Service Development Team.

The only exceptions to the above will be if a leaseholder is complaining about another leaseholder or a resident is complaining about commercial premises. In these cases a referral directly to EHT will be appropriate.

What housing can expect from EHT

- Notification within 5 working days of the named allocated officer dealing with the case.
- Contact will be made with the complainant and or the alleged perpetrator within 10 working days.
- Case conference meeting at the beginning of a case, to be convened by EHT within 15 days of the referral. All relevant officers to be invited to that meeting – in the case of vulnerable complainants or perpetrators, it may be useful to invite the Support Workers involved.
- Agreement from the above meeting to constitute EHT course of action e.g. installation of sound recording equipment, collection of further evidence leading to Service of Noise Abatement Notice if nuisance does not cease.
- Regular feedback on the case, via email every 21 days.
- Aim to resolve or take action on cases referred within the shortest time limits possible to avoid cases hanging dormant for months and leading to further frustration on the complainant's part.

Monitoring meetings will be held quarterly between the Team Manager of the EHT and the Monitoring Officer in the Service Development Team. The meeting will:

- Review the number of cases referred
- The quality of the referrals
- Time taken on cases
- Numbers of cases closed
- Numbers of cases action taken
- Types of action
- Feedback from either service and or residents
- Disputes about referrals will be resolved at these meetings

Source: Extracted and amended from LB Camden's Nuisance Guidance Notes June 2003

Local Authority Social Services

Several Environmental Health Departments have had negative experiences of dealing with noisemakers and victims who are mentally disordered. As a consequence they have found distinct benefits in establishing a common policy with their Social Services departments for dealing jointly with noisemakers and victims who may be suffering from mental disorder. See **Appendix 3.14** for advice on dealing with persons with mental health problems.

Example of Good Practice – Stirling Council

Stirling Care Programme Approach (CPA)

This is a means by which people with severe and enduring mental illness and who have complex health and social care needs are looked after in the community. The CPA scheme in Stirling is a multi-agency approach involving Forth Valley Health Board, Stirling Council and Central Scotland Police. A formal protocol has been drawn up to facilitate the sharing of information between the various agencies. A nurse or social worker is appointed to the individual as a key worker and it is their responsibility to co-ordinate the care arrangements for that person by maintaining regular contact with the individual in order to monitor his/her progress and to co-ordinate activity across agencies by liaising with all those involved in the individual's care. This may involve contacting Stirling Council's Housing Service if the individual has housing related needs, including neighbour disputes. The following example illustrates this approach.

Mr A is a Stirling Council tenant. He is on the CPA scheme and suffers from complex mental health issues. Mr A has complained on a regular basis about his neighbour making excessive noise. Despite extensive and sympathetic efforts by Housing staff, Mr A's mental health problems meant that it was often difficult for them to discuss the situation with him. Mr A also believed that Housing Services were taking insufficient action against his neighbour to address the problem. In the event Housing staff were able to liaise directly with Mr A's key worker and to explain the council's position including the action taken by the Housing service to resolve the problem. The key worker in turn was then able to discuss the matter with Mr A to re-assure him that his concerns were being addressed.

Role of External Agencies

External agencies outside of local authorities are also involved in the control of noise. Close collaboration and co-operation between the local authority and these agencies is essential, although, regrettably this is not always the case in practice. Good practice suggests that noise service managers should aim to establish formal mechanisms, reinforced by informal communication networks, that define the roles and responsibilities of their local authority and external agencies in dealing with noise issues and which promote co-operative working to ensure that the ownership of a noise problem is quickly identified and, where appropriate, mutual support in dealing with a noise problem is forthcoming. The role played by external agencies is summarised below:

Registered Social Landlords (RSL) (a.k.a. Housing Associations)

Registered Social Landlords have similar duties to Local Authority landlords, but rarely have similar resourcing or staffing levels to carry out those duties. However, some council's have found that by making appropriate arrangements with their local RSLs, they can support them in taking possession proceedings against tenants who cause nuisance e.g. council staff giving evidence in court and the loaning or hiring of noise measuring/recording equipment.

Mineral Planning Authority

The authority responsible for minerals applications has a duty to consider the impact of noise in connection with proposed mineral extraction activities, which are controlled through the planning process. Any consent issued may incorporate conditions relating to noise control. In assessing the overall noise impact of any application, the authority should have regard to Planning Advice Note PAN 50 'Controlling the environmental effects of surface mineral workings' Annex A.

Scottish Environment Protection Agency (SEPA)

Is responsible for administering the Integrated Pollution Prevention and Control (IPPC) regime in Scotland, including waste regulation. This is a regulatory system employing an integrated approach to controlling the environmental impacts of certain industrial and waste activities. It involves determining the appropriate controls to apply to industry in order to protect the environment through a single permit process. In order to gain a permit, operators will have to show that they have systematically developed proposals to apply the Best Available Techniques (BAT) to a range of pollutants including noise, and to meet certain other requirements, taking account of relevant local factors. SEPA's Noise Guidance Document www.sepa.org.uk/ppc/guidance/index.htm provides guidance on the regulation of noise and vibration in line with the concept of IPPC as implemented by the Pollution Prevention and Control (Scotland) Regulations 2000. It should be noted that PPC Part B installations are specified in the regulations, but noise provisions of this regime will not apply to these activities. The aforementioned regulations provide that the statutory nuisance provisions contained in Part III of the Environmental Protection Act 1990 will not apply to activities in plants regulated by the IPPC scheme.

Clearly there is scope for overlap between SEPA and local authorities and a need for good communications, therefore to facilitate the IPPC process the EA and the LGA have developed the "Working Better Together 2003 – memorandum of understanding" – see www.wlga.gov.uk/publications/2003/working-better-together-e.pdf. This document highlights 8 protocols, each aimed at establishing clear and agreed divisions of responsibility between LA's and the EA, and LA's are encouraged to sign up to the memorandum and the individual protocols. In the context of noise, a good starting point is Protocol number 7 entitled "working better together in town & country planning" - see www.environment-agency.gov.uk/commondata/103599/planning_protocol_526372.doc.

At an early stage, SEPA will liaise with the Local Planning Authority, including Environmental Services, to discuss the proposed application for a PPC permit. It is important at this stage to determine any existing noise conditions previously imposed by the planning authority. Relevant information relating to local history, agreements with neighbouring local authorities,

existing background noise levels and planning policies concerning 'creeping background/ambient' noise levels will be established, as will any other known site-specific information. The planning authority and SEPA will seek to keep each other updated should further information or details come to light regarding the PPC activity, including public complaints and any action (formal or informal) taken, and any changes to the process. SEPA will endeavour to impose permit conditions relating to noise and vibration in line with the planning authority's local plan and policies and will apply Best Available Techniques (BAT) in setting emission limit values and conditions relating to the process parameters or technical measures.

Transport Department – Scottish Executive

For their own projects the Scottish Executive has a duty to consider the noise impact of road construction and similar works and must exercise its powers in connection with the control of traffic as set out in the Road Traffic Regulation Act 1984. The relevant Authority is responsible for carrying out noise impact assessments and providing secondary glazing etc. for new and improved roads as laid out in the Noise Insulation Regulations 1975 (as amended).

Additionally the Executive's duties include:

- the consideration of the noise impact of road construction and similar works
- the administration of the noise insulation regulations scheme

Police

The police in Scotland, unlike their counterparts in England and Wales, have specific powers to deal with noise. Section 54 of the Civic Government (Scotland) Act 1982 as amended by section 24 of the Crime and Disorder Act 1998 provides that:

- (1) Any person who
 - sounds or plays any musical instrument;
 - sings or performs;
 - operates any radio or television receiver, record player, tape recorder or other sound producing device

so as to give any other person reasonable cause for annoyance and fails to desist on being required to do so by a constable in uniform, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50. This section is without prejudice to any offence under section 62 of the Control of Pollution Act 1974, as amended by the Noise and Statutory Nuisance Act 1993 (operation of loudspeakers in streets).

- (2) Where a constable reasonably suspects that an offence under subsection (1) above has been committed in relation to a musical instrument or in relation to such a device as mentioned in (c) above, he may enter any premises on which he reasonably suspects that instrument or device to be and seize any such instrument or device he finds there.

A constable may use reasonable force in the exercise of the power conferred by this section and Schedule 2A of this Act makes provision in relation to the retention and disposal of property so seized.

In researching this guide, wide discrepancies and variations were discovered in the liaison arrangements between local authority environmental health services and their local police force. It should be self evident that to be truly effective in serving the needs of the community at the times and places required, the active support and co-operation of local police officers become an essential pre-requisite. This issue will assume an even greater significance when authorities begin to adopt the noise provisions of the Anti-Social Behaviour Act 2004. Accordingly local authority officers are encouraged to take the initiative by opening up lines of communication with their local police service and entering into formal arrangements for joint working. The Memorandum of Understanding produced by Dundee City Council and Tayside Police serves as a model. Some useful background information may also be found in the document Noise Liaison Guide: Good Practice Guidance for Police and Local Authority Co-operation published jointly by the Chartered Institute of Environmental Health (CIEH) and the Association of Chief Police Officers (ACPO) in 1997 available from the CIEH.

Examples of Good Practice – Local Authority Liaison with Police

Glasgow City Council

Strathclyde Police seconds full time police officers to the council's Environmental Protection service to deal with a range of environmental issues including noise. Many benefits of joint working have been identified including:

- health and safety of officers assured through joint patrols
- police powers of arrest e.g. when establishing people's identities and in issuing Fixed Penalty Notices
- police expertise and experience in evidence gathering and preparing reports for Procurator Fiscal.

Falkirk Council – Car Cruising Events

An excellent initiative has been established between environmental health service and local police to deal with regular 'car cruising' meets. Once a month approximately 750 cars come into town in an organised rally. A joint liaison group has been set up comprising councillors, transport officers, EHOs, police and members of the cruise organisation. 'Boy racers' are perceived to be a problem since they tag along to these meets and can cause nuisance.

Noise control measures include:

- police restricting access to certain residential roads
- significant police presence (5 patrol cars to prevent engine revving and to keep order
- EHO performing cursory, indicative vehicle noise tests to assess vehicles' compliance with Construction and Use Regulation limits for noise.

Moray Council – Car Cruising Events

Moray Council carried out a number of noise monitoring exercises in order to provide information for the police in respect of car cruising events and the extent to which noise was likely to result in a nuisance within Elgin.

Dundee City Council – Licensed Premises

At 02.00 hrs early on a Sunday morning two senior police officers observed music noise to be clearly audible from a city centre pub. The officers visited the premises, warned the licensee and the volume was reduced. The police submitted a detailed report to the environmental health service. Despite the fact that no public complaint had been made about the pub, the EHO visited the premises and gained the agreement of the licensee to address the issue of music noise breakout.

Civil Aviation Authority (CAA)

The CAA has a duty to investigate and act appropriately in any alleged incidents of low flying by non-military aircraft.

Ministry Of Defence (MOD) (Air Staff)

The MOD has a duty to investigate and act appropriately in relation to incidents of low flying by military aircraft. The MoD also administers a non-statutory discretionary scheme to provide noise insulation grants for those living within a 70 dB $L_{Aeq,16\text{ hour}}$ noise contour, or offer to purchase houses in an 83 dB $L_{Aeq,16\text{ hour}}$ noise contour, around military air fields.

An information leaflet Military Low Flying: an Essential Skill has been produced by the MOD and is available together with other advice from:

RAF Community Relations Office

Irvine House, Canonbie

Dumfries and Galloway DG14 0XF

Tel: 013873 81156

References

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- MORI - Neighbour Noise: Public Opinion Research to assess Nature, Extent and Significance – Defra 2003 - www.defra.gov.uk/environment/noise/mori/pdf/mori.pdf
- Defra Research Project into the Electronic Collection of Noise Statistics undertaken by University of Brighton and Faber Maunsell EPG 1/2/47 published on Defra web site – www.defra.gsi.gov.uk

- Planning Advice Note PAN 56 Planning and Noise published by the Scottish Executive
- IPPC Horizontal Guidance Notes (as Chapter 4 references) published by the Environment Agency (see www.environment-agency.gov.uk)
- Various Press Releases issued by Noise Abatement Society
- Crime and Disorder Act 1998: Anti-social behaviour orders — guidance, March 1998, Home Office.
- Licensing (Scotland) Act 1976
- Anti-social Behaviour Act 2004
- Military Low Flying: an Essential Skill produced by RAF Community Relations Office.

Recommendations for Further Reading

- NSCA National Noise Survey 2002
- Greater London Authority - The Mayor's Draft Ambient Noise Strategy Part 1 & 2
- Defra – Neighbour and Neighbourhood Noise – A review of European Legislation and Practices 2002 pts 1 and 2
- Air Pollution and Noise Bulletin, an information service for Local Government published monthly by Birmingham Central Libraries.
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- Noise Control, The Law and its Enforcement, 3rd Edition, Penn C, 2002 Shaw and Sons Ltd

- Report of the Noise Review Working Party 1990, H.M.S.O
- Statutory Nuisance: Law & Practice, Malcolm, R, Pointing, 2002. Oxford University Press.
- Noise and Noise Law: a Practical Approach, Melville S Adams and Francis McManus, Wiley Chancery Law 1994
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- The U.K. National Noise Attitude Survey /999/2000, Grimwood, C. Skinner CJ, Raw GJ, BRE Report to CIEH Noise Forum May 2002.
- The U.K. National Noise incidence Study 2000/2001
- Towards a National Ambient Noise Strategy: A consultation paper from the Air and Environmental Quality Division, November2001, Defra
- ENCAMS Neighbour Noise – A guide for the public, 2003, Defra.

4. DELIVERING THE NOISE SERVICE

This section offers guidance for scoping, resourcing and implementing a noise management strategy and its subordinate procedures and practices.

The first section addresses the minimum standards necessary; the second discusses the resource issue; and the third the practical implementation of the plan and the responsibilities of the parties involved:

What is required of the Noise Service?

The primary aim of the service should be to safeguard public health and quality of life and to prevent and control statutory nuisance through an integrated approach to the management of noise, whether this be in a preventative capacity or a reactive one, by addressing any nuisance or noise intrusion that arises, see Section 3.2 and **Figure 9**.

Noise Policy

An effective noise management policy should include:

- clear and concise guidance to enforcement officers;
- a transparent framework so that both the public and local business know what to expect and council employees (enforcement officers and support staff) know what is expected of them;
- measures to ensure consistent enforcement that is proportionate to the magnitude and complexity of the problem and the associated risks;
- sufficient “checks and balances” to ensure the policy is appropriate to the needs and aspirations of the local community;
- a recognition that over-prescriptive measures can be counter-productive, since these may prevent officers from using their professional judgement to best effect in resolving challenging cases in rapidly changing circumstances;
- a recognition of the importance of legal obligations and rights;¹ and,
- measures to ensure equal and fair treatment for all.

By setting out the aims and aspirations of the policy, elected members can endorse the level of service to be delivered and the resource required to achieve it, see also 3.3.

1 Under s14 of the Housing (Scotland) Act 2001. see Sch 2 re grounds of possession; and the right of the individual occupier to seek a direct remedy pursuant to S 82 EPA 1990 or an Interdict issued by the court restraining noise nuisance.

4.1. Service Standards

The nature of noise and neighbour noise in particular, means that unless an effective response is made to complaints, local authorities are unlikely to achieve sustainable solutions to the noise problems within the community. For a local authority to discharge its statutory duties, a minimum standard of service needs to be set, resourced, monitored and met.

It is suggested that service standards should take into account the following:

- i) A publicised, clearly defined operational policy based on an objective assessment of need, detailing the response the local authority will provide to noise complaints at any particular time of day or night, including target response time criteria and the precise form the response will take.
- ii) The provision of effective arrangements to receive, record and screen complaints for action against pre-determined criteria.
- iii) Where complaints qualify for referral for investigation as a result of the screening process (set out in ii) above, the referral is to be made, as soon as is practicable, to suitably qualified and experienced officers; where the complaint is judged to be urgent (as defined by the operational policy), referral should be made immediately.
- iv) On receiving a referral, the investigating officer should instigate the investigation of the complaint as soon as is reasonably practicable.
- v) Complainants should be pro-actively informed, as soon as practicable, of details of the case officer investigating their complaint and of steps to be taken to address their complaint. Complainants should also be advised when there are any significant developments in the investigation of their case, e.g. visits made and noise not witnessed or noise witnessed, nuisance established, notices served or cases closed etc.
- vi) As stated in the Cabinet Office Enforcement Concordat, consideration should be given to a pre-notice informal resolution stage where this has a reasonable chance of success, including alternative dispute resolution (ADR) procedures – see section 4.11. In such circumstances, officers should be encouraged to discuss the circumstances of the case and, if possible, resolve points of difference with the person responsible for the noise. There may often be opportunities for ADR procedures to run in parallel with the main investigation of the case, but it must be emphasised that such an approach should not unreasonably delay the service of abatement notices where these are judged to be necessary to secure adequate restriction or abatement of a statutory noise nuisance or otherwise where immediate action is urgently required.
- vii) Where it is necessary to serve a statutory notice to secure adequate restriction or abatement of a statutory nuisance, this ought to be served by the local authority as soon as practicable after determination that a nuisance exists and that the correct recipient of that notice has been identified.
- viii) Effective arrangements should be put in place to react to, or programme the investigation and monitoring of, noise complaints that occur outside normal working hours.

- ix) The complainant's attention should, ordinarily, be drawn to the provisions of Section 82 of the Environmental Protection Act 1990 and/or section 49 of the Civic Government (Scotland) Act 1982 (in relation to complaints regarding dangerous or annoying creatures) after the local authority has assessed the complaint and determined that it is not possible to substantiate the alleged nuisance. The reasons why the local authority has come to this view should be recorded on file and communicated to the complainant at the same time they are advised that Section 82 procedures exist – see **Appendix 3** for guidance.

The level of service to be provided will depend on decisions taken on a local level after all relevant considerations have been made, including those of resourcing. The need for rigorous standards of record keeping and clear policy making have been emphasised in this Guide, and the specific question of out of hours services is addressed in Section 4.1.1 below.

It follows, therefore, that in designing a service to meet and, wherever possible, exceed the minimum standard, the following factors will need to be considered:

- provision of technically competent and duly authorised enforcement officers;
- administrative support, before, during and after the complaint has been received;
- complaint priority criteria (screening);
- arrangements for removal and storage of seized equipment;
- communication systems - between EH staff, EH staff and noise victims, and EH staff and noise makers etc;
- liaison arrangements with police and other community and emergency services;
- links with other local authority service departments, e.g. housing management, social services, security services, etc;
- liaison with external agencies;
- health and safety of officers;
- arrangements for obtaining Sheriff's Warrants and other legal matters;
- case and service evaluation issues;
- agency arrangements with other authorities, where appropriate.

4.1.1. Out of Hours Provision

With the continuing rise in noise caseloads a growing number of local authorities recognise the need to make routine "out of hours" service provision, whereby officers are available to investigate problems at times when they occur outside of the traditional Monday to Friday "9 to 5" work day, see **Figure 5**. It is believed that this issue will, to a large extent, be driven by the wholesale expansion of noise services as a consequence of local authorities adopting the noise provisions of the Anti-Social Behaviour Act (Scotland) 2004.

Inevitably, the form and scope of out of hours services provided will vary depending upon need, local circumstances and the organisational characteristics and resourcing priorities of individual local authorities. However an out of hours service will fall broadly into one of six types (see also the Needs Assessment Framework below), for example:

- i) a 7 day per week, 24 hours per day service;
- ii) a 7 day per week, but less than 24 hours every day service;
- iii) a 24-hour service provided on certain days, e.g. weekends, only;
- (iv) a less than 24 hr service, provided on certain days only;
- (v) a stand-by service under which an officer may be called out on an ad hoc basis;
- (vi) programmed visits made in response to specific information regarding on-going noise problems; or any combination of the above.

Additionally, depending on any seasonal variation in demand, the level of service – defined as the service availability, the number of staff on duty and response time targets - may vary at different times of the year. Many authorities typically find that the demand for service is higher in summer compared to winter.

When is an Out of Hours Service Required?

Authorities that provide an out of hour's service generally report that such a service is popular and frequently used.

The research by ENCAMS on behalf of Defra published in November 2003 showed that:

- a percentage of people are unlikely to complain to their council because they feel isolated in their suffering and do not believe that anyone can resolve the situation. These noise sufferers are very distressed and have become 'resigned victims' because they have no faith in the system helping them. Providing an out of hours response noise service helps reduce the degree of isolation felt by noise victims
- providing an out of hours noise service encourages more people to complain as they feel that something might be done about the noise problem.
- the uptake of the "out of hours" noise service is likely to be higher than any previous "9 to 5, weekday" only service,
- an "out of hours" noise service reduces the response time to complaints and the time taken to resolve cases; this is popular with noise victims.
- an "out of hours" noise service also reduces wasted staff time and resources in dealing with repeated or unjustified noise complaints, as cases tend to be investigated, resolved and closed more quickly.
- an "out of hours" noise service produces significant increases in levels of customer satisfaction.

- publicising a noise service effectively, leads to increased public awareness and service uptake, and reduces the perceived isolation of noise victims.
- a 24/7 noise service reacting to and taking action against noise complaints as they happen is not always needed. “Out of hour’s noise services” targeted to peak demand periods, with visits made to gather evidence and action deferred until authorised staff are available, can be acceptable. However, a 24 hour hotline staffed with personnel trained in taking, screening and prioritising for action complaints, and sensitively dealing with members of the public who are noise victims, contributes significantly to achieving high levels of satisfaction among service users.

The pattern of demand for the noise service should be dovetailed with the general profile of the timing of the complaint. A BRE study of domestic noise complaints in 1999 for DETR (see www.defra.gov.uk/environment/noise/domestic/pdf/domestic.pdf) found that the timing of domestic disturbance showed a general trend for the majority of domestic noise disturbances to occur outside traditional “9 to 5” weekday working hours, with a broad peak between 21:00 hrs and 03:00 hrs, as shown in the excerpt from the BRE report reproduced below. Consequently, by providing an “out of hours” service these noise cases can receive a relatively quick response, certainly quicker than not providing any “out of hours” service, and therefore a higher proportion of complaints will be resolved and resolved more quickly than if a “9 to 5” only service is provided.

Times of Disturbance – BRE Study of Domestic Noise Complaints (Summary)

The number of complainants reporting disturbance broadly increases throughout the day from 06:00 until 23:00.

Most disturbances are reported between 22:00 and 02:00.

Lowest levels of disturbance occur between 05:00 and 12:00.

Music was principally responsible for complaints in the period 18:00 to 03:00.

Other noises tend to cause more disturbance in the mornings (07:00 to 10:00) and afternoon (15:00 to 17:00).

Figure 11 - Pattern of Demand

This diagram represents the number of service requests that occurred in any given hour and day of the week, as a percentage of the weekly total (colour shading indicates number of complaints)

Hour Starting	M	T	W	Th	F	S	Su
06:00	0.08	0.26	0.31	0.15	0.10	0.21	0.16
07:00	0.26	0.41	0.36	0.44	0.51	0.48	0.31
08:00	0.30	0.30	0.25	0.16	0.40	0.51	0.86
09:00	0.20	0.07	0.07	0.03	0.12	0.54	1.56
10:00	0.08	0.03	0.00	0.13	0.12	0.61	1.38
11:00	0.18	0.07	0.03	0.02	0.15	0.64	1.27
12:00	0.07	0.15	0.03	0.03	0.12	0.86	1.10
13:00	0.13	0.02	0.05	0.02	0.07	1.27	1.00
14:00	0.07	0.00	0.07	0.00	0.08	1.15	0.63
15:00	0.03	0.03	0.03	0.03	0.03	0.95	0.89
16:00	0.02	0.08	0.02	0.03	0.05	0.94	0.74
17:00	0.44	0.66	0.40	0.49	0.74	0.99	0.59
18:00	0.79	0.81	0.72	0.76	0.91	0.97	0.63
19:00	1.10	0.92	0.92	0.82	1.19	0.84	0.63
20:00	0.99	0.99	1.07	0.72	1.22	0.86	0.79
21:00	0.99	0.95	0.87	1.20	1.33	1.12	0.79
22:00	0.79	1.05	1.05	0.79	1.28	1.45	0.84
23:00	0.86	1.15	1.12	1.38	1.40	1.75	0.97
24:00:00	0.95	1.14	1.14	1.23	1.81	2.50	0.71
01:00	0.87	1.04	0.49	0.79	1.50	2.22	0.68
02:00	0.43	0.61	0.44	0.59	1.09	1.47	0.46
03:00	0.41	0.28	0.23	0.41	0.71	1.09	0.28
04:00	0.30	0.12	0.23	0.15	0.43	0.63	0.08
05:00	0.07	0.10	0.16	0.10	0.35	0.49	0.23

Source: – RB of Kensington & Chelsea

Needs Assessment Framework

Out of Hours Services Provision

The following are given as examples of good practice employed by Local Authorities in different circumstances. A robust assessment of the need² for out of hour's service provision for each individual authority will help to inform the type of service required, but they will generally fall within the following categories.

Needs Assessment Rating: High - Service level typically 12 to 14 hours a day, such as office

² Assessment of Need, see Section 3.3

hours Monday to Friday plus 19:00 – 02:00, Sunday to Thursday and 21:00 – 04:00, Friday to Saturday) 7 days a week. Provided by a modest sized dedicated noise team (e.g. 4 to 6 staff) with messages relayed through a 24-hour call centre [categories (i) to (iii)].

Needs Assessment Rating: Moderate

Likely to include a call centre service receiving complaints and a “call out” service on Friday/Saturday evenings or at other targeted times. This service may only be applied in a limited way and on a seasonal basis, e.g. to meet an identified greater need over the summer period. In addition, the service might operate in a flexible manner whereby officers can arrange to go on programmed visits to a specific job at any time should the case warrant e.g. regular disturbance from closing of a licensed premises or domestic noise that occurs at random times. Typically the service may be provided by a by a rota of volunteers [categories (iv) to (vi)].

Needs Assessment Rating: Low

In these circumstances, it may be sufficient for a ‘standby’ service only to operate where officer(s) drawn from a rota make themselves available out of office hours. Calls are made to them from a central control and the officers exercise professional judgement and discretion as to how the matters are dealt with on the night. For less urgent matters the complainant may be telephoned and advised that the issue will be investigated some time in the future by the service in the normal course of events. For more urgent matters the officer may decide to visit the site and undertake an immediate investigation. [categories (v) and (vi)].

The level of officer training and general health and safety considerations are paramount in determining the level of service to be adopted – see section 4.1 and Appendix 4. Additionally the quality of service adopted may be improved significantly by colleagues offering themselves as ‘buddies’ to the out of hour’s officers to receive calls for assistance on technical matters etc.

N.B. Roman numerals correspond to the aforementioned type of hour’s service listed in Section 4.1.1.

Whatever form the out of hours service takes, it will require detailed arrangements and operational protocols to be established. Modification of an existing 24-hour support service within other departments, or a change to correspond to other emergency call out systems elsewhere in the local authority, may provide a suitable starting point.

NB: Some form of an out of hours response service will need to be provided by those authorities who wish to adopt the noise provisions of the Anti-Social Behaviour Act 2004.

Example of Good Practice - Out of Hours Service

Glasgow City Council

As a result of a costs and benefits analysis, Glasgow launched in August 2003 a specialist

noise team and services dedicated to an out of hours service. It consists of three members of staff who work exclusively out of hours on noise complaint issues. It is not a 24-hour service but has been tailored to meet those periods of highest demand covering the evening period into the early hours of the morning on a 7 days a week basis. It has proved to be a great success with current feedback indicating the public are pleased with the service.

It has also led to an increase in the number of noise complaints which the Department considers is an indication that people are more aware of the service and also more likely to complain as they see effective results and resolution of their problems.

Example of Good Practice - Noise Act 1996

Following an assessment of customer needs and the analysis of noise complaints made to local police stations and other agencies; there was strong political and public support for the introduction of a night time noise service and adoption of the Noise Act. This led to a 400% increase in service requests and 2/3 of all noise complaints are now made directly to the night time noise service. The provisions of the Environmental Protection Act 1990 do not apply in N. Ireland and Noise Act 1996 powers are frequently used to resolve neighbour noise disputes. In practice, by having a reactive night time service the majority of these complaints are resolved informally without the need for warning or fixed penalty notices. However, the threat of a £100 fine has proved to be an effective deterrent and there has been a 95% compliance rate for Noise Act Warning Notices. The Council does not operate "traditional" Noise Act hours (this is allowed under the amendments of the Noise Act 1996 contained in the Anti-Social Behaviour Act 2003). The night time service terminates at 4am because less than 3% of service requests are received between 4am and 8.30am (when day staff come on duty.) Often, for complaints made during this period, the noise commenced long before 4am and the Council is actively promoting the service and educating people who are disturbed to promptly contact the night time service. The Council are well aware of the practical problems with the Noise Act in terms of measuring exceedances of the permitted level within the complainant's property and the underestimation of bass beat. However, the Council have been able to use this legislation effectively to resolve night time neighbour noise disputes.

Source: Belfast City Council

4.2. Resources

It must be recognised that the resources provided for Local Authority services are finite and that all Local Authority services are subject to priority bidding and assessment. The Environmental Health service is one amongst many service areas competing for resources and noise is just one of the service areas addressed by an Environmental Health department.

It is for Local Authorities to make the choices about the allocation of resources across services. Nevertheless, given that noise usually gives rise to more complaints to

Environmental Health Departments than any other single environmental issue, local authorities will need to make careful decisions on the scoping and resourcing of their noise services. Such decisions should be capable of withstanding scrutiny and should be fully justifiable, when assessed objectively in the context of local need and circumstances.

Under section 79 of the Environmental Protection Act 1990, local authorities have a statutory duty to take “such steps as are reasonably practicable” to investigate noise complaints and take timely and prompt action to remedy noise if this is judged to be a statutory nuisance. This duty is reinforced by section 6 of the Human Rights Act 1998 which makes it unlawful for a Local Authority to fail to act to protect individual and community ECHR Article 8 rights to private and family life, which includes the impact of serious pollution. To fulfil these duties Local Authorities must have competent officers available to take action as appropriate when noise problems occur; this may need to be outside normal office hours, as discussed above.

As well as the needs assessment, an evaluation of staffing, revenue and capital operational costs with reference to the corporate strategy, will provide a reasonable basis upon which services can be designed to meet expectations, or where this is not possible due to competing higher priorities, to justify as high a level of service as is practicable given the reality of allocated resource levels. In this context some authorities may consider it to be appropriate and cost-effective to outsource an element of specialist noise services from the private sector, for example to deal with complex planning cases or to investigate serious problems from industrial installations where technical knowledge and sophisticated noise measuring apparatus may be required beyond the in-house capability of the service. Both the Institute of Acoustics and the Association of Noise Consultants are able to provide information from their membership regarding specialist noise consultants. Additionally, there are opportunities for the pooling of resources between LAs in order to ensure that the best resource is available for specific tasks, which avoids the duplication of effort both from staff resources and specialist equipment.

4.2.1. Health and Safety

Health and Safety issues for staff must be addressed when designing the service - see **Appendix 4**. As well as the individual personal safety risk assessments that field staff should make when investigating each complaint, the overall aim should be to deliver a service, which in all senses represents a ‘safe system of work.’ In this context, the issues that need to be addressed include the following:

- The Impact of the Working Time Regulations 1998
- adequate rest time between shifts
- lone worker issues
- personal protective equipment
- transport.

4.2.2. Needs Assessment

A noise service needs assessment, and evaluation of staffing; revenue and capital costs as outlined above may assist in identifying a requirement for additional resources or justify the re-

direction of existing resources to achieve the objectives of the corporate strategy. For example the needs assessment might support the re-targeting of the limited resources available to address noise problems during unsociable hours at weekends as a priority over daytime noise on weekdays. It may also result in efficiency savings, which can be applied to service improvements where action by different departments is more effectively co-ordinated and is more appropriate to the needs of the community.

Such a resource assessment should be as wide-ranging and comprehensive as possible and should include an estimate of existing total resources (capital and revenue, including staffing and administrative costs) for the authority as a whole as applied to all aspects of noise on a service-by-service basis. For example, these costs might extend beyond the Environmental Health Service and include:

- the total costs of noise control work carried out by the Environmental Health service, e.g. staff costs (including training), running costs and the capital cost of equipment/vehicles, plus costs associated with storage of seized and forfeited equipment (less revenue from its subsequent sale. Attention is drawn to the framework and cost accounting, LAPC recommended, Defra in AQ2/01)
- the total costs of staff resource and equipment in other departments, for example: advice and guidance by building control services on noise control in new build or conversions, and whether any follow-up inspections carried out on new build or conversions to confirm if the approved construction is 'in situ'. In some cases, inspections may be done at random or on a targeted basis
- the application and enforcement of noise conditions attached to planning permissions e.g. what time is spent in determining the appropriate conditions and cost associated with enforcing these conditions; and
- how much time, resource or equipment is spent in public-sector housing management investigating and taking action to deal with noise problems?

The resourcing plan should set out a clear timetable for reviewing the implementation of the policy. For example, over a period of time, the extent of any out of hour's service could be amended to meet any change in the needs of the local community.

Help with Funding – New Initiatives

A source of potential funding for noise services could be via the Local Outcome Agreements (LOA's), these are agreements which have been implemented with a number of authorities as part of the Scottish Executive's Better Neighbourhood Services Fund (BNSF). The initial BNSF was a £90 million 3-year (2001-2004) programme aimed at delivering real and substantial service improvements in 12 Pathfinder areas in order to help narrow the gap between disadvantaged communities and the wider population. The programme was extended for 2004-2005 with an additional £31.2 million. The overall aim of the LOA's is to improve performance in the delivery of local public services by focusing on targeted outcomes with support from the Scottish Executive.

In part 'Environment' has been identified as one of the Target Groups.

Example

Dundee was one of the original Pathfinder's with a focus on improving the delivery of services at neighbourhood level in the areas of Kirkton and Hilltown and improving services aimed at helping socially excluded young people and their families in Kirkton, Hilltown and Whitfield.

Two of the aims for these areas were:

- A rapid response to environmental issues such as dumping and graffiti
- Support for tackling neighbourhood disputes and social behaviour

Clearly, both of the above aims may well result in calls for noise services which could be funded through the BNSF.

4.3. Implementation

4.3.1. Who Delivers the Service

The number and designations of staff that deliver the service will be determined by the resources and priorities of the local authority. For example:

- In a large authority there is likely to be a dedicated team including in-house specialists and support staff;
- In a medium size Local Authority a small in-house team may exist but the service may also rely on the non-noise specialists to deliver the service on a day-to-day basis, backed up with robust procedures and systems.
- In a small Local Authority without noise specialists it may be more cost effective and efficient to form an association or to collaborate with other nearby Local Authorities and/or outsource elements of the noise management plan.

The following parties will typically have some involvement in the development and operation of the service:

Environmental Health Department (or its equivalent)

The Chief Environmental Health Officer (or comparable post) will often be the officer with overall responsibility for implementing the noise management plan. As such, it is likely that the Environmental Health Department will play the major part in drawing up the noise management

plan to ensure that the proposed system meets legal duties and is practical, realistic and deliverable.

Typically the noise management plan will require enforcement officers (usually Environmental Health Officers) to:

- investigate complaints and take action in cases of noise nuisance or construction noise;
- to advise the planning and licensing departments with regard to noise issues; and
- to advise the elected members and senior officers with regard to noise management policy.

When assessing noise complaints, the enforcement officer is not acting for either the complainant or the alleged perpetrator but there is a need to provide an objective and impartial assessment of whether, in his/her opinion, the matter is serious enough to justify an intervention by the service. This assessment may be based purely on his/her professional opinion and in more complex or difficult cases may be corroborated by measurements and other evidence.

The enforcement officer should be professional, methodical and consistent in his/her approach, including consideration of mental health issues and alternative dispute resolution mechanisms, i.e. mediation or arbitration.

Planning Department

The involvement and collaboration of the planning department will be required to enable the pro-active elements of the policy to be fulfilled, by recommending that the Planning Committee refuse planning permission or impose appropriate planning conditions on developments, whether this is development that may emit noise, or development that may be sensitive to existing noise.

There are benefits to be gained by developing formal agreed liaison protocols between environmental health and planning departments, and establishing personal contacts between planning and environmental health staff to enable more rapid informal and effective communication.

The local authority planning service should recognise the corporate nature of the planning function and acknowledge the expert advice proffered by environmental health staff in the area of noise and fully incorporate their role within the planning service.

In a case considered in England, the Ombudsman determined that:

“As the statutory body for planning, economic development and noise control, local authority departments should work together to minimise noise problems. Lack of action is not justified because the lead officer is in another department or the problem arose due to lack of foresight in another department (the case related to land being given planning permission for use as a drop forge with no appropriate noise assessment or conditions).³”

3 Local Ombudsman's Complaint 88/C/1373 against Sheffield City Council 19th September 1989, Commission for Local Administration

Regulation of noise under Pollution Prevention and Control (PPC) Scheme, where applicable, has brought together several legislative regimes with different scopes but similar purpose and, in the case of A1 installations, will require a co-ordinated approach between SEPA and both the Planning section and the Environmental Health Teams of local authorities. At an early stage, lead planning and environmental health officers should be identified to ensure an effective liaison and consultation process. More information on the IPPC regime and local authority liaison with SEPA can be found at <http://www.environment-agency.gov.uk> and at www.wlga.gov.uk

NB: Where permits are issued under PPC which include noise control conditions, it is critical that the wording of such conditions is relevant, adequate and appropriate since the issuing of the permit will preclude any subsequent statutory nuisance action under Part III of the Environmental Protection Act 1990, for alleged noise nuisance arising from activities subject to the permit. More information can be gained from the web site <http://www.sepa.org.uk> and specifically with respect to noise: <http://www.sepa.org.uk/ppc/guidance/noise.htm>

The Environmental Health Department should be involved in drafting and enforcing planning noise conditions and informatives to ensure that effective noise control is achieved, and that a consistent and robust approach is applied to all applications.

Licensing Board

Where noise problems are anticipated for new applications, or have been established for existing licensed premises, enforcement officers should report this to the Licensing Board hearing the application and put forward conditions to mitigate unacceptable noise impacts or evidence to sustain refusal or revocation of licences if there is no practicable way of adequately controlling the noise.

Building Control

Sound insulation requirements between dwellings and rooms for residential purposes come under the remit of the Local Authority Building Control Officer Service or an Approved Inspector's Building Control Service, both of which must have regard to the latest interpretation of the Building Standards (Scotland) Regulations 1990, Part H.

It is recommended that a formal procedure should be in place to confirm that the appropriate level of sound insulation has been provided in new developments and conversions. Where appropriate local authority policies and procedures for checking building control and building regulations compliance should ensure that premises are built or converted with noise reduction in mind and comply with the requirements of the Regulations. This is particularly important in both new and refurbished residential buildings and attention is also drawn to the results of recent research carried out by Napier University on behalf of the Scottish Executive with respect to laminate flooring systems (<http://www.defra.gov.uk/environment/noise/hardfloors/index.htm>).

Social Services, Housing

Environmental Health Departments may already know of noise victims and noise nuisance offenders through other departments, e.g. clients of social services, housing tenants or some other department. Good practice and corporate responsibility suggests that Local Authorities

should identify systems which allow information to be passed between different departments to support each other in resolving noise problems. Data protection issues arise with this sort of information exchange, however suitably robust systems that provide for the exchange of information for stated purposes e.g. compliance with a statutory duty and /or abatement of statutory nuisance, using a standardised and structured procedure, can permit information to be exchanged under the auspices of the Local Authority's data controller – see Question 8 **Appendix 7.**

Example of Good Practice – Use of ASBOs to Control Noise

Dundee City Council

The council has adopted a balanced strategy for dealing with anti-social behaviour (ASB), focusing on prevention before enforcement. An anti-social behaviour Team was set up in 2001 to provide a coherent and consistent service on neighbour problems initially to council tenants and latterly to victims of anti-social behaviour in other sectors as well. Mediation is used where appropriate and support agencies are contacted to ensure early intervention. Dundee Community Mediation, Dundee Families Project, Housing Support Unit, Environmental Health, Tayside Police, Social services and Community Wardens are all involved and form part of the preventative strategy. Where anti-social behaviour continues, a series of warnings are issued offering the offender the opportunity to rectify his/her behaviour and to access support. However where this fails applications are made through the court for Anti-Social Behaviour Orders (ASBOs) against the individual. Below is an example of the successful application of an ASBO to resolve a noise problem:

An ASBO was sought and granted by the court against an individual where problems related to loud music, shouting, singing and banging of doors associated with frequent parties held at the individual's home. Despite several warnings from the Housing Service, the problem persisted. Police had attended on numerous occasions but since it was different officers on each occasion, the individual only ever received verbal warnings. The terms of the ASBO prevented him from playing loud music, shouting or banging of doors in such a manner as to cause a nuisance and after the ASBO was granted, the police had powers to charge the individual in the event of a breach. The individual was aware of the consequences of breaching the ASBO and stopped holding parties at his home altogether. From the perspectives of the neighbours and the council, this outcome constituted a success, as the problem was completely resolved.

Elected Members

The elected members will need to decide on an appropriate level of service for the noise management plan, typically making their decision based upon a set of fully budgeted options for varying degrees of service, presented by officers. A comparison with management plans prepared by other similarly sized Local Authorities will assist in striking the right balance and, once approved, this document will aid in the definition and interpretation of what constitutes minimum service standards.

The policy presented to members, see **Figure 8**, should be a high level document that seeks to establish:

- service level
- resourcing; and
- performance criteria/targets for service review.

Detailed implementation of the policy is the responsibility of the officers. Elected Members may decide to delegate functions to officers for specific matters to ensure these problems are dealt with more expediently.

Police

As discussed earlier, the co-operation of the police may be required to assist in the execution of the service, for example in serving notices, seizing noisy equipment and to advise on public order and safety issues, as well as other areas.

An “out of hours” noise response service may significantly aid the police in reducing the number of complaints they receive. Accordingly, it is beneficial for enforcement officers to maintain a relationship with the local police force(s) through regular contact with duty officers, the crime and disorder liaison forum, Crime Prevention Teams, briefings, provision of publicity material for receptions in Police Stations and in Police control rooms, etc.

Dealing with the Sheriff Court and with Justices of the Peace

The enforcement of abatement notices by prosecution will feature in any noise management plan. The co-operation of JP’s with the plan may be critical to its success, particularly if “out of hours” services require warrants to enter premises for equipment seizures, alarm silencing, or similar “works in default”.

When the aims and purpose of the noise management plan are explained to the Chief Clerk, it should be possible to obtain a duty list of JPs for “out of hours” response to warrant applications and to facilitate applications when the Court is sitting. It will be useful to agree a standard form for documents, e.g. information, applications for warrants and warrants to enter premises, requiring the authorisation of a JP. Discussion and agreement of the layout, wording and presentation of these documents with the Chief Clerk, will help familiarise the court with the process and can help accelerate proceedings for an application for a JP’s Warrant.

In circumstances where more than one section of the council could be involved in dealing with a noise problem, the Environmental Health Department should adhere to its own noise management procedures and collaborate with the other council departments as it deems to be appropriate. Once it becomes necessary for the council to consider prosecution or other statutory action, the case should be reviewed and a corporate decision taken on which enforcement action is most appropriate to resolve the matter. It is not precluded by law and is common practice for an enforcement officer from the Environmental Health Department to contribute evidence to assist another council department in taking action.

4.3.2. How is the Service Delivered?

The practical issues of determining how the service is delivered on a day-to-day basis will be developed by the individual local authority in the context of the local needs and circumstances of their districts; but can in generally be defined in three phases:

i.e. Initiation; Investigation and Enforcement; and Resolution and Closure

Initiation

- The receipt of a noise complaint
- The preventative investigative duty (“inspecting the district for nuisances”)
- An application for planning permission
- An application for a license
- An application for Building Control Approval
- Consultation with SEPA on an IPPC Authorisation application

Investigation and Enforcement

- fulfilling statutory duties
- officers authorised under delegated powers
- gathering evidence
- the application of tests for statutory nuisance
- judgement on the existence of statutory nuisance or otherwise
- the determination of the appropriate planning/licensing conditions
- the determination of appropriate noise controls for construction sites
- the service of statutory notices
- invoking alternative dispute resolution procedures
- managing the follow up procedure
- the seizing of noise making equipment where required.

Resolution and Closure

The resolution of a noise case can be defined as being achieved where the policy and procedure adopted by the local authority for dealing with noise has been followed through to completion, resulting in one of the following outcomes:

- the complainant withdraws their complaint and no instance of statutory nuisance has been identified; or
- informal action has been taken e.g. mediation or warning letter, and the nuisance has been abated or the case has been resolved; or
- formal action has been taken and the nuisance abated or the noise is sufficiently controlled; or

- the matter has been referred to an agency outside of the local authority; or
- The local authority investigates the complaint and determines that the matter complained of is not a statutory nuisance, or that no further action can be justified

It must be stressed that the resolution of a case should, in all senses, be a positive action with local authorities taking constructive steps to determine if a case is resolved or resolvable before closing it. Leaving a case permanently open by relying upon the complainant to maintain contact with the case officer is not good practice. Local authorities are advised to set up communication systems, including access to interpreters and translators, to maintain contact with and inform complainants of the progress or otherwise of their case. Close attention to customer care and the efficient use of resources should ensure that unresolved cases are not left open unreasonably or for protracted periods. When a case is closed a record should be made in the file detailing the reasons for considering the issue closed and detailing when and how the complainant was advised.

Good Practice – Case Closure

All cases of nuisance must be closed at some stage, this could involve:

- cases where the offending noise is monitored and no further complaints have been received for 3 months, in which case the complainants should be contacted and the case may be closed if the problem has not recurred.
- cases where a reasonable investigation has been carried out, for example there have been at least 3 attempts to witness the nuisance, either visits at appropriate times and of sufficient duration; or monitoring/recording equipment has been provided for a sufficient period, and on all occasions no statutory nuisance has been established.
- Cases where the complainant does not want the Council to take any action – these should be monitored for 3 months and can then be closed if the complainant still wishes no further action.
- EHD have a policy of generally not investigating the same complaint during a period of 6 months after the closure of the case, unless circumstances change significantly.

Source: Extracted and amended from LB Camden

Once a decision has been made to close a case, if verbal communication or correspondence has been opened with the alleged noisemaker (perpetrator), then they should be advised whether or not action will be taken against them.

The three-stage investigation process can be developed further as follows:

4.3.3. Inception

Receipt of Noise Complaints

Good practice suggests that councils should set out a procedure for receiving, recording and categorising or screening noise complaints throughout the 24 hour period, 7 days a week.

With regard to receipt of complaints it has also been determined that:

- Proper records of complaints should be kept and a system in place to track progress of an investigation and action taken in a timely manner.⁴
- Failure to investigate or excessive delay in investigating out of hour's noise due to staff shortages or lack of overtime funding is a breach of the duty to take reasonable steps to investigate complaints.⁵

Even when noise services are scoped and delivered predicated upon a robust assessment of need, there will inevitably be circumstances where overall levels of complaint and demand for the noise service can outstrip the available resources. In these circumstances local authorities have found that it is often helpful to have in place a system for prioritisation of complaints so that resources for investigation can be allocated in an objective and planned manner to ensure that the worst noise cases are dealt with first and that the available resources are utilised effectively to ensure that as many noise complaints as possible are investigated and dealt with, see **Appendix 3.2** and comments below.

In deciding how best to use the resources available for providing noise services, the council may regard noise impacts at night to be of greater importance compared to day time noise, and therefore it may be appropriate to develop a different set of objectives and priorities for the night time out of hour's noise service.

4.3.4. Investigation and Enforcement

Gathering Evidence

It should be emphasised that the same principles of gathering evidence apply to both commercial and domestic noise investigations. However separate guidance has been produced by the Scottish Executive on Part 5 of the Antisocial Behaviour etc (Scotland) Act 2004 as this relates to Noise Management (<http://www.scotland.gov.uk/about/ERADEN/EcolAU/00017824/nlr-rpt.pdf>).

Many complainants are concerned that they may be identified to the alleged noise maker as the source of complaint; consequently most Local Authorities seek to protect the confidentiality of the complainant and do not give out complainant details when contacting or visiting alleged noise makers. Obviously, in many circumstances it will not be difficult for the alleged noise maker to work out who may have complained and if the case leads to criminal proceedings being instituted by the Procurator Fiscal it may not be possible to withhold the name and address of the complainant, if it is from their own property where the noise nuisance is witnessed. Complainants should be advised of this early on in the course of the investigation.

Some Local Authorities have expressed concern that alleged noise makers may try to use their Data Protection Act right of access to personal information being held about them by a Local Authority, to seek confirmation of the identity of complainants e.g. they may demand access to

⁴ Local Ombudsman's Complaint 88/A/1864 against LB Barnet 3rd May 1990, Commission for Local Administration

⁵ Local Ombudsman's Complaint 88/C/1571 and 88/C/182 against Rotherham Metropolitan Council, 26th November 1990, Commission for Local Administration

the file or even officers' notes etc. There are provisions in the Data Protection Acts for disclosure of personal information on request, however there are also provisions for withholding information where third party confidentiality e.g. complainant's details, may be compromised, and for editing or restricting the information an alleged noise maker has access to, thereby avoiding identifying the complainant. Each case needs to be judged on its merits and in such cases the advice of the local authority's Data Controller and the Data Protection Commissioner should be sought – see **Appendix 7** Question 8 for a legal interpretation of this issue.

Diary sheets kept by the complainant can form a useful component of the evidence on which a local authority might be satisfied that a statutory nuisance exists or might occur or recur. However, diary sheets on their own may not provide sufficient evidence of statutory nuisance or breach of a statutory notice, because:

- diary sheets can be easily countered by simple counter claims that they are false, are exaggerated, are inaccurate and/or that the noise was simply emanating from elsewhere;
- diary sheets do not identify the person responsible for the nuisance.

The main purpose of diary sheets lies in providing information to the enforcement officer so that judgements can be made on whether:

- it is worthwhile programming visits to maximise the probability of witnessing the noise;
- it is likely that Environmental Health staff will ever witness the noise;
- the diary sheets would corroborate evidence from enforcement officers or other witnesses that the noise they have witnessed occurs frequently and/or for an extended period of time;
- the noise is due to unreasonable behaviour or whether poor sound insulation may be a factor.

NB: the practice of issuing diary sheets and undertaking no further investigation in response to a complaint (i.e. leaving the case in abeyance) does not comply with the local authority's Section 80 EPA'90 duty to take reasonable steps to investigate complaints of nuisance.

Good Practice – Investigating Complaints

Documented Procedures:

The Council issued work instructions to all staff as part of its ISO 9000 Quality Assurance system.

Having written procedures and work instructions:

- Provides clear guidance to staff on the minimum standards expected.
- Provides support and advice on how the service standards can be achieved.
- Helps ensure consistency across the staff group charged with providing noise services

and the types of cases they have to deal with.

- Encourages good record keeping.
- Leads to greater efficiency.

Computer files can be updated at the end of each shift so that staff working on subsequent shifts can be appraised of new cases, of the progression of existing cases and any personal safety issues that may have arisen.

Some Local Authorities have looked at remote working with laptops/palm held computers. Although there are significant benefits, these can be discounted by the disadvantages of lugging them around in the field, communication problems and the extra security and personal safety risks using portable IT equipment attracts when used out of the office at night or in crime challenged locations.

Source: London Borough of Southwark

Contacting the Alleged Noise Maker

As part of the investigation of a noise complaint, but before corroborating evidence has been obtained, some authorities contact the alleged noise maker to advise that a complaint has been received and that an investigation is underway (some local authorities take the view that this also has the benefit of making the investigation non-covert and therefore exempt from the RIPSAs 2000 requirement for authorisation – see **Appendix 3.2**). Typically they also invite the alleged noisemaker to contact the case officer to put their side of the case if they wish. Anecdotal evidence suggests that this process can result in a proportion of noise problems being resolved promptly, although conversely it can also provoke a worsening of the situation in some cases.

Witnessing the Noise

Efforts should be made to witness the noise including reactive visits at the time the noise is occurring in response to complaints; or programmed visits at times when the noise is likely to occur in response to diary sheets. If visits are not possible, use of a Minidisc or DAT based recorder system should be considered. Some council's have formed the view that prior authorisation under RIPSAs 2000 should be obtained from the appropriate authorised officer within the Council when noise recording, though not noise level measuring, devices are used.

When investigating an allegation of noise nuisance, the authorised officers have a duty to gather evidence with the contingency that the matter may ultimately be placed before the court. Scots law requires that such evidence be corroborated and the common practice among authorities is for two officers to visit the property and to simultaneously witness the offending noise for themselves. It should however be noted that the law of corroboration does not require that every piece of evidence has to be spoken to by two witnesses. The evidence of a single witness may still be relevant and significant to the case particularly if separate corroborative evidence is provided by the complainant or through noise measurement data.

If various attempts have been made to witness the noise and no nuisance was found, then consideration should be given to closing the case, some local authorities take the view that a

maximum of three visits of suitable duration at times and on days/nights when the probability of witnessing any noise is greatest is reasonably sufficient, although more visits can be justified if:

- due to unavoidable or unforeseen circumstances the visits did not take place at times when the noise was likely to happen;
- due to pressure of other work, or unavoidable or unforeseen circumstances visits were not of sufficient length for officers to have been likely to witness the noise;
- the noise has been witnessed, but not at a level, duration or time likely to be a nuisance;
- the noise has been witnessed but the complainant advises it is not representative of the usual level, duration or timing at which the noise would be likely to be a nuisance;
- the noise has been witnessed, but not at a level likely to be a nuisance, but the complainant advises that noise at this level is likely to recur often enough to become a nuisance due to its regular recurrence.

The Local Government Ombudsman has ruled that the complainant must be kept informed of action taken and the progress of any investigation. All communications, including telephone conversations, e-mails etc. with the complainant or alleged noisemaker should be recorded on file. In some circumstances a simple note of the time and date of the phone call or e-mail etc will suffice, in others a more detailed note of the conversation or contents of the communication will be needed.

Example of Good practice – Negotiated Solutions

Falkirk Council

BP Grangemouth presents special problems to the local authority due to its size, relatively close proximity to residential properties (400m to 700m), hiatus in control through IPPC scheme (not due to come in until 2010) and the ostensible inadequacy of the EPA statutory nuisance provisions i.e. maximum penalty of £20k on summary conviction.

Residual noise levels at properties nearest to the refinery at $L_{Aeq(daytime)}$ 45 dB are some 15 dB greater than in other parts of the district. Particular problems have been presented by gas flaring incidents at the plant from 4 no tall stacks; these occur regularly due to plant breakdown or shutdown. The high level flare i.e. 120 m high with steam injection to control smoke emissions produces noise analogous to a jet engine which is loud and disturbing to the residents. Typical noise measurements of such incidents produced levels some 20 to 25 dBA above the endemic residual noise level at property facades. Flaring incidents can, typically, go on for days at a time. The environmental health service has successfully negotiated a potential solution with BP through the construction of a low level flare some 20m high and 10m in diameter where noise and light will be contained within the base of the structure. The cost to BP will be in the region of £3m but the major benefit will be that this new facility will be capable of being used in 75% of gas flaring incidents, thereby dramatically reducing the noise exposure and disturbance of the local residents.

Noise Measurements

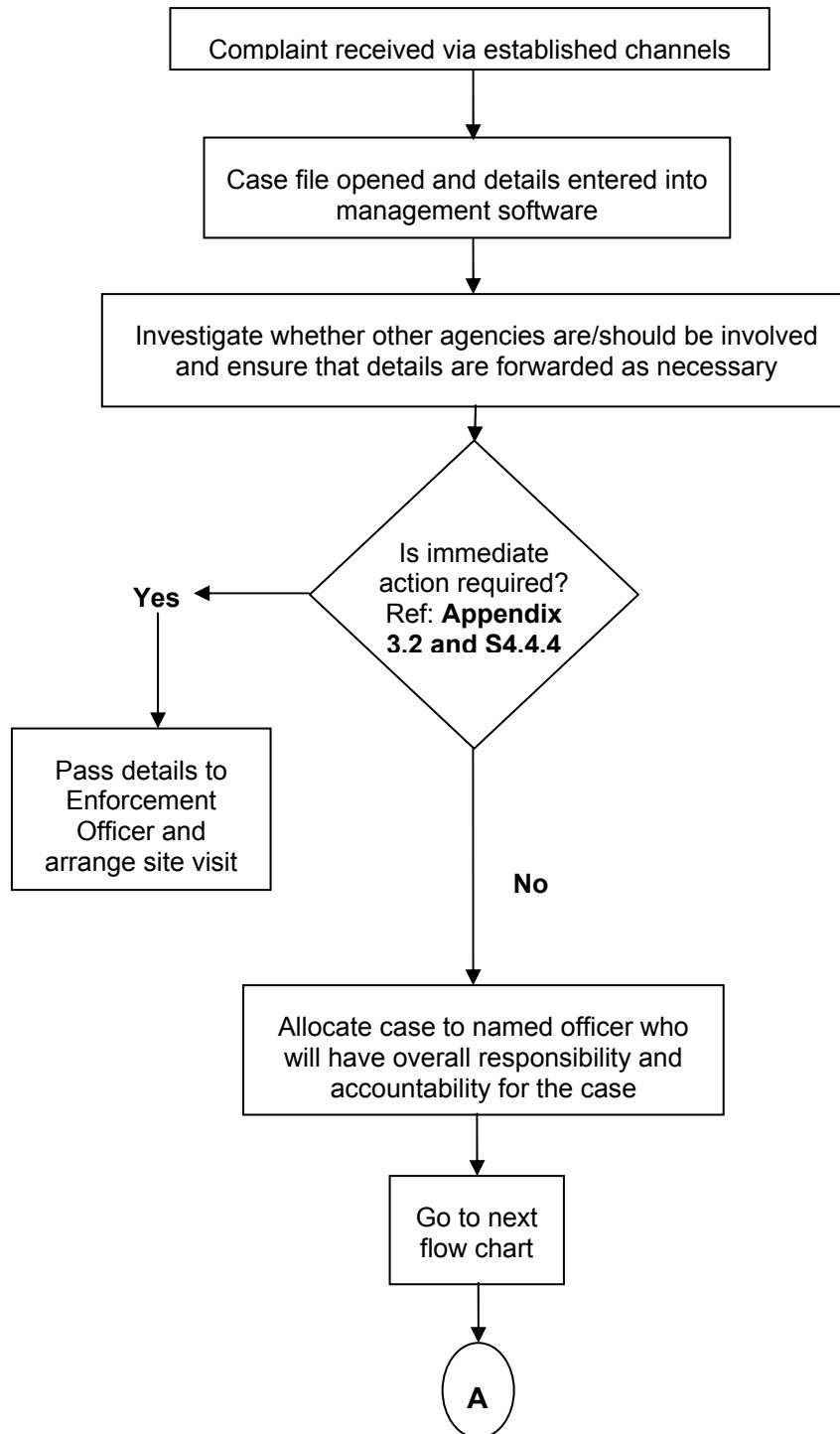
Depending upon the complexity and severity of the case under investigation, officers wishing to pursue a thorough and detailed investigation will appreciate the benefit of undertaking a programme of noise measurement recordings. **Appendix 2** to the guide provides a useful summary of technical standards, some of which include noise measurement protocols that should be followed where these are relevant to the case under consideration. A standard noise measurement report template used by the City of Edinburgh is reproduced in **Appendix 3.4**.

A typical complaint investigation flowchart addressing the three discrete phases of initiation, investigation and enforcement is provided in **Figure 12**. The flow charts are an amalgam of current practices carried out in a range of local authorities. They should not be regarded as being definitively prescriptive nor requiring adherence at all costs, but should be considered rather as models that may be useful in planning customised complaint investigation procedures for each individual authority based on its own needs and circumstances and upon the unique characteristics of each noise complaint.

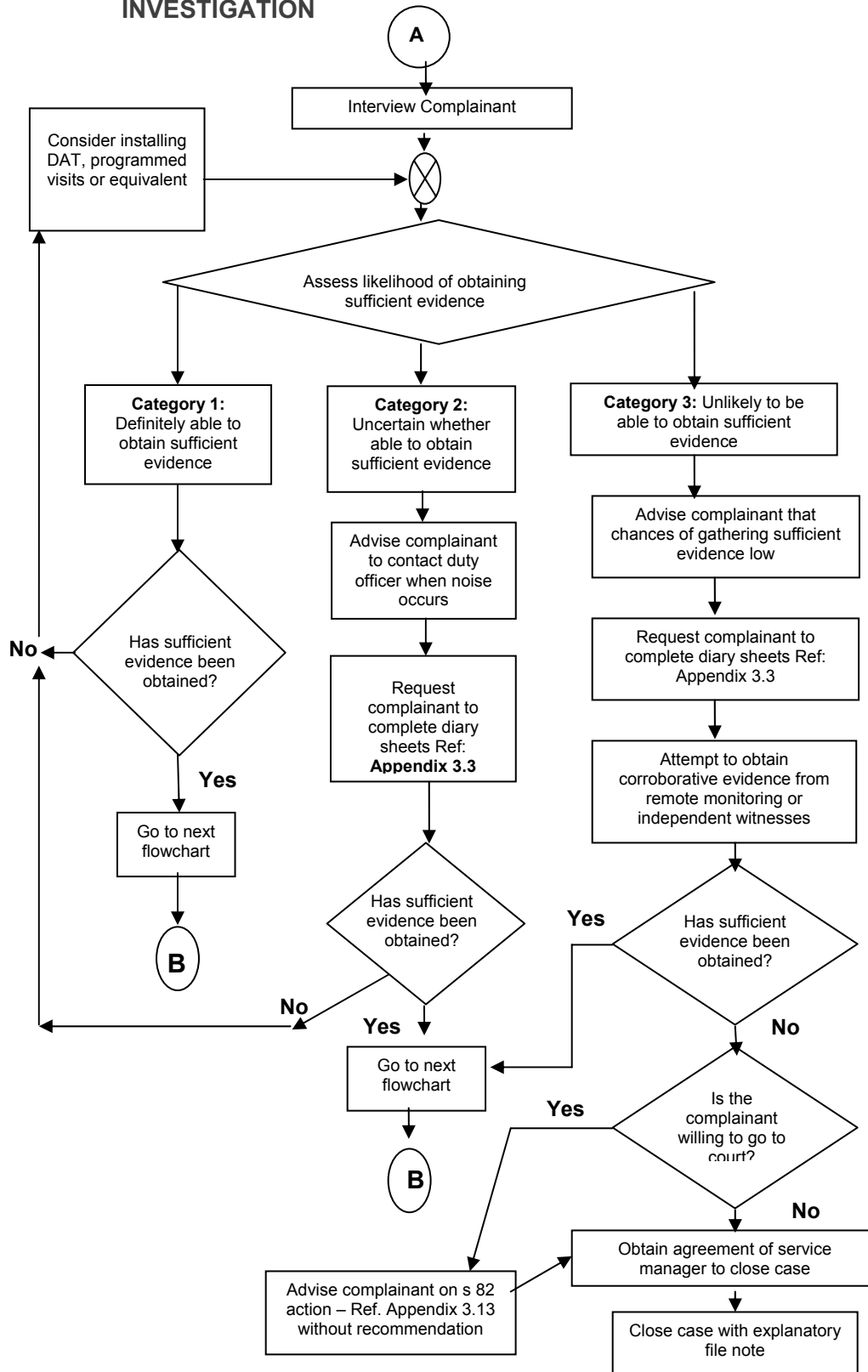
NB: a separate investigation flowchart is provided in the guidance to Part 5 of the Antisocial Behaviour etc (Scotland) Act 2004 (www.scotland.gov.uk/about/ERADEN/EcolAU/00017824/nlr-rpt.pdf).

Figure 12 – Complaint Investigation Flowchart

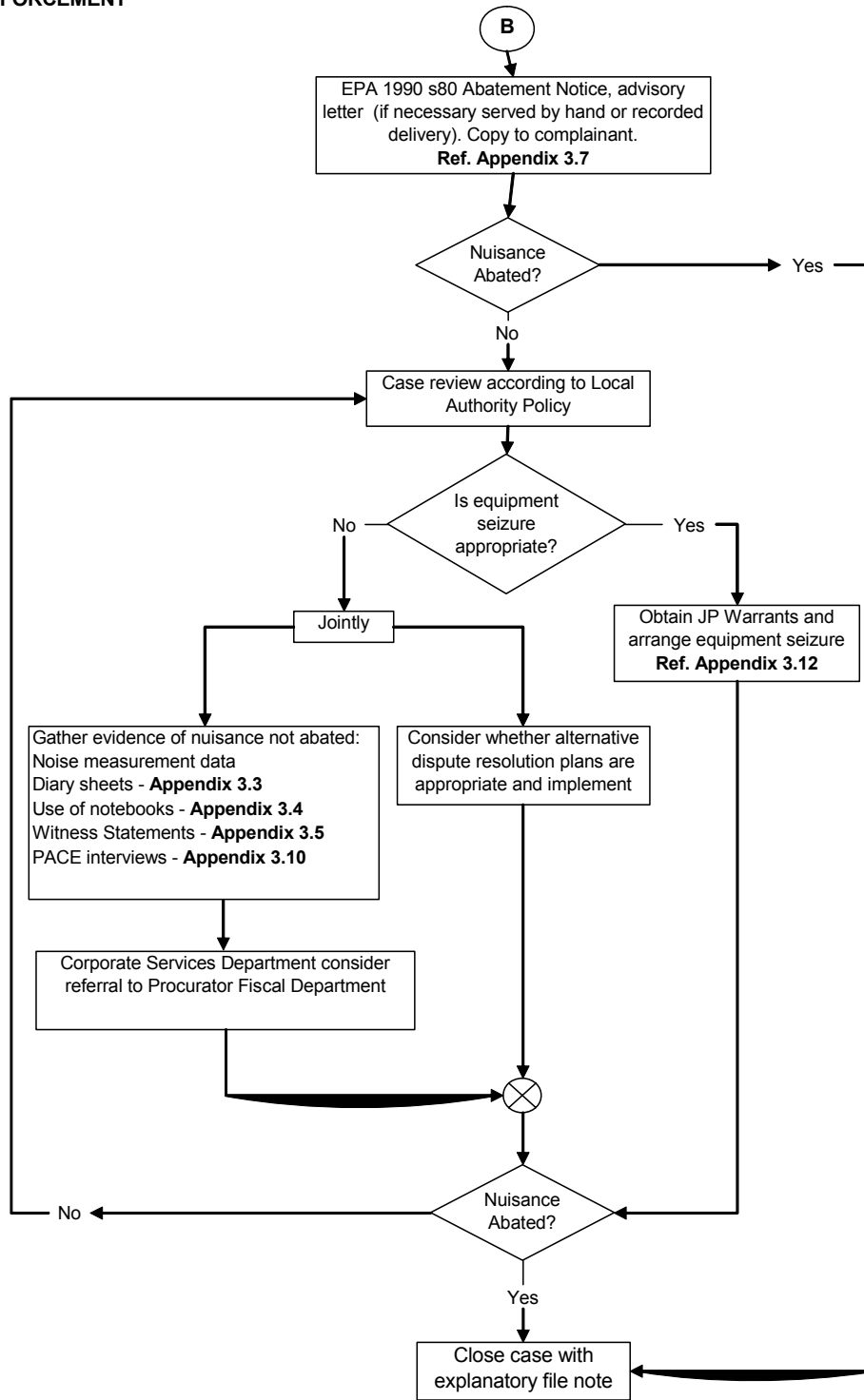
INITIATION



INVESTIGATION



ENFORCEMENT



4.3.5 Statutory Nuisance

Section 79(1)(g) of the Environmental Protection Act (EPA) 1990 provides that a statutory nuisance occurs as a result of: 'noise emitted from premises so as to be prejudicial to health or a nuisance'. Vibration is included in the definition of noise. It is a requirement for the noise to be emitted from 'premises', which includes land and vessels as well as property. The noise provisions in the EPA were widened by the Noise and Statutory Nuisance Act 1993 to include noise 'emitted from or caused by a vehicle, machinery or equipment in a street' (section 79(1)(ga)). Traffic noise is excluded by section 79(6A).

The noise provisions in section 79 EPA consists of two limbs, like all other statutory nuisances. The requirement for statutory nuisance is that the noise be prejudicial to health or a nuisance (it could be both). This means in the case of section 79(1)(g) that the noise has to be emitted from the premises of another and substantially interfere with the victim's enjoyment of his own premises. 'Enjoyment' refers to the exercise and use of the right to occupy land and having the full benefit of that right.

The interference must have some quality that makes it unreasonable for the victim to bear. (*Watt v Jamieson* 1954 SLT 56). Under the nuisance limb, interference in a person's 'personal comfort' is required (*Salford CC v McNally* [1976] AC 379, at 389). The standard is an objective one. So, where a particularly sensitive victim experiences a significant interference in his personal comfort, which an average person would not, there can be no statutory nuisance. (*Heath v Brighton Corporation* (1908) 98 LT 718)

The noise victim can be a residential or business occupier.

4.4. Prejudicial to Health

The 'health limb' and the 'nuisance limb' are alternatives within section 79(1) EPA 1990. Statutory noise nuisances consist of common law nuisance. Recourse to the health limb is likely to be rare in respect of noise for two reasons, one practical and the other legal. As was said in *Birmingham CC v Oakley* [2001] 1 All ER 385, 399, "prejudice to health" "covers what may be actually injurious as well as what may be likely to be injurious [but is] in either case something over and above what may be seen as a "nuisance"".

Generally, noise statutory nuisance will fall under the nuisance limb. The evidential standard is an objective one and, in practice, proving prejudice to health in noise cases to the standard required needs authoritative, scientific evidence.

Nevertheless, if the health effects are sufficiently serious and can be proved then it would be better to proceed under the health limb than under the nuisance limb because this better reflects the reality of the situation. In certain cases, of course, recourse to the health limb may be the only option since this does not require, as the nuisance limb does, evidence of an interference with a person's property arising outside it.

Proceeding under the health limb presents a second difficulty, however, arising from the state of the law. Arguably, the health risk must be of a type which is a 'threat of disease, vermin and the like' to engage the health limb. This is currently the position with statutory nuisances

arising from accumulations or deposits⁶ and from the state of premises.⁷ These forms of statutory nuisance originated in the mid-nineteenth century, when Parliament intended that the health limb be used to control threats to public health arising from diseases and unsanitary conditions.⁸ The origin of statutory noise nuisance is more recent – the first legislation dating from the Noise Abatement Act 1960. It is a moot point whether courts would interpret noise nuisance in the same way. However, there is no decided authority on the point and so an element of uncertainty exists concerning the utility of the health limb in respect of noise.

Environmental noise can seriously affect people's quality of life and social well-being. Noise can affect domestic activities such as interference with sleep and rest, disruption to speech communication and listening, concentration and habitation. A World Health Organisation (WHO) task force identified a number of health effects including behavioural effects and annoyance, interference with communication, sleep disturbance, psycho-physiological effects, and mental health effects. (Berglund & Lindvall, 1995).

4.5. Health Effects of Noise

For those people who are involved in domestic noise investigations, the psychological effects of domestic noise are known. Domestic noise can make people's lives a misery and can cause psychological distress and degrade a person's well-being. For example, people seriously affected by domestic noise often report:

- serious annoyance
- emotional effects such as changes in mood, feelings of depression and stress
- behavioural effects such as drinking alcohol, taking sleeping tablets or taking medication for depression
- activity disturbance such as disturbance to concentration and disturbance to sleep
- performance effects such as long-term tiredness and inability to perform tasks.

The effects on mental health and physical ill health are less clear. These uncertainties are caused by the lack of research as much as anything else. Despite the lack of clear scientific proof, it is suspected that domestic noise can cause stress that can lead to physical ill health and can cause or exacerbate mental ill health. Even though there are uncertainties, the possibility of these effects cannot be dismissed.

The WHO (1999) recommended guideline values that are set at the level of the lowest adverse health effect (the critical health effect). Inside bedrooms the critical effect is sleep disturbance and the WHO recommends an $L_{Aeq,T}$ value for steady noise of 30 dB and a $L_{Amax,fast}$ value of 45 dB.

The WHO guideline values and other objective noise criteria should be used with caution because the correlation between effects of noise with noise exposure variables is very poor.

⁶ Coventry CC v Cartwright [1975] 2 All ER 99.

⁷ R v Bristol CC, ex p Everett [1999] 2 All ER 193; Env LR 587.

⁸ R. Malcolm & J. Pointing, Statutory Nuisance: Law & Practice (2002, OUP), chapters 3 and 4.

There appear to be no studies in which disturbance due to noise has been related directly to the sound level entering dwellings (Raw & Hamilton, 1995). Additionally, a National Physics Laboratory report commissioned by DETR in Sept 1998. (see www.defra.gov.uk/environment/noise/health/page01.htm) identifies the WHO guidelines as defining the minimum health effect noise levels, and goes on to state. "Exceedances of the WHO guideline values do not necessarily imply significant noise impact and indeed, it may be that significant impacts do not occur until much higher degrees of noise exposure are reached".

No new data is expected imminently to further the development of these guidelines. Accordingly measured noise levels below the WHO guidelines may be taken as unlikely to cause adverse health effects, but noise levels moderately above the WHO guidelines do not necessarily prove that a source is a statutory nuisance [see Murdoch Vs Glacier Metal Company Ltd, 1998 Env LR 732].

Noise measurements should be used with caution in the assessment of domestic and other types of noise, especially when the intruding noise contains vocal content, pronounced acoustic features or other connotations with respect to loss of acoustic privacy. Nevertheless, noise measurements can provide a useful record of the intruding noise, which can be used to achieve better consistency of the decision process and could be used to test the reliability of subjective evidence. Noise measurements can be used to check and inform the overall noise assessment, but a simple pass or fail approach must be avoided.

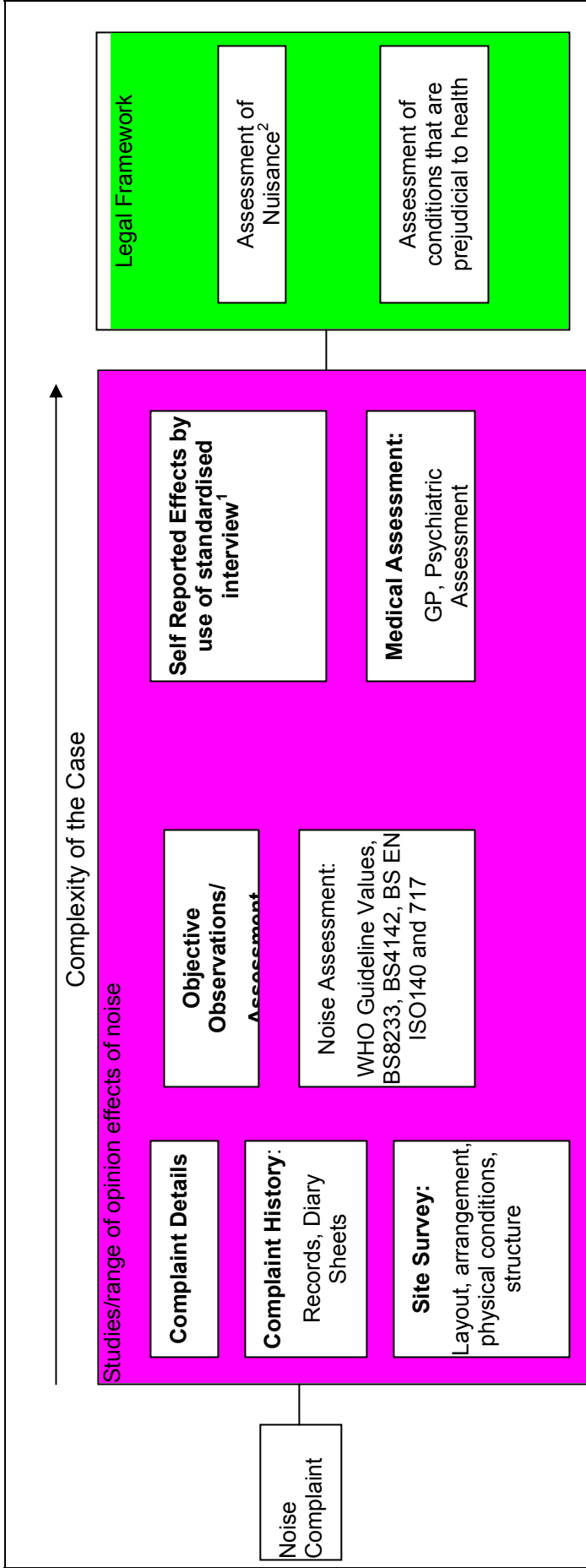
Investigations of low frequency noise are often time consuming since the source is often hard to identify as it can be some considerable distance from the receptor and the problem is often intermittent. Some individuals can be particularly sensitive to low frequency noise, sometimes due to particular hearing acuity or defects and its potential effects are not well understood. However, a recent review of published research carried out on behalf of Defra (Dr G Leventhall, Dr P Pelmear and Dr S Benton, 2003 - www.defra.gov.uk/environment/noise/lowfrequency) has helped to provide some clarity on this matter.

Various checks and balances, together with a rigorous approach, should be used to investigate complex and marginal cases. The schematic in **Figure 10** is an example of such an approach and identifies the different elements that may need to be addressed in investigating complaints of this type.

Conclusions and judgments based on subjective observations would be expected to vary between different assessors. Indeed, the volatile nature of many noise situations could lead to the same assessor arriving at different conclusions at different periods in time. Local Authorities are encouraged to make arrangements to achieve a reasonable degree of consistency between judgments made by different officers. The checks and balances referred to above would help to achieve better consistency. The type of arrangements that could be employed to assist in this might include:

- training workshops;
- practice guidance notes on noise investigations for different types of noise;
- peer review, and,
- inter-rater comparisons.

Figure 13 - An Example of an Assessment Framework where Noise is Alleged to be Prejudicial to Health



Notes:

1 A possible approach is to use a standardised interview method. The Standardised Interview to Assess Domestic Noise Complaints and their Effects (SIANCE) is a tool that can be used as part of an overall assessment. It is important to note, however, that the interview should only be seen as part of the range of assessment methods available to the assessor. Self-reported effects can be used to determine whether interference from noise has prejudiced an individual's health. However the legal test does not allow for undue sensitivities. It is important, therefore, that noise conditions are verified by an independent and competent Enforcement Officer in order to determine whether the noise is indeed prejudicial to health. It is also important that the assessment is consistent with the consensus of scientific opinion on the effects of noise and is consistent with legal precedent.

Detailed analysis of the validity of SIANCE and results from the field study can be found in the Department of Health Report 'The Development of a Standardised Interview to Assess Domestic Noise Complaints and their Effects' available on the Department of Health website <http://www.doh.gov.uk/hef/airpol/science.htm>.

2 Inevitably, nuisance will also need to be assessed in arriving at a conclusion as to whether the noise constitutes a nuisance or is prejudiced to health.

4.6. Guidance on the Investigation Duty

The local authority duty under section 79 EPA 1990 is two-fold e.g.

- Firstly, the authority is under a duty to inspect its area from time to time in order to detect any statutory nuisances that ought to be dealt with.
- Secondly, where a person living within its area makes a complaint of an alleged statutory nuisance, the Local Authority is under a duty to take such steps as are reasonably practicable to investigate the complaint.

Generally, in noise nuisance cases, it is the complaint route that triggers action by local authorities. However, the duty to investigate is not absolute whereby all efforts must be made to investigate at all costs and that an investigation must go on indefinitely even without resolution being foreseeable. Instead, section 79 EPA' 90 only requires that "reasonably practicable" steps are taken to investigate complaints. Consequently, the duty to investigate may be mitigated by:

- physical considerations e.g. the noise is too short in duration, irregular or infrequent for any Council staff to be able to witness; and
- what is reasonably affordable in terms of cost effectiveness and the proper use of local authority resources (See *Jordan Vs Norfolk CC* 1994 4 All ER 218).

In practice each complaint will have to be judged on its own merits. It follows that the way noise complaints are dealt with is important because it determines decisions about what needs to be done in response to complaints, including any enforcement action that may follow. It is important to encourage consistency in the way enforcement officers approach the task of interviewing complainants. One way of achieving this is to use a standard interviewing instrument e.g. a standardised questionnaire for interviewees or aide memoir for interviewing officers to prompt them to ask appropriate questions. The results obtained will not be conclusive in deciding whether a complaint is sufficient or of a kind to amount to a statutory nuisance. However, self-reported effects can form part of the evidential background enabling the local authority to make a proper decision about whether a complaint amounts to a nuisance, or whether the noise is injurious to health.

4.7. Requirement to Serve an Abatement Notice

The Local Authority has a duty to reach a judgement, i.e. to make a decision about whether a matter or complaint amounts to a statutory nuisance before serving a notice under section 80 of the EPA 1990. In determining whether a noise problem amounts to a statutory nuisance, regard should be had to a number of factors which may indicate whether the assessment of nuisance is appropriate, including:

- the level and type of noise;
- its duration;
- the time of day or night when the noise occurs;
- what measures could reduce or modify the noise;
- the characteristics of the neighbourhood where the noise occurs;

- the number of persons affected; and
- whether best practicable means have been used to control noise emanating from industrial, trade or business premises.

Once an authorised officer has formed the view that a statutory nuisance exists, the local authority is under a duty to serve an abatement notice.⁹ The authority for taking decisions on behalf of the Council can be delegated to a properly authorised officer. Delegation may be effected by Council resolution or standing orders.

In cases involving trade or business premises, the defence of best practicable means may be available to the perpetrator of the nuisance. It may be that an officer considers that, although a nuisance exists, the defence will succeed in the particular case. Whether the defence succeeds is a matter for the court, but it may be appropriate for an officer to consider its availability when forming a view as to whether a statutory nuisance exists. For instance, best practicable means may suggest that the activity is reasonable in the first place and this may clearly not be the case. However, the absence of case law on this point does leave the issue open. If an officer wrongly forms a view that the use of best practicable means suggests that a statutory nuisance does not exist, then the authority is potentially exposed to an action for judicial review by a complainant, or a complaint to the Local Authority Ombudsman.¹⁰ However, if an effective BPM defence exists it would appear a waste of public funds to pursue this knowing it will be quashed on appeal.

Whilst it has become established practice among a number of Scottish local authorities to adopt an informal approach to complaint resolution, there is nevertheless no authority for delaying the service of a notice to allow time for alternative methods of dispute resolution to be explored. Informal complaint resolution methods may indeed be both cheaper and more effective than taking formal enforcement action but although a short delay may be excused, any significant delay after the judgement has been reached that a statutory nuisance exists, effectively gives the local authority a discretion to which it is not entitled and is in conflict with established case law on the matter^{9,10}. **While, in practice, there may well be some delay occasioned whilst an abatement notice is being drafted, the delay incurred pursuing an informal route may be considered unreasonable and could expose the local authority to a judicial review by an aggrieved person.**

Nevertheless, alternative methods of dispute resolution may be explored, either in parallel with the notice procedure or as a precursor to serving the notice whilst, for example, the investigation is underway to establish the person responsible for the nuisance etc. However it must again be emphasised that the conduct of the investigation, including the pursuit of alternative dispute resolution methods, should not unduly delay the serving of a notice.

⁹ *R v Carrick DC, ex p Shelley* [1996] Env LR 273; JPL 857.

¹⁰ See Complaint 88/C/1373 against Sheffield City Council, 19th September 1989, Commission for Local Administration.

Good Practice – Informal Action

A good practice interpretation of the decision to explore informal action is where the outcome of the informal action can be expected to achieve the same result as serving a notice. This is often the case with isolated or infrequent cases of domestic noise. In a complex or difficult case it is often reasonable to delay the service of a notice, until a thorough and detailed investigation has been undertaken such that all the necessary information has been gathered. Time spent investigating the technical aspects of a case including possible BPM defences or alternative avenues to resolve the problem is justified and reasonable in the context of ensuring that ultimately a robust notice is served that can be justified and sustained if appealed and will result in a meaningful reduction in noise. This will avoid undue wastage of public funds, which might arise by serving a "rushed notice" that the recipient could readily appeal or is unenforceable. However, it must be emphasised that incurring any undue delay in serving an abatement notice where a noise nuisance has been established, would amount to maladministration on the part of the Local Authority and would be unlawful.

It has been determined¹¹ that it is for the Courts to determine the defence of Best Practicable Means (BPM) and local authorities should not unduly delay serving abatement notices whilst deciding if a BPM defence exists (in the case cited, the local authority seems to have prevaricated for over 20 months between establishing a nuisance and serving a notice, which is patently excessive).

Important Note – Delegation of Powers

If an officer of the council is empowered to sign a notice by delegated powers, then the minutes of the meeting at which this delegation was made must be available when attending court in order to defend any challenges to the legitimacy of any notices served.

4.8. Seizure of Equipment

Section 47 of the Anti-Social Behaviour (Scotland) Act 2004 empowers an officer of the local authority in whose area the relevant property is situated to seize and remove any equipment which appears to either be being or to have been used in the emission of noise provided that a warning notice has been served in respect of that noise from relevant property and an officer of the local authority believes that, at any time in the period which is specified in the notice has exceeded the permitted level. If the facts of the case warrant such action and it can be shown that abatement notice proceedings are likely to be ineffective, proceedings may be instituted in the High Court under s 81(5) of the EPA 1990.

¹¹ Local Ombudsman's Complaint 88/C/1373 against Sheffield City Council 19th September 1989, Commission for Local Administration

Section 10(7) of the Act also clarifies Local Authority powers under section 81(3) of the EPA 1990 to seize noise-making equipment from premises. 'Premises' is obviously a wider term than 'dwelling', so this provision applies also to the seizure of equipment from an industrial, trade or business premises or open land. Use of this provision does require that an abatement notice has been served and that the noise offender has failed to comply with it in order that the equipment may be seized. Additionally in order to obtain a warrant to enter the premises an authorised officer must be able to demonstrate that entry has been refused, or refusal is apprehended, or the premises are unoccupied or the occupier is temporarily absent, or the case is one of emergency, or giving notice would defeat the object of the entry; and there are reasonable grounds for entry into the premises to seize the noise making equipment e.g. statutory nuisance is on-going or likely to recur.

Alternatively, if a case is serious and urgent enough and it can be shown that use of the abatement notice procedure is likely to be ineffective, an injunction may be obtained from the High Court using the procedure under section 81(5) EPA 1990. A noise offence includes a breach of section 80(4) EPA 1990.

Powers of seizure are dictated by the provisions of the particular statute, which is being employed, see below:

Under the Environmental Protection Act 1990, an enforcement officer is entitled to take from the relevant premises such samples or articles as he/she considers necessary for the purposes of discharging any of the Local Authority's functions under the Act; and Local Authority may, whether or not they take proceedings for an offence under section 80(4), abate the nuisance and do whatever may be necessary in execution of the notice. Many Local Authorities have interpreted this power as including seizure of noise making equipment or animals.

- This is obviously a wide power, which in cases of noise nuisance could be used, for example, to seize stereo equipment or possibly barking dogs where owners are absent, etc.
- There exist similar provisions under the Control of Pollution Act 1974.

Retention of the property by the Local Authority is strictly only permitted for so long as is necessary for the Local Authority's function under the Act to be discharged although Local Authorities may apply for the equipment to be forfeited and this intention needs to be made clear at the appropriate Court hearing.

The Antisocial Behaviour (Scotland) Act 2004 is an adoptive Act. Therefore, the Act must be adopted in its entirety before noise-producing equipment may be seized under the Act. Local authorities in Scotland have powers of default under s81(3) to deal with nuisances, including noise nuisances where the person concerned has failed to comply with an abatement notice which has been served under s80. The local authority are given powers under s 81(3) to abate the nuisance and do whatever is necessary in the execution of the notice. Reference should also be made to Schedule 3, para 2 to the Act which gives power to authorised persons to enter premises at any time in order to ascertain if a nuisance exists and take any action which is either authorised or required under the Act. Under para (4)(c) authorised officers have the power to take away, inter alia, such articles as is considered necessary for that purpose. 'Articles' would cover, of course, hi-fi equipment, radios, etc.

See **Appendix 3.11** for practical guidance on seizing equipment.

4.9. High Court Proceedings

Section 81(5) of the Environmental Protection Act 1990 provides that if a local authority is of the opinion that the abatement proceedings under the Act would afford an inadequate remedy in the case of a statutory nuisance, the authority may take proceedings to abate the nuisance in any court of competent jurisdiction. It is not necessary that the authority has suffered damage from the nuisance-s81(5). The most common form of proceedings which a local authority would, of course, take is an interdict against the author of a nuisance. On the authority of the English case of *Vale of White Horse DC v Allen* [1997] Env LR 212 (which concerned proceedings for an injunction), the relevant local authority would require to come to the conclusion that the provisions of s 80(4) would afford an inadequate (as opposed to a less convenient) remedy before it could successfully invoke s80(5). However, before the subsection can be invoked it is not necessary that statutory remedies have been exhausted-*Hammersmith LBC v Magnum Automated Forecourts* [1978] 1 WLR 50. Furthermore, the terms of the appropriate injunction can be more restrictive than those which are contained in the relevant statutory notice-*Lloyds Bank v Guardian Assurance and Trollope and Colls Ltd* (1986) 35 Buid. LR 38.

In order to preserve the rights of the parties pending the final determination of the respective rights of the parties the local authority may seek an interim interdict which is a discretionary remedy – see *Kelso School Board v Hunter* (1874) 2 R 228. A prima facie case requires to be made out- *Deanne v Lothian Regional Council* 1986 SLT 22. In addition, the so-called, 'balance of convenience' between the respective parties must be ascertained – see *Highland and Universal Properties Ltd v Safeway Properties Ltd* 1996 SLT 559.

See **Appendix 7** Question 13 for clarification on the use of Interdicts to control noise.

4.10. Dog Warden Services

Many environmental health services provide a dog warden service employing well-qualified staff experienced in understanding dog behaviour. A number of authorities utilise the expertise of dog wardens in the investigation of alleged noise nuisance complaints as these relate to barking dogs and in some instances noise monitoring is undertaken to provide corroborative evidence for individuals making applications to the District Court for an Order to control a dangerous or annoying creature under the provisions of section 49 of the Civic Government (Scotland) Act 1982. Notwithstanding the local authority's express duties under sections 79 and 80 of the Environmental Protection Act 1990, it must be conceded that this latter approach provides for a more practical and expedient route for the resolution of such complaints. – see **Appendix 3** for specimen pro-forma application for an Order to the District Court. Comprehensive guidance on dog behaviour management is available in Defra's recently published draft guide *Constant Barking Can be Avoided – Offering Guidance for Owners* available to be down loaded from www.defra.gov.uk/environment/localenv/dogs/bark.htm

4.11. Alternative Dispute Resolution including Mediation

The term Alternative Dispute Resolution (ADR) includes a range practices from informal approaches or letters by Council staff to alleged noisemakers, to more structured arbitration and mediation methods. Alternative dispute resolution methods can be successful and may be quicker, cheaper and more effective in cases where a noise dispute exists, than formal

use of the statutory nuisance powers. However, Local Authorities are reminded of their duties under sections 79 and 80 respectively of the Environmental Protection Act 1990 to take reasonable steps to investigate nuisance complaints and to serve abatement notices when satisfied of statutory nuisance. Consequently, where alternative dispute resolution methods are appropriate they should run in parallel with steps to comply with duties to investigate and take action against statutory nuisances. For example, this could be by holding enforcement of an abatement notice in abeyance whilst mediation was on-going or using any enforceable elements of the agreed outcome or action plan from mediation to form the basis of the requirements of an abatement notice.

Where alternative dispute resolution methods prevent the recurrence or secure abatement of a statutory nuisance during the course of the investigation of a complaint e.g. when officers contact a noise source to establish who is the person responsible for a nuisance and they promptly stop or reduce the noisy activity, then abatement notices need not be served or enforced as the nuisance has been abated.

Many benefits are claimed for mediation, including:

- it allows people to be heard. In some cases, a simple apology from either or both sides is all that is required to put the situation right
- it is an empowering process that encourages people to put forward their own suggestions and ideas
- it is less intimidating than legal procedures, and people represent themselves rather than having someone speak for them
- it provides solutions that the parties themselves have decided on, giving them all a sense of ownership of any agreement. As a result, agreements reached in this way last much better than solutions handed down by Courts or an arbitrator
- it can be organised quickly. When disagreements are not addressed, they can escalate. Mediation is relatively easy to arrange and can be completed within weeks
- it is usually affordable by all. Most neighbour mediation is free to those who want to use it, and many other forms of community mediation are available at a reasonable rate.

Mediation can be very helpful when a situation is stuck or not easily resolved. It works by giving everyone the opportunity to explain their side of the story, and to talk without being interrupted. It is not an 'easy option' - when people are honest and are encouraged to say what they feel, the situation can provoke strong emotions - but once people have had a chance to express their feelings, they are more likely to let go of their hostility.

There are a number of reasons where mediation can be considered to be of benefit to a Local Authority, in particular:

- the mediation process helps to preserve good future relations (between neighbours this is especially important)
- mediation may be less resource intensive than formal action
- the use of statutory enforcement powers can exacerbate a situation, as it can polarise the parties, driving them further apart

- mediation can be more appropriate. For example the environmental health department of a council can only address the dispute in a legal context. However, they cannot really deal with the effects of noise on the parties involved, the feelings and emotions. The effects of a low level constant noise that may be within 'acceptable' limits may have a more detrimental effect on a neighbour than a very loud and late party that only happens once a year. Mediation may be useful in tackling noise that falls outside the remit of the environmental health department as well as those within their remit
- mediation is useful for tackling a wider range of problems, of which noise complaint is just symptomatic.

Good Practice – Results of Mediation

Case 1

London Borough of Hammersmith and Fulham use a Voluntary service CALM which is jointly funded by numerous housing associations. Benefits are considered to include the ability to resolve a number of intractable neighbour noise cases, as well as being able to get involved in non-noise issues and the possibility of attaining a sustainable solution where noise is merely the vehicle for articulating a whole series of issues.

Approximately 100 noise related cases per year are processed with a positive outcome in 60-70% of cases.

Case 2

London Borough of Southwark's Housing Department has a service contract with Southwark Mediation for up to 2000 referrals with an annual cost of £30k. The Environmental Health Department were referring up to 110 cases per annum, out of more than 10,000 noise complaints per year. But the attitude to mediation became jaundiced since full mediation was only ever accepted in one case and the majority of complainants insisted on maintaining their anonymity.

The lesson to be learnt here may be that mediation can work but only if all parties are prepared to enter openly and wholeheartedly into the exercise. This may not be the situation in many noise cases and there may, of course, be valid reasons why the complainant wishes to remain anonymous.

Anti Social Behaviour Orders (ASBOs) and Acceptable Behaviour Contracts ABCs

The Crime and Disorder Act 1998 has given rise to the anti-social behaviour order (ASBO) which is an important addition to the range of measures available to the police and local authorities to tackle anti-social behaviour. Whilst ASBOs would not necessarily be the first recourse in cases where noise nuisance is the main problem, they are an effective way of tackling more serious anti-social behaviour, which may include noise nuisance as one of the key elements of the problem. Circumstances where their use may be appropriate would include dealing with, for example, families whose anti-social behaviour, when challenged,

leads to verbal abuse, threats or graffiti, or where noise nuisance is part of a pattern of unruly or harassing behaviour, which intimidates others.

ASBOs Key facts:

- Sheriffs' courts have had powers to make anti-social behaviour orders since 1 April 1999.
- Local authorities and Chief Officers of Police in consultation with one another are able to apply to a Sheriffs' court for an Order to protect the community from the actions of an individual or individuals who cause harassment, alarm or distress to others not in the same household as themselves.
- Proceedings to apply for an Order are civil, not criminal, and the case needs to be proved according to the rules of civil evidence. If an Order is made the defendant will be prohibited from doing anything specified in it. The Order itself will not give the defendant a criminal record.
- A breach of an Order is a criminal offence. The prosecution must prove beyond reasonable doubt that the Order has been breached. Where a person is convicted for a breach, the courts can impose stiff penalties of up to five years' imprisonment.
- A strategy for the use of the Orders will be developed as part of the local crime and disorder strategies for each area. The duty, which the local authority and the police share, is to draw up such a strategy.
- ASBOs should be used wherever it is thought that they will be a successful remedy to anti-social behaviour, and where other methods may be less effective. This does not necessarily mean that other methods have to be tried first. In other words, ASBOs are not, as some have suggested, a measure of last resort.

Acceptable Behaviour Contracts have been developed as a pre-cursor to ASBOs and these can be used to control anti-social children and prevent their behaviour deteriorating into serious nuisance and offending. ABCs involve an agreement between the parents, the children themselves, the police and social services, aimed at tackling their anti-social behaviour. These contracts represent a voluntary commitment by the young person to curb his/her behaviour and aim to:

- stop the behaviour rather than punish the offender; and
- encourage the young person to take responsibility for his/her actions.

See **Appendix 3.13** for more information on ABCs.

The Antisocial Behaviour (Scotland) Act 2004 has introduced further powers to control anti-social behaviour that can be summarised as follows:

- widen the use of Fixed Penalty Notices – e.g. noise nuisance, truancy, graffiti – and applying them to 12-15 year olds
- powers to require the registration of private sector landlords

Further guidance on the use of Anti-social behaviour powers in Scotland can be found at (<http://www.scotland.gov.uk/library5/social/acbq-00.asp>).

4.12. Complaint Resolution

Good Practice guidance as to when a complaint can be regarded as resolved has been given in section 4.3.2 above.

The Ombudsman has determined that it is not acceptable for the local authority to assume that a case has been resolved, merely because a complainant has not contacted the Local Authority service after their initial complaint or following contact by Local Authority staff. Instead, local authorities should continue to manage the case, maintain contact with complainants and keep them apprised of progress of their case.¹² If complainants are simply left “in the dark” about their case they may assume there is nothing the Council can or will do about the problem and consequently “give up” on the local authority and then have to live with an on-going noise problem – a situation that is clearly inequitable.

A good practice example of managing follow up to a notice with time limits for specific action is to send a letter to both the complainant and the recipient of the statutory notice, advising on the imminent expiry of the deadline and requesting a response from both, that the nuisance has either been abated or is still continuing. In this way, a case may be deemed resolved or identified for further action.

4.13. Competence

In order for staff to be able to effectively provide noise services it is critical that they possess the core competencies to provide the service and do the job. Core competencies are the attributes that a member of staff engaged in providing noise services will be expected to demonstrate in undertaking the duties and responsibilities of the post to the required level. Examples of service and personnel expectations as regards core competencies are given below.

4.13.1. Service Expectations

Good practice suggests that local authorities should have systems in place to ensure that a competent service is delivered. In particular, where services are provided by non-noise specialist staff, the system must be robust enough to ensure that a suitable service is provided. The areas such systems should cover include ensuring staff either already have or are capable of developing the abilities to fulfil the following tasks effectively:

Performance and Commissioning

- Identify, gather, monitor and evaluate information
- Identify and establish breaches of legislation
- Investigate breaches of legislation
- Prepare coherent and cogent reports
- Prepare and present evidence in court

¹² Local Ombudsman's Complaint 88/A/1864 against LB Barnet 3rd May 1990, Commission for Local Administration

- Sample and test items
- Provide advice and assistance to individuals and organisations
- Contribute to providing educational services.
- Maintain working relations

Customer Services

- Maintain reliable customer service
- Communicate with customers.
- Develop positive working relationships with customers
- Solve problems on behalf of customers

Administrative Standards

- Contribute to the Improvement of Performance
- Contribute to the maintenance of a healthy, safe and effective working environment
- Contribute to the planning, organising and monitoring of work
- Create, develop and maintain effective working relationships
- Research, prepare and supply information

4.13.2. Personnel Expectations

To ensure that personnel are able to demonstrate core competencies, it is good practice that personal specifications and job descriptions for posts recognise the specific education, skills, knowledge and experience that staff engaged in noise work need. Consequently, when appraising applicants and appointing staff to posts involving noise work, managers will have confidence the individual possess the minimum baseline of competence relevant to the work. Personal specifications and job descriptions can also help identify any gaps in existing staff competence and motivation that could be addressed by further training, mentoring or direction etc.

The range of education, skills, knowledge and experience that staff engaged in noise work need in order to be able to carry out all the tasks they are likely to encounter includes:

Possession of the REHIS Diploma in Environmental Health or equivalent qualifications. Posts involving technical assessment of acoustic data and reports may benefit from further qualifications e.g. the Institute of Acoustics (IOA) Diploma in Acoustics and noise control; the Joint award of REHIS and the IOA Certificate of Competence in Environmental Noise Measurement; or undergraduate or post graduate qualifications in acoustics.

- The ability to demonstrate good interpersonal skills.
- The ability to demonstrate good written and verbal communication skills.

- The ability to liaise effectively with other Local Authority departments and outside agencies e.g. police.
- Knowledge of customer care in service delivery.
- The ability to manage and conclude conflict.
- The ability to negotiate solutions through the powers of persuasion
- The ability to work out of normal office hours.
- Knowledge of legislation and published technical standards and codes of practice covering noise, nuisance, planning, licensing, anti-social behaviour, criminal investigation and their implementation.
- Knowledge of Scottish legal and court procedures.
- The ability to use noise recording and measurement apparatus and to gather, analyse and interpret acoustic data and technical reports
- Knowledge and experience of complaint investigation processes and of enforcement actions.
- Experience or knowledge in the use of information technology.
- The ability to set up, maintain and review records of complaints, investigations and actions.
- The ability to undertake simple research, surveys or other exercises in relation to noise, nuisance and other anti-social behaviour, for enforcement, comparison or monitoring purposes.
- The ability to manage the changing priorities and circumstances of casework and any assigned project work.

Good Practice – Establishing Competence

The following good practice measures have been applied to varying degrees in different authorities to ensure that enforcement officers are suitably trained:

- recruitment policies, e.g. by way of qualifications and experience
- documented guidance developed specifically for ‘non-noise officers’ working on the out of hours service containing information on how to assess noise for nuisance purposes
- all non-EHO or technically qualified technical officers undertake the Institute of Acoustics (IoA) Certificate of Competence in Environmental Noise Assessment;
- a ‘mentoring’ system exists where each action taken is recorded and monitored by a senior officer
- professional discussion and support

- appraisal interviews
- refresher training and personal development
- team meetings and discussions on complex cases
- career development of individual officers, including adherence to formal training plan competence tests for field officers in the objective assessment of nuisance and in the use of sound level meters.

4.14. Safety

There are significant safety issues to be addressed by the service, particularly in the investigation of complaints and the associated statutory enforcement in connection with these. **Appendix 4** contains detailed advice on lone working in a document produced by Dundee City Council, together with a number of documented risk assessments relating to noise work that have been produced by Edinburgh City Council.

The following is a selection of good practice measures that have variously been applied by different authorities:

A documented risk assessment procedure for visiting sites should always be in place and Safe Working Procedures developed may include one or more of the following:

- joint visits with colleagues or police;
- compliance with the Working Time Regulations 1998, including allowing additional time beyond the statutory minimum for the recuperation of staff after late night out of hours duties, where a documented risk assessment shows this to be appropriate;
- use of radios with panic buttons linked to the control room;
- officers accompanied by buildings' concierges when entering buildings;
- strict adherence to lone working procedures;
- use of anti-stab jackets, particularly during equipment seizures;
- "real person" or computerised 'tracking log' system in operation whereby customer services officer sets priority of complaint and knows whereabouts of out of hours service officers. Clients are updated on likely response times for dealing with complaint and the whereabouts of field staff are known in case of emergency etc;
- a list of known 'difficult' customers, with guidance on how to deal with them e.g. do not approach or only approach with Police support. This information may not always be held electronically, however, the Data Protection legislation requires that such information, however stored, should be kept confidential to the staff, should be continuously updated, reviewed regularly and destroyed when no longer necessary.

4.15. Inventories (Equipment and other issues)

Where noise level measuring or recording equipment is in use, it is essential to have a record of the technical capabilities and limitations (accuracy) of the equipment together with

current calibration certificates. Calibration certificates will in general need to be renewed at two yearly intervals.

Example of Good Practice – Equipment Inventories

An inventory for Out of Hours Service should include:

- clear and simple instructions for installing and operating noise recording and measuring equipment in typical situations,
- a file of written procedures,
- blank copies of standard letters, notices, warrant applications and receipts for seized equipment,
- a list of telephone contacts, e.g. local police, JPs, glaziers, locksmiths, car alarm companies etc.
- an equipment bag containing torches, attack alarms; mobile phones, two-way radios, digital cameras etc.

4.16. Stakeholder Issues

The authority should regularly review the efficacy and take up of the service.

The aim of the review should be to establish whether all parties are fairly served by the current service, including:

- residents
- local businesses
- ethnic groups
- the elderly
- people with disabilities.

The review should not only concentrate on customer satisfaction and the take up of the service by different groups but also seek to establish whether one section of the community may be disadvantaged by the use of the service. In addressing noise complaints that involve members of the public from ethnic communities, the local authority should adopt a sensitive strategy based upon information and advice from, for example, racial equality councils and community groups, in order to give greater legitimacy to any enforcement action that is decided upon. Use of interpreters and translators for communication with complainants and noisemakers whose own English skills are poor is regarded as good practice. Local Authorities must remain aware that complaints about neighbour noise, in particular, have the potential to be a vehicle for racial harassment and should only take enforcement action when they have independently established statutory nuisance. It remains good practice for the authority to undertake, as a matter of course, ethnic monitoring of all noise complaints to ensure they are enforcing the law in a non-discriminatory way.

4.17. Determination of an Appropriate Planning/Licensing Conditions

Planning Advice Note PAN 56 Planning and Noise gives guidance to local authorities on the use of their statutory planning powers to minimise the adverse impact of noise in relation to new development. Local authorities must take full cognisance of this document in preparing their local plans.

When determining the degree to which noise control measures are included in the planning or licensing process, it is good practice to take cognisance of the commercial as well as residential requirements of the local area.

Planning conditions should only be imposed where they are:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise; and
- reasonable in all other respects

Noise emission limits should be stated at specific locations. Examples of model conditions are given in Planning Advice Note PAN 56 Planning and Noise.

The ease and practicability of monitoring compliance with any particular condition should always be considered.

If licensing conditions require that “music is inaudible within nearby habitable rooms”, then the interpretation of this should be reasonable and practical in the absence of an agreed objective measure. A typical example would be to listen in the middle of the room or at the bed head and not directly at an open window; however, this is unlikely to be an option that is available to the licensee wishing to monitor his/her own compliance. In such a case the local authority should advise the licensee of the precise music noise level thresholds which may operate within his own premises and which remain inaudible in the target noise sensitive premises.

References

- Statutory Instrument 1998 No. 1833: The Working Time Regulations 1998, ISBN 0 11 079410 9
- Office of the Deputy Prime Minister, Building Regulations 2000: Approved Document E - Resistance to the Passage of Sound (2003 Edition) ISBN 0 11 753 642 3
- CIEH, Noise Liaison Guide - Good Practice Guidance for Police and Local Authority Co-operation 1997, ISBN: 0 9001 0370 1
- Environment Agency H3 Horizontal Guidance for Noise Part I Regulation and Permitting ISO 9000:2000, Quality Management Systems - Fundamentals and Vocabulary
- ISO 9001:2000, Quality Management Systems - Requirements

- ISO 9004:2000, Quality Management Systems - Guidelines for Performance Improvements
- Mediation UK Case Study: Neighbour Noise – www.mediationuk.org.uk
- Guide to Anti-social Behaviour Order and Acceptable Behaviour Contracts - Home Office guidance: www.crimereduction.gov.uk/asbos9.htm
- Greater London Noise Benchmarking Study Report CIEH 2002
- Environmental Health and Racial Equality – a Guide for Local Authorities published by the Commission for Racial Equality 1994
- Race Equality – Commission for Racial Equality: Statutory Code of Practice for Public Authorities - www.cre.gov.uk
- Gender Equality – Equal Opportunities Commission Good Practice Guide: www.eoc.org.uk/cseng/advice/service_delivery.asp
- Disability Equality – Disability Rights Commission Codes of Practice – www.drc-gb.org/law/codes.asp
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- ‘Investigation and Assessment of Domestic Noise’ - Bernadette Brown, Stephen A. Stansfeld, Colin Cobbing (2002)
- A Review of Published Research on Low Frequency Noise and its Effects, Dr G Leventall, Dr P Pelmear and Dr S Benton (2003)
- A comparison of Noise Service Surveys, Temple Environmental Consultants Ltd (DETR Research Study, 1998)
- Audible Intruder Alarm, Survey, Temple Environmental Consultants Ltd (DETR Research Study, 1998)
- ANC Guidelines - Measurement and Assessment of Groundborne Noise and Vibration (2003).

5. PUBLIC AWARENESS AND EDUCATION INITIATIVES

Both REHIS and the Scottish Executive recognise the important role to be played by educating the public on issues relating to noise and believe this to be a vital component of any local authority's noise strategy. Information on promoting public awareness on noise can be obtained from Defra's web site www.Defra.gov.uk/environment/noise/neighbour.htm. Various information leaflets have been produced by the Scottish executive and by Defra, e.g. Sound Advice on Noise – Don't Suffer in Silence and Constant Barking can be a Nuisance. These can be downloaded without charge (www.defra.gov.uk/environment/noise/index.htm).

A major initiative that is considered to be worthy of support by local authorities in Scotland, is Noise Action Day promoted by the National Society for Clean Air and Environmental Protection (Scotland) (NSCA), who also publish a range of information leaflets relating to noise (www.nasca.org.uk). Noise Action Day is an annual event organised by the NSCA (Scotland) and information can be found at the NSCA web site at (www.nasca.org.uk/pages/divisions/). For many local authorities throughout Scotland Noise Action day provides the sole opportunity for awareness raising and education work on noise. The stated aims of Noise Action Day are:

- to promote practical solutions to everyday neighbour noise problems
- to promote communication and consideration between neighbours
- to encourage Local Authorities and mediation services to inform the public of the services that are available
- to educate and inform both noise makers and noise sufferers about noise reduction
- to encourage everyone to take a quiet moment to consider the noises they make and the noise that affects them and to consider what can be done to reduce the impact of noise.

In 2003, over 200 local authorities throughout the UK took part in promoting Noise Action Day and examples of local initiatives include:

- the encouragement of responsible dog ownership
- the registration of intruder alarms
- the promotion of responsible and considerate behaviour by tenants
- the education of schoolchildren at an early age about the social and health impacts of noise.

Example of Good Practice – Public Awareness Raising

Shouting about Noise in Renfrewshire

The Council took part in Noise Action Day by offering people help to tackle problems caused by noise. With a focus on 'tackling tenants' the Mediation Team in Renfrewshire provided advice at housing offices and related organisations throughout its area.

Specifically the council asked residents to:

- consider the noises that disturb themselves
- consider the noise they make and the effect it has on others
- use practical solutions to everyday problems of noise

Amplified music or sound is the most commonly complained of noise so residents were encouraged to keep the volume down and to place speakers away from partition walls, floors and ceilings. People holding parties were advised to warn their neighbours in advance, to consider inviting them, to keep windows and doors shut and to respond co-operatively to complaints by turning the music down.

Example of Good Practice – Raising Noise Awareness

Falkirk

The council has produced a dedicated web page for Noise Action Day illustrating a number of local issues in an attempt to raise local awareness.

In addition a number of topic specific public information leaflets have been produced by the council, for example, an informative leaflet giving advice to dog owners on the avoidance of nuisance from constant barking – see below.

**CONSTANT
BARKING
CAN BE
AVOIDED**



**Here are
some
helpful tips**

Perth & Kinross Council

A Senior Officer has a regular spot on community radio dealing with the latest hot issue

in environmental health. This often includes noise issues such as domestic noise, barking dogs, wind farms etc. This is seen as a valuable way of raising public awareness of the issues involved, opening up lines of communication with the public and most importantly explaining what powers and services are available.

Example of Good Practice - Noise Awareness

Persistent disturbances are recorded with digital audio (DAT) equipment and the recordings are subsequently analysed in an environment where they can also be played back to all parties, e.g. the noisemaker and the complainant. In this way, those creating the noise can be confronted with an objective demonstration of the impact their behaviour has on others. Additionally, a room is also set aside at the local Magistrates court to enable Magistrates to assess offending noises when cases go to trial.

Source: Doncaster MBC

Example of Good Practice – Noise Awareness

Metropolitan Police’s Junior Citizen Initiative

The Environmental Health Directorate has contributed to this annual educational event since 1996. In 2002 the programme, which was linked to schools, involved promoting a noise display presentation entitled “Be responsible with noise”. Consisting of a twofold message under the headings “Hear today, deaf tomorrow” and “Noise annoys”, the initiative targeted nearly 1000 children from over 20 schools. This effort earned the council an award in the Noise Abatement Society’s annual John Connell Award.

Source: Royal Borough of Kensington & Chelsea

Local authorities are encouraged to examine opportunities to raise awareness of noise issues in the community. Examples of successful Local Authority initiatives, in addition to the aforementioned examples, include:

- attending tenant-management meetings and making presentations
- promoting a considerate contractor schemes for construction sites
- promoting the service on the Council’s web site where extensive information on noise is published and regularly updated, e.g. code practice for construction sites with applications for permission to work outside ‘standard’ hours
- working with youth groups, e.g. poster competitions
- leaflets, lamp post posters promoting noise service

References

- 'Bothered by Noise – There's no Need to Suffer' - Information Leaflet published by Defra
- 'Constant Barking can be a Nuisance' - Information Leaflet published by Defra
- 'Best Practice – An article describing the John Connell Award', Nick Warburton, Environmental Health Journal, November 2002

Further Reading

- Defra's website www.Defra.gov.uk/environment/noise/neighbour.htm
- Noise Abatement Society's website www.noiseabatementociety.com
- National Society for Clean Air & Environmental Protection's website www.nasca.org.uk
- Health Development Agency's website www.hda-online.org.uk
- Health and Safety Executive's website www.hse.gov.uk

6. REVIEW OF NOISE SERVICE

Once all the corporate policies on noise have been assembled, they should be considered with the Local Authority area profile so that the following questions can be answered.

- are the policies adequate, comprehensive and complementary?
- do the policies address the needs of the authority and local communities?
- how are the policies delivered?
- how are the policies resourced?
- how is performance measured and evaluated?
- what is the mechanism to review Local Noise Services?

Authorities will find that regular customer surveys will assist greatly in the review process. From the survey of all local authorities in Scotland carried out to inform this Guide, only 50% of responding authorities carry out any form of regular customer satisfaction surveys. Whilst the percentage of the authorities reported routinely surveying noise makers as to their own, particular views.

Examples of Good Practice

In May 1997, a telephone survey of 296 recent users of the noise service was conducted. The purpose of the survey was to explore customer feedback on the service in more detail than had been the practice using standard feedback questionnaires. The survey covered such matters as the types of noise sources complained of, whether users would use the service again, as well as general satisfaction with the service. It was significant that some 62% of users were satisfied with the service and over 90% said that they would use the service again.

A number of issues were raised. These included a request for quicker response times and a dislike for the answering machine that had been provided to take calls out of hours. At the time the Environmental Services Division was not always able to respond to some calls because of the hours covered by the service and the answering machine was seen as a cost effective means of taking calls. The issues were reviewed and changes made to the service. This included the provision of a personal answering service, which, following a tendering exercise, was provided by the Housing Department. An extension of hours to the service was also approved in order to meet the customer demand for a quicker response. The number of hours covered by the service at that time was 49 hours per week and this was increased to 98 hours.

In December 1999, a further survey was conducted to monitor the success of the personal call answering service. 93% of users of the service preferred calls to be received under the new arrangements rather than on the answering service. Despite the extension of hours some respondents still felt the service should be available over longer hours. This was considered but it was felt that it was not possible to extend the hours further as the additional resources required would not justify the number of calls

received outside the hours presently covered.

Source: The London Borough of Wandsworth

6.1. How to carry out a Review

There are many ways in which service reviews can be undertaken but the essential ingredients will comprise:

- a) customer feedback on the service as it currently exists. A number of authorities report good results from simple postal questionnaires sent to the users of the noise service;
- b) the views and recommendations from 'internal' service partners such as officers in other departments e.g. Housing and Social Services. Again, the use of simple questionnaires sent via internal email has been reported as being effective. Internal service partners may also welcome the opportunity for a face to face discussion about the service;
- c) feedback from 'external' service partners such as the Local Police and Fire Authorities, and registered social landlords. As well as postal surveys, authorities may wish to consider setting up a small focus group of the key partners.

Several local authorities have also reported that it was beneficial to involve relevant elected members at an early stage of the consultation and review process, whilst some authorities also reported favourably on the early appointment of a neutral external organisation to critically review the current service and to probe comments received from customer satisfaction surveys.

6.2. When to Review the Local Noise Service

It is not the intention of this Guide to prescribe a rigid framework for review; however it is recommended that local authority noise services are viewed as a key service and there is an expectation that the service is regularly subject to assessment and review. Service reviews may be appropriate on a five yearly cycle, or more frequently if local circumstances and needs change significantly. The main objectives in reviewing the service should be:

- a) to ensure that the service offered is relevant and accessible to the needs of local residents and stakeholders;
- b) that it offers value for money when compared with similar services offered by other service providers; and,
- c) that even if (a) and (b) above can be demonstrated the authority has, in any event, a programme for year-on-year improvement of the service.

6.3. General Information on Best Value and the LGISA 2003

Best Value is now a statutory duty for local authorities and covers all functions. The Local Government in Scotland Act 2003 requires Scottish Local Authorities to make arrangements to secure continuous improvement (Best Value) in the performance of their functions. In doing so they can balance quality against cost; must contribute to the achievement of sustainable development; and must have regard to the equal opportunities

requirements as well as economy, efficiency, and effectiveness. Best Value drives financial and performance management and encourages local councillors to make decisions according to sound business practice as well as good social, economic or environmental policies. Best Value is now a key criterion for audit and inspection activity by scrutiny bodies. Best Value also encourages the consultation of key stakeholders to inform council strategies and clarity and openness in reporting performance outcomes to the public. Best Value was introduced in Scotland on a voluntary basis in 1998. Best Value became a statutory duty following the Local Government in Scotland Act 2003 and underpins many new flexibilities to local authority business practice provided by that Act. Best Value audits have now commenced, and the results of the audit of Angus Council have been published. The results for the North Ayrshire audit will be published in December, followed by results from Shetlands, West Lothian, Stirling, Inverclyde and Dundee. The audits will include a review of Local Authority performance in Community Planning and Public Performance Reporting. Public Performance Reporting Guidance (PPR) is being prepared for publication. PPR Regulations are being reviewed in-line with comments received following consultation.

6.4. Information on Best Value Audits

The Accounts Commission has developed a new audit for Best Value which will look triennially at each council's performance and examine areas thought to be high risk. The results of the Angus Council Best Value Audit – the first to be conducted – were published 29 September 2004. Statutory duties of Best Value for local authorities (councils, fire and police joint boards, and Strathclyde Passenger Transport) were introduced by the Local Government in Scotland Act 2003. Following the expansion of Accounts Commission powers provided in the Local Government in Scotland Act 2003, the Accounts Commission, in conjunction with Audit Scotland, has developed an audit approach to assess local authority compliance with their statutory duty to make arrangements to secure best value. The audit is also designed to identify and agree planned improvements with the council. These will be reviewed by the council's external auditor over two years following the audit. Audit Scotland began Best Value audits in councils in January 2004, and will work with HM Inspectorates before taking audits forward with police and fire joint boards the following year. Local Authorities will be subject to a Best Value Audit every 3 or 4 years: 6 authorities will be audited in 2004, with 10/11 authorities audited every year thereafter. Best Value Audits will concentrate on what available evidence sources say about the authority's performance. It will consider a self assessment from the authority, assess that against information from other sources (SPIs, public performance reports, Inspectorate reports etc) and undertake a risk assessment with the authority which will drive identification of the areas on which the audit team should concentrate. Audits will focus on outcomes rather than processes. The Best Value audit will be carried out by a small team made up of specialist staff from Audit Scotland together with the council's appointed auditor. The Accounts Commission will receive a report following a Best Value Audit. The Accounts Commission will consider the reports, state their findings publicly, hold public hearings locally to discuss issues where appropriate and make recommendations as necessary. The last may include recommendations to Ministers for intervention. Best Value Audits will include a review of local authority performance in Community Planning and Public Performance Reporting.

6.5. Good Practice – Consultation

Whilst most Environmental Health managers may feel they are capable of intuitively understanding what their customers need, nonetheless the validity and accuracy of such a subjective process can be open to question and is no substitute for an objective and quantified analysis of customer service needs. This is especially important in the context of competition for resources and the need to ensure cost effective use of the resources that are available and the need for continuing performance improvements. Consultation with service customers and stakeholders can be a powerful tool that lends weight to consolidating and building on existing practices where feedback is positive and securing change where feedback is negative.

Example of Good Practice

Westminster City Council carried out a Best Value Review of the Environmental Health Service in 2000/2001. As part of this review, a consultation exercise was carried out in which the following parties were consulted:

- the local “Environmental Network”
- the police and alarm manufacturers regarding the design of car alarms and the use of silent intruder alarms
- public utility companies regarding measures to reduce noise when carrying out street works
- construction companies on measures to control noise nuisance and the use of s.61 consents
- Housing Associations regarding measures to control neighbourhood noise through the use of tenancy conditions
- local amenity and resident groups
- Magistrates regarding their availability to issue warrants out of hours and the enforcement policy for noise.

(Note: Whilst this was carried out as part of Best Value, the consultation exercise is a good model for the general review of the service in order to reduce the effects of noise)

6.6. Review of Existing Service

Local Authorities will need to consider how to respond to customer surveys. For example, where a need for a comprehensive noise service is demonstrated, there is an expectation under Best Value that a service will be provided. A review of the service might then examine how such a service can be best accommodated from within existing budgets or allow objective reckoning of what additional resources are necessary to achieve the desired objective.

The review of the service should include some form of appraisal of the outcomes achieved by the service, including:

- The current performance of the service in terms of time scales for initial response and resolution of complaints, and customer satisfaction data. Based on this information,

comparisons can then be made against any performance indicators or standards adopted; and

- An assessment of current levels of statutory enforcement activity in terms of:
 - Number and type of noise complaints.
 - Number of statutory nuisances resolved with an abatement notice being served
 - Number of statutory nuisances resolved without an abatement notice being served, including informal intervention/mediation/negotiation.
 - Number of statutory notices issued.
 - Number of seizures or work in default actions to abate noise nuisances
 - Number of prosecutions instigated.
 - Number of successful prosecutions

To achieve a service that is best accommodated from within existing budgets or to justify the diversion of resources from other service areas, local authorities may have to look for innovative solutions. For example many authorities report that during winter months the demand for their noise service is less. By concentrating on routine food or health and safety or housing inspections during the winter months authorities may find that there are opportunities to re-deploy enforcement officers during the summer months to provide a more responsive noise service.

6.7. Challenging the Existing Service

As part of the process for continuous review it is important that authorities should challenge the way that their existing service is delivered.

Good Practice – Challenge

Westminster City Council in its 2000/2001 Best Value Review of its noise service identified the following challenges to the noise service.

- a quality assurance system was introduced which focuses upon officer's adherence to the enforcement policy for noise to ensure that effective and consistent enforcement action is taken
- an investigation of the use of Fixed Penalty Notices (FPNs) was carried out
- a project for co-ordinated working was undertaken with the City Council Housing Estates with respect to neighbourhood noise
- a review of the use of Section 61 (CPA 1974) consents was undertaken
- discussions took place with the Council's Parking Service to initiate a review of the provisions of residents' parking permits with a view to withdrawing permits from residents whose vehicles persistently cause noise nuisance.

Good Practice – Inter Authority Review

In 2002, Thirteen Sussex Authorities took part in a review exercise to compare the provision of noise services across both West and East Sussex. The review was in two parts. The first part comprised a self-assessment questionnaire and the second part an inter-authority audit. The purpose of the audit was to verify the results of the questionnaire; and audit files against the Council's own procedures and identify examples of good practice.

The review collected 43 data sets across the 13 authorities. The results showed:

- the criteria for operating an “out of hours” noise service varied considerably, with three authorities choosing to outsource this work to a private contractor
- considerable variation in how complaints were counted and recorded. The review also identified that only a minority of authorities routinely visited complainants
- less than half of authorities involved carried out any regular customer satisfaction surveys in respect of their noise service
- significant variation in the numbers of FTE staff appointed by each authority to deal with noise
- two neighbouring authorities successfully operated a joint “out of hours” noise response service

In addition, the review identified a number of examples of good practice and the authorities concerned intend to repeat the questionnaire part of the review in 2004 and carry out a further audit in 2006.

Reference Documentation

Best value guidance is available from the Scottish Executive at www.scotland.gov.uk/bestvalue/perf-info.asp

GLOSSARY

ABCs and ASBOs	<p>ABCs (Acceptable Behaviour Contracts) and ASBOs (Anti-Social Behaviour Orders) are both comparatively recent developments designed to put a stop to anti-social behaviour by the individuals on whom they are imposed. But they work in very different ways, and these differences will inform the judgement of professionals on which is the best option in any particular case.</p> <p>The most obvious difference is that the ASBO is statutory, and carries legal force whilst the ABC is an informal procedure, though not without legal significance. Both types of intervention are aimed at stopping the problem behaviour, rather than punishing the offender. Given the ABC is a voluntary contract; it has greater flexibility, whilst the ASBO, because of its more formal status, offers advantages in terms of enforcement.</p> <p>The Crime and Disorder Act 1998 empowers Local Authorities to issue an anti-social behaviour order to anyone causing ‘harassment, alarm or distress’, which can include noise. Failure to comply with an ASBO carries a prison sentence of up to five years. Under the Housing Act 1996 social landlords can take action against tenants for anti-social behaviour.</p>
Ambient Noise	Totally encompassing sound in a given situation at a given time composed of sound from all sources near and far
Background Noise	The A –weighted sound pressure level of the residual noise at the assessment position that is exceeded for 90% of a given time interval, T, measured using time weighting F.
Benchmarking	There are numerous definitions of benchmarking but essentially benchmarking involves learning by sharing information and adopting best practices to bring about step changes in performance – “improving ourselves by learning from others”.
Best Value	Best value means better quality services at reasonable cost and more say for local people.
BPM	Best Practicable Means
CAD Room	Computer Aided Dispatch Room – A dedicated facility found in many police stations which provides intelligence and support to Police Officers on duty.
CIEH	Chartered Institute of Environmental Health
Disability	<p>The Disability Discrimination Act 1995 defines disability as:</p> <p>A physical or mental impairment which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities.’ However, disabled people’s organisations prefer a social</p>

approach which defines disability as: 'The loss or limitation of opportunities that prevent people who have impairments from taking part in the life of the community on an equal level with others due to physical and social barriers.'

DAT

A Digital Audio Tape (DAT) is a tape recording format developed by Sony and Philips in the 1980s. When introduced it offered a number of advantages over traditional reel to reel tape recorders including high definition, a total record time of up to five hours and the ability to date and time stamp events which can be accessed at high speed. However, the latest generation of sound equipment, such as the Annoyance Recording System produced by NORSONICS is able to record audio information directly stored on card based media for playback via a computer which is often more convenient.

Decibel - The decibel is a logarithmic unit for ratios that is used in a number of scientific disciplines.

In all cases the logarithmic measure is used to compare the quantity of interest with a reference value, often the smallest likely value of the quantity. Sometimes that reference can be an approximate or average value.

Most often in common acoustics, the decibel is used to compare the sound pressure level (SPL) in air with a reference pressure. The reference level for sound intensity (I), sound power level (PWL) and sound pressure in water are amongst others that are in common use:

dB(A)

A measure of the overall noise level of sound across the audible frequency range (20Hz - 20,000Hz) with a frequency weighting (e.g. 'A' -weighting) to compensate for the varying sensitivity of the human ear to sound at different frequencies.

Entertainment Management Zone

This is an area including entertainment venues and other elements of the evening economy, designated by boroughs in their Unitary Development Plans, in which planning, licensing, policing, transport and street management issues are managed and co-ordinated.

Emission

This is a measure of sound emitted by a given source.

Environmental Noise

This is defined in the European Environmental Noise Directive (2002/49/EC) as 'unwanted or harmful outdoor sound created by human act

ivities, including noise emitted by means of transport, road traffic, rail traffic, air traffic, and from sites of industrial activity.'

Infrasound

This is sound at frequencies below about 20 Hz (see also Low Frequency Noise).

Integrated Pollution

a permit system for controlling pollution, including noise, from

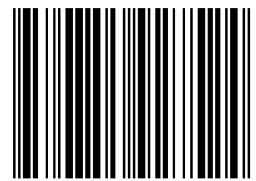
Prevention and Control (IPPC)	industrial activities, introduced to comply with European Commission Directive 96/61.
Inter-rater Comparisons	Consistency between interviewers
Low Frequency Noise	This is sound below a frequency of about 100 to 150 Hz, especially in the 40-60 Hz range. Compared with sound of mid and high frequencies, low frequency sound is much less attenuated by passage through air or by passage over acoustically soft ground such as grassland. Low frequencies can thus become more prominent at greater distances.
Music Noise	The noise from the music and vocals during a concert or sound checks, and not affected by other local noise sources, such as traffic.
Music Noise Level (MNL)	The A-weighted continuous equivalent sound level of the Music Noise measured at a particular location. The 'Code of Practice on Environmental Noise Control at Concerts' Noise Council, 1995 refers.
Neighbourhood Noise (also Neighbour Noise)	Noise from household appliances, radios, televisions, music systems, noisy pets, DIY activities, construction sites, intruder alarms, parties or similar events.
Noise	This was defined in the Wilson report published in 1963 as 'sound which is undesired by the recipient'. Noise includes vibration, except where the context indicates otherwise. Sound is a periodic fluctuation in pressure, typically in air. Noise is classified as a pollutant in the European Directive on Integrated Pollution Prevention and Control.
Noise Abatement Zone (NAZ)	The Control of Pollution Act 1974 introduced powers to declare Noise Abatement Zones. These gave Local Authorities power control and, where justified, reduce noise from commercial and industrial premises. Noise Reduction Notices can be served in a NAZ. Although in reality less than 100 zones have been implemented, the powers remain extant.
Noise Nuisance	This has been defined by the World Health Organisation as 'a feeling of displeasure evoked by noise', as distinct from its strict legal definition as being 'noise causing an unlawful interference with a person's use or enjoyment of land, or of some right over, or in connection with it.' [Read v Lyons & Co Ltd [1945] KB.216].
Noise Sensitive Location (Receptor)	Any dwelling, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other facility or area of high amenity, which may be susceptible to noise.
NOSP	Notice of Seeking Possession (NOSP) is one of the legal remedies that may be open to landlords (including social landlords) when faced with problems of neighbour nuisance in and around their properties.

NNOs	Noise and Nuisance Officer
NSCA	National Society for Clean Air and Environmental Protection
ODPM	Office of the Deputy Prime Minister
Peer Review	An established method of quality assurance for scientific research in which a panel of experts review the subject study and comment via an appropriate academic or professional organisation or in-house.
PEL	Public Entertainment Licence
REHIS	Royal Environmental Health Institute of Scotland
SIANCE	'Standardised Interview to Assess Domestic Noise Complaints and their Effects' (SIANCE) Final Report December 2000. ... www.doh.gov.uk/noisepollution/siance.htm
Stakeholder	Put in its simplest terms, anyone with an interest in the subject, be they customer, consumer, provider or enthusiast (prospective influencer) can be considered to be a stakeholder,
Statutory Nuisance	Statutory nuisance is an act or omission, which has been, designated a nuisance by parliamentary statute.
Tinnitus	A hearing disorder often described as 'ringing' in the ears'. The disorder can also take the form of a buzzing or an engine sound in the ears, either continuously, or intermittently. Some sufferers can associate onset with a particular period of high noise exposure or trauma.
Ultra Vires	An action outside the proper authority or purposes of a corporation or corporate officer. (Latin for 'Beyond the Power')
Vibration	Ground borne vibration is typically measured in terms of velocity (millimetres per second) or acceleration (metres per second). For impulsive or intermittent sources, peak particle velocity or acceleration is measured, this being the maximum value recorded during the event. BS 7385 Part 1:1990 gives advice on measurement of vibration in buildings. Peak particle velocity is the preferred unit for assessing the risk of building damage. Either velocity or acceleration is used for assessing effects on people. BS 7385 Part 2 1993 gives guidance on acceptable vibration levels to avoid vibration-induced building damage. Vibration can be felt by people at levels much lower than those that could cause structural damage. BS 6472:1992 provides guidance on satisfactory magnitudes of vibration in terms of human response. It defined Vibration Dose Values (VDV), which are expected to be acceptable, although a wide range of individual sensitivity is found in practice.

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This document is also available on the Scottish Executive website: www.scotland.gov.uk
Astron B43513 10/05

ISBN 0-7559-2752-4



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