

COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE

28 SEPTEMBER 2020

REPORT OF [ASSISTANT DIRECTOR HOUSING AND ENVIRONMENT]

A.4 ENFORCEMENT OF NOISE NUISANCE

(Report prepared by [John Fox and Rebecca Duff-Cole])

PURPOSE OF THE REPORT

To consider the extent of noise nuisance reports and whether or not these are increasing, the response to such reports and the outcomes in the forms of advice, seizure of equipment, reviews of licences, enforcement notices and prosecution of offenders.

INVITEES

None

BACKGROUND

The Chairman of the Community Leadership Overview and Scrutiny Committee indicated that he wished to see a report on noise nuisance and its enforcement.

Noise nuisance is enforced by the Environmental Protection Team which sits within the Housing and Environment Department and is primarily enforced in terms of statutory nuisance via the Environmental Protection Act 1990 which gives powers to investigate, serve notice and take enforcement action including prosecution and seizure of equipment.

DETAILED INFORMATION

Enforcement Process

The powers to enforce noise nuisance are provided by the Environmental Protection Act 1990 and these provide for investigation of noise nuisance and right through to prosecution and seizure of equipment.

The basic enforcement process is as follows

- Complaint received and triaged to see if it is valid for investigation
- Witness Report Form sent to complainant to record times and duration of noise and the effect it has on the complainant
- Letter sent to potential perpetrator informing them of complaint and that this will be investigated
- Following return of Witness Report Form referred on for further investigation or complainant informed of no further action
- Installation of noise monitoring equipment and/or officer visits to establish if noise nuisance exists
- If a noise nuisance does exist a notice may be served requiring remedial action
- Failure to comply with the notice may result in prosecution of the offender

Types of noise

Noise can be from a number of different sources which could include the playing of loud music, animals such as barking dogs or cockerels crowing, industrial noise from processes, event noise etc.

Noise associated with normal daily living will not constitute a nuisance and industrial noise can use the defence of best practicable means whereby if the business is using current best practice no action can be taken against them.

Determination of a noise nuisance

Noise nuisance is not just determined on the level of noise but on a number of other factors as well which will include duration of the noise, the type of noise, time of day and the effect on a normal individual. There is also a distinction between what an individual may find annoying and what may constitute a statutory nuisance under the legislation.

Effects of Covid- 19

In terms of noise nuisance enforcement two significant changes have occurred during the period of Covid- 19.

Initially complaints dropped off in the early stages of lockdown, however as people spent more time at home they were more aware of noise created by neighbours and the number of complaints rose considerably.

The installation of noise monitoring equipment was suspended to ensure the safety of officers and complainants as this involves entering people's properties and installing equipment which has to be handled both by officers and the complainant.

This has restricted noise enforcement activity although for significant cases officers have been visiting sites to determine if a noise nuisance is present.

Enforcement activity

The table below identifies the number of complaints received and enforcement actions

Type of noise	2017	2018	2019	Jan-Aug 2020
Animals	91	71	48	39
Construction Noise	2	5	0	11
Mechanical (e.g. DIY)	18	21	9	19
Amplified Music	56	56	38	97
Totals of above	167	153	95	166
All noise total	225	192	130	198
Notices Served	3	1	2	1
Prosecution	1	0	0	0

(The all noise total includes all types of noise complaint for example commercial premises, agricultural, ice cream vans, fireworks and other non classified noise and generally there

are less than 10 instances of each of these)

Key points to note is the very significant increase in noise complaints in the period January to August 2020 and this is heavily focussed around amplified music which is associated with more people being in their properties during the lockdown period. There is also an increase in mechanical noise which includes for example DIY which would also be expected with people being in their properties more although the increase is not to the same extent as amplified music.

The prime activity around noise is advice. This will include to the complainant if their complaint is not likely to constitute a nuisance. More importantly advising a potential perpetrator that they are causing a noise may result in amended behaviour or advice can be given about remedial action that can be taken which resolves the potential nuisance.

No cases of seizure equipment have been undertaken in the last year. This power would be used where there is ongoing excessive nuisance which constitutes a statutory nuisance with notices served which have expired and where there is no engagement with the Council but instead ongoing non compliance. This would routinely be associated with very significant anti social behaviour.

Environmental Health is a statutory consultee under the Licensing Act 2003. If a statutory nuisance was determined then it is possible to object to future Temporary Event Notices. There have been no instances where objections have been raised in the last year because no statutory nuisances have been determined for sites which have Temporary Event Notices.

The last prosecution for non compliance with a notice was in 2017 and related to cockerels in an urban area with crowing starting as early as 4am. The outcome of this case was that the owner finally decided not to keep the cockerels and therefore removed the cause of the nuisance.

RECOMMENDATION

That the Committee determines whether it has any comments or recommendations it wishes to put forward the relevant Portfolio Holder or Cabinet.