

ENVIRONMENTAL HEALTH PROCEDURES

STATUTORY NUISANCE / NOISE

1.0 PURPOSE

This procedure describes the method for the investigation, determination and issuing of an abatement notice for noise nuisance.

2.0 SCOPE

This procedure applies to all investigations of Noise Nuisance contrary to the EPA 1990.

3.0 REFERENCES

Standard letter to alleged offender
 Standard letter to complainant
 Log sheet
 Standard second letter to complainant on receipt of completed log sheets
 Standard second letter to alleged offender advising of monitoring visits
 Notice letter
 Notice

4.0 DEFINITIONS

Alleged Offender = **AO**
Complainant = **COMP**
Environmental Health = **EH**
Service Request = **SR**
Investigating Officer = **IO**
Document Management System = **DMS (This is a record storage system)**

5.0 ACTIONS

ALL IO'S MUST COMPLETE A COMPREHENSIVE RECORD OF ALL ACTIONS TAKEN, AND THESE SHOULD BE SAVED TO THE SR IDOX DMS. THIS INCLUDES EMAILS, RECORDS OF PHONE CALLS, PDF, SCANNING, DIARY RECORDS, PICTURES OR WRITTEN COMMUNICATIONS.

Any noise complaint from the following sources can be logged as a SR for EH onto Uniform: Unreasonable DIY noise inc. use of power tools, amplified sound, barking dogs, cockerel noise, industrial / commercial noise i.e. fan noise, alarms.

Construction noise and essential utility works can be controlled using COPA powers (section 61 consents etc).

On receipt of a new service request, a member of the EH team will proceed with an investigation in accordance with the information provided on the Uniform record.

5.1) Identifying the AO:

Check whether the AO is a Council tenant, a Housing Association tenant or a private owner. If they are a Council tenant, refer to the Council's relevant Tenancy Management Officer. Otherwise, continue with procedure.

5.2) First Contact:

The IO should acknowledge the SR / make contact with the COMP within 3 working days of receipt. This is to establish whether the noise is regular or a one-off event. During this contact, it is essential to confirm the addresses of the COMP and AO to prevent any GDPR issues should letters be sent.

5.2a) If it is established the issue is a one-off event, the COMP should be advised to call the council at the time of any subsequent occurrence to request a visit by the next available officer.

5.2b) If it is established the issue is a regular occurrence, continue with the next steps of the procedure.

5.3) Initial Letters:

Retrieve the initial contact letters from Uniform. The template should be amended as appropriate. The initial letter notifies the AO that complaints have been received and the COMP is informed the AO has been written to regarding the alleged nuisance.

5.4) Second Stage Letters:

If further contact is received from the COMP after the initial letters are sent (as the alleged nuisance is still ongoing) diary sheets should be sent to them. The AO will receive a second warning letter.

5.5) Returned Diary Sheets:

The diary sheets should be analysed to identify whether a potential statutory nuisance is ongoing. Justification should be provided to the COMP for whether the investigation will continue or not. If the nuisance is substantiated by diary sheets, the investigation will continue and the AO will receive a Monitoring letter which explains officers will be monitoring the address and sound recording equipment may be used.

5.6) Witness Visits:

Where the information contained within the diary demonstrates the likelihood of a statutory nuisance, the IO will arrange suitable visiting times with the complainant to establish and attempt to witness the alleged nuisance within a twenty minute window. The IO should check Uniform history first and consider attending the address with a colleague if there is an indication that the COMP has a record of aggression towards council staff. Alternatively, the Lone Working procedure should be consulted, issued by Health and Safety

The IO should undertake three visits to attempt to witness any nuisance. If the visits are timed to correspond to the times when the COMP diary sheets indicate a noise is likely and no or minimal noise is witnessed during these visits the IO should consider whether there are any temporary factors, holidays, absence from the site being the source of the noise or anything else that is apparent that would account for the lack noise at the time of the officer visits. If there is a potential cause for this then the IO should alter the visit pattern to account for this and visit on sufficient further occasions to give a realistic prospect of witnessing noise that could amount to a statutory nuisance. If no potential cause can be identified for the failure to witness noise during the initial visits or further visits fail to reveal any noise then likelihood of establishing a nuisance is remote. In these circumstances the IO should advise the COMP that they have been unable to obtain evidence of a nuisance and close the case accordingly.

If the initial or follow up visits reveal the existence of a noise likely to amount to a statutory nuisance then further investigations should be undertaken to confirm the occurrence or not of noise amounting to a nuisance and appropriate action should then be taken.

In some circumstances the IO may use a sound level meter to narrow down the source of a noise or to supplement diary entries made by a COMP. Sound level meter readings and recordings are not a substitute for observations by an officer and cannot in most

circumstances be used as the sole basis for further action. They may however rule out the existence of a nuisance or help to find solutions to noise arising from machinery which gives rise to an identifiable noise signature.

5.7) Abatement Notice:

The IO on establishing the existence, likely occurrence or likely recurrence of a Nuisance shall serve a Noise Abatement Notice on the offender within 7 days of witnessing.

This may be by hand delivery or recorded post and appropriate copies of the same may be sent by any other suitable means. PACE book notes for all such services must be made by the IO in their PACE notebook for evidential purposes. (Relevant evidence from any Police Officer should also be taken into account and a comprehensive witness statement of events obtained from them for inclusion as evidence in a prosecution).

Copies of notices should be saved digitally in IDOX associated with the SR. The copies should be certified by the IO as true copies of the notice served by noting this fact on the rear of the copies and signing and dating the signature. Alternatively if a certified copy document template or stamp is available this can be used and a signature placed appropriately.

5.8) Breach of Notice:

In the event that an Abatement Notice is breached and the breach is witnessed by the IO OR another qualified Officer, then further action shall be taken against the offender.

Within 7 days the IO should send written communications to the offending owner / occupier suggesting that a breach of the abatement notice has been witnessed and include date / time of breaches witnessed.

The offender should also be formally requested to attend an interview under caution (PACE interview). The records of the interview should be exhibited in a statement from the IO, for inclusion in the prosecution file.

5.9) Seizure of Equipment:

If a breach of notice is witnessed after an abatement notice has been served the IO or other qualified officer should prepare for the seizure of noise making equipment from the offending address.

Where an offender continues to ignore an Abatement Notice, and it is considered bad enough disturbance to need immediate action or as speedy action as possible to resolve the issue, an IO should discuss with their manager the possibility of proceedings via Warrant obtained from Magistrates Court to enter the premises, by force if necessary, and seize all items that are reasonably believed to have been used to perpetuate the problem.

Where forfeiture is deemed necessary and prosecution is the next step, the appropriate procedure must be followed. The IO should formally request that legal services raise the relevant complaint with a Magistrates court. The complaint should be laid before 28 days since the seizure, in order for a forfeiture order to be considered on the goods seized, by the Courts. Should this not occur, the items must be returned to the Offender after suitable payment has been made by them to Environmental Health.

5.10) Prosecution File:

The IO or qualified officer should then start legal proceedings and collate a Prosecution file of evidence. A legal case should be raised with Legal. The IO should discuss the forfeiture of any seized items with the legal team when the Prosecution file is submitted.

5.10a) Witness statements from Complainant:

The IO must obtain a witness statement from the COMP with details of how, when, where etc they continue to be disturbed by the offending noise whenever a Breach of Abatement Notice is alleged. The IO must then, wherever possible, make a further witness visit, or sufficient visits to attempt to witness the alleged breach.

The IO will make a comprehensive PACE notebook record of the events, and additionally they will make - as soon as possible after witnessing the events, - their own comprehensive witness statement in readiness for further action where it is deemed necessary.