

CHICHESTER DISTRICT COUNCIL

**HOUSING AND ENVIRONMENT
SERVICES**

NOISE POLICY

April 2015

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1 Introduction

- 1.1 Chichester District Council (“CDC”) recognises that noise is a consequence of living in a vibrant society. Noise can be described as unwanted sound, however what is regarded as noise often depends on the listener and the circumstances. Noise can interfere with normal living and cause disturbance and annoyance, impacting adversely on the quality of life of individuals and communities. Besides sleep disturbance and hearing loss, other health effects related to noise can emerge, and there is on-going research into these effects.

2 Noise Policy aims

- 2.1 Through the effective management and control of environmental, neighbour and neighbourhood noise, within the context of sustainable development and noise control as detailed in the Noise Policy Statement for England¹, the Policy aims are;
- to avoid significant adverse impacts on health and quality of life;
 - to mitigate and minimise adverse impacts on health and quality of life; and where possible,
 - to contribute to the improvement of health and quality of life.

The purpose of the Policy is to ensure that noise is properly taken into account at the appropriate time. Noise should also be considered alongside other relevant issues and not be considered in isolation. The Policy outlines the service levels you can expect from the Council’s Environmental Management team in relation to complaints, and outlines the consultation procedures in respect of applications made under planning and premises licensing legislation

3 Background

- 3.1 The main legal controls for noise are dealt with by the Environmental Management team in the Housing and Environment Service of the Council. Other teams and departments may be involved when noise affects the community. Community Safety may offer support where noise has an anti-social impact on people living in a locality, Development Management and Planning Enforcement with regard to land development, and the Licensing Team in respect of certain licensable activities under the Licensing Act 2003. There are a number of activities the team engages in, in order to minimise the impacts of noise on residents and businesses. However, noise can and does result in complaints despite proactive measures being taken. This Policy outlines what action can be taken to resolve such complaints.

4. Policy statements

- 4.1 Chichester District Council’s Noise Policy is founded on the following 5 objectives.

¹ Noise Policy Statement for England (NPSE), DEFRA, March 2010

4.1.1 No one should have to put up with unreasonable noise

Our policy is to;

- Publicise and promote our various services including the dedicated noise response service to investigate and resolve justifiable noise complaints, including an out of hours service to deal with complaints where noise is causing widespread disturbance.
- Encourage people to report noise issues and make it possible for them to do this using a range of reporting methods, including via the website.
- To promote the awareness of noise pollution issues to members of the public, CDC employees and other agencies.

4.1.2 Reports of noise will be treated seriously and dealt with professionally

Our policy is to;

- Assess the seriousness of noise complaints reported to us, and provide an initial response within 7 working days.
- Log every complaint we receive.
- Investigate the complaint, which may involve contacting the perpetrator, members of public, other agencies, interviewing witnesses and asking the complainant to assist in the ongoing evidence gathering process.
- Provide regular feedback at key stages.
- Explain the process and procedures to the complainants, taking their views into account in the process and keep them informed as to progress.
- Advise on self-help or other alternative courses of action whenever it is possible and appropriate to do so.
- Respond promptly to complaints about the service and advise anyone unsatisfied with the way their case has been handled on how to make a formal complaint.

4.1.3 Noise complaints will be dealt with firmly, fairly and proportionately

Our policy is to;

- Take prompt action to protect communities by ensuring noise complaints and planning and licensing applications are appropriately investigated and dealt with in a timely way.
- Investigate the circumstances and seek to understand all the facts of the matters reported to us.
- Seek to resolve cases informally. Informal remedies can provide quicker and more acceptable solutions than legal enforcement action.
- Carry out our statutory duty to inspect the District for statutory nuisances and serve abatement notices where they exist, or are likely to occur or recur.
- Investigate complaints and thoughtfully prioritise enforcement action in respect of statutory nuisance.
- Ensure all cases are dealt with fairly and in accordance with current equalities and diversity legislation and policy, adjusting our approach as necessary when a victim or a perpetrator is a vulnerable person. If you are under 16 years of age we will ensure a parent or an appropriate adult is available to assist you through any part of these procedures.
- Ensure consistent enforcement that is proportionate, transparent and objective, in line with the Council's Environmental Health Enforcement Policy.

4.1.4 We will work with partners in order to deliver an effective, value for money service across the community

Our policy is to;

- Work in partnership with other departments and where appropriate other agencies, to ensure an effective response to all complaints and consultations.
- Use other law enforcement remedies where available and appropriate e.g. planning enforcement, licensing or anti-social behaviour legislation.
- Make referrals to appropriate support services, with the complainant's consent, which may include a mediation service.
- Liaise with Sussex Police and establish suitable systems of communication, interaction and mutual assistance with regard to noise impacting on local communities.

4.1.5 **We will provide a high quality service which meets people's identified needs**

Our policy is to;

- Ensure that noise enforcement is undertaken and/or overseen by competent officers who are authorised to exercise statutory powers under the appropriate legislation on behalf of the Council.
- The Council will have regard to the "Neighbourhood Noise Policies and Practice for Local Authorities – a Management Guide" produced by the Chartered Institute of Environmental Health and other national guidance.
- Regularly review procedures to ensure they are appropriate to the Councils Corporate Plan and the needs and aspirations of the people living and working in the Chichester District.

5 **What is Noise?**

5.1 For the purposes of this Policy, noise can be described as unwanted sound. The degree of disturbance and annoyance depends upon a number of different factors including; the type of noise, the noise level and its frequency, how often it occurs and for how long, the time of occurrence and the recipient's attitude to it. Noise can arise from many sources and, for the purpose of this Policy, it has been classified into the following categories of complaint:

5.2 Environmental noise typically includes;

- industrial noise e.g. noise from plant, machinery, equipment, working practices, manufacturing;
- noise from agricultural activities e.g. bird scarers;
- noise from entertainment premises e.g. noise from pubs and clubs, service stations, deliveries to shop and retail premises and sports and leisure activities such as clay pigeon shooting;
- noise from construction sites e.g. noise and vibration due to plant and machinery, engineering works and the hours of operation at the site;
- noise in the street such as audible intruder alarms.

5.3 Neighbour or Neighbourhood noise – noise from inside and outside a person's home such as;

- domestic noise;
- DIY noise;
- amplified music and parties;
- barking dogs and other animal noise;
- neighbour noise which comprises of raised voices and banging doors.

5.4 The Council can deal with complaints about statutory noise nuisance and serious anti-social noise.

6 **What is anti-social noise?**

6.1 Anti-social behaviour that is causing noise which is having a detrimental effect on the quality of life of those in the locality and is persistent or continuing in nature and is unreasonable.

6.2 Such noise must have a substantial impact or negatively or unacceptably affect the quality of life of the community round about i.e. the noise cannot be trivial.

6.3 In cases of anti-social behaviour, the Council's Anti-social Behaviour Policy and enforcement tools within the Anti-social Behaviour, Crime and Policing Act 2014 will also be considered.

7 **What is a statutory noise nuisance?**

7.1 A statutory noise nuisance can be described as noise that causes unreasonable disturbance to the use and enjoyment of a person's property. A statutory nuisance needs to pose a threat to health or must have a significant effect on a person at their property. It must therefore be more than just an annoyance or irritation.

7.2 A trained and qualified Environmental Health Officer will undertake a professional assessment to determine whether a complaint about noise is a statutory nuisance. Their assessment may comprise of just their subjective opinion based on knowledge and experience or may be supported by objective evidence such as sound level meter readings. A statutory nuisance is normally witnessed by the officer but occasionally action can be taken if a statutory nuisance is likely to occur or recur. Officers will take into consideration many different factors when assessing noise nuisance, such as; time of day, the duration of the noise, the type of noise, the level and frequency of the noise, regularity of occurrence etc. Therefore, a statutory nuisance usually needs to occur for some length of time, or with some repetition. "One-off" occurrences are much less likely to be regarded as statutory nuisances.

7.3 The judgement as to whether a statutory nuisance exists must have regard to what most people would consider to be reasonable. Officers will assess the noise from the viewpoint of the average person, i.e. they cannot take into account individual people's needs e.g. noise during the day which is disturbing someone's sleep as they work at night.

7.4 The location of the noise is also a consideration, in addition to whether the noise source has legitimacy through planning permission, and whether the activity giving rise to the noise has importance and value to the community.

7.5 The Council will use the statutory nuisance provisions in the Environmental Protection Act 1990 to deal with cases of statutory nuisance.

8 Noise complaints the Council cannot deal with

8.1 The following noise sources are outside the jurisdiction of the Environmental Management team:

- Road traffic noise
- Railway noise
- Aviation noise (with the exception of model aircraft) including helicopters
- Noise from public disorder in the street
- Noise from children playing in the street
- Noise which arises from reasonable activities e.g. vacuuming during the day, flushing of toilets or the use of washing machines, s61 of the Control of Pollution Act 1974 “Prior Consents “.

9 Receipt of noise complaints

9.1 Complaints can be received in person, by letter, telephone, email or via a third party (e.g. Councillor, MP). Complainants will need to provide sufficient information to assist with identifying the noise source, its nature and impact. All complaints will be logged on our database.

10 Investigation of complaints

10.1 Noise giving rise to public nuisance (noise affecting a number of persons round about) will be allocated immediately to an officer for investigation e.g. audible intruder alarms.

10.2 For most noise complaints, complainants will be asked to keep a noise diary for 7-14 days to demonstrate the extent of the problem. In most situations, the person alleged to be causing the noise may be advised we have received a complaint about them (the subject) in order to give them an opportunity to respond to the allegation and rectify matters. The person making the complaint will not be identified at this stage of the investigation. Sometimes we may not inform the subject that a complaint has been made about them. Usually this is because we need evidence from the complainant in the form of a diary record to better demonstrate the nature of their complaint, or we may decide that contact at this stage would not be beneficial to the investigation.

10.3 In some cases it will be difficult for us to investigate complaints when it is obvious who the complainant is or where it is necessary for us to divulge their details in order to be able to resolve the complaint. However, we will seek their permission before identifying them if this required from a practical point of view. Where permission is not granted this may impact on or delay our ability to carry out investigations, though the Council will work to minimise those impacts.

- 10.4 On receipt of a completed diary, the case will be allocated to an officer for evaluation.
- 10.5 The purpose of the diary is:
- to assist the investigating officer in establishing whether a statutory nuisance exists;
 - to corroborate evidence which may be submitted as evidence in formal proceedings; and,
 - to assist in the effective targeting of resources in order to maximise the probability of establishing that the noise amounts to a statutory nuisance.
- 10.6 If evidence in the diary indicates that a statutory nuisance is unlikely, no further action will be taken by the team and appropriate advice will be given to the complainant. The complaint case will then be closed.
- 10.7 If the diary indicates a possible statutory nuisance, the perpetrator of the noise will be advised of the nature of the complaint, the nature of further investigations and the possible enforcement sanctions should a statutory nuisance be established. The person making the complaint will not be identified at this stage of the investigation.
- 10.8 If the noise diary is not completed and returned within 4 weeks of the date it was sent out to the complainant, the complaint case will be closed.
- 10.9 Officers may use a variety of monitoring techniques in order to investigate noise complaints. Depending on the nature of the disturbance indicated by the noise diary, the matter could be investigated using noise recording equipment left in the complainant's home or by officer visits carried out at the time indicated as when the noise is most likely to occur. Up to three attempts to gather evidence in this way will be made. If after three attempts a statutory nuisance is not witnessed in accordance with that indicated by the noise diary, this will indicate the situation has improved and the complaint case will usually be closed.
- 10.10 If an Environmental Health Officer is satisfied that a statutory nuisance exists, is likely to occur or recur the law says that the Council shall serve an abatement notice on the perpetrator or in appropriate cases write to advise the perpetrator that the Council is minded to serve an abatement notice (if within 7 days there is no agreed progress towards abating the nuisance, an abatement notice must be served).
- 10.11 Formal action will occur where an abatement notice is not complied with or is breached. If the on-going disturbance is so widespread, officers may be able to gather evidence to proceed with formal cases. However, in most cases, the Council will require cooperation of the complainant. Complainants will be requested to provide a witness statement and must be willing to provide evidence in court (this may be the evidence they gathered when completing noise diaries

which can be submitted with a witness statement), although a Court appearance is not always required.

- 10.12 Where an abatement notice is served the team may provide a copy of the notice to other internal departments or external agencies, including Housing Associations and private landlords (if known).
- 10.14 We will not normally investigate anonymous complaints. If an anonymous complaint is received it will be recorded on our database and passed to an officer for consideration. Due to the general requirements for the impact of noise to be assessed from the complainant's point of view, anonymity will seriously limit the ability of the officer to progress the case. In many cases, the officer may decide that no action is appropriate (e.g. if the complaint could be potentially malicious). In other situations where there may be a wider community benefit, such as neighbourhood disturbance, an officer will investigate further.
- 10.15 Some noise complaints may warrant an officer visit prior to submission of the noise diary e.g. complaints about construction sites where noisy operations are limited by legislation e.g. hours/days of operation. Officers will liaise with developers/contractors to achieve compliance with the legislation. A developer or contractor may also apply under section 61 of the Control of Pollution Act 1974 for prior consent to carry out a programme of works outlining the methods by which the works are to be carried out. The team will decide whether to give consent for the scheme of noise control, refuse consent, or give consent but with conditions or other limitations being imposed by the team. Once a section 61 consent has been granted, the team cannot take enforcement action against the contractor on grounds of noise unless they are failing to comply with the terms of the consent.

11 **Complaint resolution**

- 11.1 The closure and resolution of a noise complaint may occur when the investigating officer has followed the investigation through to its completion, resulting in one of the following;
- The noise complaint has been resolved (the noise has been prevented, stopped or reduced) through informal action e.g. email, telephone call or warning letter.
 - An abatement notice has been served and complied with or work has been carried out in default.
 - Where other formal enforcement action has been taken and the noise or its recurrence has been prevented, stopped or reduced e.g. service of notices to restrict construction site times of noisy operations or community protection notice where noise has been deemed to be anti-social.

- The noise complained of does not fall within the team's jurisdiction.
- No statutory nuisance or other formally actionable noise has been identified by the investigation carried out and no informal resolution is likely.
- The matter has been referred to an external agency or another department.
- The complainant does not cooperate with reasonable and necessary requests to assist with investigating the complaint such as completing a noise diary or is otherwise unreasonable in their behaviour.
- The complainant will be informed of the outcome of their complaint and if appropriate, will be offered advice on taking their own action.

12 **Monitoring equipment**

12.1 All sound level meters and equipment used for monitoring are calibrated to appropriate standards. Field calibrations are carried out before and after each test and the results are recorded. Sound level meters can work instantaneously and have a logging capability and the ability to record audio samples.

13 **Training**

13.1 Effective management and delivery of noise control services requires a sufficient number of staff with suitable qualifications² in noise control and enforcement. All officers within the Environmental Management team assigned to investigate noise problems are suitably trained and are competent with legal enforcement issues and investigation techniques.

14 **Out of Hours Service**

14.1 The Housing and Environment Service provides an emergency out of hours service which includes dealing with certain categories of noise complaints.

14.2 The following categories will be investigated under this service:

- a) Audible intruder alarms that have been sounding continuously for more than 20 minutes or intermittently for more than one hour and are likely to give persons living or working within the vicinity of the premises reasonable cause for annoyance.

² Institute of Acoustic – Diploma in Acoustics and Noise Control
Chartered Institute of Environmental Health – B.Sc (Hons)/M.Sc Environmental Health (Qualifying)

- b) Noise from other types of property alarms or vehicle alarms that are causing unreasonable disturbance to the use of enjoyment of a person's property and are therefore giving rise to a statutory nuisance.
- c) Excessive noise affecting a part of a local community i.e. where complaints have been received from 3 or more different households.
- d) Domestic, industrial, commercial or construction noise complaints where an abatement notice has been served and it is alleged that the requirements of the notice are not being complied with and the case officer is satisfied that the complaint warrants being placed on the out of hours planned list.
- e) Domestic, industrial or commercial noise complaints where attempts to establish a statutory nuisance by the use of planned site visits have not been successful and the case officer is satisfied that the complaint warrants being placed on the out of hours planned list.

In cases d) and e) above, the complainants will be given the Council's emergency out of hour's number to telephone when the noise is occurring.

- 14.3 The public can access the out of hours service by leaving a message on the answer phone. This is interrogated regularly by the out of hours contact centre who will forward complaints to the duty officer. The duty officer will contact the complainant within 30 minutes of being notified of the complaint by the contact centre.
- 14.4 If the officer deems that it is necessary to undertake a site visit, the visit will be made as soon as it is reasonably practicable to do so. Response times can be up to 2 hours.
- 14.5 If the duty officer perceives there to be a risk to their personal safety, the officer will be entitled to refuse to attend the situation.
- 14.6 First time noise complaints or complainants who have not been placed on the out of hours emergency service list, unless their category of complaint falls into (a-e) above, will not be dealt with under this out of hours service. Any person who contacts the 24-hour emergency service number in these circumstances will either be informed to contact the Environmental Management team the following working day or details of the complaint will be taken at the time and forwarded to the Environmental Management team.

15 **Noise and Development Control**

- 15.1 This is an important area of noise control work as the decisions made by the Council's Planning Committees may prevent the need for noise nuisance actions at a later date.

- 15.2 The Environmental Management team is a consultee of the Local Planning Authority (CDC, WSCC or SDNP).
- 15.3 The team are consulted on developments that have the potential to create or exacerbate noise problems or are themselves adversely affected by existing noise. All applications and consultation responses are available via the website;

<http://www.chichester.gov.uk/viewplanningapplications>

<http://www.southdowns.gov.uk/planning/search>

[http://www.westsussex.gov.uk/living/environment_and_planning/find_and comment_on_a_planning.aspx](http://www.westsussex.gov.uk/living/environment_and_planning/find_and_comment_on_a_planning.aspx)

Consultation responses from the team are submitted to the Development Control Department for consideration. Such comments will be made with consideration to the National Planning Policy Framework and Planning Practice Guidance.

<http://planningguidance.planningportal.gov.uk/blog/guidance/noise/>

- 15.4 The Planning Noise Advice document provides Sussex-wide guidance to developers, their consultants and planners on;
- The information that will be required to be submitted with relevant planning applications, ideally as part of the validation process.
 - The existing noise standards to be considered in planning decisions.
- 15.5 The guidance complements the Noise Policy Statement for England (2010) and the National Planning Policy Framework (2012) and will be kept under review and updated as and when necessary.

<http://www.chichester.gov.uk/pollutioncontrol>

16 **Noise and licensed premises**

- 16.1 Under the Licensing Act 2003, a premises licence is required if one or more of the following licensable activities is carried out; the sale and/or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
- 16.3 The Environmental Management team is a Responsible Authority under this Act and, as such, is a statutory consultee for any licensing applications received. If an application is made to the Licensing Authority for a new premises licence or for a variation to the existing premises licence the applicant must simultaneously serve a copy of the application on the Environmental Management Team.

16.2 When an application is received by the Team, the history of any noise problems associated with the premise will be investigated and the applicant will need to satisfy the team that the provision of regulated entertainment, particularly in relation to amplified music and any increase in opening hours applied for, will not result in a failure to promote the licensing objective of "the prevention of public nuisance". For music events applicants will need to demonstrate compliance with the Code of Practice on Environmental Noise Control at Concerts (1995) copied on the Chartered Institute of Environmental health website at:

http://www.cieh.org/policy/noise_council_environmental_noise.html

16.5 Any relevant representations that are made by the team will be forwarded to the Licensing Authority within 28 days of receipt of the application. Representations made will be in respect of the following:

- To request that conditions are imposed to mitigate against unacceptable noise.
- To object to the application if there is not enough information provided to adequately promote the four licensing objectives.
- To object to the application if there is no practicable way of adequately controlling the noise.

16.6 If agreement cannot be reached between the applicant and the Licensing team to address the relevant representations, an officer of the Licensing team will arrange a Licensing Hearing and give evidence in respect of the representations that have been made. The Licensing Panel will subsequently determine whether or not to grant the licence or licence variation with or without conditions being imposed on the premises licence. In certain circumstances, the Environmental Management team may ask for a review of a licence, such as serious disturbance to local residents cause by noise from a licensed premises.

17 Temporary Event Notices (TENs)

17.1 All TEN notifications are reviewed by the Environmental Management team. The history of any noise problems associated with the premises will be considered and the premises user will need to satisfy the team that the provision of regulated entertainment, particularly in relation to amplified music and any increase in opening hours will not result in a failure to promote the licensing objective of "the prevention of public nuisance". Applicants will need to demonstrate how they will avoid causing a public nuisance. In most cases this will be demonstrating compliance with recognised standards or guidelines such as the Code of Practice on Environmental Noise Control at Concerts (1995) copied on the Chartered Institute of Environmental Health website at:

http://www.cieh.org/policy/noise_council_environmental_noise.html

However, in some locations where there is the potential for greater levels of disturbance, such as certain areas within the South Downs National Park, which are generally prized for their tranquillity, the applicant may need to demonstrate noise level control which exceeds that recommended by such standards.

- 17.2 Any relevant representations that are made by the team will be forwarded to the Licensing Authority within 3 working days of receiving the notice from the Licensing team. If agreement cannot be reached between the premises user and the Licensing team to address the relevant representations, an officer of the Licensing team will arrange a Licensing Hearing and give evidence in respect of the representations that have been made. The Licensing Panel will subsequently approve, add conditions or reject the notice.

18 **Liaison with external agencies**

- 18.1 The Team liaises with the following external agencies. As a partner of the Community Safety Partnership, information is shared in accordance with the West Sussex Information Sharing Protocol and covered by section 115 of the Crime and Disorder Act 1998.

19 **Sussex Police**

- 19.1 Liaison with the Police is primarily undertaken in the following circumstances:

- to request assistance in the execution of a warrant for forced entry into a premise
- to request assistance with seizing noise equipment
- to seek advice and request assistance for anti-social behaviour, public disorder and safety issues
- to share information in relation to incidents of noise that the police have attended
- to liaise closely in relation to noise problems from licensed premises
- to participate in meetings with the Community Safety Partnership

20 **Registered providers of social housing**

20.1 Whilst legislation is available to abate a statutory noise nuisance, Housing Associations may also determine whether enforcement of the tenancy agreement is appropriate. Close links have therefore been made to ensure an effective resolution to such problems. Liaison is therefore primarily undertaken in the following circumstances:

- To notify the relevant housing association of any complaints received in respect of their tenants.
- To notify the relevant housing association of any legal action being initiated against its tenants.
- To forward copies of any Abatement Notices served on their tenants.
- To facilitate a joint approach to problems of noise caused by tenants whenever possible.
- To exchange information regarding the anti-social behaviour of any tenants at the Community Safety Partnership Meetings.

21 **Environment Agency (EA)**

21.1 Regulation of noise for certain industrial activities that are permitted under the Environmental Permitting (England and Wales) Regulations 2010 (as amended) is achieved through conditions placed on the permit in respect of all A1 activities which are regulated by the Environmental Agency and all A2 activities which are regulated by the Environmental Management team.

21.3 Effective liaison is undertaken during the consultation process to ensure that relevant, adequate and appropriate conditions are imposed on the permit for noise control. The Council can still serve statutory nuisance abatement notices on permitted installations, but must have the Secretary of State's consent to prosecute for breach of an abatement note.

22 **Customer Service and Satisfaction**

22.1 Procedures within the investigation of noise complaints have been designed to ensure that the Team acts consistently within the convention rights of the Human Rights Act 1998. Individual rights are also protected during the questioning, identification of suspects, tape recording interviews and the searching of premises by ensuring that the Codes of Practice written under the Police and Criminal Evidence Act 1984 (as amended) are strictly adhered to. Consideration has also been given to the Regulation of Investigatory Powers Act 2000 and the appropriate procedures have been adopted where necessary.

22.2 We will endeavour to continually improve our noise complaint service through monitoring and review. If you are not satisfied with how your complaint has been handled, the Council has a formal complaints procedure. Cases are reviewed by the Environment Manager and if the matter has not been resolved, then the Head of service for Housing and Environment. Details of the Council's formal complaints procedure are available at;

<http://www.chichester.gov.uk/complaints>

22.3 In cases of noise from anti-social behaviour, there is a community trigger which may ensure a full case review. Details of this are available from the Community Safety Team or Sussex Police.

<https://www.sussex.police.uk/policing-in-sussex/your-community/community-trigger>