

Committee: Overview and Scrutiny Commission

Date: 8th January 2013

Agenda item: **5**

Wards: All

Subject: Control of Noise Nuisance

Lead officer: Ian Murrell

Lead member: Andrew Judge

Forward Plan reference number:

Contact officer: Marc Dubet

Recommendations:

A. That Members discuss and comment on the models of provision of out of hours noise enforcement services.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report is in response to Scrutiny's request, at its meeting of the 13th March 2012, to undertake further scrutiny of two aspects of noise nuisance:-
- to examine a business case for extending the 'Out of Hours' service, particularly in relation to the cost effectiveness of solving problems at an earlier stage, and
 - to examine the scope for a more rigorous approach to noise nuisance enforcement.
- 1.2 Responsibility for the control of noise nuisance rests with the Environmental Health, Trading Standards and Licensing Section. The section comprises five teams:- Trading Standards (including Street Trading); Housing; Commercial; Environmental Protection & Licensing; and Finance & Administration.
- 1.3 A structure chart for the section is attached at Appendix A with posts and functions responsible for noise enforcement highlighted in bold/italics.

2 DETAILS

- 2.1. Environmental Protection officers investigate complaints of noise that cause substantial interference with someone's daily life including but not limited to:-
- noise from neighbours, including loud music, parties and DIY
 - Barking dogs
 - Prolonged ringing of burglar and car alarms
 - Entertainment venues e.g. pubs and clubs
 - Commercial or industrial premises and activities

- Construction sites
- 2.2. The service does not have powers to deal with noise from:-
- Aircraft
 - Railway and road traffic
 - Children
 - Normal domestic activities such as washing machines/vacuuming/etc
 - People walking about in their home as a result of poor sound insulation
 - Anti-social behaviour such as shouting
- Such behaviours may be irritating on occasions, but they are not illegal or criminal activities, and the service cannot take formal legal action on such matters.
- 2.3. The service receives in excess of 2400 complaints about noise per year of which approximately 650 are incidents reported and responded to by an out of hours service operating between 11pm and 4am every Saturday night and also on Friday nights from June until August reflecting the times at which levels of noise complaints are at their highest.
- 2.4. A process map for the receipt and conduct of investigations into allegations of noise nuisance is attached at Appendix B.
- 2.5. Whilst the level of service will vary between authorities, in order to discharge its statutory duties in relation to noise nuisance the Council must operate to one of the following recommended delivery models based upon the assessment of the current and anticipated demand :-
- A large dedicated noise team of 10 to 14 officers providing an around-the-clock service with messages relayed through a point of public contact, accessible all day, every day.
 - A modestly sized dedicated noise team of 6 to 8 officers giving a regular, extended hours service with messages relayed through a point of public contact, accessible all day, every day.
 - A contact point receiving complaints and a 'call out' service on Friday/Saturday evenings and at other targeted times and seasons with Officers undertaking non-noise duties in addition.
 - A rota of non-specialised officers providing a standby response service to calls received by a duty officer. Attendance in non-urgent cases would be deferred until the matter could be investigated during the routine working week.
- 2.6. The Council currently fulfils its legal obligations by operating a service at level 3 detailed above. Day to day activities are attended to by four Environmental Protection officers that also have responsibility for matters such as air quality, the contamination of land, general environmental nuisance, and environmental permitting.
- 2.7. The Environmental Protection Act 1990 places a duty on local authorities to investigate complaints of statutory nuisance from people living within its area

A statutory noise nuisance exists when it unreasonably interferes with the use or enjoyment of someone's premises or is prejudicial to health.

- 2.8. Since 2009/10 noise complaints made to the service have increased by over 45%. However the service managed to respond to 97% of noise complaints within 5 days in 2011/12 and perhaps more importantly it has improved its effectiveness in dealing with such matters as demonstrated by the table below.

Year	Number of complaints	% resolved in 28 days	% resolved in 45 days	% resolved in 60 days
2011/12	2467	54	73	82
2010/11	1828	51	67	77
2009/10	1693	58	72	79

- 2.9. Comparisons with neighbouring authorities during the same period also demonstrate that levels of complaints and statutory notices served continue to be higher in Merton than they are in Sutton, Kingston and Richmond.

Authority	Complaints 2011/12	Notices 2011/12	Complaints 2010/11	Notices 2010/11	Complaints 2009/10	Notices 2009/10
Merton	2467	33	1828	28	1693	55
Sutton	1794	23	1936	28	2477	40
Kingston	1578	21	1696	26	1757	37
Richmond	1329	4	1317	18	2604	47
Croydon	4022	76	3911	88	2591	112

- 2.10. The limited number of formal complaints and Local Government Ombudsman (LGO) referrals also suggest the service is well received and effective. To date in 2012/13, 5 Stage one complaints have been received and 1 being escalated to Stage two and subsequently being referred to the LGO. The LGO determining not to uphold the complaint and undertake any investigation due to there being no administrative fault and/or injustice caused.

- 2.11. The Environmental Protection function, including the Out of Hours service (£30k), is provided at an approximate cost of £345k per annum. According to the last published CIPFA statistics the function receives the 5th lowest level of funding in London.

Authority	Total Expenditure on Environmental Protection function (000's)	Cost of 'Out of Hours' Service
-----------	--	--------------------------------

Merton	345	30
Sutton	617	35
Kingston	177	2
Richmond	492	45
Croydon	589	126

- 2.12. The out of hours service is staffed on a voluntary basis by officers from the section and they responds to calls to an emergency number operated by MASCOT. Dependent on the nature of the incident officers may require the assistance of police when attending premises.
- 2.13. A benchmarking survey of most london boroughs providing out of hours noise services found that the peak of complaints received generally occurs on Friday and Saturday nights from 22:00 to 02:00. Furthermore the calls made to the out of hours emergency number operated by MASCOT when the out of hours noise service is not operating average only 3 calls a night, suggesting that problems suffered due to noise are significantly reduced during these periods.
- 2.14. Despite the obvious limitations this level of funding creates the service continues to respond to all noise complaints irrespective of their nature, complexity, or impact providing an immediate response to most issues and attending premises outside of traditional working days by prior appointment.

3 ALTERNATIVE OPTIONS

OUT OF HOURS SERVICE PROVISION

- 3.1. **The cessation of Out of Hours service provision** : with the retrospective investigation of complaints only. This would provide for a budget saving of approximately £30k.
- 3.2. **Remodelling of current out of hours arrangements** : This would be at no extra cost to provide a 'standby' out of hours service, 365 days per year by restricting the type of complaints responded to ie parties and alarms affecting more than one person only, and ongoing investigations as required. All other matters responded to retrospectively.
- 3.3. **Extension of current arrangements** : to provide increased Out of Hours provision, typically every Friday and Saturday nights through out the year. Estimated cost £20k per annum.
- 3.4. **Dedicated 'night time' officers** : contracted to work at evenings and weekends only, complimenting day time arrangements summer party patrol roster arrangements already in place. Equivalent model in Croydon costs approximately £100k per annum.
- 3.5. **Provision of a 24/7 out of hours service** : providing for an immediate ie within 45 minutes, response to all incidents of noise nuisance. Priority given to nuisance affecting several complainants with immediate follow-up action

to abate the nuisance including visits to the perpetrator, service of notice by hand, works in default and seizure of equipment/devices. Estimated cost £200k per annum

- 3.6. **Shared Services** : Await the outcome of ongoing dialogue with neighbouring authorities referred to in this report as to the opportunities arising out of sharing services. Submission of business cases to authorities for decision expected early in 2013. Offers opportunity to reduce cost and improve efficiency, resilience and extend scope of current provision.

CONSIDERATION OF A MORE RIGOROUS APPROACH TO NOISE NUISANCE ENFORCEMENT

- 3.7. Officers have been asked to examine the scope for a more rigorous approach to noise nuisance enforcement. How an authority undertakes its enforcement role is influenced by several considerations. In particular regard should be given to existing staff resources and budgetary constraints, the cost of undertaking a more aggressive approach to enforcement and also whether a more rigorous approach would actually be of benefit to stakeholders when compared to an approach of mediation and resolution.
- 3.8. The current approach to noise nuisance enforcement is in line with policies and practices of neighbouring authorities and is targeted at those incidents that have the greatest negative effect on the community. It also reflects existing levels of resourcing and previous reductions to the relevant service area over the past few years which has naturally led to a greater level of prioritisation when investigating noise nuisance issues. Given the need to investigate all complaints received and the limited availability of specialist monitoring equipment, complainants are required to monitor and record the nuisance in order to provide the necessary 'intelligence' to inform the placement of equipment.
- 3.9. The service also tries to resolve matters at the earliest stage, through advice and guidance to perpetrators, and so formal action is seen as a last resort or where circumstances are having a significant impact with little likelihood of abatement.
- 3.10. Officers would recommend that the current approach to noise nuisance be continued. However, should members be minded to further explore a service delivery model which places greater emphasis on direct action and formal enforcement the following financial implications need to be considered :
- 3.11. The Investment in new/additional noise monitoring equipment will allow for a wider coverage of the monitoring of nuisance. For example, the estimated cost for 4 replacement noise monitoring machines is approximately £22k with a further £2k per annum in calibration and servicing costs.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purposes of this report

5 TIMETABLE

5.1. N/A

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. As detailed in Section 3 of the report.

6.2. There are no property implications arising out of this report.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. There is no statutory requirement to provide an out of hours noise service.

7.2. The Environmental Protection Act 1990 places a duty on local authorities to investigate complaints of statutory nuisance from people living within its area. A statutory noise nuisance exists when it unreasonably interferes with the use or enjoyment of someone's premises or is prejudicial to health. The Act however does not prescribe how authorities should investigate such incidents.

7.3. Limiting an immediate response to incidents of noise nuisance (see para 3.2 above) to those affecting several complainants will still require the retrospective investigation of all other complaints.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. Noise is an inevitable consequence of today's society. Noise is subjective and one person's noise is another person's sound. Noise management is a complex issue and at times requires complex solutions. Unlike air quality, there are currently no European or national noise limits which have to be met. Unlike many other pollutants, noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it, impacting on 'quality of life' and giving rise to adverse health effects, one of the fundamental rights of every human being.

9 CRIME AND DISORDER IMPLICATIONS

9.1. The removal of the service will almost certainly result in an increase in incidents of noise nuisance and formal complaints and referrals to the Local Government Ombudsman. The services ability to respond to incidents of noise nuisance will be severely limited.

9.2. Any direct investment in the service will allow for an extension of current out of hours arrangements and may as a consequence reduce the demands on the service during normal working hours thereby reducing the numbers of complaints received and investigated.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix A – Structure Chart for Environmental Health section

Appendix B - Process map

12 BACKGROUND PAPERS

12.1. None for the purposes of this report

This page is intentionally blank

Environmental Health, Trading Standards & Licensing

SERVICE MANAGER – ENVIRONMENTAL HEALTH, TRADING STANDARDS & LICENSING

ADMINISTRATIVE SUPPORT TEAM
 Snr. Admin. & Finance Officer
 3 x Admin. Assts. Total FTE = 4.0

TRADING STANDARDS TEAM

1 x Team Leader
 2 x Trading Standards Officers
 5 x Technical Officers
 1 x Street Trading Officer

Total FTE = 9.0

Functions:

Weights & Measures
 Products Safety
 Doorstep Crime
 Rogue Traders & Scams
 Age Restricted Sales
 Product Counterfeiting
 Descriptions, Labelling & Prices
 Fair Trading
 Street Trading & Market regulation
 Fireworks registration & safety
 Environmental Issues
 Business Advice & Education

ENVIRONMENTAL HEALTH (COMMERCIAL) TEAM

1 x Team Leader
 6 x Environmental Health Officers & Labelling
 1 x Food Safety Officer
 1 x Infectious Disease Officer

Total FTE = 8.6

Functions:

Food Safety, Hygiene & Standards
 & Labelling
 Food registration & approvals
 Health & Safety at Work
 Work Related Accidents/Deaths
 Scores on the Doors Scheme
 Drinking & Leisure Water Quality
 Infectious Disease Control
 Smoking in Public Places
 Cooling Towers/Condensers
 Health Promotion/Education
 Mortuary provision

ENVIRONMENTAL HEALTH (HOUSING) TEAM

1 x Team Leader
 4 x Environmental Health Officers
 2 x Technical Officers (Housing)
 1 x Empty Property Officer

Total FTE = 7.1

Functions:

Housing conditions
 Small Repair Grants
 Disabled Facilities Grants
 Empty Property Grants
 Housing in Multiple Occupation registration
 Blocked drains
 Filthy & verminous premises
 Public Health issues

ENVIRONMENTAL HEALTH (POLLUTION & LICENSING) TEAM

1 x Team Leader
 1 x Environmental Health Officer
 3 x Technical Officers (Pollution)
 2 x Licensing Officers

Total FTE = 7.0

Functions:

Noise & Pollution Control
 Environmental nuisance
 Air Quality
 Contaminated Land
 Environmental Permitting
 Alcohol & Entertainment Licensing
 Gambling regulation
 Licensing & Gambling Policy Statements
 Animal Health/Welfare
 'Public Control' regulation

Procedures for dealing with noise complaints

