

Committee: Cabinet

Date: 10 June 2013

Agenda item: 7

Wards: All

Subject: Control of Noise Nuisance

Lead officer: Chris Lee

Lead member: Andrew Judge

Forward Plan reference number: 1256

Contact officer: Ian Murrell

Recommendation:

- A. That, based on the information provided by officers as set out in this report, Members determine whether or not to proceed with the implementation of a 24/7 noise patrol service together with the required investment as specified.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report is in response to Scrutiny's request, at its meetings of the 8th and 31st January, "to explore options for providing a 24/7 noise service as soon as possible through an 'invest to save' approach that would deal with complaints promptly and further reduce the need for court action as well as sending a message to residents that anti-social noisy behaviour will not be tolerated".
- 1.2. A report in respect of this recommendation was presented at the Council's Cabinet meeting of the 18th February 2013, where Cabinet resolved to formally report back it's decision and any agreed action to the Overview and Scrutiny Commission.

2 CURRENT MODEL OF SERVICE PROVISION

- 2.1. 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.
- 2.2. The service currently has 4 officers dedicated to Environmental Protection matters, including noise nuisance, and relies on environmental health staff to voluntarily participate in 'out of hours' noise enforcement activities every Saturday night and on Friday nights from June until August.
- 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 the out

of hours service operating between 11pm and 4am reflecting the times at which levels of noise complaints are at their highest.

- 2.4. Officers respond to calls to an emergency number operated by MASCOT and dependent on the nature of the incident officers may require the assistance of police when attending premises out of hours.
- 2.5. Telephone 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.
- 2.6. **Cost of Current Service provision.**
The Environmental Protection function, including the Out of Hours service (£30k), is provided at an approximate cost of £345k per annum. Day to day noise enforcement activity is undertaken by the equivalent of 2.0ftes as the Environmental Protection team is also responsible for issues relating to air quality, the contamination of land, environmental permitting, and general environmental nuisance.
- 2.7. An incremental approach is taken to noise complaints starting with the service of a standard advisory letter that is sent to the person complained of, advising them that a complaint has been received and requesting that they modify their behaviour, as appropriate. If the initial letter does not resolve the problem noise diary log sheets are issued for a short period to identify the days and times when the noise causes disturbance and to allow for the deployment of noise monitoring equipment if needs be. If the noise causes a problem during the day or Friday/Saturday nights the case officer may also visit and witness the noise. Once evidence has been gathered and the case officer is satisfied that the noise is a statutory nuisance a formal notice will be served requiring the person causing the noise to stop and prohibiting them from causing a noise in the future. Failure to comply with a notice can lead to prosecution although the need for such action is minimal in the borough with less than one case being taken to court a year.
- 2.8. The current operating model for noise enforcement is a direct result of the level of demand and available resources, the teams wider range of responsibilities and its retrospective investigation of complaints relating to noise nuisance that occur outside of the current service operation ie weekdays, Saturday nights and Friday nights during the summertime.
- 2.9. As a result a 24/7 service cannot be met by the 2.0fte equivalent that are currently responsible for the task, and similarly the four noise monitoring machines used by the service. Without investment this most certainly will have to be offset by reducing officer time spent investigating other related statutory activities.
- 2.10. However providing an immediate response to all allegations of noise nuisance and/or deploying equipment at an earlier stage could in all probability result in the earlier resolution of noise complaints, reduce the need for legal action (including the service of notices), and thus create a potentially more effective service. However, as highlighted in previous reports, demand for the service outside of its current hours of operation is minimal and this could therefore lead to significant spare capacity in

resource set aside to deal with complaints, thus making the service less efficient.

- 2.11. The table below shows the estimated costs of legal action associated with noise nuisance investigation in 2012/13. In line with the Service's enforcement policy legal action is only taken following a process of escalating actions aimed at ensuring compliance. Exceptions would be where there is a serious risk to public safety or the environment or the offences have been committed deliberately or negligently or involve deception, or where there is a significant economic detriment. In these circumstances the case for an invest to save approach is limited as the potential savings from reduced legal action is minimal when set against the cost of a 24/7 service as detailed in 3.1 below.

Type of Actions	Number of Actions	Estimated Cost (£'s)
Complaint investigation	1960	
Statutory Notice	66	29,700
Fixed Penalty Notice	2	1,500
Proceedings	1	3,900
Total		35,100

3 ALTERNATIVE OPTIONS

- 3.1. Current service arrangements provide coverage for about 30% of the week/year. Consequently a minimum of a further 5.0ftes (£198k based upon exiting officer salaries including oncosts), plus related operational expenditure of approximately 40k to meet transport, accommodation and equipment costs will be required to provide a 24/7 service. A structure chart is attached at appendix A to this report and shows (in bold and italics) two new teams of out of hours officers working to pre-determined shift patterns supported by an officer providing cover for leave, absence, etc. The immediate investigation of noise complaints will release 'daytime' officers from out of hours follow up investigations and thus provide efficiency savings equivalent to the cost of the fifth out of hours officer. Separate and specific contracts of employment will be necessary but the skills, knowledge and experience of daytime and out of hours officers will be similar allowing them to undertake the ad hoc of related complaints and enquiries currently undertaken by daytime officers. Management and supervisory arrangements for any extended out of hours service will need careful consideration as it will have to be provided remotely and in retrospect to avoid further cost. The only similar service in operation in London is provided by Westminster Council, at a cost of approximately £1m, however it has to deal with 7-8 times the volume of complaints as compared to Merton given that its night time economy is one of the largest in Europe.
- 3.2. The extension of current arrangements to provide increased Out of Hours provision, typically every Friday and Saturday night through out the year. Estimated cost £20k per annum.

- 3.3. The creation of dedicated 'night time' officers contracted to work at the evenings and weekends only and that are not covered by the out of hours arrangements that are already in place. Equivalent model in Croydon costs approximately £100k per annum but this does not provide for an immediate response to all incidents and still requires the following up of incidents during office hours.
- 3.4. Await the outcome of the ongoing dialogue with neighbouring authorities (Richmond and Croydon) as to the opportunities arising out of sharing 'Regulatory' services. Cabinet approval for which was granted on 11/4/2013 and similarly in Richmond and Croydon on the 18/4/13 and 29/4/13 respectively. Which will offer the opportunity to reduce cost and improve efficiency, resilience and extend the scope of current provision.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purposes of this report

5 TIMETABLE

- 5.1. Not Applicable

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The Environmental Health, Trading Standards and Licensing Service is currently tasked with delivering £400k in direct savings by 2014/15. This is intended to be achieved through the sharing of services with Richmond and Croydon Councils.
- 6.2. The provision of a 24/7 noise service is estimated to cost an additional £200k as detailed in section 3 above and will therefore need to be considered in the context of the savings required in 6.1.

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 to those affecting several complainants will still increase the retrospective prioritisation and 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. Any direct investment in the service will allow for an extension of current out of hours arrangements, provide for a greater scope for immediate complaint response with the potential to reduce the demands on the service during normal working hours and reduce the numbers of complaints received and investigated.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None for the purposes of this report

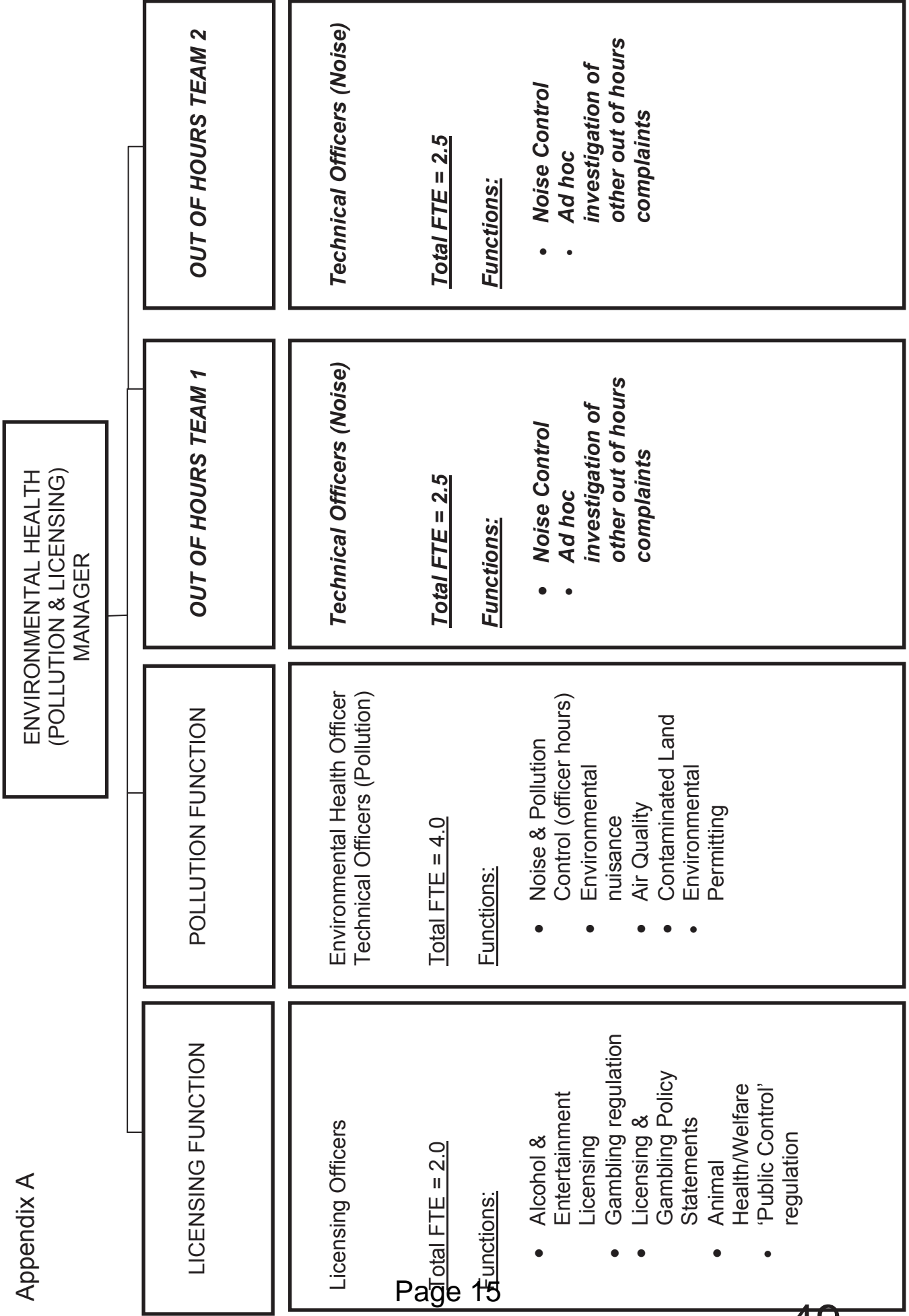
11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix A – structure chart

12 BACKGROUND PAPERS

- 12.1. None for the purposes of this report

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