



OVERVIEW AND SCRUTINY BOARD

8 FEBRUARY 2011

FINAL REPORT OF THE ENVIRONMENT SCRUTINY PANEL - NOISE COMPLAINTS

PURPOSE OF THE REPORT

1. To present the Environment Scrutiny Panel's findings, conclusions and recommendations following its investigation of the topic of noise complaints in Middlesbrough.

INTRODUCTION AND BACKGROUND

2. The panel investigated this issue as a 'short topic' over the course of one meeting, held on 7 January 2011. A second meeting was held on 24 January 2011 to consider a draft final report. A Scrutiny Support Officer from Legal and Democratic Services co-ordinated and arranged the submission of written and oral evidence and arranged witnesses for the review. Meetings administration, including preparation of agenda and minutes, was undertaken by a Governance Officer from Legal and Democratic Services.
3. A record of discussions at panel meetings, including agenda, minutes and reports, is available from the Council's Committee Management System (COMMIS), which can be accessed via the Council's website at www.middlesbrough.gov.uk.
4. This report has been compiled on the basis of information submitted to the scrutiny panel by an officer from the Council's Community Protection Service.
5. The membership of the scrutiny panel was as follows:

Councillors Kerr (Chair); Carter (Vice-Chair), Clark, Davison, C Hobson, Hubbard, Lancaster, McPartland and Michna.

THE SCRUTINY PANEL'S FINDINGS

6. Sound is essential to everyone's daily lives, but noise is not. Noise, which can be defined as unwanted sound, appears to be on the increase in society. It can be a source of irritation and stress for many people and, as a result, can cause disturbance and affect people's comfort and even health. The scrutiny panel sought to investigate the issue of noise complaints in Middlesbrough and the Council's involvement and responsibilities in resolving associated issues.
7. The scrutiny panel's findings are set out below and relate to:
 - Work areas, including noise nuisance
 - Trends and types of complaint
 - Service provided and costs
 - Noise mapping

Work Areas

8. The team of staff which works on noise complaint work in Community Protection is responsible not just for this work but also a number of related work areas, such as fly tipping enforcement and drainage issues. In terms of noise-related work, the main areas covered are:
 - a) Noise Nuisance
 - b) Planning Consultations (Setting and discharging conditions and policing)
 - c) Licensing (as environmental protection consultee - ie by setting and policing conditions)
 - d) Noise Consents/Notices for construction sites
 - e) Enforcing legislation e.g. ice cream van chimes, noise consents for construction sites.
 - f) Noise Mapping¹
9. Specific reference was made to the service's role in planning and licensing. It was explained that conditions applied by the Community Protection Service can alleviate any potential noise nuisance in future. Middlesbrough Council takes a particularly stringent approach in this area, for example by imposing restrictions on opening/delivery times, sound limits, acoustic works required or on design changes.
10. Noise nuisance accounts for the biggest area of noise complaint work. Nuisance can be difficult to establish but, generally speaking, if a noise associated with a premises is unreasonable to the average person, a court may decide that it constitutes a statutory nuisance. Noise nuisance is covered by Part III of the Environmental Protection Act 1990 (EPA). This law empowers local authorities to deal with noise from fixed premises (including land) if they consider that the noise amounts to a statutory nuisance. Proceedings can therefore be taken against noise from factories, shops, pubs, dwellings and stationary vehicles.
11. It was noted that work place noise is not covered by nuisance legislation but is part of the remit of the Health and Safety team in Community Protection. The

¹ See 'Additional Information' at the end of the report.

scrutiny panel was also advised that the authority cannot take action in respect of the following types of noise:

- Aviation noise - This is dealt with by the Civil Aviation Authority.
- Traffic Noise - Defined as noise from moving vehicles.
- Rowdy behaviour in the street - This is covered by anti-social behaviour legislation/enforced by the police.

12. The scrutiny panel was advised that, in Middlesbrough, local authority powers to deal with nuisance are the principal means of resolving noise complaint issues. An environmental health officer takes reasonable steps to investigate complaints about noise emitted from dwellings. In general, an officer will look at noise patterns over time and the effect on others. Persons affected may be asked to keep a diary of noise problems, or recording equipment may be used to gather information and evidence.
13. The scrutiny panel was advised that the vast majority of noise complaints relating to residential properties are resolved by use of the diary recording system and use of a warning notice.
14. Although other powers are available to local authorities (such as under the Anti-Social Behaviour Act 2003 to issue fixed penalty notices and extension of the Noise Act 1996 to tackle night time noise from licensed premises), the Council's use of powers to deal with noise complaints as a nuisance issue have proved adequate to date.

Trends

15. Between 2006 and 2010 there has been a significant (50%) rise in the number of noise complaints received by the Council - from approximately 1100 to over 1600 per year. This is illustrated in **Figure 1** below:

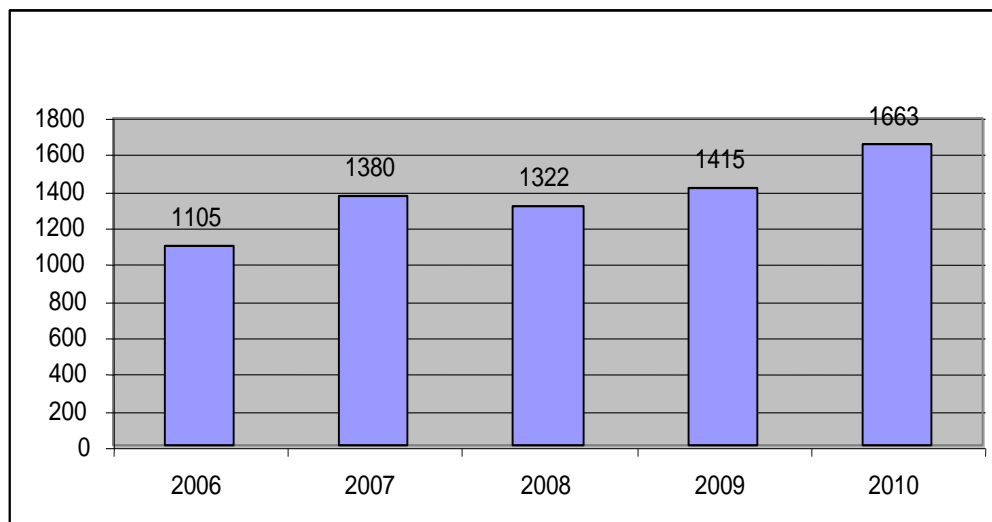


Figure 1: No. of Noise Complaints 2006-10

16. The scrutiny panel heard that the increase is due to a combination of factors - including increased public awareness of local authority powers and a consequent increase in levels of reporting/complaint. The graph at **Figure 2** below highlights that the majority of complaints relate to music noise, which suggests that a further factor is also an increased prevalence of bigger and more powerful stereo systems.

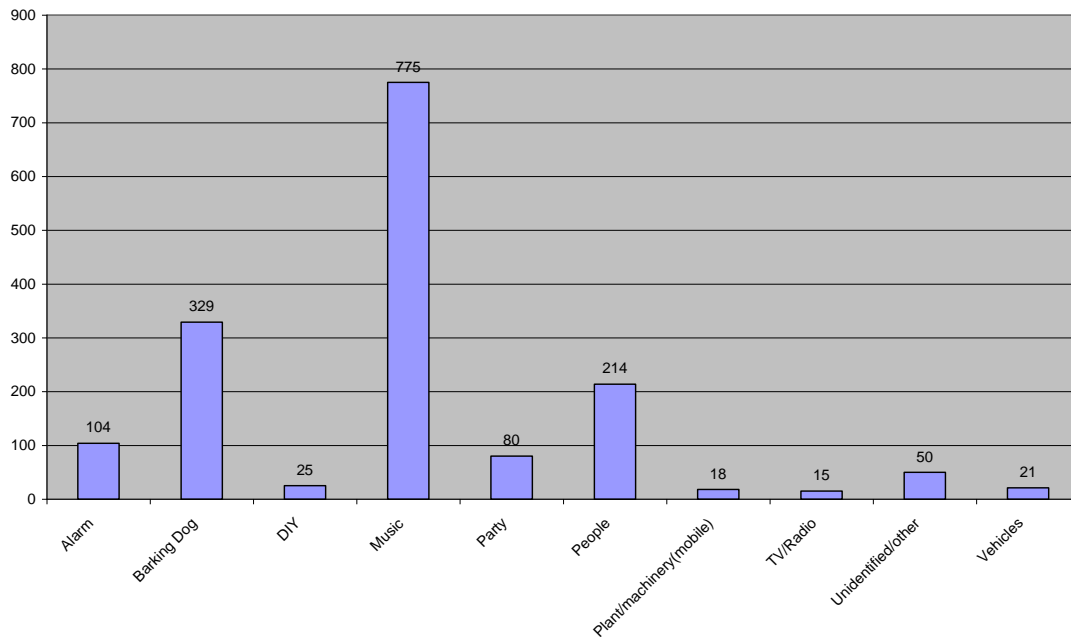


Figure 2: Types of Noise Complaint - 2010

17. A breakdown of the top five types of premises associated with noise complaints in 2010 was also submitted, as follows:

Type of Premises	No. of complaints
Family house	1072
Purpose built flat	61
Licensed premises	35
Cars	8
Construction/demolition sites	7

18. A breakdown of the 1663 complaints received in 2010 was submitted to the scrutiny panel. These resulted in:

- 8,516 actions taken in response
- 375 call outs to the weekend service
- 300 programmed monitoring visits
- 42 legal notices being served
- 1 prosecution (plus 2 pending at January 2011)
- 1 eviction
- 2 equipment seizures

19. In comparison, numbers of noise complaints received by neighbouring authorities in 2010 were as follows:

Hartlepool - 632
Redcar and Cleveland - 494
Stockton On Tees - 1382

Service Provided

20. The team referred to at paragraph 8 comprises eight staff who work office hours, Monday to Friday. In addition, an out of hours noise complaints investigation service is provided on Friday and Saturday evenings.
21. In order to address the problem of night time and weekend noise, an out of hours service was introduced a number of years ago. Although this initially ran all year, this is now reduced. At the present time, the service does not operate from Christmas to the end of February. This reflects demand in that the vast majority of complaints are received outside of these times, particularly during the lighter, summer months when several complaints can be received each evening.
22. The following points were also highlighted in respect of service provision:
 - Complaints relating to barking dogs are initially investigated by the Council's two dog wardens.
 - There can be some overlap with anti-social behaviour investigations.
 - 10 sets of recording equipment are available for use in people's homes. This is usually left for one week.
 - As well as the out of hours domestic service, the service also polices out of hours outdoor events e.g. Middlesbrough Mela and Middlesbrough Music Live.
23. The scrutiny panel also made reference to the issue of private landlords and the role of the community Protection service in addressing noise-related complaints in that area. In response it was explained that this issue can involve the work of three separate teams in the Community protection Service - ie staff working on noise, anti-social behaviour and private landlord issues. The teams have access to the same computer system so that information can be shared and they work closely to determine how best to proceed on a case by case basis. Depending on the circumstances of each case, a decision is made on which team will lead on it - for example an eviction secured on the basis of anti-social behaviour may prove to be more effective than a notice served in respect of noise nuisance.
24. The scrutiny panel welcomes the joint working approach that is taken but made reference to the need to ensure that the public is made aware of this approach. It is considered that there may be the potential for confusion among complainants where a complaint is made to one service area but then investigated by a different service, or different officers.
25. During its discussions, the scrutiny panel made reference to the role and involvement of the police in tackling issues of nuisance. It was explained that the police *do* have the power to act on issues of nuisance. However, in practice, it appears that their response to reports of nuisance does vary, with the police often indicating to complainants that they should contact the local authority.
26. Costs of the service (in 2010) were submitted to the scrutiny panel as follows:

Service Area	Cost/£
Weekend service	21,000
Other out of hours	3,000
Weekday Service*	224,000
Planning/Licensing	2,000 (approx.)

*Based on an average 3.5 hours per complaint

27. In the current difficult financial climate facing local government, and as is the case for all of Middlesbrough Council's services, service costs relating to noise complaints are likely to become the subject of close scrutiny. In this regard, reference was made to proposals to train the authority's street wardens to cover some out of hours noise complaint work. A re-structure of the service is also likely, which will examine alternative methods of service delivery - such as providing time off in lieu instead of overtime, for example.

ADDITIONAL INFORMATION - NOISE MAPPING

28. During examination of this topic, reference was made to the European Union's (EU) Environmental Noise Directive which "Aims to achieve reduction of the number of people in the EU regularly affected by long-term high noise levels from an estimated 100 million people in the year 2000, by around 10% in 2010 and by 20% in 2020." The Council's Community Protection Service will be directly involved in ensuring compliance with this work in Middlesbrough.
29. The directive has no quantitative goal for noise reduction, but sets out an ongoing programme of noise mapping and noise action planning, that are aimed at "Preventing or reducing noise exposure and preserving environmental noise quality where this is currently good."
30. The noise mapping process is a large data modelling exercise and the UK has the most cities to map of all the EU states. The strategic noise maps produced are to be used to inform the development of Noise Action Plans. These will set out how noise exposure can be reduced and how good environmental noise quality can be preserved. Work is to be undertaken on a rolling five year programme that aims to prioritise the management of noise that is having the greatest impact on current populations. Three categories are identified by the EU directive as follows:
- Important Areas - Covering the loudest noise that 1% of the population is exposed to. In Middlesbrough this is estimated as 750 dwellings alongside the busiest roads.
 - First Priority Areas - These are areas where the noise exceeds 76 dB _{L10(18hrs)}. This is estimated at less than 50 dwellings.
 - Quiet Areas - The authority is required to draw up plans that aim to protect formally identified quiet areas from an increase in noise. No areas have yet been identified as a public consultation exercise is required.
31. One First Priority location has been identified to date - ie around the junction of the A1085 Trunk Road and Cargo Fleet Lane. In addition, guidance is emerging

on action local authorities can take on how people and quiet areas can be protected - for example by:

- Use of quiet road surfaces.
- Use of acoustic barriers.
- Use of speed limits.
- Providing sound insulation to premises.
- Use of the planning process.

CONCLUSIONS

32. Having considered the submitted information, the Environment Scrutiny Panel reached the following conclusions:

1. Noise, especially at levels of nuisance, can be a source of irritation, disturbance, annoyance and stress. It can have a significant adverse effect on people's quality of life, comfort and, in some cases, health. As such, it is important that appropriate action is taken by appropriate agencies, including Middlesbrough Council, to address cases of noise nuisance so that quality of life, as well as people's right to enjoy peace and quiet, can be protected.
2. Numbers of noise complaints in Middlesbrough continue to rise each year, with a 50% increase (from 1100 to 1660) in the past four years. This increasing demand is to be balanced against a picture of reducing resources and budgets across local government.
3. In addition to action that can be taken by the Council, the police also have the power to act and intervene in the case of noise nuisance. The scrutiny panel acknowledges that, given constraints on their resources, noise complaints may not always be viewed as a priority by the police. However it is considered that there is an opportunity to improve liaison between the local authority and the police in this area and to establish clear lines of responsibility, particularly to ensure that an adequate response can be provided to the public at all times.
4. The cost of providing a responsive, out of hours service in respect of noise complaints means that the service is provided only on Friday and Saturday evenings and only for part of the year. Proposals to extend the remit of the Council's Street Wardens to provide additional support to the out of hours noise service are therefore welcomed, although it is recognised that this will be constrained by the working hours of the Street Wardens. At a time of diminishing local authority resources it is hoped that this will improve the service to the public as it is important that they are aware of action that they can take in respect of noise complaints outside of normal service hours.
5. The lead investigator of a noise nuisance complaint can come from one of three teams in Community Protection - ie depending on whether the complaint may also involve a private landlord or anti-social behaviour. This may lead to confusion among the public, for example where a complaint is made to one service area but then investigated by a different service, or different officers. It is important to make sure that complainants are aware of the processes involved and avoid a perception that responses are duplicated or not co-ordinated.

RECOMMENDATIONS

33. Following the submitted evidence, and based on the conclusions above, the scrutiny panel's recommendations for consideration by the Overview and Scrutiny board and the Executive are as follows:

1. That discussions are undertaken with Middlesbrough Police to clarify their role in dealing with reports of noise nuisance, particularly whether there is an opportunity to ensure that action can be taken against perpetrators outside of the Council's operational hours.
2. That, subject to the outcome of the discussions at 1. above, steps are taken to ensure that the public is aware of action that they can take on noise complaints outside of the Council's out of hours service operational times - for example via a Council answerphone providing them with police contact details.
3. That proposals to:
 - a) Increase the powers of Middlesbrough Council's Street Wardens to enable them to assist in addressing noise complaints; and
 - b) Undertake a review of the structure and staffing of the out of hours noise complaints service;Are supported by the scrutiny panel and are progressed at the earliest opportunity.
4. That, in cases where more than one team in Community Protection investigates a noise complaint - and in order to avoid any perception of lack of co-ordination or of service duplication - each officer dealing with noise investigations ensures that complainants are made fully aware of the process and the officer's role in it.
5. That progress made in respect of the issues highlighted above is reported to the Environment Scrutiny Panel before the end of 2011.

ACKNOWLEDGEMENTS

34. The Panel is grateful to the following officers, who presented evidence during the course of this investigation:

- P Robertson - Community Protection Service, Middlesbrough Council.

BACKGROUND AND REFERENCE MATERIAL

35. The following sources were consulted or referred to in preparing this report:

- Report to and minutes of the Environment Scrutiny Panel Meeting held on 7 January 2011.

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