



Noise Policy

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Document

Noise policy

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Every three years or earlier if deemed necessary due to relevant legislative or organisational updates or changes

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2.0			

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NOISE POLICY

Contents

Section	Title
1	General Statement
2	Policy Summary
3	Introduction
4	Aims
5	Scope
6	Policy Statement
7	Publicity
8	Service Structure
9	What is a Statutory Noise Nuisance
10	Expectations
11	Informal Approach
12	Making a Report of noise nuisance
13	Investigation Principals
14	Investigation Process
15	Noise falling outside of the standard procedure
16	Going to Court
17	Support for Service Users
18	Closing Cases
19	Seeking complainants'/victims' views
20	Oversight
21	Legal Framework
22	Relevant Policies/Published Documents
23	Monitoring/Review

Appendix One –Section 82 Environmental Protection Act 1990

Appendix Two – Investigation Process (none housing) Flow Chart

Appendix three – Nuisance Diary

1. General Statement

To provide an effective, trusted, fair, and consistent service which is accessible for all Warwick District council residents.

2. Policy Summary

Service commitments	Details
Making a complaint	Warwick District Council (WDC) will carry out initial assessment of noise complaints received
Recording of complaints	WDC will record all complaints consistently and securely
Investigation of complaints	WDC will investigate reports of noise nuisance without bias and clearly communicate actions and/or intentions to all involved
Tools and powers	WDC will use their powers proportionately and incrementally with a focus on long term resolutions to noise nuisance and have regard to the councils Enforcement Policy
Going to court	WDC will support complainants and witnesses through the process
Closing cases	WDC will close cases if no further contact has been made or received by the complainant after each stage of the investigation Where a case has progressed beyond initial letters and active communications are in place, WDC will consult with the complainant prior to closure
Seeking your views	WDC will welcome views from all who engage to improve the service

3. Introduction

3.1 Noise nuisance has been complained of and dealt with throughout the 20th century. Originally dealt with through common law and on the periphery of other legislation, in the 1980's the government began to legislate more rigorously against noise in statute law.

In 1990 the Environmental Protection Act (EPA 1990) received royal ascent and included within it was specific reference to noise amounting to a statutory nuisance.

Whilst other Acts give reference to noise nuisance such as the Noise Act 1996 and the Control of Pollution Act 1974 (COPA 1974), to date the EPA 1990 is still the most appropriate legislation for most noise complaints.

3.2 In addition to the above, specialist areas such as noise from construction sites, Code of Practice (COP) for Ice Cream Chimes and COP for Concerts are contained within the COPA 1974. Some COPs are issued by the Chartered Institute of Environmental Health (CIEH) and are also given consideration.

Standards deal with noise in respect of the planning process and acceptable noise levels to be achieved in terms of sound insulation inside new buildings. The World Health Organisation also issues guidance on noise levels particularly with reference to sleep disturbance criteria. All these aspects are considered as a part of this policy, and throughout the investigatory process.

3.3 Under the EPA 1990 statutory noise nuisance is described as noise that 'materially affects the use and enjoyment of a person's property or is prejudicial to health'. To qualify as a statutory noise nuisance, the noise needs to be more than annoying. The council must consider several factors during an investigation such as the level of noise; the type of noise; the duration of the noise; the general environment; the frequency of events and the times that events occur; the reason for the noise; any relevant standards and the impact, for example sleep disturbance, and any relevant case law.

3.4 The legislation, and the councils' policies, are intended to protect people from unreasonable noise but should not be used to place unreasonable restrictions on reasonable people. The EPA 1990 legislation does not provide control for disturbance to animals for example noise from fireworks upsetting pets or other animals.

3.5 In 2014 the Anti-Social Behaviour, Crime and Policing Act received royal ascent. This carries tools and powers that can also be used to tackle noise nuisance, and these will be considered in appropriate cases however, where a statutory nuisance is established, action should and will be taken under the EPA 1990.

3.6 WDC and its partners recognise the impact of noise nuisance on residents, and that the best resolution is to effectively deal with and stop the behaviour. The overing aim is for satisfactory resolution, without the

need for legal action. This policy also recognises that each person and every case is different, and that noise nuisance can affect people in different ways and to differing extents, particularly where the person may be vulnerable or feel as though they are targeted for a particular reason.

4. Aims

4.1 By way of implementation of this policy, and subsequent service delivery, WDC aims to provide an environment where those living within the district do not suffer unreasonable levels of noise and show confidence in our multi-agency response.

4.2 The aims of this Policy and subsequent service delivery are to:

- Respond to complaints promptly (against established targets)
- Determine the most appropriate approach-based evidence
- Provide effective enforcement
- Support and reassure service users
- Resolve noise nuisance where possible
- Provide a consistent response to noise nuisance
- Provide advice when WDC is no longer or unable to take matters further

5. Scope of this policy

This policy applies to all people living within the district boundary. Every reasonable effort is made to ensure that all persons have equal access to the service.

6. Policy statement

6.1 This policy is designed to inform members of the public what they can expect from WDC in terms of its handling and response to complaints of noise nuisance.

6.2 This policy also makes clear the type of behaviour that can be effectively investigated as a noise nuisance.

6.3 WDC recognise our differing roles, both as a **landlord** and as a **regulator**, this policy sets out clearly the standards of service that all can expect in response to reports of noise nuisance either to the Housing or Environmental Health teams. Where additional provision is made for

council tenants, due to their relationship with us as their landlord, this will be clearly stated in this policy and Housing tenancy agreement.

6.4 WDC acknowledges its role as part of a wider partnership with responsibility for tackling noise nuisance alongside key partners, including the Police, Social Landlords, University, and others. Where appropriate, WDC will support and work with key partners to deliver projects designed to reduce the impact of noise nuisance on residents.

6.5 Issues relating to; safeguarding; domestic abuse; mental health; lack of community cohesion; violence and extremist views can often be present in relation to noise nuisance, and therefore services are acutely aware of, and actively involved in partnership working to address these issues.

7. Publicity

7.1 This document will be published, following member approval on our website. Residents will be informed of the existence of this policy through local media along with our own publications such as 'WDC Housing Newsletter' and in standard letters.

7.2 WDC will take an active approach to publicising action taken in response to noise nuisance. At the time of writing, WDC is working on the development of a Public Register of enforcement notices.

8. Service structure

8.1 WDC response to noise nuisance is managed through both the Safer Communities, Leisure & Environment service (SC) and Housing services (HS).

8.2 WDC Safer Communities is responsible for Environmental Health (EH) and Anti-Social Behaviour team (which holds general responsibility for the authority's response to statutory noise nuisance).

8.3 WDC Housing Service is responsible for the work of the housing team and the management of council housing tenancies and stock. The service area also has responsibility for enforcement of HMO licence conditions which include private landlord interventions in respect of their tenants.

8.4 WDC has a clear role in its capacity as a landlord and currently has 5500 properties which are owned and managed as a social landlord. Our

relationship with tenants is covered by a tenancy agreement, which contains conditions relating to individuals' behaviour, both within and in the immediate vicinity of their property; and is an additional tool which can be applied to the most serious cases of noise nuisance. This policy ensures a risk-based approach when dealing with noise nuisance and should be read in conjunction with the Enforcement Policy and the Anti-Social Behaviour Policy and Standards. The policies are available on the council website.

8.5 The Private Sector Housing team employ (in partnership with Warwick University) a Student Housing Enforcement post whose role is to work with private landlords and students to identify problem areas, ensure that properties are safe and well-managed, improve communications with residents and raise awareness of student rights and responsibilities as tenants. At the time of writing, Housing Services and Community Safety are working on a memorandum of understanding to ensure there is clarity for all on the expectations, roles and responsibilities of each team.

9. What is a Statutory Noise nuisance?

9.1 Statutory nuisance is not legally defined and has no set decibel levels or times but is generally considered to be noise that 'materially affects the use and enjoyment of a person's property or is prejudicial to health'. This is a higher threshold than a noise that is simply inconvenient or annoying or irritating.

The noise must arise on one person's property and affect another person's property, for example 'noise in the street' cannot be regarded as a statutory nuisance. The legislation does not allow for the complainant and person making the noise to be of the same household. The noise must usually be of a repetitive nature however, in some circumstances where the noise is so severe and/or significantly impacts a large number of persons which can be evidenced, a one-off event may constitute a statutory noise nuisance.

Statutory nuisance is assessed and evidenced by trained and authorised officers, for the council to take formal action. However, a person can take their own action under the provisions of the EPA 1990, Section 82, if for whatever reason the council is unable to pursue a matter. More information on Section 82 can be found at Appendix 1.

9.2 In understanding and interpreting the definitions of a statutory noise nuisance, WDC must be realistic and proportionate in the action it takes, and the scope of complaints it deals with. Community or individual tolerance is recognised as a contributor to complaints and the expectation for local authorities and partners to respond to behaviours that may not fit with individual lifestyles, or community expectations, can be significant. Our officers need to have the confidence to challenge perceptions that certain behaviour constitutes noise nuisance where they feel complaints may be unreasonable. However, this must be done sensitively and in consultation with the complainant.

9.3 Noise nuisance may include, but is not limited to:

- Loud music
- Excessive shouting or banging
- The use of musical instruments which is loud, prolonged.
- Unreasonably timed DIY/Construction noise
- Unreasonable noise from licensed premises
- Noise from machinery
- Car or house alarms sounding for no good reason
- Excessive animal noise (for example, barking dogs)
- Excessive noise from business or commercial premises

Types of noise that we can't normally investigate

- If you don't know where the noise is coming from, or if it is in a shared area, and you don't know who is making the noise
- Children playing
- Babies or small children crying
- Noise from pedestrians passing by
- Isolated gatherings or single noise incidents (unless considered as severe and/or significantly impacts a large number of other households)
- Temporary works or DIY home improvements when carried out within reasonable times
- Everyday reasonable living noise (for example footsteps or toilets flushing)
- Noise from moving traffic, trains or flying aircraft
- Road or rail works carried out as urgent repairs or as part of a wider scheme where reasonable steps to use the best available techniques are being observed

We cannot consider any special sensitivities of a complainant, such as ill-health, or a night worker trying to sleep during the day.

Some issues which give rise to complaints are unavoidable, particularly noise between properties that are attached to each other and flats - we will therefore not be able to deal with noise nuisance, which is the consequence of the ordinary use of a property, even where standards of noise insulation between dwellings are poor. Examples of this might be the use of domestic equipment such as washing machines and vacuum cleaners during the day, the sound of doors closing and toilets flushing, footsteps or children playing inside or outside a property.

It can be difficult to deal with noise nuisance emanating from communal areas as we may not be able to identify who is making the noise.

If the noise is emanating from an industrial, trade, or business premises and it can be shown that the 'best practicable means' is being utilised to prevent or counteract it, a defence in law may exist and the council will not be able to act if such a defence is applicable.

9.4 WDC will make individual assessments of each case, and the above should be taken as a guide only.

10. Expectations

10.1 Expectations for people reporting noise nuisance.

WDC is committed to providing all people living within the district with a high standard of service. Subject to consideration of 9 above, everyone making a complaint of noise nuisance can expect us to:

- Take the matter seriously
- Explain what we can do and what we cannot do
- Deal with the matter in accordance with this policy and associated standard operational procedures (SOP)

10.2 Expectations of people reporting noise nuisance.

Where someone reports noise nuisance to us and WDC believes that it is within the scope of noise it can investigate, WDC requires the following to deliver a good service:

- The co-operation of complainants. (This involves providing, as best they can, evidence of the noise nuisance and details of how it affects them over a period as determined by the specifics of the case)
- Being completely factual about noise events and how the unwanted noise is impacting day to day life and health
- An understanding that, without robust evidence capable of withstanding scrutiny in court, it will be very difficult to secure a successful outcome to their complaint, and a complaint may need to be closed as keeping a case open for a prolonged periods without justification can make formal action even harder in the long run
- Not to use the council to harass another unjustly
- For legal progression of a case, the complainant being available and able to provide a formal witness statement and attend court as a witness if required

A case may be closed if details provided are subsequently proved or believed to be false or exaggerated.

11. Informal approach

11.1 Our experience shows that often the person causing a noise is not aware of the impact it is having on others. An informal approach, particularly if it is between neighbours, can resolve the problem at an early stage and prevent it escalating into a bigger issue. It is acknowledged however, that this approach may not be suitable in all cases.

If somebody is suffering from noise nuisance and considering discussing this with the individual concerned, the advice below is provided.

- Make the approach when you are not angry or upset
- Agree a convenient time to meet
- Think beforehand about what you wish to say – be clear and precise about your view of the problem
- Remain calm
- Allow him/her to express their own views and seek to understand what is being said
- Be prepared to accept differences in attitudes or ways of life, but be firm about behaviours that are causing harm or stress
- Take the view that together you can find a resolution

- Be reasonable – if you are offered concessions see if you can do the same but do not rush to an unsatisfactory agreement

If this approach does not work, make a note of what was discussed and the outcome. Then put the complaint in writing in polite terms, again requesting a reduction in the noise disturbance. Allow two weeks for the letter to be considered and action taken. Keep copies of all letters and notes. Example template letters are available on the council website.

If the noise maker is a tenant of a social landlord, you have the option of reporting this to that organisation. A social landlord has a legal duty of care to respond to behaviour that adversely impacts on their tenants or is caused by their tenants and impacts on others. They also have powers to act under the tenancy agreements.

11.2 Mediation - If an informal approach is not successful, both parties may benefit from a mediation service. A mediation service is designed to assist neighbours to resolve conflicts and is impartial, independent, and confidential. It is more likely to be successful if it is used before the situation becomes entrenched and both parties are set in their positions.

In most cases a complainant will be asked to provide details of any informal approaches that have been tried.

12. Making a report of noise nuisance

12.1 WDC Housing Team's aim is to enable council tenants to live peacefully in their homes. Where the subject of the complaint is a council tenant, a housing officer will start the investigation and will consider if a tenancy agreement is being broken.

The Housing officer may, in agreement with the complainant, request assistance from Environmental Health (EH) to obtain further evidence of a statutory noise nuisance.

12.2 Complaints of noise nuisance to EH can be reported in a variety of ways.

- Online web reports (the most efficient method)
- In writing by letter or email
- In person at the council's offices (when open)
- By telephone (leaving a message on the telephone answer machine)
- Via a WDC housing officer

The following information is needed in order that a full initial assessment can be made of a case:

- Name, address, and contact number(s) of the complainant
- Location of where the noise is coming from and if known the name of the person responsible
- Details of the type of noise, how long it lasts for and how often it occurs;
 - For neighbour noise, initial assessment is made using a 14-day Nuisance Diary or Housing Officer report
- An explanation of the impact the noise is having and where, when, and in what circumstance it can be heard
- Details of any action taken to try and deal with the problem informally

This process allows for complainants to raise complaints in a variety of ways and enables officers to consider if the issue is actionable under the EPA 1990 provisions or if the matter should be shared with another partner, service provider or department.

Complaints relating to licensed premises will initially be responded to by the licensing team. If the matter is not resolved at that stage, it will be passed to the Environmental Health team to investigate further under the EPA 1990.

Complaints alleging breaches of planning will be passed to the planning department.

12.3 All neighbour complaints will be subject to an initial assessment. The assessment is completed for the following reasons:

- To understand the regularity of noise nuisance
- To understand the individual's circumstances and the impact this may have (for example if the complainant is a vulnerable person)
- To enable WDC to react correctly, according to the type and severity of the incident being reported
- To understand if the case is linked to a hate crime/incident
- To consider if the issue is actionable under the EPA 1990 provisions or if the matter should be shared with another partner, service provider or department
- To determine the best advice if WDC is unable to take action themselves

- To allow for any previous complaint history to be established

12.4 Where individuals are considered as vulnerable and potentially at risk, the matter will be referred immediately to our Anti-Social Behaviour (ASB) team for them to make a more detailed assessment.

All cases accepted for investigation will be assessed for at risk persons, this is generally carried out by the EH support officers. This assessment will produce a score that will guide the ASB officer and officer in charge (OIC) in relation to their handling of the case. Further information about the focus of the Anti-Social behaviour team can be obtained on the councils website.

12.5 All reports received by Environmental Health will be logged. Every valid complaint will be given a unique reference number, which should be quoted on all correspondence.

12.6 Anonymous complaints

WDC is unable to accept complaints of an anonymous nature owing to the requirement to obtain evidence from the complainant to legally demonstrate a nuisance.

13. Investigation Principals

13.1 WDC will approach all reports without bias or preconception. Investigations of complaints may involve the sharing of, or access to, partner information relating to the individuals or complaint. Investigatory techniques include:

- Nuisance dairy sheets (completed by the complainant)
- Use of the council's Noise App
- Assessment of Police/partner incidents/information
- Visits
- Interviewing witnesses/complainants/noise makers
- Conducting 'letter drops' for corroborating information
- Patrols
- Assessing sound recordings/video clips

13.2 Actions WDC generally cannot do:

- Act without robust evidence that would stand up to scrutiny in Court
- Immediately evict people from their homes

- Move victims of noise nuisance (unless clear risk is identified) as this is unlikely to solve the problem and gives the wrong message to the alleged noise maker
- Install CCTV on-street or in homes

13.3 Where action cannot be taken, the complainant will be informed and given advice regarding any further options available to them. Advice regarding taking their own action under Section 82 of the Environmental Protection Act will be provided.

13.4 In line with operational procedures and differing stages of an investigation, complainants will be informed about how their case is progressing and will be consulted prior to action being taken.

13.5 If an alleged noise maker submits a counter-allegation against the original complainant, a separate case will be opened and investigated accordingly.

14. Investigation Process

14.1 The following stages of the investigation process fulfils the council's statutory duty to investigate under the EPA 1990, ensures our resources are used appropriately and provides protection for individual's privacy and freedoms. The procedures are written as a general guide as no one size fits all and every case will be assessed on its own merits.

14.2 Initial Assessment by Environmental Health

All noise complaints regardless of source will follow an initial assessment stage. This may include the use of a nuisance diary or reports received from partners. This process allows for complainants to raise complaints in a variety of ways and enables the council to consider if the issue is potentially actionable or not under the EPA 1990 provisions and/or if the matter should be passed to another service provider or department.

Complaints alleging breaches of planning or licensing conditions will be passed to the relevant team.

14.3 Stage One Investigation

Where the initial assessment indicates the matter may constitute a statutory nuisance as defined by the Environmental Protection Act 1990,

the complainant will be contacted, and a **Stage One** investigation initiated.

In this stage, we will seek to protect the identity of a complainant or witness from being revealed to the subject of the complaint. However, depending on the nature of the complaint, this may not be practicable as the source of the complaint may be obvious, or the alleged noise maker may reasonably assume where it has come from.

If a case becomes subject to formal enforcement action, all those involved should expect their identity to be disclosed, as it is likely they would be required to give evidence to a Court.

WDC will write to the person who is the subject of the complaint or representing the organisation that is the subject of the complaint, to outline the nature of the complaint and the action that the council proposes to take.

WDC will also formally write to the complainant asking them to complete nuisance diaries and they will be offered the use of the council's Noise App to supplement and support nuisance diaries.

The Noise App is a quick and easy way to record noise which is causing an annoyance/nuisance. The App needs to be downloaded onto a smart device and recordings are uploaded directly onto a secure site that council officers' access. Officers are then able to make a quick judgement of the noise and what action is necessary.

Nuisance diaries and Noise App recordings aim to record the complainant's experience of the noise that is problematic. It is essential that as much information as possible is included. They provide valuable evidence for the case officer (and the court) about the nature and severity of the problem, the number of incidents, their frequency, duration, time of day, and the impact on those involved. Nuisance diaries can be completed by more than one individual in a household and by more than one household.

For a minority of complainants who, for good reason, cannot keep a log of the noise, the officer will consider alternative arrangements to find the best way of collecting the information we need.

Very often this initial approach is sufficient to resolve matters and no further action is necessary by the council.

If no further contact is received from either side after 21 days have lapsed, the case will be closed with no further communication.

Where a returned nuisance diary and/or Noise App recordings indicate there is no evidence of a statutory nuisance, the case will be closed. The complainant will be advised of the reasons for the case closure and information will be provided as to how they may take their own legal action under Section 82 of the EPA1990.

During this stage, complaints relating to dog barking are also allocated to the council's animal warden, who will, if practicable, complete an advisory visit to the owner of the dog(s) to provide advice on animal welfare.

14.4 **Stage Two** Investigation

If a complaint is not resolved at stage one and nuisance diaries or Noise App recordings indicate the existence of a statutory nuisance, the case will be progressed to stage two with the aim of obtaining sufficient evidence to consider taking formal action.

The officer in charge (OIC) will:

- Aim to acknowledge nuisance diaries or Noise App recordings within five working days (day one is the first full working day after received) and contact the complainant by email or letter or via the Noise App
- Confirm next actions in writing to the complainant using a "Stage two Standard letter to the Complainant" and provide an approximate timescale
- Contact the subject of the complaint in writing using a "Stage two standard letter to the alleged noise maker" to advise him/her of the findings to date and that further monitoring will take place

The OIC will determine the most appropriate form of evidence gathering method(s) for the case. This may include the following:

- Further nuisance diaries
- Use of the Noise App
- Assessment of police/partner incidents/information
- Visiting all parties
- Interviewing witnesses/complainants/alleged noise maker
- Conducting 'letter drops' for corroborating information

- Patrols
- Sound recordings

In some cases, for example where there is some evidence to support further action but where it's not quite reached the bar required to take any legal action it may be necessary to repeat stage two.

14.5 **Stage Three** Investigation (Evidential review)

The OIC will review all the evidence obtained and make an assessment as to whether a statutory noise nuisance exists or is likely to occur or recur. Such an assessment will be specific to each case and include the following factors:

- Regularity
- Time and duration
- Intrusiveness
- Necessity of the noise
- Loudness
- Whether it is expected
- Period over which it occurs
- Type of noise
- Characteristics and locality of the area and expectations
- Cumulative impact
- Medical evidence
- Defences in law
- Intent

Where noise now needs to be substantiated (independently witnessed) in person by an officer, officers will make a minimum of three attempts to witness a nuisance, and in agreement with the complainant(s), this can include the installation of noise monitoring equipment.

The complainant will be provided with advice on how to arrange this. Subject to officer availability visits can be made either during normal office hours or by special out of hours arrangements which are organised subject to the factors or the individual case.

Officers are not required to measure the level of the noise or take readings to decide if it is a nuisance that they can deal with. The judgement of an independent and experienced officer is enough to decide on whether the noise is a nuisance or not. In most cases an officer is

required to have access to a complainant's property to witness a noise. This is so they can fully comprehend and then independently evidence the impact the noise may be having on them in their home.

Where council officers are unable to witness or gather substantial evidence of the noise nuisance despite multiple visits, this may make it harder to take legal action. This is because a defence would argue that a statutory nuisance is not occurring sufficiently regularly to be considered as a significant interference.

If a statutory noise nuisance cannot be established the OIC will close the case and

- The complainant will be advised in writing of the reasons for the case closure and information will be provided as to how they may take their own legal action
- Where contact has been made by other parties, write to them notifying closure of the case

14.6 **Stage Four** Investigation (Serving of a Noise Abatement Notice)

No complaint can reach stage four without:

- Environmental Health establishing that a statutory noise nuisance has occurred, in line with this policy
- The complainant providing a signed witness statement to support their submitted nuisance diaries or sound recordings
- The complainant being willing to act as a witness in court if required

The requirement to provide a signed witness statement is clearly explained when submitting complaints online or in official documentation.

Should the complainant fail to provide a signed witness statement to support their complaint, it is likely that no further action can be taken.

It is made clear to complainants at the outset of making a complaint that if they do not complete and return a witness statement to support any submitted nuisance diaries or sound recordings that it is unlikely that any further action can be taken for a statutory nuisance, and that the case may be closed.

14.7 Where it is found that a statutory noise nuisance exists, or is likely to occur or recur, which can be evidenced and if required the cooperation

of the witnesses can be secured, an abatement notice shall be served on the person responsible. This is a legal notice that describes the nuisance and directs that it be abated – reduced or diminished.

14.8 Appeal of notices - Appeals must be made directly to the magistrates' court within 21 days. Details of how to appeal a legal notice will be contained within the notice.

14.9 Breach of notice

Where WDC receive complaints that a legal notice is not being complied with, steps will need to be taken to investigate the complaint. This may include but is not exclusive to:

- Asking the complainant to complete further nuisance diaries and use of the Noise App
- Sending warning letters to the subject of the Noise Abatement Notice
- Undertaking further monitoring
- Requiring further witness statements
- Conducting a interview under Police & Criminal Evidence Act 1984 (PACE)
- Reviewing other agencies information

Where cases require further investigation, sound monitoring equipment may be necessary. During periods of high demand there may be a delay in installing this equipment; complainants will be advised of this and the likely implementation date. Monitoring equipment will generally only be offered on a maximum of two occasions. If the monitoring equipment does not provide suitable evidence for WDC to progress the case, the complainant will be advised, and the case may be closed unless the situation materially changes. This is because WDC must balance our duties, the needs of complainant and an individual's right to privacy.

Where officers are satisfied that a legal notice is not being complied with WDC will consider the Enforcement Policy and may

- Apply to the courts to seize equipment
- Complete works in default
- Prosecute the responsible persons
- Offer formal cautions
- Seek to utilise additional powers such as Injunctions or Closures

14.10 Housing Requests for assistance

Cases that are passed to Environmental Health from the Housing team for statutory noise nuisance assessment.

The investigating officer will assess the information and initially advise the housing officer of the next steps. This may include

- Initiating a statutory noise nuisance investigation at any stage of the procedure, subject to the information provided
- Further diaries/logs/recordings being requested
- Adding the tenant to the list of Noise App users (assuming housing have not adopted use of the Noise App)
- Visits to the complainant or alleged noise maker
- Reviewing other agencies information
- Passing the case back with no further action

In all circumstances, the Housing Officer will be advised of the next steps and where there has been Environmental Health contact with the tenant, the tenant will be updated as well.

15. Noise falling outside of the standard procedure

15.1 Complaints made about the following issues may be subject to alternative measures and/or processes.

15.2 Alarms - Noisy car and house alarms can cause problems, often when the householder is on holiday. Alarms are specifically designed to cause noise when activated and if they are not quickly silenced can affect residents living close by.

Alarms fitted to a home/business or vehicle should not become a source of nuisance, you have a legal responsibility to ensure that any alarm activated should ring for:

- a maximum 20 minutes – home/business; and
- your vehicle alarm should have a 5-minute cut-out device fitted.

Don't go away on holiday without notifying your neighbour or a contact - nominate a key holder who lives locally.

If there is a contactable keyholder, the alarm can be dealt with satisfactorily. However, if there is no known keyholder then enforcement

action may be required. WDC can have a car or house alarm silenced by employing the services of vehicle alarm experts or an electrician. A magistrate's warrant would be necessary to silence a house alarm when entry to the property is required. This would also require the services of a locksmith and all reasonable expenses would be passed to the householder or business.

15.3 Noise nuisance from licensed premises – shall be dealt with initially by the Licensing team, which will involve contact with the landlord or Designated Premise Supervisor within 2 full working days from receipt of the complaint. This contact will normally be via telephone or email.

Where complaints continue to be received, written warning will be sent of the various penalties that they may face in relation to their premises licence. Noise is currently an area for statutory consultation on all licence applications, variations, and Temporary Event Notices. These consultations will be undertaken in line with our 'Statement of Licensing Policy'.

15.4 Permitted Processes – The permitting authority will be consulted and where appropriate a joint approach will be taken.

15.5 Noise arising outside of the district boundary – Where the noise is affecting the residents of one district but the noise is originating in another district. The service managers/team leaders of each authority will agree which authority should take the lead. However, subject to the Sharing of the Information Agreement, the case will be kept under close review by both councils.

15.6 Primary Authority – Where a complaint is received about a business with a primary authority agreement which includes noise, WDC will advise and provide information as requested.

15.7 Planning – Where a noise is being caused by an action or activity restricted by means of planning conditions, the Planning Enforcement officer will be notified, and the most effective tools and powers used.

Noise is an area of consultation for planning applications. Considerations, recommendations, and final decisions will be made in line with the National Planning Policy Framework (NPPF) and the Local Plan regarding noise from proposed development. Environmental Health are consultees on planning applications and where noise is a factor/concern.

15.8 Fireworks - Fireworks are widely used to mark public and private celebrations, as well as traditional events. Whilst adding excitement to occasions, fireworks can frighten people and animals and can cause annoyance.

The Fireworks Regulations 2004 prohibit the use of fireworks at night between 11pm and 7am in England and Wales, with extensions for the following festivals:

- Chinese New year until 1am
- Diwali until 1am
- New Years Eve until 1am
- Bonfire Night until midnight on 5 November

Firework noise is usually short in duration from any individual property, it usually only occurs on one night and it can be difficult locating the source. This makes it virtually impossible for the council to witness the noise to determine whether it is likely to cause a nuisance.

If you have your own firework display follow these simple guidelines to reduce the risk of causing a nuisance:

- give neighbours a few days' notice - particularly if they are elderly, have children or pets.
- use appropriate fireworks - when buying fireworks try to avoid really noisy ones.
- make sure pets and other animals are safely away from fireworks.
- consider timing - if you are using fireworks for a celebration, a Friday or Saturday is preferable.
- if a neighbour complains that you are disturbing them or their pets, be considerate

16. Going to court

Where cases reach the stage that court action is required it is recognised that this can often be difficult for complainants. These stages often require the complainants or witnesses to reveal their identity in court and to the alleged noise makers. WDC is committed to working with complainants to provide appropriate advice as required.

17. Support for service users

17.1 Subject to resources and/or the availability of external support, the needs of the individual, their known vulnerabilities, and the circumstances of the case, WDC will offer support to complaints and witnesses during the life of the case. WDC will also offer support for a period after a case

has been closed if, the circumstances, resources, and the individual's need and known vulnerabilities suggest that this is necessary.

17.2 While the needs of complainants and witnesses will always be given priority, WDC is aware of the positive impact that support might have on an alleged noise maker. WDC recognise that some alleged noise makers may themselves be vulnerable, disabled or suffering from an illness or condition. WDC acknowledge our responsibilities under the Equality Act 2010 and will seek to identify and offer or direct to, support for those who have protected characteristics and otherwise vulnerable alleged noise nuisance. As part of our noise nuisance process WDC will act upon any indicators of vulnerability, disability, mental illness, or addiction, which may affect the alleged noise maker's behaviour. Indicators might

include:

- Information that the alleged noise maker has a diagnosed condition, disability, or illness
- The presence of support from probation, social services, mental health team and any other statutory or voluntary support provider.
- A person's inability to read or write
- Their housing history and any links with the care system or supported housing provision
- Observing behaviour that may indicate a degree of vulnerability, disability or
- Mental illness such as hoarding, erratic behaviour, unpredictability or paranoia

18. Closing Cases

18.1 Where further engagement from a complainant is not received, for example return of nuisance diaries, the case will be closed without further contact with the complainant, this will be made clear upon initial receipt of the complaint.

18.2 Where a case can be progressed for example, satisfactory nuisance diaries/recordings are returned, cases will only be closed following contact with the complainant unless reasonable effort has been made to contact the complainant with no success. Cases may be closed without agreement; however, complainants should be advised as to how they can challenge this decision by writing to the team leader or manager, requesting a review. Any such challenges will be assessed with reference

to the full case details and an unbiased judgement of the case made and notified to the complainant within twenty-one full working days. Thereafter if individuals remain dissatisfied, they can use the council's formal complaints procedure.

18.3 WDC may close cases in circumstances where the complainant refuses to co-operate and/or engage in working with us in providing evidence of the noise nuisance or are obstructive or it has been identified they have not provided truthful information or attempt to bully officers.

19. Seeking complainants' views

Following the closure of a complaint, complainants can submit a compliment or complaint about the service they have received, via the council's website. This information will be used to improve service delivery, assess the accessibility of the services, and provide an opportunity for complainants to report dissatisfaction to a senior officer.

20. Oversight

20.1 Operational oversight of individual cases of noise nuisance will be provided by the line manager responsible for the officer in charge of that case. For the purposes of the investigation, this role will be known as 'senior investigating officer' (SIO).

20.2 Corporate oversight of noise nuisance will be discharged by the relevant Head of Service and Managers from the services of Housing and Safer Communities, Leisure and Environment.

20.3 The Environmental Health Manager and Landlord Services Manager will have responsibility for monitoring and implementing national legislative changes, case law and best practice which may stem from revised national guidance or serious case reviews.

20.4 Leadership and strategic oversight will be provided by the Chief Executive and Deputy Chief Assistant.

21. Legal framework

This document has been drafted in compliance with the following Acts:

Environmental Protection Act
Human Rights Act 1988

General Data Protection Act 20
Equality Act 2010
Housing Act 1985 (as amended)
Housing Act 1996
Crime and Disorder Act 1998
ASB, Crime and Policing Act 2014
Police Reform Act 2002
Licensing Act 2003
Housing Act 2004

22. Relevant policies/published documents

Policies/published documents which may be relevant to the application of this document

are:

- Code of Practice on Environmental Noise Control at Concerts
- Code of Practice on Noise from Ice Cream Van Chimes etc, in England 1982
- Guidance on the Control of Clay Target Shooting
- Code of Practice on Noise from Organised Off-road Motorcycle Sport 1994
- British Standard 4142: 2014 'Methods for rating and assessing industrial and commercial sound'
- British Standard 8233: 1999 'sound insulation and noise reduction for buildings'
- Warwick District Council Licensing Policy
- ASB, Crime and Policing Act including statutory guidance, WDC standards and policies.
- The Warwick District safeguarding policy
- Warwick District Councils Enforcement Policy

23. Monitoring/Review

23.1 Noise nuisance services are the responsibility of the Portfolio Holder(s) for Safer Communities, Leisure & Environment and Housing.

23.2 Monitoring of our services is provided by democratically elected members through a robust scrutiny process.

23.3 This policy will be reviewed every three years in conjunction with the relevant portfolio holders. More regular if there are legislative updates or significant organisational changes.

23.4 Future enhancements or aspirations of this policy are to expand or enhance working arrangements with the private rented sector, including Houses in Multiple Occupation (HMO). For example, setting up formal sharing of information agreements and having structured arrangements for investigating and responding to complaints across the relevant services areas and with landlords.

Appendix One

TAKING ACTION UNDER SECTION 82 ENVIRONMENTAL PROTECTION ACT 1990

If the Council advises it can't institute legal proceedings in respect of a nuisance complaint, or you do not wish to involve the local authority, you can, if you are an occupier of premises affected by a 'Statutory Nuisance', complain direct to the Magistrates' Court under section 82 of the Environmental Protection Act 1990.

The Magistrates will need to be persuaded that the problem amounts to a statutory nuisance, and so it is important that you keep a written record of the dates, times and duration of the problem, a description of its nature and the extent of the nuisance it causes you in the reasonable occupation of your premises.

Before complaining to the Magistrates, though, it is best to see if you can resolve the problem informally by writing to the person responsible, if you are unable to identify who is causing it, to the owner or occupier of the premises concerned. Your letter should say that you consider they are creating a nuisance, and that unless they stop or satisfactorily reduce the activity you feel that you will have little choice but to take your complaint to the Magistrates' Court. Make sure that the letter is dated and keep a copy. Although the law does not require you to do this, it is likely to strengthen your case if you can show that you have acted in a reasonable manner and have given the person responsible for the problem the chance to rectify the situation before resorting to legal measures.

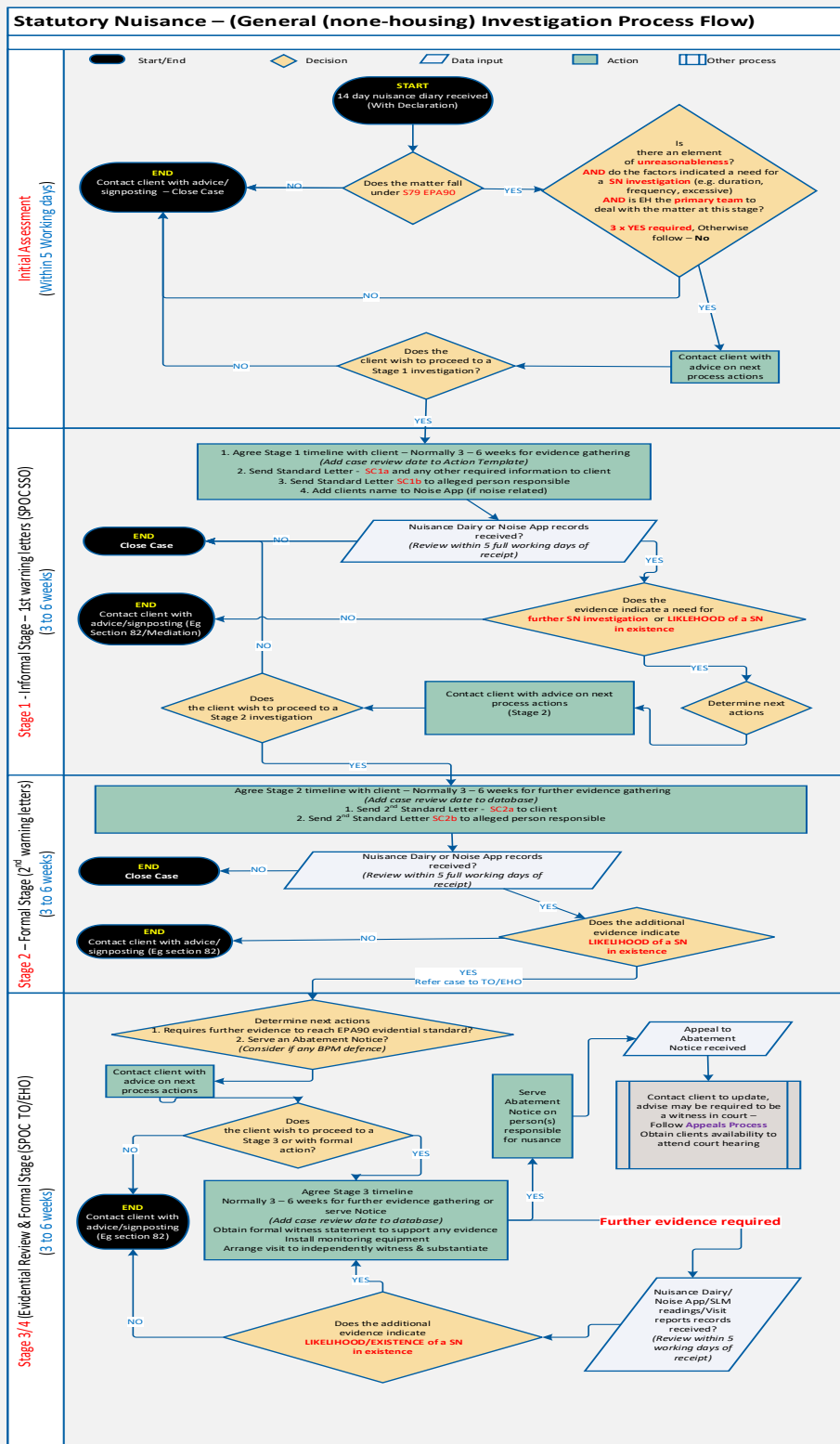
If there is still no improvement, the next step is to contact the Clerk of the Court. Tell the Clerk you wish to make a complaint under section 82 of the Environmental Protection Act 1990; the Clerk will probably make an appointment for you and will explain the procedure. You will be asked to produce evidence to show the Magistrates that you have an arguable case. If the decision is made that you have an arguable case (you do not have to prove your case at this stage), a summons will be issued and served on the person allegedly responsible for the problem, stating the date and time arranged for the court hearing. The person accused will have the opportunity to come to court to defend themselves, and to make their case.

You do not need to have a solicitor to represent you at the hearing, although you may do so if you wish. If you present your own case the Clerk of the Court will give you advice and guidance, or you can contact your local Citizens' Advice Bureau, which may be able to advise you further.

If the Magistrates decide in your favour the Court will make an order requiring the defendant to abate the nuisance and specifying whatever measures it considers necessary to achieve this. The order may also prohibit or restrict a recurrence of the nuisance, and again may specify how this is to be done.

A person who without reasonable excuse contravenes any requirements of such an order is guilty of any offence under the Act and can be fined. You should therefore continue to keep your record of occurrences up to date in case the order is being ignored and it proves necessary to return to court.

Appendix Two - Investigation Process (none housing) Flow Chart



Officers aim to acknowledge nuisance diaries or Noise App recordings within five working days (day one is the first full working day after received) and contact the complainant by email or letter or via the Noise App. However especially towards the latter's stages of an investigation, it is better to have the main case officer review any submission, if the officer is away from the office response times may need to be extended.

Appendix Three – Nuisance Diary

Nuisance Diary

Use this diary to record when and how you are affected by each nuisance

Case reference number (if known):

Person responsible for the nuisance (if known):

Investigating officer name (If known):

Your name:

Your address:

Address where the nuisance is coming from:

Your email address:

Your telephone number:

Declaration

I have completed this diary truthfully and to the best of my knowledge. I understand that this diary may be shared with relevant partners, legal representatives and agree to provide a witness statement in support of any legal proceedings which Warwick District Council may take.

Signed (Name):

Date:

Upload this diary when you need to report a nuisance problem online at www.warwickdc.gov.uk/noise, or E-mail to Pollution@warwickdc.gov.uk, or Post to Pollution Control Team, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ.

ease record the following details each time you are disturbed by the nuisance

Day and date	Time starts	Time finishes	Describe the nuisance you are experiencing	How does the nuisance affect you?
<i>Example: Sunday 17.10.21</i>	<i>17:30</i>	<i>22:00</i>	<i>Very loud music coming from my neighbour's garden, bass beat prominent in every room of my house.</i>	<i>I can't hear my own TV over the music or escape from the noise anywhere in my house. My son is unable to get to sleep.</i>
<i>Example: Thursday 1 July 2021</i>	<i>6pm</i>	<i>9pm</i>	<i>My neighbour has lit a very smoky bonfire, smoke is coming into my house, I have taken photos.</i>	<i>It's a hot day and I have had to close all my windows, my washing is ruined, there's ash all over my garden.</i>

THIS INFORMATION MAY BE USED AS EVIDENCE IN ANY COURT CASE

END