



**CHESTERFIELD**  
BOROUGH COUNCIL

# **Environmental Health Noise Policy**

**February 2020**

## **Policy statement**

Chesterfield Borough Council (the Council) has several statutory duties and discretionary powers in relation to the prevention and control of noise.

This Policy aims to help the public understand the key pieces of noise related legislation and how the Council will approach the investigation process.

The Council will undertake any enforcement action as necessary, in a reasonable, equitable and proportionate manner.

The Council's approach will be a balance between education and enforcement.

## **1. INTRODUCTION**

This Policy sets out the Council's approach when investigating noise complaints and the appropriate use of relevant legislation. The aims of this Policy are to set out

- ✓ our approach to preventing unreasonable noise occurring;
- ✓ how we will deal with situations that occur; and
- ✓ how we will work with internal and external partners to tackle noise issues.

## **2. SCOPE OF THE POLICY**

One of the functions of the Council is to act as a regulator and an enforcement agency for a range of legal duties and powers applied by Acts of Parliament and the Regulations and Orders made under them (including various byelaws). This Policy sets out our roles and responsibilities with specific regard to noise legislation, what residents/businesses can expect from us and what is expected of residents and business owners.

This document also sets out the approach to be followed by the authorised officers when making decisions in respect of the Council's compliance and enforcement activities specifically relating to noise legislation. The Council is committed to ensuring that all authorised officers will act in accordance with this Policy. This Policy is supported by the overarching 'Corporate Enforcement Policy'; a copy of this is available at <https://www.chesterfield.gov.uk/media/607926/corporate-enforcement-policy-2018.pdf>

### **2.1 The Council's Vision and Corporate Priorities**

Excessive noise can cause stress, interfere with sleep and affect people's health and quality of life and the Council is committed to protect and improve the health of people living and working in the Borough.

We make a fundamental contribution to the maintenance and improvement of public health, safety, quality of life and wellbeing. The Council's vision is "*putting our communities first*" and we aim to achieve this by our corporate priorities which are:

- ✓ To make Chesterfield a thriving borough.
- ✓ To improve the quality of life for local people.

- ✓ To provide value for money services.

The Council's ethos in everything we do is centred around the following core values:

- Customer focused – delivering great customer service, meeting customer needs.
- Can do – striving to make a difference by adopting a positive attitude.
- One council, one team – proud of what we do, working together for the greater good.
- Honesty and respect – embracing diversity and treating everyone fairly.

Priorities for our regulatory and enforcement services include protecting and promoting the health and well-being of our communities to ensure they remain safe from harm and able to live healthy life styles.

The Environmental Protection team (part of the Health & Wellbeing group) is responsible for delivering the noise service. The main aims of this service are to:

- ✓ Meet our statutory obligations to investigate complaints of statutory noise nuisance.
- ✓ Help to protect residents and the environment from excessive noise.
- ✓ Help to protect the health of residents (mental health, stress and general wellbeing).
- ✓ Contribute to safer communities and reduce anti-social behaviour.

We work alongside colleagues in Community Safety, Licensing, Planning and Housing as well as other authorities such as Derbyshire County Council, and other organisations such as Registered Social Landlords and the Police to investigate complaints.

### **3. LEGISLATION**

Noise is an inevitable consequence of a modern and vibrant society and can be described as “unwanted sound”. For some, noise is an unwanted intrusion that can adversely impact on their quality of life, affecting their health and wellbeing.

There is no right to absolute peace and quiet and people should tolerate the occasional disturbance from noise. Common sources of noise include loud music, barking dogs, construction/demolition activities and alarms on properties and vehicles.

There are several Acts and Regulations that aim to reduce and prevent noise issues causing disturbance:

#### **Environmental Protection Act 1990**

This is the key legislation relating to noise and ‘*statutory noise nuisance*’. This piece of legislation does not define a specific level of noise that is acceptable or unacceptable, nor does it give a right to silence within a property, but it does give local authorities a legal duty to investigate complaints and powers to deal with noise that is of such a level and frequency that it is deemed to be a ‘*statutory noise nuisance*’.

A '*statutory noise nuisance*' is not simply something that annoys you – it is something that causes a serious and unreasonable interference with your right to enjoy your property. We have a duty to take reasonable steps to investigate allegations and we also have to base our assessment of the issue on what the average person would find unacceptable; we cannot take into account individual sensitivities or personal circumstances related to ill health.

In determining whether a noise is a '*statutory noise nuisance*', several factors are taken into consideration including:

- Impact: how the noise affects you in your home.
- Frequency: i.e. how often does the noise occur.
- Duration of the noise: how long the noise is audible for.
- Time of day/night: audible noise at night time is more likely to impact on hours of sleep.
- Nature of the noise: whether the noise is an every day activity (e.g. using a vacuum cleaner), or if the noise is an inherent part of activity (such as noise from children playing in a school playground).
- Sensitivity of the complainant: statutory nuisance must be considered in the context of an average person, in a reasonable state of good health and having a normal pattern of everyday activity. Statutory nuisance cannot be used to make people do more than might reasonably be expected of them because someone else may be more sensitive than the average person, for example if a night-shift worker trying to sleep during the day.
- Public benefit: something might cause an inconvenience, but because it is essential to the wider public benefit it *may* be considered not to be a nuisance – for example temporary road works, harvesting of crops, sirens on emergency vehicles etc. Although best practice should be followed to minimise disturbance.
- Motive: if someone deliberately does something to cause annoyance then this could be a nuisance, for example deliberately slamming a door or banging on a wall.
- Best practicable means: only applicable to some types of statutory nuisance which occur on business premises; if a Company is doing all they reasonably can to prevent or counteract the effect of a nuisance then they will have a defence against any statutory nuisance action.

Where a local authority is satisfied that the noise gives rise to a '*statutory noise nuisance*', then it must serve an Abatement Notice on the person(s) responsible for the nuisance to effectively prohibit a recurrence. Failure to comply with the terms of an abatement notice is an offence which may result in prosecution in the magistrates' court. A successful conviction

may result in a fine (set by the Courts) and/or seizure of the noise equipment (i.e. TV, stereo etc.).

Should complainants wish to resolve the noise issue themselves without the support of the Council, action can be taken under Section 82 of the Environmental Protection Act 1990 (private action via the Magistrates Court). This process can be carried out without legal advice, but in most cases, we advise the affected party to speak to a solicitor, the Law Centre or Citizens Advice. Where this route is taken an information advice leaflet is available from the Council upon request.

### **Control of Pollution Act 1974**

This piece of legislation sets out specific requirements in the management of noise from construction sites. We work with colleagues in the Derbyshire Building Control Partnership (building control) to ensure that all demolitions are considerate of their environmental surroundings and sensitivities, especially if nearby residential properties.

### **Licensing Act 2003**

Under this legislation the Environmental Protection team is a 'responsible authority' and are consulted with regards to 'prevention of public nuisance'. We are consulted on all premises licence applications, minor variations etc. and alongside the Police we are the only responsible authority that can object to TENs (Temporary Event Notice applications).

The legislation also allows for a review of a premises licence on the grounds of 'prevention of public nuisance'. For example, the team could seek a review of a premises licence if a pub continually plays loud music and has not complied with any informal advice or formal action from environmental protection team and this could mean that their premises licence is revoked (withdrawn).

### **Anti-Social Behaviour, Crime & Policing Act 2014**

In October 2014, the Anti-Social Behaviour, Crime and Policing Act 2014 came into force and made provisions for local authorities with regards to anti-social behaviour. Noise is a form of anti-social behaviour and can extend to include noise from people (such as excessive/unreasonable swearing, shouting and noise that doesn't meet the threshold of '*statutory noise nuisance*').

If another person's behaviour is persistent, unreasonable and negatively affects the quality of life of people and there is evidence to show this, the Council can take formal action by serving a Community Protection Notice (CPN) on the or the person(s) responsible for the noise issue. In addition to this, an Anti-Social Behaviour Injunction (ASBi) may also be considered to prevent someone from causing annoyance or nuisance in a council/tenanted

property. This is also a legal tool available to Registered Social Landlords, Derbyshire Police and Community Safety team.

### **Town and Country Planning Act 1990**

The Environmental Protection team are consulted on planning applications and may make recommendations to control/minimise noise from a proposed development – these may be imposed as planning conditions should consent be granted for a planning application. Examples include specifying the hours which construction can take place for a new housing development or the maximum noise levels for air conditioning units at a business premises near residential properties.

### **Noise Act 1996**

This legislation sets out specific limits for noise between the hours of 11pm and 7am from dwellings and licensed premises.

### **The Housing Act 1985**

The Council is a 'social landlord' and under this legislation the Council's Housing team could end a tenancy where tenants have breached their tenancy agreement and/or because they have caused annoyance/disturbance/nuisance in the locality of their homes.

## **4. OUR APPROACH TO NOISE ISSUES**

### **4.1 Prevention**

Our aim is to prevent noise disturbance at the point of planning applications or premises license applications.

Where possible we will seek to resolve concerns with applicants. If this is not possible, we will seek to mitigate/reduce the noise impact by recommending the imposition of conditions to any planning consent or raising a representation in respect of a premises licence.

Officers from the team may be required to present evidence at relevant hearings or reviews.

### **4.2 Investigating complaints**

Noise complaint investigation, by its very nature, can be complex and more often than not will take time to investigate, particularly where the noise is occurring intermittently. Gathering evidence and witnessing the noise complained about are an integral part of the investigation, both the complainant and the case officer have specific roles:

#### The complainant

Complainants will be expected to give their full name and address details. We cannot investigate anonymous complaints. All information provided will be stored in accordance with current data protection regulations. Due to the legal nature of noise investigation it is not possible to investigate without knowing who is affected.

Residents are advised to try to discuss the issue with their neighbour and try to resolve the issue informally. However, if this is not successful and the complainant seeks support from the Council, we ask all complainants to complete noise diary sheets to log each incident that causes disturbance and how it affects them in their home. Not providing this information will delay the progression of an investigation and it will lead to the case file being closed if this information is not provided.

An investigation may involve visits to the complainants' property to enable officers to witness the noise complained of and/or install noise monitoring equipment. Complainants who refuse these measures may prevent their complaint being progressed further and the case being closed.

Complainants will be required to keep a written log of all incident of noise disturbance throughout the duration of the investigation.

#### The case officer

Upon receipt of completed record sheets the case officer will determine whether there is enough valid evidence/written information to progress the investigation. As part of our investigations the case officer may write and or visit the neighbour allegedly causing the noise issue.

If the case officer cannot resolve the issue informally noise monitoring will be carried out; this will be either an officer carrying out monitoring from within the complainants' property and/or providing the complainant with noise monitoring equipment. The Council does not offer a reactive service or an out of hours service. However, case officers can make themselves available on an evening or weekend to monitor noise.

We may obtain independent evidence from housing officers and/or Police officers who have witnessed the noise disturbance.

When the noise monitoring has ceased, the case officer will determine whether the noise is deemed to be a '*statutory noise nuisance*' and what the next course of action will be, which could include, issuing a formal Notice, prosecution or seizure of equipment. The case officer will keep the complainant updated throughout the duration of the investigation.

Whilst this approach will be followed in the majority of cases, the Council reserves the right to vary its actions where appropriate. For example, if a noise source is constant rather than intermittent it might be possible to make an assessment of nuisance with only one visit.

### Enforcement

When the case officer is satisfied that a significant noise disturbance or '*statutory noise nuisance*' exists or is likely to occur or recur, we will take the appropriate enforcement action and this will be in accordance with the [Council's Enforcement Policy](#).

In relation to noise, the following legal options are available:

- Service of a Statutory Notice.  
If a *statutory noise nuisance* has been found to exist we have a legal duty to serve an 'Abatement Notice'.
- Warning/Fixed Penalty Notice.  
This can be issued if noise levels exceed the permitted levels from a dwelling or licensed premise.

If the noise problem continues there are a range of options for more action:

- Issue a simple caution.  
This may be issued following the service of a Statutory Notice and the admission of guilt for low-level offences.
- Seizure of noise making equipment.  
This may occur where there has been a breach of the Abatement Notice. We have to get the approval of a local magistrate.
- Carry out works in default.  
If necessary, we will undertake work to resolve ongoing nuisance, for example from audible alarms following service of Statutory Notice. We have to get the approval of a local magistrate.
- Seek a review of the Premises Licence.  
This will be in accordance with the provisions of the Licensing Act 2003 on the grounds of prevention of public nuisance.
- Prosecution in a Magistrates Court.  
We may consider prosecution if there has been a breach of a Statutory Notice.

- Issue Community Protection Warning (CPW) and a Community Protection Notice (CPN).  
These can be issued should the noise be deemed meet the definition of anti-social behaviour and not 'statutory noise nuisance'. Failure to comply with a CPN can result in a financial penalty.
- Anti-Social Behaviour Injunction  
These are civil injunctions aimed at tackling a range of anti-social behaviour and usually require the individual to take positive action to address the behaviour.
- County Court Injunction  
This may be pursued for serious and persistent breaches of a Statutory Notice where proceedings in the Magistrates Court have failed to ensure compliance with a Statutory Notice.
- Possession Proceedings  
Where there is evidence to demonstrate that a Council tenant has breached their tenancy agreement by causing annoyance and/or noise disturbance, Council's Housing/Estates and Neighbourhoods team, can apply for a 'notice seeking possession' or eviction proceedings.
- Taking your own action  
Section 82 of the Environmental Protection Act 1990 makes provision for private individuals to take their own action in the Magistrates Court.

### Closure of investigations

We recognise that the closure of a case is significant to the complainant and will handle it in a consistent and sensitive manner. In all cases, we will send a letter or email to the complainant to close the current investigations when formal monitoring has been undertaken.

We will not send a letter or email in the following situations:

- The complaint is withdrawn.
- Diary sheets are not completed and returned within the timescales as requested.
- The complaint has been on the waiting list for noise monitoring for more than 4 weeks, but no further complaints have been received.
- Informal action has been taken and the nuisance has abated for 4 weeks.
- Formal action has been taken and the nuisance has abated for 4 weeks.
- Improper action by the complainant (e.g. proven fabrication of evidence).

- Investigation or effective action is not practical.
- Conditions of a consent, licence or permission have been complied with.

### Further investigations

The case file will not be re-opened, or the complaint re-investigated until either 6 months has passed (from when the case has closed) or there has been a significant change in the circumstances, either with the frequency, intensity or duration of the noise issue.

## **5. PARTNERSHIP WORKING**

Officers from the Environmental Protection team work in close partnership with other teams within the Council for example, Housing Services, Planning Services, Licensing team and Community Safety Partnership, as well as external agencies, to proactively investigate and manage unreasonable noise.

Other partners include Derbyshire Police, Registered Social Landlords, Action Housing, Derbyshire County Council (adult and children's services), Youth Engagement Services, Victim Services and, Derbyshire Tinnitus Association and Environment Agency.

## **6. EDUCATION and INFORMATION**

DEFRA (Department for the Environment, Food and Rural Affairs) and CIEH (Chartered Institute of Environmental Health) recognise the importance of public education on issues relating to noise.

Officers from the Environmental Protection team are involved with several initiatives with the aim of preventing and mitigating noise issues:

- ✓ We attend community events throughout the year to provide advice and guidance.
- ✓ Information is available on our website.
- ✓ Promote local and national campaigns (e.g. Noise Action Week).
- ✓ Factsheets available upon request.
- ✓ Officers are available to speak with to discuss residents' concerns.
- ✓ Work with youth groups/schools.
- ✓ Attend stakeholder meetings (e.g. Safer Neighbourhoods Team meeting).
- ✓ Present information to stakeholders and elected Members.

Where possible, prevention and education precede legal action.

## **7. COMMENTS AND COMPLAINTS**

### **7.1 Unreasonable complaints and unreasonably persistent complaints**

The Council recognises that there are a small number of individuals who make unreasonable complaints or who are unreasonably persistent complainants. This is defined

*as "those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's complaints".*

An unreasonable or unreasonably persistent complainant would normally be identified as a result of repeated and obsessive pursuit of either:

- Unreasonable complaints and/or unreasonable outcomes repeatedly requested; and  
or
- Reasonable complaints in an unreasonable manner, including abusive or threatening language and/or behaviour.

Those complaints classified as unreasonable or unreasonably persistent will be handled in accordance with the Council's policy and procedure on the management of unreasonable complaints or customers.

## **8.2 Dissatisfied complainant**

Under the Equality Act 2010 and Human Rights Act 1998 the Council will have due regard to the equalities and human rights implications of their activities and decision making while investigating complaints. We will deal with all complaints impartially and will be fair to all parties. We will not gather evidence or information that is not relevant to the investigation.

We will not disclose personal information unless it is strictly necessary (i.e. with a partner agency) and only with informed permission from the person involved.

In all cases, the Council will attempt to resolve the complaint as quickly as possible, but complainants should be aware that complicated complaints might require a considerable amount of time to investigate. For this reason, a timescale for the completion of complaints is not specified.

Should you feel dissatisfied with the service you have received or with the conduct of officers should be made via Chesterfield Borough Council's [complaints procedure](#).

## **9.3 Complaints and appeals**

All appeals in relation to enforcement action taken should be via the statutory appeals process outlined in the relevant legislation.

We value input from you to help us ensure our service is meeting your needs. We would like to hear from you whether your experience of us has been good or in need of improvement. This helps us to ensure we keep doing the right things and make changes where we need to. We are constantly looking for feedback on our services. We welcome any feedback that that will assist us in improving our services.

Whether you wish to make a comment, complaint or a compliment you are encouraged to do so by either: -

- In person:** Informing a member of our staff,  
Customer Service Centre, 85 New Square, Chesterfield, S40 1SN
- Telephone:** 01246 345345
- Text:** 07960 910 264
- By post:** Chesterfield Borough Council, Town Hall, Rose Hill, Chesterfield. S40 1LP
- Online:** [www.chesterfield.gov.uk](http://www.chesterfield.gov.uk)
- Social media:** Facebook, Twitter

We will seek to work with you in the most appropriate way to meet your individual needs. We can make information available in different formats and have access to translation and interpretation services.

## **10. SERVICE DELIVERY STANDARDS, QUALITY AND PERFORMANCE MONITORING**

### **10.1 Skills, competencies and experience of regulatory officers**

The Council will ensure that all authorised officers are equipped with the appropriate level of skills, competencies and experience commensurate with their role and responsibilities and the support necessary to undertake their job effectively and efficiently. Continuing Professional Development (CPD), qualifications, training and development to meet statutory codes of practice will always be offered.

Staff training and development will be maintained by using methods such as the Regulators Development Needs Analysis (RDNA) and Guide for Regulators Information Point (GRIP), CPD, development opportunities, appraisals, feedback, personal learning plan, mentoring/shadowing, secondment, peer review and challenge (both receiving and supporting).

### **10.2 Service and quality standards**

Chesterfield Borough Council will always strive to meet the highest standards in undertaking enforcement action. The following service standards will be applied:

- ✓ officers will clearly identify themselves and carry the appropriate ID cards and any necessary authorisations.
- ✓ Officers will be professional, courteous and helpful in their conduct, during work on enforcement issues and will work with individuals, groups and businesses to promote compliance.
- ✓ Officers will provide assistance where appropriate and advice will be given to assist in compliance before formal action is instigated, except in those circumstances where

the breach of legislation is sufficiently serious to warrant formal action or is punishable by the issuing of a fixed penalty notice.

- ✓ Fairness in appropriate cases – adequate opportunity will be given to rectify the non-compliance before formal proceedings are commenced.
- ✓ Matters relating to enforcement will be dealt with promptly.

## **11. OTHER SUPPORTING DOCUMENTS**

This Policy links with other corporate documents, including

Corporate Enforcement Policy, a copy is available here:

<https://www.chesterfield.gov.uk/media/607926/corporate-enforcement-policy-2018.pdf>

Corporate Anti-social Behaviour Policy, a copy is available here:

<https://www.chesterfield.gov.uk/media/865330/chesterfield-borough-council-anti-social-behaviour-policy-5-february-2019.pdf>

Housing Services Anti-Social Behaviour Policy, a copy is available here:

<https://www.chesterfield.gov.uk/media/865336/housing-services-anti-social-behaviour-policy-5-february-2019.pdf>

National guidance includes the Neighbourhood Noise Policies and Practice for Local Authorities – a Management Guide, a copy is available here:

<https://khub.net/documents/6197021/0/Neighbourhood+Noise+Policies+and+Practice+for+Local+Authorities+-+A+Management+Guide.pdf/4fcc80f4-23ad-4feb-a478-ebb06039bf38?version=1.0&download=true>

## **12. REVIEW OF THIS POLICY**

This Policy has regard to current legislation, centrally issued guidance and best working practice at the time of preparation.

This Policy will be reviewed every two years or in line with changes in relevant legislation, changes in centrally issued guidance or when working practices identifies working areas for procedural improvement.

### 13. POLICY DETAILS

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