



Home Office

Reform of anti-social behaviour powers

Noisy neighbours

What is the issue?

Persistent and intrusive noise can have a negative impact on neighbourhoods and an adverse effect on the health of those nearby. Local councils have historically been the main point of contact to deal with complaints of noise nuisance as they have a legal duty to do so under the Environmental Protection Act 1990.

Social landlords based their noise enforcement action on tenancy agreements and what level of noise could reasonably cause nuisance and annoyance; in exceptional circumstances, they dealt with noise issues using anti-social behaviour injunctions (ASBIs) and possession provisions. The police generally dealt with complaints about noise if it was associated with threatening or violent behaviour. Now, however, the Anti-social Behaviour, Crime and Policing Act 2014 has introduced a number of powers that the police, local authorities and social landlords can use to tackle anti-social noise swiftly and effectively.

How the new powers can be used?

Civil injunction¹: social landlords can use the civil injunction under section 2(1)(c) of Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 to deal with noise from their tenants in the same way as they have previously used ASBIs where the anti-social behaviour directly or indirectly relates to, or affects, their housing management functions. The civil injunction will allow terms to be attached to limit the level of unreasonable noise or restrict the times when the noise may be made. The local authority (not acting as a housing provider) or the police can also tackle noise in a housing context where the anti-social behaviour relates to a person's occupation of their residential premises under section 2(1)(b) of Part 1 of the Act.

Community protection notice: community protection notices can be used by the police and local authorities to deal with behaviour – including noise - that is having a persistent and detrimental effect on the community.

Public spaces protection order: These orders are designed to stop individuals or groups behaving in a public space in a way that is having, or is likely to have, a detrimental effect on the quality of life of those in the locality, is persistent or continuing nature and is unreasonable. This can include unreasonable noisy behaviour in a public place. PSPOs can be enforced by police officers, police community support officers and council officers.

Closure notice/order: This power will allow the police or council to quickly close premises which are being used, or likely to be used, to commit nuisance to the public or disorder, for up to 48 hours or, in more severe cases, up to six months. They could be used to deal with illegal raves or noisy parties where large numbers of people are present.

¹ The Civil Injunction will not commence on 20 October 2014. We expect it to come into force in January 2015 but until such time the ASBI should continue to be used.

Reasonable vs. unreasonable behaviour

Not all noise is unreasonable, even if it is causing concern to the person hearing it. For example, it is not unreasonable for babies to cry, telephones to ring, people to walk around in their flat or use their washing machines in the day. Some noise may be a consequence of poor building design or lack of sound insulation, rather than intentional anti-social behaviour by the occupant. However, if the behaviour does become unreasonable, and has a detrimental effect, of a persistent or continuing nature, on the quality of life of others, practitioners could consider enforcement action with a community protection notice.

Practitioners should manage complainant's expectations about what constitutes unreasonable anti-social behaviour, as opposed to everyday lifestyle noise. They should, however, take account of the complainant's circumstances, including vulnerability. Social landlords, in particular should, where possible, consider issues that could create potential noise conflicts (such as differences in age, family composition and lifestyle) in allocating properties.

Neighbour disputes

Noise complaints can often be the result of minor neighbour disputes which, if overlooked, can escalate into more damaging anti-social behaviour. Early intervention, especially through informal approaches, can be very successful in stopping unacceptable behaviour in these instances. This could start with an oral warning where the police, council or housing officer make clear to the individual what behaviour is causing the issue, what effect this is having on their neighbours and the potential consequences of not stopping the behaviour. Some of the most common forms of informal intervention are outlined in the Anti-social Behaviour, Crime and Policing Act statutory guidance² for frontline professionals, including warning letters, mediation, acceptable behaviour contracts or a good neighbour agreement between both parties.

It is important to be aware of the potential sensitivities involved with many neighbour disputes; for example, many complainants wish to be anonymous to their neighbour, to avoid potential victimisation and problems escalating. So it is important to consider when it may be appropriate for visibility and obvious enforcement, and when it is important to avoid the possibility of the perpetrator identifying the complainant. It is also important that local agencies work together where appropriate as each agency will bring a range of expertise, experience and relevant information to help resolve issues for victims, as well as perpetrators where this is required.

Statutory noise nuisance

Local councils have a lot of experience in dealing with noise disturbance. They have a legal duty under the Environmental Protection Act 1990 to investigate complaints about potential statutory nuisances – including noise - and to take action to remedy them if they are found to be substantiated. In deciding whether a noise problem is a statutory nuisance, environmental health practitioners will consider a number of factors, some based on many years of case law. These include:

- the level of noise (it does not necessarily have to meet a high decibel level to be a statutory nuisance – it can be a low-level but persistent noise, such as a music bass beat coming through a party wall);
- origin of the noise (it has to be emitted from premises or from a vehicle, machinery or equipment in the street);

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332839/StatutoryGuidanceFrontline.pdf

- its frequency and duration;
- the time of day or night when the noise occurs;
- whether any aggravating characteristics are present (e.g., prevailing weather conditions can affect noise);
- any particular sensitivity of the complainant (e.g., shift workers; someone with hyper-sensitive hearing); and
- the character of the neighbourhood where the noise occurs (e.g. existing background noise and the sounds typical of the area).

To amount to a statutory nuisance, a matter complained of must either be prejudicial to health or a nuisance, either public or private, at common law. Both have particular meanings in law, however, and, as the courts currently interpret it, noise is unlikely to be prejudicial to health. For a noise to be a nuisance, it must be an unacceptable interference with the personal comfort or amenity of neighbours or the nearby community.

Once an environmental health practitioner has decided that a statutory nuisance exists or is likely to occur or recur, the local authority is under a duty to serve an abatement notice which will usually include an indefinite ban on a recurrence of the noise. In the light of that, it would be inappropriate to serve a community protection notice where a noise amounts to a statutory nuisance or an abatement notice has been served in the past and the restriction is still in force.

Situations not covered by statutory nuisance legislation

Not all noise nuisances are a statutory nuisance and there are some situations where noise can occur but where the Environmental Protection Act 1990 will not apply. In particular, to be a statutory nuisance, the noise (except where due to a vehicle, machinery or equipment) must originate in a “premises” and be experienced beyond those premises. So noise made, for example, within premises which causes disturbance only inside those premises, or made by people in the street, will not be covered by statutory nuisance legislation. Some of the antisocial behaviour powers – such as community protection notices - may be applicable in these types of case.

Other noise legislation

As well as the Environmental Protection Act 1990, local councils have access to a range of legislative powers that are designed to tackle particular kinds of noise, including the Control of Pollution Act 1974 (noise from construction and engineering works and from loudspeakers, the Noise Act 1996 (noise from dwellings and licensed premises at night) and the Clean Neighbourhoods and Environment Act 2005 (noise from intruder alarms). As with the enforcement of any legislation, practitioners will need to think about what powers best suit the situation and are proportionate to the behaviour but the principle that specific controls should be applied in preference to general ones should be observed.

Partnership working

Police officers, social landlords and local council officers all have specialist skills that can be used to tackle anti-social noise and practitioners should work together to ensure they are aware of any ongoing noise problems in their areas, what action may have already been taken by the relevant agencies and to discuss what joint action could be taken, depending on the situation. This will help avoid duplication of effort and reduce the possibility that the same person is subject to different enforcement action by different agencies for the same behaviour. If not already in place, practitioners may want to consider developing simple protocols to allow for sharing information and making decisions about the best course of action to take.