FREEDOM OF INFORMATION REQUEST – 129/19

Dear Sir/Madam

Your request for information has now been considered and the information requested is provided below.

Request / Response:

1. How many statutory noise notices has your local authority served under the Environmental Protection Act 1990 in the last 5 years?

Answer:
None

2. Of those mentioned in 1. above, how many have been withdrawn and what were the reasons for the withdrawal for each notice?

Answer:
Not Applicable

3. What is the average time period between the local authority being satisfied that a statutory noise nuisance existed and the notice being served?

Answer:
As soon as is practicable.

4. Does the local authority have a policy and/or procedural document setting out the procedure for investigating a statutory noise nuisance? Please provide copies

Answer:
Yes, please see attached document.

5. Does the local authority have a policy and/or procedural document setting out the criteria for withdrawing a statutory noise nuisance? Please provide copies

Answer:
No

6. If the notice was withdrawn, would the complainant be consulted and be told why the notice was being withdrawn or explained to them?

Answer:
Yes
You are free to use any documents supplied for your own use, including for non-commercial research purposes. The documents may also be used for news reporting. However, any other type of re-use, for example by publishing the documents or issuing copies to the public will require the permission of the copyright owner, where copyright exists. Such a request would be considered separately in accordance with the relevant Re-use of Public Sector Information Regulations 2005 and is not automatic. Therefore, no permission is implied in the re-use of this information, until such a request to re-use it has been made and agreed, subject to any appropriate conditions. Any request to re-use the information should be made to me at the address below.

If you are dissatisfied with the handling of your request please contact the Data Protection Officer, Rutland County Council, Catmose, Oakham, Rutland LE15 6HP.

You can also complain to the Information Commissioner at:

The Information Commissioner's Office
Wycliffe House, Water lane
Wilmslow, Cheshire
SK9 5AF
Tel: 01625 545700

Yours faithfully

FOI Administrator
Business Support Team
Rutland County Council
Rutland County Council

Environmental Noise Enforcement Policy

1. Introduction

1.1 Noise, is defined as unwanted sound, and can have a serious detrimental effect on the quality of life of those who are affected by it. The severity and degree of this detrimental effect can vary from almost insignificant to highly intrusive sound, whereby it can dominate people’s lives. Common sources of environmental noise include noisy parties, barking dogs, loud music etc. Our primary functions are to prevent or mitigate serious or persistently unacceptable levels of environmental noise as defined and required in law. This we achieve through the enforcement of a range of legislation. Lesser levels of environmental noise, although potentially causing annoyance, would not contravene the law and therefore, would not be liable to enforcement action. In addition, we seek to inform and advise other parts of the Council to ensure that the protection of the acoustic environment of Rutland is considered in all other decision-making processes. Whilst these areas are referred to, this policy deals only with the enforcement role of the Public Protection Service (the Service).

1.2 No specific reference is made to transportation noise (including military aircraft) because in most circumstances this cannot be addressed through the legislation enforced by the Service.

1.3 The Service has the primary responsibility within the Council for regulating environmental noise.

1.4 The legislative background, which gives the Council the powers to deal with environmental noise is set out in appendix 1

2. Aims and Objectives

2.1 This policy aims to ensure, as far as possible that members of the public are not unreasonably affected by environmental noise and receive a fair and consistent level of service.

2.2 The Service has the following objectives:

a. To provide advice on the appropriate control of environmental noise. In particular, to seek to ensure that new developments are designed to minimise to a practical level, the risks of subsequent noise problems.
b. To seek to prevent serious environmental noise by the proactive assessment and control of noise sources in Rutland.

c. To take cost-effective action to investigate complaints of environmental noise and take timely and appropriate action to control or mitigate serious or persistent environmental noise, including working with other agencies when appropriate.

d. At all times to act in a fair and impartial manner.

e. To keep all relevant stakeholders informed of any significant developments in our investigations.

f. To actively liaise with and assist other agencies to provide the best overall remedy to a noise problem.

g. To seek to protect the identity and confidentiality of customers making complaints about noise.

h. To seek to protect the identity and confidentiality of persons about whom complaints have been made until and unless formal action is taken.

i. To ensure that our actions are proportionate and reasonable and do not infringe the rights of others who may be the target of malicious or unfounded complaints.

j. To ensure that all our actions and decision-making is properly recorded and transparent and that the Service is accountable.

3. **General Policy and Arrangements**

3.1 **Operational and Organisational Arrangements**

3.1.1 The Service is responsible for the delivery of this policy. The Senior Environmental Health Officer and Environmental Protection Officer are primarily responsible for dealing with environmental noise matters on a day to day basis. The team reports to the Public Protection Manager. A Customer Services Team is available to receive and relay messages. Other Officers from the Service may also become involved from time to time. The Service operates between 8:30 hours and 17:00 hours Monday to Thursday and 8:30 hours to 16:00 hours on Friday.

3.1.2 All Officers engaged in noise investigations will have suitable skills and experience in the investigation of noise complaints.
3.1.3 Outside the operational hours set out in 3.1.1 there are no officers on duty to deal with noise problems. However, in appropriate cases an investigation may be pre-planned to allow observations to be carried out at any time where we believe that there is a reasonable prospect that effective action may result.

3.1.4 The Council also has an emergency out of hour’s service, which is available 7 days a week where complaints can be logged however we will not normally respond to the majority of noise complaints, received out of hours. However we will follow up all logged complaints and will carry out appropriate investigations where deemed necessary. We will usually deal with such complaints within the time scales set out in this policy.

3.1.5 Once it is determined that an investigation is necessary, a Case Officer will be nominated who will be responsible for all aspects of the investigation. This includes organising the most appropriate type of investigation, collating all relevant information, maintaining communication with the complainant and making most decisions in respect of further action (including service of notices and applications for warrants to seize equipment). Where statutory notices are served the Public Protection Manager will check all statutory notices to be served by prior to service where practical, or where this is not practical the notices will be checked by the most senior Environmental Health Officer available.

1.0.0 All recommendations concerning possible prosecutions will be considered by the Public Protection Manager. Where the Public Protection Manager deems that prosecution is appropriate a prosecution file will be prepared for the Director of Community Services and the Head of Environmental Services to consider.

3.1.7 Where the Case Officer is absent and matters relating to an investigation cannot await the return of the Officer, the Public Protection Manager will either deal with the issue, or arrange for other Officers to become involved in the investigation. Where immediate action is warranted all Officers have delegated authority to intervene, including serving legal notices, and carrying out work in default to abate nuisances. In other cases the Officers’ role will be to collect evidence and report these to the Case Officer for action.

3.1.8 Officers will be available during office hours to attend closed meetings with complainants to discuss the progress of a case on appointment only. Officers will not attend public meetings to discuss individual cases where personal complaints are made, under any circumstances. Officers will be available to attend meetings with complainants to deal with general noise issues.
3.1.9 The Public Protection Manager will, with the Case Officer review progress on all cases that have remained unresolved after 3 months to determine what further action is necessary.

1.0.0 Where a Councillor makes an enquiry about a current case, this will be passed to the Public Protection Manager, who will review action on the case with the Case Officer. The response will be drafted by the Case Officer and approved by the Public Protection Manager.

3.1.11 Where a customer wishes to make a formal complaint about the Service received they will be informed that their complaint will be dealt with in accordance with the Council’s Corporate Complaints Procedure

3.2 Pro-active Regulation

3.2.1 Whilst much of our work will involve responding to complaints from the public, we also have an important responsibility to carry out pro-active regulation to protect the amenity of residents. In particular, we will carry out proactive inspections, and take all necessary actions in the following circumstances:

a. To control construction or demolition noise where there is a very high likelihood of noise nuisance occurring.

b. To control noise from planned events with a potential to cause significant disturbance.

c. To assist the Planning Department in assessing, and controlling the impact of noise from or affecting proposed developments.

3.3 Requests for Advice & Guidance

3.3.1 The Service makes a distinction between complaints about noise for which the customer is seeking our involvement to try to resolve the matter, and enquiries where the customer has a more general concern but does not wish for our intervention. It is important that this distinction is made because some of our customers are concerned about the potential repercussions that may follow from our involvement. Often a customer will first want advice on the different ways in which their noise problem may be resolved. They may then wish to try to resolve matters themselves, before actively involving our Service. On receipt of a new enquiry, all administrative officers will ascertain whether a customer is requesting our direct intervention or simply seeking advice.

1.0.0 Occasionally we receive requests to log complaints but not to investigate. We consider that it is unreasonable to log information of
this sort without being given the opportunity to investigate. Furthermore, this practice does not assist in resolving the problem. Where we believe that we are not being afforded a proper opportunity to investigate a complaint as a result of such calls, we will close the investigation.

3.3.3 In the case of a request for advice we will log the request and provide the best advice that we can initially by telephone and if appropriate, followed up in writing if that is requested. We will then close the case. We will NOT take any action to report the matter to any other agency and we will not investigate the complaint.

3.4 Complaints about Noise

3.4.1 Much of our work in regulating noise is in response to complaints. This is particularly the case for noise from domestic premises.

3.4.2 We will accept complaints about noise only where the following applies:

a. The name and address of the complainant is provided. We will not accept complaints from anonymous callers. We will not accept complaints on behalf of third parties except in exceptional circumstances (e.g. complaints on behalf of elderly or vulnerable persons or via Councillors or other Agencies). In these cases we will seek to verify that the person concerned does wish the Service to pursue the matter before we take any action.

b. The complainant is located within the administrative boundary of Rutland County Council. In cases where those who reside in another authority but are affected by noise emanating in Rutland, arrangements will be made between the authorities whereby appropriate arrangements will be made for the investigation of the complaint.

c. A contact telephone number is provided. We will not release telephone details to any third party. If the customer does not have a telephone we will accept a complaint and seek to identify other means of investigating the complaint and maintaining contact.

d. A description of the type of noise is provided and in our opinion the Service has the statutory powers to deal with the issue. If this is unclear at the time the complaint is made we will take details and subsequently advise the complainant whether we can investigate as soon as practicable. Where we cannot investigate we will advise the complainant of any alternative methods for resolving the problem.
e. The location from which the noise is arising and if possible the person responsible is identified. Where the source is uncertain, we will accept the complaint provided that enough information and assistance is provided by the complainant to give the Service a reasonable chance of identifying the source of the noise. We will accept complaints relating to noise arising from the activities of either Rutland County Council or its contractors.

3.4.3 Complaints are accepted on the basis that we will investigate the matter in accordance with this policy and in line with good practice and take all necessary action to resolve. To carry out an investigation we will expect reasonable assistance from the complainant such as the satisfactory completion of records and access to their premises at appropriate times to witness the noise impact. Where this is not forthcoming we may decide to close an investigation.

3.5 Methods of Investigation

3.5.1 There are some general principles that are common to all investigations these are set out below. Specific approaches for different types of noise are set out in Appendix 2. All cases are different and Case Officers are encouraged to be innovative in identifying the most appropriate method for dealing with a particular case.

3.5.2 When we investigate cases of noise nuisance we will act impartially. We will treat complaints as allegations until such time as we are satisfied that they are verified by investigation. We do not act for complainants, but on behalf of Rutland County Council under statutory duties placed upon the Council. Consequently, the Service will make all decisions concerning the conduct of an investigation, and the appropriateness of any action that follows. We will however, usually consult with complainants particularly over the method of investigation.

3.5.3 We will choose a method of investigation that is both cost effective and best suited to the type of case involved. We will try to be as flexible as possible, and discuss any particular needs with the complainant.

1.0.0 Upon receipt of record sheets from the complainant that appear to indicate a problem is occurring the case officer will make reasonable efforts to contact the person(s) responsible for the noise and make a visit. A visit will also be made to the complainant to assess the situation and discuss the contents of the record sheet and inform them of future investigations. Every effort will be made to resolve the complaint through informal means.
3.6 Outcomes from Investigations

3.6.1 This policy has been written in accordance with the principles set out in the Service’s General Enforcement Policy, and the Council’s Enforcement Concordat, which has been adopted by the Council. A number of possible action are available (dependant upon the relevant legislation) these include;

a. **Written advice.** This will usually be the first response to a complaint of recurring nuisance and will be sent before the investigation is carried out. This is because we believe that it is important to give an alleged noise producer an early opportunity to take remedial action or to respond to the allegation before we commence observations. *However, we consider it inappropriate to write to the alleged noise offender more than once concerning a particular issue until we are satisfied that the complaint is justified.* We will therefore take care to ensure that where complaints are received from several complainants or a closed case is re-opened that we do not write each time to the alleged noise producer unless there are good grounds for doing so.

b. **Verbal request for action / warning.** This may occur after an investigation concludes that it is necessary for some intervention from the Service but that formal action would be excessive. This type of informal approach will be used often as a first approach to attempt to remedy a noise problem occurring at night.

c. **Written request for action / warning.** This approach may follow an investigation where we are satisfied that some action is required to prevent further noise problems which may require formal action, but that formal action is at present unjustified.

d. **Service of a Statutory Notice.** There is a statutory duty to serve an Abatement Notice where a nuisance exists or is likely to occur or recur. The test of nuisance requires consideration of how unreasonable the action causing disturbance is. We will therefore, usually only serve an Abatement Notice after informal verbal or written attempts to resolve nuisance have failed. The exception will be where either we cannot locate the person responsible for the noise or the noise is so serious that immediate formal action is proportionate.

e. **Arrange to carry out work in default to remedy a nuisance.** This can only occur where an Abatement Notice has been served and has not been complied with. Typically, we will use these powers to stop vehicle or premises alarms sounding, or to seize noise-making equipment. When we serve an Abatement Notice
in respect of amplified music we will always warn the recipient that we will consider using our seizure powers where the noise nuisance recurs.

f. **Prosecution for failure to comply with a Statutory Notice.** The Service may decide to forward appropriate cases to Legal Services for the instigation of a prosecution. Except in exceptional circumstances we will not take proceedings where a notice is more than two years old. Whether or not we decide to take proceedings for a contravention of a notice, we will always write to the offender to advise of the contravention. In all cases the decision to instigate a prosecution will be taken in accordance with the Service’s General Enforcement Policy.

g. **Application for forfeiture orders.** These applications can be made in respect of seized equipment allowing the authority to retain and destroy seized equipment. In all cases where equipment has been seized consideration will be given to applying for a forfeiture order.

h. **Provision of evidence to other Agencies / Departments.** Where other Departments / Agencies are able and prepared to take action in respect of the matter under investigation, we will co-operate and actively engage with these organisations to assist in resolving the noise problem. This may include providing evidence to those bodies to assist them in such action.

i. **Application for a High Court Injunction.** This route will only be considered where we form the view that action through the Magistrates Court will not be effective. Usually, this will only be considered in the most extreme cases where several successful prosecutions have failed to stop the nuisance.

i. **Closure of investigation.** Where we consider that we have either resolved the noise problem so far as is possible or completed all reasonable lines of enquiry and failed to substantiate the complaint we will close the investigation. We will not re-open such cases unless we are satisfied that circumstances have changed significantly.

3.7 **Communication with the Complainant**

3.7.1 **Communication with the complainant is extremely important.** Complaints about service delivery often occur due to a failure to keep a customer properly informed of progress.

3.7.2 We will make contact with a complainant on each of the following occasions:
a. Following receipt of a complaint either in writing or by telephone, within 2 working days of receipt of a complaint. We will also advise the party against whom the complaint is made within the same time scale.

b. Following any message left by telephone call as soon as possible.

c. Following every letter sent to the Service within 5 working days (excluding weekends and bank holidays).

d. To advise of the outcome of any visits made in response to reports of incidents by the complainant. This may be communicated verbally at the time of the visit, but in any case within 2 working days of the visit being made.

e. To advise of any significant developments in the investigation. This may include: written warnings, service of notices, commencement of legal proceedings, outcome of legal proceedings, seizure of noise making equipment, closure of the case.

3.8. Liaison with the Housing Service

3.8.1 Where a council tenant makes a domestic noise or animal noise complaint, Rutland County Council has a joint role as both an enforcing authority for statutory nuisance and a landlord. It is important that good communications are maintained between both the Housing and the Service.

3.8.2 Where the complaint is an urgent domestic noise complaint we will deal with the case as set out in Appendix 2. We will not communicate directly with the Housing Service unless we need to take formal action (i.e. serve an Abatement Notice, prosecute or use our default powers).

3.8.3 Where the complaint concerns a recurring domestic noise case or animal noise we will always refer details of the complaint to the relevant Housing Officer. We will copy all correspondence received or sent to the relevant Housing Officer for information.

3.8.4 Housing Officers and Public Protection Officers will liaise during the conduct of an investigation, and in particular when any new evidence comes to light. Officers from both Services will co-operate in providing evidence to support any formal actions taken by either Service. We will liaise with the Housing Officer after each occasion where we believe formal action is necessary. Where possible, action between both Services will be co-ordinated to ensure maximum effectiveness. Generally it is accepted that statutory nuisance legislation provides the best means for the initial formal response to
recurring noise nuisance problems. Where prosecution or seizure of equipment fails to provide an adequate remedy for nuisance we will expect the Housing Service to take a lead role in taking possession proceedings. Where noise constitutes only part of a range of anti-social behaviour, we will expect the Housing Service to take the lead role. However, we will take parallel statutory nuisance action where we believe this can assist in the resolution of part of the problem.

3.8.5 Where we decide to close a case we will inform the Housing Officer.

3.9 When Rutland County Council is responsible for the noise

3.9.1 There is still a duty on the Council to investigate complaints where Rutland County Council may be responsible for the noise. However, the Service cannot take any formal action against the Council. We will however, try to assist in resolving the matter.

3.9.2 Where we become aware that the Council may be responsible for causing noise that a member of the public has complained about we will advise the relevant part of the Council of the complaint in writing. We will also advise the complainant at this point, of the person to whom the complaint has been referred and we will point out that whilst we will investigate the matter we are unable to take enforcement action. We will also advise the complainant of their right to take private action under Section 82 of the Environmental Protection Act 1990.

1.0.0 Where we are satisfied after investigation that a nuisance is being caused we will advise both the Head of the relevant Service and the complainant in writing. We will also identify wherever possible the appropriate remedial action that should be taken in our opinion. If this is unclear we may recommend that an acoustic consultant be approached.

2.0.0 We will close the case once the results of our investigation have been completed. However, we will seek to respond to any reasonable requests for further advice or assistance from the responsible Service.

4. Monitoring and Review

4.1. Two types of monitoring will take place:

a. The Public Protection Manager will monitor implementation of this policy on an ad hoc basis as cases come to their attention.

b. The Head of Environmental Services and the Public Protection Manager will review a sample of cases on an annual basis.
4.2 Compliance with this policy will be a material consideration in respect of the validity of any complaints against service delivery.

4.3 This policy will be reviewed no later than 6 months after implementation to assess and rectify any problems and re-address any resource issues.

4.4 Thereafter this policy will be reviewed whenever a significant change becomes necessary or at least every two years.

4.5 This policy will be published on the Rutland County Councils web site and made available on request to members of the public.
Relevant Documents

1. Enforcement Policy for Rutland County Council
8. The Enforcement Concordat
Appendix 1

Legislative Background

Statutory Nuisance (Part III of the Environmental Protection Act 1990)

This is the most important legislation available to the local authority for dealing with environmental noise.

1. It applies generically to any noise arising either from premises or from vehicles, machinery or equipment in the street (except traffic noise) where the noise is likely to materially affect the use of neighbouring premises. Noise nuisance has no precise definition. Whether a particular set of circumstances amounts to a nuisance will depend upon a range of factors including, but not limited to, the time of day, level of noise, character of noise, character of the location, reasonableness, frequency of occurrence, and the presence of malicious behaviour. Noise nuisance does not rely upon the excedance of a maximum noise level. For noise to amount to a statutory nuisance it must normally cause more than occasional disturbance. However, a single event if sufficiently serious could amount to a nuisance.

2. To ensure the social/cultural vitality of Rutland, the Council recognises the need to show tolerance towards certain cultural activities, or events, enjoyed by the public at large, which may give rise to noise levels that under normal circumstances may be regarded as a nuisance. An example of these are New Years Eve, carnival, village fete, Jubilee celebrations, or a school's end of year ball or disco. The Authority will during its deliberations carefully balance the wider public benefit of the event against the level of disturbance caused.

3. Rutland County Council has a duty to inspect Rutland to detect statutory nuisances.

4. Where we establish a statutory nuisance we are required to serve an Abatement Notice on the person responsible for the nuisance or the owner or occupier of the premises.

5. The Notice may either simply require a nuisance to stop and not recur or it may require specific steps or works to be undertaken in order to reduce the noise level to an acceptable level.

6. A recipient of an Abatement Notice may appeal to the Magistrates Court within 21 days of receipt. Where an appeal is made this may suspend further action by the local authority until the appeal is determined.
7. A failure to comply with a Abatement Notice is a criminal offence subject to a fine of up to £5,000 for a domestic premises and £20,000 for a commercial or industrial activity.

8. A person failing to comply with an Abatement Notice may seek to rely upon one of two available defences for a failure to comply with a notice. Thus, even if it is established that a noise nuisance was caused in contravention of an Abatement Notice, proceedings will fail:
   a. Where it can be demonstrated that there was a reasonable excuse for failing to comply with the notice.
   b. In the case of industrial or commercial noise, where it can be shown that best practicable means are already being taken to minimise noise.

9. Rutland County Council may prosecute the recipient of an Abatement Notice where they fail to comply with the Notice. The decision to prosecute will be determined in consultation with the Council’s Head of Legal Services on the basis of both the prospects for successful conviction and considerations of public interest. The decision will be made with reference to the principles set out in the Service’s general enforcement policy.

10. Rutland County Council may also carry out steps or works to abate a nuisance where there has been a failure to comply with an Abatement Notice. This can include for example, disconnecting alarms, seizing equipment or modifying plant and equipment. We can recover any reasonable costs incurred.

11. On certain strategically important infrastructure projects like essential work on major road/rail schemes work may have to be undertaken at weekends, bank holidays or night-time to prevent severe disruption such activities would normally have if undertaken in the day. When such activities are proposed the Authority will attempt to reduce the level of disturbance to nearby property, although it may be impossible to prevent disturbance.

**Control of Loudspeakers in the Street**

1. Generally, it is an offence to operate a loudspeaker in any street under the following circumstances:
   a. between 21:00 hours and 8:00 hours for any purpose
   b. at any time for the purposes of advertising any entertainment, trade or business.
2. A number of exemptions to the above apply including, where the speaker is operated by the emergency services, political activity, as part of a pleasure fair and where the speaker is attached to a vehicle operating between 12:00 hours and 19:00 hours for the purposes of selling perishable commodities.

Night Noise Offence

1. This is adoptive legislation that authorities may choose to apply to their area. Due to the low incidence of such complaints within Rutland it is not cost effective to provide this service at present. The need for this service will be periodically reviewed in the light of evidence that the need for such a service exists.

Other Powers
(Planning Building Control, Housing, Environment Agency, Licensing)

1. Other proactive controls over noise emission are available to local authorities using various powers exercised by other Services. These tend to focus more on preventing noise problems occurring rather than resolving existing problems. The most important controls are listed below:

   a. Control over the location, design, and operation of new noise producing or noise sensitive development through the planning process. Proper consideration of these issues is the most effective method for ensuring good noise control for new developments. Planning Officers often consult with the Service in respect of such developments.

   b. Rutland County Council has adopted noise guidance standards for noise sensitive developments. These can be obtained from the Council’s Development Control Service.

   c. Control over the provision of satisfactory sound insulation for domestic properties is available under the Building Regulations. Building Control Officers inspect new developments to ensure that adequate insulation is provided in new properties.

   d. Certain types of activities require licences from the authority. The most important licences are public entertainment licences required for public events involving music or dancing. Licensing Officers consult with the Service in respect of such applications. These licences will be superseded in 2005 by Premises Licences issued under the Licensing Act 2003, which require consultation with Public Protection Officers on applications, and include requirements to control public nuisance including noise from licensed premises. Where licence conditions are not being properly
managed, these can be addressed through the Review process set out in the Licensing Act 2003.

e. The authority is a major landlord and can exercise controls over noise produced by its tenants through tenancy agreements. The Housing Department has procedures for dealing with noisy tenants, which run in parallel with statutory nuisance.

f. Other parts of the authority that either carry out work, commission contractors or exercise control over landholdings may impose controls over noise emission from such activities. We encourage such Departments to consult with the Service in respect of such matters.
Appendix 2

1. Specific Types of Noise Emission

1.1 Residential Noise Nuisance

1.1.1 Domestic noise nuisance includes any noise (except intruder or vehicle alarms or animal noise) arising from within any occupied residential curtilage that affects the occupier of a neighbouring property. We will only seek to intervene in these cases where we receive a complaint from an affected neighbour. These types of complaint form the majority of our cases.

1.1.2 Rutland County Council aims to provide a cost-effective service for the investigation and resolution of domestic noise nuisance complaints. We do not provide an immediate response to all complaints at all times. Rather we aim to target our responses. We focus our actions on the resolution of urgent and recurring noise nuisances.

1.1.3 On receipt of a noise complaint we will send out an information pack and diary sheet to the complainant. The complainant will be asked to complete the diary sheet over a representative period (usually a minimum of two weeks) and return it to the Case Officer. At the same time we will send out an information letter to the occupier of the premises where it is alleged the nuisance is caused. We believe that it is important to advise that person of the nature of the complaint before we begin our investigation so that they may take immediate remedial action if they consider it appropriate or otherwise respond to the Case Officer. We will endeavour to make special arrangements where we believe either party may have difficulty understanding or writing English.

1.1.4 When we receive the diary sheet back the Case Officer will review the contents. The Case Officer will then consult with the complainant on the best form of investigation. If the Case Officer considers in their professional opinion, that the records show that the noise is trivial and unlikely to constitute nuisance the case will be closed and the complainant advised of the reasons why an investigation will not take place.

1.1.5 Where an investigation is appropriate the case officer will attempt to corroborate the evidence and make an assessment, in light of all the evidence gathered, whether, a nuisance exists or not. In some cases, where it is appropriate, the complainant will be asked to call the office number whenever an incident occurs to enable an officer to witness the noise. We will aim to visit the site as soon, as is practical upon receipt of a complaint. Throughout the course of an investigation of recurring nuisance we expect to be able to witness the noise on a
sufficient number of occasions to judge whether nuisance is being caused.

1.1.6 In other cases the case officer may make pro-active visits in order to establish whether a nuisance exists or not. These visits will be undertaken in response to information supplied by the complainant that the alleged noise nuisance shows a predictable pattern of noise episodes. A minimum of three visits will normally be made within a 28 day period, although this may be longer depending on the nature of the noise complaint and investigation, in order to establish whether a nuisance exists or not.

1.1.7 Where a record sheet(s) is not returned or completed to a satisfactory level we will ask the complainant to make an additional appropriate record. In cases where the complainant has difficulties in completing the record sheets appropriate alternatives will be made in order to investigate the complaint.

1.1.8 Where we are satisfied that unreasonable disturbance is being caused we will, provided it is safe to do so, seek to intervene immediately to secure an abatement of the nuisance. In such cases we will always take follow up action in the form of a warning letter or Abatement Notice (where it was not appropriate to serve at the time of intervention) as appropriate.

1.1.9 Where an Abatement Notice is contravened we will consider in all cases whether prosecution is appropriate.

1.1.10 We will normally close all cases where:

a. The complainant advises that the problem has been resolved to their satisfaction.

b. We have not received any calls from the complainant at the time of the alleged incident (or subsequent reports made outside our normal working hours) for a period of 28 days.

c. We have made three re-active visits and have failed to substantiate that nuisance has been caused.

d. We are satisfied from our visits that we cannot take effective action under our statutory powers.

e. We are satisfied that the noise complained about does not amount to nuisance.

f. We consider that the complainant is unreasonably obstructing our investigation. For example, by unreasonably refusing access to their premises to assess nuisance, or by failing to complete record sheets in a satisfactory manner.
g. We consider that the complainant poses an unacceptable safety risk to our officers.

1.0.0 The decision to close a case will be made by the Case Officer where 1.1.10 a to e apply and in the case of 1.1.11 f and g, the Public Protection Manager or in their absence the Head of Environmental Services.

1.1.12 We will write to the complainant in all cases to advise of the reasons for closure. Closed cases will not be re-opened unless the Case Officer is satisfied that circumstances have changed significantly.

1.2 **Residential Noise Nuisance - Seizure of Noise Making Equipment**

1.2.1 We have powers to seize noise-making equipment where we have served an Abatement Notice and we consider it necessary to abate or prevent a recurrence of a nuisance.

1.2.2 To exercise this power we must first obtain a warrant from a Magistrate to enter the premises where nuisance has arisen. We consider that it is only proportionate to exercise this power in the following circumstances:

   a. Nuisance is continual and there is no prospect of it being abated despite making reasonable efforts to get the occupier to abate the nuisance.

   b. In the case of recurring nuisance, where we have commenced or taken proceedings in respect of at least one contravention of Abatement Notice and we are satisfied that a second contravention has occurred.

   c. We have reliable information that serious and widespread noise nuisance is likely to occur unless we intervene.

   d. A person, who could be considered vulnerable, is causing nuisance and we consider it inappropriate to prosecute.

   In the circumstances set out in 1.2.2b we will only seize equipment where we have given written warning that such action will be taken in respect of further contraventions.

1.2.3 Seizure of equipment will only be carried out in the daytime where we have sufficient staff available and have secured Police assistance. We will not attempt to seize equipment where we consider this will pose an unacceptable risk to our staff or on advice from the Police, will give rise to significant public disorder.
1.2.4 We will seek to seize all components of any equipment that we believe was or could reasonably be expected to be used to cause nuisance. In the case of a music system, this will include all parts of the system including speakers and software such as CDs or cassette tapes. We will so far as practicable, inspect all seized items, place them in a sealed bag for transportation to secure storage and leave a receipt at the address together with a copy of the warrant and an explanatory letter. Where it has been necessary to change the locks of the main entranceway we will leave instructions on how to collect the new keys on the front door. We will require proof of occupation before returning the keys.

1.2.5 In all circumstance except 1.2.2d we will also make application for a forfeiture order to retain and destroy the seized equipment unless we are satisfied that the equipment was not used with the owners permission and will not be used to cause further nuisance.

1.2.6 In the circumstances set out in 1.2.2d we will liaise with any agency or person responsible for the care of the owner before determining the most appropriate action. We will also consider whether it is practicable to modify seized equipment to prevent it being used to cause nuisance before return.

1.2.7 We will write to the person that we believe owns or had possession of the equipment to advise them of the date of any application for a Forfeiture Order.

1.3 Residential Noise Nuisance - Sound Insulation Between Domestic Premises.

1.3.1 The proceeding sections have focussed on noise arising from unreasonable behaviour by one party in a dispute. Building Regulations control the level of insulation provided between new and converted properties. These controls do not apply retrospectively to older housing stock. Controls over converted properties for example have only applied since the late 1980’s.

1.3.2 When we consider a domestic noise nuisance complaint and it is clear that the property has poor insulation, we must consider carefully whether the noise disturbance is arising from unreasonable behaviour. In these cases the balance between the rights of the noise producing person and the noise sensitive person must be carefully considered. In practice, this will mean that there is an expectation of some level of extra care being taken by the noise producer whilst also an acceptance by the noise receiver that the standard of acoustic privacy will be less than would exist if the insulation were better.
1.3.3 Historically, authorities have used the statutory nuisance provisions to require owners of properties to improve insulation where it is believed that significant noise disturbance is being caused not by unreasonable behaviour but simply as a result of very poor sound insulation. This type of approach has largely been closed to local authorities as a result of the Baxter v Mills case which was appealed to the House of Lords. This concluded that ‘nuisance’ as defined by law could not exist where there was no element of unreasonable behaviour present. In exceptional circumstances where it could be shown that noise was prejudicial to health there may in theory be a possibility of action. However, this has not been tested in the Courts.

1.3.4 In most circumstances Rutland County Council will not take action to improve insulation between domestic properties using statutory nuisance provisions. However we will treat each case on its merits. Where the level of noise can be shown to be extreme, frequent, the level of insulation is extremely poor and medical evidence can be secured we will take advice of the prospect of success before proceeding with such a case.

1.4 Animal Noise

1.4.2 Noise from animals is only likely to amount to a statutory nuisance where it is recurring.

1.4.3 On receipt of a complaint concerning animal noise we will carry out the following actions:

a. Write to the person whom it is alleged has control of the noisy animal. This will allow the owner an early opportunity to comment on the allegation or take measures to reduce any noise from the animal.

b. Write to the person complaining about the noise. We will ask the complainant to log each event of noise, which they find significantly interferes with their use of their property for a period of at least two weeks. This information will allow the Council to gauge the success of our informal approach; assist in our preliminary assessment of the persistence of the noise problem; plan the best method of corroborating the allegations; and provide the complainant with a basis for making contemporaneously notes to assist in any future legal proceedings.
1.4.4 On receipt of a returned record sheet, the Case Officer will review the information and judge whether the noise appears sufficiently persistent that it may amount to a nuisance. In particular, the officer will consider whether late night noise occurs, how frequently the noise occurs, and the duration of such events. Where we conclude that the record sheet suggest that a statutory nuisance is unlikely we will close the case.

1.4.5 Where we consider that an investigation is necessary we will contact the complainant to agree the best method of investigation. This will usually involve a proactive investigation unless it appears that events last for a substantial time. We will also ask the complainant to continue keeping a record.

1.4.6 If on completion of our investigation we consider that a statutory nuisance exists we will seek a meeting with the keeper of the offending animal to agree the method for abating the nuisance. Usually we will also serve an Abatement Notice.

1.4.7 Where we are unable to resolve the nuisance by issue of an Abatement Notice we will consider taking action for a breach of the notice only where evidence is available that noise is generated on a number of occasions. In practice a case that is supported by evidence from the complainant is particularly useful for these types of cases. We will seek to encourage complainants to participate by providing effective evidence wherever possible.

1.4.8 The legislation concerning our powers to take direct work in default action to abate a nuisance is not clear regarding the seizure of animals. We do not consider it reasonable or practicable to attempt to use these powers in these circumstances.

1.0.0 We will normally close a case under any of the following circumstances:

a. If a completed diary sheet is not returned within 28 days of a complaint being registered.

b. Where we are not satisfied that the information supplied in the diary sheet suggests that a statutory nuisance may exist.

c. We have made at least three re-active visits in receipt of reports of nuisance and have failed to substantiate that nuisance has been caused.

d. We have carried out a proactive investigation involving at least five visits and have failed to substantiate that nuisance has been caused.
e. We are satisfied from our visits that we cannot take effective action under our statutory powers.

f. We are satisfied that the noise complained about does not amount to nuisance.

g. We consider that the complainant is unreasonably obstructing or inhibiting our investigation. For example, by unreasonably refusing access to their premises to assess nuisance or failing to keep diary sheets.

h. We consider that the complainant poses an unacceptable safety risk to our officers.

i. We consider that prosecution is the only means of resolving the case and the complainant is unwilling or unable to provide evidence.

j. The complainant advises that the problem has been resolved to their satisfaction.

k. We are satisfied that no further action is possible.

1.4.10 Closed cases will not normally be re-opened within 6 months unless the Case Officer is satisfied that circumstances have changed significantly.

1.4.11 In addition to carrying out our statutory investigation we will liaise with the Housing Service and RSPCA in appropriate cases, where we believe those agencies either have an interest or may be able to provide a better long term remedy.

1.5 **Audible Intruder Alarms**

1.5.1 Audible intruder alarms giving rise to noise complaints are classified as urgent. They often give rise to significant annoyance over a relatively short period of time. Disturbance can be most significant when the alarm is allowed to ring throughout the night.

1.5.2 Where we receive a complaint of an alarm, we will first notify the Police and provide them with an opportunity to investigate should they deem it necessary. We will also request that they search for key-holders and notify them of the problem.

1.5.3 Where we are unable to secure a satisfactory resolution either because key-holders are not listed or are unable to respond within 1 hour of notification we will investigate the complaint.
1.5.4 The first stage will be to visit the site and establish whether nuisance is being caused. If so, an Abatement Notice will be served at the premises requiring the noise to stop within 1 hour. During this period we will make reasonable efforts to locate the occupier and ask them to abate the nuisance. This will include contacting any available neighbours and following up any leads that are apparent.

1.5.5 If the nuisance is not abated we will seek to disconnect the alarm, working with contractors, from the outside of the property wherever possible. Where that is not possible we will seek a warrant from the Court to enter and disable the alarm from the inside. In this case we will take reasonable steps to re-secure the premises. Where it has been necessary to change the locks of the main entranceway we will leave instructions on how to collect the new keys on the front door. The Police will also be notified of any works that we have carried out and where appropriate advised where the new keys will be kept. We will require proof of occupation before returning the keys.

1.5.6 The cost for all works including officer time, will be recharged to the occupier. We will also advise the occupier to notify the police of suitable key holders and ensure that a twenty-minute cut out device is fitted.

1.5.7 Our aim will be to ensure the abatement of the nuisance from an alarm during the working day.

1.5.8 Normally, we will not consider prosecution to be appropriate in such cases. However, where we are satisfied that recurring nuisance is being caused we may:

a. Serve an additional Abatement Notice requiring the fitting of a cut out device and the notification of key-holders.

b. Consider prosecution for repeat failures to abate a nuisance following receipt of an Abatement Notice.

1.6 Vehicle Alarms

1.6.1 Vehicle alarms giving rise to noise complaints are classified as urgent. This type of alarm tends to ring for a short period of time and then reset. If the alarm keeps triggering it can give rise to significant annoyance over a relatively short period of time. Disturbance can be most significant when the alarm is allowed to ring throughout the night.

1.6.2 Where we receive a complaint of a vehicle alarm, we will first notify the police and provide them with an opportunity to investigate should they deem it necessary. We will also request that they search the Police national computer for the registered keeper.
1.6.3 The first stage of our investigation will be to visit the site and establish whether nuisance is being caused. If so, an Abatement Notice will be served by attachment to the vehicle. This will require abatement within 1 hour. During this period we will make reasonable efforts to locate the driver and ask them to abate the nuisance. This will include contacting any available neighbours and following up any leads that are apparent.

1.6.4 If the nuisance is not abated we will seek with contractors, to either disconnect the alarm or tow the vehicle away to secure storage. In most circumstances we will tow the vehicle to a place of safe storage. The police will also be notified of any works that we have carried out. If the vehicle is moved, we will advise the police how the driver may recover the vehicle. The cost for all works including officer time will be recharged to the registered keeper of the vehicle.

1.0.0 Our aim will be to ensure the abatement of the nuisance from an alarm during the working day.

1.6.6 Normally, we will not consider prosecution to be appropriate in such cases. However where we are satisfied that recurring nuisance is being caused we may consider prosecution for repeat failures to abate a nuisance.

1.7 **Entertainment Noise from Pubs and Clubs**

1.7.1 The Service is consulted in respect of all licences. We will assess in each case the risk of significant disturbance from both amplified music and clientele leaving the premises and advise on whether approval should be given and any conditions that should be applied. The Service will work closely with the Licensing Officer in respect of any subsequent noise problems arising from such premises.

1.7.2 Where complaints of amplified music classified as urgent are received we will seek to visit to assess and if appropriate seek an immediate resolution.

1.7.3 Where complaints about recurring nuisance are received we will usually seek to investigate these pro-actively. This will usually involve early discussion with the licensee where advice on appropriate noise control will be given. The programme of forthcoming events will also be established at this meeting.

1.7.4 The Case Officer will consult with the complainant and arrange to carry out monitoring of selected events to establish whether the noise produced is giving rise to nuisance. The complainant will also be asked to complete record sheets.
1.7.5 Where we are satisfied that nuisance is being caused we will take a view on whether best practicable means have already been taken before service of any Abatement Notices. This may well result in a period of discussion with the licensee. Where we consider that it is possible to abate a nuisance by reducing the volume, we will normally serve a simple Abatement Notice. If we are satisfied that the current sound insulation is unsatisfactory for the type of entertainment taking place and it is practicable to improve it substantially we may require such improvements to be taken.

1.7.6 Sound limiting devices can be useful in assisting the management of a venue in the control of amplified music. Such devices can be overridden, are less effective when the character of amplified music changes, or doors and windows are opened. Therefore, whilst we may encourage their use in certain circumstances, they will not in isolation provide a suitable remedy for nuisance. However we will not accept any responsibility for the setting, management or maintenance of such devices, although we will advise if the level of control achieved at a particular time is deemed acceptable.

1.7.7 The Service cannot deal with clientele noise where it arises beyond the curtilage of the premises. However, clientele noise from the premises may constitute a statutory nuisance. We will however, take full account of the character of the location and in particular any lawful uses, which have been sanctioned through the grant of planning permission or entertainment licences. Action will only follow where we are both satisfied that nuisance is caused and those practicable measures are possible to control such noise.

1.8 Industrial/Commercial Noise

1.8.1 Industrial and commercial noise can give rise to annoyance where sufficient care has not been taken to separate these uses from residential and other sensitive uses. Some degree of control can be achieved by engineering and administrative measures (such as insulating noisy plant and restricting unloading times).

1.8.2 The Planning and Development Division consults with us regarding new developments. We aim to ensure that proper consideration is given to noise control at this stage.

1.8.3 Complaints about industrial and commercial noise can include concerns over plant noise, open yard activities, vehicle movements, unloading/loading activities, amplified music, and human voices. It is not possible to set a single framework under which these types of complaints will be investigated.
1.8.4 In the first instance we will consult with the complainant to identify the precise noise that is of concern and its pattern of occurrence. This may involve using record sheets. We will also establish whether there are any relevant planning conditions.

1.0.0 In the majority of cases we will seek to pro-actively investigate industrial / commercial noise complaints. This is because activities from industrial and commercial premises are by their nature much more predictable.

1.8.6 Before service of Abatement Notices we will take a view on whether best practicable means are being taken. This will in all but the simplest of cases involve discussion with the business.