

ENVIRONMENTAL HEALTH – NOISE TEAM & OUT OF HOURS SERVICE

Purpose of report

1. To provide Members with a briefing on the work of the Council's 'Noise Team' and the out of hours service that they provide across Cardiff.

Background

2. The Noise & Air Team within the Pollution Control Division of Regulatory & Supporting Services is a team consisting of nine daytime officers and two night time officers.
3. It is a busy frontline service that investigated over 3500 complaints of noise nuisance from Cardiff residents in 2011. It deals with complaints made against both residential and commercial premises. A summary of total noise complaints received on an annual basis since 2008 has been attached as **Appendix 1**. In addition to this a breakdown of complaints on a ward by ward basis for 2011/12 has been attached as **Appendix 2**.
4. The Noise & Air Team is also responsible for the discharge of statutory functions relating to air quality, environmental permitting and providing Pollution Control comments on planning and licensing applications. Key areas of work for the team include:
 - Planning consultees;
 - Statutory consultees for Licensing;
 - Air quality management;
 - Environmental permits;
 - Noise Complaints – domestic, commercial and industrial.
5. The team works to a number of different pieces of legislation, these including:
 - Environmental Protection Act 1990;
 - Control of Pollution Act 1974;

- Noise & Statutory Nuisance Act 1993;
 - Noise Act 1996.
6. The Environmental Protection Act 1990 deals with noise emitted from a premises that is seen to be prejudicial to health or that could cause a nuisance. Section 80 of this Act places a duty on the Council to investigate such instances and where appropriate take action.
 7. The test to establish whether a noise is a statutory nuisance is undertaken by a qualified Officer through the application of a test of reasonableness which has been clarified by case law. Noise is deemed as excessive if it materially interferes with the enjoyment or use of someone's land or property. Many factors need to be taken into account in the assessment, including the frequency, duration and level of the noise. Case law has established that the test as to whether a noise constitutes a statutory nuisance is a rigorous one and must demonstrate that the noise is both unreasonable and excessive rather than just causing mere annoyance.
 8. Once it has been established that the noise is a nuisance the Council has a range of enforcement powers that it can use. Examples include serving an 'Abatement Notice' on the owner occupier / tenant and taking legal proceedings against individuals if they fail to comply with the 'Abatement Notice'. Once legal proceedings have taken place the Council can be authorised to seize equipment or remove the source of noise / prevent it from working.
 9. In 2008 the Noise Pollution team was allocated £104,000 through the budget to establish an out of hours noise service which could respond immediately to complaints at peak hours during the week and weekend. The main reasons for doing this included:
 - Increasing customer satisfaction with the service;
 - To reduce the time it takes to establish nuisance;
 - To take necessary action at the time of the offence to stop nuisance;
 - To target areas with particular problems;
 - To improve joint working with partners, for example, Police and housing associations.

10. The out of hours team has been fully operational since August 2008 and is available to respond at peak times between Thursday and Sunday, which, analysis of data has established, is the busiest period for noise complaints. Call handling outside normal working hours is undertaken by the Community Alarm Service (CAS) who forward service requests to Officers working from a base at City Hall. The hours of operation for the out of hours team are:
- Thursday – 7pm to 2am;
 - Friday – 7pm to 4am;
 - Saturday – 7pm to 4am;
 - Sunday – 7pm to 12am.
11. The establishment of a new reactive night time noise service was the first of its kind in Wales and was designed to deliver significant improvements in both the speed and effectiveness of service delivery to the customer. A summary of noise complaint calls received between June 1st and September 30th 2012 by the out of hours noise team has been attached as **Appendix 3**.

Way Forward

12. Councillor Ashley Govier Cabinet Member for the Environment has been invited to attend for this item. At the meeting officers representing Regulatory & Supporting Services will be in attendance to deliver a presentation and answer Members' questions.
13. Members may wish to consider whether there are any issues or comments on this item which they would like to pass on to the Cabinet. Members may also wish to consider if there is any additional work that the Committee needs to undertake.

Legal Implications

14. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations.

All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

15. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

The Committee is recommended to:

1. Take account of the information received at the meeting;
2. Report any comments to the Cabinet for their consideration;
3. Decide if further scrutiny on this matter is required.

Mike Davies

Head of Scrutiny, Performance & Improvement

24th October 2012

Noise Complaint Data – 2008 to 2011

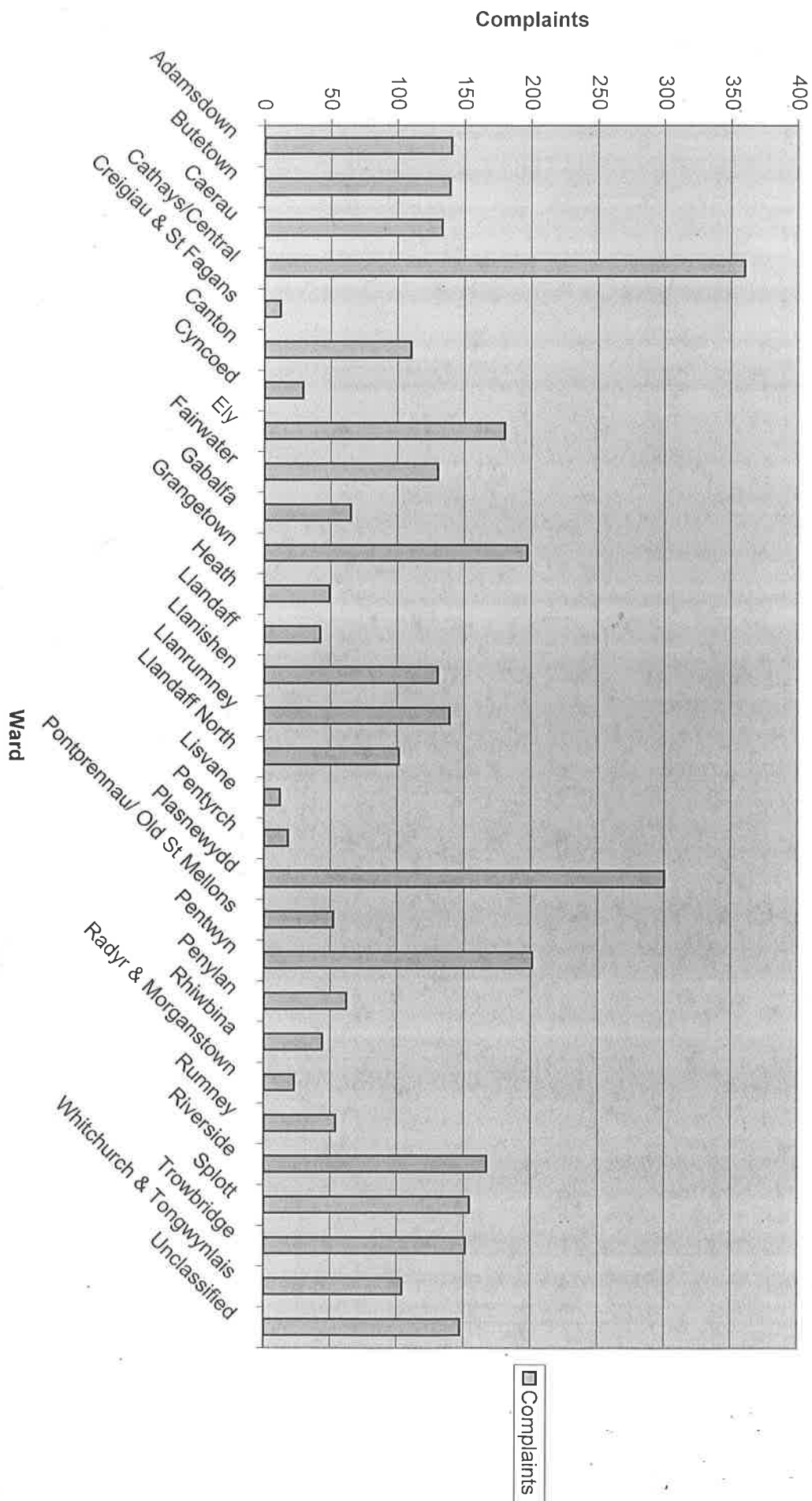
Total number of noise complaints received:

- 2008 : 3139
- 2009 : 3714
- 2010 : 3692
- 2011 : 3550

Total number of notices served:

- 2008 : 183
- 2009 : 257
- 2010 : 208
- 2011 : 112

Noise Complaints 2011/12



Ward	Noise Complaints
Adamsdown	140
Butetown	139
Caerau	133
Cathays/Central	360
Creigiau & St Fagans	12
Canton	110
Cyncoed	29
Ely	180
Fairwater	130
Gabalfa	65
Grangetown	197
Heath	49
Llandaff	42
Llanishen	130
Llanrumney	139
Llandaff North	101
Lisvane	12
Pentyrch	18
Plasnewydd	300
Pontprennau/ Old St Mellons	52
Pentwyn	201
Penylan	62
Rhiwbina	44
Radyr & Morganstown	23
Rumney	54
Riverside	167
Splott	154
Trowbridge	151
Whitchurch & Tongwynlais	104
Unclassified	147

Appendix 3

Number of noise complaint calls made outside officer hours from June - September 2012

Times of day	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
00:00 - 08:00	58	70	53	60	79	180	227
08:00 - 17:00						205	159
17:00-00:00	137	168	213	198	274	316	238