

13 Oct 2021

COMMITTEE BRIEFING – NOISY NEIGHBOURS

Purpose of the Report

1. To provide Committee Members with a briefing on the process for noise complaints deriving from private, domestic settings.

2. When considering the Committee's Work Programme for 2021/22, Members requested to receive a briefing on the process for noise complaints which derive from private, domestic settings, with a particular focus on;
 - The different types of noise complaints received by the Shared Regulatory Service.
 - Step-by-step insight into the process for a member of the public who wishes to make a noise complaint against a private domestic setting.
 - Clarity on the different outcomes for noise complaints.
 - Assess the efficiency of the process and possible areas for improvement.
 - Insight into the 'noise policy' currently being developed by Shared Regulatory Services.

Background – Shared Regulatory Services

3. Shared Regulatory Services (SRS) is a collaborative service formed between Bridgend, Cardiff and the Vale of Glamorgan Councils on 1st May 2015. It delivers a fully integrated service under a single management structure for trading

standards, environmental health and licensing functions. The service receives shared governance arrangements across all three authorities ensuring full elected member involvement.

4. SRS provides a diverse range of services across the three local authorities and serves over 600,000 residents. Their services include:

- Food hygiene and standards,
- Promoting and maintaining a fair-trading environment,
- Animal health & welfare,
- Communicable diseases,
- Housing safety (private sector / private landlords),
- Noise pollution

Members will note the above list is not exhaustive and is intended to provide Members with a snapshot of services offered by SRS.

5. The SRS model of delivery sees the above services (and others) delivered across three delivery sectors known as:

- **Neighbourhood Services** – *which deals with activity relating to residential premises or having an impact on the local community.*
- **Commercial Services** - *which deals with activity relating to business Premises.*
- **Enterprise and Specialist Services** - *which comprises a number of specialist areas of work and income generating services*

What is a statutory noise nuisance?

6. For a noise complaint to count as a statutory nuisance it must do one of the following:

- Unreasonably and substantially interfere with the use or enjoyment of a home or other premises,
- Injure health or be likely to injure health¹.

¹ [Noise nuisances: how councils deal with complaints - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints) Accessed 5th October 2021.

7. If the Local Authority decides that a statutory noise nuisance is occurring, an Abatement Notice will be served - this requires whoever's responsible to stop or restrict the noise. An Abatement Notice is usually served against a person responsible, however, it can also be served on the owner or occupier of the premises.
8. If the individual does not comply with an Abatement Notice they can be prosecuted and fined. Councils can also take further action to stop or restrict the nuisance by:
 - Carrying out works and making the person served the notice pay for the works (this can include seizure and confiscation of equipment).
 - Applying to the High Court for an injunction².

Legislation

9. The Environmental Protection Act 1990 (EPA) specifies eleven categories of statutory nuisance including "noise". Under the Environmental Protection Act 1990, Local Authorities have a duty to deal with any noise or vibration that they consider to be a "statutory nuisance". Further information on the EPA in relation to noise complaints can be found in **Appendix A**.
10. If the Local Authority deems that a statutory noise nuisance is not present, section 82 of the EPA allows the individual to take their complaint directly to a Magistrates' Court.³

Making a noise complaint

11. The SRS investigates domestic noise complaints about issues such as amplified music, DIY activities, house and car alarms, barking dogs, and construction sites. One of the main routes for a member of the public to report a noise nuisance is through the [SRS website](#).

² [Statutory nuisances: how councils deal with complaints - GOV.UK \(www.gov.uk\)](#) Accessed 5th Oct 2021.

³ [WG23198 Sound Advice on Noise \(gov.wales\)](#) Accessed 5th Oct 2021, page 8.

12. 2020-21 saw a significant increase in users to the SRS website, with 72,271 recorded together with 203,431 page views. An increase of 25,806 and 63,738 respectively from 2019/20. With the [Noise and Air Pollution web pages](#) consistently receiving the most page views⁴.
13. As set out in **Appendix A**, 2020 saw an increase in the number of noise complaints received from domestic settings which is largely attributed to lockdown arrangements. The [Shared Regulatory Services Business Plan 2021-22](#) noted this as an opportunity for greater partnership working between SRS and the Police in addressing noise problems (due to the Police often being the first point of contact for receiving complaints). Further information on collaborative working between SRS and the police can be found in **Appendix A**.
14. When a noise complaint is received by SRS, an environmental health officer will determine whether a statutory nuisance exists. The officer will determine this usually through the complainant's noise diary or through the 'noise app'.
15. Prior to the pandemic, SRS introduced a noise app to assist in dealing with noise complaints. This app can be downloaded by those making a complaint to enable them to record short bursts of the disturbance and submit to the service to determine if a nuisance has occurred. **Appendix A** and the [Shared Regulatory Services Business Plan 2021-22](#), notes the app has proved an effective tool in the monitoring of noise disturbances, allowing complaints to be triaged, and reducing the need for officers to visit homes to monitor disturbances; particularly under recent Covid-19 restrictions.
16. Usually, the officer will try to resolve the issue informally through mediation with the individual responsible for the noise. If this fails and the officer is satisfied that a statutory nuisance exists an Abatement Notice will be served. The notice may

⁴ [SRS Business Plan \(valeofglamorgan.gov.uk\)](#) Accessed 5th Oct 2021, pages 67-68.

require the noise to be stopped completely, reduced, or limited to certain times of the day. A person who has received an Abatement Notice can appeal against it to the Magistrates' Court, provided they do so within 21 days.

17. If a person fails to comply with an Abatement Notice without reasonable excuse, they have committed an offence and can be fined up to £5,000. A further fine of up to £500 per day can also be imposed if the offence continues after conviction⁵.
18. Local Authorities are allowed, subject to certain conditions, to gain entry into premises in order to act on a statutory noise nuisance. They can also gain access to or remove vehicles, machinery or noise-making equipment that is causing a statutory nuisance by creating too much noise and breaching an Abatement Notice⁶.
19. In cases where the Local Authority considers the serving of an Abatement Notice to be inappropriate or insufficient to address a noise problem, it may choose to exercise one of the other powers available including⁷:
 - Noise Act 1996 (*gives Local Authorities powers to take away noisemaking equipment*)
 - Injunctions
 - Community Protection Notice (*for noise that affects a community's quality of life*)

It is to note the above examples of additional Local Authority powers do not solely relate to noise complaints which derive from domestic settings and can only be used in relation to certain types of noise deriving from certain settings.

Way Forward

20. The Cabinet Members for Housing & Communities and Clean Streets & Environment will be in attendance at the meeting, supported by officers from

⁵ [Statutory nuisances: how councils deal with complaints - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/statutory-nuisances-how-councils-deal-with-complaints) Accessed 5th Oct 2021.

⁶ [WG23198 Sound Advice on Noise \(gov.wales\)](https://gov.wales/guidance/wg23198-sound-advice-on-noise) Accessed 5th October 2021

⁷ [WG23198 Sound Advice on Noise \(gov.wales\)](https://gov.wales/guidance/wg23198-sound-advice-on-noise) Accessed 5th October 2021, pages 11-14.

Shared Regulatory Services. Officers in attendance will provide Committee Members with a presentation providing a short overview of the briefing note attached at **Appendix A**.

Scope of the Scrutiny

21. During this scrutiny, Members will have the opportunity to explore:

- a. The different types of noise complaints deriving from domestic settings.
- b. The process for a member of the public who wishes to make a noise complaint against a private, domestic setting – for example its ease of access, timeliness for a resolution and its efficiency.
- c. Public awareness of the process and its accessibility.
- d. Partnership work between SRS and other responsible bodies
- e. The ‘noise policy’ currently being developed by Shared Regulatory Services, including its objectives and next steps.

Legal Implications

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 of 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 on 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

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.

RECOMMENDATION

Members are recommended to:

- i) Consider the information in this report, its appendix and the information provided during the meeting and
- ii) Determine whether they would like to make any comments, observations or recommendations to assist in the development of the noise policy.

DAVINA FIORE

Director, Governance & Legal Services

7 October 2021