

Shared Regulatory Services – Noise Service update, CASSC September 2021

Scope of report: This report will focus upon:

- Domestic noise complaints, i.e., complaints by residents about noise arising from other residential settings.
- The processes in place for investigating alleged statutory noise nuisance.
- How the overlap in provision of service by Shared Regulatory Services and Cardiff Council (Landlord Services) in relation to noise and ASB are managed when noise arises from Cardiff Council tenants.

1. Introduction

The Noise Service is delivered by the Neighbourhood Services (Team 2) within Shared Regulatory Services (SRS). The team is responsible for a range of pollution control services across Cardiff and Vale of Glamorgan Council areas.

Long-term the team's preventative work is undertaken:

- By working with the Local Planning Authority for example, commenting upon planning applications.
- As a 'responsible authority' under the Licensing Act 2003, by commenting upon premises licence applications and applying for a review of a licence when licensing objectives are not upheld - notably the "prevention of public nuisance".
- Via the Events Liaison Panel, by providing advice on appropriate measures to reduce disturbance to local residents during large-scale events.
- Via the Environmental Permitting Regime to control emissions from prescribed industrial process.
- Via our Student Liaison Officer (SLO) who works with the cities' three Universities on the Student Community Plan and other partners and networks to ensure the impact of students on the city is a positive one.
- By discharging the Council's duty to investigate statutory noise nuisance complaints.

The greatest demand on the team arises from pollution complaints including noise from domestic, commercial and industrial sources. This report however is focused on noise from domestic settings. The team also delivers the:

- **Cardiff Night Time Noise Service** during peak periods of demand at weekends. This provides an opportunity to assess and gather evidence at a time when noise is most likely to occur.

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- **SRS Emergency Out of Hours Duty Officer** function which can help to gather evidence to progress noise cases.

2. Resources

The team consists of 01 Team Manager, 6.5 FTE qualified Environmental Health Officers, 0.5 FTE Technical Officers, 0.5 FTE Technical Assistant, and 2 specialist officers delivering other discrete functions (Student Liaison Officer and Specialist Environmental Permitting officer). The SLO is part funded by each of the three University's and Cardiff Council.

A limited amount of noise recording equipment connected to specialist noise meters is available for investigations. However whenever possible, noise is assessed by officers present at the time when the noise is occurring (which is not always possible). SRS uses a NoiseApp facility to allow complainants to record noise when they are being disturbed. This facility has proven very useful during the pandemic lockdowns when officers were prohibited from visiting domestic dwellings. To use the NoiseApp residents have to register a complaint and then given access for a limited period - usually two weeks.

3. Relevant legislation for SRS in investigating alleged statutory noise nuisance

The **Environmental Protection Act 1990** (EPA) specifies eleven categories of statutory nuisance including "noise". Local Authorities have a duty to investigate statutory nuisance complaints. Action under this act can be taken when a statutory noise nuisance is "occurring, likely to recur, or, likely to occur". There is a duty to serve an abatement notice when a statutory nuisance is established.

SRS can also take action in default, i.e., take action to abate the nuisance on behalf of the person responsible/ owner of premises for the nuisance and recharge for costs incurred. This can include, in the extreme cases, seizure of noise making equipment. Wherever possible officer will engage with those causing a nuisance so that they are able to amend their behaviour before taking enforcement action.

It should be noted that EPA does not provide specific decibel levels that constitute a statutory noise nuisance. Officers will use their professional judgment in assessing statutory noise nuisance. Officers undertake a subjective assessment considering factors including the volume of the noise, duration, time of day, frequency of the noise and character of location. A judgment of "reasonableness" will also be applied.

SRS are generally unable to assist with noise complaints where the source is:

Children playing - e.g. in a garden, public space.

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Domestic noise - unless unreasonably loud or at unreasonable times day-to-day (lawn mowing, hedge trimming, washing machines, vacuuming)

Everyday living - (footsteps, light switches being turned on / off, general talking, doors closing/banging, pressing door buzzes, toilet flushing, babies crying, moving furniture, rowdy behaviour in stairwells/communal areas).

Rowdy behaviour outside in the street (public order offences) - this is a police matter and can be reported to South Wales Police.

Other categories of noise that SRS are unable to deal with is listed on SRS website.¹

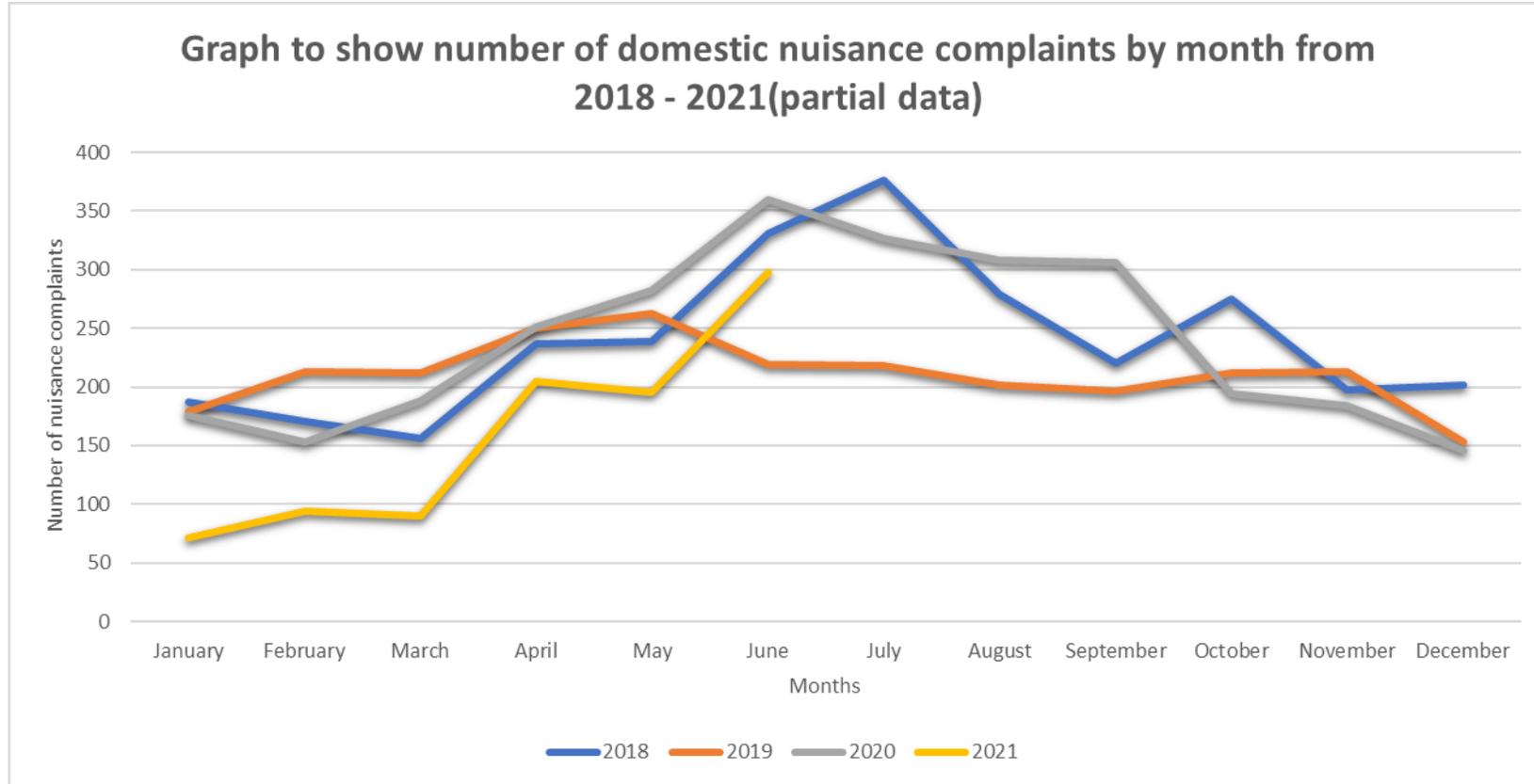
The Act enables individuals to take their own independent action to potentially resolve their noise issues. This option may arise or be advised, in circumstances where SRS has undertaken a reasonable investigation but cannot substantiate a statutory noise nuisance.

¹ <https://www.srs.wales/Documents/Pollution/Noise/Noise-the-Council-is-Unable-to-Assist-With-ENG.pdf>

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4. Demands on service relating to domestic nuisance complaints

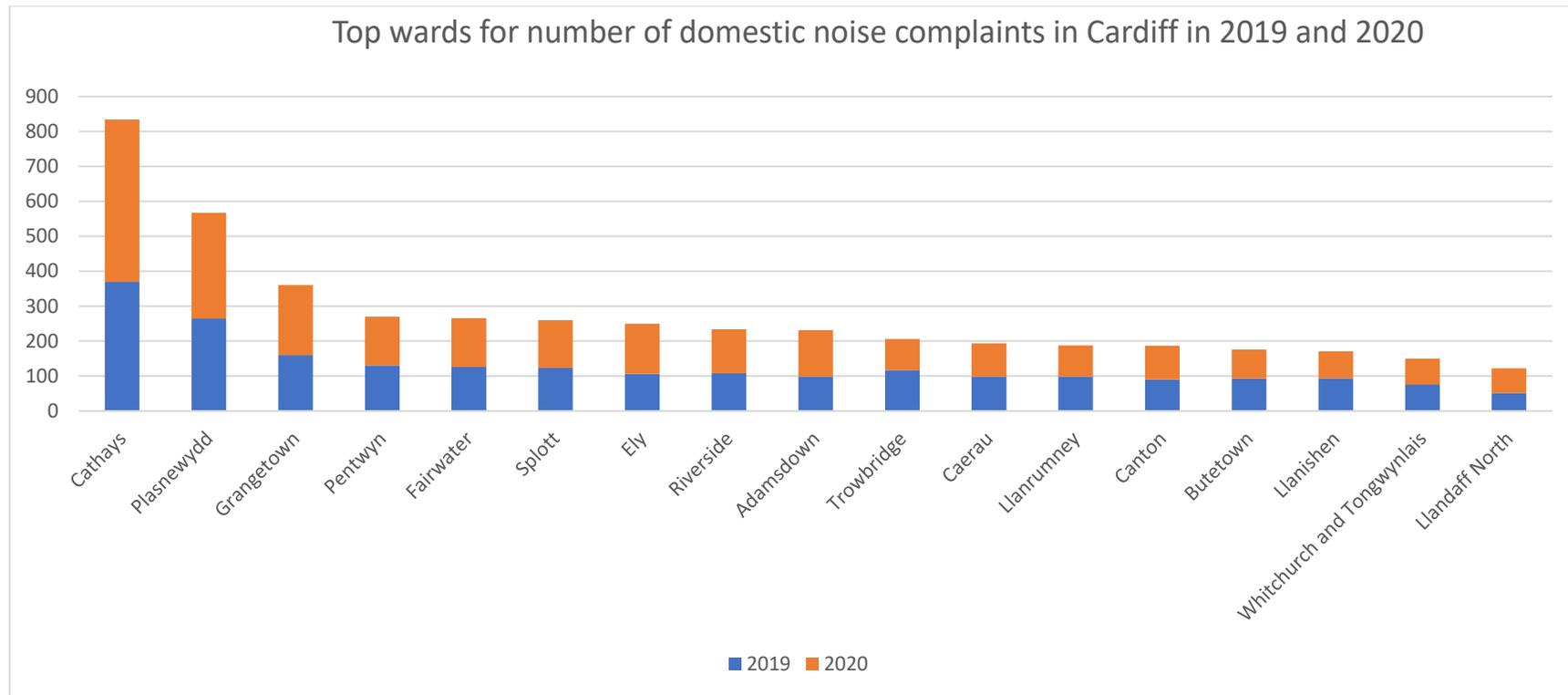
Graph 1



Graph 1 highlights the seasonal increase in demand between April and October with a significant increase in demand between 2019 and 2020.

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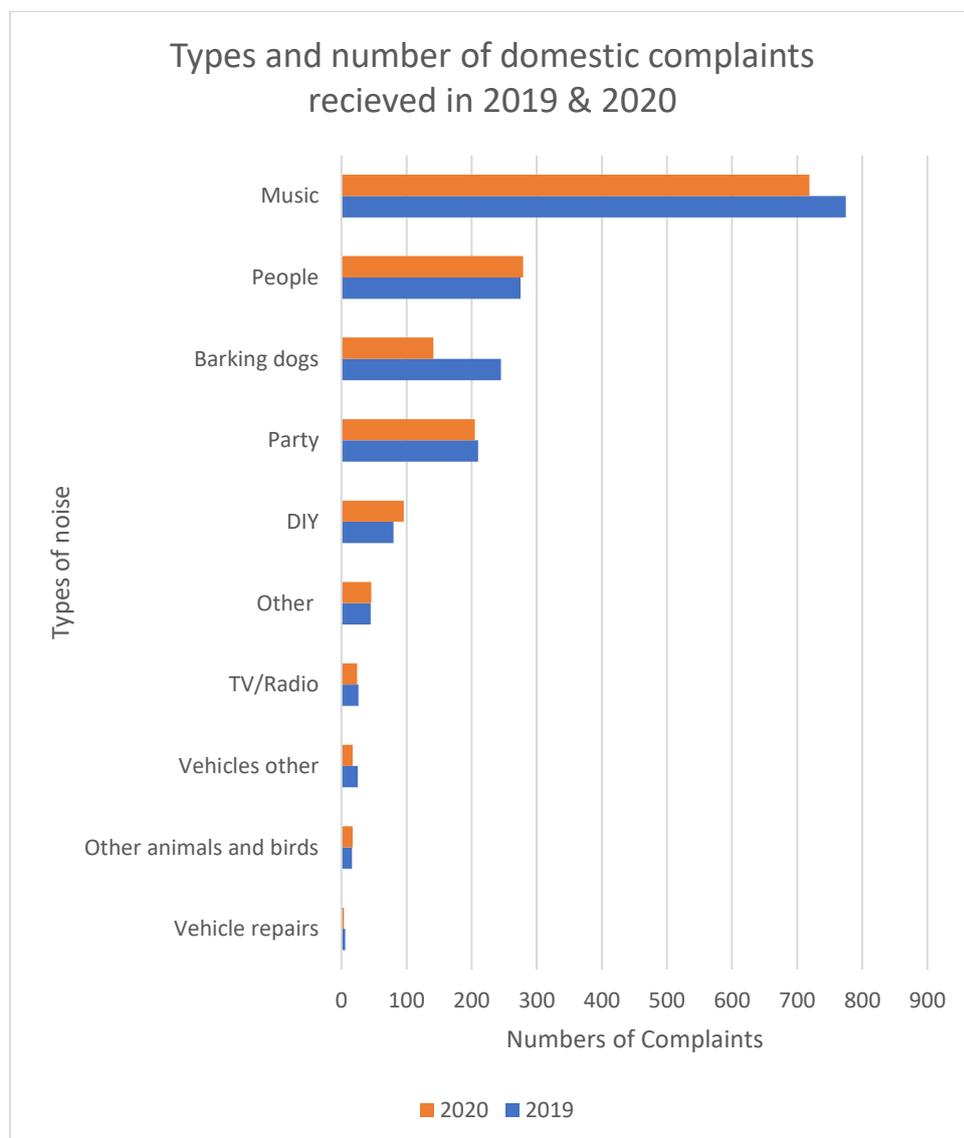
Graph 2.



Graph 2 shows that the demand on service is highest in Cardiff within Cathays and Plasnewydd wards. These two wards also have high concentration of Houses in Multiple Occupation (HMO) and students.

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Graph 4



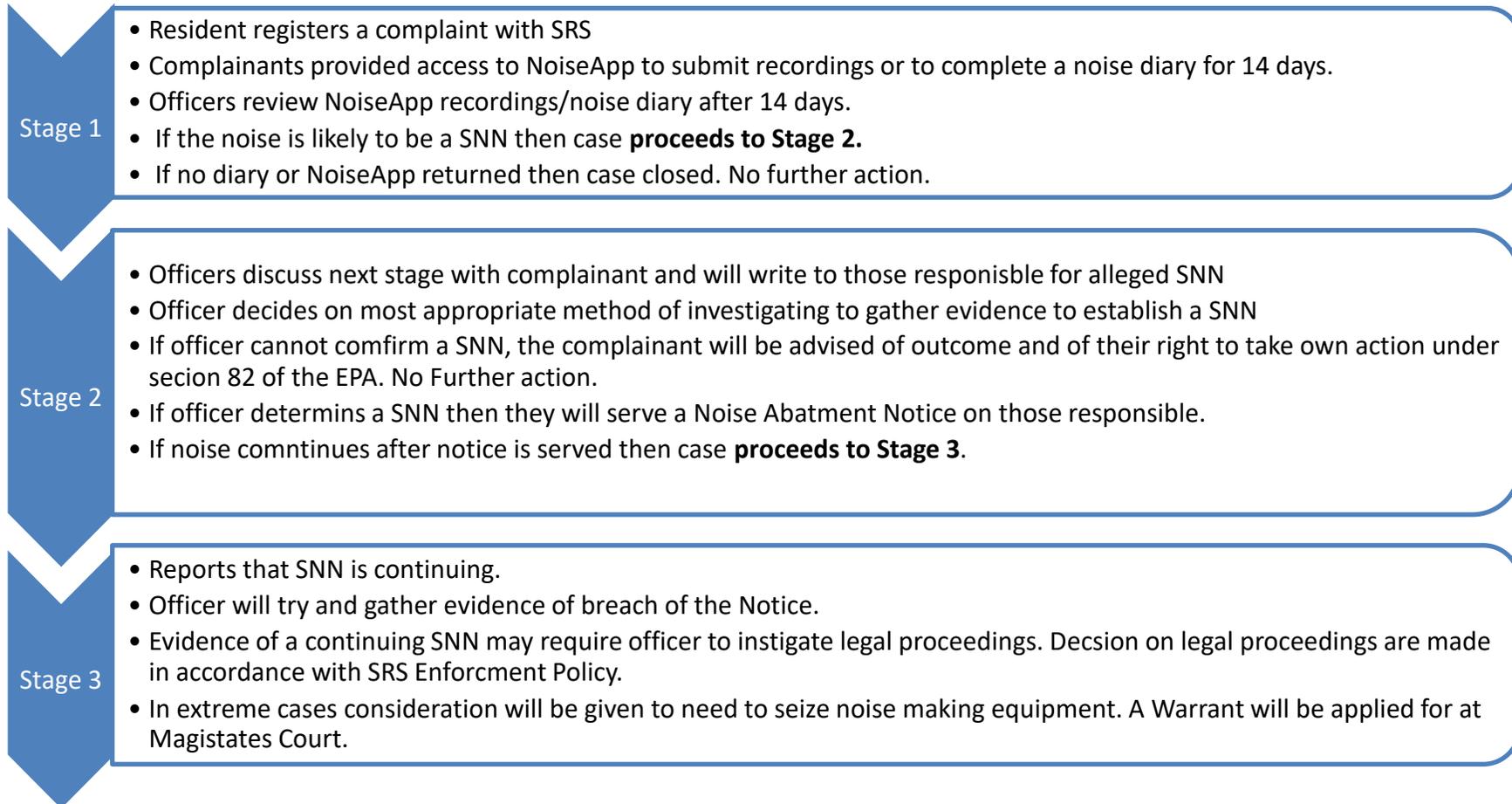
Graph 4 identifies the types of noise complaints received by SRS with the greatest numbers arising from amplified music, noise from people, barking dogs and domestic parties. Whilst a significant number of complaints are received regarding “noise from people” these are rarely considered to be a statutory noise nuisance but more likely to be considered lower level anti-social behaviour.

A marked decrease in the number of noise complaints relating to barking dogs from 2019 to 2020. It is likely that as government-imposed restriction on movements and more residents working from home, dogs were less likely to have been left at home for prolonged periods. The levels of barking dog noise complaints could increase as restrictions are eased and those who became dog owners during the pandemic returning to the workplace.

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5. Investigating complaints of alleged statutory noise nuisance

Fig 1. Overview of process for investigating alleged statutory noise nuisance (SNN) regarding noise from domestic dwellings.



*The investigation process described above may vary depending upon individual case details and officers professional judgment.

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Residents making a noise complaint are made aware that:

- SRS does not respond to anonymous complaints.
- The need to cooperate with officers' requests such as to keep a noise diary/NoiseApp recordings, allow officers access to their property when noise is happening.
- Officers will need access to complainant's property.
- Complainants need to be prepared for the matter to be taken to court and they may be required to provide a witness statement or give oral evidence.

6. Cardiff Night Time Noise Service

The Night Time Noise Service is operational in Cardiff on Friday and Saturday nights.

Calls are prioritised to ensure most effective use of the service. Existing cases (stage 2 and 3 in Fig.1 above) are generally prioritised ahead of any new cases that are received on the night:

Priority 1: Calls from Police seeking assistance.

Priority 2: Calls of existing cases where there is an ongoing investigation:

Priority 3: New complaints made on the night, which are usually processed on the next normal working day in accordance with Fig 1 above.

Evidenced gathered during the operation of the Night Time Noise Service then dovetails into the general process highlighted in figure 1 above.

7. Collaborative working

South Wales Police

During Covid-19 lockdowns, the Night time Noise Service was suspended with JET (Joint Enforcement Teams, SW Police and SRS) teams taking lead in responding to illegal gathering in domestic settings under public health legislation to control the spread of coronavirus.

The legacy of the JET model has remained in place to date with the Night Time Noise Service working more closely with the Police and have regular meetings to ensure most effective delivery of the service. It is hoped that this collaborative model of working will remain in place but requires a commitment from both the Council and SW Police for this to continue.

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Joint pro-active initiatives between SRS and SW Police are often taking place especially around the student population in Cathays and Plasnewydd,

Police are jointly responsible with Cardiff Council to address matters of anti-social behaviour. Whilst SRS will investigate noise as statutory nuisance, there are often noise matters overlaps with anti-social behaviour legislation.

Cardiff Council (Housing Services)

“*Cardiff Council (Landlord Functions) Anti-Social Behaviour Statement of Policy & Procedure*”² clarifies the approach that it takes to tackle anti-social behaviour, nuisance and related issues involving its tenants and the way in which Council works with local residents and agencies to address these problems. There are a range of powers available to social landlords in the **Anti-Social, Crime & Policing Act 2014**. In addition, Cardiff Council, as landlord, has processes in place to bring tenancy agreements to an end, where appropriate. Anti-social behaviour from Council Tenants is initially dealt with by the Tenancy Management and /or Anti- Social Behaviour teams as they are best placed to deal with low level anti- social behaviour before matters escalate to becoming a statutory nuisance.

SRS will keep Cardiff Council (Housing Services) informed of any action taken against its tenants. Cardiff Council is able to consider appropriate action either under the tenancy agreement or under powers conveyed **Anti-Social, Crime & Policing Act 2014**. Anti social behaviour will include a whole range of issues including noise. The 2014 Act introduced a new absolute (‘mandatory’) ground for possession of secure and assured tenancies where anti-social behaviour or criminality has already been proven by another court. The act enables Cardiff Council (Housing services) to apply for absolute grounds for possession in certain circumstances, one of the circumstances is on conviction of breach of a noise abatement notice. Clearly it is in Cardiff Council’s interest for early intervention in ASB cases to protect tenants who are victims of ASB and take robust action against those tenants who are the cause of ASB. Housing will use appropriate intervention and prevention methods to achieve this as applicable to each individual case.

Registered Social Landlords (RSL)

RSL’s also have additional powers under the **Anti-Social, Crime & Policing Act 2014** to deal with ASB from their tenants in addition to conditions within tenancy agreements. Low level anti-social behaviour from their tenants are best investigated

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by the RSLs in first instance as the powers exist to deal with low level issues at the earliest before the matter escalates and becomes a statutory nuisance.

SRS will keep RSLs (where known) informed of any action taken against their tenants in relation to statutory noise nuisance. This allows for proportionate action to be taken against those causing ASB.

Other organisations

SRS will signpost residents to appropriate services when dealing with noise complaints. Very often, noise issues are a small element of a much more complex case. Officers are trained in safeguarding matters and will be aware of where to refer cases or direct complainants for additional support.

SRS also attend monthly Problem Solving Group to address cases in which several agencies are involved. In addition, SRS are party to the Information Sharing Protocol for ant-social behaviour matters under the Community Safety Partnership.