

## **Appendix.1.**

### **NOISE AND STATUTORY NUISANCE POLICY**

**AIM:**

The primary aim of the Noise and Statutory Nuisance Policy is to meet the Corporate Priority of Health and Well-being. The investigation and abatement of statutory nuisances and conditions prejudicial to health are key actions under 5.4 of the Corporate Plan 2004-2007. The Policy aims to do this through an integrated approach to the management of noise and other statutory nuisance issues within the control of South Lakeland District Council (SLDC), whether this be in a preventative capacity or addressing any nuisance that arises.

## **1.0 SOUTH LAKELAND DISTRICT COUNCIL'S ROLES AND RESPONSIBILITIES:**

The statutory duties placed upon SLDC by the Environmental Protection Act 1990 are:

- 1.1(1) the duty to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 (the Section 79(1) Preventative Investigation Duty);
  - 1.1(2) the duty to take such steps as are reasonably practicable to investigate a complaint of a statutory nuisance made by a person living in its area (the Section 79 (1) Responsive Investigation Duty); and
  - 1.1(3) the duty to serve an abatement notice where the Authority is satisfied that a statutory nuisance exists or is likely to occur or recur in the area of the Authority (the Section 80 (1) Statutory Nuisance Duty).
- 1.2 Statutory nuisance complaints, which are SLDC functions, are delegated through the Cabinet to the Director of Customer Services (p24 – SLDC Constitution) where the Environmental Protection Group deals them. The Environmental Protection Group has two Environmental Health Officer posts and three Environmental Protection Officer posts that are competent to deal with nuisance complaints (figure.1.).
- 1.3 The Drainage section within Environmental Protection has involvement with nuisance from ponds, ditches and watercourses.
- 1.4 Officers of the Environmental Protection section have been delegated the responsibility to serve Abatement Notices under Section 80 of the Environmental Protection Act 1990. The Environmental Protection Manager has been delegated authority to instigate legal proceedings in consultation with the Solicitor to the Council.
- 1.5 The types of nuisance for which the Environmental Protection Group has responsibility include:-
- Industrial or commercial noise, odours or smoke (includes powers under the Control of Pollution Act 1974 and the Clean Air Act 1993).
  - Domestic and neighbourhood noise and smoke.
  - Premises that are prejudicial to health (includes powers under the Noise Act 1996 and the Anti Sociable Behaviour Act 2003).
  - Animal noise and accumulations.
  - Accumulations of food waste.
  - Noise in streets from parked vehicles or machinery or equipment (Noise and Statutory Nuisance Act 1993).
  - Nuisances from ponds, ditches or watercourses (Public Health Act 1936).
  - Ineffective barriers at abandoned mines and quarries (Mines and Quarries Act 1954)

- 1.6 Complaints regarding other noise sources such as from aircraft in flight should be directed to the Cumbria Constabulary who will refer the matter to the Civil Aviation Authority or in the case of military aircraft, complaints should be addressed to the RAF Liaison Officer at Penrith (01768 – 891391) at any time.
- 1.7 Complaints about traffic using a public highway should be directed to Cumbria Constabulary or in the case of mud on the road, to the Highways Authority at the County Council. However, continuously sounding vehicles, equipment and machinery in the street may be dealt with by the Environmental Protection Group.
- 1.8 Noise complaints regarding Industrial A1 installations e.g. Billerud, Beetham; Croppers, Burneside; Glaxo Smithkline, Ulverston: should be referred to the Environment Agency 08708 506506.

## 2.0 COMPLAINTS

### 2.1 Complaints can be made:-

- (a) In writing to the Principal Environmental Health Officer, Environmental Protection Section, Environmental Health Department, Customer Services, South Lakeland House, Lowther Street, Kendal, LA9 4UD
- (b) To the Council's Customer Contact Centre number 0845 050 4434
- (c) By fax – 01539 737659, marked for the attention of the Principal Environmental Health Officer, Environmental Protection.
- (d) By email – [deh@southlakeland.gov.uk](mailto:deh@southlakeland.gov.uk)
- (e) In person to the reception at South Lakeland House or Ulverston Town Hall. The reception is open between Monday to Friday – 0845 hours to 1700 hours.
- (f) Out of hours complaints should be made by telephone to:-

**Kendal & Eastern Area                      0870 428 6905**

**Lakes, Ulverston & Western Area   0870 428 6906**

2.2 Complaints are considered to be – “the receipt by the Local Authority of a request for intervention to address any matter alleged to be a statutory nuisance. The complaint may be received by the Local Authority in any form, i.e. telephone, letter, personal visit, electronically or via a third party. Each complaint received will be recorded separately, even if it relates to the same source or is a repeat complaint or already subject to existing investigation or action. (“Chartered Institute of Environmental Health – Noise Management Guide 1997”).

### 2.3 Complaint Priority Action List –

#### **Category 1 High Priority**

High priority daytime nuisance complaints warranting a visit on the day of complaint and intervention where appropriate, must meet the following priority 1 criteria:

- The complainants give full details of their name and address, and are willing to allow access for the assessment of statutory nuisance and the noise occurs regularly i.e. more than once a week;

and

- there has been more than one complaint about the same noise from the noise source within the last three months, including:
  - multiple complaints by one household on different dates;
  - multiple complaints by several households on the same or different dates;

and

- noise diary sheets have been satisfactorily completed and returned;

or

- the noise is likely to seriously affect several households i.e. premises alarms or vehicle alarms in the street;

or

- the noise is persistent, i.e. occurs for more than 60 minutes or if for a shorter period for not less than 15 minutes at least twice during the daytime period (07:00 to 19:00).

The priority 1 response is to be made within one working day. This means that a visit and investigation should occur within this time if Environmental Protection staff are available. Any notice or letter that is required should be served or sent as soon as practicable and no later than 2 working days after conclusion of the investigation.

#### 2.4 **Category 2 Medium Priority**

These are medium priority day time noise complains not warranting a visit as an immediate response, but whose details should be recorded as they are likely to progress to priority 1. To qualify as priority 2, complaints must meet following criteria:

- the complainants give full details of their name and address, and are willing to allow access for the assessment of statutory nuisance but the noise is not persistent i.e. it lasts for less than 60 minutes and does not recur more than twice in the day time period (07:00 to 19:00) and does not recur regularly i.e. less than once a week;

or

- this is a repeat complaint, but there is a time lag of more than 3 months between the current complaint and the last;

or

- the noise is unlikely to be affecting several households.

Priority 2 noise complaints have a 10 working day response. Nuisance 1 and 2 letters should be sent or complainants should be advised to complete noise dairy sheets to record incidents of noise as this is needed to progress any future complaints. Initial contact should give advise regarding attempts to seek own informal solution and the possible use of mediation.

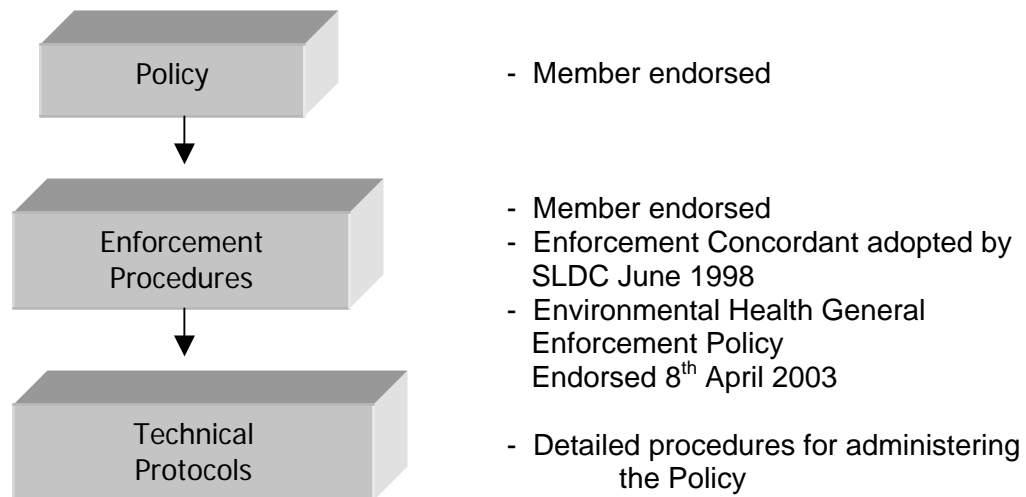
## 2.5 **Category 3 Low Priority**

The Environmental Protection Group cannot deal with certain complaints, these include:

- Anonymous complaints.
- Complaints where access to the complainant's premises to witness noise and assess nuisance is necessary and is not allowed by the complainant.
- Complaints of very short term, irregular, unpredictable noise i.e. door slamming, single vehicle movements etc.
- Matters not defined by legislation as Statutory Nuisances.

Investigations of these types of complaints are subject to resource availability. Although these complaints will be recorded as service requests they will either fall out of the 10 day response time or not be investigated at all.

### 3.0 Hierarchy of Noise and Nuisance Documents:



All policies, procedures and protocols require regular reviews at least every 2 years. Documents shall be dated and signed.

The following technical protocols available to assist in the investigation of statutory nuisances are in use:

- (a) Audible Intruder Alarms – TP1
- (b) Vehicle Alarms – TP2
- (c) Barking dogs – TP3
- (d) Nuisance from Tenants of Social Landlords – TP4
- (e) Warrants and the seizure of equipment – TP5
- (f) Regulatory Investigator Powers Act 2000 – TP6
- (g) Using the fast fourier transform module – TP7
- (h) Procedure for dealing with nuisance complaints – TP8
- (i) Analysis of the MATRON TAPE by B & K 2260 – TP9
- (j) Operation of the Matron DAT Recorder – TP10
- (k) Mini-seis vibrograph – TP11
- (l) Works in default – TP13
- (m) Equipment inventory and calibration – TP14
- (n) PACE – the tape recording of interviews – TP15
- (o) Lone working policy – TP16

- (p) Liaison between Planning Services and Environmental Health – TP17
- (q) Licensing Act 2003 Consultations – TP18

Further Technical Protocols have been identified as being required in the following areas:

- (i) Anti Social Behaviour
- (ii) Building Control
- (iii) IPPC
- (iv) Police
- (v) Legal
- (vi) Data Protection
- (vii) Mental Illness

**Signed..... Dated.....**  
**Assistant Director (Environmental Health)**

**Figure.1.**

