

# Proceedings of the Institute of Acoustics

## MANAGING WITH THE NOISE ACT

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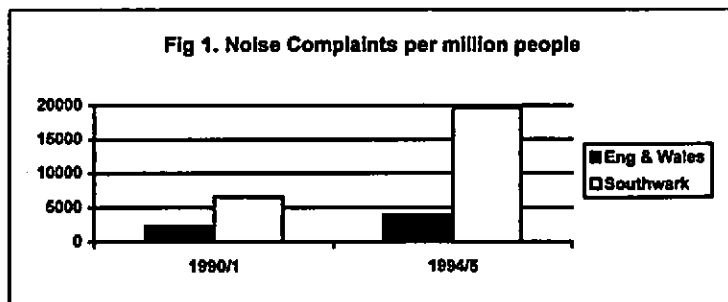
London Borough of Southwark

### 1. INTRODUCTION

In common with many Local Authority Environmental Health managers I am looking to see what needs to be in place should my Local Authority decide to adopt the Noise Act. In this paper I would like to highlight some key issues in relation to the management of noise control services arising from the Act. I will also consider how the new powers fit into other local initiatives to deal with noise and other anti-social behaviour.

### 2. BACKGROUND

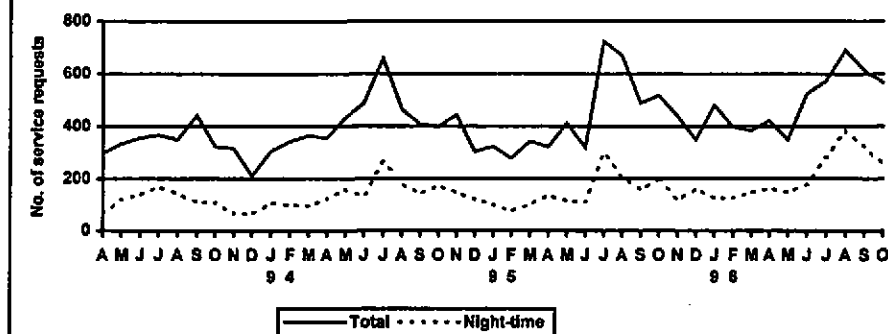
It is helpful to see how we have arrived where we are or, to put it from a Local Authority perspective "Why we deserved the Noise Act". Once again this year the Annual Report from the Chartered Institute of Environmental Health shows Local Authorities are struggling to keep abreast of Public expectations about noise. The inexorable rise in Public complaints has been a black spot in the CIEH report for years. In 1994/5, complaints rose to another record of 3,949 per million people, a 14 % jump on the previous year and a massive 75% increase since 1990/1. In Southwark as you might expect in an inner city area the problem is even worse, with levels of complaint running at something like four times the National rate (figures 1 & 2).



All of this is at a time of reduced capacity in other agencies who are involved in noise control. In particular, the Police Service, in response to their own priorities and performance criteria, are finding fewer resources available to deal with domestic noise and neighbourhood disturbances.

Overlying the number of requests for local authority services is an impression that there is an increasing public expectation for peace and quiet that is currently beyond the powers of Local Authorities to meet. The office of the Local Government Ombudsman, who is responsible for investigating complaints of maladministration against local authorities, cannot provide any figures that support this view. They do however recognise that noise is becoming a subject on which they are receiving an increasing number of complaints. Certainly in Southwark, noise is the area on which we receive the greatest number of enquiries from our Councillors and MP's. In addition to this, we have

Fig. 2 Trends in noise service requests



seen the growth in recent years in pressure groups on domestic noise control such as the Campaign for Peace and Quiet. There is an increasing level of dissatisfaction with what Local Authorities are doing in the area of domestic noise control.

### 3. OBJECTIVES OF THE ACT

It is in response to this feeling that "something must be done" that the Noise Act and in particular the provision relating to the offence of causing night-time noise, has been produced. The broad objectives of the Act are:-

- To compliment Statutory Nuisance controls
- To provide a swifter remedy
- To set an objective standard
- To allow for a fixed penalty-and hence prevent some cases going to Court.

Much of the justification for the new powers contained in the Act is based upon a premise that Statutory Nuisance does not work. Nuisances can be difficult to establish and the process may be too lengthy to provide quick resolution of problems. However record numbers of Statutory notices are being served and prosecutions taken. Similarly, there is little evidence to show that Statutory nuisance action is necessarily a slow process, particularly when combined with the powers of confiscation. It is now common place in London for Council's to be in a position to deal with large events such as "pay parties" before the event takes place. In many cases the event is prevented from occurring in the first place. The inability to take preventative action or to deal with recurring problems is a serious shortcoming of the new Act.

The provision of an objective standard of 35dB or whatever final level is agreed is of marginal value. We will hear from other speakers of the problems in the measuring protocol. In my experience neither professional officers nor the Courts have little difficulty in dealing with the concept of "reasonableness"

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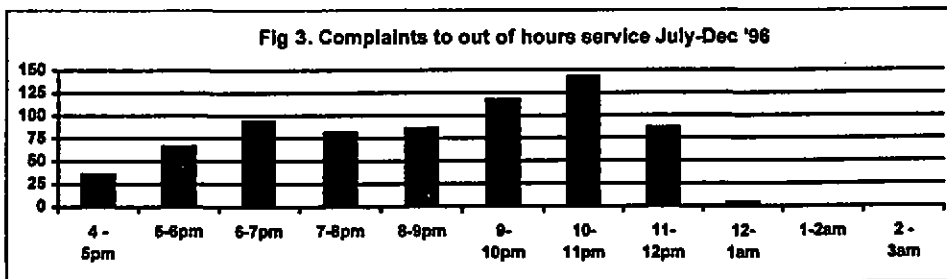
as it applies to nuisance. Indeed, by setting a fixed standard these concepts may be undermined and the fixed levels will become, by default, the level of a night-time noise nuisance.

Finally, while we should all welcome a reduction in the burden placed upon the Courts, the fixed penalty system proposed, merely shifts the burden onto local authorities. On the spot fines may in any case prove ineffective, if the offender views the penalty as a reasonable price to pay for having a noisy party.

### 4. STAFFING OF OUT OF HOURS NOISE CONTROL SERVICES

When considering the staff of noise control teams there are a number of issues to be considered. The two most important questions being; what level of service to offer and who should provide the services?

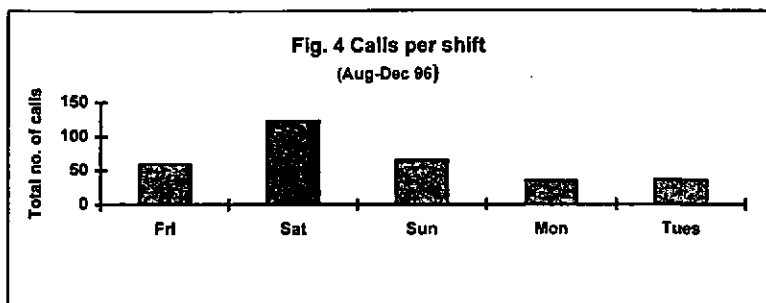
With regard to what level of service to provide, the Act requires the Council to investigate complaints made to it. For any medium to large urban Authority this means having an officer available seven nights a week. The officer needs to be able to be on site within a reasonable time throughout the stipulated period of 11 p.m. to 7 am. For most Authorities this means either seeking additional resources or redirecting staff from other duties. However, information about the level of service requests that we receive indicates that the period of 11 - 7 is not the time of peak demand for noise control services for most of the days of the week (figure 3). Putting all my resources into providing a night-time service will be unlikely to satisfy the demands of service users.



The position is even more complex if the fluctuation in demand throughout the week is considered (figure 4). As expected service requests on Saturday nights greatly exceed the numbers received on other nights of the week. Surprisingly perhaps, there is little difference between Fridays and Sundays. Obviously, the level of service requests will be dependant on other factors such as the level of information that people have about our service. We are currently undertaking extensive user and non-user surveys to establish the level of knowledge about our service and to find out when our services are most needed.

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Turning to the question as to who should provide the service, the Act is quite specific that service requests must be investigated by 'an officer of the Authority'. This would seem to preclude any contracting out of night-time noise investigation services. I know that the Minister addressed this point specifically during the passage of the Bill, when he recognised the need for matters relating to the new offence to be handled consistently, but I would welcome further comment from the DoE on this specific point. Some Authorities are currently out to tender for their night-time services and others have pulled back from seeking outside contractors following legal advice. I am therefore concerned that we will not have the consistency that the Minister seeks.

Authorities have in the past employed qualified Environmental Health Officers in their noise investigation teams. Such officers come with a cost premium which most Councils can no longer afford. In London and the larger cities caseloads are high and there is a greater degree of specialised working. There is no longer the need for officers who are highly qualified across the broad range of environmental health work. The adoption of an objective standard in the new Act further encourages this change. While the Act does put an emphasis on enforcement, it is important to remember that the vast majority of problems are solved informally by persuasion and mediation and the most important skill for any enforcement officer is to be able to talk to people.

One other issue that is to the fore-front of noise service managers minds is that of staff safety. The Management of Health and Safety at Work Regulations 1992 requires the assessment of the risks to the Health and Safety of employees to which they are exposed whilst they are at work and that any preventive measures are implemented and adequate. The risk of violence to staff dealing with noise, particularly in situations where people may be intoxicated or using drugs are clear. In my Authority all visits are made by two officers, although we are considering the use of security guards to support one officer in an effort to reduce our costs.

What is already clear is that, regardless of whether Local Authorities adopt the Noise Act or not, they can no longer meet their service users needs by employing staff to work normal office hours. This has been recognised as recently as December last year in a report of the Scottish Affairs Committee on Housing and anti-social behaviour [1]. A much greater degree of flexibility is needed in the workforce providing noise control services. In my Authority as well as some others new working practices have been introduced to make sure that we are better placed to meet the demands of our Council-tax payers. Shift working, annualised hours and flexible working are all essential if noise control services are to be managed to meet the varying demand for our services.

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### 5. RESOURCES

You would inevitably expect me to make the case for additional resources for Local Authorities to take on the new powers. The £3m to be added to Council budgets over the next three years is woefully insufficient and is, in any case, unlikely to find its way into the Noise control budget. The Scottish Affairs Committee report also recognises the need for more money. However, the report goes on to say "Resources are not the only issue, the will to tackle the problem has to be demonstrated by... Environmental Health Departments". Once Councils recognise the important role that noise control can play in their wider agendas of Community Safety and their Housing Management Policies it can become much easier to be more creative about where the money can be found. In Southwark approximately 50% of the funding for our out of hours noise service will be funded from the Housing Revenue Account, which reflects the importance that out tenants put on their right to peace and quiet.

### 6. CONCLUSION

Despite all the above the new Act is a positive step in the right direction. In my view, much of the gap between the obvious expectations of the public and local authorities' response has been due to the way in which noise control services have historically been provided. The one major outcome of the Act has been that many Local Authorities have begun reviewing their noise control services. In 1994/5 the number of Councils operating out-of-hours noise complaint services increased by 14 to 194, with 89 offering a 24 hour per day, seven days a week service. By the end of this year many more Local Authorities will be added to this list.

The Act however cannot resolve the problem of domestic noise in isolation. It is only one small piece of the regulatory framework which is available to Councils. Nor will regulation alone solve the problem. Domestic noise must be seen as part of a wider problem of anti-social behaviour and Community safety. Communities need to be given a greater capacity to solve neighbourhood disputes locally and in a sustainable manner. Mediation and neighbourhood noise schemes seem to me to offer the better hope for halting the rise and ultimately reducing the most intrusive of all environmental pollutants in our homes today.

### 7. REFERENCES

- [1] FIRST REPORT OF THE SCOTTISH AFFAIRS COMMITTEE 'Housing and Anti-social Behaviour'  
HMSO, December 1996

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