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INVESTIGATION OF DOMESTIC NOISE COMPLAINTS IN BIRMINGHAM

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INTRODUCTION

The available evidence seems to indicate that in the United Kingdom more people are bothered by noise produced by their neighbours than by noise from any other source. Statistics collated from Environmental Health Departments (Ref 1) show that Local Authorities receive more complaints of noise of this nature than any other type. Furthermore, the results of a Building Research Establishment survey carried out in the mid 1980's suggested that around 14% of the adult population of England was bothered by one or more sources of neighbour noise (Ref 2). Finally the results of a limited 'Bothered by Noise' survey, recently carried out in Birmingham, through some of the City's schools, indicated that although more people hear traffic noise in their properties than noise of any other type, it is neighbour noise which bothers most people (Ref 3).

The weight of this evidence poses problems for local authorities who have a duty to investigate all noise complaints. The problems are particularly acute for authorities who cover large cities with large populations and high housing densities. Is it sufficient for Environmental Health Departments to ask complainants to keep a log of the disturbances caused by their neighbours, and if they do not, to assume the problem has been "resolved"? What happens when a log is returned and it suggests that a nuisance is occurring? In the majority of cases the evidence will show that the disturbances are intermittent and/or occur at unsociable hours. Should the department then commit itself to fully investigate the complaint by visiting the complainant on several occasions when the disturbances are most likely to occur. Alternatively, should some form of reconciliation or mediation scheme be adopted at this stage. Whatever the adopted approach the thorough investigation of domestic noise complaints constitutes a large commitment in manpower resources which may have to be diverted away from other important work. The dilemma for local authorities is not helped by the fact that the government seems intent on using the ability of Environmental Health Departments across the country to "resolve" noise complaints as a main performance indicator.

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BIRMINGHAM'S APPROACH TO "RESOLVING" DOMESTIC NOISE COMPLAINTS

Birmingham's approach in the initial stage of investigating a noise complaint is similar to most other large local authorities. Where a new complaint is made by one household against another, the disturbances are intermittent in nature and there is no independent evidence to support the complaint then the complainant is asked to keep a log of the disturbances. In addition, a 'friendly' warning letter may be sent to the alleged perpetrator of the nuisance. If the completed log indicates a nuisance may be occurring, attempts are made to obtain the evidence required for formal action. This involves using a tape recorder, which is left under the control of the complainant. The techniques of using tape recorders for this purpose were fully described in a paper presented to the IOA Autumn Conference in 1991 (Ref 4), which was also published by the National Society For Clean Air and Environmental Protection (Ref 5). The techniques used currently are essentially the same as those described in the 1991 paper. Briefly, a calibrated two channel analogue tape recorder (e.g. a Nagra IV SJ), is left at the complainants house for a period of 2 to 3 days. The complainant is provided with a remote on/off switch which allows them to record any noisy events. The switch merely controls the tape transport mechanism, and therefore the tape recorder and associated equipment is always "on" and ready to be activated. Whenever the instrument is activated the noise is recorded on one channel and the date and time is automatically recorded on the remaining channel, by means of a purpose built and tamper-proof time code generator. The recordings are subsequently analysed in a laboratory using the techniques described in the 1991 paper. However, the Environmental Health Officer who originally requested the investigation, now carries out this analysis rather than the technician who installed and removed the equipment from the complainants dwelling. This has two distinct advantages. Firstly, no internal reports have to be generated. Secondly, the EHO can often decide that a nuisance is occurring or a notice has been contravened without necessarily listening to all of the recordings. Currently we are carrying out up to ten domestic noise investigations per week using tape recording techniques.

BIRMINGHAM'S DOMESTIC NOISE COMPLAINT STATISTICS 1992

In 1992 Birmingham Environmental Health Department received 2497 domestic noise complaints. A breakdown on the basis of different categories of complaint is given in Table 1.

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TABLE 1

<u>TYPE</u>	<u>NO. OF COMPLAINTS</u>
Music	1094
Dogs	627
General Domestic	220
Machine	156
Unclassified	149
Animals (other than dogs or cockerells)	100
Intruder Alarms	68
Transport	28
Construction	28
Cockerells	20
Vibration	7
TOTAL	2497

Of the 2497 complaints, 338 were referred for noise monitoring investigations. Statistics on the outcome of these investigations is given in Table 2.

TABLE 2

<u>ACTION TAKEN</u>	<u>NO. OF COMPLAINTS</u>
1 Notice served and prosecutions taken.	8 (7 completed, 1 adjourned)
2 Notice served but no prosecution taken.	53
3 Nuisance not substantiated by monitoring evidence.	99
4 No recordings made by the complainant.	58
5 Offer to monitor declined.	120
TOTAL	338

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The results of the prosecutions are summarised below:-

CASE A	Music Noise - Defendant guilty Fine £250 plus £100 costs.
CASE B	Music Noise - Defendant guilty Fine £250 plus £243.75 costs.
CASE C	Noise from a dog - Defendant guilty Fine £25 plus £141 costs.
CASE D	Music Noise - Defendant guilty Fine £750 (3 offences) plus £465 costs. (Appeal lodged)
CASE E	Music Noise - Defendant guilty 12 months conditional discharge plus £116 costs for both defendants.
CASE F	Noise from dog - Defendant guilty Fine £1500 (3 offences) plus £299 costs.
CASE G	Music Noise - Defendant guilty 12 months conditional discharge plus £252.50 costs.

CRITICISM OF THE TAPE RECORDING TECHNIQUES

A number of criticisms have been made concerning the tape recording techniques used in Birmingham.

Criticism 1	The cost of the hardware.
Criticism 2	The technical intricacies of date and time coding recordings and providing the remote on/off switch facility.
Criticism 3	A disbelief that the evidence obtained will "stand up" to scrutiny in court.

Criticisms 1 and 2 have effectively been dealt with by the arrival in the market place of Digital Audio Tape (D.A.T.) Recorders. These machines cost just over £2000 and automatically record time data which can be displayed on analysis. With some minor modifications these recorders can be set-up to be operated from a remote switch. Birmingham have already purchased three D.A.T. recorders and eventually intend to replace all analogue tape recorders with these instruments. Furthermore, at the time of preparing this paper, it is understood that Bruel and Kjaer UK Limited are about to launch a purpose built noise monitoring system consisting of a D.A.T. recorder which will be used in combination with precision noise measurement instrumentation.

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The system is specifically designed to investigate intermittent noise problems. Once installed on site the instrumentation will continuously measure and store statistical noise level data for the duration of the exercise using a sound level meter incorporating a memory. Meanwhile, the complainant can decide when to start and stop the D.A.T. recorder to obtain information on the actual disturbances when they occur. The latter information can then be listened to/analysed by the investigating officer.

Criticism 3 results from an understandable worry, particularly amongst some E.H.O's, that evidence obtained from tape recording techniques is difficult to substantiate in court. This is not the experience in Birmingham. Firstly, statistics show that only an extremely small proportion of domestic noise complaints investigated in this manner resulted in court proceedings (2.4% in 1992). Secondly, those complaints which do result in a prosecution, are inevitably the result of severe and protracted disturbances which are supported by substantial corroborative evidence. However, it has become abundantly clear over the years that we have been presenting this type of evidence to courts, that it is essential that all procedures are well documented. For example, officers were often cross examined on how the tape recorders were set up and calibrated. A procedure note has been produced covering this subject which is now referred to in officers formal statements of evidence. Simply having this document ready to produce in court, seems to prevent any detailed cross examination on the issue.

A similar document covering the analysis equipment and techniques used by the E.H.O's has also been produced.

Finally experience has made it clear that the defendant and his legal representatives should be allowed to listen to the tape recorded evidence prior to any court proceedings. If not the defence may well request this facility during the court case which can result in an adjournment.

DISCUSSION

Anyone who regularly investigates noise complaints will know that it is domestic noise problems which cause the most distress to the recipients of the noise. These people feel isolated and persecuted, often with good reason. This can result in threats if not acts of physical violence from either of the parties involved.

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Therefore, it is essential that local authorities continue with their attempts to resolve severe problems of this nature. The experience gained in Birmingham is that when the informal techniques that local authorities normally employ at the initial stages of a complaint investigation fail to achieve this end, then tape recording techniques are an invaluable additional tool. These techniques allow a full and thorough investigation to be carried out, where circumstances warrant it, without having to resort to time consuming and resource sapping out of hours visits.

However, it is clear from Birmingham's statistics for 1992 that the vast majority of domestic noise complaints (91.3%) are resolved by informal action not requiring visits specifically to witness the disturbance, or the use of automatic monitoring. Furthermore, in those cases where monitoring was carried out only 28.0% resulted in formal action. Are so many domestic noise complaints resolved by the informal intervention of an E.H.O., or are a large percentage of these complaints unfounded or concern noise of such a temporary nature and magnitude that no formal action is warranted?

Could it be that people are simply becoming less tolerant of their neighbours? When asked in a questionnaire, no matter how well designed and phrased, are people tempted to claim they are bothered by neighbour noise, because they do not 'get on with' their neighbours? If neighbours do produce some noise, it is tempting to complain to the local authority, even though the noise does not really cause a significant nuisance, especially if the local authority will respond positively to such a complaint?

In view of the preceding facts and comments, is the extent and severity of domestic noise problems in the United Kingdom fully understood? If not, is it reasonable for government to use local authorities ability to resolve noise complaints, and domestic noise constitutes the largest category of these complaints, as a performance indicator for Environmental Health Departments? This policy may have the affect of diverting scarce resources away for other equally important tasks.

If, after due consideration, the resolution of noise complaints remains a performance indicator, local authorities may have to review their procedures for investigating domestic noise disturbance.

The bare bones of a possible procedure are outlined below:

- On receipt of a new domestic noise complaint, the complainant should be interviewed as soon as possible, but at least within 5 working days.

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- If the disturbance is not witnessed, but the interviewing officer feels that the complaint may be justified (a subjective decision), the complainant should be asked to fill in an official log of the disturbances for 2 weeks. Furthermore, attempts should be made to interview the alleged perpetrator of the noise. If this is not possible, a friendly warning letter should be sent immediately. If the interviewing officer has some doubt that the complaint is justified (a subjective decision), the complainant should merely be asked to fill in an official log for 2 weeks.

In both cases the complainant should be asked to return the log to the authority after the 2 week period.

If the log is not returned after 4 weeks, a reminder letter should be sent. If the log is still not returned, or if it is returned but the evidence does not suggest a statutory nuisance is occurring (a subjective decision), the complainant should be informed in writing that the department is unable to take further action on the matter.

- If the log suggests that a statutory nuisance may be occurring, planned visits should be made at the time when the disturbance is likely to occur or a tape recording exercise should be carried out. In addition a friendly warning letter should be immediately despatched to the alleged perpetrator (if one has not already been sent).

CONCLUSIONS

Experience in Birmingham indicates that "difficult" domestic noise complaints can be "resolved" by the use of tape recording techniques. In the very rare cases that end up in court, evidence obtained in this manner does stand up to scrutiny, if the on-site and analysis procedures are properly documented.

The equipment required to carry out tape recording as described in this paper is now relatively inexpensive. Furthermore, a purpose built instrument specifically designed for the investigation of intermittent and unpredictable disturbances will shortly be commercially available.

Finally, the statistical evidence obtained in Birmingham sheds some doubt on the current perceived extent of domestic noise disturbance in the United Kingdom. In view of this doubt, is it reasonable for the government to use local authorities ability to resolve these complaints as a performance parameter for Environmental Health Departments?

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Any views or opinions expressed in this paper are those of the author and not necessarily those of Birmingham Environmental Services Department or other officers within the department.

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