### SECTION 3 - DEALING WITH A STATUTORY NUISANCE

# Refer To Other Agencies

Once a nuisance is witnessed, some complaints need to be referred to other agencies for action. This will take the form of a letter / email informing the agency of the action we have taken. Examples of agencies we contact are:

* Housing Associations
* Leicester Anti-social Behaviour Unit (CrASBU)

We are not able to let the universities know when one of their students have caused noise nuisance, unless the university is the landlord (due to data protection).

1. **Nuisances from Leicester City Council Housing Tenants.**

After a noise nuisance is witnessed, copies of letters sent to noise perpetrators are to be sent to the appropriate LCC Housing Officer with a cover letter. At each stage, LCC Housing tenants receive different letters to other noise perpetrators.

The Housing Officer should take appropriate action against the tenant in line with the agreed procedure.

# Nuisances from Dog Barking

After a dog barking noise nuisance has been witnessed, liaise with the Dog Warden regarding the amount of time to give the dog owner to remedy the problem, normally up to 21 days. The amount of time given will depend on the reason why the Dog Warden believes the nuisance is occurring. For example, if the dog is outside and bringing the dog inside would remedy the problem, less time will be given than if the dog is barking inside a premises and the dog has behavioural issues.

The complainant must be informed that they should not call the monitoring service during this time period and a date they can start to call again given in the appropriate complainant letter.

1. **The First Recorded Nuisance**

***Computer Administration***

When officers undertake a monitoring visit and determine that a nuisance has been detected, the officer should input the information onto Uniform.

###### Letters

The perpetrator of the noise should be invited in for an informal interview

The informal warning letter should be hand delivered.

The complainant should also be sent a letter confirming our action. This letter should be posted.

***Note:***

*This should lead to a delay of at least 1 working day between the perpetrator receiving their letter and the complainant calling us out again. This gives the perp an opportunity to read/understand/seek advice about the contents of the letter.*

The landlord should be sent a letter confirming our action. This letter is to be posted.

For LCC perps, the appropriate named LCC Housing Officer should be sent a copy of the letter with the LCC Housing Officer cover letter.

###### The Informal Interview

To carry out the informal interview the officer should:

* Before the interview, book an interpreter if necessary
* Make sure you have specified where the interview is to be held in the perp’s letter
* Arrange for a fellow officer to conduct the interview with them. This officer should be a Dog Warden if available if the nuisance was from dog barking.
* Produce the informal interview pro forma.

Note: the informal interview can be conducted over the phone if the perp

 contacts you directly, and the information filled in on the sheet

*Non-Attendance At Informal Interview*

If the noise perpetrator does not attend the informal interview then a reminder letter is to be posted.

1. **Sound Checks**

Often, during the informal interview, the perpetrator may ask for advice regarding how loud they can play their music. The advice to give is as follows:

Put their music equipment (hi-fi, DVD player, computer etc.) on at a level they believe is acceptable, in one room and close the door. If the music can be clearly heard in an adjacent room, it’s likely that their neighbour will also be able to hear it and it could therefore be classed as a nuisance.

As a rule of thumb, they should only be able to hear the music clearly in the room its being played in. If the perp can hear the music throughout their property, it may be causing a problem to their neighbours.

Alternatively, the perp may ask for a **sound check** between theirs and the complaint’s properties. 2 officers, 2 SLMs and 2 mobile phones are required. One officer is in the complainant’s property and the other is in the perpetrator’s. A crude measurement of how much sound the party walls/ceiling is taking out can be made by playing music at approximately 90 dB(A) in the perpetrators property and taking the resultant levels on the other side of the party wall/ceiling. The party divide should be taking out 40+ dB(A). Acceptable levels of music can then be set by the officers. The decision regarding what is an acceptable level is the officers and the complainant is present so they are aware what those levels are. Daytime levels are usually set in ground floor living areas (e.g. dining and living rooms) and night time levels are usually set in first and upper floor living areas (i.e. bedrooms). This will obviously not be the case in flats. The sound checks carried out in domestic properties are only an indication of the levels music can be played without causing a problem to their neighbours.

***Letters***

The results of the sound check are confirmed in writing to both parties.

These letters are to be posted

1. Severe Nuisances / Parties

On occasion, a nuisance may be so severe that serving a **Statutory Notice** immediately on the night or instead of the informal warning letter stage is the most appropriate method of dealing with the noise.

For the purposes of this procedure, severe nuisances are where there is a public nuisance (affecting a number of people), or the level is very, very loud and intrusive.

For parties at night that are a severe nuisance and the officer decides to visit the perps property, officers must ask for Police assistance. If the Police do attend at night both the Officer and the NTNSO must wear stab jackets. If a Notice is served at night it is to be served on ‘The Occupier’. There are pre- carbonated Notices in the night noise briefcase in the pool car for this purpose. **Officers are not to visit the party address without Police assistance.**

The officer, on the next working day, should prepare and serve a suitable printed notice (generated by the computer) on the named occupier when this has been confirmed via e.g. Housing or a Revenue and Benefits database

# The Second Recorded Nuisance

Section 80(1) The Environmental Protection Act 1990, service of abatement notice.

###### Computer Administration

When officers undertake a monitoring visit and determine that a nuisance has been detected, the officer should input the information onto Uniform.

###### Letters

The perpetrator of the noise should be served with an abatement notice and the accompanying letter.

The abatement notice and letter should be hand delivered.

The complainant should also be sent a letter confirming our action.

This letter is to be posted.

***Note:***

*This should lead to a delay of at least 1 working day between the perpetrator receiving their letter and the complainant calling us out again. This gives the perp an opportunity to read/understand/seek advice about the contents of the letter.*

The landlord should be sent a letter confirming our action. This letter is to be posted.

For LCC perps, the appropriate named LCC Housing Officer should be sent a copy of the letter with the LCC Housing Officer cover letter.

1. **The Third Recorded Nuisance**

Section 80(4) The Environmental Protection Act 1990, contravention of abatement notice.

If a further nuisance is witnessed after an abatement notice has been served, an offence has been committed under the EPA 1990. Before any questions about their involvement in the suspected offence are put to the perp, they must be cautioned in accordance with the Police and Criminal Evidence (PACE) Act 1984.

###### Computer Administration

When officers undertake a monitoring visit and determine that a nuisance has been detected, the officer should input the information onto Uniform.

###### Letters

The perpetrator of the noise should be hand delivered an interview under caution letter.

Give at least two weeks before the interview.

The letter has a pre-prepared reply so the perpetrator can inform the officer that they intend to attend the interview. Additionally a pre-paid and self-addressed envelope should be included with the letter to the perpetrator.

The complainant should also be sent a letter confirming our action..

This letter is to be posted.

***Note:***

*This should lead to a delay of at least 1 working day between the perpetrator receiving their letter and the complainant calling us out again. This gives the perp an opportunity to read/understand/seek advice about the contents of the letter.*

The landlord should be sent a letter confirming our action. This letter is to be posted.

For LCC perps, the appropriate named LCC Housing Officer should be sent a copy of the letter with the LCC Housing Officer cover letter.

###### The Interview Under Caution

The interview will be undertaken in accordance with the ‘Police and Criminal Evidence Act 1984’ and tape-recorded

To carry out the interview under caution the officer should:

* Book the PACE Interview Room. (before the letter is delivered)
* Before the interview, book an interpreter if necessary
* Arrange for a fellow officer to conduct the interview with them. This officer should be a Dog Warden if the nuisance was from dog barking. The second officer will usually take notes of the interviewee’s answers during the IUC.
* Read the recording of interviews under caution procedure
* Produce the interview under caution pro forma.

***Non-attendance At Interview***

If the noise perpetrator does not attend the interview, send a non-attendance letter.

This should be posted.

1. **The Fourth Recorded Nuisance**

*Section 81(3) The Environmental Protection Act 1990 (as extended by section 10(7) of the Noise Act 1996). Abatement Notice not complied with, nuisance to be abated.*

At this stage a seizure of the noise equipment should take place.

See **Section 5 – ‘Seizure’**.

###### Computer Administration

When officers undertake a monitoring visit and determine that a nuisance has been detected, the officer should input the information onto Uniform.

***Letters***

***The case file is to be reviewed by the Team Manager or, if not available a more senior Officer, before the warrant is sought***.

The warrant can be obtained from Uniform. 2 copies of the Information and 1 copy of the warrant are required. A copy of the signed warrant must be left at the address during the seizure.

* ***Obtaining The Warrant***

*Schedule 3, Paragraph 2(3) The Environmental Protection Act 1990*

The officer should prepare a list of our actions in the case to present to the magistrates via the Information. The file notice and letters should also be taken to the court to refer to.

# Occasions when Procedure is Not Followed

###### Perpetrator Is Elderly, Hard Of Hearing Or Suffers From Mental Illness

###### If the perpetrator is elderly, hard of hearing or suffers from mental illness then the following action should be followed once a nuisance has been witnessed:

###### Contact should be made with the person as normal via a warning letter

###### Support network information should be sought from the person, neighbours (complainant), housing department or landlord e.g. are social services involved, are their any relatives who we can speak to about the problem.

###### If the complaint is about loud television from somebody who’s hard of hearing, the Leicester Centre for Deaf People on Welford Road is no longer available. However, Action on Hearing Loss (<http://www.actiononhearingloss.org.uk/>), Leicester Outreach may be able to provide assistance. They can be contacted via email – referrals@hearingloss.org.uk. They may be able to offer advice e.g. regarding the use of a loop system.

These cases can sometimes be dealt with at the informal stage. However, if further nuisances are witnessed, seek advice from the Team Manager regarding how the case should proceed.

###### Time Between Nuisances

If more than six months elapses between recorded nuisances then the procedure goes back to the preceding stage.

For example:

At the second nuisance stage, if it is more than six months since the first stage then another warning letter with informal interview should take place.

At the third nuisance stage, if it is more than six months of the second stage then the notice reminder letter should be sent with a copy of the original notice.

If more than 12 months have elapsed and a notice, interview under caution or seizure was the last stage, a notice reminder letter should be sent. Action taken for nuisances witnessed after this nuisance (and within 6 months of the previous nuisance) should follow on as stage 3 and so on.

If clarification is required as to the action to take, the Team Manager should be consulted.