

NOISE

January/February 2012 Issue 59

BULLETIN

CUTS

Salford will ignore complaints

Salford has spelled out which noise nuisances it will investigate – and those it won't, even if it risks breaching its statutory duty on nuisance.

Councils across the country are suffering cuts, with environmental health at the front line. For some time many have said that they only will only carry out their statutory duties and no more. Privately many say that they don't even meet those requirements, simply handing out diary sheets – but to date, few have admitted it publicly.

Minutes from Salford's environment committee contain the admission: "As part of the 2011/12 budget savings exercise 1½ posts were deleted from the environmental protection team. We have reviewed the various categories of complaint and request for service received by the team to identify reductions

in service provision which would have the least impact on the community."

Call centre staff have been briefed to tell the public they will not deal with:

- Barking dogs (despite receiving over 200 complaints last year);
- DIY (unless lasting four weeks or during the night);
- Low frequency noise from neighbouring residential premises;
- Animals and birds;
- Church bells and PA systems.

Call centre staff are being told to tell complainants that they are able to take their own action under section 82 of the EPA 1990 and offer to send them information in the post or by email.

The council accepts that there is a "medium risk" of being referred to the Local Government Ombudsman on

the basis "that the city council is not discharging its statutory duty to investigate complaints of nuisance".

Nuisance and legal expert Dani Fiumicelli of Temple Consultants told *Noise Bulletin*: "I've never seen this stated so brazenly. Normally councils have an unwritten policy and put in place a 'prioritisation' scheme that allows them to screen complaints. This may not actually be a bad thing as chasing noises they will never witness, or won't be a nuisance or very short term problems – for instance one-off parties – can be a futile waste of resources.

"However the Ombudsman is not the only recourse for aggrieved complainants, they can also seek an order of mandamus (which forces a local authority to respond).

"Additionally local authority

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HHSRS HOUSING

Westminster serves improvement notice

Westminster has served an improvement notice on a landlord when it became clear the premises were too hot and too noisy to open windows forming a category one HHSRS hazard.

The case was heard by the Residential Property Tribunal and concerned a flat in Edgware Road where the tenant complained of too much heat, and being unable to open windows because of excess noise.

Following a council report and other monitoring carried out

by Westminster in relation to excess heat, the residential team officer assessed that the heat and noise both gave rise to a Category 1 Housing Health and Safety Ratings System hazard and therefore an improvement notice was served on the landlord.

The council said: "The tenant was faced with a no-win situation and if things had remained, the tenant would be expected to choose between either the problem of excess noise or excess heat."

Westminster's Phil McIlwain

see above right

told *Noise Bulletin*: "I believe the case is of interest to those who work in the field of acoustics especially those involved in the design and decision stage of residential building projects adjacent to noisy sources."

He continued: "Issues of poor building design and maintenance leading to excess heat are not uncommon and I believe this is the first case of its kind to acknowledge the potential link between excess heat and excess noise."

- Email us for the judgement

IN BRIEF

Taylor takes it

Defra has appointed consultant Rupert Taylor to study the impact of historic policy interventions on noise. The research aims to support the objectives of the Noise Policy Statement 2009 and

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IN BRIEF

Cuts, from page one

funding from government includes an element (albeit not enough to cover the whole cost) to deal with nuisances, so will Salford could find that it owes the Treasury a refund?"

Noisedirect is a firm which specialises in offering advice to noise sufferers, many of whom feel they have been let down by their local authority. They can often be advised to take section 82 actions themselves if the nuisance carries on.

Nargis Kayani of Sanctum Consultants, which runs Noisedirect, said: "This report is no surprise. In the last two years we have increasingly seen councils outsourcing issues project by project, whilst we continue to receive more and more calls about traditional simple nuisance cases, which callers tell us that councils no longer deal with.

"Sanctum's view is that if the Government is truly committed to localism, then there should be a policy of 'use it or lose it'. Simply put, if councils want to opt out of complying with statutory duties, then private individuals should be allowed to use public funding to authorise their own environmental health professionals to serve Noise Abatement or Housing Act notices on their behalf."

She added: "Councils may well find that the Ombudsman is the least of their worries, as they are faced with multiple judicial reviews."

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