



## **Review of Antisocial Behaviour Noise Regime**

### **Call for evidence workshop**

**22<sup>nd</sup> May 2014**

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**Report approved by:** Environmental Protection Scotland Scottish Noise Advisory Group

## Environmental Protection Scotland

Environmental Protection Scotland (EPS) works with policy makers, local authorities, industry, academia, law professionals and environmental professionals to inform debate, influence policy and promote knowledge and solutions to achieve a cleaner, quieter, healthier, sustainable Scotland. We are active and influential in the fields of air quality, land quality, noise and are at the fore of emerging environmental issues. We will work to deliver those topics as a means to protect and improve public health, tackle climate change and address sustainable development.

### 1. Introduction

Environmental Protection Scotland, in conjunction with the Scottish Government, held a workshop event at Victoria Quay attended by 54 delegates representing 20 Local Authorities, 10 Housing Associations and the Institute of Acoustics. Delegates were split into six workshop groups, with an equal split between local authority and housing association at each group, and asked the questions in the Call for Evidence with a scribe writing their responses. The facilitators for the day were members of EPS' Scottish Noise Advisory Group.

All comments were collated and are summarised in this report to the Scottish Government for their consideration and publication. The content of this document reflects the comments and general discussion of the delegates; comments are not assigned to a particular attendee and are not necessarily the views of EPS.

Environmental Protection Scotland would like to thank Linda Story, Samantha Barker and the Scottish Government for allowing EPS to contribute to the discussions and we look forward to the outcomes of the call for evidence in due course.

### 2. Warm-up question

Delegates were asked a warm-up question (that is not part of the Call for Evidence): "Overall, how effective has the regime been?" Although not specifically asked to rate the regime, it appears that the majority of delegates feel that it has been fairly effective but that there is room for improvement (see Table 1)

**Table 1: Snapshot of delegates' opinion on effectiveness of regime**

Excellent	Good	Okay / quite	Poor / ineffective	No specific response
6%	9%	51%	11%	23%

Many of the individual responses were captured during the subsequent workshop questions, some of the main comments are:

- The regime was effective when it was first introduced however lack of funding / resources and a lack of consistency between local authorities have made it less effective.
- It should be compulsory for local authorities to have an out of hours' team.
- The public are grateful that actions can be taken when they suffer disturbance but that more could be done, e.g. poor insulation and conflicting lifestyles may be deemed antisocial. There appears to be a lower tolerance of noise nowadays than in the past.
- Antisocial functions have diverged and matured with a greater understanding of what works and what doesn't.
- Complaints can be dealt with quickly and effectively; warning notices are often enough and there is no need to issue a fixed penalty notice.
- There needs to be better collaboration and sharing of information between local authorities, Police Scotland and housing associations.
- Lifestyles have changed e.g. shift patterns and a mixture of young families and old people.
- There are problems of having to re-issue warning notices at 11pm.

### 3. Call for evidence questions

#### 3.1. Enabling and flexible

**Question 1.1: Do you think this flexible arrangement is still appropriate? If not what would you recommend?**

There was no clear consensus; most groups said yes but one group said no and gave no further explanation. Flexibility is good and is required to allow for the 'subjective' v 'objective', for issuing warning notices to repeat offenders and is what is needed for different areas (rural v urban), but there needs to be a structure to work within.

It was noted that there are difficulties in the interpretation of duties in relation to the resolutions – do local authorities have to provide staffing cover for all periods? Many local authorities have made a number of changes to services and resolutions: one local authority with no out of hours team felt that noise teams should be compulsory, another local authority reported that they have recently lost their noise teams and that residents are suffering because they do not contact the police whilst a different local authority have a full team and enjoy police support.

Ring-fenced funding was highlighted as the major aspect that would allow the legislation to be used effectively. Other recommendations included:

- Look at both antisocial behaviour legislation and housing legislation so that noise complaints can be addressed by the most effective legislation;
- Multi-agency and joint working with Police Scotland and Housing Associations;
- Review what is being provided by local authorities, where it is based, levels of partnership with for example Police Scotland and provide guidance on what coverage is expected for a given level of service;
- Increase the Fixed Penalty Notice fine.

**Question 1.2: Only one minor change to the Local Authority resolutions have been made since the scheme was introduced. This would imply that despite the current financial climate, Local Authorities are still providing the same level of noise service that they did in 2005/6. Do you agree? Should the system of resolutions be changed?**

No, the level of service has not remained the same as (i) there have been changes in many local authorities and (ii) that noise teams are disappearing due to lack of ring fenced funding even though there is a demand for the service. One group felt that the service has improved with a more mature and focussed approach.

The overall view was that although the system of resolutions give flexibility it needed to be changed; there needs to be clarification on what a resolution is committing a local authority to do, with a suggestion that the resolutions are reviewed regularly, e.g. annually or every 3 years. Delegates felt that resolutions should be specific to the times a local authority operate a service.

### **3.2. Complementary Powers**

**Question 2.1: Has the regime filled the necessary legislative gaps?**

The majority view was that yes, the regime has filled the necessary legislative gaps particularly when it was first introduced; it allows for the immediate resolution of a problem and appears to have reduced the number of repeat offenders. Delegates felt that the warning notice is often effective and that there is no need to issue a fixed penalty notice (FPN) but when they are issued FPNs are very effective. Only one Group felt that the regime has not filled the gaps and has merely transferred the responsibility from police to local authorities.

A number of concerns were raised:

- There is a weakness in the warning notice time period; in rural areas it should be longer;
- The measurement procedure does not always predict the human response
  - One local authority prefers to use the Environmental Protection Act because antisocial behaviour doesn't reflect human response.

## **Question 2.2: Do you have any further suggestions for improvements?**

- Persistent offenders given an instant FPN.
- Look at the time warning notice is valid for.
- Remove dog barking.
- Measurement procedure and criteria – further research to check validity of human response is required.
- Better collection of statistical information from all sources (local authorities, Police Scotland, RSLs) to allow better identification of issues.
- Better information sharing through monthly meetings; there is a feeling the partners are getting more disjointed. Set up antisocial behaviour working groups to tackle noise.
- Look at the resources available and allocate on a needs basis.
- Take a survey of local authorities and RSLs to see what they need.
- Better provisions for tackling Youth Offenders.

### **3.3. Alternative Quick Resolution**

#### **Question 3.1: Is the system currently well understood and used by Local Authorities?**

The general feeling was yes it was understood by the people that use it but not by housing providers, councillors, landlords, letting agents or those in local authorities who don't use it. One group felt that it was not well understood or used.

Delegates felt that there needs to be specific training for councillors and senior managers as they do not have the understanding of the issues to allocate funding. Also there appears to be a lack of ownership and information sharing. Police Scotland should also have training.

One group commented that tenants are reluctant to complain about antisocial noise (either for cost (dialling 101 from a mobile phone is expensive), reluctance or fear of reprisal) leaving RSLs with no evidence to be able to take action against the noise creator.

#### **Question 3.2: Does the warning notice system work and if not can you give an indication of the scale of the problem?**

Yes. Most people will comply with a warning notice meaning that they are rarely followed up with a FPN (unless someone is very drunk etc.).

Delegates suggested that the time period the warning notice is valid for should be looked at as the 11pm handover can create problems and that the warning notice should last longer than what is currently in place.

A concern was raised that the warning notice is complex to complete.

### 3.4. Powers

#### **Question 4.1: Is there scope to extend the powers in the legislation to others such as registered social landlords?**

No clear consensus. Whilst there might be willingness for RSLs to have the powers funding and resources were cited as a problem; RSLs at the workshop felt that it would only work with larger housing associations as they have the resources and are therefore in a position to be able to investigate their own complaints. It was commented that RSL clients only want to deal with a housing officer therefore it would be useful if RSLs had the power to issue FPNs. A question raised was whether RSLs would have to provide the same hours as covered by local authorities, or whether they could work in partnership with the local authority noise team.

Many groups felt that there is a potential conflict of interest, i.e. are RSLs the landlord or are they the enforcer? One suggestion to avoid that would be to set up a joint antisocial behaviour team with other housing associations.

One group noted that currently there are sufficient powers within the Housing Scotland Act.

Private landlords should never be given any powers.

#### **If so do you think there are enough checks and balances in the registration process to ensure that landlords are suitable candidates to enforce this regime?**

Not all delegates were aware of what the current checks and balances are and those that did know ranged from being satisfied that there are enough checks in place for RSLs to those that wondered if there would be enough checks in place to guarantee enforcement is being properly carried out to the desired effect.

RSLs have a 'duty of care' and felt that they don't get full information from the police or local authorities to aid enforcing tenancy agreements; it was noted that some local authorities are reported to send out all the calls and actions on a regular basis to RSLs.

One group felt that there are not sufficient checks in place at the moment but that a further sanction under the Housing Scotland Act could be suitable.

The majority were in agreement that private landlords should not be given powers of enforcement.

#### **Question 4.2: Do you think there is a need to extend the powers available to Local Authority officers and if so can you justify such an extension?**

The majority were in agreement that the powers available to local authorities are sufficient and that there is no need to extend powers; rather it is the resources that are the problem. Two suggestions for future requirements were:

- Look at retrospective action;
- Require name and address of person at time of issuing a warning notice and FPN with failure to give an offence.
  - It was felt that by other delegates at the same group that this would not be required as police could be used to obtain these details.

RSLs at one of the groups want more communication and copies of evidence perhaps through a formal Memorandum of Understanding (MoU) or a Single Outcome Agreement (SOA); RSLs would not need powers if there was a free exchange of information between agencies. A requirement for communication should be included in the Antisocial Behaviour Act so that the “guidance could ‘free up’ constraints”.

### 3.5. Noise Levels and Periods

#### Question 5.1: Are these levels working in practice?

Yes and no.

The time period the warning notices are in place for need to be addressed as issuing a warning notice near the end of a time period can be ineffective and lead to unnecessary disruption to the complainer. Suggestions were that a warning notice lasts for 2 time periods; one group suggested that there should be a reduced number of time periods, 8am – 8pm and 8pm – 8am.

One local authority feels that there should be a review of the levels and one group called for the noise levels to be reduced and another group felt that subjectivity has been an issue but noise levels do not breach the permitted level. At present to combat this the local authority uses the Environmental Protection Act when antisocial behaviour limits aren't exceeded.

Underlying levels appear to be a problem and it was asked if underlying levels could be taken in a 'proxy' room providing the conditions were the same.

Other comments included:

- Levels for intermittent noise could be reviewed e.g. dog barking. [Under Question 8.2, it has been suggested that dog barking is removed]
- Shorter measurement time.

### **Question 5.2: Are the levels the correct levels?**

The majority of delegates agreed that the levels are correct. One group felt that they were too high and that there must be a relationship with frequency in particular with bass. Another group felt that day time levels should be lower or abolished.

#### **If not, do you have any evidence or support for any changes?**

One group felt that it was hard to take measurements when levels of music fluctuate. Another group felt that the night time level is a potential problem e.g. subjectivity against measured levels not breaching the permitted level. The same group felt that the 11pm time slot for warning notice is awkward for enforcement.

One group asked for all local authorities to produce annual statistics on:

- Underlying levels
- How many times they have had to issue more than 1 warning notice in the evening / night change over i.e. 7pm – 11pm, 11pm – 7am.

### **3.6. Measurement Protocols**

#### **Question 6: Are these protocols still fit for purpose?**

All groups bar one felt the protocols were still fit for purpose with a caveat:

- Quantitative assessment of poor sound insulation, i.e. what to do if normal living noise is an issue.

#### **If not, what needs to be changed?**

- A mediation service should be mandatory for each local authority to provide.
- RSLs should be given more discretion over who can go where, e.g. sensitive lets.

One group felt that there needs to be a review based on evidence from local authorities and would also like to see further research on background noise levels. The group also questioned if the compliance criteria should be looked at e.g. what if the source has complied with a warning notice but the complainant isn't satisfied.

### **3.7. Training**

#### **Question 7.1: Do the training courses still provide adequate training for authorised officers?**

A number of delegates last did training 6 – 9 years ago so were unsure of that is currently being offered. One of the groups noted that there are a number of courses available e.g. the IOA Environment Noise Management course, who also a run 5 day antisocial behaviour course and a 1 day antisocial behaviour 'conversion' course. It was noted that candidates should register interest to

trigger the courses. Another group raised concerns about the training being provided and that courses were cancelled.

It was felt that standardised training should be mandatory to become an 'authorised officer' ensuring that there is no ad-hoc in house training which may vary in quality.

**Question 7.2: Is there a need for more or fewer courses or top up training?**

There is a need for standardised, accredited refresher courses either on a regular basis or an 'as and when' basis and may help prevent evidence being challenged in court. Ideally top up training courses should be provided free of charge. Refresher courses would be beneficial for established officers or others who have returned to antisocial behaviour noise and cover the non-technical aspects such as dealing with conflict, personal safety and other noise legislation. Training should also be provided to partners [not specified by group] and consultees on service provisions are up to date on local noise service provisions.

### 3.8. Guidance

**Question 8.1: Is the guidance still fit for purpose?**

Two groups said yes, three groups said no. A number of suggestions on how to update the guidance were given in response to this question, for the sake of prudence and repetition these have been included in Question 8.2.

**Question 8.2: Do you have any suggestions for updating the guidance?**

It was felt that the guidance should be a good practice guide and should be compiled by current officers and authorities who have and are enforcing the legislation. Any review should look at the reasons for the legislation being brought into force. Updated guidance should look at changes to tenure of houses as many local authorities have transferred stock to RSLs. Particular suggestions are:

- Slimmed down and up to date
- Update response models
- Review terminology e.g. reasonable person
- Ensure the definition of antisocial behaviour is consistent with other legislation
- Look at extending the warning notice period, e.g. 2 time periods or a week
- Clarify what training is needed to become an 'authorised officer'.
- Clarify if the training is mandatory and how often officers are expected to undertake it.
- Look at increasing the FPN fine to £150 in line with the Environmental Protection Act.
- Include:

- Examples of best practice
- Examples of Memoranda of Understanding [of what was not specified]
- Include laminate flooring
- Include how to deal with poor sound insulation
- Information to avoid any Data Protection Act pitfalls so information can be shared
- Remove:
  - Remove historic information, e.g. Belfast comparisons
  - Dog barking and cockerel crowing
  - Flow diagram at end, possible with mental health issues [the respondent did not give further information]

**Question 8.3: Do you have any other suggestions for improvements?**

Not asked.

## Acknowledgements

Environmental Protection Scotland would like to thank the following organisations for attending the workshop and making the day a success:

Angus Council	Argyll and Bute Council
BHA Group	City of Edinburgh Council
Dumfries and Galloway Council	Dundee City Council
Dunedin Canmore Housing Association	East Ayrshire Council
East Dunbartonshire Council	Eildon Housing Association
Fife Council	GHA
Glasgow City Council	Govan Housing Association
Institute of Acoustics	Inverclyde Council
North Ayrshire Council	North Lanarkshire Council
Paragon Housing Association	Perth and Kinross Council
Pineview Housing Association	Renfrewshire Council
SBHA	Scottish Borders Council
South Ayrshire Council	South Lanarkshire Council
Southside Housing Association	Stirling Council
West Dunbartonshire Council	West Granton Housing Co-Op
West Lothian Council	

EPS would also like to thank Deborah Golder, the Scottish Government, for assisting on the day.

## Facilitators

Samantha Barker, Scottish Government	Nigel Kerr, Glasgow City Council
Lilianne Lauder, Midlothian Council	Dr Bernadette McKell, AECOM
Linda Story, Scottish Government	Steve Williamson, City of Edinburgh Council

## Scottish Noise Advisory Group

The goal of the **Expert Advisory Groups** is to promote integrates policies and practices that protect the quality of Scotland environment and resources, the **Scottish Noise Advisory Group** looks at the effects of noise on human health, anti-social behaviour, planning, noise nuisance, the implementation of the European Noise Directive to mitigate transport noise and to protect quiet areas.

The Expert Advisory Groups will be **PROACTIVE**:

- **Promote** a better understanding of the intra-disciplinary relationships between experts involved in managing Scotland's environment.
- **Report** regularly on policy developments, initiatives, new developments and opportunities for project collaborations.
- **Organise** (seminar / workshop / conference / training) events for developing, sharing, educating and promoting current best practice.
- **Act** on members' needs and provide a collective voice in responding constructively to policy consultations.
- **Co-ordinate** and develop Scottish information material for use by professionals to communicate with businesses and members of the public.
- **Traverse** communication barriers by dropping the jargon and promoting a common dialogue.
- **Initiate** networking opportunities for experts to exchange knowledge, experience and data within and between organisations and professions.
- **Validate** technical guidance and methodologies for application in Scotland.
- **Establish** a bank of expertise accessible to decision / policy makers in the Scottish Government.

Its members are:

Dr Bernadette McKell, AECOM, Chair

Brian Carmichael, West Lothian Council

Stuart Henderson, Falkirk Council

Nigel Kerr, Glasgow City Council

Jim McIntyre, SEPA

Linda Story, Scottish Government

Steve Williamson, City of Edinburgh Council

## Appendix 1: Warm up question responses

Overall, how effective has the regime been?

[Any emphasis, e.g. underlining, capitals, etc. were taken from the original comments. These were not emphasised by Environmental Protection Scotland.]

### Group 1

Rubbish	Ok	Good	Brilliant	N/A
1*	4	4	/	/
* difficulty in delivering the options available. Rural issues. Score overall slightly less than 50% satisfactory				

### Group 2

- Fairly effective, number of calls reduced but more silly neighbour complaints coming through.
- Number of Warning Notices reduced.
- Inverclyde using EPA rather than ASBO as levels not exceeding for ASBO

### Group 3

1.	I believe when the ASB:N first responded to noise complaints was effective however due to lack of consistency from the local authority hasn't made it effective. Thankfully the Police have been able to deal with the noise on short term, and work effectively with the old ASB Teams to ABA, ABC and ASBOs to help deal with the noise.
2.	I think that there has been mixed success. In general the public are very grateful when suffering disturbance that we can assist however there are so many aspects to noise that cannot be addressed under ASBA however the public feel it should be addressed.  Issues such as poor insulation, conflicting lifestyles are often deemed 'anti social noise' and may not be actionable. Members of the public feel that we should do more.
3.	1. Improved response time  2. Quickly assessed.

	<p>3. Provisions of team at time when complaints happen.</p> <p>4. Increase in reported complaints due to improved response and resolution. Did away with weeks of complainants.</p> <p>5. Increase trust in service.</p> <p>6. Very effective.</p>
4.	<p>I don't work on frontline re noise complaints. Am a Housing Manager with a Housing Association therefore my view is almost from the service user / end use.</p> <p>My dealings with the Noise Team could have been improved by the sharing of information concerning call outs to our tenants; and fixed penalty notices (or warnings) served. The team have perhaps been a bit too careful in the sharing of information. As a housing association we would appreciate corroboration from an independent professional source.</p> <p>With regards to the actual service offered by City of Ed. Council, they have very responsive, helpful, engaging &amp; dealt with the callers quickly &amp; effectively.</p>
5.	<p>A good start with the situation in 2004. However the overall environment has changed. ASB functions have diverged and matured i.e. we now know what works and what doesn't. Local priorities and available resource has changed i.e. emphasis on street / youth disorder and crime away from neighbour / domestic issues.</p> <p>Tenure has also radically changed in 2004. There are considerably less local authority noise and many more non local authority properties and a huge increase in private lets.</p> <p>Domestic noise now appears to sit with a housing or communities [sic] safety function.</p> <p>Other issues include lifestyle changes, e.g. shift patterns and mix of young families and old people.</p>
6.	<p>Effective fairly capture service domestic noise day &amp; night. Although feel within our particular Authority the hours of working should be extended to capture the communities demand on the service available.</p>
7.	<p>Fairly effective – especially in terms of out of hours noise. Lower tolerance of noise than in the past. Having dedicated teams rather than EHO has also helped in terms of giving better service.</p>

#### Group 4

<b>1.</b>	<p>1. Should be compulsory for LAs to have out of hour's response.</p> <p>2. <u>Not effective</u> unless you have an out of hours noise team.</p> <p>3. Does not address common complaints that are due to poor sound insulation or laminate flooring. Poor house condition.</p> <p>4. Noise levels – great idea but have found bass 'vibration' and noise from wall mounted TVs is experienced in neighbouring properties but does not exceed the permitted levels.</p> <p>5. Other factors need addressing like improving housing stock.</p> <p>6. I hate the fact that a notice or warning 'expires' at 23.00 or 07.00 so the process has to be started again. If a warning notice is issued it should last 48 hours from time of issue.</p> <p>7. Would like a 'standard' test to determine efficiency of sound proofing that is easy to execute.</p> <p>8. Officer grant for effective sound insulation.</p> <p>9. PI for noise – review! Ensure correct info collated.</p>
<b>2.</b>	<p>Dependent on council.</p> <p>Stirling Council. Not very. No noise team provision. All calls passed to police (out of office hours). When noise team were in operation time W/N lasted was an issue.</p> <p>No legislation to cover living noise.</p>
<b>3.</b>	<p>As a housing officer based in a small Housing Co-op in Edinburgh. We have signposted tenants to the noise abatement in the past. Tenants have fed back positive comments regarding this provision, noise officers attended promptly and warning notices issued if necessary, no fixed penalty notices have been issued and no equipment has ever been seized.</p>
<b>4.</b>	<p>The legislation has been extremely effective when there is an out of hours service as the noise problem is resolved immediately.</p> <p>There is problems [sic] if a warning notice is sieved before 11pm then have to be re-issued.</p> <p>Barking dog complaint [sic] are not being resolved as they tend not to bark from 5 minutes solid to let a proper reading to be taken.</p> <p>LA funding.</p> <p>Does not deal with lack of insulation.</p>

	Find that during daytime hours we are not issuing FP notices as verbal warnings or warning notices are effective.
5.	Regime has been ok. Only major problem is not enough officers to respond to noise complaints. By time they get there noise has stopped. Also knowledge of noise pollution team etc not well known to tenants exception in our newsletter etc. they call us and expect us to deal with it.
6.	Generally the system works well. The issues with issuing warning notices in different time periods could be looked into. Call level is similar, but less repeat calls and few fixed penalty notices in our authority adopts a different approach, but perhaps more uniformity is required.
7.	In general fine however, there are a few points that need looked at. I believe we need a better link with Police Scotland. WN issued may then Police warning issued – never link up and crossover with both.
8.	Fairly effective. Would like review of permitted levels specifically. In an ideal world, simplification of time periods and associated warnings. Better links if possible with Police Scotland required – there is currently a disjointed approach following warnings and FPNs.

#### Group 5

1.	Largely it has been effective. Very few of our noise (domestic complaints) which we have put onto the out of hours (ASBA) service have resulted in enforcement. In fact most are dealt with (resolved) by our initial warning letter. We do, however, tend to use EPA powers if we require to enforce.
2.	We are a Housing Association based in a rural area and generally speaking our noise issues are quite low. However we do have isolated incidents and these are dealt with successfully in the main by our local police and council either by means of fixed penalties or noise recording equipment. Poor insulation in many of our properties is one of our main problems, also tolerance levels are quite low with tenants.
3.	Initially when funding was ring-fenced and out of hours team was funded by SG regime effective.

	<p>Unfortunately due to budgetary restraints the Pan-Ayrshire noise team was run-down and eventually dis-banded from 1<sup>st</sup> April this year.</p> <p>ASB noise complaints in South Ayrshire peaked 2 years ago at over 1,200 but in the last year of the team, dropped to around 250.</p> <p>If there was anyway the funding could be ring-fenced again (similar to air quality) then the out of hours team could be re-established.</p> <p>In general I felt noise levels for night period was set a bit high and warning notices should last for longer than one time period.</p>
4.	<p>The regime is effective within LAs who adopted Part V at providing an intervention and stopping anti-social noise at the time it is occurring. The effectiveness of the regime should not be judged on the number of complaints received as LA actively promote their services and hence encourage people to complain.</p>
5.	<p>As a local authority housing representative the new regime has not really been in practice for a few years.</p> <p>FPN have not been in common use for any length of time so we have failed to reach any pros or cons in relation to this aspect of the legislation.</p>
6.	<p>For the most part it has been effective when permitted levels breach.</p> <p>When noise level has just been below permitted level we have to walk away and the complainant is still suffering the noise.</p> <p>Fixed penalties unpaid when and if taken to court only end up with a lesser fine.</p> <p>Insulation with properties.</p> <p>Anonymous complainants.</p>
7.	<p>Could be better service had experience of EPS noise control in Glasgow attending address and issuing notice but when questioned advised was not 100 per cent were it was coming from. I work from GHA and this could have caused the family to be booked into court. Could be more accurate.</p> <p>Also service only up until 3am.</p>
8.	<p>Could be better better [sic] drafted to allow 24 hour cover &amp; increased to allow Housing Associations to enforce noise recordings.</p> <p>Overall allowed more people to be aware of service &amp; legislation but quicker response &amp; more enforcement ultimately would lead to a reduction.</p>

## Group 6

1.	Regime has been quite effective overall – within Falkirk Council area. 3 time period concept?
2.	It is hard to say how effective it has been in Dumfries and Galloway as we do not have a dedicated noise team. We have several named [noise?] officers but don't have a rota that covers late nights so we use a Community Safety Team. Do not have suitable experience to answer this question.
3.	The regime, as I understand it was previously ineffective. Very rarely did NL issue any FPN (environmental) NL has new ASB service which has taken over Part V – not in full use yet, as part of the new service, I cannot say how this will improve.
4.	My tenants don't report very positive impression about the service and don't feel it is very effective. They are disturbed by noisy neighbours but when the noise nuisance team come out the noise has either stopped or they noise levels are said to be of an acceptable level.  I would benefit from feedback by the noise team as I have no way of knowing when they haven called out to one of my properties.
5.	<u>Quite effective</u>  WN in place for too short a period.  Is £100 a big enough fine?  Daytime levels too generous? (Is it worth providing protection daytime?)  Subjective assessment? Useful tool, or just way to speed up paperwork / measuring?  Are we getting true background level?  General tolerance of noise between neighbours.  Poor sound insulation – can 'behaviour' be at fault?
6.	The regime has been very effective in dealing with noise on the night. The warning notices are very effective as we rarely resort to FPN.
7.	Not fully aware of details as work for housing assoc. but good from our point of view that we can encourage our tenants to phone the Edinburgh Noise Team. We can also get reports of attendance, notices issued etc. for any action we are taking. As we only work office hours gives our tenants access to 'out of hours' service.  Funding may be issue through as Noise Team hours have been reduced to Thurs – Sunday.

## Appendix 2: Workshop question responses

[Any emphasis, e.g. underlining, capitals, etc. were taken from the original comments. These were not emphasised by Environmental Protection Scotland.]

	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6
	<b>Enabling and flexible</b>					
1.1	Yes	<p>Yes, at the moment but some changes to the statutory arrangements may be more beneficial e.g. what we will do what the public want.</p> <p>Difficulties in interpretation of duties in relation to the resolutions e.g. "Does LA have to provide staffing cover for all periods in relation?" What would ombudsman think?</p>	Short term – no	<p>What is needed in different areas – e.g. rural areas.</p> <p>Flexibility good – providing a service.</p> <p>Funding – ring fenced again?</p> <p>Charges to services and resolutions made by a lot of councils.</p> <p>Flexibility is still required – subjective vs objective for warning notices / problems for repeat offenders where there is no warning notice.</p> <p>Little feedback from noise teams to housing association landlords.</p>	<p>How many authorities are actually running? 25 resolutions in place.</p> <p>No, some flexibility required but requires a structure to work within.</p>	<p>LA with <u>no</u> 'out of hours' thinks that noise teams should be compulsory.</p> <p>LA just lost their team and not receiving complaints, residents suffer but don't call the police.</p> <p>LA with full team and police support based on community response, LA think it is important.</p> <p>No noise teams due to lack of funding – teams went due to no SG<sup>t</sup> funding.</p> <p>General view – ASB should be delivered by multi agency players.</p>
1.2b		Guidance on what coverage in relation to level of service (resolution).	Needs to looked at with ASB & housing legislation to allow noise nuisance complaints to be addressed by best and most effective legislation.	<p>Specific funding where there is a demand for the service – ring fencing.</p> <p>Joint working</p> <p>How do you get info to other landlords – housing assoc., private landlords for part 2 action.</p> <p>Should be service based.</p> <p>Increase the fine for FPN</p>	<p>Current arrangement review how many and what are all local authorities providing and where is it based. Is it in partnership with Police?</p> <p>Funding is a major aspect to allow this legislation to be used effectively. "Ring fenced".</p>	Compulsory – mutli agency deliver – funded!!!
1.2	Individual choice for local authorities.	Glasgow – still the same, although lots of change in some authorities. Clarity needed in what resolution is	No – the service has improved. Better use of service, more focussed and mature service.	<p>No – inaccurate.</p> <p>Systems of resolutions ok – gives flexibility</p>	<p>No [don't agree] – complaints have risen.</p> <p>Yes [to resolutions being changed] – Not everyone</p>	Table believes noise teams are 'disappearing' fast due to no funding. Recommend review current regimes.

	Depends on accessibility of service e.g. rural areas.  Availability of finance.	committing the LA to do (statutory provisions).  Clearly the same level of service isn't being provided in all authorities compared to 2005/6.		Put in place process where review resolutions annually or every 3 years.	adopted the resolution however. What level of service is provided? Resolution should be specific to times they operate service.	Are aware of LAs that have dropped their service.  There is a day service with LAs / RSLs but not at night.  Still a demand for service but no funding.
<b>Complementary powers</b>						
<b>2.1</b>	Yes.  Weakness as in warning notice time period. Rural areas e.g. should be longer.	Yes.  The measurement procedure doesn't always predict human response.  One authority prefers to use EPA legislation because ASB measurements sometimes don't reflect human response.	No – shifted responsibility from police to local authorities.	Yes – black and white. Quick fix.	Legislation good but where the problem is resources.	<b>Yes</b> when 1 <sup>st</sup> introduced, effective when funding and encouraged 'out of hours'.  Allowed immediate resolution of problem.  Seems to have reduced repeat offenders.  FPNs very effective. Regime has teeth.  Warning notice is often effective, no FPN needed in many cases.  Facilitates 'change of behaviour' conversation as tenancy / ASBO at risk.
<b>2.2</b>	Persistent offenders possible given instant FPN.  Potential for looking at time warning notice is valid for.	<u>Measurement Procedure &amp; criteria</u> – further research to check validity of human response is required.	Better collection of statistical info from all source LA, RSL, and private landlords, Police Scotland etc. to allow better identification of issues.  Better information sharing between the various agencies.	Powers are sufficient – short and long term solutions.  Take dog barking out of part 5.	Resources provided and allocated on a needs basis.  Each authority / RSI need power. Should survey and advise what they need.	Police – Scotland (Edinburgh) – has changed relationship with LAs.  RSLs and LAs getting less local information.  Feeling partners are getting more disjointed.  Some LAs have a monthly partnership meeting to share info.  ASB working groups to tackle noise – Police & LAs to share same office space, do joint visits. Was happening in Edinburgh but Police-Scotland

						inception has changed relationships.  Harness local willingness.  Better provisions for tackling Youth Offenders needed.
<b>Alternative quick resolution</b>						
<b>3.1</b>	Yes. 25 out of 30 signed up.	Well understood by LA staff but not as much by Housing Providers, councillors, noise officers, EHOs, landlords, letting agents.  Would specific budgets and allocation of funds make a difference?? There was probably nether understanding by senior management when specific budget was allocated (ring fenced).	Not well understood or used. Issues of providing training and resources.  Issues of information sharing.  Lack of ownership of the problem where does it class as being resolved?	Yes by people who use it and work it – practitioners.  Work required with other agencies (Police), senior managers, councillors.	People involved understand it, but other members of the authority don't and they can be the decision makers.	Well used by LAs if complaint made.  Tenants reluctant to complain to LA / Police (maybe cost / reluctance / fear of reprisal) but give RSLs problems to try to evict.  Therefore no evidence available for RSL to take action.  101 from mobile expensive.
<b>3.2</b>	Consensus is that it is effective. Again may be worth looking at period notice is valid for	Yes, most will comply with WNs so effective in most authorities. All agreed.	It is effective in that the warning notices are rarely followed by FPNs.	Warning notices do work.  11pm handover can be an issue.  Warning notice should last for a longer period – consider.  3 time periods for front line officers can be a problem.  How do you respond to anonymous callers.	Works well verbal and written for the majority as less FPNs served.  Warning notice lasting a longer period should be looked at.	Warning notice very effective, problems only if very drunk etc.  Warning notice comment that it is complex to complete, clients also find it confusing.  Do not think it should be for an 8 hour period stopping at 11.00pm
<b>Powers</b>						
<b>4.1</b>	Possibility a willingness for demand but depending on factors such as enforcement & finance (resources)	We felt there may be too much confusion with the roles of a landlord and that of an enforcer.  Potential for conflict of interest here.	Possibly not. Sufficient powers within Housing Scotland Act. Resources not available in RSLs to take on this role.	How would police, neighbour of property causing problem known tenure of property.  Funding – how would this be funded.  RSL at table – do not think viable amendments. Would only work with larger Housing Associations.	Yes – RSLs (larger ones) have resources and should be able to be in a position to investigate their own complaints.  *would they have to have same hours covered as LA? Work in partnership with LA noise teams	Yes.  RSLs – housing officers but would need resources.  Police – maybe not because they would then be restricted by times.

				Private landlords should never be given scope.		RSL clients only want to deal with Hsg Officer so it would be useful to have FPN power.  RSL point – are they providing support? Could be conflict of interest. Would recommend separate (joint with other RSL) team for ASB.
4.1b	Would there be enough checks to guarantee enforcement is being properly carried out to desired effect.	Unsure what exact checks are, all agreed that private landlords should <u>not</u> be given powers of enforcement.	Not at this time but a further sanction in Housing Scotland Act could be suitable.	Satisfied that there enough checks and balances in place for RSLs but definitely not for private landlords.	Envisage that only RSLs would take on the powers. Staff would require to go through same training / qualifications as LA noise teams.	RSL 'duty of care'.  RSLs feel they don't get full info from Police / LAs to aid enforcing tenancy agreements.  Some LAs send out all calls / actions on a regular basis to RSLs.
4.2	See above answers.	All in agreement that our powers are sufficient at the moment.	Yes – perhaps look at retrospective action.	Mixed thoughts – some practitioners believe there is a further requirement for power to require name & address of person at time of issuing a Warning Notice & issuing Fixed Penalty Notice – failure to give is an offence.  Majority of practitioners around the table did not think this is required as police can be utilised to obtain details.	No need to extend powers.  Powers available are suitable, it is the resources that are problem.	RSLs want more communication and copies of evidence – MAYBE – formal MoU or SOA.  RSL don't need powers if free exchange of information between agencies. Is built in ASB Act so guidance could 'free up' constraints.  Can't identify any further powers needed.
<b>Noise levels and periods</b>						
5.1	Would appear to be working – however time period would need to be addressed. i.e. length of time warning lasts for.  Levels for intermittent noise could be looked at e.g. dog barking.  Possibly shorter time measurement?	Majority agree, 1 disagree – use EPA instead when level under ASBO not exceeded.  One authority feels a review of the levels necessary.  Serving a WN near the end of a time period can be ineffective and lead to unnecessary disruption to complainer. Could a warning notice last for 2 time periods??	Yes	LA maximum should be introduced	Yes however in some circumstances problems arise with night-time levels / underlying levels.  Could we take underlying in 'proxy' room, as long as conditions are the same.	Call for noise levels to be reduced. Subjective has been an issue but noise levels not breaching the permitted level.  Underlying noise can cause problems.  Has to be habitable room (says guidance).  Reduce time periods to 2 (e.g. 8.00am – 8.00pm).

5.2	Yes	Majority agree.	Yes	Daytime levels should be either lower or measurements should be abolished.	See above.	No – too high. Need to have some relationship to frequency. Big issues with bass.
5.2b	/	Hard to take a measurement when levels of music are going up and down, feel silly trying to get an accurate reading.	/	Yes – Linda Storey has dissertation.	We would look for stats to be provided by all LAs on an annual basis to identify areas of concern i.e. underlying levels, having to issue more than 1 warning in an evening 7pm-11pm, 11pm-7am	Night time – has shown the subjectivity is a problem but not breach of permitted levels. Fife have noise measurements. MATRON recordings – don't help unless witnessed. 11pm time slot for warning notice is awkward for enforcement.
<b>Measurement protocols</b>						
6	Yes – generally they are.	Whole table agree that t review needed based on evidence from local authorities. Further research beneficial – re – background noise levels.	Yes	Yes	Yes	Generally agreed they are still valid and appropriate. Quantitative assessment of poor sound insulation. What to do in 'normal living noise' an issue.
6b	/	Should compliance criteria be looked at., e.g. when a WN served, source has complied and level has been reduced but not to the satisfaction of the complainant.	/	/	/	Mediation service should be mandatory for each LA to provide. RSLs to have more discretion over who can go where! Sensitive lets.
<b>Training</b>						
7.1	Yes	Most probable, most at our table did the course ranging 6 – 9 years ago. Training was comprehensive and necessary (3-day course)	Issues over training being provided and courses being cancelled. Look at providing wider access to training.	Unsure of current content/training as all authorised officers at this table were trained many years ago. Is the training mandatory to become an “authorised officer”? If not mandatory, should it be? Feeling at the table would be a preference for specific	Yes	Courses are 1 week if no noise knowledge <u>be careful</u> which course. 5 day – IOA Environment Noise Management. <u>Not competent</u> – then 1 day for ASB. Or 5 day ASB course Or 1 day 'conversion' for ASB

				<p>mandatory training (ensure no ad-hoc 'in-house' training that may vary in quality)</p> <p>Need standardised, quality training for staff to carry out duties.</p>		<p>The above are all <u>technical</u></p> <p>Need to know candidates should register interest in getting trained to trigger courses.</p>
7.2	Yes. Need for regular refresher courses	A refresher course / element may be beneficial for established officer or others who have been away and then come back to ASBO	Top-up / refresher training would be effective particularly accredited training to prevent evidence being challenged at court.	<p>Dependent on role – some staff use the legislation daily, some rarely.</p> <p>Top-up training would be extremely useful but probable shouldn't be mandatory? Could top-up training be 'in-house'? Feeling was no, should be standardised.</p> <p>Makes sense to provide courses on a 'when needed' basis.</p>	Free refresher training would be beneficial especially for officers who have been out of noise for some time.	<p>More courses for the 'non-technical' material dealing with conflict / personal safety / other noise legislation.</p> <p>Refresher courses should be provided at NO COST.</p> <p>Introduction to ASB noise course for staff that do not need the competency to serve FPN.</p> <p>Training for 'partners' so that all are up to date on local noise service provisions, also consultees on service provisions.</p>
<b>Guidance</b>						
8.1	Yes	<p>The guidance should be updates, many factors not necessary now and now relevant, e.g. response models &amp; historic info (e.g. Belfast comparisons).</p> <p>Terminology e.g. a reasonable person</p>	No. Needs to be reviewed and updated e.g. definition of anti-social behaviour needs to be consistent across different pieces of legislation.	<p>Feeling that dog barking (cockerel crowing etc) should be removed from guidance.</p> <p>Mostly still fit for purpose – some tweaks.</p> <p>Could be slimmed down.</p> <p>Historical content removed (e.g. Belfast info)</p>	<p>Yes – it covers all aspects.</p> <p>However a longer period for a warning notice would be beneficial (currently one served at 10:30 requires to be reserved at 11:00).</p> <p>If a warning notice lasted for a week e.g. would be an improvement.</p>	<p>Needs supplementary guidance to give shared best practice guidance. Example MoU docs.</p> <p>How to share information and avoid Data Protection traps, i.e. guidance is explicit the detail that can be shared to give organisations security in sharing.</p>
8.2	<p>Revision on dog barking problem.</p> <p>Keep guidance up to date</p>	<p>Remove flow diagram at rear, possible with mental health issues.</p> <p>Should guidance be compiled by current officers / authorities, office who</p>	<p>Look at the reason for the legislation being brought into effect.</p> <p>Good practice guide – for information sharing with other stakeholders like RSLs. Look at changes to tenure of</p>	<p>Dog barking etc. reference</p> <p>Clarify training needs to become an 'authorised officer' – should be mandatory. NB also top up training? Mandatory? As and when needed? Who would require it?</p>	The use of a surrogate room for recording an underlying level in situations where one cannot be measured in the complaint room.	<p>How to deal with laminate flooring.</p> <p>How to deal with poor sound insulation.</p>

		<p>have/and are enforcing the legislation.</p> <p>Laminate flooring should be included in the legislation (mentioned under sound insulation).</p> <p>Should most certainly be based on practical experience. More in depth details on instances of seizure of equipment (e.g. practicalities such as storing of equipment &amp; how long it should be kept. – evidence based).</p>	houses – many areas LAs have transferred to RSLs.		<p>Possibly the charge for the FPN should be increases to £150 in line with EPA FPN</p> <p>Condense it – very big.</p> <p>Update it – update Belfast etc.</p>	
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## Appendix 3: Wall of thought

[Any emphasis, e.g. underlining, capitals, etc. were taken from the original comments. These were not emphasised by Environmental Protection Scotland.]

1. Legislation to include housing associations with powers to issue FPN.
2. Ring fence funding and ensure 24 fully staffed service
3. Dog barking separate issue. Should not be referred to under Part V. Separate investigation required.
4. More information freely shared regarding noise issues to the Noise Team / ASB Team / Comm Safety Team / Police / RSLs etc.
5. Housing grants for noise insulation.
6. Better PIs (and definitions) for collating accurate figures.
7. Improve poor housing stock (public and private)
8. No continuity within Sheriffs; evidence calling differs greatly to grant either ASBO. Standard of proof different.
9. Ensure that calls are passed from Police Scotland if [to?] the local authority where appropriate.
10. Remove dog barking from the guidance.
11. More guidance please information sharing protocols & practice between LAs and RSLs. RSLs look at case resolution, not 'quick fixes' & in order to achieve this we need professional independent corroboration from sources such as the Noise Team (copies of fixed PNs etc)
12. Under reporting is an issue through fear of having to go to Court or being hurt.
13. Be pro-active rather than re-active.
14. Sound proofing not great in all houses within Glasgow causing noise issues to increase and neighbour dispute.
15. Night-time officers should be thinking more of using EPA s.80 in unusual cases i.e. measurement issue.
16. As a non-practitioner positive feedback re powers not borne out by discussions surrounding implementation.
17. Clarify definition of ASB noise and / or domestic noise for reporting purposes.
18. People are less tolerant to noise.
19. Would use EPA over ASB(S)A because: we found it difficult to exceed levels where (1) intermittent bass beat reduces the LAeq. (2) Malicious source blasting music in short bursts because they are aware of the 5 min measurement period, reducing LAeq again. Also: EPA now allows for FPN to be served which is a higher level than ASB(S)A. Once EPA notice served it does not expire unlike a new warning notice for each time period. Levels do not represent the actual disturbance experienced.
20. Night-time staff should be thinking more use of EPA s.80 in unusual cases measurement issues etc. [same as comment 15.]