

WEST LINDSEY DISTRICT COUNCIL

INVESTIGATION OF STATUTORY NUISANCES AND DECISION FRAMEWORK

ENVIRONMENTAL PROTECTION ACT 1990 PART III

1 PROMOTING AWARENESS OF THE ACT

- 1.1 The Council will provide advice and information either verbally or in the form of advisory leaflets to any person making an enquiry concerning statutory nuisance.
- 1.2 The Council will provide advice and information, in writing, to any person making a complaint concerning nuisance or to any person allegedly responsible for causing or permitting nuisance, explaining the law, advising how nuisance may be controlled and avoided and also advising of the role of the Council in investigating nuisance.

2 ENFORCEMENT ACTION TO ABATE STATUTORY NUISANCES

- 2.1 Where the Council is satisfied that a statutory nuisance, as defined in Section 79 of the Act, either exists or is likely to exist then it will serve an Abatement Notice, using the powers of Section 80 of the Act, on the person by whose act, default or sufferance the nuisance is caused or permitted.
- 2.2 Where it is not clear who is responsible for a nuisance the Council will serve Requisition for Information Notice, using the powers of Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, upon those persons who may have an interest in land from which a nuisance arises, before serving an Abatement Notice.
- 2.3 Before serving an Abatement Notice the Council will normally visit the person responsible for the nuisance to discuss the evidence upon which the enforcement action is to be based, the reasons for taking the action, the nature of any works that may be necessary and the time period considered reasonable to abate the nuisance. These discussions may provide a valuable guide to effective enforcement and may result in an outcome acceptable to both parties.
- 2.4 An Abatement Notice will be clearly and concisely worded, may specify works required to abate the nuisance and will specify a time period within which the abatement shall be achieved.
- 2.5 An Abatement Notice will have attached written details of the procedure for an appeal against the notice under the provisions of section 80(3) of the Act.

3 ENFORCEMENT ACTION ON NONE COMPLIANCE WITH AN ABATEMENT NOTICE

- 3.1 If an Abatement Notice has not been complied with and an appeal has not been lodged within a period of 21 days after the service of the notice then the Council will consider the following options in line with the Public Protection Enforcement Policy:
 - Summary prosecution in a Magistrates Court to seek conviction and fine.

Section 80(4) of the Act

- Carry out Works in Default to abate the nuisance and recover costs.
Section 81(3) and (4) of the Act
- Prosecution in the High Court to seek abatement, prohibition or restriction of the nuisance.
Section 81(5) of the Act
- No further action.

3.2 In considering the above options the Council will have regard to the general principles of the Public Protection Services Enforcement Policy

4 SUPPLEMENTARY ENFORCEMENT ACTION TO ABATE STATUTORY NUISANCES

4.1 The Noise and Statutory Nuisance Act 1993 extends the powers given to local authorities to deal with statutory noise nuisances under the principal Act by enabling action as described above to be taken, not only for nuisances arising from premises but also for specified nuisances arising from the public highway.

Such specified nuisances include noise from vehicles, equipment and machinery. In addition a local authority are able to recover costs reasonably incurred to abate a nuisance by making a charge against a property where the property owner is the person responsible for the nuisance.

4.2 The Council will enforce the extended powers referred to in 6.1 above in accordance with the decision framework laid out in this enforcement policy.

4.3 The Noise Act 1996 is discretionary legislation which in part provides additional powers to local authorities to gain entry to seize and retain equipment that is deemed to be being used to cause a noise nuisance.

4.4 The Council will enforce the additional powers referred to in 6.3 above in accordance with the decision framework laid out in this enforcement policy.

5. ADDENDUM TO THE ENFORCEMENT POLICY AND DECISION FRAMEWORK FOR THE INVESTIGATION OF STATUTORY NUISANCES

5.1 Procedure for Liaison between West Lindsey's Environmental Protection Team and Anti-Social Behaviour Team

When in receipt of a complaint alleging nuisance/disturbance, the Environmental Protection team (EP) will deal only with the elements of the complaint that relate to statutory nuisance, i.e. smoke, dust, noise, odour, (see Section 79 of The Environmental Protection Act 1990) in accordance with the adopted Enforcement Policy and Decision Framework procedure.

If the complaint refers to issues of anti social behaviour, i.e., shouting, general abuse, violence, threats to individuals or property, damage to property, then , as these matters cannot be effectively addressed using the powers of the nuisance law, the complainant will be advised to contact West Lindsey's Community Safety Unit (CSU). If the complainant requests then the EP team will forward the details to ASBU accordingly. Contact Officer Hannah Raven (tel 01427 676612 or email, hannah.raven@west-lindsey.gov.uk)

Similarly, if the CSU team receives a complaint that relates to statutory nuisance then the complainant will be advised to contact the EP team. If the complainant requests, then the CSU team will forward details to the EP team accordingly.

It is agreed practice that the initiative to 'pass on' a complaint must be with the complainant to avoid any formal investigation possibly aggravating a situation and causing unnecessary distress.

It is agreed practice that the CSU team will contact the EP team with details of any cases being investigated or legal steps being considered. Contact will be through Chris Allen, Public Protection Services Manager (tel 01427 675133, email, chris.allen@west-lindsey.gov.uk)

Throughout the process of investigation and liaison, the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) will be considered and the guidance in West Lindsey's RIPA policy will be followed.