

ANNUAL PERFORMANCE REPORT OF THE NOISE SERVICE 2018**CORPORATE COMMITTEE
MEETING DATE 2019/20****9th April 2019****CLASSIFICATION:****Open****If exempt, the reason will be listed in the
main body of this report.****WARD(S) AFFECTED****All Wards****GROUP DIRECTOR, NEIGHBOURHOODS AND HOUSING****KIM WRIGHT**

1. INTRODUCTION

- 1.1 This report sets out the annual performance report in relation to noise nuisance for the period 1st January-31st December 2018.
- 1.2 The Corporate Committee has requested annual reports on how the Council responds to noise nuisance.
- 1.3 Noise nuisance in Hackney continues to receive an approach that looks at statutory noise nuisance and noise arising from anti-social behaviour together, so that the most appropriate action can be taken based upon the individual circumstances of the case. The service area brings together a range of enforcement services providing the opportunity to apply greater resources to a particular problem area and a better ability for specialists to collaborate and cases to be prioritised.
- 1.4 This report provides an update on the volume of noise complaints, a breakdown of the individual types of noise within the services workload, including Temporary Event Notices (TENs), which continue to place significant demand on existing resources.
- 1.5 The Environmental Protection Service Delivery Plan (the Plan) sets out the objectives of the Team and demonstrates how they are linked to the Mayor's Priorities and Hackney's Community Strategy.
- 1.6 The Plan sets out the key areas relating to Environmental Protection addressing statutory nuisance including commercial noise and odours, artificial light nuisance and construction noise, the management arrangements and resources that have been allocated for this work including key targets and performance indicators.
- 1.7 In fulfilling its duties the Team provides support to individuals, communities and businesses in Hackney.

2. RECOMMENDATION(S)

- 2.1 Corporate Committee is recommended to:**
 - 2.1.1 Note the annual performance report for the service.**
 - 2.1.2 Note the level and scope of work being carried out to meet the requirements of the Plan.**

3. REASONS FOR DECISION

- 3.1 This report which is for noting, adheres to the requirement previously agreed by Regulatory Committee to report annually on the Noise Enforcement service.

- 3.2 It was agreed that the Plan is presented to Corporate Committee to ensure transparency and accountability.
- 3.3 The Plan ensures that there is programme of enforcement activity undertaken to deal with statutory nuisances such as noise, odours and artificial light nuisance and construction noise.

4. BACKGROUND

- 4.1.1 On 3rd May 2017 a new service titled “Community Safety, Enforcement and Business Regulation Service” (CSEBR) was established within the Public Realm Division of the Neighbourhoods and Housing Directorate.
- 4.1.2 The new service created an integrated enforcement service, in which all of the enforcement responsibilities were together under one service within three separate teams:
Community Safety
Enforcement
Business Regulation
- 4.1.3 The approach taken as part of the restructuring of the service was to split noise nuisance complaints and service requests into two distinct categories, one concerning commercial operations such as licensed venues or other business related activities and the other in relation to residential premises dealing with domestic noise situations such as the playing of amplified music, repeated late night parties etc and dealing with these residential issues as Anti-Social Behaviour.
- 4.1.4 Non-uniformed staff consisting of a small team of trained and qualified Environmental Protection Officers (EPOs) focus on noise from commercial premises both through case management and through reactive deployment at times when the noise is occurring including at night.
- 4.1.5 Uniformed Officers are generalists and do not have the specialised training of the EPOs, but will deal on a more reactive basis to residential sources of nuisance. There is crossover and co-working between the teams and currently uniformed staff are receiving additional training from the specialist Noise Officers. This is particularly so at night as the specialist noise service can be very stretched during periods of heavy demand.
- 4.1.6 In addition to this Community Safety and Principal Enforcement Officers (PEOs) who are Ward based deal with the more difficult to resolve and entrenched domestic noise and Anti-Social Behaviour (ASB) cases and also work out of hours.
- 4.1.7 Aside from reactive noise complaint work the EPOs have additional duties being a statutory consultee for licensing applications, the assessment of and making of representations on TENs, consultations in relation to planning matters and issues related to construction noise and other commercial nuisance.

4.2. Operational Report –Noise and ASB Management

- 4.2.1 The merging of the staff dealing with domestic noise within the previous Safer Communities Service to improve the overall service provision towards noise and Anti-Social behaviour (ASB) has been continued and developed. The clear synergy between these elements of nuisance has been recognised by government in legislation and consequently noise is included as a category of ASB. The aim of the local changes was specifically to move towards a more uniform approach to managing noise and ASB.
- 4.2.2 This model included a more robust initial service request triage process using all the information available to the Team which includes Police Officers and Police information systems co-located within it using the Intelligence Hub capabilities, leading to better identification of repeat and vulnerable persons which is a key responsibility for Officers.
- 4.2.3 Developments have continued and in May 2018 changes were implemented that allowed a simpler and more streamlined approach for residents to complain of noise nuisance issues. Using the online noise reporting service residents can complain instantly at any time detailing their concerns.
- 4.2.4 The noise nuisance webpage has been reviewed and the updated webpage is now live. Multiple noise webpages have been streamlined to a single webpage which provides clear and concise information that can be navigated with ease. The online noise nuisance reporting form has been redesigned to allow complainants to complete a more detailed, yet non-taxing self-triage which will allow Officers to receive relevant information, better understand issues and plan an appropriate course of action.
- 4.2.5 Complainants now receive a same-day acknowledgement accompanied by newly developed 'Noise Action Guidance' which will detail next steps and assist with managing expectations. The reporting form has gone live and the link is www.hackney.gov.uk/noise. One of the ongoing focusses will be considering how we can build on the steps taken to date to improve the user friendliness of the noise service.
- 4.2.6 When staff receive completed requests during service hours (including out of hours) they are assessed and triaged for engagement if required. Residents can also telephone during normal office hours and out of hours at times when the service is operating but in busy periods it may not be possible to answer the call and they are directed to the online reporting service.
- 4.2.7 Back office changes also mean that complaints are no longer referenced to the caller but are assigned to the perpetrator which makes enforcement action much easier to determine for the level of engagement required. Further developments are planned to automate the service even more which will release resources from the back office to ensure a better more effective level of service.

- 4.2.8 The PEOs undertake a role much wider than that of investigating domestic noise complaints which includes investigating ASB, Police liaison and supporting a range of crime and ASB prevention initiatives. ASB casework can involve some very complex and protracted investigations with parties sometimes having particular vulnerabilities and multiple needs. These investigations can be very resource intensive and present a challenge when balanced with noise related matters. Officers also undertake enforcement work including the use of Community Protection Warnings and Notices for cases where it proves difficult to witness statutory nuisance, making applications for Closure Orders, Injunctions, and use of all the new powers provided by the Antisocial Behaviour, Police and Crime Act 2014.
- 4.2.9 The service also delivers an out of hours noise nuisance service from within the resources allocated. The out-of-hours service operates to deal both reactively and proactively with noise Thursday 18.30 to 02.00, Friday and Saturday 21.00–05.00 and Sunday 18.30–02.00. Staff work a roster to cover this service.
- 4.2.10 the provision of an out-of-hours service is challenging as the demand is unpredictable and at times of peak fluctuation can result in up to twenty service requests in an hour, with a planned maximum of two staff to answer the requests and up to four deployed outside to respond to them. In each reported case research needs to be done, prior to responding to establish past history which could impact on the risk to attending Officers.
- 4.2.11 Equally the time taken to attend a service request and deal with it can range enormously from fifteen minutes to attend an address, provide advice and get a co-operative response that resolves the original complaint, to half a shift spent dealing with for a complex rave in a remote area such as Hackney Marshes or a derelict industrial building, often in liaison with Police. In the case of the latter, there would be no further Officer availability to deploy to other calls received on that shift.
- 4.2.12 The total volumes of demand (individual contacts requiring a response) for all categories of service request relating to noise nuisance between 2012 and 2017 are shown in Charts 1 and 2 and for 2018 are shown in charts 3 and 4. It should be noted the database used for recording service requests changed in May 2018.

Chart 1- Noise Complaint Totals - Calendar Years 2012 to 2017

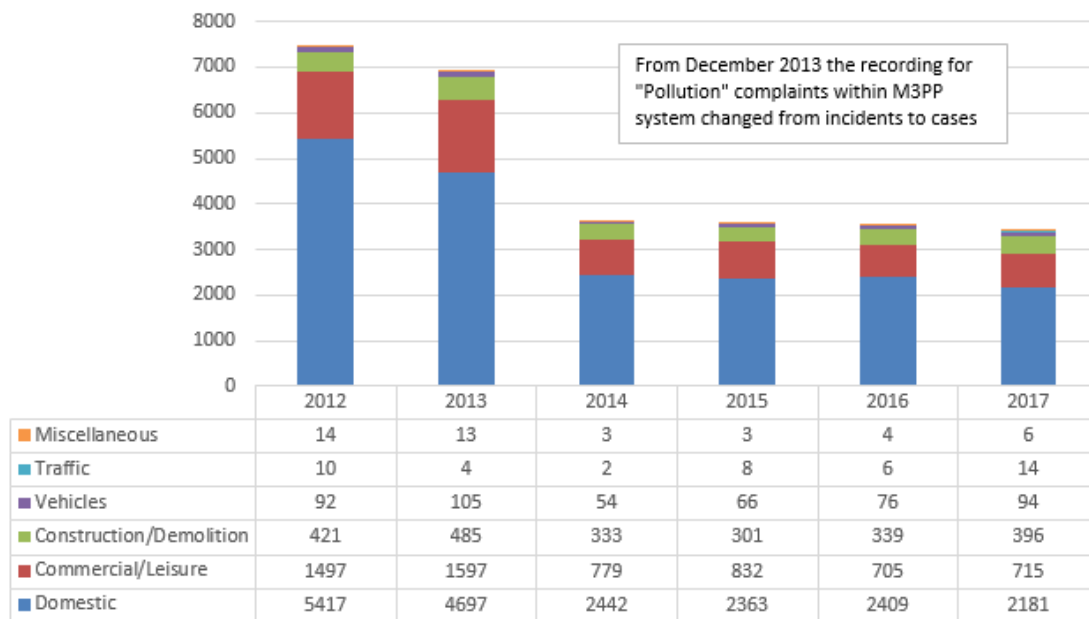


Chart 2 Noise Complaint Sources Calendar Years 2012-2017

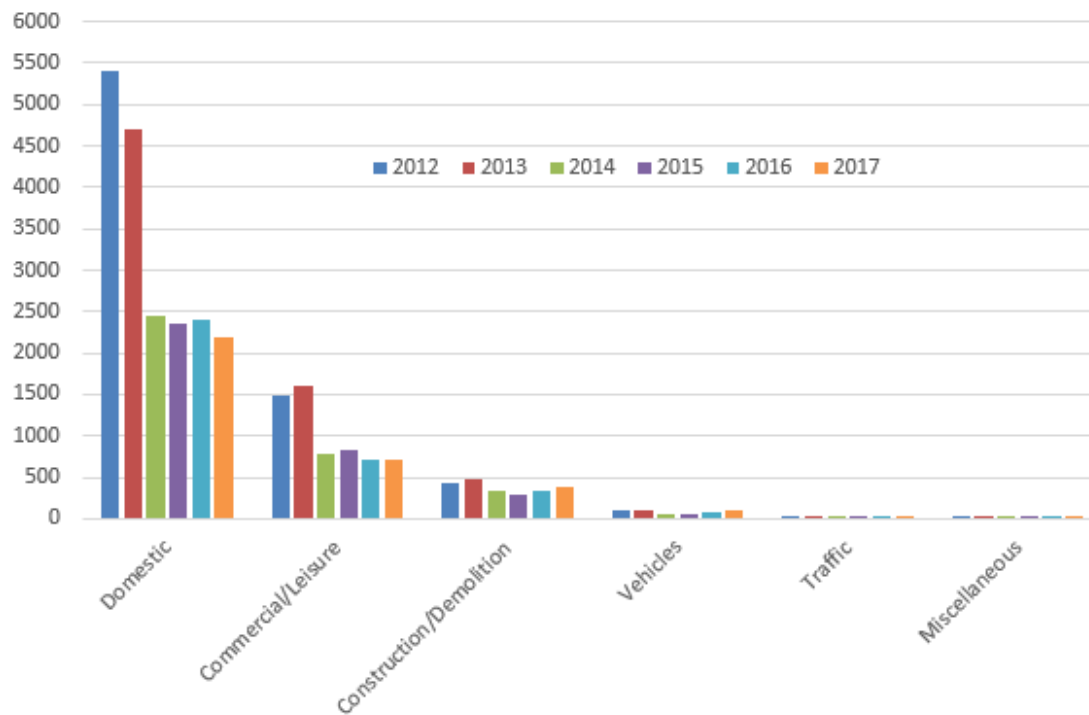
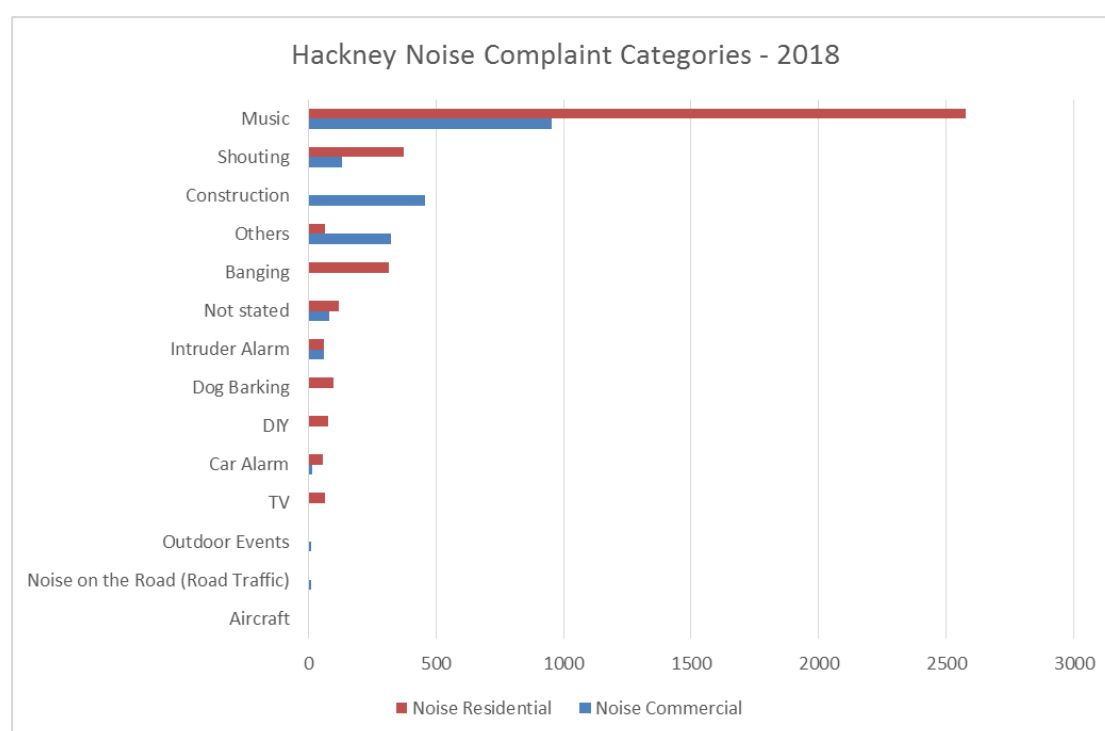


Chart 3 Noise Complaints received 2018

Noise Service requests 2018	M3PP Cases				Civica service requests								Grand Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Noise Commercial	71	53	73	46	208	150	359	249	249	199	217	175	2049
-					13	10	18	15	11	5	7	2	81
Aircraft							1				2		3
Car Alarm	4	4	3	3									14
Construction	29	19	21	15	43	31	80	56	52	40	38	33	457
Intruder Alarm	3		3	4	12	2	9	5	1	6	6	9	60
Music	11	11	13	10	122	84	176	99	120	113	103	92	954
Noise on the Road (Road Traffic)	1	1	4	1			2				3		12
Others	21	16	18	13	4	4	50	58	40	19	48	33	324
Outdoor Events		1	10			1	1						13
Shouting	2	1	1		14	18	22	16	25	16	10	6	131
Noise Residential	127	99	79	121	423	456	631	501	413	338	318	319	3825
-					12	24	19	16	11	12	15	12	121
Banging	13	12	7	11	34	25	22	11	31	28	71	53	318
Car Alarm					12	7	9	9	8	7	2	3	57
DIY	6	3	1	2	6	6	4	9	16	9	6	11	79
Dog Barking	4	1	1		5	11	16	19	13	7	12	10	99
Intruder Alarm	5	4	5		2	8	12	12	4	1	6	4	63
Music	71	65	53	93	298	314	475	364	275	222	160	187	2577
Others	14	8	5	11	4	7	1	4	2	4	2	5	67
Outdoor Events	1		1										2
Shouting	11	5	6	4	41	46	66	52	42	38	38	27	376
TV	2	1			9	8	7	5	11	10	6	7	66
Grand Total	198	152	152	167	631	606	990	750	662	537	535	494	5874

Chart 4 Noise complaints 2018 showing the commercial /residential breakdown



- 4.2.13 The figures above relate to new and unique cases that are raised but do not reflect the complete workload of the team. The method of working previously undertaken was designed to identify repeat calls and make ongoing management of cases more effective. The initial triage process when new service requests were received, in addition to physically logging a case, required research to ensure past history and action is collated so that a full history is available.
- 4.2.14 Each service request requires this research process, which is more resource intensive than a basic call handling role but essential to prevent new cases being logged and not dealt with in their true historical and risk based context. However with the use of the online reporting form and the ongoing planned automation changes, this triage process is less resource intensive.
- 4.2.15 The activities of the EPOs especially in respect of commercial licensed premises are routinely directed through the weekly tasking process where inspections and engagement are co-ordinated. Officers work closely with the Licensing section and are routinely involved in all Licensing consultations and applications. Officers also lead on taking for licensing reviews through the Licensing Committee and the Courts.
- 4.2.16 In summary the approach balances a need to have a service that can respond to service requests for Officer attendance at incidents with a pro-active approach that appoints Officers to investigate often complex cases that have high risk or vulnerability attached and/or involve persistent perpetrators or premises.

4.3 Temporary Event Notices (TENs)

- 4.3.1 The Licensing Act 2003 is the empowering legislation for TENs, implemented in November 2005. There have been three subsequent legislative changes, the first was a Legislative Reform Order (LRO) in July 2010 and implemented in October 2010. This minor change gave Police Licensing teams three working days to respond to a TEN from the previous maximum of two days.
- 4.3.2 The second change was the Police Reform and Social Responsibility Act 2011 that came in to effect in April 2012. This was more substantive and had a significantly wider scope than the earlier LRO and had the effect of:
- enabling an objection to a TEN to be based on all four of the licensing objectives rather than just the prevention of crime and disorder.
 - allowed the Environmental Health Service to be able to object to a TEN in addition to the Police.
 - extended the period for which an objection could be made from 2 working days to 3 working days.
- 4.3.3 However it also allowed the "late TEN" which saw the number of TENs received in Hackney increase by around 25% in the first year. The third was the

Deregulation Act 2015 that came in to effect in January 2016. This increased the maximum number of TENs a premises can have from twelve to fifteen per calendar year.

- 4.3.4 The number of TENs received has increased considerably over recent years, placing a considerable demand on Police Licensing, Council Licensing and EPOs dealing with noise from commercial premises. The Responsible Authorities (RAs) of which Environmental Protection is one and the Police the other in the case of TENs, have the responsibility to ensure minimal public nuisance is caused by the granting of TENs. However the legislation is extremely permissive for the applicant and specifies rigid timescales for response/refusal that if not met mean automatic acceptance of the application.
- 4.3.5 To consider whether an objection should be made, research needs to be undertaken in respect of the past history of the applicant and premises to identify any risks. This can be particularly time-consuming and challenging when set against the volume of applications received and timescales imposed by the legislation. As part of the integrated service one Officer has been dedicated to dealing with TENs to make the careful assessment of which applications to make a representation on thus targeting those applications which stand out as the most obvious through risk, enforcement, evidence or ones that have been historically problematic.
- 4.3.6 Additionally all TENs that have been issued are scrutinised at the regular weekly tasking meeting and potential events that need particular attention from a noise or ASB perspective are flagged by the Intelligence Hub. Enforcement resources may then be allocated to ensure that problems are prevented or reported on to prevent further occurrences through the licensing application processes.

Differences and similarities between Standard and Late TENs for comparison

Variable	Standard TEN	Late TEN
Number of working days' notice required before event	10	5 minimum 9 maximum
Maximum number of TENs permitted per calendar year by type for a personal licence holder	50	10
	50 maximum per calendar year	
Maximum number of TENS permitted per calendar year by type for a non-personal licence holder	5	2
	5 maximum per calendar year	
Rights of appeal after a representation made	Full rights	None

Maximum number of TENs for a single premises in one calendar year	15	15
Maximum duration of any one TEN	168 hours (7 days)	
Maximum number of days permitted for a premises to be used for activities authorised by a TEN in one calendar year	21 days	
Minimum time required to elapse between TENs	24 hours	

4.3.7 The demand in Hackney has been disproportionately high and has the second highest number of TENs in London.

Hackney TEN's

Numbers:

2012	1315
2013	1937
2014	1967
2015	1969
2016	1121
2017	2402
2018	2401

4.4 Construction Noise

4.4.1 Construction noise normally manifests itself as a result of planning permission being approved for development and normally after actual work on site starts. The amount of construction in the borough has increased considerably in the past ten years and this has led to an increase in the average number of notices served or applications for consents approved under s60 and s61 of the Control of Pollution Act 1974. In the period April–December 2018 103 s60 notices were served while 122 consents were issued. Many of these require very detailed negotiations and many site visits throughout the lifetime and various phases of each construction project.

4.4.2 Funding has also been agreed to recruit two additional Officers to the Team on fixed Term contracts until 3rd March 2021 to assist with the increased numbers of requests received, assist with the out of hour's service and continue to provide the proactive service on Sundays in relation to construction noise.

5.1 Policy Context

Not applicable to this report

5.2 Equality Impact Assessment

Not applicable to this report

5.3 Sustainability

Not applicable to this report

5.4 Consultations

Not applicable to this report

5.5 Risk Assessment

Not applicable to this report

6. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

6.1 This report requests the Corporate Committee to note the annual performance in relation to noise nuisance for the period 1st January to 31st December 2018.

6.2 There are no immediate financial implications as the report notes retrospective data for 2018. The cost of the Noise Enforcement Service is managed within the Community Safety and Enforcement Budgets.

7. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

7.1 There are no legal implications arising from this report.

APPENDICES

Appendix 1 - Environmental Protection Service Delivery Plan

BACKGROUND PAPERS

None

Report Author	Gerry McCarthy, Head of Community Safety, Enforcement and Business Regulation gerry.mccarthy@hackney.gov.uk ☎ 020 8356 7087
Comments of the Corporate Director of Finance and Resources	Philip Walcott, Group Accountant Philip.Walcott@Hackney.gov.uk 020 8356 2396
Comments of the Director of Legal Services	Bhavna Joshi, Interim Senior Lawyer bhavna.joshi@hackney.gov.uk 020 8356 6287