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1.0 Introduction

1.1 Leeds Anti-social Behaviour Team (LASBT) recognises noise nuisance as anti-social behaviour. It responds to and investigates all reports of noise nuisance within domestic/residential settings in accordance with the most appropriate procedures and legislation.

1.2 Some noise problems, particularly where problems are symptomatic of other anti-social behaviour issues, may be dealt with under the procedures outlined in Part B of LASBT’s policy and procedures. Part C of these procedures sets out how LASBT will respond to noise reports and where noise problems are determined to be a statutory nuisance and the actions that may be taken under the provisions of the Environmental Protection Act 1990 or the Anti-social Behaviour, Crime and Policing Act 2014.

2.0 Reporting Noise Nuisance

2.1 Reporting persons and victims wanting to report noise nuisance at a domestic property can make a report through a number of different routes including;

- Contacting their landlord or lettings agency (who may have their own ASB policy and procedure in place).
- Face to face at Neighbourhood Housing Offices, One Stop Centres or other council offices.
- Telephoning the council on its dedicated ASB number 0113 222 4402
- By email to LASBT@Leeds.gov.uk
- By contacting West Yorkshire Police on the non-emergency number 101 or by reporting concerns and or incidents to Police Community Support Officers
- Reporting noise nuisance as it’s happening between 6pm and 3:30am to LASBT’s out of hours team on 0113 395 0143

2.2 The Councils Environmental Protection Team (EPT) investigate complaints about noise from certain commercial and licensed premises and events within the Leeds City Council area such as noise from factories, industrial units, construction sites, shops, pubs, clubs, restaurants and takeaways. This includes noise from businesses carrying out construction work on domestic property i.e. Noise from businesses carrying out sandblasting on a domestic property. Commercial noise problems can be reported by;

- Telephoning the council on its dedicated Environmental Action number 0113 222 4406

2.3 Noise from alarms/radios in an individual stationary car on the highway would be dealt with by LASBT. Where the problem is clearly associated with a business (such as cars outside a private hire office, vehicle advertising companies etc.) the Environmental Protection Team would investigate.
2.4 The determining factor in responding to noise from model aircraft (or any other activity) where carried out on non-domestic land, will be the nature of the activity not the ownership of the land. An individual causing a nuisance by operating a model aircraft would be dealt with by LASBT. If the landowner were operating a business as a model aircraft flying club it would be investigated by the Environmental Protection Team.

2.5 Noise from businesses (or alleged businesses) taking place at domestic premises e.g. dog grooming, breeding dogs for sale – If it is clear that a business is being operated, for example if there is advertising or other evidence, the Environmental Protection Team would investigate. If it were unclear, LASBT would investigate. This would run parallel to any investigation being undertaken by Planning Services where there is a concern regarding any breach of planning regulations relating to the operation of a business.

2.6 Noise from residential student blocks/halls of residence, would generally be referred to the university who own the property.

2.7 Low level/minor noise problems and/or a one off/isolated report suggesting there is not a persistent problem emanating from a Housing Leeds or social landlord providers property may be referred to Housing Leeds or the appropriate landlord for investigation as a possible tenancy breach.

3.0 Responding to Noise Nuisance Reports

3.1 Where a reporting person or victim submits a noise report for the first time, LASBT will endeavour to contact them to acknowledge their report and provide advice to prevent further nuisance. A noise information pack will normally be sent to them together with a noise nuisance diary. If consent has been provided by the reporting person or victim a letter will be sent to the accused to advise them an allegation has been received. Highlighting to the accused, a problem they may not have been aware they were causing, may be sufficient to resolve the issue at an early stage.

3.2 The noise report will be logged as an enquiry within the services customer relations management system (Siebel) if not already done so, updated and closed until either the noise diary is returned, or further reports/evidence are received. Copies of any correspondence sent/received will be uploaded on to the enquiry.

3.3 When a noise diary is returned from a reporting person or victim, if there is sufficient evidence of a persistent nuisance, a case could be opened for further investigation. If insufficient evidence has been provided or the matter is considered inappropriate for LASBT investigation, the reporting person or victim will be advised of any onward referral or that the enquiry will remain closed.

3.4 Where noise has been witnessed and deemed unreasonable by an Out of Hours team response officer, for the first time, LASBT will endeavour to contact the reporting person or victim to discuss the issue and offer advice. A noise nuisance information pack and noise nuisance diary will be sent to them (if not previously
provided) and consent sought to send a warning letter to the occupier/s at the address where the noise was witnessed.

3.5 Reports where noise has been witnessed are always considered on their merits, and a case may be opened and further enforcement action taken as appropriate.

3.6 Cases will be opened where noise is deemed a statutory nuisance that could warrant a Section 80 Noise Abatement Notice being served or where noise is witnessed on a second occasion and is deemed a potentially persistent problem.

4.0 **Evidence to support a Noise Nuisance investigation**

4.1 The following evidence may be used to support a noise nuisance investigation, however, does not solely determine what constitutes a statutory noise nuisance. Professional judgement is necessary to decide if the complaint can be considered a statutory nuisance. Evidence, which may be used to support an investigation, includes;

- Noise diaries (see 4.2 below)
- Calls to the Council and the Out of Hours service to report that the noise is ongoing
- Visits by officers and Out of Hours service to witness the noise
- Witness statements from officers/Out of Hours officers and the reporting person/victim.
- Evidence from noise monitoring equipment

4.2 **Noise Diaries (Nuisance Diary Book)**

Noise diaries completed by the reporting person or victim can assist LASBT in deciding whether the problem is actionable or reasonable by providing details of;

- The nature of the problem
- The frequency, time of day and nature of the noise

Where it is deemed appropriate to issue a Nuisance Diary Book case officers will agree timetable for collection not to exceed every 20 working days.

4.3 Noise diaries can assist LASBT to decide the most effective way of assessing the noise either though witnessing in person, using the Out of Hours service or noise monitoring equipment.

4.4 Diaries form supporting evidence in a statutory noise nuisance case. If a noise diary does not contain the information LASBT requires, the officer may contact the complainant to explain the further detail that is required. The officer may for example require detailed information for a single day as opposed to general information for a week in order to make a more accurate assessment.

**Example**
For the purposes of determining a nuisance, a noise diary which relates to dog barking that states the dog is barking constantly all day and is recorded as ‘7am – 6pm Constant dog barking’ will be of limited value.

Specific information as the example below is likely to be more helpful to the officer assessing the information:
8.15am to 8.28am Continuous dog barking believed to be from property at (address)
8.33am to 8.45am intermittent dog barking believed to be from property at (address)
9.10pm to 9.15pm Loud, piercing dog barking believed to be from property at (address)
9.58pm to 11.54pm Continuous dog barking believed to be from property at (address)

4.5 Noise diaries may also be beneficial in identifying potential solutions to the problem. An example could be where a dog is barking at a particular time of day waking a neighbour up when it is let out whilst the owner is getting ready for work. The dog owner could arrange to supervise the dog at this time thereby alleviating the problem.

4.6 A noise diary could also indicate that a dog is barking whilst an owner is out at work, which they may not be aware of. By working with the owner, LASBT may be able to advise as to what steps can be taken to address the issue.

4.7 If a noise diary indicates that a noise only occurs sporadically for a few minutes then it is unlikely that the officer will be able to witness it and it is unlikely to be a statutory nuisance. In circumstances where LASBT may not be able to take formal action, options such as mediation could be considered.

4.8 Out of Hours Noise Service (LASBT OOH Response Team)
Where noise incidents occur outside of normal office hours, supporting evidence can be obtained by the Out of Hours noise service, which operates from 6pm to 3:30am Monday to Sunday. OOH officers cannot determine whether a ‘Statutory Nuisance’ exists, but they can provide independent reports and witness statements to assist LASBT Supervisors/Managers to determine whether a statutory nuisance may exist and/or support other actions such as tenancy action against Leeds City Council tenants.

4.9 A number of factors should be considered when reports are assessed including where and how the Out of Hours evidence was collected. By way of example, when assessing dog barking reports it is important to establish that evidence has not been compromised by individuals causing the dog to bark.

4.10 Another consideration might be that whilst noise may be heard outside the offending property when the doors and windows were open, it may not be as loud within the reporting person or victims’ property. Officers should if invited to do so, witness the noise within the reporting person or victims’ property.

4.11 All Out of Hours reports are recorded within a dedicated reporting tool that all LASBT ASB Case officers have access to.
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4.12 Where there is an existing open case on Caseworks and noise is witnessed by OOH Officers, the OOH report will be emailed to the case officer (and copied to a LASBT Manager/Supervisor), so the case officer can upload the report to the open case. The case officer will discuss reports with a LASBT Supervisor/Manager at the earliest opportunity to determine if the evidence provided in the report is adequate to determine a statutory nuisance.

4.13 Where an abatement notice is to be served, this should be drafted and served within 7 days, starting with the day on which the relevant officer was first satisfied that the nuisance existed, or was likely to occur or recur.

4.14 **Witnessing Noise during the day**
Where noise has been reported to an ASB case officer that regularly occurs during the day (Monday to Friday office hours), the reporting person or victim will be advised to call the office when the noise is occurring so that if an officer is available, they can make every effort to visit to witness the noise.

4.15 The officer will witness the noise from within the reporting person or victim’s property and should listen to it in a habitable room. For daytime noise, the officer will listen in a living room or possibly a dining/Kitchen (for night-time noise an officer may witness noise from a bedroom that is being used).

**NOTE:** A habitable room is a room where the occupier is likely to spend a lot of time. A kitchen with no seating is not considered ‘habitable’ however, a kitchen/diner may be. The officer will exercise caution if the occupier reports that they are most affected by the noise in an unused bedroom or hallway.

4.16 During the visit to witness and assess the noise it is advisable for the officer to listen to the noise in silence for a period of time and then also replicate what an ‘average’ person might be doing e.g. during the day they may be watching television or listening to the radio (should be on at a normal level). The officer may also request that the windows are opened or closed to determine if this affects the noise.

4.17 The officer will need to determine whether the noise is reasonable or intrusive/unreasonable. It may be that the officer considers it is reasonable for that time of day but it could be unreasonable at the same volume at night. Ultimately, the officer will base their decision on ALL the evidence at their disposal.

4.18 Once the officer is satisfied that the noise is intrusive in the reporting person or victim’s property, the officer must confirm the address of the source of the noise. In multi-storey blocks of flats this may involve the officer listening at the door of the flats above, below and to the side of the reporting person or victims’ to identify the actual source of the noise. Alternatively, the officer may ask a colleague to locate the address of the source of the noise whilst they remain at the reporting person or victim’s property.

4.19 In the case of dog barking complaints, the officer must be aware of the importance of not witnessing the noise in a manner that would not incite the dog to bark. Upon completing their assessment, the officer may then visit the address the dogs are at to confirm the address the noise was emanating from.
4.20 Where noise has stopped before an officer arrives at the reporting person or victims’ property, the officer may be able to wait at the property for a short time in case the noise starts again. The case officer can check the pattern of the noise from the reporting person or victims’ diaries and arrange to visit when the noise is most likely to be occurring (a proactive visit) or advise the reporting person or victim to phone as soon as the noise starts.

4.21 If there is an indication that the noise may have stopped due to the perpetrator recognising the officer attending, the officer can arrange for a colleague to visit or if possible enter the property from a different direction.

4.22 **Witness Statements**

4.23 When writing a witness statement the officer must include all the relevant information required. The statement may be used by a LASBT Supervisor/Manager to determine whether a statutory nuisance has occurred.

4.24 Witness statements will also be required from officers where an Abatement Notice is appealed or where a breach of the notice is witnessed.

4.25 **Noise Monitoring Equipment (NME)**

4.26 LASBT has its own noise monitoring equipment, which can be used to further an investigation, however, other options available to gain primary evidence should be exhausted first. ASB Case Officers will endeavour to witness the noise in person during the day and the reporting person or victim will be advised to call the Out of Hours service when the noise is occurring (6pm to 3.30am Monday to Sunday) for the noise to be witnessed.

4.27 For reasons explained below at 8.3 recordings from NME cannot always be used as primary evidence except in cases where the noise is easily distinguishable and can be attributed to a specific address (for example cockerels crowing).

4.28 The limitations of NME and any resulting evidence from recordings obtained from it include:

- Where the reporting person or victim’s property is attached to a number of other properties NME may be able to evidence noise but will not definitively confirm the source.
- The use of NME can be abused by a reporting person or victim, who might for example, incite a dog to bark or play loud music in other rooms themselves given the source can be difficult to identify.
- The quality of recordings can be compromised by noise within the reporting person or victim’s own property or from outside.
- The recordings are generally not played back at representative levels and it can be difficult to assess how much it resembles the experience of being at the reporting person or victim’s.
- The duration of the recordings is limited to 5-minute slots.
4.29 An investigating case officer wishing to install equipment will complete a noise monitoring equipment request form and submit to a LASBT Supervisor/Manager.

4.30 The Manager/supervisor will assess the request to determine whether a NME installation is appropriate. If approved the request will be recorded on a booking form, to document; the case officer’s name, reporting person or victim’s name/address and contact number, Caseworks number and install/collection dates. NME is normally installed for a period of 7 days.

4.31 ASB case officers can download and listen to the recordings, using the appropriate software (Noise Tools) and fill in an Analysis Form if they can hear noise on the recordings. They should highlight any recordings of particular importance. When the case officer considers that the recordings may indicate a nuisance these should be referred to a LASBT Supervisor (EHO) with the analysis form for further assessment and verification.

5.0 Mediation

5.1 Where it has not been possible for LASBT to obtain evidence or the evidence obtained would not support the instigation of formal action, ASB case officers should encourage reporting persons, victims and accused parties to consider mediation in order to help resolve their noise issues.

5.2 If the option of mediation is agreed by both parties, and approved by a LASBT Supervisor/Manager, the ASB case officer will complete and submit a referral form to Yorkshire Mediation Services, via email to info@yorkshiremediation.org

5.3 Whilst the mediation service will aim to work towards both parties having a face-to-face meeting, in some circumstance the mediation service consider shuttle mediation between both parties to try to achieve a mutually beneficial solution whereby both parties sign a written contract of behaviour they agree to. It should be noted however that this in an informal agreement and cannot be enforced.

6.0 Environmental Protection Act 1990

6.1 How Statutory Noise Nuisance is determined
Section 79 of the Environmental Protection Act 1990 lists the issues that can be dealt with as statutory nuisances, one of which includes noise.

6.2 Where a complaint of a statutory nuisance is made to a local authority by a person living within its area, the local authority has a duty to take such steps as are reasonably practicable to investigate the complaint.

6.3 The person/s making the complaint should have a legal interest in the land, which is affected by the nuisance. This generally means they need to be a resident at the property. Temporary guests at the property cannot normally take action.
LASBT recognises the definition of statutory noise nuisance as laid out within the Environmental Protection Act 1990 as being ‘noise emitted from premises so as to be prejudicial to health or a nuisance’. A statutory nuisance is a criminal matter, so will exclude matters that present themselves purely as irritations or annoyances. To constitute a statutory nuisance the noise must be excessive and unreasonable. It must unreasonably interfere with the use or enjoyment of another property. The problem must be severe or occur regularly and continue for a period of time that makes it unreasonable.

When investigating noise nuisance, the decision as to whether a nuisance may be considered a statutory nuisance will be made by an appropriate officer based on their experience, knowledge and considerations listed below, not the reporting person or victim. LASBT acknowledge that individual perceptions and expectations as to what may be unreasonable or acceptable will differ; therefore an officer must decide whether a ‘reasonable person’ would find the problem unacceptable.

Officers will use the following considerations in determining whether a statutory nuisance exists:

- The **LOUDNESS/IMPACT** of the noise – how loud and intrusive the noise is; the noise would generally have to be loud enough to impact on sleep, conversations, watching television etc. and there must be a reporting person or victim who is directly impacted by the noise.
- The **DURATION** of the disturbance – how long the episodes of noise last; a dog barking when the post man arrives would be viewed differently to one barking for lengthy periods throughout most of the day.
- The **TIME** of day at which the noise occurs – a statutory nuisance can exist at any time of the day/night, although noise at night (between 11pm and 8am) would have a greater effect as this is likely to cause sleep disturbance.
- The **CHARACTER** of the area – and whether noise is typical for the area; a cockerel crowing in the countryside is more accepted than in a residential road. A flat above a bar is likely to hear some music and raised voices during operating times.
- The **NATURE** of the noise; whether the noise is impulsive and intermittent such as dog barking or continuous such as loud music.
- The **FREQUENCY** (repetitiveness) of the noise – a loud TV every night may be viewed differently to a loud TV once a month, equally a household having parties on a weekly basis may be viewed differently to a celebratory party once a year, (notwithstanding as explained elsewhere a one off nuisance could still constitute a statutory nuisance).
- The **NUMBER** of people affected; if there is only one person complaining when it is likely that a whole street could be equally affected by the noise, this could be challenged that the reporting person or victim could be unduly sensitive.
- **SENSITIVITY** to noise nuisance; the determination of a statutory nuisance pays no regard to the sensitivities of an individual; it must be based on the ‘average’ person. A person who is suffering from an illness who is affected by noise has no right to expect a higher standard of protection than a person in good health. However, illness would provide a good reason to ensure that they enjoy their rights to be protected from noise nuisance to the full. We cannot take in to
consideration someone who has a particular sensitivity to noise, or for example, someone who works nights.

- **MOTIVE** – deliberately using noise to cause annoyance or distress. LASBT will consider the circumstances under which the noise was witnessed. Is the behaviour reasonable? Is it intentional? Can it be controlled? Has the accused failed to comply with a previous request to abate the nuisance?

LASBT recognises that there is no set decibel limit that needs to be exceeded for noise to be categorised as a ‘statutory nuisance’.

### 6.6 Noise that could potentially be a statutory nuisance includes:

- Loud music
- Loud TV
- Loud parties
- Playing musical instruments
- D.I.Y at unreasonable hours
- Dogs barking for prolonged periods
- Cockerels crowing
- Alarms

By way of example, loud music which occurs every other day for a few hours after midnight is likely to be a nuisance, a cockerel crowing in an urban garden at 5am most summer mornings could be a nuisance and deliberate banging which occurs solely to cause irritation could also be a nuisance.

### 6.7 Noise that is unlikely to be a statutory nuisance includes:

- Day to day living noise
- Shouting
- Talking in loud voices
- Banging doors
- Washing machines, kitchen appliances
- Walking up and down stairs
- Children playing
- Using the toilet, shower

By way of example, loud music that occurs once a month for a few hours during the day might not be a nuisance, a cockerel crowing in a rural area at 5am most summer mornings would not be and banging doors, which occur as day to day living noise, would unlikely be deemed a nuisance. There are case law exclusions for reasonable day-to-day living noise.

### 6.8 There are three legal duties within the Environmental Protection Act 1990;

- local authorities must inspect their areas from time to time to detect any statutory nuisances
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- When the local authority receives a complaint, it must take such steps as are reasonably practicable to investigate the complaint.
- When the local authority is satisfied that a statutory nuisance exists or is likely to occur or recur, it must serve a Section 80 Noise abatement notice on the person responsible within seven days (subject to the discretion of the local authority in the case of noise to defer for seven days).

6.9 Where a notice is served on a tenant of a Housing Leeds property, officers can also consider taking appropriate tenancy action, for example, issuing a Housing Caution.

6.10 The Act limits noise to that arising from any premises or land which would include a garden or drive but excludes noise created in the street. (Where a noisy party has spilt out on to the street this should primarily be dealt with by the police as a public order issue. However, where noise solely emitted from the premises, such as from speakers located in the property or garden, is deemed to constitute a statutory nuisance irrespective of the issues in the street, it should be dealt with in the normal manner).

“Common Misconceptions regarding noise”

- “I was here first and the previous people didn’t complain so I can carry on” – It is no defence to claim the reporting person or victim came to the nuisance. There could have been several reasons they did not complain, deafness, intimidation etc.
- “I can play my music as loud as I like during the day: it’s only at night I need to turn it down” – It is likely that music will be more intrusive at night but action can be taken at any time of day if the effect of it is sufficiently intrusive.
- “The noise from my neighbour’s children playing in the garden is a nuisance because I work shifts and need to sleep during the day” – This would be classed as abnormal sensitivity. If the neighbours were not doing anything unreasonable then they would not be expected to have to adjust their lives to suit the shift worker.
- “The noise from this house interferes with my enjoyment of walking my dog along the footpaths nearby” – The passer-by does not have an interest in the land affected.
- “I can hear every footstep and phone call my neighbour makes” – This is sometimes due to an issue with poor sound insulation between properties. Statutory nuisance concerns unreasonable behaviour and not to require people to do over and above what they should reasonably be expected to.

6.11 Section 80 Noise Abatement Notices
Where the local authority is satisfied that a statutory nuisance exists, is likely to occur or is likely to recur it has a duty to serve an abatement notice;

- Requiring the abatement of the nuisance or prohibiting or restricting its occurrence
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- Requiring the execution of such works or steps as may be necessary for these purposes and
- Specifying the time or times within which the notice is to be complied with

The notice must also indicate the rights of the recipient of the notice and time limits for appeal. There are 3 types of S80 abatement notices that can be served;

1. Statutory Nuisance exists
2. Statutory Nuisance is likely to recur
3. Statutory Nuisance is likely to occur

6.12 Where noise amounting to a statutory nuisance has been witnessed by an authorised officer or the authorised officer considers that they have enough evidence to substantiate a Statutory Nuisance (either from Out of Hours reports, other officers witnessing, noise monitoring equipment etc.) then either Notice 1 or 2 may be served. For the authorised officer to be able to make an informed assessment of this then an Out of Hours report and/or witness statement would be needed where the noise was witnessed in person.

6.13 Where evidence is found that a Statutory Nuisance is likely to occur (e.g. evidence that an organised party is to be held) then a ‘likely to occur’ Notice can be considered.

6.16 Section 86 of the Clean Neighbourhoods and Environment Act 2005 amends section 80 of the Environmental Protection Act 1990 enabling a local authority to defer the service of an abatement notice for up to seven days whilst the authority takes any other appropriate steps to persuade the potential recipient of the notice to abate the nuisance. If the notice is deferred but the nuisance is not abated after seven days, the local authority must serve an abatement notice. If necessary, the notice can be served earlier during the deferment period.

6.17 A separate Abatement Notice will be served on each individual occupant of the property. For shared households e.g. student properties every tenant is held responsible for the noise nuisance. If the names of the occupiers cannot be found then the notice can be served on ‘the occupiers’. If this information is later obtained then the notice must be re-served on the named individuals. If the occupiers names cannot be found, or the landlord/managing agent for the property is unwilling to provide the names, see information under Section 16 – Local Government (Miscellaneous Provisions) Act 1976. (See 11.24 below)

6.18 Once an Abatement Notice is completed, the notice must be signed and dated by an authorised officer on the date that the notice is to be served. Each original document will be served on each accused person along with a Section 80 letter and copies retained on file by LASBT.

6.19 The Notice should be handed to the named person on the Notice. Every effort should be made to explain the Notice to the recipient, why it is being served and the consequences of non-compliance. If the recipients are not in the property, the notice could be served by leaving with someone else at the property or by being posted
through the letterbox. Service by first class postage should only be used in exceptional circumstances and the notice should be posted in an official post box.

6.20 After service of the Notice the officer will document how the Notice was served by completing the ‘Details of Service’ on the second page of the copy of the Notice (this is completed on the copy only not original Notice). This completed copy is then scanned and uploaded onto the LASBT case management system. (A separate WARNING needs to be opened on the case for each Notice served).

6.21 After the Notice has been served, the reporting person/victim will be informed by telephone or in person of the action taken and what they need to do if there are further incidents of noise. A letter to confirm the action taken should be sent to the reporting person/victim.

6.22 Landlords of occupiers served with a Notice may be advised of the action taken by the Council to facilitate any warnings/action they are able to take in accordance with their own procedures.

6.23 **Appeals to a S80 Abatement Notice**
The recipient of an Abatement Notice can appeal to the Magistrate’s Court within 21 days of the date the Notice was served. The recipient should go directly to the Magistrates Court for advice on how to proceed with the appeal.

6.24 **Non-compliance with the requirements of a Section 80 Notice (breaches of the Notice)**
If noise problems continue after an Abatement Notice has been served and evidence is obtained that amounts to a statutory nuisance (where the noise is witnessed again and found to be statutory noise nuisance) this is a breach of the notice. Contravening or failing to comply with the requirements of the Notice, without reasonable excuse, is an offence.

6.25 Where evidence is obtained that a breach of a Notice has occurred the case officer will discuss the case with a LASBT Team Supervisor/Manager to determine the most appropriate course of action. Each case will be assessed on its merits considering the case history/ evidence etc. Options available to consider include;

- A letter to the perpetrator to remind them that the Notice remains in force and consequences of any further breaches (may be appropriate if the Notice was served over 6 months ago and no further reports of noise received within that time).
- Seizure of noise making equipment from the perpetrator’s property under the authority of a warrant obtained from the Magistrates Court
- Commencement of legal proceedings (prosecution)
- Seizure of noise making equipment and prosecution proceedings
- Use of the evidence to initiate/progress tenancy action (where occupier is a Housing Leeds tenant) e.g. possession proceedings.

6.26 **Applying for a Warrant**
If LASBT needs to gain entry to a property to carry out a seizure of noise making equipment or for the silencing of an internal alarm, an application will be made to the Magistrates Court for a warrant to do so.

6.27 Where an internal alarm is sounding and a breach of the notice has been witnessed a warrant is required to gain access to the property in order to silence the alarm and abate the nuisance.

6.28 Where it is intended that LASBT will be undertaking a seizure of noise making equipment from a property, it is likely that entry would be refused if attending at the property without a warrant. Such action would then make the occupiers aware of the intention to seize noise making equipment, with the potential for items to be removed from the property before officers are able to return with a warrant.

6.29 A warrant is only required for entry into the property, it is not required for carrying out the works.

6.30 The authorised officer who applies for the warrant must be available to attend the seizure.

6.31 The case officer should complete the paperwork in preparation for attending court and should be available to attend with the authorised officer should they be needed to answer any questions. The paperwork should include:

- Warrant Application Form
- Warrant – Court’s Copy
- Warrant – Applicant’s Copy
- Warrant – Occupier’s Copy

(This is the only information that needs to be given to the clerk when attending court).

6.32 The warrant application - Officers should not delete any of the information on the warrant application form even if it is not relevant;

Section 1: The applicant’s details (name, email address, phone number and date warrant to be executed) need to be completed in section 1.
The legislation in section 1(a) is Schedule 3 of the Environmental Protection Act 1990.
Section 2: All relevant information that the court needs to know about should be entered in this section, including the history to the case, when the abatement notice was served and all the dates of when noise was witnessed following the service of the notice.
Any officer/customer evidence mentioned needs to be graded on the witness’ reliability. Officers should refer to Grading of Evidence information.

6.33 Once the warrant application is completed, the case officer should phone the listings department at the court and book in a date/time to apply for the warrant. The listings department will give a reference number for the officer to give to the clerk when attending court. The case officer should request the name and email address of the
clerk on duty on the relevant date in order that the warrant application can be emailed to them in advance (and any amendments made before attending court for the warrant hearing).

**NOTE:** For emergency applications (mainly for internal alarms) the officer should phone the court to request a time for the warrant hearing, however, the application does not need to be emailed to the clerk beforehand if time prohibits this.

6.34 When attending the Magistrate’s Court for the warrant hearing the officer should take with them;

- Proof of delegated authority and identification badge
- 2 copies of the warrant application form
- 3 copies of the warrant (applicant’s copy, court’s copy and occupier’s copy)
- A copy of the notice
- Out of Hours reports
- Witness statements
- Any other relevant information

6.35 The officer should take two folders to court - one with the warrant application form and all three copies of the warrant and the other with another copy of the warrant application form (so the authorised officer applying for the warrant has a copy to read from) and all of the supporting evidence listed above. There is a £20 charge made by the court for hearing warrant applications, this money needs to be obtained from the fund for this within each LASBT team.

6.36 The officer should attend at the court number given or if not given a court number go to the listings office to find the relevant court number. Once in court the officer should present only the application and the 3 warrants to the court clerk. The officer should have the abatement notice, OOH reports, witness statements and any other relevant information in case they are requested by the court. Proceedings will be as follows;

- The officer will be sworn in and will then present the application.
- The magistrate will then ask any questions they feel are relevant.
- If the warrant is granted all 3 copies of the warrant will be signed.
- LASBT keep the applicant’s copy
- The occupier’s copy is left at the seizure/alarm address once the works have been carried out
- The court’s copy is returned to the court after the seizure/alarm silencing has taken place with the second page of the warrant completed.

6.37 **Seizing Noise Equipment (Seizures)**

The Council’s principal power to seize noise equipment is contained in section 81(3) of the Environmental Protection Act 1990. The Act states: ‘Where an abatement notice has not been complied with the local authority may, whether or not they take proceedings for an offence under section 80(4), abate the nuisance and do whatever may be necessary in execution of the notice’
This power was supplemented by section 10(7) of the Noise Act 1996 which states: ‘The power of a local authority under section 81(3) of the Environmental Protection Act 1990 to abate any matter, where that matter is a statutory nuisance by virtue of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), includes power to seize and remove any equipment which it appears to the authority is being or has been used in the emission of the noise in question’.

Once a warrant has been obtained, the seizure should be carried out as soon as possible, ideally the same or following day if practicable. Before the seizure, arrangements need to be made for the following persons to attend:

- The officer who the warrant was issued to (it cannot be done without them)
- The case officer
- Additional case officers required to assist with labelling, photographing, unplugging and carrying seized equipment to the van
- A driver who has passed the LCC test and is authorised to drive the CCTV van
- A locksmith to be in attendance in case entry cannot be gained
- Police officer attendance (if required).

The following paperwork is required for the seizure:

- The ‘Occupiers Copy’ of the warrant
- A photocopied ‘Applicant’s Copy’ of the warrant
- An occupier present letter
- An occupier not present letter
- Letter not to take laptops/PCs (used in particular for students although Laptops can still be seized but will be returned if a letter is provided from their place of study confirming it is needed for their studies)
- Envelopes for the letters
- Inventory forms
- Inventory stickers – must be labelled with the following information:
  - Caseworks number
  - Occupier’s name
  - Occupier’s address
  - Date of seizure
  - Unique reference for each item: initials of name on warrant/initials of case officer – e.g. EL/MM1, then EL/MM2, then EL/MM3 etc.
  - Carbon paper if available – (as 2 identical inventory forms need to be made at the time of the seizure)

Additional items needed for the seizure include:

- The CCTV van to transport the seized equipment
- Clipboard to hold paperwork
- A camera
- Cellotape
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- The two keys for the storage facility for the seized equipment. There is one set of keys per team.
- Bubble wrap to protect seized items if required
- Storage boxes
- Plain paper to label the seized goods in storage

6.41 Seizure procedure where occupier present;

a) No warning is given to the occupiers of the imminent seizure,
b) All persons required to attend the seizure will attend a pre-seizure briefing prior to the seizure being conducted,
c) If, upon knocking on the door, there is someone present at the property the officer should hand them their copy of the warrant and explain what is going to happen before entering,
d) All noise making equipment to be seized from the property is unplugged, labelled and photographed. The inventory form is filled in for each item with the relevant information. Two identical copies of the inventory form are required in order that one can be left with the occupier,
e) When labelled and photographed the equipment can be carried to the van,
f) Upon completion of the seizure, the officer gives an ‘occupier present’ letter to the occupier together with a copy of the completed inventory. The occupier is requested to sign the completed inventory (both copies). Should the occupier refuse to sign, another officer should sign and write that ‘the occupier refused to sign’ on both copies,
g) Bubble wrap should be used for any equipment that needs to be protected to prevent damage whilst being transported in the van. The Council may be liable for any damage to equipment that occurs to it following the seizure, (where there is a requirement for it to be returned to the owner),
h) Officers should consider testing any valuable equipment before removal to confirm whether it is in working order prior to seizure,
i) If the officer decides that laptops/PCs are not to be seized, (particularly in the case of students) officers will ask the occupiers to sign a letter to agree not to play music/TV through them.

6.42 Seizure procedure where occupier is not present;

a) Should there be nobody present/no answer upon knocking at the door of the property, the officer will instruct the locksmith to gain entry to the property.
b) All noise making equipment to be seized from the property is unplugged, labelled and photographed. The inventory form is filled in for each item with the relevant information. Two identical copies of the inventory form are required in order that one can be left with the occupier.
c) When labelled and photographed the equipment can be carried to the van.
d) The officer leaves the ‘occupiers copy’ of the warrant and inventory form in the property.
e) Upon leaving the property the officer requests the locksmith secures the property as it was found. The new keys to the property are obtained from the locksmith. The ‘occupier not present’ letter is cellotaped to the front door in an envelope. The letter
explains to the occupier/s the action undertaken and where to go/who to contact to get the keys back.

f) The officer will ask the locksmith to send the invoice back to them at the office address where the admin officer will raise an order to get the invoice paid.

g) A LASBT Officer will put the new keys in a sealed envelope with the name and address of the responsible person/s for the property written on the outside. It will also have the name and contact details for the Case Officer. The envelope will then be taken to a LeedsWatch Team Leader, who will be notified in advance that someone will be arriving to drop the keys off.

h) The occupier will be provided with the number for the LeedsWatch Team Leader whom they should call to arrange collection of the keys. The occupier will need to take proof of their identity or evidence of their connection to the property (if they are the landlord or Letting Agent) to be handed the keys.

i) Officers will endeavour to contact the occupier by telephone or email on return to the office to inform them of the action taken and what they must do to obtain their keys back.

6.43 Upon completion of the seizure (whether the occupier is present at the property or not) the equipment will be taken directly to a secure storage facility.

6.44 Following the seizure, the officer will complete the warrant paperwork with the date/time of the seizure and equipment seized. The officer will upload the inventory forms and completed applicant’s copy of the warrant on to the case on caseworks and return the court’s completed copy of the warrant to the magistrates’ court.

6.45 The officer will inform the reporting person or victim of the action that has been taken and advise them to continue to phone the Out of Hours noise service if the noise continues.

6.46 The case officer will consult with LASBT supervisors/managers following the seizure to determine the action to be taken following the seizure.

6.47 Where a decision is taken not to apply for a forfeiture order, the occupier should be written to advising that they can collect the seized equipment from 28 days after the seizure providing the council’s costs have been paid in full. This letter should include the total amount payable, instructions on how to pay, and advise that the equipment will be kept for a further 6 months after this date before being disposed of. This letter must be sent before the expiry of the 28 day period.

6.48 Where legal proceedings are to be instigated, the case needs to be listed at the Magistrates court within 28 days. The work in default file needs to be completed however, the work in default paperwork is sent to the Finance section only after the prosecution case has been decided in the magistrates court.

7.0 Prosecutions (Environmental Protection Act 1990)
Leeds City Council will consider whether to commence legal proceedings if an Abatement Notice is breached (legal proceedings must be brought within 6 months of the date of the offence).
7.1 Following a breach of an Abatement Notice the case officer will discuss with LASBT Supervisors/Managers as to whether it is appropriate to send a PACE letter (refer to section 10.0) to the person on whom the notice was served or a letter of intention to prosecute advising that legal proceedings are being considered.
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BREACH OF S80 NOTICE

SEIZURE
- Warrant application
- Carry out seizure
- WID paperwork to be sent to finance within 14 days
- Equipment can be returned after 28 days if invoice PAID in full and cleared
- Equipment stored for one year and then disposed of if invoice NOT PAID

SEIZURE & PROSECUTE
- Warrant application
- Carry out seizure
- Must be listed at magistrate’s court within 28 DAYS
- Legal referral needed ASAP including application for forfeiture order

PROSECUTE
- Must be listed at magistrate’s court within 6 months (sooner the better)
- Legal referral needed
- Include our costs incurred since breach

UNSUCCESSFUL PROSECUTION
- Courts may decide that equipment to be returned without charge

SUCCESSFUL PROSECUTION
- Would then need to do WID for seizure and send to finance for invoice sending. Equipment would NOT be returned even when payment received

NOT LISTED WITHIN 28 DAYS
- WID needs completing and invoice sending ASAP as they can pay and equipment returned. Can still prosecute within 6 months and if invoice not paid still apply for forfeiture
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7.2 The prosecution paperwork will include:
- Legal Services Referral Form
- Witness statements from:
  - The case officer
  - The officer who witnessed the noise, which resulted in the service of the Abatement Notice
  - The officer who signed the Abatement Notice
  - The officer who served the Abatement Notice
  - The officer who witnessed the breaches of the Abatement Notice
  - The officer who applied for the warrant and carried out the seizure (if applicable)
  - The reporting person or victim (if willing to give a statement)

7.3 The prosecution file must contain all documents exhibited. Exhibits will include:
- Any investigation reports from the Out of Hours
- PACE notes, if appropriate
- Reporting person or victims completed diaries (if willing to give a statement)
- Any warning letters
- A copy of the Abatement Notice (with proof of service filled in) and accompanying letter
- A copy of the PACE letter if sent
- A copy of the warrant if seizure undertaken together with the inventory list and letter to the occupier regarding the seizure

7.4 Upon completion of required paperwork the file will be passed to a LASBT Supervisor/Manager to check and authorise.

7.5 The prosecution file will then be emailed to Legal Services Enforcement.

7.6 The matter will be dealt with in the Magistrates Court by Legal. Any person who has provided a witness statement may be asked to attend court to give evidence if required.

7.7 The maximum penalty on conviction is £5000.

7.8 A forfeiture order can be requested for any noise making equipment seized (where a person is convicted of a noise offence).

8.0 Equipment & Finances

8.1 Returning seized noise making equipment
Should the occupier wish to have their noise making equipment returned (only applicable if the Council is not intending to prosecute) the costs incurred by the Council in undertaking the seizure must be paid in full first, however, goods will only be returned after 28 days. The Council will arrange a convenient date and time for the equipment to be returned and the onus will be on the occupier to arrange for the transportation of their equipment once it has been handed over to them.
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8.2 Exceptions to this would be where evidence is provided by someone other than the occupier that they are the owner of the equipment e.g. a hire purchase company and/or where a Magistrates Court has determined that equipment must be returned.

8.3 **Works in default**
Following the works being carried out (either seizure of noise making equipment or the disconnection of an alarm) the works in default paperwork will be complyed as soon as possible (within 21 days). The invoice should to be sent to the occupiers by the Finance Department within 28 days of the works been carried out (unless prosecution proceedings are pending).

8.4 Work in default paperwork for an external alarm where the Clean Neighbourhood and Environment Act has been used is the Control Sheet – CNEA

8.5 Work in default paperwork for an internal alarm using the Environmental Protection Act is the Control Sheet – EPA and Internal Memo (this is needed where the notice was served on an owner/occupier.

8.6 The works in default file will be passed to the finance department. The finance department will send a bill to the person responsible (either owner or occupier). A charge may be placed on the property (dependent on legislation).

8.7 The ‘on costs’ form will be completed to determine the charges for carrying out the works (officer time/mileage etc. in addition to any contractor costs). Charges can only be made for any time/mileage costs incurred after the notice has expired.

8.8 The invoice from the contractor is included within the file.

8.9 Should the Council decide not to instigate legal (prosecution) proceedings following a seizure, the occupier will have the option to pay the costs of the seizure in order to obtain their equipment back after 28 days.

8.10 Should the Council decide to instigate legal (prosecution) proceedings, the case must be listed at the Magistrates court within 28 days and the works in default file completed (this is not sent to finance department at this time).

8.11 Works in default paperwork for a seizure is the Control sheet - EPA

8.12 The ‘on costs’ form will be completed to determine the charges for officer time/mileage costs etc. in addition to any contractor costs. Charges can only be made for any officer time/mileage costs after the notice has expired.

8.13 For houses of multiple occupations, (e.g. student properties) a separate control sheet needs to be completed for each individual. Each occupier will be charged a standard £36.00 administration fee with any other costs divided between them and entered on each form. Properties of this size will require more resources to undertake the seizure (more case officers) so the total costs are likely to be significantly higher.
8.14 If a contractor was used for the seizure, the invoice from the contractor should be included within the file.

8.15 Upon completion of the works in default paperwork the officer will email it to the Sundry Debt Team who will arrange for either the invoice to be sent to the person responsible or for a land registry charge to be placed on the property as appropriate.

**NOTE:** For seizures (where legal proceedings are not being instigated) the case officer must clarify to the Sundry Debt Team that the invoice is to be processed only and debt recovery procedures not enforced. The seized goods will be retained by the Council if the invoice remains unpaid. If costs are paid the procedure to return seized equipment will be followed.

8.16 If the intention is to instigate legal proceedings the work in default file will only be sent to the Sundry Debt Team following the outcome of the prosecution case (should the accused be convicted and a forfeiture order be granted by the magistrates).

8.17 Where a contractor has been used, when the invoice is received by LASBT the invoice will be passed to admin officers to raise an order for the contractor to be paid.

**9.0 Section 16 – Local Government (Miscellaneous Provisions) Act 1976**

Should it not be possible to identify the occupiers of a property and where the Council has details of a person/s associated with the property in question, (for example name/address details of the owner of a property from land registry), the Council can serve a Section 16 Notice. The notice requires them to provide the names of all the occupiers of the property within 15 days (if serving by hand) or 21 days (if posting the Notice). The Council can also serve this Notice if a managing agent/landlord is not willing to provide the requested information regarding occupiers of a property.

9.1 In the case of non-compliance with a s.16 notice the person upon whom the notice has been served should be given a further 7 days to comply, in writing, before being prosecuted for failing to comply with the notice where the current maximum fine upon summary conviction is £5,000.

**10.0 PACE (Police and Criminal Evidence Act 1984) Letters**

Where evidence is obtained which amounts to a breach of the S80 Notice and legal proceedings are being considered, ‘PACE’ trained officers in consultation with the LASBT Team Supervisor/Manager will consider whether it is appropriate to send a PACE letter to the person suspected of committing the offence. Specific questions considered relevant to the offence are asked within the letter under caution.

10.1 Alternatively, a letter advising of the intention to instigate legal proceedings for failure to comply with the requirements of the Notice may be sent without sending a PACE letter first. Each case will be assessed individually to determine the most appropriate course of action.
11.0 Alarms

11.1 Noise from alarms at domestic/residential premises

Leeds City Council has a duty to investigate complaints relating to alarms. There are two different legislative Acts used for noise arising from alarms;

- Clean Neighbourhoods and Environment Act 2005 – Section 77/78 for external alarms (intruder alarms).
- Environmental Protection Act - Section 80 – for internal alarms.

11.2 Upon receipt of a report LASBT will advise the reporting person/victim to report the matter to the Police if they have not already done so (given there may be a burglary in progress).

11.3 The officer receiving the report will endeavour to ascertain if the reporting person/victim has confirmed the exact address the alarm is coming from, whether it is an internal or external alarm, how long the alarm has been sounding and whether it is continuous or intermittent (if intermittent how frequently is the alarm sounding?).

11.4 The majority of alarms can be resolved by officers without a member of staff having to attend the address. They can be resolved by contacting the key holder of the address and notifying them of the alarm, advising them to turn it off and warning them that if it is not resolved the council will be required to take action to silence the alarm, which could result in a charge of several hundred pounds to the owner.

11.5 The officer will ascertain from the reporting person or victim whether they know their neighbours, have any contact details, know where they are or whether they are on holiday. Enquiries as to whether they are aware of anyone else who may know them or may be able to contact them should be made (a neighbour may have seen someone visiting the property to feed a cat for example or know where a relative lives).

11.6 Results of all searches by officers for the key holder details will be documented. The officer will attempt to locate the key holder by undertaking any or all of the following as required;

- The officer will initially ensure that the reporting person or victim has confirmed the address at which the alarm is sounding, if practicable by going to the property, and making sure that they have the correct house number and street. Incorrect information causes delays and unnecessary work.
- Alarms sounding within Housing Leeds properties will be reported to the relevant housing officer for their action.
- Alarms sounding within housing association properties will be reported to the relevant housing association for their action.
- The key holder database within uniform. Key holder registration forms are on the LCC website and new details will be added into the database as they are received.
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- Council systems including Siebel, Caseworks, Uniform and Orchard can be checked to search for contact and telephone details provided during any previous contact with Leeds City Council.
- The Council Tax system of Academy can be used to search for who pays Council Tax at the address. The system may hold names and contact details of owners and tenants of the property. It may be possible to obtain contact details of neighbours in the event that they are aware of how to contact the key holder. Even former occupiers may be able to provide information on the current owner/occupier of a property.
- 192.com (if available)
- Internet searches e.g. Google, social media

11.7 If a key holder cannot be found or contacted and the alarm is continuing, the officer will visit the property.

11.8 Where the officer is aware that the owner of the property lives locally but not at the address of the alarm, the officer may visit this property to advise them of the issue or leave a card if not at home. If a notice is subsequently served, the officer will leave a copy of the notice at the address where the alarm is sounding and send a copy to the owners address.

11.9 All alarm complaints will be opened up as a case on caseworks, the data/information gathered uploaded to the case and a warning letter sent (where appropriate) and then the case closed once completed.

11.10 Where LASBT receive a complaint of an alarm sounding intermittently or the complaint has been resolved without the officer contacting the owner/occupier of the property a warning letter may be sent to them. This letter advises them of the complaint and a Key holder Registration Form is attached to the back of the letter.

11.11 External Alarms
CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

11.12 The Clean Neighbourhoods and Environment Act allows the Council to disconnect an internal alarm (typically, this will be an external alarm where the noise is emitted from a box on an external wall of the building). The legislation specifies;

- (Section 77) An officer can enter the premises and take whatever steps are necessary to silence the alarm without entering the property by force.
- (Section 78) An officer can obtain a warrant to enter the premises by force and silence the alarm
- (Section 79) An officer can take any steps necessary to silence an alarm and to take any other persons and equipment necessary to silence the alarm.

Three criteria must be met in order to silence an external intruder alarm;

- The alarm must have been sounding continuously for more than 20 minutes or intermittently for more than one hour.
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- The sounding of the alarm must be likely to give persons living or working within the vicinity or the premises reasonable cause for annoyance (this is a lower standard than statutory nuisance and is a subjective assessment).
- Reasonable steps have been taken to get the nominated key holder to silence the alarm.

11.13 Once the officer has completed initial searches and the reporting person/victim reports that the alarm is still sounding, the investigating officer will visit the property to witness the noise and ensure it meets the above criteria. The officer will also carry out door to door enquiries at this stage to ascertain if any neighbours know the occupants and have a contact number for them or is aware of their whereabouts.

11.14 A warrant is generally not needed for external alarms as they can normally be turned off without entering the property by force. Officers should check the alarm is accessible when conducting the above visit.

11.15 If the alarm is still sounding, the officer will contact an alarm engineer to attend and disconnect the alarm from the box outside. The officer will ensure the alarm engineer contractor used agrees to submit an invoice after the works have been completed as payment cannot be made on the day. If the person turns up at the property during the process of silencing the alarm, the alarm will be silenced and a decision made subsequently by LASBT Supervisors/Managers as to whether that person is recharged for the works.

11.16 Once the alarm has been silenced, a Section 77/78 notice will be left at the property addressed to the person responsible. If the person responsible is not known at this point, for example, where it is a private rented property, the notice will be served on both the owner and the occupiers. A separate notice will be served on each of the named people. If the officer finds that the landlord is responsible for maintaining the alarm, then the notice will be served on the landlord, if the tenants are found to be responsible the notice will be served on the tenants. Where notices are served on both, the officer can subsequently retract the inappropriate notice when in possession of all the facts.

11.17 The officer will also post a copy of the notice to the owner if they are aware of another address for them. This will be posted with a first class stamp from an identifiable post box. The notice/accompanying letter states the legislation used and informs the person that Leeds City Council will be seeking to recover any expenses incurred in silencing the alarm.

11.18 A works in default file will be compiled by the officer for the works carried out in order that the costs can be recovered. The works in default file will be passed to the finance department who will send an invoice for payment to the person responsible (which needs to be identified as either owner or occupier).

11.19 If an alarm can only be silenced by entering the property, a warrant must be obtained via the Magistrates Court (see the warrants section for details on this) and the Internal Sounding Alarm procedure must be followed (unless there is no doubt that it is an intruder alarm sounding).
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11.20 If the officer is in no doubt that it is an intruder alarm sounding then the officer will leave a Clean Neighbourhoods Act Notice and letter at the property advising that they are applying for a warrant to enter to silence the alarm. The officer will then apply for a warrant from the Magistrates Court. Whilst in the process of obtaining the warrant, the case officer should begin to contact a contractor to silence the alarm and a locksmith to enter the property and secure it afterwards. Contractors must be willing to do the work and then charge the council via an invoice for costs as payment will not be made upfront. The invoice needs to be sent to the officer at the office address and then passed to admin to raise an order for payment. When entering a property no more damage or disturbance than necessary must be caused. The premises should be left as far as is reasonably practicable secured against entry but there is not a requirement to re set the alarm. The investigating officer must remain at the property until it is secure and they have the new keys in their possession.

11.21 Refer to section 6.42(g-i) for the key retrieval process.

11.22 Internal Alarms
ENVIRONMENTAL PROTECTION ACT 1990

11.23 Where an internal alarm is sounding (i.e. from a fire alarm, smoke alarm, carbon monoxide alarm etc. or an intruder alarm), powers under the Environmental Protection Act 1990 are generally used.

11.24 The officer will carry out checks (outlined under section 12.0) to search for and locate a keyholder. If this is unsuccessful, a visit will to be made to the reporting person/victim to determine whether the noise they are experiencing is a statutory nuisance.

11.25 An Environmental Health Officer/ASB Supervisor may attend with the case officer. If just the case officer is attending they will make notes at the time of the visit and write their witness statement on return to the office. This will then be discussed with the Environmental Health Officer/ LASBT Supervisor/Manager as soon as possible to assess whether the evidence is sufficient to support the existence of a statutory nuisance.

11.26 If a statutory nuisance exists then a Section 80 Abatement Notice will be served as soon as possible. The time for compliance given on the notice will be a minimum of one hour. The Notice will be posted through the door of the property where the alarm is sounding. If required a copy will also be posted through the door of the owner of the property if the address details are different to those of the alarm address. This will be done in person where possible. Where this is not possible a first class stamp will be used and the Notice will be put in an identifiable post box by an officer.

11.27 Upon expiry of the compliance time of the Notice, the officer will attend the address and ascertain whether the alarm is still sounding and determine whether this is now a breach of the notice.
11.28 If a breach of the notice is confirmed, the officer will prepare the paperwork to apply for a warrant from the Magistrates Court. A warrant application form, three separate copies of the warrant and a copy of the Notice are needed.

11.29 As this is an emergency, the officer will not have to email the clerk with the warrant application in advance but will be required to phone the reception at the court to ensure the application can be heard.

11.30 When the officer has obtained the warrant they will arrange for an alarm engineer and locksmith to meet them at the property. The officer will take with them:

- The applicant’s copy of the warrant
- The occupier’s copy of the warrant
- Letter advising person of action taken and how to obtain their keys

11.31 When entering a property no more damage or disturbance than necessary must be caused. After the engineer has turned the alarm off a copy of the warrant is left in the property. The premises should be left as far as is reasonably practicable secured against entry. There is no requirement to re-set the alarm.

11.32 Vehicle Alarms

11.33 Upon receipt of a complaint of a vehicle alarm sounding, LASBT will need to obtain the following information:

- Name, address and contact number of the reporting person or victim
- Location of the vehicle (whether it is on the street, on a drive etc.)
- Description of the vehicle (make, model, colour, registration number, any distinguishing marks such as name of a company)
- How long the alarm has been sounding
- Whether the alarm is continually or intermittently sounding (if intermittent how often and for how long)
- Any known details of who owns/is the registered keeper of the vehicle
- Whether the car has been vandalised or forcibly entered and if so whether the Police have been notified.
- Whether the vehicle is associated with a business (this would be dealt with by the Environmental Protection Team).

11.34 Enforcement action is normally taken under the Environmental Protection Act 1990.

11.35 All alarm cases will be opened on caseworks and case details updated before they are closed.

11.36 For intermittent sounding alarms the reporting person or victim will be advised to contact the case officer/Out of Hours when the noise is ongoing and a warning letter...
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should be sent to the registered keeper of the vehicle if their details are known. If a second complaint is received about the same car alarm then the warning letter will be attached to the windscreen of the vehicle (in a plastic covering).

11.37 For a continuous sounding vehicle alarm the officer will visit to confirm the information obtained from the reporting person or victims and the witness the sounding alarm.

11.38 Where statutory nuisance is NOT substantiated a warning letter will be left attached to the windscreen of the vehicle. The case officer will make enquiries with the neighbours to establish if they are aware of the owner of the vehicle. The case will be opened on caseworks, updated and then closed.

11.39 Where statutory nuisance is substantiated the case officer will make enquiries with the neighbours to establish if they are aware of the owner of the vehicle. The officer will leave a warning letter on the windscreen of the vehicle before returning to the office.

11.40 Upon returning to the office the case officer will submit a S115 to the Police researchers for their urgent attention, where needed. The researchers may be able to find the registered keeper’s details and potentially some contact information.

11.41 If the vehicle registered keeper’s details are not obtained a Section 80 Abatement Notice will be drafted and left on the windscreen (in a plastic covering) together with a covering letter. Where the notice is complied with this will be entered on caseworks and the case closed. Where the notice is not complied with, a breach of the notice will need to be witnessed. If a breach of the notice is witnessed, legal proceedings (prosecution) will be considered.

11.42 If the vehicle registered keeper’s details are obtained however the officer cannot contact them the above procedure (vehicle registered keeper’s details not obtained) process above will be followed.

11.43 If the officer is able to contact the registered keeper by telephone or by visiting a local address the officer will attempt to do so to advise of the problem and request that the alarm is silenced within a specific time frame. Ideally this will be within one hour and generally not longer than 3 hours however this can be extended (for example the person may only be able to resolve the matter after they have finished work or may be a long distance from the vehicles current location). The case officer will then contact the reporting person or victim and request that they contact LASBT again if the alarm is still sounding after an agreed time.

11.44 If the reporting person or victim does not contact LASBT an officer will contact them and if they report that the noise has stopped will send a warning letter to the registered keeper and/or leave a copy on the vehicle windscreen in a plastic covering.

11.45 If the alarm is still sounding then a Section 80 Abatement Notice will be served by securing to the windscreen of the vehicle (in a plastic covering) along with a covering
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letter. In addition, a copy of the notice will be taken to the registered keepers address (if local) or by posting using first class postage and putting the notice in an identifiable post box.

11.46 If the notice is complied with, a case will be opened on Caseworks, updated and then closed. If the notice is not complied with, the officer will need to witness a breach and the instigation of legal proceedings (prosecution) considered. The officer will discuss with a LASBT Supervisor/Manager.

11.47 All vehicle alarm the case will be opened on caseworks, the details updated and then the case will be closed.

11.48 Complaints regarding vehicle radios will be investigated following the above procedure.

12.0 Anti-Social Behaviour, Crime and Policing Act 2014

12.1 Information as to actions that could be taken under the 2014 ASB Crime and policing act is outlined in Part B of LASBT’s policy and procedures. It should however be noted that there is a principle of law that a specific power (Environmental Protection Act 1990) should be used in preference to a general one (Anti-Social Behaviour, Crime and Policing Act 2014).

12.2 For example, where a Community Protection Notice could be used to address a nuisance having a detrimental effect on the quality of life of those in the area, if the noise constitutes a statutory nuisance, the local authority must serve an Abatement Notice under the Environmental Protection Act 1990. Serving a Community Protection Notice does not discharge the Council from its duty to serve an Abatement Notice if the noise amounts to a statutory nuisance. While a Community Protection Notice can be issued for behaviour that could constitute a statutory nuisance, the interaction between the two powers should always be considered so as not to contradict the principle of law referred to above.

13.0 Case Closure

13.1 Where LASBT have taken all reasonable steps to investigate a complaint and have not been able to substantiate a statutory or other nuisance (and all other options such as mediation have been explored) LASBT will consider closing the case.

13.2 The reporting person or victim may be provided with further information regarding taking his or her own private action under the provisions of Section 82 of the Environmental Protection Act 1990.

13.3 Further guidance on LASBT’s case closure procedures is included within Part B (Section 5.5) of LASBT’s policy and procedures.