
PPP Nuisance Policy 2024 - 2027

Committee considering report:	Joint Public Protection Committee
Date of Committee:	7 October 2024
Chair of Committee:	Councillor Iskandar Jefferies
Date JMB agreed report:	23 September 2024
Report Author:	Suzanne McLaughlin
Forward Plan Ref:	JPPC4451

1. Purpose of the Report

- 1.1 There is a high demand from service users to respond to requests for the Public Protection Partnership (PPP) to resolve nuisance complaints. The purpose of this policy is to set a framework that will help the PPP ensure the continuation of a consistent and transparent approach to both reactive and proactive work on nuisance issues.
- 1.2 A consultation on the draft policy was undertaken between the 08 July 2024 and the 26 August 2024 and Members are asked to consider the comments received and the ensuing changes proposed.
- 1.3 The Policy, once adopted, will form part of the suite of key policies that the PPP uses to deliver the Service.

2. Recommendations

The Committee:

- 2.1 **CONSIDERS** the responses received during the consultation as set out in **Appendix B** and the officers' comments on the responses received as set out in **Appendix C**.
- 2.2 **APPROVES** the Nuisance Policy 2024-2027 as set out in **Appendix A**, subject to any additional changes agreed at the meeting.
- 2.3 **AUTHORITY BE DELEGATED** to the Service Lead - Public Protection, in consultation with the Chairman and Vice Chairman of the Committee, to make any minor amendments to the policy once adopted.

3. Implications and Impact Assessment

Implication	Commentary
Financial:	<p>There are no financial implications associated with the adoption and implementation of this Policy.</p> <p>However, as with all enforcement activities undertaken by regulatory services legal challenge may result in legal expenses.</p> <p>Where the PPP takes legal action or defends legal challenge the PPP will seek to recover its costs through this process.</p>

<p>Human Resource:</p>	<p>There are no specific HR implications associated with this report.</p> <p>The consultation was undertaken within existing resources and the policy will be delivered within the current staffing structure although competence is managed and delivered through our training and development plan.</p> <p>It is business critical that to manage risk, staff who undertake these functions have adequate training in the law and its application and that this is kept under review. The process for this is set out in the Service Training and Development Plan.</p>
<p>Legal:</p>	<p>The relevant legal issues are addressed within the report and policy. The statutory nuisance regime is set out in Part III (sections 79-82) of the Environmental Protection Act 1990, as amended by the Clean Neighbourhoods and Environment Act 2005.</p> <p>Construction site noise is dealt with under the Control of Pollution Act 1974.</p> <p>Where specific types of complaints are not dealt with by the PPP, appropriate signposting has been set out in the policy.</p> <p>The Environmental Protection Act 1990 places a statutory duty on the local authority to inspect its areas from time to time to detect and respond to any statutory nuisance as defined in law.</p> <p>Where a complaint of statutory nuisance is made, the local authority must take reasonably practicable steps to investigate the complaint.</p> <p>The Act specifies what is a statutory nuisance is but does not specify what constitutes 'reasonably practicable'. The policy specifies what the local authority considers to be a reasonable investigation.</p> <p>The policy also takes into consideration the Clean Neighbourhoods and Environment Act, 2005 which extends the statutory nuisance regime.</p>
<p>Risk Management:</p>	<p>As with all enforcement activities undertaken by regulatory services there is a risk of legal challenge to any action taken or not taken.</p> <p>To ensure that the partnership maintains high standards and to minimise the risk of successful challenge, Officers adhere to standards set out in internal procedure notes and adhere to a quality management system. Both are the subject of regular updates.</p>

	<p>One of the key risks in providing an effective service dealing with nuisance is the financial pressure that local government is experiencing. In response, the partnership needs to be as cost effective as possible in managing nuisance issues.</p> <p>One of the most critical risks identified in the Service Risk Register is the failure to retain or recruit business critical and suitably trained staff which would result in the Service being unable to fulfil our statutory obligations. Nationally there is a shortage of suitably qualified staff.</p> <p>This risk is being managed through the carefully executed workforce strategy which seeks to ensure that staff have the necessary competencies in place to undertake the enforcement activity associated with nuisance.</p>			
Property:	There are no property implications associated with this report.			
Policy:	<p>The policy has been drafted to take into account the Bracknell Forest Borough Council (BFBC) 2023 to 2027 Council Plan and the West Berkshire Council 2023 to 2027 Council Strategy.</p> <p>It also takes into account a number of the PPP's key plans and strategies as set out in Section 2 of the draft document. The policy accords with the PPP's vision to protect and support residents and legitimate businesses through the successful use of information and intelligence, delivering safe and healthy neighbourhoods.</p>			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		<p>In reviewing the draft policy, we did not identify any detriment to any protected group as a result of implementing it. Each service request or service complaint is assessed individually and dealt with in accordance with relevant procedures and legislation.</p> <p>No equality issues were raised during the consultation period.</p>
B Will the proposed decision have an impact upon the lives of people with protected characteristics,		x		See above

including employees and service users?				
Environmental Impact:	X			<p>Where the statutory nuisance relates to smoke nuisance, the aim of the action is to regulate smoke from premises which are prejudicial to health or a nuisance.</p> <p>Planning conditions are applied to control noise, dust and smoke nuisance in some instances.</p>
Health Impact:	X			<p>The Policy is designed to improve our residents' quality of life, which enables people to live well by resolving matters which impact detrimentally on the wider determinants of health.</p>
ICT or Digital Services Impact:		x		<p>The PPP website includes a lot of information and self-help guides and leaflets to assist and inform residents and businesses about what constitutes a statutory nuisance, options for informal resolution and what to do if this does not work.</p>
PPP Priorities:				<p>The report will impact on the following PPP Priorities:</p> <ol style="list-style-type: none"> 1. Building Safer Communities 2. Improved Living Environment 3. Reducing Harm in Young People 4. Protecting and Informing Consumers 5. Protection of the Environment 6. Safety in the Workplace <p>Business as Usual Activity is supported too.</p>
Data Impact:				<p>All data obtained in dealing with Service Requests and complaints is and the consultation was dealt with in accordance with the PPP - Privacy Notice</p> <p>Where personal data is being processed or shared, the Service will ensure that the necessary data protection requirements are in place, such as a Data Protection Impact Assessment, Privacy Notice, Information Sharing Agreement (where relevant) and the Register of Processing Activity (ROPA) is updated as necessary.</p>

Consultation and Engagement:	A seven-week consultation was undertaken in accordance with the West Berkshire Council Consultation Policy.
Other Options Considered:	Not to consult on the adoption of the Nuisance Policy. Not to adopt a Policy on how the Service manages nuisance. This may lead to more complaints against the service, where there is no understanding of the partner councils' duty and procedures with respect to nuisance investigation.

4. Background

- 4.1 Dealing with nuisance is a core function of the Public Protection Partnership. The purpose of this new policy is to set a framework for PPP staff to ensure the continuation of a consistent and up to date best practice approach to both reactive and proactive work on nuisance issues. It will also set a framework for our interaction with residents on nuisance matters. In addition, it will set realistic expectations about matters which the service can legitimately deal with and provide signposting to other agencies where the PPP is not the enforcing body.
- 4.2 The PPP is responsible for investigating statutory nuisance on behalf of the two partner authorities (Bracknell Forest Council and West Berkshire Council). The Environmental Protection Act 1990 (The Act) sets out in legislation what constitutes statutory nuisance.
- 4.3 The [report and draft policy presented to the June 2024 Committee](#) set out the legislative framework for the policy, the powers of the PPP to enforce it, options available to residents outside of the Act, areas where the PPP has powers to investigate and where it cannot do so, preventive action that can be taken by the Service, informal resolution routes and the processes that will be followed when a nuisance is investigated.

5. Key Findings of the Consultation

- 5.1 The draft policy was subjected to a seven-week consultation process between the 08 July 2024 and the 26 August 2024. The detailed outcome of the consultation and the process followed is set out in Appendix B.
- 5.2 The consultation was posted on the West Berkshire and Bracknell Forest Council's Consultation Hubs and on the Public Protection Partnership's website. A notification was also sent out to the 2483 people on the West Berkshire Community Panel and a press release was issued and a number of social media messages were posted.
- 5.3 The PPP received 68 responses to the consultation via the consultation hub and one response was emailed directly to Officers. Of those responses six were from parish or town councils or councillors, 52 were from residents, six were from officers, two were from businesses, two were from community groups and one from an educational establishment.

5.4 The key findings of the consultation are summarised below.

- 90% of respondents believe that the draft policy is clear and easy to understand.
- 72% of respondents either agreed or strongly agreed that the draft policy identified what a statutory nuisance is.
- While 29% neither agreed nor disagreed 66% of respondents stated that the policy identified the proactive steps undertaken by the PPP to reduce statutory nuisance.
- 73% of respondents agreed or strongly agreed that the policy was clear about how statutory nuisance complaints would be dealt with.
- 71% of respondents agreed or strongly agreed that draft policy explained what tools were available to the PPP to resolve issues, both formally and informally.
- 70% of respondents either agreed or strongly agreed that the policy clearly set out the types of complaint that the PPP cannot deal with.
- 16 respondents opined that there were areas missing from the policy.

5.5 The consultation suggested that the draft policy needed to address the following additional issues:

- Bamboo
- The Budget
- Cannabis Smoke
- Smoke from Charcoal Barbeques and Fire Pits
- Motorbikes in parks and open spaces
- What levels of dog barking are acceptable
- Clarity on what constitutes a nuisance in terms of number of occurrences, levels etc
- Stronger punitive measures
- Loose drain covers
- Definition of music
- How anonymous, vexatious and prolific complaints would be dealt with
- High Hedges
- Drainage
- Nuisance created at school drop off and collection points
- Bonfires
- Constant ringing of doorbells
- Proactive steps other than planning
- CCTV complaints
- Fence/ boundary disputes

- Noise from DIY activity
- Noise associated from working from home

5.6 Additional clarity was needed on:

- How noisy parties should be dealt with
- Children playing with balls in the street
- Expectations around response times
- What happens if people continue creating nuisance
- What a private matter means
- Why household noise was not considered a statutory nuisance.
- A clearer definition of the term 'reasonable'.

6. Key Changes Made to the Draft Policy

6.1 A theme of several of the comments made in response to the consultation was a wish for the policy to contain more detail in relation to specific nuisances and how the PPP responds. The purpose of the policy is to “set out a framework that will help the PPP ensure the continuation of a consistent and up to date best practice approach to both reactive and proactive work on nuisance issues”. It is “not intended to be a detailed operational guide, the partnership has a well-developed series of procedure notes” (introductory section of the draft policy). In view of this, officers have amended the policy where they believe a comment received during the consultation will enhance the aims of the policy. Officer comments on other responses received are referred to in **Appendix C** of this report.

6.2 As a result of the consultation officers have made the following changes to the draft policy. The changes are shown, as track changes, in red, in the document at **Appendix A**, titled ‘Proposed Nuisance Policy’.

- Several of the comments received referred to aspects of noise nuisance and what the PPP can and cannot do in response to complaints. To provide clarification, additional wording has been included in Section 3 of the policy.
- In response to the query as to what a ‘private matter’ is, a comment has been added in Appendix 2.
- A reference to anonymous complaints has been added in Section 5.

6.3 Officer responses to other comments are set out in **Appendix C**.

7. Concluding Observations

7.1 Living with nuisance has a severe impact on quality of life and in some cases health and wellbeing. The service has not previously set out its approach in one policy document that sets expectations for all parties.

7.2 There are also issues that can evolve as priorities from time to time. An example of this would be the sewage discharges over the winter / spring of 2023/24.

7.3 The policy has also been developed in order to maintain the profile of this important area of work and link it to our high-level priorities of protecting, promoting and

improving the health and environment of the area and all its people through education, guidance and enforcement.

7.4 We believe that carrying out these functions in a fair, consistent, independent and practical manner will help to promote a thriving local economy by balancing a range of risks that may affect our individual and collective living space.

7.5 The PPP would like to thank everyone that took the time to respond to the consultation.

8. Appendices

Appendix A – Proposed Nuisance Policy 2024-2027

Appendix B – Outcome of the Draft Nuisance Policy Consultation (2024 – 2027)

Appendix C – Officer comments on responses to the consultation

9. Background Papers:

9.1 None

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: All Wards or State Specific Wards

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