

Public Document Pack  
SOUTHEND-ON-SEA CITY COUNCIL

**Place Scrutiny Committee**

**Date: Tuesday, 29th August, 2023**

**Time: 6.30 pm**

**Place: Committee Room 1 - Civic Suite**

**Contact: Tim Row - Principal Democratic Services Officer**

**Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**A G E N D A**

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**TO: The Chair & Members of Place Scrutiny Committee:**

Councillor R Woodley (Chair),

Councillors C Mulroney (Vice-Chair), M Berry, C Campbell, O Cartey, D Cowan, A Dear, F Evans, I Gilbert, J Harland, L Hyde, A Jones, D Jones, K Robinson, M Terry, C Walker and J Warren

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# Public Document Pack

## SOUTHEND-ON-SEA CITY COUNCIL

### Meeting of Place Scrutiny Committee

**Date: Monday, 10th July, 2023**

**Place: Committee Room 1 - Civic Suite**

# 4

**Present:** Councillor R Woodley (Chair)  
Councillors M Berry, C Campbell, O Cartey, D Cowan, A Dear,  
F Evans, I Gilbert, J Harland, L Hyde, A Jones, D Jones,  
R McMullan\*, K Robinson, S Wakefield\* and J Warren  
(\*Substitute in accordance with Council Procedure Rule 31.)

**In Attendance:** Councillor J Lamb (Cabinet Member)  
E Georgeou, N Hoskins, A Richards and S Cox

**Start/End Time:** 6.30 pm - 7.25 pm

#### **8 Apologies for Absence**

Apologies for absence were received from Councillor Mulronev (substitute: Councillor McMullan), Councillor Terry (substitute: Councillor Wakefield) and Councillor Walker (no substitute).

#### **9 Declarations of Interest**

The following interests were declared at the meeting:

(i) Cllr Hyde – Minute No. 12 (Official Feed and Service Plan 2023-24) — Primary employer is with the General Lighthouse Authority (Trinity House) which monitors the waterways; and is also a member of ‘Surfers Against Sewage’.

#### **10 Questions from Members of the Public**

No questions were received by members of the public.

#### **11 Minutes of the Meeting held on Monday, 5th June, 2023**

Resolved:-

That the Minutes of the Meeting held on 5 June 2023 be confirmed as a correct record and signed.

#### **12 Official Feed and Service Plan 2023-24**

The Committee considered the report of the Interim Executive Director (Environment and Place) by way of pre-Cabinet scrutiny, that provided and an update on the activities for the previous inspection year against the plan for 2022-23.

The Committee discussed the report in some detail and asked a number of questions which were responded to by the Cabinet Member for Regulatory Services.

Resolved: -

That the report to Cabinet be noted.

Note: This is an Executive function  
Cabinet Member: Councillor Lamb

### **13 In-Depth Scrutiny Projects 2022/23 and 2023/24**

The Committee received the final report and recommendations from the in-depth Scrutiny project for 2022/23, entitled 'Preparing Southend for the Electric Vehicle Revolution.'

As the relevant Cabinet Member was not present at the meeting to respond to questions, the Committee felt that the matter should be deferred to the next/future meeting.

The Head of Civil Engineering requested that any questions be submitted in advance of the meeting, to enable officers the opportunity to provide comprehensive responses. The Chair also requested that any questions from Councillors be submitted to the whole Committee for information.

Resolved:-

That consideration of the final report arising from the In-Depth Scrutiny Project for 2022/23 be deferred to the next/future meeting of Place Scrutiny Committee.

Note: This is a scrutiny function.

### **14 Outside Bodies Task and Finish Group**

The Committee considered a report of the Executive Director (Finance and Resources), proposing a review of the membership and representation on Outside Bodies as a potential topic as a joint Scrutiny project for 2023/24 and which proposed the establishment of a Task and Finish Group to undertake the review.

The Chair reported that, at the Scrutiny Chairs Forum held on 27 June 2023, all the Scrutiny Chairs and Vice-Chairs present felt that resources should be directed to shorter Task and Finish reviews to drive specific areas of concern forward.

Subject to the agreement of the proposed approach, it was recommended that no additional topic(s) be selected by the Committee for in-depth scrutiny activity during the year 2023/24.

Resolved:-

1. That an Outside Bodies Task and Finish Group be established:

- in the proportion 4 Conservative, 3 Labour, 1 liberal Democrat, 1 Independent and 1 Residents First with appointments being made to ensure some representation from each of the scrutiny committees.

- It is suggested that the Group Leaders submit their nomination(s) to the Executive Director (Finance and Resources) in line with the proportionality allocations.

2. That the Terms of Reference (attached at Appendix 1) to the submitted report be approved.

3. Each of the three Scrutiny Committees receive an update on the progress accordingly, before a final report is approved

Note: This is a scrutiny function.

## 15 **Work Programme**

The Committee received a draft Scrutiny work programme template, which set out the process for identifying suitable issues for scrutiny.

The following ideas were suggested as potential topics for inclusion on the work programme:

- Fly-tipping strategies.
- Congestion at Cuckoo Corner.
- Air Pollution across the City.

The Chair requested that any suggestions for scrutiny topics be emailed to the Designated Scrutiny Officer and that these should be deliverable (time and funding available considered in scrutiny shortlisting process).

It was recommended that a procedural note be produced, clearly setting out the process how Councillors could suggest and influence items on the scrutiny work programme and the correct procedure for doing so.

Resolved:-

That a scrutiny work programming procedure note be produced setting out the process for submitting and determining suitable issues for scrutiny topics.

Note: This is a scrutiny function.

**Chair:** \_\_\_\_\_

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# SOUTHEND-ON-SEA CITY COUNCIL

## Meeting of Place Scrutiny Committee

**Date: Monday, 24th July, 2023**

**Place: Committee Room 1 - Civic Suite**

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**Present:** Councillor R Woodley (Chair)  
Councillors C Mulroney (Vice-Chair), B Beggs\*, L Burton\*,  
C Campbell, O Cartey, D Cowan, M Dent\*, F Evans, I Gilbert,  
J Harland, L Hyde, D Jones, G Leroy\*, M Terry, C Walker & J Warren  
(\*Substitute in accordance with Council Procedure Rule 31.)

**In Attendance:** Councillor T Cox (Cabinet Member)  
R Harris and A Richards

**Start/End Time:** 6.30 pm - 9.30 pm

### 16 Apologies for Absence

Apologies for absence were received from Councillors Robinson (substitute: Cllr Dent), Berry (substitute: Cllr Leroy), Dear (substitute: Cllr Beggs) and A Jones (substitute: Cllr Burton).

### 17 Declarations of Interest

The following declaration of interest was made:

Cllr Harland – Minute 20 (Removal of 6-9pm Parking Charging and Enforcement in Zone 1A) – Business in an area effected by the parking charges).

### 18 Questions from Members of the Public

There were no questions from the public.

### 19 Parking Charges in Parks Car Parks

The Committee considered Minute No. 8 of Cabinet held on 28<sup>th</sup> June 2023, which had been call-in for scrutiny, together with the report of the Executive Director (Environment and Place) responding to the Opposition Business motion referred by Council held on 23<sup>rd</sup> March 2023 concerning proposed changes to the Council's charging proposals in the city's parks car parks.

The Committee asked questions which were responded to by the Leader of the Council. The Leader of the Council also gave his assurance that the parks maintenance budget would not be affected by the proposals.

Resolved:

That the following recommendations of Cabinet be noted:

“1. That the implementation of charging in the following parks car parks, be cancelled:

- Belfairs Park, Chalkwell Park, Priory Park and Southchurch Park in the 2024/25 financial year.
- Big Gunners Park, Little Gunners Park and Jones Memorial Ground planned for the 2023/24 financial year.

2. That a policy be produced that makes it clear that the Council’s policy is not to charge in the city’s Parks Car Parks.

3. That the funding of this proposal, as set out in the submitted report, be approved.”

Note: This is an Executive Function  
Cabinet Member: Cllr Buck

## **20 Removal of 6-9pm Parking Charging and Enforcement in Zone 1A**

The Committee considered Minute No. 9 of Cabinet held on 28<sup>th</sup> June 2023, which had been call-in for scrutiny, together with the report of the Executive Director (Environment and Place) presenting information to enable the Council to decide on revoking its decision to charge for parking between the hours of 6pm and 9pm in Zone 1A, which Budget Council took in February 2023.

The Committee asked questions which were responded to by the Leader of the Council. The Leader of the Council also gave his assurances that:

- The revocation of the hours of enforcement related to the pay and display bays in Zone 1A only and that other contraventions would still be enforced.
- The children’s fountain play area on the seafront would not be replaced/removed with any type of car parking provision (i.e. echelon / shriven parking).
- Any future designs or features of parking would not compromise safety and any additional safety measures would be brought to the Traffic and Parking Working Party/Cabinet Committee.

Resolved:

That the following recommendation of Cabinet be noted:

“1. That the decision made at Budget Council in February 2023 be revoked and that charging for parking in Zone 1A between the hours of 6.00pm to 9.00pm be removed, taking into consideration the financial implications as set out in the submitted report.

2. That the temporary cessation of charges between the hours of 6.00pm to 9.00pm during the summer school holidays, pending the relevant activity required by the service, as set out in the submitted report, be approved.



3. That the proposals for the new parking bays as set out in the report be progressed, on the basis that there would be no loss of existing parking capacity from the resident parking scheme in the roads affected.

4. That a one-off budget of £40k be allocated to the parking service for the required changes to be implemented and initially funded from the Business Transformation Reserve and then reimbursed from the additional parking income.

5. That it be noted that there will be capital investment of circa £175k and initially funded from reprioritised highways schemes and then reimbursed by the additional parking income.”

Note: This is an Executive Function/Council Function  
Cabinet Member: Cllr Buck

**Chair:** \_\_\_\_\_

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**Meeting:** Cabinet  
**Date:** 18 September 2023  
**Classification:** Part 1  
**Key Decision:** No  
**Title of Report:** **Economic Growth Strategy Development**

**Executive Director:** Alan Richards – Executive Director Environment and Place  
**Report Authors:** Nick Brown (Head of Economic Inclusion) and Kevin Waters (Director of Growth and Planning)  
**Executive Councillor:** Councillor Daniel Nelson, Cabinet Member for Economic Growth and Investment

## 1. Executive Summary

- 1.1. In the current economic context, locally, regionally, and nationally, it is important that Southend-on-Sea City Council has an up-to-date Economic Growth Strategy. Whilst any strategy must remain flexible and able to adjust to changing economic pressures, it is important that it can direct the efforts of the Council on all aspects of economic growth, in particular to secure good growth and inward investment, provision for skills development and new jobs, the of support business growth and guiding the work of the Economic Inclusion Service and its work with funders, businesses, partners, business networks government etc.
- 1.2. A well-grounded Economic Growth Strategy will also provide the opportunity to bring together the wider policy context relating to the economy of the area, building on the strengths, and identifying any gaps and areas that require updating.
- 1.3. Engagement with a range of stakeholders will be important throughout its development to ensure that any new Economic Growth Strategy is complementary to, and supportive of, the business community as well as the wider regional policy framework - serving to further good growth across the city and the region.
- 1.4. This report seeks to agree the principle of preparing an up-to-date Economic Growth Strategy. It sets out the likely timescales for creating such a document, touches on resourcing and, while the outcome of the engagement should not be pre-determined, it also proposes elements of the structure of the strategy.

## **2. Recommendations**

### **It is recommended that Cabinet:**

- 2.1. Agree to the development of an Economic Growth Strategy.
- 2.2. Note that councillors and wider stakeholders will be engaged during the process and that a draft Economic Growth Strategy will be presented to Cabinet for adoption in due course.

## **3. Background**

- 3.1. Southend's most recent Economic Growth Strategy<sup>1</sup> covered the period up to 2022. In the current economic context, locally, regionally and nationally, it is important that Southend-on-Sea City Council has an up-to-date Economic Growth Strategy reflecting the current ambitions for the City.
- 3.2. The updated strategy will need to be an adaptable document which can weather the changing economic context around it and will also need to incorporate an action plan setting out the short, medium and long-term outcomes, which will be determined through stakeholder engagement. It will help to focus and direct efforts to realise the council's, and the city's economic growth objectives while also recognising the financial framework within which it must now operate and the need to contribute to meeting climate change commitments which have been agreed.
- 3.3. Wide ranging engagement with stakeholders and a focused review of related policy, strategies and data which currently exist is key to developing a strategy which identifies and addresses the relevant issues and maximises the opportunities for Southend, its residents, businesses, investors, and the wider economic area. It will be equally important that the strategy is coherent and consistent with the council's wider agenda around other matters, for example climate change, transport, and community safety.
- 3.4. An indication of the likely steps involved in the preparation of the strategy is provided in **Appendix 1** of this report. Although the Economic Growth Strategy has a broader remit both geographically and in terms of the matters it is addressing, it will also build on the recently adopted Town Centre Strategy and Investment Plan.

## **4. Reasons for Decisions**

- 4.1. Supporting economic growth in the city is key to achieving a wide range of the council's objectives, as recognised in its current body of strategies. Delivering this through the development of an overarching, up to date strategy which can adapt to changing economic contexts is an effective way of progressing this both in terms of delivering positive outcomes and making best use of resources.

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<sup>1</sup> [economic growth strategy 2017 – 2022](#)

- 4.2. Appropriate engagement with stakeholders at an early stage is key to informing the development of a strategy which addresses the relevant issues, maximises the benefits presented by opportunities and is deliverable.

## **5. Other Options**

- 5.1. The council could choose to not develop an Economic Growth Strategy (there is no statutory requirement). However, it is considered that supporting economic growth in its widest sense is a key priority for the council, as reflected in the Corporate Plan and the council's wider suite of strategies.

## **6. Financial Implications**

- 6.1. There is no provision for this within the Economic Inclusion Service budget for 2023/24. The development of the new strategy will need to be resourced as far as possible within existing resources, noting that these are already stretched. It may be necessary to bring in external support around some elements of the development work. Any resources will be agreed with finance in advance of commitment.
- 6.2. While it is challenging to place figures on the anticipated financial impacts, the intention and purpose is that the Economic Growth Strategy would support the economic growth and skills base of the city. The resultant impacts would include elements such as inward investment, growth in business rate income and reduced dependence on the council's resources from businesses and residents. Such benefits suggest that the development of this strategy would be an appropriate use of Council resources and there is certainly a significant degree of value to be derived from the engagement work which would be a key part of the strategy development.

## **7. Legal Implications**

- 7.1. There are no legal requirement to produce an Economic Growth Strategy. There are no significant anticipated legal implications arising from the development of an Economic Growth Strategy although it should be noted that this is not a statutory requirement and therefore the council has discretion with regard to this work and might appropriately decide that resources might be deployed differently – this will be a matter for Cabinet to consider in a wider context.
- 7.2. Procurement of any support on preparing the strategy would take place in accordance with the relevant legislative requirements and the council's constitution and procurement rules.

## **8. Policy Context**

- 8.1. The preparation of an Economic Growth Strategy links into the objectives and outcomes sought from a wide range of policy documents including the council's Corporate Plan 2022-2026 and any subsequent updates to this.
- 8.2. Other key Council documents include:

- Economic Growth Strategy 2017-2022
- Draft Southend Skills Strategy 2023-2028
- Tackling Poverty Strategy and Action Plan (2022)
- Southend Adult Community College Strategic Plan (expected 2023)
- Emerging updated Corporate Plan 2023-2026

8.3. Relevant wider partnership documents include:

- SELEP Economic Recovery and Renewal (2021) - Economic Recovery and Renewal Strategy - The South East Local Enterprise Partnership (southeastlep.com)
- SELEP Skills Report and Evidence Base - Resources and Support – South East Skills
- Essex Chambers of Commerce’s Local Skills Improvement Plan (2022) - Essex Chambers of Commerce and Industry Ltd – (yet to be published July 23)
- Thames Estuary – The Green Blue Workplan (2021) - The Thames estuary Growth Board

## **9. Carbon Impact**

9.1. In line with the council’s adopted policies the project will be progressed based on:

- Seeking to always minimise waste as far as possible.
- Minimising the use of printing, paper, and other consumables.
- Making use of online meetings where possible to reduce the need to travel.
- Promoting the use of public transport wherever possible.
- Always promoting reuse and recycling.

9.2. More broadly the strategy will subsequently seek to explore how economic growth can be promoted in ways which reduce carbon impact and address climate change. As an area of substantial economic growth in its own right the opportunities presented by expanding and enabling growth in green skills provision are likely to be a key area of focus in any strategy.

## **10. Equalities**

10.1. The Economic Growth Strategy will be the subject of an Equalities Impact Assessment. In advance of this, the promotion of economic growth in a manner which promotes equalities, diversity and inclusion will be a key objective of the strategy.

## **11. Consultation**

11.1. Following a review of the existing policies and strategies relevant to economic growth, the next step will be engagement with a range of stakeholders. This will include a range of council services, organisations within Southend and stakeholders outside the City.

## **12. Appendices and Background Papers**

12.1. **Appendix 1:** Indicative stages for preparing Economic Growth Strategy

12.2. **Background Papers:**

[City Centre Strategy and Investment Plan 2022](#)

Economic Growth Strategy 2017-2022 - [economic-development-and-tourism-strategy-2017---22 \(southend.gov.uk\)](#)

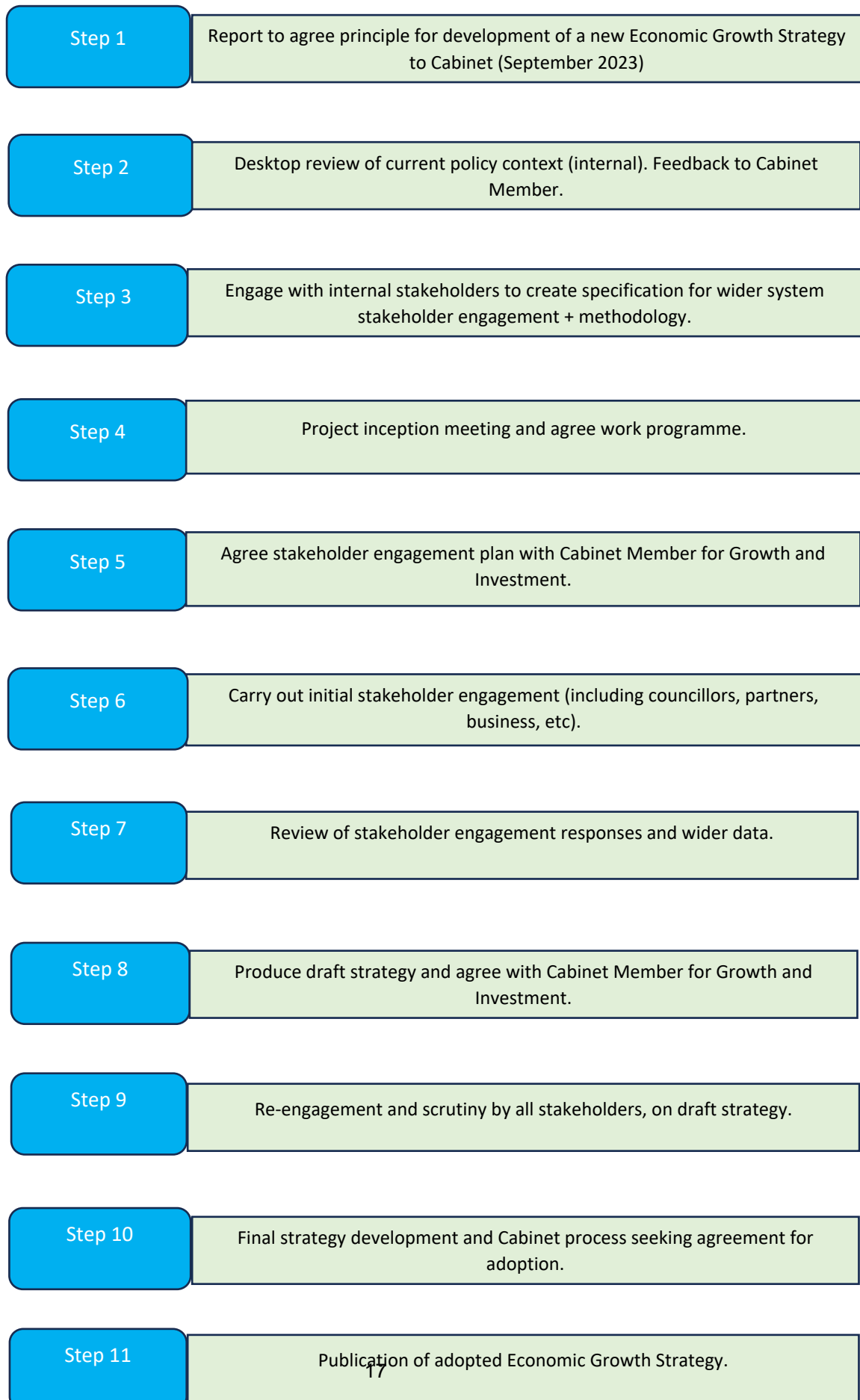
Southend City Corporate Plan - [Introduction – Corporate Plan – Southend-on-Sea City Council](#)

Tackling Poverty Strategy 2022 - [Introduction – Tackling Poverty Strategy 2023 to 2026 – Southend-on-Sea City Council](#)

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## Appendix 1: Economic Growth Strategy – Indicative stages and key milestones



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**Meeting:** Cabinet  
**Date:** 18 September 2023  
**Classification:** Part 1  
**Key Decision:** Yes  
**Title of Report:** Statutory Nuisance Investigation and Progression Policy

**Executive Director:** Alan Richards  
**Report Author:** Elizabeth Georgeou  
**Executive Councillor:** John Lamb

## 1. Executive Summary

- 1.1 There is a high demand from service users to respond to requests for the council to resolve nuisance complaints. The policy provides transparency to those using the service by detailing how the Council responds to its duty to investigate statutory nuisance complaints. It sets out:
- The issues that the council can assist with.
  - How the council proactively reduces statutory nuisance complaints.
  - What is expected from service users to assist with an investigation.
  - Prioritises the service to maximise the support across Southend.
  - Provides for support where additional needs are identified.
  - Defines what it considers to be a reasonable investigation.
- 1.2 The policy was reviewed at the Public Protection Working Party. It has been amended in line with the cross-party recommendations of that Working Party to include and further explain how the service operates.

## 2. Recommendations

### **It is recommended that Cabinet:**

- 2.1 Agree the document the Procedure for Statutory Nuisance Investigation and Progression the 'Nuisance Policy'.
- 2.2 Recommend to Full Council the adoption of the Procedure for Statutory Nuisance Investigation and Progression 'Nuisance Policy' attached as Appendix 1.
- 2.3 Agree that the Executive Director of Environment and Place, together with the Portfolio Holder for Regulatory Services, approve any minor changes required to the Policy arising from changes in legislation and identified priorities for the Council.

## 3 Background

- 3.1 The Council is responsible for investigating statutory nuisance. The Environmental Protection Act 1990 (The Act) sets out in legislation what constitutes statutory nuisance. The Act provides specific powers for the Council to use to tackle nuisance and places a duty on the local authority in respect of these matters to:
- Inspect it's area from time to time to detect any statutory nuisance which ought to be dealt with through this legislation; and
  - Where a complaint of a statutory nuisance is made by a person living within this area, to take such steps as are reasonably practicable to investigate the complaint; and
  - Where a local authority is satisfied that a statutory nuisance exists or is likely to occur or recur, requires that the local authority serve a notice to stop the nuisance.
- 3.2 It is for each authority to determine what steps they consider to be 'reasonable'. The Policy sets out what constitutes a reasonable investigation. It details the point at which the Council will suspend its activities, where it will recommend mediation and / or the use of Section 82 of the 'The Act' for individuals to take their own action.
- 3.3 This approach is required to enable all residents and businesses to have appropriate access to this service. The procedure sets out how the resources of the team will be used fairly and effectively. This is to ensure that issues raised are investigated and progressed in an appropriate way.
- 3.4 The Policy sets out where the team has powers to investigate, and when another agency has powers, it signposts complainants to that agency.
- 3.5 The process for the investigation is set out, and details what the complainant is required to do to support and evidence their complaint.
- 3.6 To provide transparency by detailing what must be taken into consideration when assessing nuisance.
- 3.7 It should be noted that there is no duty placed on the Council to deliver an out of hours service. The policy allows for an intelligence led approach, tailoring the out of hours investigations which are undertaken.
- 3.8 South Essex Homes (SEH) managed properties and Registered Social Landlords (RSL's) have their own processes and procedures in place to investigate complaints. These processes should be followed before the local authority involvement as:
- the Council is unable to serve a notice on itself, so cannot investigate SEH properties where SEH is responsible for nuisance.
  - the Council expects the RSL's to have greater autonomy to manage their properties. They will accept complaints regarding nuisance from RSL tenants once the RSL's processes have been exhausted.
- 3.9 The Council takes a proactive approach with respect to designing out nuisance for development activity, changes to the built environment, essential works and licenced activities. The Policy details this approach.
- 3.10 The proposed procedure and the processes within this document have been developed in line with the principles of enforcement referred to in the Environment and Regulatory Enforcement Policy 2021 (ERP 2021)

## **4 Reasons for Decisions**

4.1 The policy provides a framework which is transparent and is compliant with the Regulators Code. It empowers communities and residents to proactively support and engage in the process through defining their role. It has been developed through the working party and has benefitted from member engagement and input.

## **5 Other Options**

5.1 The local authority could choose to investigate all complaints raised by RSL tenants in the first instance. This would be a less efficient use of resources as the RSL's have a greater control over their tenants and this would divert resource to an area which is already supported and reduce the resource available across other unsupported groups.

5.2 Not to adopt a policy on how it manages nuisance. This may lead to more complaints against the service, where there is no understanding of the council's duty and procedures with respect to nuisance investigation.

## **6 Financial Implications**

6.1 There are no significant impacts associated with this policy. However, as with all enforcement activities undertaken by regulatory services legal challenge may result in legal expenses. Where the council takes legal action or defends legal challenge the council will seek to recover its costs through this process.

6.2 The policy will continue to be delivered within the current financial budget and has been reviewed by our financial lead.

## **7 Legal Implications**

7.1 The Environmental Protection Act 1990 places a statutory duty on the local authority to inspect its areas from time to time to detect any statutory nuisance. Where a complaint of statutory nuisance is made, the local authority must take reasonably practicable steps to investigate the complaint.

7.2 The Act specifies what is a statutory nuisance but does not specify what constitutes reasonably practicable. This policy specifies what the local authority considers to be a reasonable investigation.

## **8 Policy Context**

8.1 This policy contributes to a city with a good quality of life, which enables people to live well and care well through resolving matters which impact detrimentally on the wider determinants of health.

## **9 Carbon Impact**

9.1 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. However, the application of this legislation does not apply to the following:

- Smoke emitted from a chimney of a private dwelling within a smoke control area (there are no smoke control areas in Southend).
- dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land,
- smoke emitted from a railway locomotive steam engine, or
- dark smoke emitted otherwise than as mentioned above from industrial or trade premises.

9.2 Planning conditions are applied to control noise, dust and smoke nuisance in some instances

9.3 There are no other environmental or sustainable implications. The Head of Climate has reviewed this report.

## **10 Equalities**

10.1 An equalities assessment has been completed and did not identify any detriment to and protected group on implementing this policy.

## **11 Consultation**

11.1 A consultation ran from 9 May 2023 and 27 June 2023 the results of which are detailed in **Appendix 2** together with responses to comments raised. The overall consensus from those responding was that they supported what was identified in the policy document and what the Council was trying to achieve.

## **12 Appendices**

12.1 **Appendix 1**: Statutory Nuisance Investigation and Progression Policy

12.2 **Appendix 2**: Consultation results

## **Procedure for Statutory Nuisance Investigation and Progression ‘Nuisance Policy’**

### **1. Introduction**

Southend-on-Sea City Council (‘The Council’) is committed to protecting the environment, and the health of its residents, from the effects of statutory nuisances (SN). This procedure provides information on how the Council deal both proactively and reactively to complaints of SN. This procedure acts as a guide for those who have made, or are considering making a request for this service.

The procedure and the processes within this document have been developed in line with the principles of enforcement referred to in the Environment and Regulatory Enforcement Policy 2021 (ERP 2021) It is delivered by Regulatory Services and relates to the Council’s duties under legislation including:

- The Environmental Protection Act 1990 (EPA)
- The Control of Pollution Act 1974 (COPA)
- The Licensing Act 2003 (LA)
- The Anti-social Behaviour, Crime and Policing Act 2014 (ASBCPA)
- The Noise Act 1996 (NA)

The purpose of this procedure is to describe how the Council fulfils its statutory obligations relating to SN and details the responses and investigation process.

### **2. What is Statutory Nuisance and what are the issues that the Council can assist residents with.**

The term ‘statutory nuisance’ (SN) simply means those issues that are listed in legislation as being a nuisance. The list of SNs that the Council have powers to deal with can be found here:

<https://www.legislation.gov.uk/ukpga/1990/43/section/79>

The majority of complaints of statutory nuisance that are referred to the Council includes:

- artificial light
- bonfire smoke
- construction noise
- DIY noise (Do It Yourself work covers the modifying or repairing of a property – which is not part of a construction site)
- dog barking

- dust, steam and smells from industrial or business premises.
- noise from amplified music (including pa systems)

but can deal with anything else declared by law to be a nuisance. The same general procedures and principles are applied when investigating other types of nuisances.

### **3. What the Council does not have any power to deal with**

There are certain types of nuisances that are either not statutory nuisance, as defined in the Environmental Protection Act 1990, or the Council cannot assist because they do not meet the tests in common law that validates whether something can be a nuisance or not (see section 9). This includes:

- Anonymous complaints (See Section 12)
- A nuisance that occurs on a MOD or Crown premises e.g., a Court or a prison)
- Aircraft noise
- Road traffic noise
- Sirens from emergency vehicles
- Noise from moving vehicles, unless the noise is from loudspeakers or ice cream chimes.
- Children playing indoors during the daytime or early evening.
- Children playing in a playground (school or park).
- Children playing in their gardens.
- Babies crying, unless there is a safeguarding issue, in these cases the appropriate agency would be notified.
- Everyday living sounds caused by poor sound insulation.
- Noise from family members within the same home.
- Cooking smells from your neighbour.
- Smells or noise that occur in the common parts e.g., in the hallways of blocks of flats.
- Cigarette smells from your neighbours, including the smoking or smell of cannabis.
- General comings and goings of neighbours – people need to enter and leave their premises at various times of the day and night, for example shift workers may leave or return to their premises in the early hours of the morning, this is considered reasonable. However, if the complaint concerns unreasonable activities this should be reported to the anti-social behaviour team.



- Hypersensitive complainants – those who are unduly sensitive, more than the ordinary person, as case law doesn't allow enable us to do so. For example, this may be due to a low tolerance or a pre-existing medical condition.
- General crimes that are dealt with by the police.
- Those with Statutory responsibilities such as Network Rail, Street works, works on the Highways (e.g., gas and water companies). These bodies have a responsibility to take reasonable care, and where the noise is excessive, consideration can be given to the use of COPA (see section 7 and Appendix C).

#### 4. Who should complaints be reported to:

- Statutory nuisance from domestic, trade and industrial premises – Southend City Council through [MySouthend](#). If you have registered on MySouthend you will automatically be provided with a case reference, if you have not registered your case reference will be included in the council's contact with you. Further details on how the case will be progressed will be provided to you.
- Statutory nuisance from business premises – Southend City Council through MySouthend - unless there are subjected to an Environmental Permit issued by the Environment Agency such as waste transfer stations. These should be reported by telephone to 0800 80 70 60 or by email to [incident\\_communication\\_service@environment-agency.gov.uk](mailto:incident_communication_service@environment-agency.gov.uk)
- Noise from aircraft:
  - Civil aircraft landing and departing London Southend Airport should be reported through the online Webtrak system at <https://webtrak.emsbk.com/sen2>. For assistance with this contact [LSA.NoiseManager@southendairport.com](mailto:LSA.NoiseManager@southendairport.com)
  - Military aircraft can be reported to the Ministry of Defence at [SWK-lowflying@mod.gov.uk](mailto:SWK-lowflying@mod.gov.uk), telephone: 01780 417558 Monday to Friday, 8:00am to 4:00pm or write to Low Flying Complaints and Enquiries Unit RAF Wittering Peterborough PE8 6HB
  - Helicopters and light aircraft – They are generally exempt from nuisance complaints providing they are abiding by the Rules of the Air Regulations 2015. Unsafe flying or what may be breaches of aviation law should be reported to the Civil Aviation Authority using the online form at: [www.caa.co.uk/our-work/make-a-report-or-complaint/report-a-potential-breach-of-aviation-law/](http://www.caa.co.uk/our-work/make-a-report-or-complaint/report-a-potential-breach-of-aviation-law/). Alternatively, if the source of the aerodrome can be identified complaints should be addressed to that place. If noise is from helicopters on

private helipads planning permission is likely to be required if they are being used for more than 28 days per year.

- Fireworks – there are times when fireworks are permitted, however where they are causing a nuisance outside of these times it is not usually possible to directly link firework noise to a particular individual or premises. Advice on fireworks is contained on the Council’s webpages [Fireworks – Noise pollution – Southend-on-Sea City Council](#)

- Noise from electrical substations – Noise from primary or secondary electrical substation or temporary generators should be reported to UK Power Networks at [environment@ukpowernetworks.com](mailto:environment@ukpowernetworks.com)
- odour from sewage treatment works by email to: [SouthendWRCComplaint@anglianwater.co.uk](mailto:SouthendWRCComplaint@anglianwater.co.uk), [CustService@anglianwater.co.uk](mailto:CustService@anglianwater.co.uk) and telephone Customer Services at 0345 791 9155

#### 5. Nuisance from tenants of Social Housing (RP’s) i.e., South Essex Homes, Estuary Housing Association, Sanctuary Housing, Guinness Trust, Notting Hill Genesis, etc

Registered Providers of Social Housing (RPs) that operate within this city have produced written arrangements for reporting problems of general nuisance, and these include clear response times for addressing these issues. In addition, they also have systems for registering any complaints about service failure. Contact should be made with the relevant Housing Association in the first instance. South Essex Homes tenants can contact South Essex Homes via their webpages <https://southessexhomes.co.uk/our-contact-details>

Regulatory Services may receive a complaint from a RP tenant concerning general nuisance from another RP tenant, or from a situation arising from an area in their control (e.g. the common grounds on estates, community areas etc.) The resident will be advised to report the issue directly to the RP in the first instance. This is to give the RP the opportunity to resolve the issue, as they have additional sanctions that they may be able to apply to resolve the complaint.

This enables Regulatory Services to focus on those residents (this includes tenants of privately rented properties) who do not have this additional resource, providing a fairer service for all residents across the city when investigating complaints of nuisance. RPs have dedicated teams to deal with tenancy issues and general nuisance and it is appropriate that the RP (in the first instance) should apply their own policies to resolve issues, without drawing unnecessarily on Council resources where they are able to do so. Regulatory Services will progress complaints from RP tenants, where it can be shown that:

- the problem in question has been properly reported to the RP,

- the RP have failed to take the appropriate action and
- the tenant has exhausted the RP complaint process and they still believe the issue is actionable.

At the point where the tenant can demonstrate that they have exhausted the procedure as described above, and where the investigating officer determines that there is an actionable case, the matter will be investigated by Regulatory Services.

The RP as a landlord can be held responsible (by default or sufferance, see section 13) and accountable for the actions and behaviours of their tenants, if the landlord has been made aware of the issue. Where this is the case, and the landlord has failed to resolve the matter, the Council will consider enforcement action against the group or individual who has caused the problem, or if appropriate, the RP itself.

The Council is unable to take any action against South Essex Homes where they are found to be responsible, as they do not have the powers to do so. There are complaint procedures available to Residents which are detailed on the South Essex Homes website [Complaints | South Essex Homes](#).

However, as with RP tenants once their processes have been exhausted, or where the person causing the nuisance is not a SEH tenant then the matter can be investigated by Regulatory Services.

## **6. Proactive approach undertaken by the Council**

Where the Council has an opportunity to do so it will try to design out nuisance for development activity, changes to the built environment, essential works and licenced activities.

- Control of noise from construction sites through use of powers under the Control of Pollution Act 1974 to impose requirements on works by developers and statutory undertakers, such as works on railways sites.
- Consider the environmental impacts from development control applications, and condition through these developments to reduce their impact.
- Act as a statutory consultee to Licensing Act applications, consider the suitability of the application and activities in line with the licensing objectives, and subsequent enforcement of those conditions.

## **7. Reactive service for the Council's Duty Regarding Statutory Nuisance and the Council's Investigation**

The law expects that a reasonable amount of tolerance from neighbours' activities, whether this be noise being caused by others as part of their normal daily activities, some smoke from a bonfire or occasional dog barking.

Activity or behaviour of a neighbour may become unreasonable due (for example) to its duration, the time of day, the frequency that it occurs or if it isn't what would normally be expected. It is recommended that those affected talk to the person causing the problem as they may not know that they are causing a nuisance. Where individuals feel unsafe doing this, or if this approach has failed, a complaint can be made to Regulatory Services. Regulatory Services will assess whether the issue complained of amounts to one of the listed nuisances and determine what action can be taken by the Council.

Regulatory Services usually receives over 1000 service requests relating to nuisance every year. This means there are occasions when more service requests are received than can immediately be responded to. Each complaint received (regardless of whether it results in a site visit or not), takes time to record and investigate. To enable all residents and businesses to have appropriate access to this service, the procedure sets out how the resources of the team will be used fairly and effectively so that issues raised are investigated and progressed in an appropriate way.

Under the Environmental Protection Act 1990 (EPA) the Council has a duty to take reasonable steps to investigate complaints of statutory nuisances. It is for each authority to determine what steps they consider to be 'reasonable'. It should be noted that there is no duty placed on the Council to deliver an out of hours service.

Section 60(1) of the Control of Pollution Act 1974 (COPA) gives the Council powers to control the way in which certain works are conducted, namely:

- the erection, construction, alteration, repair or maintenance of buildings, structures or roads
- breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance, or removal of works
- demolition or dredging work, and
- any work of engineering construction

which for the purposes of this procedure are referred to as Construction.

On receiving a nuisance complaint, the Council aims to discuss the issue with the complainant within 10 working days. This is to make sure there is understanding of whether the issue complained of is one that can be dealt with by the Council, and to manage expectations with regards to next steps and time frames.

Once the complaint has been reviewed (e.g., on face value it is actionable), the Council may send a letter to the person being complained about. This will tell them that a complaint has been made, and it will ask them to consider ways to prevent their actions from being a nuisance. **This letter will not reveal who has made the complaint (Section 11).**

If the complaint is about noise, see Appendix 1.

## 8. The Central Complaint

When a complaint from a resident is received (e.g., about tv noise from a neighbour) that is the 'central complaint'. If a resident alleges an additional issue (e.g., that the neighbour also has a dog that barks incessantly), that complaint will be recorded separately, as the issues are separate, and may require different methods to resolve. Each issue will be considered as a separate 'central complaint', and each element will be investigated to a conclusion, and progressed or closed accordingly (e.g., that a nuisance is actionable and progressed, or it has not been established and is closed). Consideration may also be given to the impact of the accumulation of different sources of statutory nuisance.

Should a resident have cause to keep making reports about the same issue initially reported, these will be considered as one service request under the central complaint (e.g. if you report loud tv from a neighbour, that is the complaint, and subsequent reports regarding the same matter are not dealt with separately, they are considered as a whole under the central complaint.

## 9. What is Considered in an Investigation?

The Council has various pieces of legislation available to it to assist in resolving issues. The main pieces of legislation used by the Council are the Environmental Protection Act 1990 (EPA) and the Control of Pollution Act 1974 (COPA).

The EPA gives the Council the power to investigate complaints of statutory nuisance and requires the Council to act if the Council is satisfied that a statutory nuisance exists (or is likely to occur or recur). However, as the EPA does not define what constitutes a nuisance, the definition that is found in common law is used. In general terms nuisance can be defined as:

*'An unreasonable and significant emission of noise (or other matter listed as a nuisance) that arises from one property and that causes significant and inherently unreasonable interference with the use and enjoyment of your premises'*

For something to be considered a nuisance in law, it needs to be much more than just being able to hear a noise, see smoke, see a light or hear the occasional dog barking. All of these may be

annoying or irritating it must also be something that affects 'the ordinary person'. The case officer will investigate and determine whether the complaint reaches that threshold.

When the Council investigates, it undertakes a balancing act that weighs up the rights to complain, against the neighbour's rights to undertake the activity that is being complained about. This takes various factors into account including "common law" which have been developed in the courts over many years including:

- Location - where the nuisance is experienced. For example, a complaint about noise (from a premises or piece of machinery), where it can be heard in the street but is not at an unreasonable level in the home, is very unlikely to be an actionable nuisance. Consideration will also be given to how areas of the property are used and the impact this has on the reasonable enjoyment of the property.
- Character of the neighbourhood – where noise complained of is commensurate with the area. For example, cockerels crowing in rural areas may be usual and more acceptable than a cockerel crowing in the garden in a city centre.
- Frequency - continuous or repetitive incidents compared to isolated incidents. One-off issues are unlikely to be considered a nuisance and it would be difficult to obtain any evidence to support statutory nuisance. This may apply to party's and occasional bonfires.
- Time the nuisance occurs. The threshold for noise tolerance decreases at night so this is a more sensitive time. For example, noisy construction and DIY and using domestic appliances at night is likely to be actionable.
- Undue Sensitivity – if you complain about an issue because you have a particular sensitivity to it (e.g. where a shift worker needs to sleep in the day. There may be an unusual sensitivity to high frequencies or vibration, or an illness that affects tolerance levels. These complaints are not lawfully actionable unless the officer is satisfied that the nuisance would have affected an 'ordinary person'.
- Convention – important for considering what a reasonable person would find objectionable. What is widespread and conventional e.g., lawnmower used in the daytime, a dog barking briefly, noise from children playing in a playground, are not deemed to be inherently unreasonable. Banging and drilling whilst doing DIY at night or loud amplified music occurring at night is inherently unreasonable.
- Importance: The importance of an activity in respect of the community is a key consideration. For example, major road improvements that will improve the air quality and noise environment for many may cause some disturbance to a few persons – this is a balance that should be considered. However, there is a point when even a socially beneficial activity

creates such an effect that it becomes unacceptable and hence a nuisance (Dennis v Ministry of Defence 2003). This needs to be considered together with whether the impact of the nuisance could be avoided, and the principle of best practicable means applied.

If there is evidence of statutory nuisance (for noise as detailed in Appendix 1 from the Noise App or diary/log sheets) and the evidence indicates that a nuisance is or likely to occur, the case officer will make a judgement about the next stage of the investigation. The officer may decide that a visit to conduct an assessment from within the property is required to support this evidence. If officers are unable to conduct an assessment, it is unlikely that any action can be taken.

An officer will usually visit when assessing breaches of abatement Notices (Section 13), as the burden of proof at this stage rises from the civil test (balance of probability) to the criminal test, that of 'beyond reasonable doubt'.

The quality of the evidence provided by recordings submitted using The Noise App (see Appendix 1) may be sufficient for the officer to serve an Abatement Notice (Section 13).

#### *Licensed Premises*

Nuisance from pubs and clubs will initially be investigated by officers from the Regulatory Services Licensing Team. Licensed premises have a general obligation to prevent public nuisance under the Licensing Act 2003 and may also have specific conditions on their premises licence relating to the complaint raised.

Officers from the Licensing team will try to resolve the matter using the investigation procedure above. Where the complaint cannot be resolved the complaint will be passed, or investigated jointly, with officers in the Regulatory Services Environmental Health team.

Where evidence of a breach of Licensing Conditions is found, this represents an offence under the Licensing Act 2003, and will be dealt with by the Licensing Team, contact should still be made via:

- Email to [licact2003@southend.gov.uk](mailto:licact2003@southend.gov.uk)
- MySouthend, the online form on the website [www.southend.gov.uk](http://www.southend.gov.uk)
- Or in writing to:

The Licensing Authority  
Regulatory Services  
Southend-on-Sea City Council  
Victoria Avenue  
Southend  
Essex SS2 6ER

## *Planning Conditions*

Sometimes problems arise due to planning conditions not being complied with. For example, there may be conditions associated with the operation of plant or equipment or regulating the hours of an activity or construction project.

Where Regulatory Services find this the matter will be referred to, or investigated in parallel, with the Planning Enforcement Team. This will often control the behaviour or operation that is leading to the problem and therefore resolve the matter without the need for further investigation or enforcement.

### **10. When the Responsive and Reactive Services are available**

The Council operates a responsive weekday service for the investigation of SN which have already been assessed by the team (as triaged by the Noise App or diary sheets for noise) Monday to Friday 9am-5pm excluding public holidays. The responsive service is only available by calling the call centre on 01702 215005 during the above hours.

Where an officer intervention is required and you are invited to make a request to our responsive weekday service, the investigating officer will conduct a review of your complaint and will aim to respond to you via telephone within 2 hours of the complaint being received, where it is an ongoing complaint.

The review will involve conducting background checks on our systems which will assist in deciding as to what level of response is appropriate.

You can also contact Regulatory Services by:

- By email to [environmentalhealth@southend.gov.uk](mailto:environmentalhealth@southend.gov.uk)
- Via My Southend the online form on the website [www.southend.gov.uk](http://www.southend.gov.uk)
- In writing to:

Regulatory Services  
Southend-on-Sea City Council  
Victoria Avenue  
Southend  
Essex SS2 6ER

Contacting the team via these routes will not result in the complaint or service request being dealt with on a reactive basis, where contact is via these routes the response will be ten working days.

### **11. Confidentiality**



All complaints are dealt with in confidence, however, there may be occasions when the Council will be required to release information to third parties, especially when legal proceedings are being taken. If the Council need to do this, an opportunity to decline details being released will be given. If this is declined, the Council will explain any impact that this may have on legal proceedings.

The Council will never disclose personal information to those being complained about, or another third party without consent, unless required to by law. It is possible however that the person causing the alleged nuisance might guess where the report has come from. In these circumstances the Council should be advised of any concerns around the risk to the person making the complaint and other associated people. This will help the Council to work with individuals to mitigate any risk factors if possible. Where there are safeguarding issues identified, or a matter of immediate concern referrals may be made to the Police or the Council's Access team. Disclosure of personal information to investigating partners such as the other council departments, Police and Environment Agency when investigating a crime which is permissible in law and may help resolve the matter. These other agencies will treat personal information with the same confidentiality.

## **12. The Role of the complainant**

Anyone who lives or works in the city can send in details of a complaint to the Council. However, before the Council take action there must be sufficient evidence at each stage of an investigation to support decisions. This will require the person who has made the complaint to assist with the provision of evidence. When assessing noise this can be in real time (via The Noise App), written record sheets or other means as required. Officers may need to visit individual's homes to assess the nuisance and to install professional recording equipment when necessary- The Council does not usually assess noise nuisance from the street, because the assessment is the impact from within the complainant's property.

The following details are necessary with all contact:

- Name, address, and phone number (and if available email) of the complainant so that the Council can update progress. (See section 11 on confidentiality). The Council is unable to deal with complaints without these details.
- The exact address (or site) the noise (or other nuisance) is coming from and the type of nuisance (for example, obtrusive light, loud music, barking dogs).
- When the nuisance happens and how long it goes on.
- The way the nuisance affects the complainant (for example, prevents sleep).
- Where, when and in what circumstances the nuisance is experienced (for example, in the lounge over the sound of the TV).

- Any action taken to try to deal with the problem for example, talking to the person causing the problem).

It often takes time for the Council to gather and assess all the evidence needed. To prevent delays in the progress of a case, or the case being closed because there has been insufficient evidence provided, instructions given should be followed.

As part of the investigation, a set of diary/log sheets may be sent to the complainant to record when the nuisance is occurring. These diary / log sheets will usually need to be completed for a period of 21 days. This information helps to understand the impact of the nuisance on individuals, particularly where the nature of the alleged nuisance is more difficult to capture to show the true extent of the nuisance.

It is also important that instances of alleged nuisance continue to be reported, and individuals engage in using diary sheets, the Noise App or Noise Recorders, as requested by the investigating officer. This is necessary to demonstrate the frequency and the nature of what being experienced.

In most instances, a noise nuisance should be readily recordable by the Noise App, however, there may be occasions when an officer will determine that a visit is necessary to progress the matter in the first instance, to provide early engagement and prevention. In addition, there are those nuisances (e.g., accumulations, light or vibration) that cannot be captured by The Noise App or are not practicable to record on diary sheets. These will also require an officer to visit to assess the situation.

### **13. Enforcement Outcomes**

If an officer establishes that a statutory nuisance exists, the officer will serve an Abatement Notice. There are no strict timelines because there are variables that can impact on the decision making.

#### **Notices**

Nuisance law is criminal law, and offenders (if found guilty) could be fined at Magistrates Court and have any potential noise making equipment taken away from them permanently.

Before the Council can take formal action (e.g., serve an Abatement Notice), the Council must gather enough evidence to prove 'on the balance of probabilities' (the civil test) that there is a nuisance, and that the steps we have taken to stop the noise are reasonable. This evidence may include the following:

- Noise App recordings
- Diary sheets
- Noise recordings

- Officer observations and statements

An Abatement Notice, in the first instance, is usually served on ‘the person responsible’ for the statutory nuisance, and this responsibility can arise by:

- Act – is straightforward as this is a deliberate action,
- Default- is the failure to perform a reasonable duty.
- Sufferance -is where either permission is granted leading to a nuisance or a nuisance is allowed to continue where the occupier or owner had or should have had knowledge of its’ existence.

An Abatement Notice can require the nuisance to be stopped immediately (for example where there is amplified music). It can also specify after a determined period of time, where significant works would be required and if it is considered that it would be unreasonable stop the source of the nuisance immediately (for example, machinery repairs or replacement). This would be balanced this against how the nuisance is affecting to complainant.

Where the nuisance is from noise, and the Council is confident that it can be resolved immediately without recurring the Council can defer the notice for a period of seven days. If the nuisance continues after that time the notice will be served (Appendix 1).

### Breaches of a Notice

If the nuisance persists once an Abatement Notice has been served the council, at its discretion, can perform whatever steps it deems appropriate to abate it. This may involve seizing the source of the noise and/or criminal prosecution under the Environmental Protection Act 1990.

The level of evidence to prove that the Abatement Notice has been breached changes from the civil test to the criminal test - that is ‘beyond reasonable doubt’. Officers will rely on evidence that they have gathered first hand to demonstrate that there is a nuisance and are categorically able to identify the source as they may be challenged in Court and will need to defend this position.

If the evidential threshold has been met and the officer deems it necessary, a Warrant of Entry from Magistrates may be sought to enter a premises and seize the equipment that has / is causing the nuisance. In the case of noise, this means to generate the noise as well as ancillary items such as app-based devices.

The Council can only keep seized equipment for 28 days, after which time the owner can collect them on payment of a fee. However, if an application has been made to the courts for a prosecution the items may be kept as evidence until this has been decided at Magistrates Courts. Where there is a conviction an application may be made by the Council to the Courts to retain and destroy the seized items. This is done by applying for a Forfeiture Order.

If a Notice has been breached without 'reasonable excuse', or without a 'statutory defence', and the Council considers that it is in the public interest, the Council's legal department would be instructed to proceed to the prosecution stage. The ERP 2021 provides additional information on this. <https://democracy.southend.gov.uk/documents/s42571/17%20-%20Appendix%20-%20Corporate%20Enforcement%20Policy.doc.pdf>

Those convicted of offences under the EPA may face an unlimited fine. In addition, where anti-social behaviour is either evidenced or substantiated / found by the Council they may apply for a Criminal Behaviour Order at the point of conviction.

#### **14. Mediation**

Mediation between parties is available at all stages during an investigation. The opportunity to try an informal resolution to a problem can be delivered through the services of Essex Restorative Justice. This service is free of charge.

Restorative processes use communication between people who have been harmed, and have caused harm, to allow them to work towards positive outcomes in a safe environment. The service is impartial and will work to achieve a positive way forward for everyone involved. As well as being very experienced with working with criminal behaviour, the Restorative Justice service also work with anti-social behaviour and can arrange meetings involving entire communities where issues are affecting them.

The way that they operate is that trained facilitators contact everyone involved and talk to them about the impact of what is happening or has happened. They will ensure that a restorative or mediation approach is appropriate and safe and will work with those involved to find a suitable way forward. This is often a face-to-face meeting, but there are alternative solutions should they be deemed more appropriate.

They will undertake an initial risk assessment before the case is allocated to a volunteer facilitator. Facilitators meet with each party to explain the Restorative Justice process and to seek agreement to participate. A secondary risk assessment is also undertaken. An appropriate way forward (direct or indirect communication) is decided and agreed by parties and communication is facilitated.

Contact is via a referral form <https://restorativeessex.co.uk/make-a-referral/> or by emailing: [restorativejustice@essex.police.uk](mailto:restorativejustice@essex.police.uk) or by calling 01245 291 621 during office hours.

During the time mediation is taking place between the parties involved, no enforcement action will be progressed. However, should mediation break down or not be completed then investigation of the case, as necessary, could be reopened.

#### **15 When to contact the Police.**

All criminal behaviour should be reported to the police including drug dealing, hate crime, threats of violence, harassment and intimidation and noise from possible domestic abuse. In an emergency or if someone is at imminent risk call 999. You can also report incidents online, on the non-emergency 101 number or contact Essex Police <https://www.essex.police.uk/ro/report/ocr/af/how-to-report-a-crime/>

As with the enforcement of any legislation, officers will always consider which powers best suit the situation and ensure it is a proportionate use to match the behaviour, and as with SN, the principles within the Environment and Regulatory Enforcement Policy will be followed in case progression and enforcement outcomes.

## **16. Vulnerable groups**

The Council work closely with specialist agencies to gain support for vulnerable victims and perpetrators. The Council also make sure officers are clear about how they should deal with perpetrators who are classed as vulnerable. Examples include someone with mental health problems, a physical disability or a drug or alcohol dependency. Procedures will ensure that:

- Officers deal effectively with these types of cases and the offender's vulnerability does not stop them from resolving statutory nuisance complaints.
- Support may be requested from various agencies such as Social Services, Community Mental Health teams and Community Alcohol team at the beginning of the complaint.
- Officers will identify key workers supporting vulnerable perpetrators to resolve complaints.
- Officers have regard to the requirements of the Equalities Act 2010 and the Mental Capacity Act 2005 in respect of considering action against vulnerable perpetrators.

## **17. When does the Council Consider the Complaint to have been Investigated and Suspend the Responsive Service?**

The law states that a local authority shall take such steps as are reasonably practicable to investigate. Therefore, it is not feasible for officers to carry out an unlimited number of visits, or to progress investigations indefinitely when considering the factors in (Section 9) statutory nuisance:

- has not been determined by the Noise App, and/or
- has not been determined by the noise recorder, and/or
- has not been determined by an officer during a visit;
- mediation has been declined.

When the evidence presented or witnessed does not support the existence or likely occurrence/recurrence of a statutory nuisance, it undermines a case. This is because all matters

are disclosable should the case progress to Magistrates Court. The resources required also affects the service provision to other residents. As such, the reactive service for noise nuisance will usually be suspended for a minimum of 6 months if / where a central complaint:

- has received 10 or more Noise App submissions within a 3-week period where no nuisance has been substantiated, and/or
- has had a noise recorder in situ that did not substantiate nuisance, and/or
- has received 10 or more service requests in a 3-week period, and no nuisance established, and/or
- where there has been no engagement from the complainant within the three-week period, and/or
- the instructions provided by the officer have not been followed and/or
- has received 3 or more visits (including cancelled/refused visits by the resident) in a 3-week period and/or
- the officer has determined that it is not a statutory nuisance.

At the point where 1 or more of the above triggers has been met, then the central complaint as initially reported will be considered investigated and closed at that point, and:

- the proactive element of the service will be suspended for a minimum of 6 months, and
- residents will be advised that they have available to them Section 82 of the EPA (Section 18) so that they can consider taking their own action should they wish to do so.

The same approach, as highlighted for noise, will apply for those nuisances (for example, vibration, smoke, accumulation, light) where a physical visit is necessary in the first instance, whereby the reactive service for statutory nuisance will be withdrawn if or where a central complaint has:

- received 10 or more service requests in a 3-week period, and no nuisance established, and/or
- there has been no engagement from the complainant, and / or
- the instructions provided by the officer have not been followed and or
- has received 3 or more visits (including cancelled/refused visits by the resident) in a 3-week period and / or
- the officer has determined that it is not a statutory nuisance.

At the point where 1 or more of the above triggers has been met, then the central complaint as initially reported will be considered investigated and closed at that point, and:

- the proactive element of the service will be suspended for a minimum of 6 months, and
- residents will be advised that they have available to them Section 82 of the EPA (Section 18) so that they can consider taking their own action should they wish to do so.

The service will also be suspended if the officer has determined that the complaints made are vexatious in nature or where there has been unacceptable behaviour aimed at the investigating officer.

Once the responsive service has been suspended, any subsequent service requests received for the central complaint will be recorded on the management information system. The person complaining will be reminded of their option to take their own action (Section 18).

Every 6 months, a case review will take place for cases where the Responsive Service has been suspended, **and** where the resident wants to reopen the case again. The case review will need to determine whether there have been material changes to the circumstances of the central case as initially reported. In instances where the evidence supports a material change, the central complaint will be reopened. The investigation process will start afresh, and the ongoing case management process will still be applied. It is expected that additional evidence be provided before another letter to the person alleged to be causing a nuisance is sent. If the evidence does not demonstrate that a material change in the central complaint has occurred, the complaint will be deemed as investigated and the central complaint will be closed again.

## 18. How Individuals Can Take their own Action

The EPA recognises that in some cases despite all efforts, the Council will not be able to establish statutory nuisance, or the views of the investigating officer will be different to the complainants. In these instances, individuals can take their own action for nuisance via the Magistrates' Court under Section 82 of the Environmental Protection Act 1990.

Follow this link for details <https://www.legislation.gov.uk/ukpga/1990/43/section/82> . There is also guidance on how to do this on the Council's webpages <https://www.southend.gov.uk/downloads/download/136/noise-pollution>

## 19. General Myths around Construction and DIY Noise, General Noise and Bonfire Nuisances

There are many myths that exist and include:

- **There is a decibel limit for noise** – there is no limit, and the assessment is made by a competent officer making a judgement based on the common law tests. However, the Council does sometimes monitor noise levels from plant and machinery and compare them against criteria in British Standards that provide indicative noise levels for the protection of public health.

- **Noise only becomes a nuisance between 11:00PM and 7AM** – noise can be a nuisance at any time of the day or night.
- **There should not be any noise heard from my neighbours** – audibility of a noise does not equate to a nuisance, the noise must be inherently unreasonable, and materially affect the occupant/s of the property.
- **If there is smoke from a bonfire, it must be a nuisance** – the presence of smoke does not equate to a nuisance, the smoke must be inherently unreasonable, and materially affect the use of the property. Information is provided on bonfires, both when writing to the council and on the Council's website <https://www.southend.gov.uk/pollution-0/air-pollution>
- **Anything can be burnt on a bonfire** – it is illegal to burn controlled waste on a bonfire and action can be taken when anything is burned that is likely to give rise to odour and dark smoke.
- **Construction sites cannot be open before 8AM or past 6PM** – construction sites can operate beyond these hours if the work they undertake is not audible beyond their premises boundary. There is no legislation that permit hours of construction works but best practice and case law indicates acceptable hours, and where a nuisance is likely to be caused if they are exceeded. Where enforcement action is taken times can be stipulated and can be controlled through planning conditions in some instances.
- **DIY can be done at any time** – DIY, depending on the time undertaken and the activities being carried out, can equate to a nuisance. Common sense and relationship with neighbours will largely dictate when DIY is reasonable and will be reflected in any decision the council makes over enforcement action.
- **The neighbours were told there was going to be a party so the music does not need to be turned down** – even if neighbours have been told that there is going to be a party it does not mean that statutory nuisance cannot be caused, and neighbours may still complain.
- **Nuisance has to affect more than one household to be actionable** – this is not the case, only one person needs to be affected by an unreasonable situation.



## Appendix 1 - Noise Complaints

### The Noise App

Where individuals are asked to submit recordings via the Noise App, which is a smart phone-based App, it can be used to report noise nuisance directly to the Council. The Noise App is especially useful if the noise occurs outside of office hours, is intermittent or occurs at a time when demand is high. Access to the Noise App will be provided once a request has been received and the complaint discussed with the officer. Noise App recordings will not be accepted until this has been done, or where the case has been previously closed until a review has been undertaken.

The Noise App is designed to demonstrate how individuals are being affected quickly and easily. It helps the officer to manage reports of noise nuisance, and to monitor noise remotely, allowing the Council to triage complaints that are received. It is important that instructions on how to use the Noise App are followed correctly, as failure to do so will delay the progression of the case or lead to no action being taken due to lack of evidence.

If the officer considers that the recordings do not demonstrate noise at an actionable nuisance level, the central complaint (Section 8) will be considered investigated and closed.

If the officer considers that the recordings do demonstrate noise at an actionable nuisance level, the Council has a statutory duty to serve a Notice on the person responsible for the noise. In some instances, where the officer feels it is appropriate, they may determine that a visit is necessary prior to serving a Notice, or they may defer the service of a Notice for a period of 7 days, in all instances the decisions will be based on the officer's opinion.

Deferral of a Notice is not an automatic right, and the relevant legislation that supports this option can be found here: [www.legislation.gov.uk/ukpga/1990/43/section/80](http://www.legislation.gov.uk/ukpga/1990/43/section/80) (sections 2A to 2E) . Note the deferral of a notice can only be made where noise emitted from a premises is assessed as a nuisance.

The evidence from the Noise App and completed noise diaries are very important. The Council may submit this information to support the case in Court. When a recording is submitted it is deemed that this is a true reflection of what is being experienced, so it is essential that individuals provide honest and accurate information. If an officer determines that the evidence is inaccurate, has been exaggerated or tampered with, no further action will be taken. Consideration may be given where complaints are considered as vexatious and the service will be withdrawn (Section 17). If the case goes to court, and a Magistrates determines that the evidence has been exaggerated etc, they may not rule in the complainant's favour, and future action may be jeopardised.

## Diary/Log Sheets

If the complainant does not have access to a smart phone, or the complaint is not noise related, the Council will send a set of diary/log sheets for individuals to complete to help to establish the frequency and times that the nuisance is being experienced. Diary / Log sheets will need to be filled in for a period of 21 days, providing detailed information as to how individuals are being affected, to provide adequate information to assess the alleged nuisance. Where the nature of the alleged nuisance is more difficult to capture to show the true extent of the nuisance, individuals may be asked to complete diary sheets alongside the Noise App recording submitted. The case officer will make it clear if this is required.

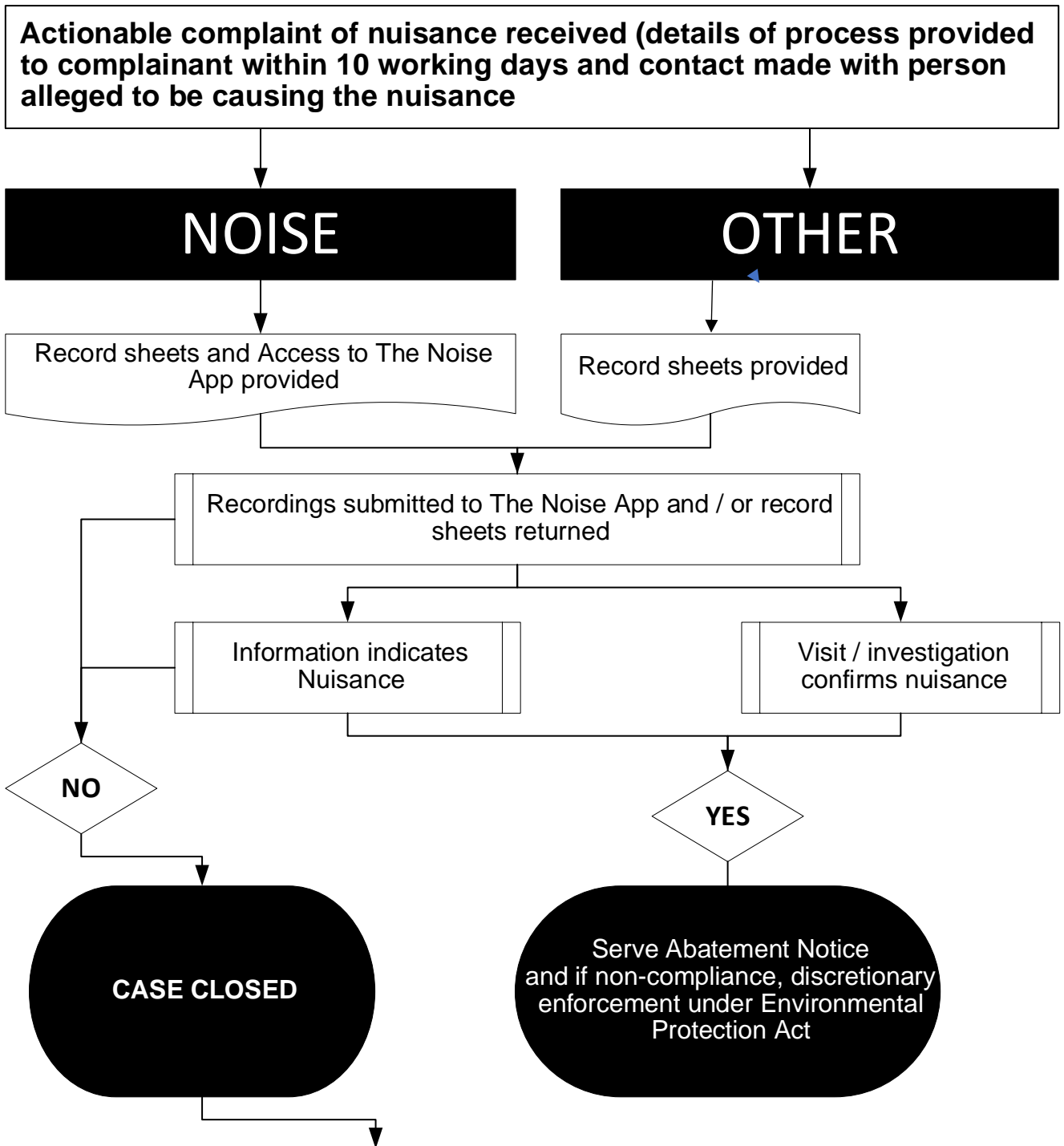
## Noise Recorders

After the initial assessment has been completed, if the alleged nuisance happens during office hours, and an officer is available, a visit will be undertaken to assess the nuisance. In certain circumstances where the Noise App would not provide evidence (e.g., vibration cases) the Council may arrange a visit for regular nuisances that arise out of office hours, and depending on the circumstances, a locked recording device may be left at the premises for a period of monitoring. The device will need to be activated as and when the noise happens.

There is high demand for noise recorders, and there is a waiting list for installation; once installed, the device will be left in situ for a minimum of 1 week, and an officer will review the recordings once it is collected. Again, as with the Noise App and diary sheets, if the officer considers that the recordings do not demonstrate noise at an actionable nuisance level, the central complaint (Section 8) will be considered investigated and closed.

If the officer considers that the recordings do demonstrate noise at an actionable nuisance level, an Abatement Notice will be served (Section 13).

**Appendix B – Flow Chart for Investigation of Nuisance**



- Customer will be advised on taking their own action under Section 82 or participate in mediation.
- Withdraw responsive service for a minimum of 6 months.
- If further complaints indicate a material change to the central complaint officer will review the case. If the evidence demonstrates a material change the officer will re-open the case.

## **Appendix C Construction Sites using COPA.**

### **Duty of Contractors and Developers at Construction Sites**

Construction, demolition, engineering works, shopfitting etc activities will generally give rise to temporary excessive noise. However, developers and contractors must ensure that they are using the Best Practicable Means (BPM) to carry out the works. BPM is a term that interpreted as Section 72 of the Control of Pollution Act 1974 as:

1. In that expression “practicable” means reasonably practicable having regard among other things to locals and circumstances, to the current state of technical knowledge and to the financial implications.
2. The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.
3. The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.
4. The test is to apply only so far as it is compatible with safety and safe working conditions, and with the demands of any emergency or unforeseeable circumstances.
5. Subject to the preceding provisions of this section, regard shall be had, in construing references to “best practicable means”, to any relevant provision of a code of practice approved under the preceding section.

### **The Council’s Powers Regarding Noise from Construction Sites**

The law expects that a reasonable amount of tolerance from residents and businesses towards noise from construction sites in as much as what would normally be expected. Whilst there is no duty under the Control of Pollution Act 1974 under section 60 the Council may use powers to impose requirement on any of the above works that are going to be or are being carried out on any premises. The Council uses this proactive and reactive approach by serving notices under section 60:

- a. Prior to or at the commencement of certain specified works
- b. When a noise issue is established, or it becomes apparent to the council that the manner in which the works are being conducted are likely to lead to one on any works.

### **Notice Imposing requirements.**

#### **Before or at the commencement of certain specified works**

Proactively Regulatory Services serves section 60 notices on all new developments of a certain scale prior to or at commencement requiring setting out how it will operate. The types of projects covered are:

- Major development with 10 or more homes or 1,000sq m or more floorspace
- use of full-size piling rigs
- partial and full demolition and re-construction of a property
- basement excavation or extension
- internal commercial refurbishments
- domestic and commercial extensions
- loft conversions

This policy will be advertised on the Council's website and an informative which notifies applicants of this will be placed on any planning permission granted. Where applicants use the Council's Building Control Services, details of the COPA Notice will be placed on the Building Control validation letters as an Informative.

Sites may also become apparent through officer visits.

The Notice served under section 60 can:

- (a) specify the plant or machinery which is, or is not, to be used.
- (b) specify the hours during which the works may be carried out.
- (c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and
- (d) provide for any change of circumstances.

#### [Nuisance from construction works.](#)

When we establish that noise nuisance exists or is likely to be caused as a result of any construction, the Council will serve a Notice under section 60 with requirements as stated above.

#### **Prior Consent for Works**

Under section 61 of the Control of Pollution Act developers and contractors can apply for a Prior Consent for Works. This is an agreement between the applicant and Southend-On-Sea City Council over how a project will be operated that provides protection from enforcement provided the terms of the consent are complied with. This is a voluntary process, but Regulatory Services encourages applications for works that are likely to cause a disturbance such as unavoidable works through the night or piling operations.

## Application Process

To obtain a consent, the applicant must provide details of how noise will be minimised for the duration of the project. Applications can be made directly to officers via the generic inbox [environmentalhealth@southend.gov.uk](mailto:environmentalhealth@southend.gov.uk) .

The Council will expect detailed technical data to accompany this from acoustic professionals. The Council will also expect significant engagement with those residents and businesses that are likely to be exposed to the noise at an early stage.

The council has 28 days to consider applications to grant, grant with added conditions or refuse. The applicant may appeal on any decision within 21 days of the Council's decision.

To grant an application, the Council must have confidence that there are sufficient management and mitigation measures proposed so that when the works are carried out it will not have to serve a Notice Imposing Requirements under section 60. Therefore, the granting of a Prior Consent will give immunity from enforcement provided the works are done in accordance with that consent.

Once granted the applicant must make all persons working on the project covered by the Prior Consent aware of the terms of the consent. Any person who knowingly breaches a prior consent or permits a breach of it will be guilty of an offence under the Control of Pollution Act 1974.

When imposing conditions on Notices under section 60 or Prior Consents under section 61 the Council must have regard to the following:

- (a) the relevant provisions of any code of practice issued under this Part of this Act;
- (b) the need for ensuring that the best practicable means are employed to minimise noise;
- (c) before specifying any particular methods or plant or machinery the applicants' proposals will be considered, against the Council specifying other methods or plant or machinery which would be substantially as effective in minimising noise.
- (d) the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.
- (5) A notice under this section shall be served on the person who appears to the local authority to be carrying out, or going to carry out, the works. It may also be served on other persons appearing to the local authority to be responsible for, or to have control over, the carrying out of the works.
- (6) A notice under this section may specify the time limit which the notice is to be complied with. It may require the execution of works, and the taking of such other steps, as may be necessary for reducing the impact of noise nuisance.

These factors will be assessed when any enforcement action is considered (Section 13).

### Dispensations

Dispensations apply to material changes (i.e. those predicted to result in increased noise effects) to working methods. This may be a revision to working hours, work duration, persistent overrun, or major changes to the proposed construction methodology, for example, changes to major items of plant. There is no formal provision for dispensations in the Control of Pollution Act 1974 (except by making a new Section 61 application), but local authorities have facilitated procedures for them to be pragmatic.

Dispensations are required by the Council to be notified at least 14 days in advance of applying the proposed modified methods and copied to the Council by e-mail [environmentalhealth@southend.gov.uk](mailto:environmentalhealth@southend.gov.uk) . Where rescheduling relates to work of a critical nature (such as key activities likely to delay other key activities) applications will be made where practicable at least 48 hours in advance and at least 7 days in advance if the work is expected to last for a period of 5 days or more. A dispensation will be sought by means of an application setting out the revised construction programme or method and the relevant noise calculation made by submitting a completed application for dispensation. Regard will be also made to any noise insulation/temporary housing issues as a result of the revised works in accordance with specific Noise and Vibration Mitigation schemes/policies.

### Variations

Variations apply to minor changes to a Section 61 consent which will not change the overall predicted impacts of the works, for example a change to the timing of an activity within agreed hours and working period, or minor changes to working methodologies. Variations will be applied for by email where practicable 7 days but at least 48 hours in advance of applying the modified methods. Applications can be made to [environmentalhealth@southend.gov.uk](mailto:environmentalhealth@southend.gov.uk)

### Overruns

There are likely to be circumstances where overruns to planned working hours will occur either for reasons of health and safety or engineering practicalities. Should an overrun occur, the Council will be informed by phone with a reason for the occurrence followed by confirmation by email to [environmentalhealth@southend.gov.uk](mailto:environmentalhealth@southend.gov.uk) . Examples of the type of work envisaged would include where pouring concrete takes longer than planned due to equipment failure.

### Emergency works

In the case of work required in response to an emergency or which if not completed would be unsafe or harmful to the permanent works, the local authority will be informed as soon as reasonably practicable of the reasons for, and likely duration of, the works.

## Where construction noise is or is likely to be a problem

If the activity at a site becomes unreasonable due to (for example) its duration, the time of day, the frequency that it occurs or if it isn't what would normally be expected it is recommended that individuals try talking to the contractor or developer. Normally there will be site contact details on developers' boards or vehicles outside the site.



## Consultation on Statutory Investigation and Progression Policy

### Analysis of representations received

*Report Prepared by D Skinner (July 2023)*

#### Summary

A total of 350 people accessed the campaign which ran from 9<sup>th</sup> May to 27<sup>th</sup> June 2023. Of this, 207 were informed, which indicates they had visited the project page and viewed the survey and documents, 33 responded online.

292 people were aware of the consultation (i.e they clicked on the project page) but chose not to comment or look at the survey or supporting documents. The consultation included a survey with questions and a 'free text' box for further comments requesting feedback on certain elements of the whole project.

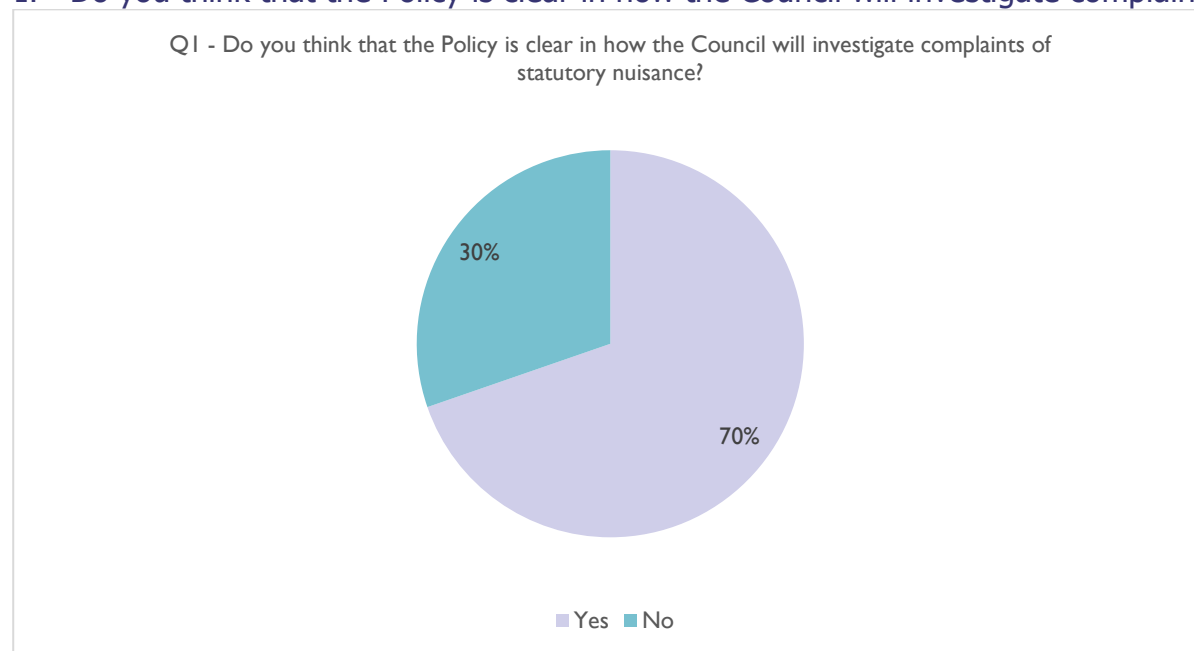
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The consultation was available on the Councils interactive consultation portal <https://yoursay.southend.gov.uk/> it was also made available in a hardcopy format if requested.

The overall consensus from those responding was that they supported what was identified in the policy document and what the Council was trying to achieve.

### Full Breakdown of questions (online responses)

1. Do you think that the Policy is clear in how the Council will investigate complaints of statutory nuisance?



50

Of those responding 70% identified that the policy was clear in how the Council will investigate complaints the city. 30% of those felt it was not clear (full comments are below).

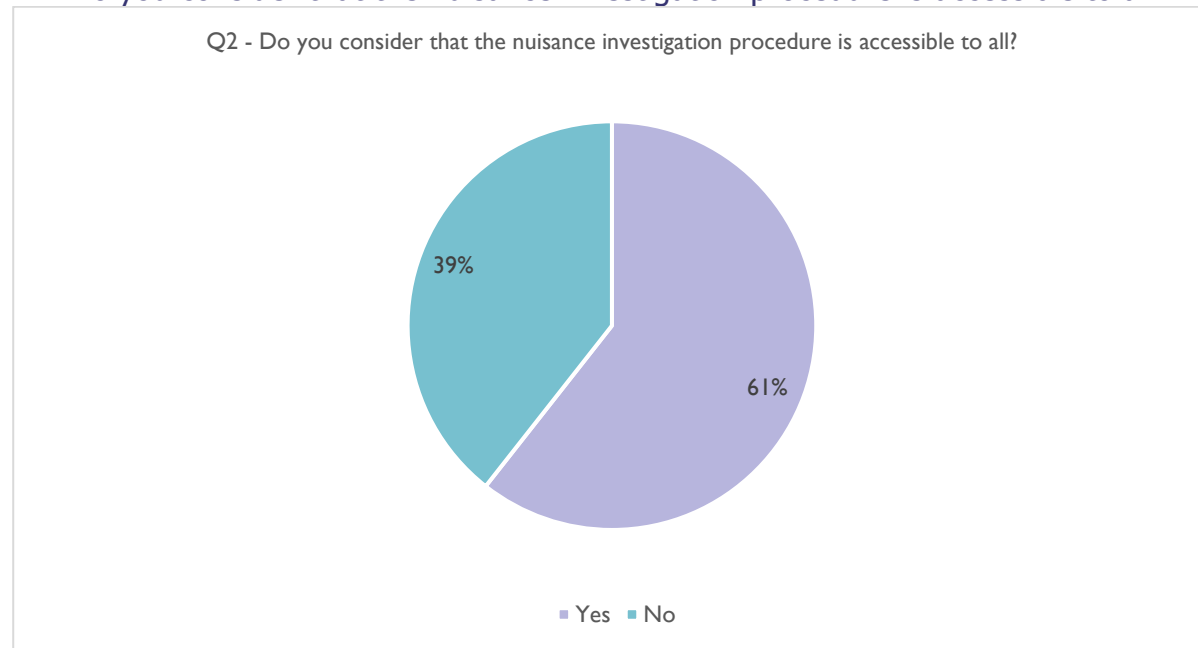
1a If not what is missing?

This was a free text option with 7 individuals adding a comment.

	Comment	Council response
1	The advice currently on the form when you raise a nuisance states to phone a number - this number does nothing, as the person on the other end of the phone tells you to raise the complaint online, as the council no longer sends people out for noise complaints. You're	Part of this policy will address ensuring that there is a number available during core hours for ongoing nuisance complaints.  With respect to the 3 weeks, if there is an inability to gather evidence in a 3 week or no officer contact is sought it is unlikely the matter

	then given access to the Noise App, which is helpful, but your complaint will be closed in 3 weeks - which may not be enough time to gather evidence.	would be considered a statutory nuisance, but consideration will be given to leaving the case open on discussion with the complainant.
2	The way it is presented, pages and pages of text with very little consideration for those who struggle with this style and the lack of visuals to assist is very old fashioned and counter-productive.	An accessibility assessment will be made.
3	Was asked to record noise from neighbours then got message saying no record of noise report	Where residents report problems uploading assistance can be given.
4	A 0-24 number to call at night. It does not make sense to report online and wait two days until someone not does anything	All cases are responded to, and where nuisance is not regular this will be recorded as intelligence to support further action.
5	I can't easily see who should be contacted. It would be helpful to have a step by step guide to filing a complaint for instance to prevent those 'one off' nuisance complaints which are not covered.	This is a policy, and guidance on processes will be available on the internet.
6	Difficulty in finding out about site	Not sure if this relates to website or address of property. We are planning to improve the website. The address of the premises being complained about is required to be able to investigate
7	When I phoned about builders burning waste material in a rear garden, I don't think any action was taken to send anyone on site to investigate; this type of issue needs quick action.	We do not have details about this specific complaint. The council does respond to the burning of building waste where someone is available to do so.

2. Do you consider that the nuisance investigation procedure is accessible to all?



52

61% of those responded agreed that nuisance investigation procedure should accessible to all 39% did not agree with that approach as they felt it was to technical and those who did not have computers or smart phones may not be able to access the services (full comments below).

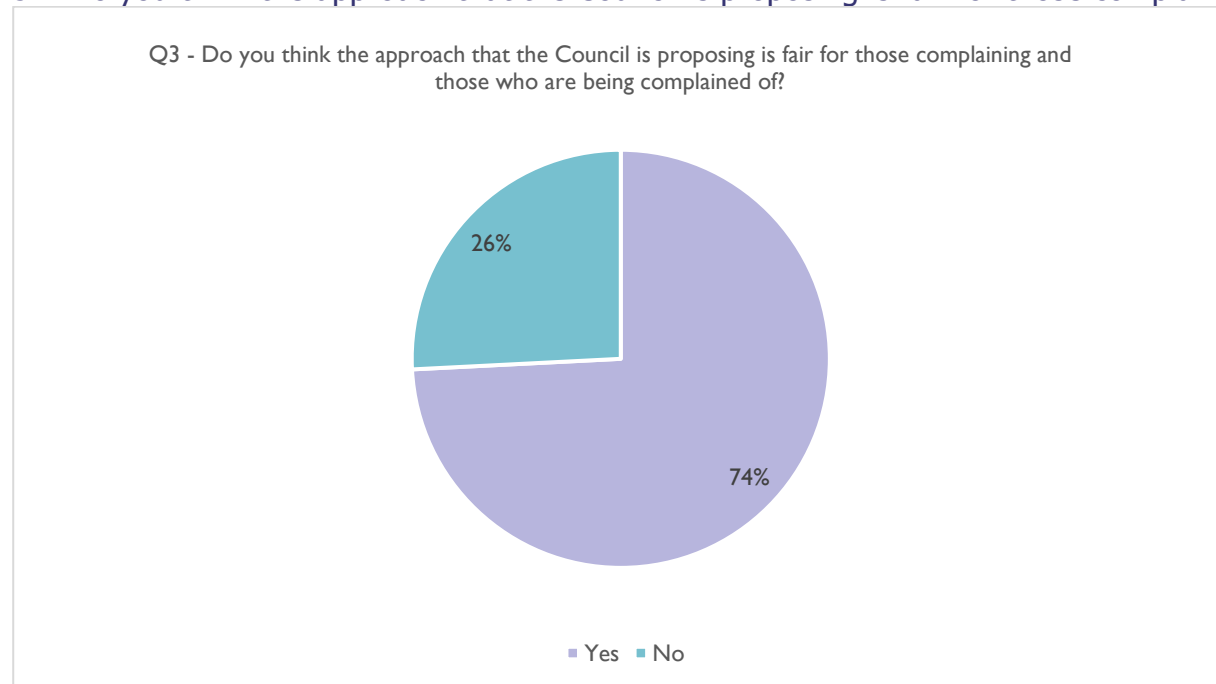
2a If not why not?

Comment		Council response
1	People may not have smart phones, people may not feel comfortable with technology, it would be much easier to be able to make a call when the nuisance is occurring and actually get a response and member out to listen to the noise.	The council is putting in place a day-time response. There is no legal requirement for the council to provide a dedicated out of hours service. Where intelligence confirms the team will respond to statutory nuisance outside of normal hours. There is also the facility available for noise equipment to be installed where difficulties are encountered using the Noise App.

2	Even though I'm tech-savvy I find it such a struggle to keep a conversation open about nuisance behaviour; e.g. if not resolved within a week it goes cold. So I can only imagine it is a real struggle for people who do not use the internet	Assistance is given on using the Noise App, and there are diary sheets that can be used. The council also installs noise monitoring equipment. The case is held open for 3 weeks and is only closed where there is no contact at all.
3	I did not know about it before and I expect that those causing a nuisance have no idea about it.	There is information available on nuisance on the Council's website.
4	Anything the council has online is utterly miserable to navigate.	The webpages relating to statutory nuisance will be reviewed. This response about the council's website will be sent to the council's web team.
5	I've had noise problems with my neighbour for 12 months and it took Police intervention to get on top of it. I bypassed the council completely as your process bureaucratic. Do the Police talk to you about noise complaints they act on as I have heard nothing from the council?	Details of the case would be required to review this case. There are multi-agency meetings to share information relating to nuisance so that a co-ordinated response can be provided.
6	Too hot and miss	There is insufficient detail to respond to this.
7	A 0-24 number to call at night. It does not make sense to report online and wait two days until someone not does anything	All cases are responded to, and where it is not currently happening at the time, the issues is recorded as intelligence to support further action.
8	Elderly may not be able to navigate it online	The policy provides support for those who are unable to access the service online.
9	provided you have access to a computer and the internet	The policy provides support for those who are unable to access the service online.
10	Again I cannot see how the council should be contacted. It simply says 'contact the council'	More detail on contact details will be included in the policy once adopted.
11	Difficulty in finding out about site	Not sure if this relates to website or address of property. We are planning to improve the website. The address of the premises being complained about is required to be able to investigate

12	Some individuals will not have access to a computer or the internet	The policy provides support for those who are unable to access the service online.
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3. Do you think the approach that the Council is proposing is fair for those complaining and those who are being complained of?



54

74% of individuals responding felt the Councils approach was fair, of the 26% that did not agree stated the timescale of 3 weeks is not long enough in some cases to compile evidence and the constant form filling is too long.

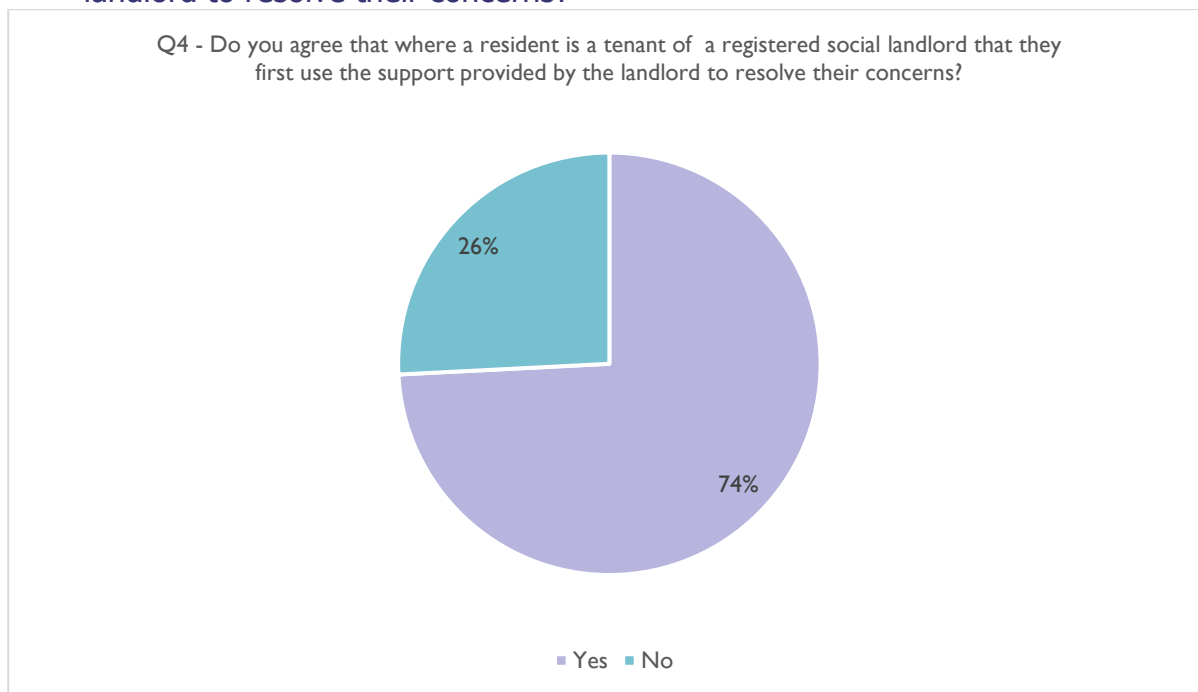
3a If no, please explain what else can be done

	Comment	Council response
1	We complain on the Southend website, which is marked as 'in progress' and then auto-closed. We then have to dig out information about raising a different form than is on the southend website, collating all our evidence into	The reason the case auto-closed is because the system automatically opens a case in the Councils database and the complainant is provided with a database reference number.

	<p>one larger complaint, for anything to actually be done. We are given access to the Noise App, and a short window to complain - 3 weeks is not long enough to catch evidence using the Noise App. Letters are sent to the houses being complained about, but a strongly worded letter doesn't actually do anything to solve the issue. We NEED people actually going TO THE HOUSE, WHEN THE ISSUE IS OCCURRING, or the morning/48 hours AFTER, to back up what the letter is saying.</p>	<p>Those being affected by nuisance are required to assist in the process by demonstrating how they are being affected. This is to support the frequency and types of nuisance being experienced.</p> <p>In line with good regulation the Council takes a graduated approach and will advise the person alleged to be causing nuisance to give them the opportunity to consider what changes they may or could make to reduce any nuisance being caused.</p> <p>Visits are undertaken using intelligence, and that includes the Noise App records and / or diary sheets to support a complaint.</p>
55	<p>2 I think it is unreasonable that complaints from individuals with extra sensitivity will not be addressed seriously</p>	<p>There is case law on statutory nuisance which requires the local authority to consider what is reasonable given the average person. This does not allow for people with enhanced sensitivity.</p>
	<p>3 It puts the onus on a neighbour to report the nuisance and they may be afraid or unable to complain through the website. We need more public education in several languages delivered to households in the city.</p>	<p>The policy provides reassurance on the anonymity of the complainant. For nuisance the law requires an assessment from the affected premises.</p> <p>The council will explore how information about nuisance can be made available across the city.</p>
	<p>4 Our neighbours have made malicious complaints about us. It seriously affected my mental health and wellbeing. Meanwhile, they carry on regardless.</p>	<p>This policy deals with this matter. All complaints are dealt with sensitively and objectively.</p>
	<p>5 It's constant form filling, make a diary, record noise, take photos! If I report my neighbours dog is barking non stop all day long whilst I'm trying to work or my child is trying to home work or I'm simply trying to sit in my garden I don't expect to be sent a letter asking me to fill out a diary of events... I just don't have time, my work is disrupted as it is by this dog yet you want me to</p>	<p>Letters are sent to those alleged to be causing nuisance, and with respect the council's animal warden will interact with those individuals. Those being affected by nuisance, need to assist in the process by demonstrating through diary sheets and / or the Noise App the type of noise and frequency of occurrence.</p>

	stop and list everything. No need it barks all day every day. A simple letter to the neighbour from the council telling them to train their dog should be simple enough.	
6	The Council needs to take a more pro-active role when a complaint is made, i.e., conduct an onsite visit where appropriate	On-site visits are undertaken where intelligence directs us to do so.

4. Do you agree that where a resident is a tenant of a registered social landlord that they first use the support provided by the landlord to resolve their concerns?



Of the those that responded 74% stating they agree they should first use the support provided by their landlord. Of the 26% who did not agree indicated that some landlords are unresponsive and unreachable which made the solution difficult to resolve and it should be the same procedure for everyone.

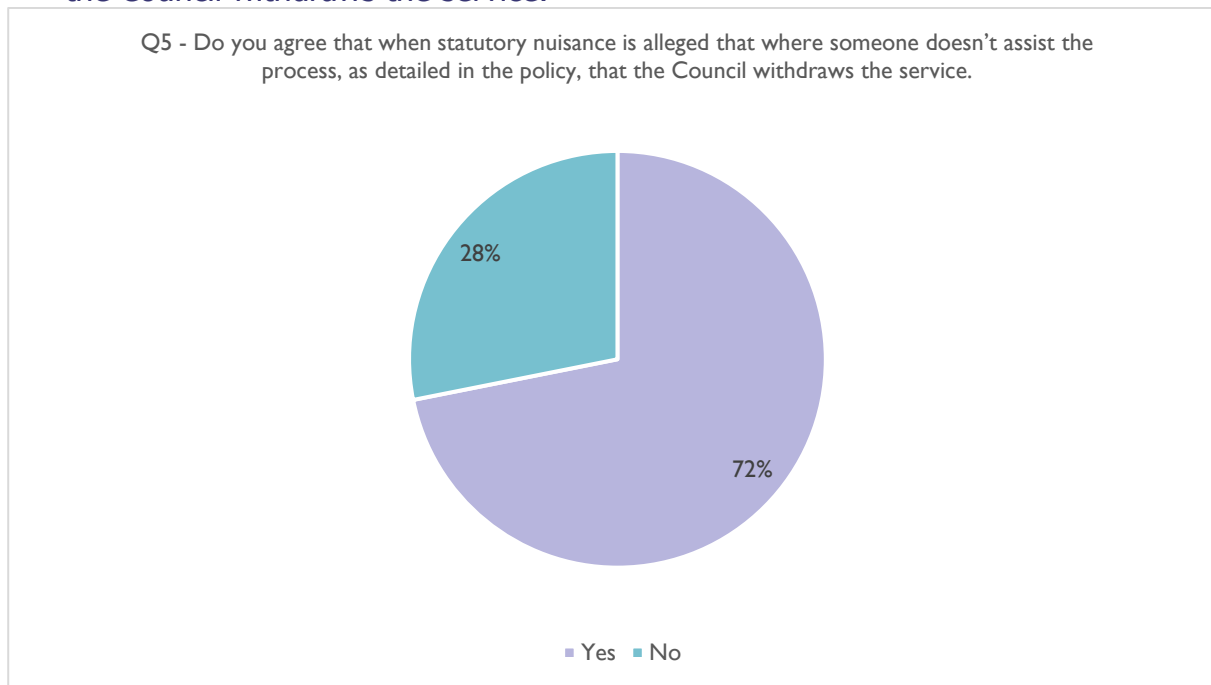


## 4a If no, please explain why not

	<b>Comment</b>	<b>Council response</b>
1	tenants just ignore complaints and council do not follow up on rented properties that are a problem to the rest of the residents around.	The council does respond to complaints from tenants and will serve notice on individuals irrespective of tenure.
2	I think the two complaints can run in parallel, for instance the council's environmental health team can respond to noise reports the same day and provide evidence and info to the housing provider, and visa versa as required. A collaborative approach. If the perpetrator is not a resident of the housing association then it is hard for them to take action. The Council should also be aware of data and trends relating to nuisance reports in their area of authority.	This is noted. However, housing providers are in a better position to manage the tenants within their properties as they have other sanctions that can be applied. Where their powers are exhausted the local authority will assist. There is a collaborative approach information is shared at multiagency forums. If the person causing the nuisance is not a housing association resident this will be dealt with in the first instance by the council.
3	Concerns if the landlord is unreachable or unresponsive OR if you have no way of making contact with that person	Nuisance relates to the person responsible and in most cases, this will be the person occupying the property.
4	They are residents. Why cant they have the same support as others?	Those in RSL properties have additional support in that they have direct access to their landlords. By RSL's we mean organisations such as Swan Housing, Guinness Trust and Peabody, not individual landlords. Privately rented properties would be investigated by the local authority.
5	The landlords don't care they just want their rents!	Those in RSL properties have additional support in that they have direct access to their landlords. By RSL's we mean organisations such as Swan Housing, Guinness Trust and Peabody, not individual landlords. Privately rented properties would be investigated by the local authority.
6	It is the job of the council or police.	The RSL has a role with respect to tenant behaviour and have sanctions that the council does not have available. The local authority will investigate where they have exhausted their processes.

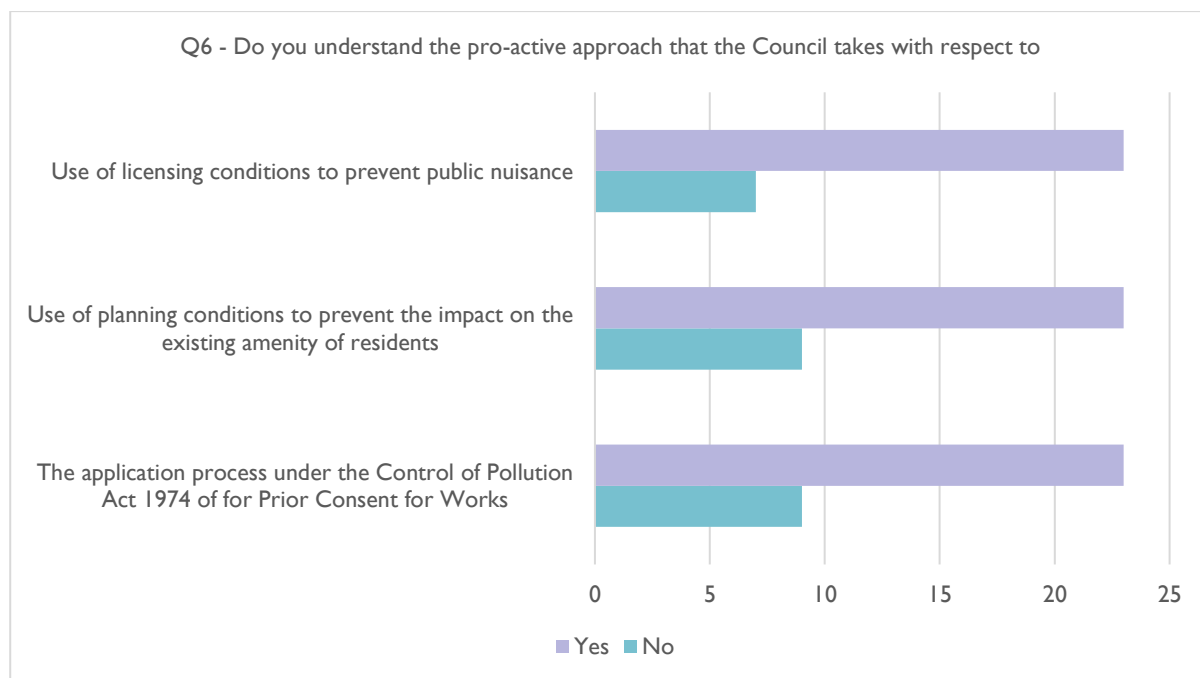
7	Why should they not have access to the same procedure as everyone else? If it's a private landlord and a private tenant who do they contact?	This will be made clearer in the policy. Complaints about private landlords and private tenants would be investigated by the local authority.
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5. Do you agree that when statutory nuisance is alleged that where someone doesn't assist the process, as detailed in the policy, that the Council withdraws the service.



Of those responding to this question 72% agreed with approach.

6. Do you understand the pro-active approach that the Council takes with respect to



59

The overall consensus of those responding understood the Councils pro-active approach to all the issues identified above.

7. Is there anything else that you think that the Council needs to take into consideration in this policy.

This was a free text box with 22 individuals responding with the main suggestions being the contact details need to be active and the timescale to report a nuisance is too short and should be longer than 3 weeks. The noise sheets are not adequate and there was a concern about how this will be monitored and actioned going forward. Full comments are below.

	Comment	Council response
1	council just ignore problems with rented properties and do not contact or follow up with the landlord or fine or take away the licence of HMOs.	Complaints regarding nuisance from HMOs are dealt with in the same way as other nuisance. There are no powers available to the council

		that enables them to take the licence away from the landlord for nuisance.
2	Sending a letter to the house of a nuisance neighbour does absolutely nothing and needs to be backed up with actual punishments, visits, fines. Reinstate the team that would come out to a problem house when called, OR update your reporting form to clarify that the phone number is no longer of any use and it all needs to be reported online, extend the window for reporting with the Noise App to longer than 3 weeks (Maybe 6-12 weeks?) and increase the amount of recordings allowed (3 per 24 hours is a shockingly small amount when your neighbour is playing loud music for over 9 hours!)	A letter is sent where there is a complaint of nuisance. This enables the person alleged to be causing nuisance to consider whether there are any steps they can take to resolve the impact they may be having. Where a letter is not successful in resolving nuisance further action can be taken if nuisance is evidenced. There are officers available to visit properties where intelligence indicates this is required. Clarification will be provided on when online forms should be used and when the phone lines are available. There is a global limit on the number of recordings that can be made. 3 recordings every day for 3 weeks is likely to provide sufficient evidence of nuisance. The question of three weeks has been answered above and can be amended on a case by case basis.
3	That complainants may need a long time (months) to fully record nuisance noise from neighbours due to work	Where residents engage in the process this is usually a much shorter period.
4	Do you have enough people to enforce the policy or to assist with complaints? Are there any mechanisms in place to persuade private landlords and agencies to take some responsibility for their tenants' behaviour?	The council does receive over 1000 nuisance complaints each year, and this policy will allow the focus to be on matters which are assessed as statutory nuisance.
5	That some nuisances don't fall into noise or bonfire categories - smoke can come from log burners now and people are more aware of the toxins emitted and the damage they cause. Diary sheets aren't appropriate for nuisances that aren't regular but are more damaging when taking place. A neighbouring commercial timber co to me sometimes (every few months) burns dark smoke that smells dreadful and gives me headaches but on a 21-day diary sheet	Log burners are dealt with through local air quality and is outside of this policy. The council is planning education campaigns with respect to log burners.  An amendment to the policy will be made to prioritise commercial operation.

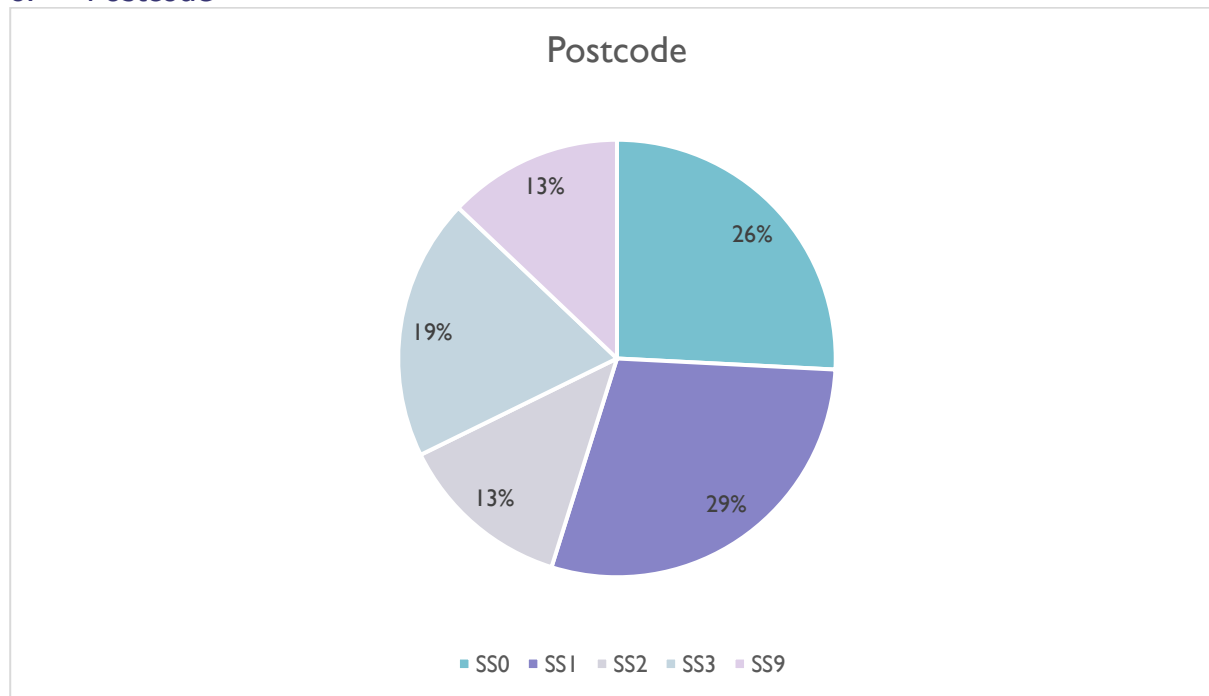
	doesn't present as a problem. Just because something isn't regular, doesn't mean it isn't as damaging.	
6	Take existing amenities into greater consideration when assessing all planning conditions and applications.	This is part of the pro-active approach that the council takes.
7	Please see above. Malicious complainants.	This policy deals with this matter. All complaints are dealt with sensitively and objectively.
8	Talk to those who have experienced these nuisances to assist in designing your policy	The objective of the consultation was to seek the views of residents.
9	I agree with the proposed approach however from experience the complaints procedure has failed. Having complained about noise of music from a neighbour in the past, nothing was done, when I followed up no one knew about the complaint, it took several weeks before a letter was sent to the neighbour. I still have the same noise from the same neighbour, but whilst this policy looks good on paper I do not have any confidence it will be executed in the way the policy describes.	We would encourage anyone who does not feel that their case has been dealt with appropriately, to contact the council so that this can be reviewed.
10	The impact on mental health that these nuisances can cause. Also, that some individuals won't want to submit a complaint for investigation due to fear of reprisal. We have HMO on our road, likely social housing where there are issues immediate neighbours are too scared to do anything about.	All complaints are kept anonymous from the person being complained about. Complaints regarding nuisance from HMOs are dealt with in the same way as other nuisance. There are no powers available to the council that enables them to take the licence away from the landlord for nuisance
11	A 0-24 number to call at night. It does not make sense to report online and wait two days until someone not does anything	All cases are responded to, and where nuisance is not regular this will be recorded as intelligence to support further action.
12	Cars parking with engine running outside schools. Let's have all schools marked with double yellows on	This is outside the remit of this policy.

	both sides of the road. Get the wardens out more often, cameras on poles catching those that abuse the parking regulations	
13	When the nuisance is from a council owned property run by another agency. What are the rules whoever we complain to there appears to be no feedback	It is not clear which properties this relates to. However, the local authority will investigate all complaints and will provide feedback.
14	Continuous vexatious complainants and how to deal with them	This is contained within the policy
15	The council set down the rules, but they don't police them. For example, the late evening football at Chase High School is terrible for neighbours, shouting and swearing, but the council do nothing.	It is expected there will be some noise from this activity, however if neighbours are being disturbed they can contact the service.
16	No	
17	the policy talks about noise from parties but you are not a 24/7 service, filling in a noise sheet is not helpful - obviously the police can be called but I think the process should be clarified.	There is no 24 / 7 service available, generally parties are a one off celebration, the service aims to respond to those repeatedly causing nuisance.
18	Educating residents to not commit acts of nuisance is surely the way forward rather than a tortuous process of collating evidence over a 21 day period, then a 10 day 'investigation' before a letter is issued to the person committing the nuisance - maybe? It's all very cumbersome. Why can't the council include 'how not to commit a nuisance' in annual correspondence with the council tax information for example and also take out adverts in the local press? Prevention is best. I have replied to this survey in particular having been subject to more than 2 years of DIY from our neighbours to whom we are attached, 7 days a week. We have had to ask them to desist at times when the family were at home sick with Covid. No respect, no	We will explore how we can provide education around this topic, to expand on the information on being good neighbours that is already provided. The letter to those causing the nuisance is sent at the outset of the investigation.

	courtesy and damage to our house from their work but I had no knowledge that this could be considered a nuisance. Education and information is key for both those who might be subject to a nuisance and those who might cause it through ignorance.	
19	Make the policy easier to read and understand . Take into regards the people being complained about eg people using their "vulnerability" , circumstances ( working from home) , etc , as excuses and reasons to be let off from causing a nuisance . The document is so foggy and confusing to the lay person . Section it so we can just read and understand what we are looking for , instead of having to read everything that doesn't mean a thing to us . You are doing a great job in these circumstances.... Thank you !	<p>Accessibility checks will be done.</p> <p>Consideration is given to vulnerable people, which means that we may approach resolving nuisance in a different way.</p>
20	Trying to find out about street nuisances and noise .... mechanical blowing up of paddle boards at all hours	Where a nuisance is intermittent this would not be considered statutory nuisance.
21	. Residential/Garden burning of waste should not be allowed whatsoever - the smoke is toxic and a hazard to the environment . Building construction and DIY noise pollution working hours (0800 to 1800) should be enforced; no work should be done after 1 p.m. on a Saturday, and no work should occur on a Sunday or Bank Holiday . Barking dogs at all hours of the day and night - neighbours should not have to tolerate owners not controlling their barking dogs . Dog fouling is a constant nuisance on pavements and verges; dog walking parks should be established city wide (entirely funded by dog license fees) with owners required to clear up their dogs mess. The Council should be more pro-active in fining offenders	<p>The legislation does not prohibit the banning of garden waste, unless the smoke is causing a nuisance.</p> <p>Where appropriate the council does apply conditions to construction work, however, this only relates to noisy work and quiet construction can continue outside of these times.</p> <p>Dog barking is dealt with through assessment of statutory nuisance.</p> <p>Dog fouling is outside the remit of this policy.</p>

22	The list encompassed most of the things I find to be a nuisance.	
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8. Postcode



This was a single response question which identifies 29% of individuals commenting live within the SS1 postcode area, this area covers the High Street and the Seafront, with 26% living in the SS0 (Westcliff) area.



<b>Meeting:</b>	Place Scrutiny Committee, People Scrutiny Committee and Policy & Resources Scrutiny Committee
<b>Date:</b>	10 <sup>th</sup> , 11 <sup>th</sup> and 12 <sup>th</sup> July 2023
<b>Classification:</b>	Part 1
<b>Key Decision:</b>	No
<b>Title of Report:</b>	<b>In-Depth Scrutiny Projects 2022/23 and 2023/24</b>
<b>Report Author:</b>	T Row & S Cox (Principal Democratic Services Officers)
<b>Executive Director</b>	Joe Chesterton (Executive Director – Finance & Resources)

## **1. Purpose of Report**

- 1.1 To present the draft report and recommendations of the In-Depth Scrutiny Project undertaken on behalf of the Committee for 2022/2.
- 1.2 For the Committee to consider a possible approach to in-depth scrutiny activity for 2023/24.

## **2. Recommendations**

- 2.1 **That the report and recommendations arising from the In-Depth Scrutiny Project for 2022/23, detailed at Section 6 of the attached report, be agreed.**
- 2.2 **That the Chair of the Project Team for the In-Depth Scrutiny Project (Councillor K Buck) present the report and recommendations of the scrutiny project to a future meeting of the Cabinet.**
- 2.3 **That the Committee consider the proposed approach to in-depth scrutiny activity for 2023/24, as set out in this report.**
- 2.4 **That, subject to the agreement of the proposed approach to in-depth scrutiny activity for 2023/24, no other topic(s) be selected by the Committee for additional in-depth scrutiny during the year.**

## **3. In-Depth Scrutiny Project 2022/23 - Report and Recommendations**

- 3.1 At its meeting on 4 July 2022, the Committee agreed that an In-Depth Scrutiny Project be undertaken during the 2022/23 municipal year on the theme of 'Preparing Southend for the Electric Vehicle Revolution', as part of the scrutiny work programme for the year (Minute 86 refers).

- 3.2 The Project Team for the In-Depth Scrutiny Project comprised the following members appointed by the Council on 19 May 2022:
- 3.3 Councillors: M Berry, K Buck, J Courtenay, M Dent, A Jones, N Ward, J Warren and P Wexham.
- 3.4 Councillor Buck was appointed Chair of the Project Team from January 2023. The Project Team was supported by relevant officers including J Burr (Executive Director (Neighbourhoods & Environment)) and T Row (Principal Democratic Services Officer/Project Co-ordinator). Other officer support was provided in respect of specific elements of the in-depth scrutiny project.
- 3.5 Progress with regard to the joint in-depth scrutiny project was achieved throughout the 2022/23 municipal year. Efforts were made by the Project Team to ensure that the timescale for the delivery of the project was maintained and that the project was completed by the end of the 2022/23 municipal year.
- 3.6 The final report arising from the In-Depth Scrutiny Project is attached as Appendix 1 and the recommendations of the Project Team are set out in Section 6 of the report. These have been agreed by the Project Team. A number of the recommendations arising from the in-depth scrutiny project have budget implications that will require consideration as part of current and future years' budget processes prior to implementation.
- 3.7 The Committee is recommended to endorse the recommendations of the joint In-Depth Scrutiny Project, for consideration by the Cabinet.
- 3.8 The report and recommendations arising from the completion of the In-Depth Scrutiny Project will be presented to the Committee by Councillor K Buck, as Chair of the Project Team.
- 3.9 In accordance with Scrutiny Procedure Rule 10 (Part 4 (e) of the Constitution), the report and recommendations of an In-Depth Scrutiny Project would normally be presented to the Cabinet by the chair of the relevant scrutiny committee. As the scrutiny project for 2022/23 has been undertaken on behalf of each the Committee, it is suggested that the report and recommendations arising from the project should be presented to the Cabinet by Cllr K Buck as Chair of the Project Team that led the project.

#### **4. In-Depth Scrutiny Project 2023/24**

- 4.1 As Councillors will be aware, each of the scrutiny committees has traditionally undertaken an in-depth scrutiny project each year. The scrutiny projects are selected at the beginning of each municipal year and have generally been focussed on the Council's corporate priorities or matters of local concern. Recent in-depth scrutiny projects have also been aligned with the ambition and outcomes arising from the Southend 2050 programme. Details of the in-

depth scrutiny projects previously undertaken by the scrutiny committees are attached as Appendix 2 to this report.

- 4.2 The delivery of the in-depth scrutiny projects informs the development of a report and recommendations which advise the Executive and the Council on its policies, budget provision and service delivery in specific areas. Each project is driven through a member Project Team, supported by relevant officers. Participation in the in-depth scrutiny projects enables councillors to be actively involved in a particular topic and to influence and shape proposals around improvement that will result in benefits and outcomes for residents and service users.
- 4.3 The undertaking of the annual in-depth scrutiny projects is not a statutory requirement and is derived from the power set out in Section 9(c) (Policy Review and Development) of the Scrutiny Procedure Rules at Part 4(e) of the Council's Constitution, which provides that the scrutiny committees may hold enquiries and investigate options for future direction in policy development.
- 4.4 The undertaking of individual in-depth scrutiny projects for each scrutiny committee can be resource intensive. Each Project Team must be fully supported throughout the scoping, delivery and outcome reporting of the project and appropriate specialist capacity is often required to facilitate aspects of projects. In addition, it has regularly been necessary to arrange and undertake appropriate site visits, conduct public surveys, hold public meetings, and commission research etc. to inform the delivery of in-depth scrutiny projects.
- 4.5 The Scrutiny Chairs Forum met on 27 June 2023. The Membership of this forum is constituted from the Chairs and Vice-Chairs of each of the Council's three scrutiny committees.
- 4.6 It was felt by those present at the Scrutiny Chairs Forum that the focus for 2023/24 should be to embed pre-Cabinet Scrutiny processes, focus on effective work programming and direct resources to shorter Task and Finish reviews to drive specific areas of concern forward.
- 4.7 At this meeting, the membership and representation on Outside Bodies was identified as a potential first topic for a Task and Finish review, subject to agreement by Scrutiny.
- 4.8 This would allow further time to add topics of concern to the Scrutiny work programme, clarify the shortlisting process and allow the opportunity of establishing further Task and Finish Groups further in the year to undertake shorter and more focussed scrutiny work if Members wished.
- 4.9 It is recommended that, subject to the agreement of the proposed approach to the set out above, that no additional topic(s) be selected by the Committee for in-depth scrutiny activity during the year 2023/24.

## **5 Corporate Implications**

### Contribution to the Southend 2050 Road Map

Becoming an excellent and high performing organisation.

### Financial Implications

There are costs associated with organising in-depth projects relating to officer time, but this will all be contained within existing resources.

### Legal Implications

None

### People Implications

None.

### Property Implications

None

### Consultation

As described in report.

### Equalities and Diversity Implications

None

### Risk Assessment

None

## **6. Background Papers**

None

## **7. Appendices**

Appendix 1 - Final report of In-Depth Scrutiny Project 2022/23

Appendix 2 - Previous In-Depth Scrutiny Projects

**Place Scrutiny Committee**

**In-Depth Scrutiny Project  
2022/23**

**‘Preparing Southend for  
the Electric Vehicle  
Revolution’**

**Final Report and Recommendations (July 2023)**



## 1. INTRODUCTION

- 1.1 I am pleased to be able to present this report and recommendations of the in-depth scrutiny project for 2022/23.
- 1.2 Electric vehicles and the reduction of the use of fossil fuelled vehicles is something that I am particularly passionate about. This project was an important piece of work not solely because of the Government's ambition to end the sale of new petrol and diesel cars and vans by 2030, with all new cars and vans being fully zero emission from 2035 and the continued usage on fossil fuels but also to improve the air quality and environment within the City and removing barriers to potential EV ownership where residents may be unable to install their own charging units.
- 1.3 In undertaking this work, the Project Team was conscious that the Council needed to identify some solutions to kick start the preparations for the EV revolution in Southend and reduce the barriers for increasing electric vehicle usage. This will help identify the right technology, the necessary infrastructure and appropriate solutions.
- 1.4 I would like to thank everyone involved for their contribution to the in-depth scrutiny project, including Shirley Long at the Royal Borough of Kensington and Chelsea and representatives from both companies who kindly gave their time to share their expertise and experiences to inform our work.
- 1.5 Finally, I would like to thank officers of the Democratic Services Section for their assistance and support during the course of the in-depth scrutiny project and in the production of this final report.



**Councillor Kevin Buck**  
**Chair of the In-Depth Scrutiny Project Team**

## 2. BACKGROUND

- 2.1 Each of the Council's scrutiny committees (the People Scrutiny Committee, the Place Scrutiny Committee and the Policy and Resources Scrutiny Committee) has traditionally undertaken an in-depth scrutiny project each year. The in-depth projects are selected at the beginning of each municipal year and generally focus on the Council's corporate priorities or matters of local concern. Recent in-depth scrutiny projects have also been aligned with the ambition and outcomes arising from the Southend 2050 programme.
- 2.2 The in-depth scrutiny projects lead to the development of reports and recommendations which advise the Executive and the Council on its policies, budget provision and service

delivery. Participation in the in-depth projects enable councillors to be actively involved in a specific topic and to influence and shape proposals around service improvement that will result in improved outcomes.

### **3. FRAMEWORK OF THE IN-DEPTH SCRUTINY PROJECT**

3.1 At its meeting in July 2022, the Place Scrutiny Committee agreed that an in-depth scrutiny project be undertaken during the 2022/23 municipal year on the theme of 'Preparing Southend for the Electric Vehicle Revolution', as part of the scrutiny work programme for the year.

3.2 There were a number of reasons for the identification of the in-depth scrutiny project. In particular, the project aimed to bring Southend into the 21<sup>st</sup> Century in preparation for the increased use and ownership of electric vehicles, ensuring appropriate infrastructure would be available given the Government's plan end the sale of new petrol and diesel cars and vans by 2030, with all new cars and vans being fully zero emission from 2035.

From the outset of the study, it was felt that the focus should be on on-street charging facilities, particularly given the complexities enabling charging facilities in densely urbanised areas with streets which have limited or no off-street parking suitable for private home chargers and very high levels of on street parking.

3.3 The agreed scope of the in-depth scrutiny project was:

- (a) To review and develop the vision proposed in the Southend City Council Electric Vehicle (SCC EV) Feasibility Study in particular the provision of chargers in residential areas.
- (b) To identify and develop an appropriate timeline for the introduction of any proposals.
- (c) To identify an appropriate revenue model which will realise short and medium-term benefits for the City.

3.4 The review was set within the context of the Council's 2050 ambition and priorities and the Project Team was tasked with reviewing relevant issues and to report back to the Cabinet with appropriate findings and recommendations.

### **4. METHODOLOGY**

4.1 The review was undertaken on behalf of the Place Scrutiny Committee by a Project Team comprising the following members appointed by the Council on 19 May 2022:

Councillors M Berry, K Buck, J Courtenay, M Dent, A Jones, N Ward, J Warren and P Wexham

4.2 Councillor K Buck was appointed Chair of the Project Team at its initial project scoping meeting held on 16 November 2022.

4.3 The Project Team was supported by relevant officers including J Burr (Executive Director (Neighbourhoods and Environment)) and T Row (Principal Democratic Services Officer/Project Co-ordinator). Other officer support was provided in respect of specific elements of the in-depth scrutiny project, including:



N Hoskins (Head of Civil Engineering)  
J Gay (Interim Head of Waste and Climate Change)

- 4.4 The Project Team met on three occasions between September 2022 and March 2023. Efforts were made by the Project Team to ensure that the timescale for the delivery of the project was maintained and that the project was completed within the 2022/23 municipal year.
- 4.5 The in-depth scrutiny project was undertaken using an evidence-based approach to the consideration of existing governance and joint working arrangements, through a mixture of experiences presented by councillors and informative presentations that supported the understanding of the barriers, challenges, opportunities and aspirations of the issues involved. One witness session was held in respect of the project, where an officer with significant experience in the matter within a number of London Boroughs and two commercial companies presented to the Project Team.
- 4.6 A project plan and work programme for the in-depth scrutiny project was adopted by the Project Team in November 2022, having been agreed by the Place Scrutiny Committee in October 2022. The project plan and work programme set out the scope and framework for the project, alongside a programme of thematic evidence-gathering activities around the following specific areas identified as key to the desired outcomes for the project:
- (a) The context and expectations of the in-depth scrutiny project.
  - (b) The current provision of charging facilities in the City.
  - (c) The barriers to and opportunities for charging facilities in densely urbanised areas and potential options.
  - (d) The experiences from other local authorities on providing such infrastructure
  - (e) What eligible local authorities need to do to apply for appropriate funding sources such as LEVI electric chargepoint infrastructure funding and the Office for Zero Emission Vehicles (OZEV) 'on-street residential chargepoint scheme' (ORCS)
- 4.7 The following sources of evidence were considered as part of the in-depth scrutiny project:
- (a) Overview of challenges and opportunities for increased EV charging infrastructure in Southend-on-Sea – July 2022
  - (b) Relevant strategies, surveys, data, documents, reports and plans.
  - (c) Feedback from providers and other local authorities
  - (d) Government guidance

## **5. CONTEXT AND EXPECTATIONS OF THE IN-DEPTH SCRUTINY PROJECT**

- 5.1 From the outset of the study, the Project Team was mindful of the Council's ambition to become a Green City, with low-emission transport a key focus in the City Council's sustainability reporting. The Council had also declared a Climate Emergency on 18 July, 2019, and announced a commitment to achieving carbon neutrality in their operations by 2030 (or before), as well as supporting the wider City to achieve net zero by the same date. To assist in achieving this target, several strategy documents and enabling policies had been produced including:
- (i) Supplementary Planning Document regarding Electric Vehicle Charging Infrastructure for new development.
  - (ii) A Feasibility Study regarding charging infrastructure by Net Zero East entitled "Overview of challenges and opportunities for increased EV charging infrastructure in Southend-on-Sea".

It was also mindful that there were two Air Quality Management Areas covering sections of the A127, which currently exceed national air quality goals.

- 5.2 The Project Team had regard to the Government's Electric Vehicle Infrastructure Strategy, published in March 2022, which summarised the need for a particular focus on chargepoint infrastructure:

*"We expect around 300,000 public chargers as a minimum by 2030. Our goal is to ensure these chargepoints are installed ahead of demand, inspiring confidence in drivers who have not yet made the switch."*

This equates to between approximately 250-260 public chargers in Southend by 2030.

- 5.3 The Project Team noted the level existing provision of charging infrastructure within its car parks and other facilities. Public electric vehicle charging points across Southend were limited and most were centred across the seafront and the middle of the City. The network across the wider city and smaller areas was, however, somewhat scarce. According to the DfT, as of April 2022, the total public charging devices within Southend stood at 19 devices. This equated to 10.4 devices per 100,000 people. The Council did, however, have the ambition to install further devices in public areas within its control.
- 5.4 The Project Team also noted the Council's ambition to ensure that no resident was more than a 10 minute walk from an EV charger by installing facilities at Council car parks and leisure centres. A plan taken from the feasibility study regarding charging infrastructure produced by Net Zero East was shared with the Project Team. It was explained that by mapping a "10-minute walk" radius to different potential public charging locations on council land, it was possible to identify potential gaps to ensuring adequate access to charging for all residents. The scenarios set out in the plan indicated how the spread of EV charging would enable the greatest access for residents. It was felt that the Council should continue to assess charging volume requirements at the different car parks and begin discussions with companies that could install 'destination' charging options. The type and speed of chargers at each location would need to be determined.
- 5.5 The Project Team accepted that the installation of electric charging infrastructure across the City needed to be accessible for all demand users. It quickly identified that the more challenging issue was the complexities in providing charging facilities in densely urbanised areas with streets which have limited or no off-street parking suitable for private home chargers and very high levels of on street parking. If on-street charging is installed in such areas it would be important that the density of parking spaces is not adversely impacted and the residents who use the on-street parking are still able to keep their car close to their house.
- 5.6 For those properties with driveways off-street parking and dedicated parking facilities, charging at home was a relatively easy and convenient solution, with many energy suppliers now offering EV charging solutions along with specific tariffs. There were also innovative solutions coming to market to enable EV's to act as flexible assets and sell electricity back to the grid (Vehicle to Grid). This could be attractive source of income for EV owners in the future and could encourage EV uptake. Many people who lived in multi-story dwellings or rely on on-street parking, however, would require alternative methods of charging.
- 5.7 There are many areas in the City where roads and pavements are narrow, with vehicles parking on the kerb. Most terraced houses also very often offered no dedicated parking spots, and residents may therefore feel it too risky to invest in an EV charge point if they are not guaranteed ability to park near their home. There are also roads where vehicles are parked and lining both sides of the road. In some cases, residents could run private

charge points from their houses however, there were health and safety concerns particularly in relation trip hazards etc. although residents could seek permission to run gullies from the properties to facilities charging cables. Many roads also have narrow pavements but with the inclusion of traffic calming systems and kerb-side furniture. Any existing kerb-side furniture (such as lamp-posts) could make installing EV charge points difficult without affecting pavement accessibility.

- 5.8 The Project team heard that whilst such street furniture could make the installation of EV charging points difficult without affecting pavement accessibility, these assets provided an opportunity for alternative solutions eg lamp post chargers, pop-up chargers or concealed chargers. Where additional kerb-side furniture is less likely to impose additional further restrictions to accessibility dedicated bays for charging could be considered. Southend is fortunate in that the majority of lampposts in the City are still located at the front of the pavement. This means that a lamppost can be retrofitted very quickly and without any additional cost such as having to use a satellite post, etc.
- 5.9 Although one of the largest challenges for Southend when installing, upgrading and maintaining an electric vehicle charging network is the upfront, operations and maintenance costs, there various funding streams now available for the benefit of local authorities to aid with the installation costs. There were also new companies able to provide appropriate solutions for on-street charging systems with a variety of financing options available, meaning that the facilities could be installed with no financial input from the Council while still generating an income for it.
- 5.10 Two such companies were Connected Kerb and ChargeLight. Representatives from both companies were invited to a meeting of the Project Team to explain their services and what they could do for Southend. Copies of the slides used in the presentations are attached as appendices to this report.
- 5.11 Connected Kerb have developed a multi-award-winning EV charging and smart cities infrastructure solution, recognised as market-leading and addressing many of the issues that have plagued EV charging technologies. The ChargeLight solution uses lamppost charging hardware made by CityEV, a leading charge point manufacturing firm based in the UK.
- 5.12 The Project Team heard that by end of 2022, more than 7,000 lamppost chargers had already been installed in the UK Lamppost chargers already notably in London, Brighton, Coventry, Portsmouth, Hampshire, Wirral, Reading amongst others. In most London Boroughs, lampposts make up appropriately 80% of public charging points
- 5.13 It was evident from the presentations that some locations could facilitate a dedicated on-street parking pay and charging pillar, but this would need to be assessed on a case-by-case basis in discussion with residents. There are also a number of terraced streets that are both too narrow to facilitate on-street charging posts but would leave residents greater than a 10 minute walk from the nearest charge-point without a local solution. It may be worth exploring whether adapting street lighting to incorporate charge-points would be viable in these areas.
- 5.14 Both companies identified some options for the Council to provide a network of charging points. These schemes would qualify for grant funding from the Office for Zero Emissions Vehicles (OZEV) and both had experience in working with local authorities with submitting applications. The Office for Zero Emission Vehicles (OZEV) is a cross Government, industry endorsed team established to promote the uptake of zero emission vehicles (ZEV). OZEV has the remit to dispense funding for the 'on-street residential chargepoint scheme' (ORCS) to local authorities, supporting the roll-out of EV charge point networks across England. The purpose of the scheme is to increase the availability of on-street

chargepoints in residential streets where off-street parking is not available, thereby ensuring that on-street parking is not a barrier to realising the benefits of owning a plug-in EV.

- 5.15 There is also an opportunity to encourage both the take up of EV's, ensure 'close to home' charging, but also to generate additional income for the council, to introduce a time limited incentive of dedicated EV charging bays in 'high stress' parking residential streets. Subject to agreeing to the terms and conditions, meeting full compliance and passing all legal and statutory due diligence, an opportunity exists to allow residents to apply for a dedicated parking permit at a fee to be agreed, to solely use a specific EV charging bay enabled for this purpose.

## **6 RECOMMENDATIONS**

- 6.1 We consider that the in-depth scrutiny project was undertaken within the context of the Council's 2050 ambition and priorities and that the proposed outcomes for the project have generally been achieved.
- 6.2 It will be a challenge to balance competing demands for on-street, car park and destination charging to ensure that provision matches uptake at different locations. Ongoing community engagement and careful strategy development can reduce the risk.
- 6.3 Moving forward the Council should look to continue to assess charging volume requirements at the different car parks and other Council facilities and begin discussions with companies that could install 'destination' charging options as well as fast and rapid charging at car parks and selected third-party destinations. It should also investigate further the potential for on-street charging options particularly in densely urbanised areas where there is no off-street residential parking and areas of high parking stress.
- 6.4 Throughout this report, we have highlighted support of the Council's ambitions to improve its electric vehicle charging infrastructure in terms of aspects of the work programme for the in-depth scrutiny project, alongside the following substantive recommendations to strengthen its preparations for the EV revolution.
- 6.5 We therefore recommend as follows:
- (1) That options be developed for pilot schemes to be mobilised within the current civic year of 2023/24 in appropriate areas as identified by the suggested maps, for pilot schemes for both options including feeder pillars with dedicated charging bays and lamppost and street furniture charging units.
  - (2) That the Council continue to assess charging volume requirements at the different car parks and other Council facilities and begin discussions with companies that could install 'destination' charging options as well as fast and rapid charging at car parks and selected third-party destinations.
  - (3) That ambitious bids be submitted for any available sources of funding to support the increase of the EV charging network.
  - (4) That the success of the pilot schemes be monitored and reported to a future meeting of the Place Scrutiny Committee after the first 12 months of implementation of 1 above for consideration.
  - (5) That the Council installs sufficient numbers of destination or other appropriate EV chargers at all sites where the Council has any form of fleet vehicle operations, to facilitate the transition of its own fleet to EV's.

## Scrutiny Work Programme 2023/24

### Place Scrutiny Committee

**Chair:** Councillor Ron Woodley

**Support Officer:** Tim Row, Principal Democratic Services Officer, [timrow@southend.gov.uk](mailto:timrow@southend.gov.uk)

Agenda Item	Purpose	Description	Cabinet Portfolio	Lead officer
Littering around schools:	To review the placement of public waste bins, anti-littering schemes with schools			
Fly tipping and commercial waste:	issues with commercial waste dumping by public bins on London Road etc			
Car parking	To consider opportunities for shops to validate free parking, first hour free in key areas, etc			
Bus routes	To assess the value of subsidies for under-used bus routes, designing a route to accommodate these			6

Potholes	To review the criteria for a fill vs re-surfacing, what is the average rate of deterioration for a repair			
Drain blockages	To the frequency of unblocking, depth of clearances, high risk areas			
Tree removal and replanting policy	To see where trees are replanted and whether possible to keep within original wards.			

## Cross-cutting Scrutiny, reviews and working panels

Agenda Item	Purpose	Description	Cabinet Portfolio	Lead officer
Outside Bodies Task and Finish			Leader	S Cox (Principal Democratic Services Officer)

## Issues suitable for scrutiny

The following criteria can help to determine a scrutiny committee's programme. A topic does not need to meet all of these criteria in order to be scrutinised, but they are intended as a guide for prioritisation.

- Is the issue a priority area for the Council?
- Is it a key issue for local people?
- Will it be practicable to implement the outcomes of the scrutiny?
- Are improvements for local people likely?
- Does it examine a poor performing service?
- Will it result in improvements to the way the Council operates?
- Is it related to new Government guidance or legislation?

Other points also need to be taken into account when considering whether to review a particular issue:

- Is the subject specific – so that those undertaking the scrutiny can understand exactly what they are scrutinising?
- Is it achievable within the timescale allowed?

The following criteria may also be helpful in identifying what issues are not suitable for scrutiny:

- The issue is already being examined by another body.
- The matter is sub judice or prejudicial to the Council's interests.
- The matter relates to a specific case falling within the complaints procedure.
- The issue relates to an individual disciplinary matter or grievance.

It will be important for members to:

- Ensure that the programme includes a balance of different types of work, including short, medium and long term reviews.
- Issues could be considered at single meetings, or may need to be the subject of a longer term, more in-depth scrutiny review;
- Have regard to the ongoing work of the scrutiny committees, including performance monitoring, budget scrutiny, crime and disorder scrutiny and consideration of the Corporate Plan;
- Ensure that the scrutiny committees retain sufficient capacity to respond to issues that may arise within the year, including pre-scrutiny and call-ins;
- Take into account the resources available to support scrutiny.

The scrutiny chairs will need to consider how best to carry out the pieces of work in discussion with relevant officers and the scrutiny team.