

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 9th May to 27th June 2023. Of this, 207 were informed, which indicates they had visited the project page and viewed the survey and documents, 33 responded online.

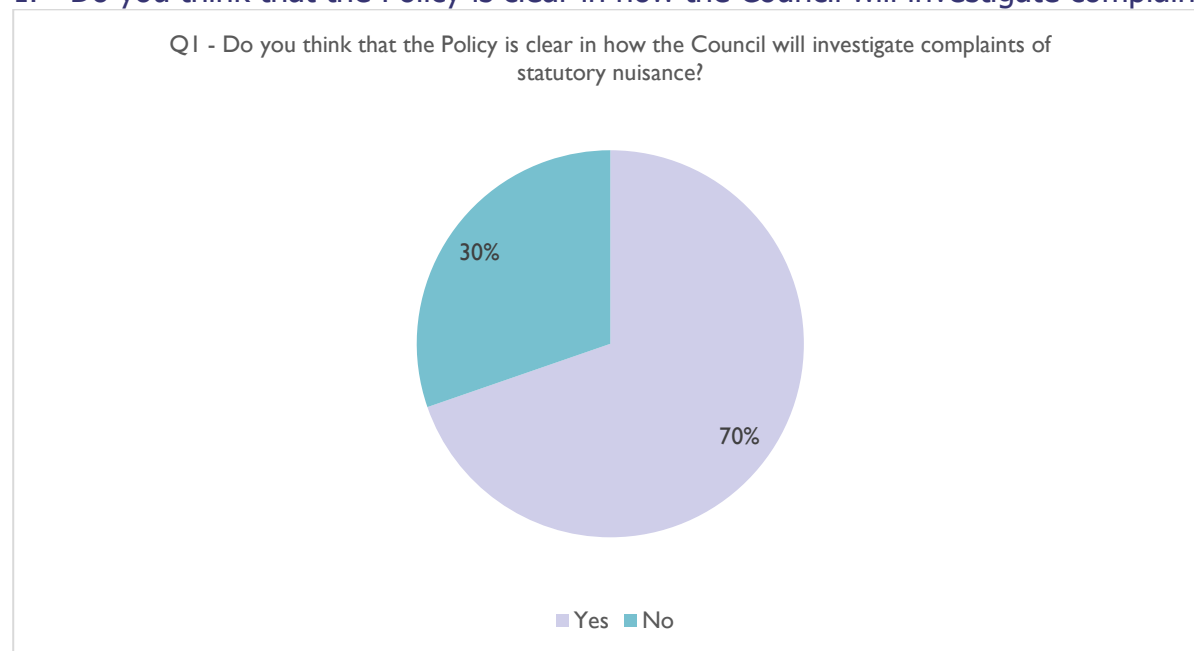
292 people were aware of the consultation (i.e they clicked on the project page) but chose not to comment or look at the survey or supporting documents. The consultation included a survey with questions and a 'free text' box for further comments requesting feedback on certain elements of the whole project.

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?



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).

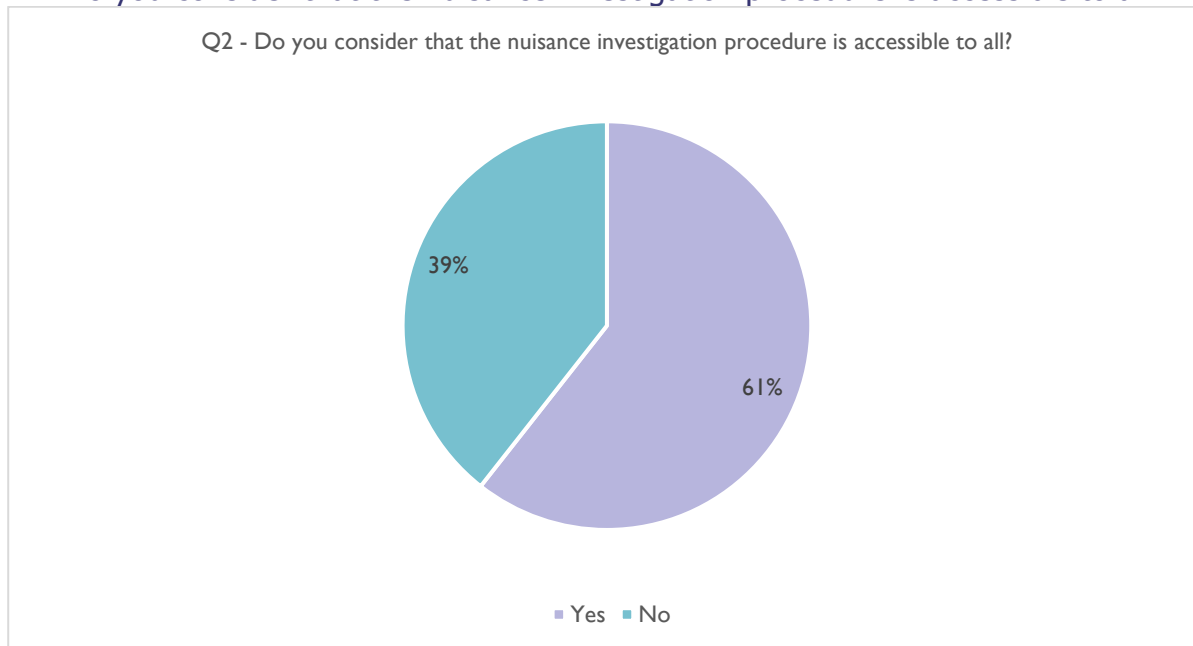
1a If not what is missing?

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?



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).

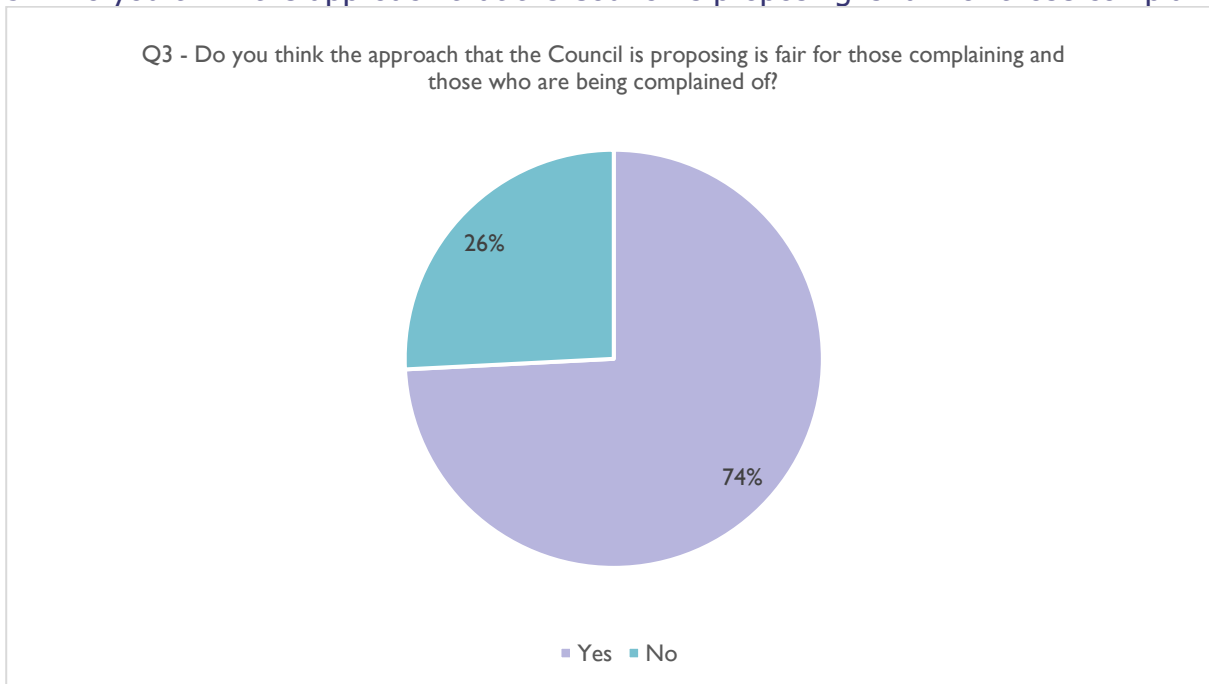
2a If not why not?

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?



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.

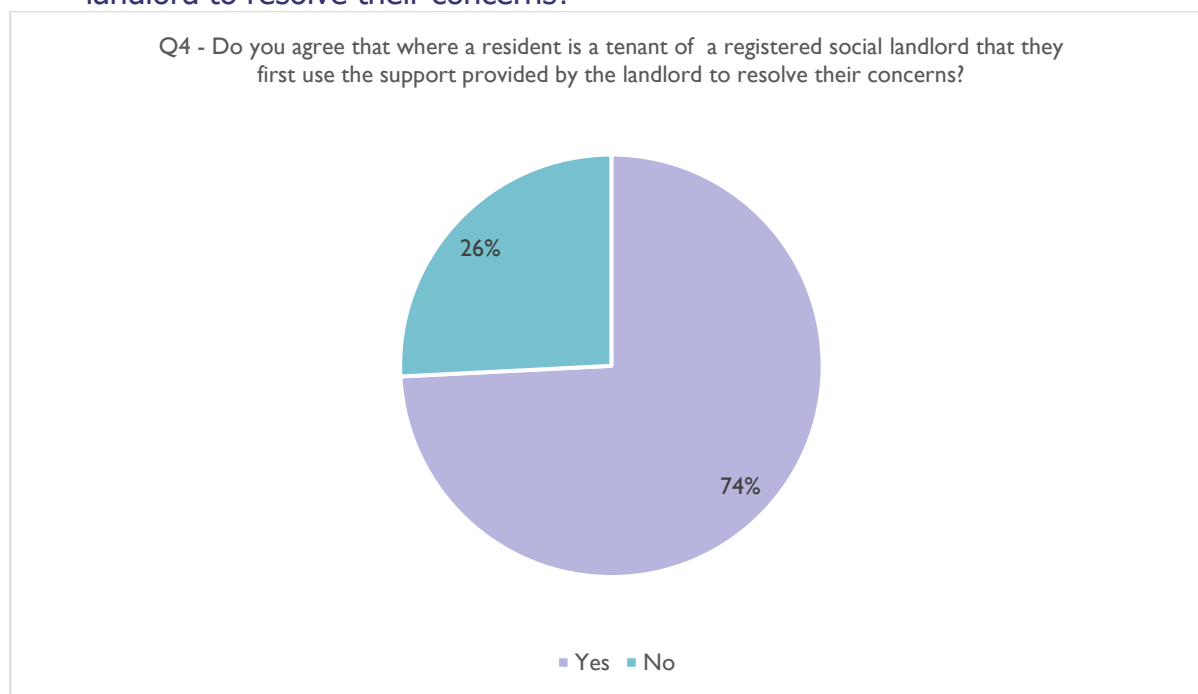
3a If no, please explain what else can be done

	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>
2	<p>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>
3	<p>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>
4	<p>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>
5	<p>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?



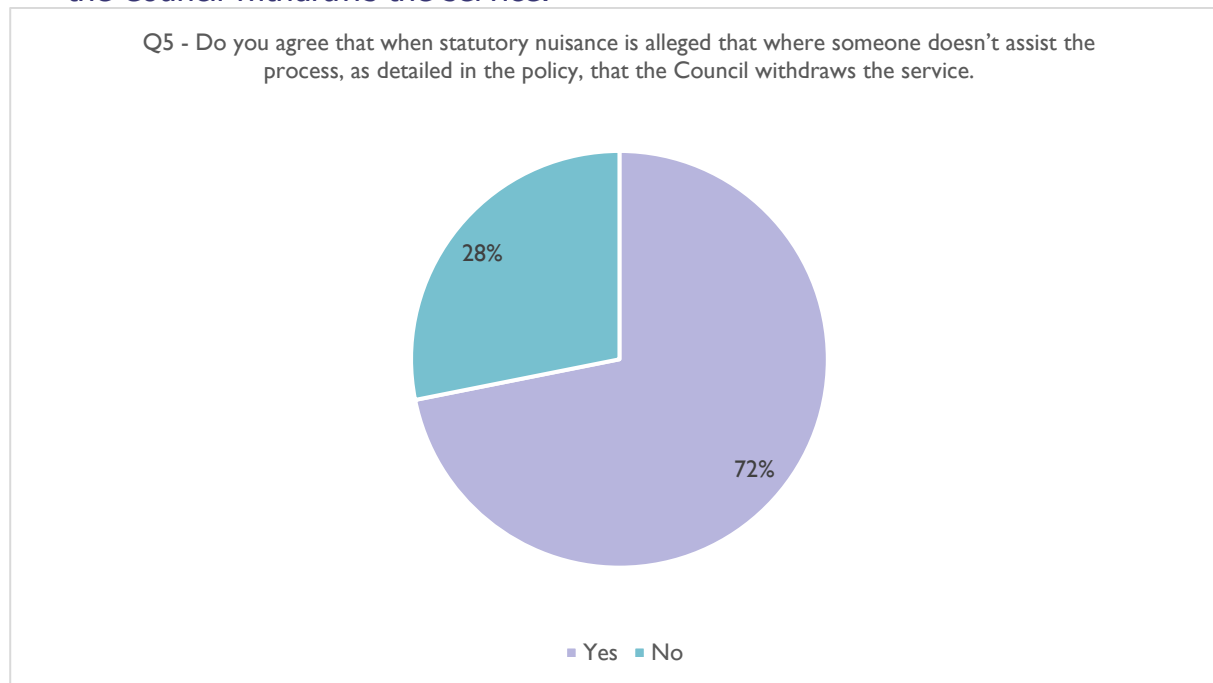
Of the those that responded 74% stating they agree they should first use the support provided by their landlord. Of the 26% who did not agree indicated that some landlords are unresponsive and unreachable which made the solution difficult to resolve and it should be the same procedure for everyone.

4a If no, please explain why not

	Comment	Council response
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.

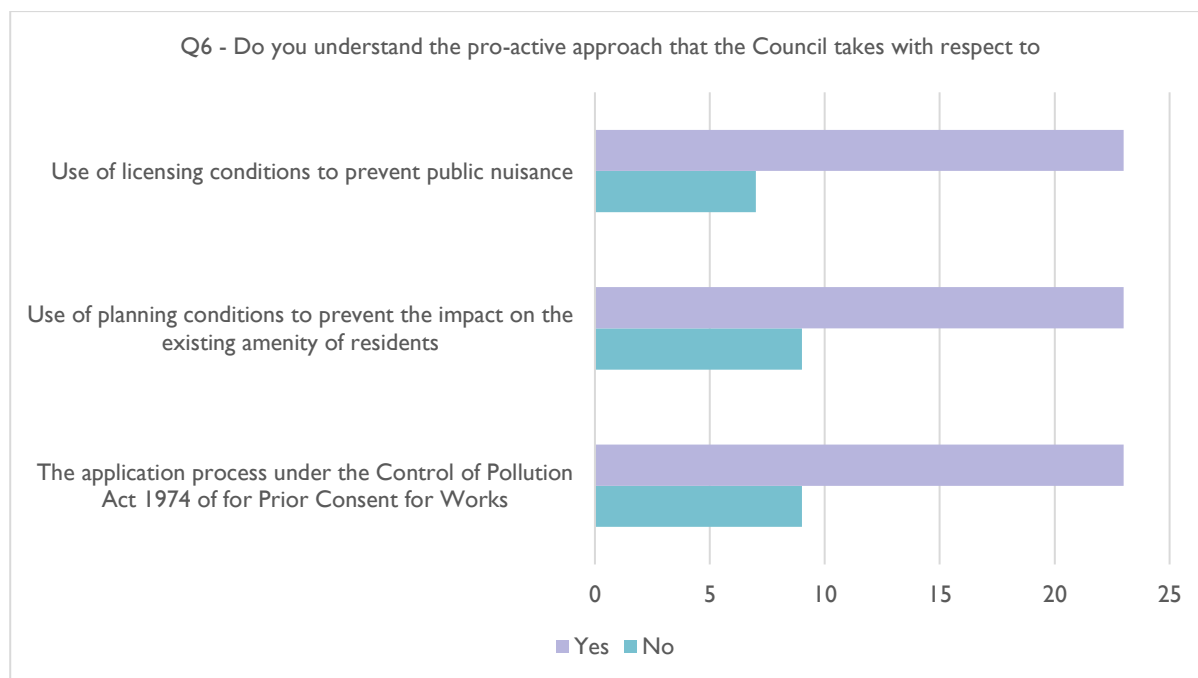
7	Why should they not have access to the same procedure as everyone else? If it's a private landlord and a private tenant who do they contact?	This will be made clearer in the policy. Complaints about private landlords and private tenants would be investigated by the local authority.
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5. 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



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.

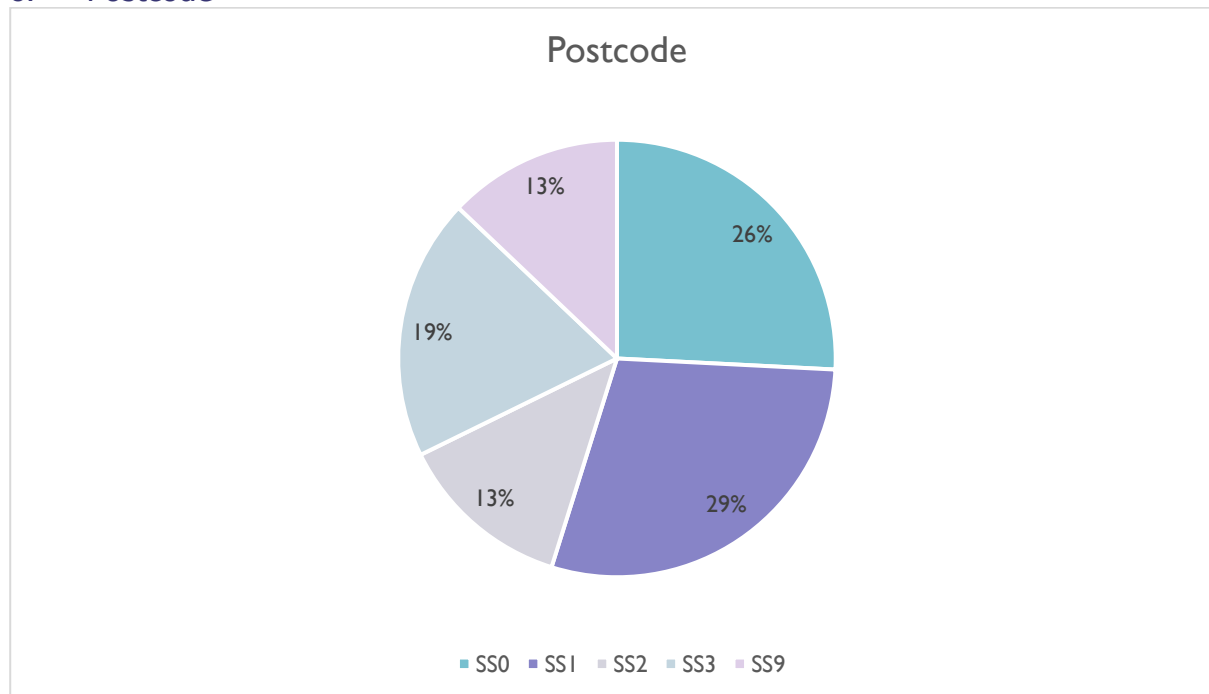
	doesn't present as a problem. Just because something isn't regular, doesn't mean it isn't as damaging.	
6	Take existing amenities into greater consideration when assessing all planning conditions and applications.	This is part of the pro-active approach that the council takes.
7	Please see above. Malicious 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.