

DEFRA

Neighbour and Neighbourhood
Noise - A Review of European
Legislation and Practices: *Research
Contract EPG 1/2/36*

March 2002

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Prepared by: Steve Mitchell

For and on behalf of Environmental Resources Management
Approved by: _____
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Position: _____

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EXECUTIVE SUMMARY

Background

The number of domestic noise complaints reported to local authorities in England and Wales is approximately equivalent to one in every 500 people raising a single complaint each year. The most common cause of complaint is neighbour noise. Whilst many factors should be taken into consideration when analysing statistics such as these, it is clear that noise in the domestic setting is having a major effect on many people. It is therefore important to ensure that the methods used to manage neighbour and neighbourhood noise are as effective as possible.

The fact that neighbour noise is not covered by the current EC initiative on environmental noise management ⁽¹⁾ is characteristic of the problem; it is a local problem that is difficult to tackle strategically, it has much to do with social behaviour, its policing is labour intensive and tends to involve several agencies, and technical remedies are limited. Nonetheless, DEFRA is committed to pursuing optimal methods for managing neighbour and neighbourhood noise, and this study is part of that ongoing process.

Environmental Resources Management (ERM) was commissioned to undertake a review of European legislation and practices relating to neighbour and neighbourhood noise. The aim of this study was to examine how other EU Member States legislate and act on neighbour and neighbourhood noise, in order to identify good practice for possible consideration in the UK.

Methodology

A team of bilingual researchers interviewed over 50 officials involved in noise management across the other countries of the EU. For each country, interviews were held with officials from central and local government. A representative region was chosen for the local research, and in many cases a second was subsequently investigated where significant variation in management methods was identified.

A substantial volume of information was collected and is reported in *Annex C* which has a chapter on each country. This information is summarised in the main text of the report using two methods of analysis. Firstly, *Chapter 3* offers a brief summary of legislation and enforcement practices, country by country. *Chapter 4* then compares the findings across countries to contrast the methods adopted using the UK as a benchmark.

(1) Proposed EC Directive on the Assessment and Management of Environmental Noise

Key Findings

At first glance the legislation and enforcement methods used for the management of neighbour and neighbourhood noise across Europe appear similar. Legislation is generally based on nuisance law. However, at closer inspection, there are numerous differences, some of which appear effective, at least in handling complaints, if not necessarily in finding easy solutions.

Neighbour noise in particular is an almost inevitable consequence of urban living and is highly dependent on standards of behaviour and personal consideration. Consequently it is found to cause problems everywhere, although it is likely that the size of the problem varies significantly across Europe depending on local circumstances. In some Scandinavian countries, for example, high standards of thermal insulation and noise insulation may partly account for an apparent lower level of concern with neighbour noise, particularly in terms of the administrative system which does not appear highly tuned to the issue. In southern countries, such as Spain, the Mediterranean lifestyle may have led to a greater tolerance of neighbour and neighbourhood noise, perhaps due to greater intrusion of noise from other sources, such as transportation, into homes through open windows and poorer insulation.

There is a variety of legislation used to address neighbour and neighbourhood noise in different countries. Few countries have a law specifically for neighbour noise whilst neighbourhood noise (produced locally, eg from pubs, commercial premises or local industry) is usually covered in planning legislation. Most countries devolve powers to local government which, to differing extents, draw up local laws on neighbour and neighbourhood noise. Regions within countries often vary in this respect. Germany for example, has national regulations on noise from lawnmowers, sports facilities, construction sites and certain fixed installations, whereas it also has regional (Länder) specific Noise Ordinances for private and commercial activities.

In some countries very strict local laws apply to the hours in which noisy activities can take place. Limitations on lawnmower use is probably the best example, but other activities are included in some countries, such as Do-It-Yourself work in Portugal, or even anything that could potentially cause noise disturbance.

Enforcement practices appear to vary considerably between Member States. In all cases enforcement is shared between police authorities (often more than one) and local environment authorities. However, different countries appear to apportion enforcement powers and the workload of investigating noise complaints differently between these two types of authorities. The structure of the various authorities, their titles and their overall remits, vary greatly making any comparison specifically on the Neighbour and Neighbourhood noise management systems complex. However, it appears that for certain types of noise complaint the police authorities in other countries may play a larger role than in the UK. The use of the police for investigating complaints

in the first instance can be seen as an efficient use of resources, because police authorities generally provide greater coverage of an area than environmental health authorities, and provide a framework for an out-of-hours service. However, in more complex cases, noise measurements and specialist acoustics knowledge may be needed, and these skills generally come from the environmental health authority. Hence there is generally a necessity for overlap and cooperation between the two.

Experience (eg in Amsterdam and in France) shows that integration of the efforts of the authorities appears to improve efficiency noticeably. For instance housing associations are usually involved where high proportions of the population live in rented or leased accommodation. In the Netherlands authority collaboration involves the police, environmental inspection services, housing associations, and health departments. In Denmark housing estates are obliged by law to operate a Council for Tenant Complaints.

Most, but not all countries have mediation services on offer, but some are not free and are seldom used for neighbour noise disputes. In most cases mediation is a fairly new idea. However, in Austria, Denmark, France and the Netherlands, in particular, mediation is seen as a common alternative to prosecution. The mediation system in Norway, although outside the EU, was identified as particularly effective.

Appeal processes against enforcing authorities judgements are available in almost every case, for either party. Information on success rates and timescales is sparse, but it appears that appeals can take several months or even years to be determined. This is clearly a common weakness that is no doubt very frustrating for some long-term noise sufferers.

Lack of resources is also a common theme. It is interesting to note that when asked about the overall efficiency of the system some officers suggested theirs was efficient in dealing with complaints, but not in providing resolutions, suggesting that noise problems between neighbours were inevitable. It is therefore perhaps surprising that few countries are attempting to educate their populations into being less antisocial in terms of neighbour noise. There are cases of education programmes emerging (eg in Italy, the Netherlands and France), and within the last few years annual noise awareness days are commonly being taken as a first step. To date there is little evidence as to how education can prevent noisy anti-social behaviour in the community, but as these programmes mature the benefits may become clearer.

The review showed that the UK has a well established and sophisticated system for managing neighbour and neighbourhood noise, as do comparable European countries. Consequently, most of the elements of best practice identified across Europe within this report, already feature in the UK to some extent. However, some elements of best practice were identified as being worthy of further consideration when formulating future policies to effectively control noise nuisance within the UK. Part of this consideration may require further research into the finer details of how they are executed

elsewhere, including formal costs, qualified benefits, and the identification of the potential pitfalls. Three areas in particular seem to warrant further study:

Integration of local authority efforts – the Amsterdam example appears to offer benefits.

Mediation – mediation in Norway is cited as a model service, achieving high levels of success.

Education – further research into the effectiveness of education programmes, particularly in schools.

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1 INTRODUCTION

1.1 PREAMBLE

Environmental Resources Management (ERM) was commissioned by the Department for Environment, Food and Rural Affairs (DEFRA) to undertake a review of European legislation and practices relating to neighbour and neighbourhood noise. The main aim of this study was to examine how other EU Member States legislate and act on neighbour and neighbourhood noise, in order to identify good practice for possible consideration in the UK.

ERM was assisted by Bernard Berry of Berry Environmental Ltd.

1.2 BACKGROUND

The number of domestic noise complaints reported to local authorities in England and Wales is approximately equivalent to one in every 500 people raising a single complaint each year. The most common cause of complaint is domestic noise. Whilst many factors should be taken into consideration when analysing statistics such as these, it is clear that noise in the domestic setting is having a major effect on many people. It is therefore important to ensure that the methods used to manage neighbour and neighbourhood noise are as effective as possible.

Regulation on noise in the UK began in earnest in the 1960's and now provides a sophisticated range of laws and guidelines allowing different sources of noise to be addressed by various authorities, under various situations (planning, permitting, enforcement etc). In recent years European regulation has introduced further impetus to this process, most recently with the Integrated Pollution Prevention and Control (IPPC) Directive for certain industrial processes and the draft Directive on the Assessment and Management of Environmental Noise ⁽¹⁾.

The fact that neighbour noise is not covered by these EC initiatives, and that it is DEFRA's intention to exclude it from the National Ambient Noise Strategy ⁽²⁾, is characteristic of the problem; it is a local problem that is difficult to tackle strategically, it has much to do with social behaviour, its policing is labour intensive and involves several agencies, and technical remedies are limited. Nonetheless, DEFRA is committed to pursuing optimal methods for managing neighbour and neighbourhood noise, and this study is part of that ongoing process.

(1) www.europa.eu.int/comm/environmental/noise

(2) Towards an Ambient Noise Strategy - A Consultation Paper from the Air and Environmental Quality Division, DEFRA, November 2001.

In the UK we have four regulations that are used routinely to address neighbour and neighbourhood noise:

- Control of Pollution Act 1974, Part III (England, Wales and Scotland);
- Environmental Protection Act, 1990, Part III (England and Wales);
- Noise and Statutory Nuisance Act 1993 (England, Wales and Scotland); and
- Noise Act, 1996 (England, Wales and Northern Ireland).

The most recent of these, the Noise Act 1996, was aimed specifically at giving local authorities powers to deal with noise complaints firmly and efficiently, particularly at night, and includes prescriptive guidance on investigating complaints. However, whilst many local authorities do operate out of hours noise complaints services, few have chosen to adopt the voluntary powers offered by the Noise Act.

Other legislation also plays a part in neighbour and neighbour noise management in the UK, including Building Regulations, Machinery Noise Directives, Public Entertainment Licensing laws, police regulations such as those giving powers for Anti-Social Behaviour Orders, and various planning legislation and guidance.

1.3

THE STUDY OBJECTIVES

Commentators on the issue have suggested that in certain respects neighbour and neighbourhood noise may be better regulated and policed in other European countries. Hence, there is a need to carry out a thorough review of activities in all member states to see if their experience can be used to improve the system in the UK.

The aim of this study has been to examine how other EU member states legislate and act on neighbour and neighbourhood noise nuisance and to identify good practice that might be considered for adoption within the UK.

The objective of the study is to provide assistance to DEFRA and the Devolved Administrations in developing policy and guidance to tackle neighbour and neighbourhood noise in the UK.

1.4

SCOPE OF THIS REPORT

The study concerns neighbour and neighbourhood noise, i.e. noise heard in the home. The distinction between these types of noise is of importance when considering how they are managed. The Study Brief, included in *Annex A*, distinguishes them as follows:

- *neighbour noise* - that produced by a person's neighbours; and

- *neighbourhood noise* - that produced in the neighbourhood such as noise from pubs, commercial or local industry and construction sites, but not from transportation;

Whilst the study concerns both types of noise, it was clarified in the Inception Meeting that the emphasis of the study was to be on neighbour noise. The scope of the study is indicated by the series of tasks listed in Section 3.1 of the Study Brief. These can be summarised as follows:

- to make contacts in all EU states;
- to review the legislative systems, enforcement procedures, and education programmes for dealing with neighbour and neighbourhood noise;
- to review whether there is a right of appeal against regulatory bodies;
- to examine how measures on neighbour and neighbourhood noise link to other strategies;
- to establish how far the objectives of the legislation have been achieved;
- to compare and contrast the different approaches, including the scale of the problems, sources, population densities, purpose of legislation and enforcement procedures and cost;
- to identify good practice;
- to estimate the costs and potential benefits of adopting different legislation within the United Kingdom; and
- to report the findings.

Additional correspondence made it clear that a full cost/benefit analysis was not intended.

1.5 *STRUCTURE OF THIS REPORT*

The remainder of this document is organised as follows:

- *Section 2* describes the methodology used in carrying out this research;
- *Section 3* provides a summary of the findings of the study for each of the Member States;

- *Section 4* gives an analysis of the study findings in terms of the study tasks outlined above, using the UK system as a benchmark; and
- *Section 5* presents the key findings of the study and identifies areas for further research.

This report also includes four annexes:

- *Annex A* contains a copy of the Study Brief;
- *Annex B* includes a summary of relevant UK legislation;
- *Annex C* contains detailed reports for each of the Member States; and
- *Annex D* provides details of related research.

Annex C comprises 15 chapters, each reporting on one country (Belgium having chapters on Wallonie and Flanders). This is an important part of the report, and although written in a compact style still covers 91 pages. It is for this reason that it is annexed from the main text, but the interested reader should refer to the annex for further details on the points summarised in the main text. Each chapter of this annex is arranged under a set of uniform headings and a table of contents matrix is included to help find the relevant section easily.

References to sections of annexes in this report are given with the annex letter as a prefix to the section number, e.g. *Section C1.2*, is Section 1.2 of Annex C.

1.6

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Technical Advisor	Bernard Berry.

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2 RESEARCH METHODOLOGY

2.1 INTRODUCTION

This chapter describes the way in which the information required for the study has been obtained, collated and analysed, in order to facilitate a comparison of legislation and enforcement practices in different member states.

The study has included four main stages:

1. Project Inception;
2. Research of Member State Practices;
3. Analysis; and
4. Reporting.

The methodology used in each of these is described below.

2.2 PROJECT INCEPTION

Stage 1 of the study included clarification of the study requirements through an inception meeting, making appropriate contacts in each country and the development of a protocol for use during data collection.

In order to gain an understanding of the way in which legislation is enforced on a day-to-day basis, close contact with the authorities that administer neighbour and neighbourhood noise legislation was required. This included at least **two levels** of telephone interviews, at national and regional/local authority level, using local language in order to help obtain full and unambiguous information. To further improve communications and understanding of the local setting, in nine cases, researchers native to the country carried out the interviews.

In some cases, more than one local authority was contacted. For example, in Belgium representative from two regions, Wallonie and Flanders, were contacted. In Germany, different Länder were contacted in order to identify differences in enforcement practice in different regions. In several other cases more than one city was studied where it became apparent that noise management practices vary between cities.

2.3 RESEARCH OF MEMBER STATE PRACTICES

Each of the main contacts was then interviewed following a standard interview protocol. The protocol ensured that all aspects of the Study Brief were addressed. Experience from similar research studies showed that obtaining comparable information from different countries was not straight-

forward. The protocol was developed with this in mind, in particular to form a fixed sequence of questioning. Using the local language for interviews through a team of carefully briefed researchers was also intended to help address this problem. The research protocol is reproduced in *Box 2.1*.

Box 2.1

Member State Research Protocol

1. Overview of Legislative Framework

A summary of neighbour and neighbourhood noise is required for each member state. This should include a list of all relevant laws, with a summary of the powers those laws give to address neighbour and neighbourhood noise. In addition:

- What sources of noise are covered?
- Who is given control powers?
- What procedures have been established?
- What penalties are used?

2. Guidance and Education

Where information is available, obtain a list, summary or full copies of:

- Standards;
- Codes of practice;
- Guidelines;
- Education leaflets; and
- Training courses.

These might be produced by national legislators, regional government, professional institutions or non-governmental organisations (eg UK National Society for Clean Air and Environmental Protection – NSCA) that take an interest in noise. Is there an active strategy to reduce noise complaints through education and publicity (eg UK Annual Noise Awareness Day)?

3. Current Enforcement Practice

There may be differences between the written law, and what occurs in practice.

- Who records the complaint in the first instance?
- Who responds to a complaint – environmental health, the police, others?
- Do they attend the scene and when?
- Are noise levels recorded, if so, are measurements attended or unattended, by who, what noise indices are used?
- Can offending equipment be confiscated?
- Who is available to help resolve disputes – mediators (if so, at what cost) or a regulatory watchdog?

Procedures used to investigate noise problems and to enforce the law may vary depending on the source of the noise, and local circumstances (ie the level of disturbance, day/night, one-off or ongoing complaint, licenses premises or dwelling etc). Therefore, it will also be helpful to obtain a description of how a noise complaint is investigated for:

- a barking dog;
- a persistently noisy Hi-Fi;
- a loud party;
- a noisy factory; or
- a noisy construction site.

4. The Right of Appeal

The lack of a fair appeal process in the UK system has been criticised. An individual's right to challenge the judgement of the investigating Environmental Health Officer in determining whether noise constitutes a nuisance or not, is limited.

- If an individual is prosecuted, or alternatively if a complainant is dissatisfied with the enforcing authorities decision not to proceed with prosecution, can they appeal, and if so, to whom, and over what timescale?
- What proportion of prosecutions go to appeal?
- Are appeals often successful?

5. Links to Other Strategies

Noise is just one result of anti-social behaviour and various regulators may be involved in enforcement. How does the regulatory approach to neighbour and neighbourhood noise link to other strategies, for example:

- Housing – in terms of joint occupancy, party wall guidelines, building regulations for noise insulation;
- Planning – standards with regard to adjacent noise sources for new and refurbished housing, and different uses within the same building (eg a dwelling over a pub or club).
- Entertainment Licensing – are there limits on hours/ days or operation, noise levels, use of noise limiting devices etc.
- Crime Reduction – anti-social behaviour intervention, policing, innovative schemes (eg UK Neighbourhood Wardens), controls on fireworks, intruder alarms, stereo noise limiters and other technologies or noise insulation grant scheme.

6. How Far are the Legislative Objectives Met ?

How effective do both local and national contacts feel that the law is in dealing with neighbour and neighbourhood noise (ie are the majority of complaints resolved amicably, and are solutions found quickly)? In addition:

What is the scale of the neighbour and neighbourhood noise problem:

- How many complaints are received each year?
- What sources of noise give rise to the greatest number of complaints? Is it possible to rank noise sources by the number of complaints?
- Is there a temporal trend in terms of what type of complaints are received when?

What proportion of complaints are resolved through:

- informal (amicable) agreement;
- prosecution (ie using which legislation);
- mediation;
- further environmental authority involvement; or
- involvement of other agencies, eg police, social services etc.

How quickly are complaints resolved:

- In general, for different sources of noise (eg parties, barking dogs etc)?
- How are persistent noise complaints between neighbours resolved and how long can they be unresolved for?

What level of official resource is used to deal with neighbour and neighbourhood noise?

- What are the approximate numbers of person days per complaint?
- How many full time staff are employed?
- What population is covered by this staff?

Finally, are there any features of the procedures that are considered to be particularly effective, innovative or cost effective, or procedures that we might learn from?

2.4 ANALYSIS AND REPORTING

A Summary Comparison Matrix was produced to aid the analysis. The matrix comprised a column for each country with rows for each of the topics and the main sub-topics of the research protocol. It filled four A3 size pages and served two purposes; firstly, to facilitate a gap analysis of the information obtained during a first tranche of interviews; and secondly, to aid a comparison of the different topics across member states. Follow up enquiries were made to complete the matrix as far possible.

The summary comparison matrix was subsequently broken down into a series of smaller tables, each covering one of the main topics in the protocol. These are reproduced in the report on the analysis of each topic given in the corresponding sections of *Chapter 4*.

2.5 RELATED RESEARCH

In the course of the study the following noteworthy recent or ongoing research studies were found:

- A Review of Construction Noise Management Methods across the EU, Volker Irmer, 2001-2002.
- The Development of a Standardised Interview To Assess Domestic Noise Complaints and their Effects (SIANCE), Prof SA Stansfeld, B Brown, and C Cobbing, for DEFRA and DoH, 2000.
- Neighbour Noise Annoyance Studies, Jef Van Dongen, TNO, Netherlands, 1998 to 2002.
- International Institute of Noise Control Engineers (I-INCE) Technical Study Group (TSG) 3 Noise Policies and Regulations.
- Project SYLVIE (Systematic Noise Abatement in Inner City Residential Areas - in German), European Commission, LIFE Programme Project SYLVIE

Summaries of the relevant work undertaken to date on these projects are given in *Annex D*.

3.1 INTRODUCTION

Annex C provides separate reports on the research findings for each Member State. This chapter, along with *Chapter 4*, summarises these reports.

This chapter provides an overview for each country so as to set the scene and give a general picture as to how neighbour and neighbourhood noise is managed in each country. *Chapter 4* then analyses the key findings of the research by considering how the various 'topics' that make up a noise management system compare across the different countries.

The national summaries provided in this chapter are therefore necessarily brief, and the reader is referred to the individual country reports in *Annex C* for details.

So as to help meet the requirements of the Study Brief (see *Annex A*), the UK system is taken as a benchmark against which other countries are reported. This means that in cases where the management method is similar to that in the UK less detail is provided, so the emphasis is on different methods adopted elsewhere. *Annex B* provides a brief overview of the relevant UK Legislation for readers who are not familiar with it. However, this report does not give a full account of the way in which neighbour and neighbourhood noise are managed in the UK, but rather it contrasts methods adopted elsewhere in Europe against each other and the UK system.

3.2 AUSTRIA SUMMARY

Competencies for neighbour and neighbourhood noise in Austria lie with the regional authorities. For the purpose of this study, an investigation of noise enforcement practices in the region of Vienna was carried out. However, there are eight other regions in Austria and procedures may vary between them.

Depending upon the source of the noise, a complaint may be dealt with by the police, the town council or district authorities. In practice, neighbour noise, such as that from barking dogs, loud music etc, is dealt with by the police, and noise from a pub or club is dealt with by the town council or district authority. During the investigation of a complaint, noise measurements are carried out in accordance with official standards. However, there are no statutory noise limits and as a result, the recording of noise levels may do little to resolve disputes. Penalties can include fines, the prohibition of an activity and confiscation of equipment, although this is rarely used in practice. No mediation services exist at the moment, although it is understood that the City of Vienna is currently investigating this.

There is a right of appeal for each party, which must be made within four weeks of a decision being made by the courts. The appeal is made to the authority to which the initial complaint was made. No data on the timescales associated with this procedure, or on the number of cases that go to appeal were available.

3.3 *BELGIUM, WALLONIE SUMMARY*

In Belgium, the control and enforcement of environmental matters is shared between the Federal Government and the regional authorities, of which Wallonie is one region ⁽¹⁾. Consequently, regional legislation is implemented within a framework of Federal, European and International law.

National legislation has been established through a Royal Decree, a Civil Code and a Penal Code, which cover noise from non-permanent establishments, (including neighbour noise and noise from small clubs and bars) and which provide powers for noise limits, private noise lawsuits and disturbance at night, respectively. In addition, in the city of Liege, authorised levels are established in relation to the source of the noise, the location, time of day and existing ambient noise levels.

The Environment Police ⁽²⁾, the police or the city health and safety department may investigate complaints, although only the environment police are able to carry out noise measurements.

In general, most complaints are dealt with quickly and amicably, with only 10% of cases requiring investigation following an initial visit by the authorities.

3.4 *BELGIUM, FLANDERS SUMMARY*

In Flanders, all permanent establishments require a permit from local authorities, to which target noise levels are attached. This includes establishments that are open to the public, where music is played and those greater than 100 m² in size. Other legislation, which applies nationally, covers noise from non-permanent establishments, including noise from individuals.

Noise limits apply, as measured in the complainant's property. There are no fixed penalties, and the level of penalty, which can include the confiscation of equipment, is at the discretion of the court. In most cases, the Environmental Services department and the police collaborate during the investigation of complaints. As in Wallonie, the national Penal Code regulates noise disturbance at night and is enforced by the police.

(1) There are three regions in Belgium; Flanders, Wallonie and the Capital Region of Brussels.

(2) The Environment Police are part of the local police force, but they do not carry out conventional police work, instead they are trained in environmental management and work in this area of enforcement only.

There is a right of appeal where a permanent establishment has been closed, or where night permits have been withdrawn in response to complaints.

3.5

DENMARK SUMMARY

There is no specific legislation covering neighbour and neighbourhood noise in Denmark. This lack of a coherent and integrated approach to tackling noise problems, which results from the current legislative framework, was the main area of criticism identified during this study. In addition, although other laws can be applied to neighbour noise in social housing or in privately rented accommodation, noise disputes between residents in owner/occupied property is not well legislated for.

All local authorities with social housing are legally obliged to establish a *Council for Tenant Complaints* to deal with complaints of unsocial behaviour, including noise. The costs associated with this are met by the local authority, which also provide accommodation for the Council. In addition, a small payment (of approximately £8.50) is required for each complaint submitted to the council, paid for by the complainant. Penalties can include the cancellation of housing contracts, the use of conditions to control the noise, or obligatory mediation. This approach is considered to be successful in dealing with complaints, and as a result, was recently piloted for privately rented accommodation in Aarhus and Copenhagen. However, at the end of the trial, few neighbour noise complaints had been received.

A trial mediation scheme is also in operation in three police administrative areas, to mediate in neighbour conflicts.

3.6

FINLAND SUMMARY

A number of legislative instruments apply to neighbour and neighbourhood noise in Finland, including Town and Municipal ordinances, which are established locally. The rules and guidelines within the ordinances are included with the papers given to residents when they move into an area, and awareness of noise issues is generally considered to be good as a result. Ordinances may prohibit specific activities during certain times of the day, for instance in Helsinki it is not permitted to operate machinery near to housing between 9 pm and 7 am. This is enforced by the police, who have powers to prohibit activities immediately, if necessary. Certain commercial activities also require an operating permit from the Municipal Environmental Protection Authority, to which noise control measures can be attached.

Police typically deal with neighbour and neighbourhood noise complaints, particularly during the night as the Municipal Authority does not provide a 24 – hour complaint service. The issues surrounding this type of noise in Finland are not well known and it is understood that the authorities are contacted only

in severe cases. Where possible, landlords are also given responsibility for dealing with complaints between neighbours, and failure to accord with tenancy agreements can result in the tenant being given notice to leave under national legislation.

There are also good links with planning and building guidelines, including strictly enforced measures to insulate against the cold and noise.

3.7

FRANCE SUMMARY

A number of legislative instruments are used to control neighbour and neighbourhood noise in France, covering all sources of noise, with the exception of noise from transport and 'classified' installations that require an operating permit. Complaints are dealt with by the Mairie (Town Hall) or the police, and in Strasbourg, 'night correspondents' have been established specifically to deal with neighbour conflicts, including noise. The Mairie is also responsible for 'public tranquillity' and has the flexibility to develop regulations (or *arrêtes*) in response to specific noise issues.

The French authorities provide informal mediation services when dealing with complaints to attempt to resolve neighbour noise issues amicably. Independent mediation services are also available and can be provided upon the request of the complainant. Mediators may also be appointed by the court following a prosecution. A proactive approach to education has also been established, including education documents for school children, national advertising and city exhibitions (eg in Strasbourg).

When investigating neighbourhood or 'commercial' complaints, noise levels are measured and the complaint determined by comparing the difference between levels with and without the disturbance. In the case of neighbour noise, a more subjective approach is taken.

A recent review of practices across the country made a number of recommendations to improve the current system, including the use of a network to exchange ideas between authorities, more co-operation between different authorities (ie police, health and environment services, local associations etc) and improvements to the education programme. Information of neighbour noise issues is well publicised in France through a variety of means.

3.8

GERMANY SUMMARY

There is no specific national legislation to address neighbour and neighbourhood noise in Germany, and as a result, several statutes apply to the control of noise from different sources (e.g. from lawnmowers, sports facilities, construction sites). Specific neighbour and neighbourhood noise law is enforced in regional *Länder* by means of ordinances. The noise ordinances

for Berlin and Hamburg (which are currently under revision) prohibit noise at a level that causes disturbance during certain hours of the day. This applies to noise from private and certain commercial activities.

Owners of housing estates (both privately and publicly owned) are able to establish *house regulations*, which can be used to combat neighbour noise. There is also a private 'right to quiet' which allows individuals to obtain a court judgement against the person causing the noise.

Where possible, the German authorities, including the police and the local environment authorities, encourage individuals to resolve neighbour noise dispute amicably. However, there are no mediation services. There is no published overview of the scale of this problem in Germany, although it is understood that neighbour and neighbourhood noise is a significant problem for most authorities, resulting in a high level of complaint. In addition, complaints can persist for long periods and can be difficult to resolve.

3.9 GREECE SUMMARY

Several legislative instruments address neighbour and neighbourhood noise in Greece, which are enforced by the police, the Ministry of Environment, Physical Planning and Public Works (MEPPPW) or the local Prefecture.

Police regulations prohibit certain activities during certain hours of the day. For instance, the use of musical instruments, radios etc at high volume is not permitted between 3.00 pm and 5.30 pm or between 11 pm and 7.00 am during the summer months. Noise limits have also been established which are applied to different districts or neighbourhoods, according to their use.

The police typically deal with complaints of neighbour noise, and may also deal with some neighbourhood noise complaints, although these are generally dealt with by the MEPPPW or local Prefecture. This is considered to be a cost effective means of dealing with complaints, as the MEPPPW noise control departments and local Prefecture can focus their limited resources on more complex or persistent noise complaints. In addition, it is understood that the majority of complaints can be resolved informally, with the police acting as mediators between individuals. In very few cases, do the authorities resort to prosecution, although no published data is available to confirm this.

3.10 IRELAND SUMMARY

The Irish noise control system is streamlined by the use of Section 108 of the Environmental Protection Agency Act 1992, which allows action to be taken by any aggrieved individual without any significant involvement from the authorities. This relieves the burden of dealing with neighbour noise from the local authority in many cases. Similarly, since the Environmental Protection Agency is the body responsible for noise control at a wide range of industrial

premises, the range of noise complaints that the local authority is able to address is clearly defined.

The principle weaknesses of the system relate to the problem of defining nuisance, the issue of under-resourcing and the absence of a national noise standard or limit for use in determining noise offences. However, despite these apparent weaknesses, the majority of noise complaints can be dealt with effectively without resorting to prosecution. There are no mediators or other watchdog organisations to monitor how noise complaints are dealt with.

Both complainants and defendants may appeal to the Ombudsman and the District Court respectively, if either party is unhappy with a decision made by the local authority or the court.

3.11

ITALY SUMMARY

The Ministry of the Environment in Italy oversees the implementation of legislation at a national level. However, regional authorities are responsible for establishing regional regulations and guidance, and the Provincial and Municipal administrations enforce controls locally.

Civil and Penal codes exist for the control of neighbour noise. The Civil Code, which is enforced by the Local Health Authority, relates to a person's right to health'. In order to demonstrate that the Civil Code has been breached, it is necessary to show that the noise complained of was beyond 'normal tolerability'. In these cases, disputes are judged through the civil court. The Penal Code is enforced by the police and includes the control of noise that causes disturbance. Cases are heard at the criminal court resulting in a fine or a custodial sentence of up to three months. The distinction between the two codes is not always clear and may depend upon the view of the police officer who dealt with the initial complaint.

All Municipalities are also required to prepare an acoustic zoning plan for their area, which specifies daytime and night-time noise emission limits for different classes of land use, ranging from Class I areas which are subject to the highest degree of protection against noise, to Class VI areas which are industrial in nature. Internal and external noise limits are also applied to establishments such as pubs, clubs and other places of entertainment, and to sporting facilities. If the noise levels in a particular area are found to exceed these limits, the authorities must put measures in place to remedy the problem. Noise impact assessments are also required for new development.

3.12

LUXEMBOURG SUMMARY

In Luxembourg legislation on neighbour and neighbourhood noise is included within the law on The Fight Against Noise which covers all sources of noise that can cause damage to human health, work capacity of well-being. Control powers are vested in the police, although the Ministry of Environment is

responsible for co-ordinating activities. General regulations established by the police contain specific provision to control noise from animals; music (including radios, musical instruments etc); 'motionless' cars (including noise from closing car doors etc); skittle games; construction works; and lawnmowers.

The police department in Luxembourg has recently purchased noise-monitoring equipment which has led to significant improvements in the way in which complaints are investigated. The use of mediation is also under consideration. Generally, the current system is considered to be satisfactory, although a system of 'taxed warnings' that would allow the police to impose financial sanctions on persons causing noise, without resorting to lengthy court proceedings, has been suggested as a possible means of improvement.

3.13 *NETHERLANDS SUMMARY*

Noise norms or limits are established for all commercial activities in the Netherlands. These can be attached to permits required for certain operations, or are applied under a 'general rule' for companies that do not require a permit to operate. The Milieudienst or communal environmental inspection services deal with noise norms, and complaints relating to commercial operations. The legislation under which norms are established covers all aspects of the environment (including waste, air quality etc), which is line with the government's integrated approach to environmental control.

The police deal with complaints of neighbour noise in relation to a penal code. The code establishes 'night's rest hours' during which time activities giving rise to excessive noise are prohibited.

In practice, a number of authorities such as the Milieudienst, police, housing associations, health departments and voluntary mediation organisations collaborate to help resolve noise problems, particularly in cases of 'extreme hindrance'. This integrated approach is claimed to be very successful and the authorities in the Netherlands have noted improvements in the system for dealing with noise complaints over the last few years.

3.14 *PORTUGAL SUMMARY*

The Noise Pollution Act 2000 came into force in 2001 and is the national legislation for neighbour and neighbourhood noise in Portugal. One of the main aims of the act was to clarify the complaints procedure by appointing the police as the competent authority for dealing with noise complaints. The police have powers to prohibit certain activities if they are giving rise to a disturbance, or to confiscate equipment. In addition, permits may be required for certain activities, such as DIY or other works in dwellings that occur at the weekend, or after 6 pm in the evening.

Whether an offence has been committed is determined with reference to noise limits where these exist, or a subjective judgement is made by the investigating officer. However, the police are unable to carry out noise measurements and this has led to difficulties in implementing the legislation.

Complaints relating to industrial noise are dealt with by the Ministry of Environment or the Ministry of Industry.

Although most complaints are dealt with quickly and amicably, the new Act has presented numerous enforcement problems, particularly for authorities that are poorly equipped for the new system.

3.15

SPAIN SUMMARY

There is no national legislation relating to neighbour and neighbourhood noise in Spain, although a draft Noise Act has been produced. As a result, noise control legislation is enforced locally through General Municipal Orders. Consequently, legislation and enforcement practices vary between regions, although it is hoped that the development of a Programme on Noise Reduction will help to unify procedures across the country. For the purpose of this study, the Orders for Madrid and Barcelona were investigated.

In Madrid, complaints are dealt with by the Town Hall Environment Department and a 24-hour service is provided. The investigation of complaints includes the measurement of noise levels that are used to determine whether an offence has been committed. Noise thresholds have also been developed for different areas of the city, although it is understood that these are not yet being enforced. Although the procedure for responding to complaints is considered to be efficient, enforcing the legislation and providing solutions to complaints can be very difficult, and many cases remain unresolved.

In Barcelona, there is no clear definition of responsibilities and complaints may be made to the Town Hall or the police. Specific provisions are available for dealing with noise from animals, intruder alarms and air conditioning equipment.

There are no mediation services available to complainants in Spain. Despite the fact that noise is considered to be a significant issue, it is also something that residents have 'learned to live with'. This is illustrated by the apparent lack of link between noise control policy and other government strategies such as planning and housing.

3.16

SWEDEN SUMMARY

Neighbour and neighbourhood noise in Sweden is enforced by local Environmental Health Departments through the *Environmental Code*, which

was established in 2000. The Code provides a framework, which is enforced locally. Although this provides a flexible approach to enforcement, the lack of consistency across the country, which results from the local interpretation of the Code, has been criticised. Under the Code it is possible to reverse the burden of proof, and this is considered to be one of the main advantages of the legislation. Consequently, the onus is on the person responsible for causing the noise to demonstrate that the noise does not constitute a nuisance.

Emphasis is also placed upon landlords for dealing with noise related disputes between neighbours, before the authorities become involved. General rules and guidelines are issued to tenants when renting properties in order to assist landlords, and to protect tenants. The police rarely become involved in noise complaints.

Planning and housing strategies are closely linked to noise control in Sweden, which has high standards of insulation between properties to prevent loss of heat and to insulate against noise. There are also proposals to provide for a 'quiet side' in new properties constructed near to sources of noise, which would contain bedrooms and other reception rooms.

Please refer to *Annex C* for further details of the legislation and enforcement practices in each country.

4.1 INTRODUCTION

Chapter 3 has provided a brief overview of the legislation and enforcement practices adopted in each Member State for the management of neighbour and neighbourhood noise. This chapter now considers the overall research findings within a series of topics. Within each topic, a table first summarises the key findings, with discussion following. The first five topics cover the main aspects of the management systems in use:

- legislation;
- guidance and education;
- enforcement practices;
- the right of appeal; and
- links to other government strategies

Again, the UK is taken as the benchmark, and the emphasis is on deviations from the UK system.

The final three sections of the chapter then offer an analysis of the effectiveness of the various systems that are used under the following headings:

- effectiveness of the current systems;
- cultural factors; and
- cost effectiveness and best practice.

4.2 LEGISLATION

The objective of this area of study was to determine whether Member States have developed specific controls to deal with neighbour and neighbourhood noise. Participants were asked to comment on the main procedural aspects of their legislation, including for example, if the system is nuisance based or if noise limits have been established.

The findings of the study, which are summarised below in *Table 4.1*, indicate that the UK and France are the only Member States to implement particular legislation aimed solely at neighbour and neighbourhood noise. In the UK, this includes the Noise Act 1996 and Noise and Statutory Noise Nuisance Act 1993, and in France, the Decree on the *Fight Against Neighbouring Noise*.

Table 4.1 *Legislation – Summary Comparison of Research Findings*

Country	Does specific Neighbour & Neighbourhood (N&N) noise law exist?	Is N&N noise covered under other national, regional or local legislation?	Is the system nuisance based?	Major differences from UK legislative system?
Austria	No	Competences for N&N noise lie with regional authorities.	Yes, although noise levels are measured during the investigation.	The police deal with most neighbour noise complaints
Belgium, Wallonie	No	Regional legislation is developed within a framework of national regulations.	Yes, for neighbour noise complaints. Noise levels are measured when dealing with neighbourhood/commercial complaints.	Greater police involvement.
Belgium, Flanders	No	Regional legislation is developed within a framework of national regulations.	Yes, for neighbour complaints. Target noise values are applied to all non-permanent establishments.	Noise limits are applied to all permanent establishments. Greater police involvement.
Denmark	No	A number of national laws are relevant to N&N noise. Neighbour noise in owner/occupied dwellings is not legislated for.	Yes, for neighbour noise complaints in social housing only. Noise levels are also applied to different zones of activities.	Neighbour noise in owner/occupied dwellings is not legislated for.
Finland	No	A number of national laws are relevant to N&N noise, plus Municipal Ordinances.	Noise limits are attached to operating permits. Where these do not apply a 'hazard to health' must be demonstrated.	There is a clearer link made between noise and health. Greater police involvement in responding to complaints.
France	Yes – Decree on Fight Against Neighbouring Noise	Other national legislation also covers N&N noise.	Yes, in the case of neighbour noise. For commercial noise, levels must be measured.	Police can investigate and prosecute against noise problems.

Country	Does specific Neighbour & Neighbourhood (N&N) noise law exist?	Is N&N noise covered under other national, regional or local legislation?	Is the system nuisance based?	Major differences from UK legislative system?
Germany	No	Regional Noise Ordinances and other national (Federal) laws are applicable to N&N noise.	Yes, in some cases. Noise levels are also applied and some activities prohibited at certain times.	Use of House Regulations in rented accommodation and 'nights rest hours'. Also greater police involvement.
Greece	No	National and regional laws apply.	Yes, in some cases. Noise levels are also applied and some activities prohibited at certain times.	Use of police regulations. Permits are required for cafes, bars etc which include noise limits.
Ireland	No	EPA Act is the national law for N&N noise.	Yes. This may be judged by the Court for s 108 notices or by an officer for action under s 107.	Section 108 allows authorities to opt out by allowing individuals to apply for a Court Order.
Italy	No	National laws are enforced by regional & municipal authorities.	Yes, for action taken under the Civil & Penal codes. Noise limits are also applied to different land-use planning zones.	Police and health authorities are responsible for the measurement and remediation of noise.
Luxembourg	No	National laws on N&N noise are complemented by legislation of the City Police.	Yes - disturbance to public tranquillity is prohibited. Noise levels also apply in some cases.	The Police are the enforcing authority.
Netherlands	No	National legislation is defined in local regulations.	Neighbour noise complaints are nuisance based. Noise norms are established for commercial operations.	Use of noise norms for commercial activities. Police deal with all neighbour noise complaints.
Portugal	No	Noise Pollution Act is main legislation.	Yes, although noise levels are also measured, particularly for commercial operations.	Permits are required for certain activities (ie DIY). N&N noise laws are enforced by the police.

Country	Does specific Neighbour & Neighbourhood (N&N) noise law exist?	Is N&N noise covered under other national, regional or local legislation?	Is the system nuisance based?	Major differences from UK legislative system?
Spain	No	Regional Municipal Orders have been established which cover N&N noise.	Noise levels are measured in all cases.	Greater reliance on noise limits which apply to different areas.
Sweden	No	A national Environmental Code covers all sources of noise in addition to other environmental issues.	Yes, although noise levels may be measured if necessary.	Burden of proof can be reversed. Landlords have greater responsibilities.

Four countries, Germany, Luxembourg, the Netherlands and Portugal, have developed noise legislation at either a national or regional level, which is not specific to neighbour and neighbourhood noise, but which covers both these sources of noise in detail. Other Member States have the necessary legislative provisions for dealing with neighbour and neighbourhood noise, but these are tied into more general environmental control laws (see for example, the Environmental Code in Sweden, *Section C15.1*).

It is common for neighbour and neighbourhood noise to be considered at the regional level of government, or for regional laws to be established within a framework of national legislation (see for example, Flanders, *Section C3.1*). In Germany (see *Section C7.1*) national regulations legislate against noise from lawnmowers, sports facilities, construction sites and fixed installations such as air conditioning systems, and regional or Länder specific Noise Ordinances have been developed to control noise from private and commercial activities. In France, the Maire (Mayor) has responsibility for *public tranquillity* and can establish specific regulations in response to specific noise issues, although it is not clear to what extent this power is used (see *Section C6.1*).

One country, Denmark, does not legislate for neighbour noise disputes between individuals living in owner/occupied dwellings, and as a result, action against neighbour noise can only be taken on behalf of those living in private rented, or social housing.

In determining whether an offence has been committed, all Member States rely to a certain extent on a nuisance-based control system, particularly for dealing with neighbour noise. In some cases, this approach is made more objective by defining certain hours of the day during which noise should not give rise to disturbance. For example in Berlin, it is prohibited to make noise that may disturb the *nights rest* between the hours of 10 pm and 6 am (see Germany, *Section C7.1*). In Liege (see Wallonie, *Section C2.1*) a methodology for determining whether a noise is giving rise to a disturbance has been developed, which includes the measurement of noise levels. This applies to all sources of noise, and is similar in approach to the methodology described

in British Standard BS4142 ⁽¹⁾, which in the UK relates to noise from industrial/commercial activities.

The use of permits, which include noise limits, for certain types of establishments is also widespread. For example, in Flanders, a permit is required for all non-permanent establishments (see *Section C3.1*).

The way in which the various legislation is enforced, is discussed below in *Section 4.4 on Enforcement Practices*.

4.3 GUIDANCE AND EDUCATION

This area of research looked at both the level of guidance offered to regulators and the levels of guidance and education offered to the public. This was acknowledged as an important element of a country's neighbour and neighbourhood noise strategy since the laws and enforcement systems provided can only be effective if everyone concerned is adequately briefed on their existence and content. There is also interest in how much education is taking place in schools that might influence children's behaviour with respect to creating anti-social noise. *Table 4.2* summarises the key information obtained from each country on these topics.

Table 4.2 *Guidance and Education - Summary Comparison of Research Findings*

Country	Is guidance on N&N noise available for the general public and for regulators?	Are there education programmes on N&N noise?
Austria	Several leaflets are available to regulators and the general public, including information for schools.	The Austrian Noise Abatement Society organise seminars. Noise Awareness Day since 2000.
Belgium, Wallonie	None identified.	None identified.
Belgium, Flanders	Flemish MiNa – Plan 2 Flemish Environmental Policy Plan has several themes, including noise. Little information is available in Gent due to a lack of resources.	None identified.
Denmark	Guidance on noise insulation in homes was produced in 1997.	Seminars are arranged by the Ministry of Environment to explain changes in legislation.
Finland	Information is provided on a national website, established by the Ministry of Environment. Guidelines are also given to residents when they move into an area.	There is a National Day of Silence but it is not well publicised.

(1) British Standard BS4142: **Method for Rating industrial noise affecting mixed residential and industrial areas**, 1997, BSi.

Country	Is guidance on N&N noise available for the general public and for regulators?	Are there education programmes on N&N noise?
France	Various guidance documents have been produced, including information for schools.	Poster campaigns and city exhibitions are used to raise awareness. There are children and adult education schemes.
Germany	A booklet has been produced by the Federal Government that includes data on the scale of noise problem in Germany and information on how to reduce noise.	International Day of Quite was held in 2000.
Greece	A national website is provided by the ministry.	None identified.
Ireland	The DoELG has published a leaflet which describes rights under law. Regional guidance has been produced in Dublin for use by officers.	A few, non-registered professional training courses are provided.
Italy	Leaflets have been produced in accordance with the framework law.	Programmes are run locally in some areas. Some locally approved education programmes.
Luxembourg	None identified.	None identified.
Netherlands	Manual for Industrial Noise has been produced.	The Dutch Noise Disturbance Foundation has run campaigns in the past. Over Christmas 2000 television commercials were also used. Some cities have Neighbourhood Days.
Portugal	Leaflets are available. The authorities expect that more guidance will be produced following the implementation of the Noise Pollution Act in 2001.	The Portuguese Acoustical Society runs courses for professionals.
Spain	Educational leaflets are available at town halls and are provided to schools.	Barcelona Town Hall is launching a campaign in 2002. The Institute of Acoustics have organised an annual Noise Day for the last four years.
Sweden	None identified.	A national noise day is currently being considered.

In general little detailed guidance to regulators was found. Notable exceptions to this are Ireland and France (and the UK). This may be because such guidance is kept internal to the various authorities, but it may also be that the large police involvement in many countries means that noise complaints procedures are covered under more general police procedures.

Most countries produce guidance to the public, at least in the form of information leaflets and websites, although it appears one or two do not (or if

they do they are sufficiently obscure to have not been noted by the officers that were interviewed). It is difficult to assess the extent to which the necessary information has been passed to the public through these means, and officers' opinions varied on this. Several countries have non-governmental organisations which co-ordinate information on neighbour noise in a similar way to the National Society for Clean Air (NSCA), the UK Noise Association and other noise campaign groups do in the UK. The Dutch Noise Disturbance Foundation have been campaigning on neighbour noise since the 1970s (see *Section C12.2*) and last year television commercials were used to ask people to refrain from causing noise disturbance over the festive season.

In recent years nearly half of EU countries have organised some form of Noise Awareness Day, like the UK's, but some appear to have either not repeated it, or are yet to actually proceed with the idea. In the Netherlands some cities hold more general Neighbourhood Days aimed at improving the sense of community.

Education in schools is, similarly, a recent development, with the level of activity varying across Europe from nothing in some countries to a range of child and adult educational material in France. In the UK, the South Buckingham District Council have distributed the *What is Noise?* educational CD-Rom for 4-11 year olds (produced in the year 2000 with sponsorship from BAA). This is probably a leading example of attempts to influence the behaviour of children to reduce the incidence of anti-social noisy behaviour.

4.4

ENFORCEMENT PRACTICES

One of the key aims of this study has been to establish how neighbour and neighbourhood noise control powers are enforced in practice, rather than to look in isolation at the legislative provisions. Consequently, participants were asked to provide information on their day-to-day complaint response procedures, including for example, the following information:

- Who responds to complaints?
- How are complaints determined?
- Are there alternatives to prosecution such as mediation?

The findings are summarised below in *Table 4.3*.

Table 4.3 Enforcement Practice - Summary Comparison of Research Findings

Country	Who responds to complaints?	Are noise levels recorded?	Do procedures vary across regions?	Can equipment be confiscated?	Alternatives to prosecution
Austria	The police deal with neighbour noise, and the district authority with other sources.	Yes, in accordance with a standard procedure. A private 'auditor' may also be employed to monitor noise levels.	Yes. Region of Vienna only included in study.	Yes, under specific circumstances.	A mediation programme is currently underway in Vienna (SYLVIE) funded by EU LIFE.
Belgium, Wallonie	The police, environment police or Safety & Health Service may respond.	Yes, for commercial noise complaints, less so for neighbour noise.	Yes, since legislation is enforced regionally within framework of national law.	Yes	The Peace Judge can act as mediator between parties.
Belgium, Flanders	The police investigate initially, followed by Environmental Services.	Yes, by Environmental Services.	Yes, since legislation is enforced regionally within framework of national law.	Yes	None identified.
Denmark	Local authorities and Tenants Complaints Councils in rented property.	Yes	National legislation applies but procedures may vary regionally.	Yes, although this rarely occurs.	A pilot mediation study is running in three police administrative areas.
Finland	The police or officers from the municipal authorities may respond.	Yes, in some cases.	Yes, legislation is enforced regionally.	No	None identified.
France	The police or the Hygiene & Health Service. In Strasburg <i>Correspondent</i> ⁽¹⁾ also deal with night-time noise.	Yes, in the case of commercial noise.	Yes	Yes, although this occurs infrequently.	A mediation service is available. Where possible, complaints are resolved informally.

(1) See Section C6.3.

Country	Who responds to complaints?	Are noise levels recorded?	Do procedures vary across regions?	Can equipment be confiscated?	Alternatives to prosecution
Germany	The police or the local Environment Authority.	Yes, in some cases.	Yes, legislation is enforced regionally (by Land).	Yes	None identified in Berlin or Hamburg.
Greece	The police.	Yes, although noise levels cannot be measured by the police.	Legislation is national but procedures may vary regionally.	No	None identified.
Ireland	Local authorities deal with complaints.	In some cases. A data-logger may also be used to record intermittent noise.	Operating procedures vary.	No	None identified.
Italy	Urban police or the local pollution authority (ASL) deals with neighbour noise. The Regional Environmental Protection Agency (ARPA) deal with commercial noise.	Yes. Noise limits are used frequently in noise legislation.	National laws are enforced regionally so procedure may vary.	No	None identified.
Luxembourg	The police via a complaints intervention centre.	Yes, although this is a recent development.	No.	No	The use of a mediation service is being considered.
Netherlands	The police deal with neighbour noise. The Milieudienst ¹ deal with commercial noise complaints.	Yes, as noise norms are applied to commercial establishments.	Local regulations and general approach to dealing with complaints may vary.	Yes	A not-for-profit mediation service is available.

(1) ¹ City Environment Department

Country	Who responds to complaints?	Are noise levels recorded?	Do procedures vary across regions?	Can equipment be confiscated?	Alternatives to prosecution
Portugal	The Police. The Ministry of Environment also deal with commercial noise.	Yes, although the police are not able to carry out noise monitoring.	Operating procedures may vary, depending on resources available.	Yes	None identified.
Spain	The police or officer from the Town Hall respond.	Yes	Yes, legislation is enforced locally.	No	None identified.
Sweden	Local Environmental Health departments.	Yes	Yes, procedures may vary locally.	No	None identified.

Table 4.3 reveals a diversity in several elements of enforcement practice across different countries, in particular in the authorities that carry out the various duties involved. Accordingly, further research was undertaken to try to clarify the roles of the various authorities, in particular that of the police. The position is complicated by overlaps between authority roles, and also by the translation of the authorities names. For example, it is common outside the UK to have several 'police' authorities, whereas within the UK we have only one, at least with respect to neighbour and neighbourhood noise. Table 4.4 summarises the roles and powers of the various authorities involved in managing neighbour and neighbourhood noise, but it should be emphasised that this is information obtained from individuals and it may not necessarily reflect the official definition of an authority's role.

Table 4.4 *The Roles and Powers of the Various Local Authorities*

Authority Name ⁽¹⁾	Role/ Powers for Neighbour and Neighbourhood Noise ⁽²⁾
Austria	
Police	Investigate complaints, carry out noise measurements
Municipality (Magistrat)	Carry out noise measurements, mediate between parties
District Commission (Bezirkshauptmannschaft)	Carry out noise measurements, mediate between parties
Inspection Authority	Investigate complaints
Belgium, Wallonie	
Safety and Health Service	Offer technical advice on noise control measures, have powers to close commercial premises and declare residential homes uninhabitable
Environment Police	Carry out noise measurements, offer technical advice on noise control measures, have powers to close commercial premises and declare residential homes uninhabitable
Police	Complaints are addressed to them, investigate complaints, intervene even where no complaint has been made
Peace Judge (District Level)	Acts as mediator at the request of the neighbours concerned
Belgium, Flanders	

Authority Name ⁽¹⁾	Role/ Powers for Neighbour and Neighbourhood Noise ⁽²⁾
Environmental Services Department	Carry out noise measurements, log findings, have powers to close commercial premises and declare residential homes uninhabitable and take administrative measures to do this
Police	Complaints are addressed to them, investigate the complaint, have powers to close commercial premises and declare residential homes uninhabitable in persistent cases
Ministry of the Environment	Oversee the appeals procedure
Denmark	
Environmental Protection Authority	Complaints are addressed to them by individuals, investigate complaint, measure noise levels,
Police	Can enforce penalties such as fines, custodial sentences and confiscate equipment under instruction of the Environmental Protection Authority
Council for Tenant Complaints (Beboer Klagenævn)	Investigate complaints for those living in social housing and have powers to enforce remedies
Finland	
Ministry of Social Affairs and Health	Intervene when noise may pose a health hazard
Municipal Health Authority	May issue regulations to eliminate or prevent a health hazard
Municipal Environmental Protection Authority	May issue regulations to eliminate or prevent noise disturbance
Police	Complaints are addressed to them, will conduct a preliminary investigation, have the power to stop disruptive activity
France	
Mayor	Complaints are addressed to them
Hygiene and Health Service	Complaints are addressed to them, officers will investigate the complaint, officers can establish an official record and if necessary impose a fine
Police	Complaints are addressed to them, officers will investigate the complaint, measure noise levels (resources permitting)
Night Correspondents	Will intervene at the request of an inhabitant to help prevent/resolve neighbour disputes
Germany	
Police	Investigate the complaints regulated under federal and regional law
Environment Authority	Investigate the complaint, responsible for of ordinances
Greece	
Police	Complaints are addressed to them, will conduct a preliminary investigation, can enforce compliance to the limits, are able to make arrests in relation to the complaint
Noise Department of the Ministry of Environment, Physical Planning and Public Works	If permits are involved complaints can be addressed to them, measure noise levels, work closely with the police
Environment Department of Local Prefecture	If permits are involved complaints can be addressed to them, measure noise levels,
Ireland	
City or district Council	Complaints are addressed to the relevant section within the Local Authority. In some Counties these are titled the 'Environmental Health Unit' or 'Noise Control Unit'. This body may also carry out noise inspections (for example in the case of 'bad neighbours' in local authority housing)
Italy	

Authority Name ⁽¹⁾	Role/ Powers for Neighbour and Neighbourhood Noise ⁽²⁾
Urban Policemen	Neighbour and neighbourhood noise complaints are most commonly made to them, investigate noise complaints and file a 'complaint against unknown people'
Local Public Administration	Complaints are addressed to them when the source of the noise is clear and it is known who is responsible
Local Pollution Enforcement Authority (Azienda Sanitaria Locale)	Investigate the complaints against unknown people, measure noise at the receptor, report findings to the police
Regional Environmental Protection Agency (Agenzia Regionale per la Protezione dell' Ambiente)	Investigate cases passed to them from the local public administration, measure noise levels at the receptor, responsible for statutory controls on pollution
Mayor	Can impose penalties for causing a disturbance such as a fine or remediation
Luxembourg	
Police	Receive complaints via an <i>intervention centre</i> , investigate the complaint, can transmit complaint to prosecutor
Netherlands	
Police	Complaints are addressed to them, they investigate the complaint, are authorised to impose penalties such as fines and to confiscation equipment
Housing Association	Collaborate with police to address cases where housing is owned by the housing association, can initiate an eviction, are responsible for finding alternative accommodation for those that they evict
Milieudienst Amsterdam	Responsible for curbing noise disturbances from commercial premises, will issue send out information to parties concerned, will attend the source of the noise, measure noise levels, have the authority to levy a fine
Noise Disturbance Foundation (Nederlandse Stichting Geluidshinder)	Has an advisory role to government, organisations, companies and individuals on all noise related matters
Portugal	
Police	Refer complainants to local authority
Local council	Measure noise levels
Ministry of the Environment	Investigate noise complaints relating to commercial premises, measure noise levels
Spain	
Environment Department of Madrid	Complaints are addressed to them, investigate the complaint at source, measure noise levels, will classify the noise disturbance as moderate, severe or very severe, have authority to impose a fine, can demand noise limiting devices are fitted to offending equipment
Police	Can insist the offending activity is stopped immediately
Sweden	
Environment and Health Administration	Complaints are addressed to them, will investigate the complaint and take noise measurements
Police	Limited involvement unless access to a property is required or there is a considerable problem

(1) In some cases the English translation of the authority's name can be unavoidably misleading with regards to its role.

(2) The roles and powers reported are interpretations of the views of various interviewees, and may not reflect official views.

The information summarised in *Table 4.4* indicates how enforcement practices appear to vary considerably between Member States. In all cases enforcement is shared between police authorities (often more than one) and local environment authorities. However, different countries appear to apportion enforcement powers and the workload of investigating noise complaints differently between these two types of authorities. The structure of the various authorities, their titles and their overall remits, vary greatly making any comparison specifically on the Neighbour and Neighbourhood noise management systems complex. However, it appears that for certain types of noise complaint the police authorities in other countries may play a larger role than in the UK. This may in part be due to differing public perceptions of the police and environment authorities, but further research is needed to clarify their roles and the resource implications of the differing approaches.

The use of the police for investigating complaints in the first instance can be seen as an efficient use of resources, because police authorities generally provide greater coverage of an area than environmental health authorities, and provide a framework for an out-of-hours service. However, in more complex cases, noise measurements and specialist acoustics knowledge may be needed, and these skills generally come from the environmental health authority. Hence there is generally a necessity for overlap and cooperation between these authorities. In Strasbourg (see *Section C6.6*) 12 police officers, which constitute the *Environment Brigade*, have received specific training on noise control. This service was established in 1996, but does not exist in all French cities. In addition, in some areas of France, *night correspondents* have been established by the city council (see *Section C6.3*) to deal with neighbour conflicts, including noise.

In Luxembourg (see *Section C11.3*) complaints go via an *Intervention Centre*, which is seen as an effective means of responding to complaints quickly and of screening complaints.

An integrated approach to dealing with complaints is used in parts of the Netherlands, with a number of authorities, including the police, environmental inspection services, housing associations and health departments collaborating to resolve noise problems. In Denmark (see *Section C4.3*) all local authorities with social housing estates are obliged by law to set up a *Council for Tenant Complaints*. These councils deal only with complaints in social housing relating to unsocial behaviour within the housing estate, which includes '*unacceptable noise causing significant nuisance...!*'.

The means by which complaints are investigated has already been touched upon in *Section 4.2*. Although many legislative systems rely on a nuisance-based approach, noise measurements are also often used during an investigation, especially in the case of neighbourhood noise, but to varying extents.

Noise limits are used for neighbourhood noise in most cases, either as emission or immission limits dependant on land use zonings. Limits of neighbour noise are less common.

In Ireland, no noise limits have been established for dealing with noise from non-licensed premises and it is not, therefore, an offence to cause excessive noise *per se*. This is seen as the main weakness in the Irish legislative system.

One aspect of the Irish system (see *Section C9.1*) that differs from procedures in the UK (and in other Member States), is the way in which a 'Section 108' notice is used for *opting out* of noise complaints. The legislative system is similar to Section 82 of the UK's Environmental Protection Act in that an individual can apply directly to the courts for action against a noise maker, but in Ireland local authorities appear to actively encourage this process. This effectively means that in these cases the responsibility for dealing with complaints is passed back to the complainant, although the local authority may become involved in persistent cases.

Austria, Denmark, France and the Netherlands have mediation services, which can be used as an alternative to prosecution, particularly in cases of neighbour noise. In Denmark (*Section C4.5*) mediation services are not widely used in dealing with noise, since both parties are required to cover the costs associated with mediation. However, an EU funded pilot study is currently underway in three police administrative areas. Although these services do not appear to exist in other Member States, the police and environmental officers interviewed stated that wherever possible, complaints were dealt with informally and amicably, with the investigating officer attempting to mediate between the two parties.

During the course of the study, and following interviews with representatives from the Council for the Prevention of Crime in Denmark, reference was made to the approach to mediation taken in Norway. This is described in *Box 4.1* below.

Norway has a national coverage of publicly supported mediators solving private disputes such as family and neighbour conflicts, car theft, burglary, violence and vandalism, through the use of local mediators. The 1991 *Act on Mediation*, as amended, addresses the mediation of both criminal and civil prosecutions. The overall aim of the service is to encourage the use of an external body at an early stage in for example, a neighbour noise complaint, to prevent the problem from escalating into a neighbour dispute. The service is free of charge. Agreements made as a result of mediation are legally binding.

Prosecutors, the individuals involved, or a third party can bring cases to the *Mediation Council*. The service relies on the voluntary participation of trained 'laymen' who are appointed for a period of four years. Today, there are some 40 Mediation Services in Norway providing 700 mediators for a population of around 4.5 million.

On average, the costs associated with the service are NKR 4,800 (€600) per case. The annual budget for the service, which is met by the public purse, is NKR 27 million (€3 million). Each municipality in Norway is obliged to provide accommodation and to cover the administrative costs of the running of the Mediation Service. In most local authorities there is one full-time employee who co-ordinates several voluntary mediators. During 2000, the Mediation Councils received a total of 6,527, of which 261 (or 4%) cases were neighbour conflicts.

More information on this service is available at www.konflikt.com.

4.5

THE RIGHT OF APPEAL

The right to appeal against a local authority notice served in the UK has been the subject of some criticism. In particular, the right to challenge judgements made by local authorities in cases of statutory nuisance are limited, both for the complainant and the person responsible for the noise.

For example, a person served with an abatement notice under section 80 of the Environmental Protection Act 1990 may appeal against the notice to a magistrates court within a period of 21 days. However, where this appeal challenges the professional judgement of the investigating Environmental Health Officer, the procedure is unclear, and requires the complainant to obtain sufficient evidence to demonstrate that a nuisance has not occurred. Similarly, a complainant who was unhappy with a decision made by a local authority not to prosecute would need to demonstrate that a nuisance had indeed occurred.

Consequently, appeal processes in other countries were of particular interest to this study. Interviewees were asked to comment on the procedure by which appeals are dealt with, and by whom, and on the timescales required for determining appeals. A summary of the information obtained during the study is provided below in *Table 4.5*. Unfortunately in some countries where prosecutions, and therefore appeals, are rare, information was not forthcoming.

Table 4.5 *Right of Appeal - Summary Comparison of Member States Research Findings*

Country	Is there a formal appeal process for the complainee and/or the complainant?	Which body deals with complaints?
Austria	Yes, for both parties.	The authority that dealt with the initial complaint.
Belgium, Wallonie	Unclear	The Superior Court.
Belgium, Flanders	For the complainee only.	Ministry of the Environment.
Denmark	Yes, for both parties, in the case of non-commercial noise complaints only.	Housing Court in the case of social housing neighbour noise complaints.
Finland	Unclear	Unclear
France	Yes, for both parties.	Court of Appeal or Court of Cassation.
Germany	Yes, for both parties.	Parliament or the Constitutional Court.
Greece	For the complainee only.	Civil Court.
Ireland	Yes, under section 107 notices.	The Ombudsman or District Court.
Italy	Yes, for both parties.	Civil or Penal Court or the Municipality.
Luxembourg	Yes, for both parties.	High Court.
Netherlands	Yes, for both parties.	Town Hall followed by High Court.
Portugal	Yes, for both parties.	The Police.
Spain	Yes, for both parties.	The Police of the Town Hall.
Sweden	For the complainee only.	County Administration or the Environmental Court.

In most cases, a formal procedure exists, both for the complainant and the accused, to appeal against decisions made by the relevant enforcing authority. However, the right of appeal is used rarely in those Member States that have established procedures, and as a result, little information on the procedural aspects of the appeal procedures could be gleaned. In addition, no Member States collate data on the proportion of complaints/prosecutions that are appealed against, or on the timescales involved, at either a national or regional level. Anecdotal information on appeal timescales ranged from six months to up to ten years in some cases, although representatives from authorities in Luxembourg (see *Section C11.4*) and the Netherlands (see *Section C12.4*) estimated that appeals often take one to two years to determine.

In the Flanders region of Belgium, and in Greece and Sweden, appeal procedures exist only for the accused, and it is understood that there is no formal right of appeal by the complainant if they are unhappy with the way in which their complaint has been dealt with, or with the decision made by the enforcing authority.

In Sweden (see *Section C15*) under the 1999 Environment Code it is possible for the authorities to 'reverse the burden of proof' when dealing with complaints including those of neighbour and neighbourhood noise. In such cases, where a complaint is issued against an individual, it is for that individual to demonstrate that an offence has **not** been committed. One interviewee indicated that this ability to reverse the burden of proof is the most effective aspect of the current environmental legislative system. However, experience in the application of this process is limited since the code is relatively new, and it is easy to see how it may be more applicable to other environmental issues which are less subjective and where an offence is more obvious to prove. Indeed, Stockholm appears to be running a trial whereby neighbour noise is specifically excluded from these powers.

4.6

LINKS TO OTHER STRATEGIES

This part of the research sought to identify the means by which different countries have attempted to tackle neighbour and neighbourhood noise problems indirectly by developing other related strategies that help to prevent noise problems from occurring.

We have already seen how neighbour and neighbourhood noise management in almost all European countries is shared between environmental health departments and the police, both in terms of legislation and enforcement, and how in some countries the police play the major role, particularly for neighbour noise. Some countries report a high degree of integration between the police and environmental services, and also with other authorities. In Amsterdam, for example, the City Council, the police, communal health departments, and several housing associations will collaborate in extreme cases ('extreme hindrance', see *Section C12.5.1*). The Amsterdam police report that increased integration has improved neighbour noise management in recent years. The influence of housing association policies on anti-social tenants may also be greater in countries where a larger proportion of the population live in rented accommodation.

The link between building design standards for housing and neighbour noise is perhaps obvious, but it has been studied in detail by TNO in the Netherlands over the last few years (*Section D1.2.3, Annex D* gives details). Through this work the relationship between noise insulation standards and noise complaints has been formerly reported and has lead directly to an improvement in the national noise insulation standards for foot-fall noise.

Strategies for mediation of neighbour and other personal conflicts also link to noise management. Several countries are pursuing improved mediation services. Whilst some information (e.g. from the *Council for the Prevention of Crime* in Denmark) suggests that most cases that reach mediation are based on other problems between neighbours, there are few statistics available to show how strongly neighbour noise features in mediation strategies. In Denmark the Council for the Prevention of Crime is running a three-year trial mediation scheme in three police administrative areas to mediate in criminal neighbour conflicts, including those associated with noise (see *Section C4.5*).

Education clearly influences the behavioural standards of children and, in the longer term, adults. Since noise nuisance is usually caused by anti-social behaviour, it follows that education may be one way of improving the situation. There is evidence of this link being made in most countries, but it is probably true to say that education to reduce neighbour noise is a fairly new strategy in nearly all cases, and the benefits that are achievable have not yet been quantified.

Pubs and clubs are a major source of neighbourhood noise problems and licensing laws have long since been used as a means of tackling the problem. The link to liquor licensing laws is considered to be well established, including in the UK where the Institute of Acoustics is shortly to issue technical guidance on noise from pubs and clubs.

Finally, there is a link between neighbour and neighbourhood noise and planning. This was recognised by many of the officials interviewed but just how directly neighbour and neighbourhood noise concerns directly affect strategies for improved town planning is unknown. Planning is used routinely to help avert transportation and industrial noise impacts on new housing but neighbour noise tends to be more dependent on the internal planning and design of developments. One initiative in this area that has been pursued in Sweden for several years now, is the desirability of a 'quiet side' to new dwellings. The concept may be more typically aimed at mitigating transportation noise, but clearly also has an influence on neighbour and neighbourhood noise if it creates a haven from extraneous noise in at least one part of the home.

4.7 *EFFECTIVENESS OF CURRENT SYSTEMS*

Variations in the way in which neighbour and neighbourhood noise are managed have been identified and it is of interest to try to establish which approaches are most effective. For example, where there is specific legislation does this provide for a more effective system ?

Unfortunately, answering this question is far from straightforward. First of all, what do we mean by an effective system ? If we mean a system that is effective at providing resolutions to noise impacts from neighbours and neighbourhood noise sources then it must be effective in encouraging the

sufferer to complain, in administering complaints, and at finding solutions. Of course a system that actually prevents the noise occurring is even more effective. Perhaps the only fair way to judge the effectiveness of the system would be to survey a proportion of the population, asking if they experience neighbour or neighbourhood noise disturbances. In the UK the Noise Attitudes Survey does just this, but such data are limited elsewhere across Europe. As lesser alternatives we are left with complaints statistics and the opinions of enforcement officers, both of which are fraught with problems.

In the UK the Chartered Institute of Environmental Health collects data from local authorities on noise complaints from which trends can be studied. There are also steps being taken to try to make complaints reports more consistent (e.g. the SIANCE project, see *Annex D*). Again, equivalent data seem rare elsewhere. There is also a major problem with comparing complaints statistics between different countries; different authorities deal with different complaints (from different sources, or in different types of housing) in different countries and regions. Hence, whilst various data on numbers of noise complaints were obtained little can be deduced from them.

The direct cost of a system could be judged from the numbers of staff required to administer it, but for similar reasons direct comparisons between countries are considered unreliable. Nonetheless, *Table 4.6* gives some of the data collected on numbers of complaints, numbers of staff (environmental, police etc) involved and populations served. Sub-section 6 in each of the 15 chapters of *Annex C* give further details on complaints and staff levels in each country.

The views of officers enforcing the system are therefore probably the best source of information of effectiveness obtained from this study. These too must be used with great care, as they may represent personal points of view. Some of the comments received are summarised in *Table 4.6*.

Table 4.6 Effectiveness - Summary Comparison of Research Findings ⁽¹⁾

Country	Do the regulators feel that the complaints resolution system is effective, or are their weaknesses?	Current annual number of complaints and/or number of officers available for dealing with complaints.
Austria	Guidelines on noise from hi-fi's and open air concerts are considered to be useful.	No data on annual number of complaints. One officer per 160,000 population in Vienna.
Belgium, Wallonie	Yes in general, with only 10% of complaints requiring a second visit during the investigation.	No data on annual number of complaints. Six officers are available in Liege (population 200,000).
Belgium, Flanders	No comments made.	129 complaints in Gent in 2000. No data on personnel resource as officers deal with a range of issues. The police also deal with complaints.
Denmark	The system for dealing with noise from tenants is considered to be complex. However, the Council for Tenant Complaints works well.	127 complaints (social housing only) in Aarhus in 2000. One officer per million population.
Finland	Legislation is difficult to apply, and the requirement for noise monitoring is expensive and time-consuming.	No data on number of complaints or personnel resource.
France	In general the system is considered to be fairly effective. A recent survey identified good practice in different regions and several recommendations were made.	757 complaints per million population. 80 officers per million population (including Police).
Germany	The system is not considered to be optimal. However, cases can persist for long periods and there are no mediation services.	No data on number of complaints. In Hamburg 7 officers deal with complaints.
Greece	Most complaints are dealt with efficiently, but finding solutions to noise problems can be difficult.	No data on number of complaints or personnel resource.
Ireland	Lack of noise limits and reliance on a nuisance based system is seen as the main weakness. Also concern over a lack of resources.	381 complaints in Dublin in 2000 (population 480,000). One officer per 200,000.
Italy	No specific information. Most complaints are dealt with by the police.	No data on number of complaints or personnel resource.

Country	Do the regulators feel that the complaints resolution system is effective, or are their weaknesses?	Current annual number of complaints and/or number of officers available for dealing with complaints.
Luxembourg	The system is considered to be satisfactory. However, improvements have been noted following the purchase of noise monitoring equipment.	The police responded to 340 commercial and 40 neighbour night-time noise complaints in 2000. 24 officers are available in the City of Luxembourg (population 100,000) although they deal with a range of issues.
Netherlands	Yes. Improvements have been identified since the adoption of a new 'Integrated Approach' with other authorities.	1088 complaints in Amsterdam (population 750 000). 200 staff deal with range of complaints, including noise. Police may also respond to noise complaints.
Portugal	Most complaints are dealt with quickly and amicably. A lack of resources was reported, particularly with regard to the implementation of a new Decree.	No data on number of complaints or personnel resource.
Spain	Enforcement can be difficult and time-consuming.	No data on number of complaints or personnel resource.
Sweden	Interpretation of national laws at a local level can be difficult.	200 complaints made to authorities in Stockholm in 2000. No data on personnel resources.

(1) The information summarised in this table may be based on personal opinion or unofficial statistics and should not be taken as the formal view of any relevant authority.

In terms of the scale of the neighbour and neighbourhood noise problem across Europe, the complaints data collated give a general picture, but are certainly not directly comparable. The main reason for this is that complaints due to noise tend to only be recorded as such by environmental health authorities, whereas police departments tend not to report statistics on the reason for complaints. Given that the police handle a large proportion of complaints in some countries it is clear that noise complaints data from other authorities can only give part of the complaints picture. The UK Chartered Institute of Environmental Health's latest data on noise complaints indicate approximately 2000 neighbour and neighbourhood noise complaints per million population. Compared to the data summarised in *Table 4.6* this may appear high, but considering the issues discussed above it may in fact be comparable with some other countries. It also seems likely that some areas, such as the most northern countries, have far fewer noise complaints. Some possible reasons for this are discussed in the following section of this report.

The general view of officers interviewed seems to be that the complaints handling and resolution systems are not ideal. Many officers report difficulties in applying the legislation or guidance, and even those that feel the system for handling complaints is working well, rarely claim that resolutions are found effectively. A lack of resource is a common concern.

Those countries in which officers reported higher levels of effectiveness in resolving complaints tend to include those that have specific legislation on neighbour and neighbourhood noise. This may be no more than coincidence. Those systems where officers report greater effectiveness seem to include those where co-ordination between authorities is best. Indeed a lack of co-ordination is given as a hindrance to effectiveness. This could be due to subjective comments made by officers who feel better about the enforcement system when they are better supported by other authorities. Without objective data it is difficult to draw conclusions, but it seems probable that a co-ordinated approach improves effectiveness.

There are also cultural factors that affect behaviour which further obscure effective approaches, and some of these are discussed below.

4.8

CULTURAL FACTORS

During the course of our research we have become aware of various cultural factors that influence people's attitudes and responses to, in particular, neighbour noise. Since these may influence the methods of enforcement adopted it is considered important to highlight them when making comparisons across countries and before attempting to consider what constitutes best practice.

Firstly, public expectations on neighbour and neighbourhood noise vary across Europe. Some countries, have been addressing environmental noise in general through legislation and policy for many years. Those for which the topic is newer may have populations with lower expectations since the effects of noise and methods of controlling it will be less well known. Access to information on how to deal with noise may be more limited. Populations may be less prone to being annoyed by neighbour and neighbourhood noise and may be less inclined to complain if they are unaware of anything that can be done about it. Attitudes to noise may be different, for example due to social structures and behaviour. Noise in public areas may be more acceptable. People may in a general sense be less bothered by noise. It has been said that some of the southern European countries fall into this category more so than the northern countries.

Climate may play a part in forming these attitudes. Warmer temperate climates generate more outside living and open window lifestyles. In these conditions residents may be more used to external noise such as traffic coming into their homes and hence be less offended by noise from their neighbours.

Spain is an example that illustrates some of these issues. According to national statistics, noise is considered to be the largest environmental problem for the general public in Spain. However, traditionally, noise has also been perceived as something that one has to 'learn to live with', which may explain the reported passivity of the authorities in dealing with complaints and the lack of links to other strategies in Spain. For example, in the past there has

been little consideration of noise when planning noise-sensitive development such as hospitals and housing (although a draft noise Act is under preparation). However, this study has found that in both Madrid and Barcelona, noise is becoming a priority issue for both residents and authorities, and this may well be the case in other cities where attitudes may be changing.

Building design is also an influencing factor. In northern Europe the colder climate has led to high standards of heat insulation in residential buildings and consequently high standards of noise insulation. Windows will often be closed. This may account for the apparently minor concern of neighbour and neighbourhood noise in Finland, for example.

The extent of rented or leased accommodation also affects social behaviour and the techniques available to manage noise disturbances. In countries such as Denmark and the Netherlands housing authorities, landlords and resident groups have additional powers over tenants under the rules of occupancy.

Finally, the extent to which the public accepts punitive regulation in general will have a bearing on how firm neighbour and neighbourhood noise law and enforcement methods can be. For example, many countries give powers to local authorities to create local laws to control noise problems, but the extent to which these powers are used seems to vary. The case of lawnmowers is a good example. Whereas some countries place firm limits on what times of day, and what days of the week lawnmowers can be used, others do not. Some even vary these hours with the summer season, and allow for lunchtime siesta periods whilst others, like the UK, have no time restrictions.

Cultural factors appear to go some way to explaining the differences observed between the systems that have developed in different countries. Historical differences may also play a part. For example, where a country has recent legislation specifically for neighbour or neighbourhood noise this may reflect the importance of the issue or it may simply be that neighbour and neighbourhood noise was not covered by older legislation.

If cultural factors do largely account for the differences in neighbour and neighbourhood noise legislation and practices between countries then these differences may be largely appropriate, and there may be no single system that would be best for all.

4.9

COST EFFECTIVENESS AND BEST PRACTICE

All countries use a system of neighbour and neighbourhood noise management based ultimately on nuisance law. However, there are differences in how this legal basis is supplemented by national and local legislation and there are large differences in enforcement practices. The previous section has noted that there may be good reason for these differences

due in part to cultural differences between countries, but there are also areas of good practice and high cost effectiveness that could be transferable.

France appears to be alone in having recently carried out a review of neighbour and neighbourhood noise management practices in several cities which resulted in recommendations for best practice (see *Section C6.6*).

At the outset of the study we had hoped to consider cost-effectiveness by identifying the staff costs (i.e. staff numbers) required for each system for a given size of population. Unfortunately, for the reasons given in *Section 4.7* reliable comparisons of staff numbers have not been possible. However, in the course of the research several features of the noise management systems seem to be working well in various countries and could be considered to constitute best practice. These are summarised on *Box 4.2*.

Box 4.2 ***Best Practice in Neighbour and Neighbourhood Noise Management***

-
- restricting the times of day/night in which obviously noisy activities are permitted;
 - adopting local laws on noise control to address specific local noise issues;
 - police dealing with neighbour noise complaints firmly in the first instance;
 - providing adequate resources to local environmental health services in terms of their expertise and staffing levels;
 - integration of the various authorities involved locally, including the police, environmental health, social service, housing associations, and local councils and legislators;
 - creating a network between the different regions to exchange experience;
 - providing public information and guidance on methods of addressing noise problems;
 - raising public awareness on the downsides of noise;
 - including education on the problems of neighbour noise in schools;
 - encouraging communication between neighbours; and
 - offering free mediation services at an early stage.
-

5.1

SUMMARY

This study has researched how all the EU Member States, apart from the United Kingdom, legislate for and act on neighbour and neighbourhood noise nuisance. It has also aimed to uncover elements of best practice adopted in the various cultural settings found across Europe.

A team of bilingual researchers, nine of whom are nationals of the country studied, have interviewed over 50 officials involved in noise management across the EU. Some face-to-face meetings were also used. Interviews were carried out using a carefully developed protocol designed to guide the discussion to the areas of key interest to DEFRA. For each country, interviews were held with officials from central government and from local government. A representative region was chosen for the local research, and in many cases a second was subsequently investigated.

A substantial volume of information was collected and is reported in *Annex C* which has a chapter on each country. This information is summarised in the main text of the report using two methods of analysis. Firstly, *Chapter 3* offers a brief summary of legislation and enforcement practices, country by country. *Chapter 4* then compares the findings across countries to contrast the methods adopted. It then offers an analysis of their effectiveness, how they link to other government strategies, how cultural factors affect them, and elements that may be considered best practice. In this analysis the UK system is used as a benchmark. Some of the key findings are summarised below.

5.2

KEY FINDINGS

At first glance the legislation and enforcement methods used for the management of neighbour and neighbourhood noise across Europe appear similar. Legislation is generally based on nuisance law. However, at closer inspection, there are numerous differences, some of which appear effective, at least in handling complaints, if not necessarily in finding easy solutions.

Neighbour noise in particular is an almost inevitable consequence of urban living and is highly dependent on standards of behaviour and personal consideration. Consequently it is found to cause problems everywhere, although it is likely that the size of the problem varies significantly across Europe depending on local circumstances. In some Scandinavian countries, for example, high standards of thermal insulation and noise insulation may partly account for an apparent lower level of concern with neighbour noise, particularly in terms of the administrative system which does not appear highly tuned to the issue. In southern countries, such as Spain, the Mediterranean lifestyle may have led to a greater tolerance of neighbour and

neighbourhood noise, perhaps due to greater intrusion of noise from other sources, such as transportation, into homes through open windows and poorer insulation.

There is a variety of legislation used to address neighbour and neighbourhood noise in different countries. Few countries have a law specifically for neighbour noise whilst neighbourhood noise sources are usually covered in planning legislation. Most countries devolve powers to local government which, to differing extents, draw up local laws on neighbour and neighbourhood noise. Regions within countries often vary in this respect. In some countries very strict local laws apply to the hours in which noisy activities can take place. Limitations on lawnmower use is probably the best example, but other activities are included such as Do-It-Yourself work or even anything that could potentially cause noise disturbance.

Enforcement practices appear to vary considerably between Member States. In all cases enforcement is shared between police authorities (often more than one) and local environment authorities. However, different countries appear to apportion enforcement powers and the workload of investigating noise complaints differently between these two types of authorities. The structure of the various authorities, their titles and their overall remits, vary greatly making any comparison specifically on the Neighbour and Neighbourhood noise management systems complex (see *Section 4.4*). However, it appears that for certain types of noise complaint the police authorities in other countries may play a larger role than in the UK. The use of the police for investigating complaints in the first instance can be seen as an efficient use of resources, because police authorities generally provide greater coverage of an area than environmental health authorities, and provide a framework for an out-of-hours service. However, in more complex cases, noise measurements and specialist acoustics knowledge may be needed, and these skills generally come from the environmental health authority. Hence there is generally a necessity for overlap and cooperation between these authorities.

Experience (eg in Amsterdam, see *Section 4.6*) shows that integration of the efforts of the authorities involved locally appears to improve efficiency noticeably. Housing associations are usually involved where high proportions of the population live in rented or leased accommodation.

The EC sponsored SYLVIE (Systematic Noise Abatement in Inner City Residential Areas) project in Vienna, Germany (see *Annex D*) is investigating multi-stakeholder participation in developing quieter city environments.

France has carried out a review of enforcement practices in different cities that resulted in recommendations for best practice, including the need to share ideas across authorities and regions (see *Section C6.6*).

Appeal processes against enforcing authorities judgements are available in almost every case. Information on success rates and timescales is sparse, but it appears that appeals can take several months or even years to be determined.

This is clearly a common weakness that is no doubt very frustrating for some long-term noise sufferers.

Most, but not all countries have mediation services on offer, but some are not free. The point at which mediation is offered in a neighbour noise case seems to vary, and in most cases mediation is a fairly new idea (see *Section 4.4*).

Lack of resources is a common theme. It is interesting to note that when asked about the overall efficiency of the system some officers suggested it was efficient in dealing with complaints, but not in providing resolutions, suggesting that noise problems between neighbours were inevitable. It is therefore perhaps surprising that few countries are attempting to educate routinely their populations into being less antisocial in terms of neighbour noise. There are cases of education programmes emerging (eg in Italy, the Netherlands and France), and annual noise awareness days are more commonly being taken as a first step. To date there is little evidence as to how education can prevent noisy anti-social behaviour in the community, but as these programmes mature the benefits may become clearer.

5.3

FURTHER WORK

This study has identified several elements of best practice that could be worthy of further consideration (see *Section 4.9*). Part of this consideration should involve further research into the details of how they are executed, their costs and potential benefits, and pitfalls. Three areas in particular may warrant further research:

Integration of local authority efforts – the Amsterdam example appears to offer benefits.

Mediation – mediation in Norway is cited as a model service, achieving high levels of success (see *Section C4.5 of Annex C*).

Education – further research into the effectiveness of education programmes, particularly in schools.

It is hoped the findings of this study will help further progress in developing the best methods of managing neighbour and neighbourhood noise. In addition to the publication of this report on the DEFRA web site, it is intended that the authors will present the findings to forthcoming UK and international conferences and forums.

Annex A

Project Brief

Specification

NEIGHBOUR AND NEIGHBOURHOOD NOISE A REVIEW OF EUROPEAN LEGISLATION AND PRACTICES

1 Aim

- 1.1 To examine how other EU states legislate and act on neighbour and neighbourhood noise nuisance and to identify good practice that might be considered for adoption within the UK.

2 Objective

- 2.1 The objective is to provide assistance to DEFRA and the Devolved Administrations in developing policy and guidance to tackle neighbour and neighbourhood noise.

3 Main tasks

- 3.1 The following main tasks should be addressed in the context of both neighbour noise and neighbourhood noise:

- to make contacts in all EU states;
- to review the legislative systems, enforcement procedures and education programmes for dealing with neighbour and neighbourhood noise;
- to review whether there is a right of appeal against regulatory bodies' decisions;
- to examine how measures on neighbour and neighbourhood noise link to other strategies (for example: housing, planning, crime reduction, anti social behaviour);
- to establish how far the objectives of the legislation have been achieved;
- to compare and contrast the different approaches, including the scale of the problem, sources, population densities, purpose of legislation and enforcement procedures and cost;
- to identify good practice;
- to estimate the costs and potential benefits of adopting different legislation within the United Kingdom ;
- to summarise the results in a draft report which should include results from all work undertaken;
- to provide a final report.

4 Output and Deliverables

- 4.1 The contractor will provide the following:

- a proposed list of contacts in EU countries, for the approval of DEFRA's nominated officer, prior to making contact;

- a proposed methodology for comparing the legislative overview for approval of DEFRA's nominated officer;
 - a draft report, presenting the results of this work; and
 - a final report appropriately reflecting any comments made by the Nominated Officer.
- 4.2 Ten bound copies of the final report shall be provided, plus an electronic copy in CD-ROM format and an electronic copy in a format which would enable easy transposition to the relevant websites, for example where text and graphics are kept separate and in standard PC compatible formats.

5 Meetings

- 5.1 The Contractor shall include an allowance for attending up to 4 meetings with the Nominated Officer and/or his representative(s). These would include:
- an inception meeting at the start of the contract to enable points of clarification to be addressed;
 - a meeting at which the proposed methodology (Para 3.1 above) will be discussed and agreed. The proposed list and methodology must have been received in writing by the Nominated Officer at least seven working days prior to the date of that meeting; and
 - a meeting to discuss the draft report, which must have been received by the Nominated Officer at least seven working days prior to the date of that meeting.
- 5.2 In addition to the above programme of meetings, allowance should be made for a further progress meeting to be held during the course of the project.

6 Duration of the Study

- 6.1 The contractor shall draw up a programme of work to be completed within a period of four months, which shall be submitted with the tender.

7 Information to be provided in the Tender Submission

- 7.1 The following information must accompany the tender submission:
- a statement setting out the understanding of the brief;
 - a statement describing the likely methodology that would be adopted to meet the requirements of the specification;
 - a statement of the relevant experience of the tenderer in this area of work;
 - a schedule of the key staff who would be assigned to this work together with an indication of their experience;
 - a schedule setting out the anticipated work programme showing, in particular, the expected timing of the submission of the proposed list of

contacts and assessment methodology, the draft report and the final report with reference to the date of the award of contract.

8 Fee Proposal

8.1 The tenderer should submit a fee proposal setting out:

- the firm price, excluding VAT, for carrying out the work set out in Section 3 of the specification, including the allowances made for the reporting required, as described in Section 4 of the specification, and for attending the meetings, as described in Section 5 of the specification and associated expenses including translation costs ;
- the daily rates that would be charged for work carried out by the key staff that would be engaged on this work and their expected time input;
- the element included in the firm price to cover expenses; and
- confirmation of whether or not VAT would be charged.

9 The criteria for evaluating the Tender

9.1 The criteria for evaluating the tender will be based on the points set out in sections 7 and 8 of the specification together with a demonstration of the tender's full understanding of the overall aims and requirements of the study.

10 Contact Point

10.1 Any queries relating to the technical aspects of this specification should be directed to Alan Bloomfield, Department for Environment, Food and Rural Affairs, Air and Environmental Quality Division, Zone 4/G17, Ashdown House, 123 Victoria Street, London, SW1E 6DE, Tel no. 020 7944 5918, Facsimile 020 7944 6300.

Annex B

Summary of UK Legislation

In the UK there are four legislative instruments that are used routinely to address neighbour and neighbourhood noise.

- **Control of Pollution Act 1974, Part III (COPA) (England, Wales and Scotland)** - COPA deals with noise from construction sites. Local authorities are given powers to serve a notice on a developer or contractor, which imposes restrictions to control noise from the construction site. The Act also led to the preparation of four approved codes of practice on; noise and vibration from construction sites ⁽¹⁾, noise from ice cream chimes ⁽²⁾, noise from audible intruder alarms ⁽³⁾ and noise from model aircraft ⁽⁴⁾. The equivalent legislation in Northern Ireland is the Pollution Control and Local Government (Northern Ireland) Order 1978.
- **Environmental Protection Act 1990, Part III (EPA) (England and Wales)** -the EPA addresses statutory noise nuisance from premises (land and buildings). Local authorities in England and Wales have a duty to deal with noise from premises that they consider to be a statutory nuisance. The Act also provides for individuals to complain directly to a Magistrates Court.
- **Noise and Statutory Nuisance Act 1993 (NSNA) (England, Wales and Scotland)** - NSNA amends the Environmental Protection Act 1990 to make noise in a street a statutory nuisance and also provides for greater control over noise from loud speakers in the street and from audible intruder alarms.
- **Noise Act 1996 (England, Wales and Northern Ireland)** - the Noise Act introduced a new night-noise offence relating to domestic premises, and also clarified the procedures associated with the confiscation of equipment giving rise to noise and introduced a fixed penalty scheme. The enforcement of this legislation is not mandatory and few authorities have chosen to adopt its powers.

In addition, the **Civic Government (Scotland) Act 1982** cover noise nuisance in Scotland, giving police officers the power to request noise levels to be reduced.

Local authorities also have powers under the **Housing Act 1996** to seek eviction of a tenant if that person, or visitors to that property, cause a nuisance or annoyance to their neighbours. This covers dwellings and communal areas.

(1) British Standard BS 5228 **Noise control on construction and open sites**, Part 1 1997, Part 2 1997, Part 3 1997 and Part 4, 1992, British Standard Institution. (approval pending)

(2) Department for the Environment (1982) **Code of Practice on Noise from Ice-cream Van Chimes etc**, HMSO.

(3) Department for the Environment (1982) **Code of Practice on Noise from Audible Intruder Alarms**, HMSO.

(4) Department for the Environment (1982) **Code of Practice on Noise from Model Aircraft**, HMSO.

An injunction can also be sought, with if necessary, powers of arrest where there is violence or the threat of violence. Under the Act, Registered Social Landlords may also apply to the courts for the power of arrest to be attached to injunctions, again where there is actual or threatened violence. The Home Office and DEFRA have also produced a Toolkit ⁽⁵⁾ for use by landlords in the private rented sector, for dealing with anti-social behaviour.

The role of the police in supporting local authorities, particularly when dealing with noise complaints out of hours, is also considered to be key, and police presence when statutory action is being taken has been identified as beneficial ⁽⁶⁾. In some cases formal agreements between the police and local authorities have been made to support this relationship.

Third party, independent mediators are also available for helping to resolve neighbour noise complaints before they degenerate into neighbour disputes.

(5) A copy of the Toolkit is available at www.crimereduction.gov.uk/toolkits.

(6) DEFRA (November 2001) **Towards a National Noise Strategy: A Consultation Paper from the Air and Environmental Quality Division**, Department for Environment, Food and Rural Affairs, London.

Annex C

Member State Reports

TABLE OF CONTENTS

Annex C comprises 15 chapters, each reporting the research for one county. Within each chapter a consistent set of 6 topic headings are used.

The matrix below can be used to locate the page number for a given country/topic combination.

Country	Overview of Legislative Framework	Guidance and Education	Current Enforcement Practice	The Right of Appeal	Links to Other Strategies	How Far Are Legislative Objectives Met ?
1. Austria	1	1	1	2	2	3
2. Belgium Wallonie	5	7	7	8	8	8
3. Belgium Flanders	11	14	14	15	15	16
4. Denmark	17	18	18	21	21	22
5. Finland	25	25	26	29	29	29
6. France	31	32	33	35	35	36
7. Germany	39	42	43	43	44	44
8. Greece	47	49	49	51	51	51
9. Ireland	53	56	56	58	59	59
10. Italy	61	63	64	66	66	67
11. Luxembourg	69	70	71	71	72	72
12. Netherlands	73	74	74	77	77	78
13. Portugal	79	79	80	81	81	81
14. Spain	83	83	84	86	87	87
15. Sweden	89	89	89	91	91	91

Appendix 1: Ireland, EPA Section 108 Notice Form

Appendix 2: Ireland, Guidance on Noise Standards, Dublin County

Appendix 3: Ireland Noise Complaint Investigation Procedures (extracts), Dublin Corporation

C1 AUSTRIA

C1.1 AN OVERVIEW OF LEGISLATIVE FRAMEWORK

Competencies for noise in Austria are split between the Federal, Regional and Local regulators. In the case of neighbour and neighbourhood noise, the competencies lie with the regional authority.

In the region of Vienna, this is enforced through the Regional Security Act for Vienna (*Wiener Landes-Sicherheitsgesetz – WLSG*). This legislation includes various procedures to reduce noise within the community (including neighbour noise) and to set requirements for the reduction of noise, including environmental impact assessment for new developments, industry licensing procedures or building permit procedures.

Since legislation relevant to this study is enforced at a regional level, it is likely that procedures for dealing with neighbour and neighbourhood noise vary between regions. However, legislation associated with the region of Vienna only has been included in this report.

C1.2 GUIDANCE AND EDUCATION

The Austrian Standardisation Body (*Österreichisches Normungsinstitut*) and the Austrian Noise Abatement Society (*Österreichischer Arbeitsring für Lärmbekämpfung - ÖAL*) organise seminars on various subjects relating to noise, including neighbour & neighbourhood noise. This guidance is disseminated via employees in the city of Vienna and at schools.

The following standards are relevant:

- ÖNORM B 8115 Part 2 und Part 4 - on requirements on the sound insulation in buildings.
- ÖAL - Guideline 3, Part 1 (ÖAL- Richtlinie 3, Blatt 1) on neighbourhood noise from the Austrian Noise Abatement Society.
- ÖNORM S 5004 - Standard for noise measurements.

Noise Awareness Day was celebrated in Austria for the first time in 2000. This was organised by the Citizens Association Against Noise and the ÖAL.

C1.3 CURRENT ENFORCEMENT PRACTICE

Depending upon the source of the noise, the complaint is dealt with by the police, the town council (*Magistrat*), or the district authority (*Bezirkshauptmannschaft*). Officials from these bodies also carry out noise

measurements in accordance with standard ÖNORM S 5004 and ÖAL Guideline 3. The measurements must be carried out by an officer of the police, town council or district authority, or by a private auditor. The Regional Security Act for Vienna only gives a very rudimentary description of the competencies for noise abatement. There are no legal thresholds and in many cases disputes are decided in favour of the person causing the noise.

Penalties can include the possibility to prohibit the use of Hi-Fi's or construction equipment (e.g. a drilling machine) and fines may also be levied. Only under very exceptional circumstances is it possible to confiscate any equipment, although in the case of commercial premises, it is possible to prohibit the operation of equipment that is giving rise to noise.

It is for the administrative authority dealing with the complaint (depending on the noise source) to "mediate" between the parties. However, the City of Vienna authority are looking to use independent mediators, who would be provided free of charge.

The following authorities investigate noise complaints:

Police:

- barking dogs;
- persistently noisy hi-hf;
- construction noise; and
- a loud party.

Inspection Authority:

- music from a pub or club etc; and
- a noisy factory

In the case of construction noise, the enforcing authority may vary depending on the region. In some regions, threshold noise limits may also exist. Generally, works during the night-time are not permitted on construction sites, and EC Directives relating to the control of noise from construction plant and machinery also apply.

C1.4

THE RIGHT OF APPEAL

Administrative and judicial procedural law applies. The appeal must be addressed to the authority that made the original decision within two to four weeks of the decision being taken. There are no indications as to the timescales within which the appeal is resolved and no statistics about outcomes.

C1.5

LINKS TO OTHER STRATEGIES

The only strategy linked to neighbour and neighbourhood noise are building regulations and planning.

Building regulations are within the competence of the regions, which tend to follow standard ÖNORM B 8115, Part 2. This requires a certain degree of noise isolation and contains guidelines for the selection of appropriate locations for buildings, in relation to protection against noise.

The Austrian Environment Agency has also published a report "*Requirements for projects causing noise*" (*Anforderungen an schalltechnische Projekt*), which gives guidelines on how to select appropriate locations for noisy operations.

C1.6 HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?

Due to the degree of decentralisation and the specialisation of the various authorities in dealing with different sources of noise, it is difficult to assess the speed at which complaints are resolved and the resources at the disposal of public authorities. According to a study on the quality of life in Vienna in 1997, 12.6% of the interviewees stated that neighbour and neighbourhood noise was an important source of disturbance. There are no published data on the number or source of complaints. However in 1994, a survey of the most common causes of noise nuisance showed that for people bothered by noise, traffic noise was identified as the main cause, followed by construction noise and neighbourhood noise.

It was reported that standard ÖNORM B 8115 has proven to be very useful in practice, with some regions testing if the required degree of isolation has been achieved upon the completion of a building (e.g. Steiermark, Oberoesterreich). Furthermore, the Austrian Environment Agency has also recently adopted two guidelines covering noise from:

- Hi-Fi's (*Begrenzung der Schallemission durch Musikanlagen. Berichte BE-168. UBA Wien Jänner 2000*); and
- open air concerts (*Lärmschutzrichtlinie für Freiluftveranstaltungen. Monographien Band 122, UBA Wien 2000*).

It is understood that both have been very successful in practice.

The City of Vienna employs ten people who work exclusively and full-time on noise problems in the Noise Department. This equates to one officer per 160,000 population in Vienna, which has a population of around 1.6 million. At present, the city of Vienna is participating in project SYLVIE ⁽¹⁾ funded by the EU through LIFE, which is studying multi-stakeholder participation in working for a quieter city environment. *Annex D* gives a summary of the SYLVIE project. In general, officials in Vienna felt that the legislation available for dealing with industrial noise complaints and noise from outdoor activities is effective since standards for noise insulation have proved efficient in

(1) More information on this project can be obtained at the following address www.sylvie.at.

practice. However, the law relating to neighbour noise is considered to be less effective.

C2 BELGIUM, WALLONIE

C2.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C2.1.1 Introduction

Belgium is a federal state consisting of three communities and three regions:

- Flemish, French and German-Speaking communities; and
- Flemish and Walloon regions in addition to Brussels, the Capital Region.

The federal state retains control over areas such as foreign affairs, defence, justice, finances, social security and important sectors of public health and domestic affairs, etc. The control and enforcement of certain environmental matters is shared between the Federal Government and the regions, although the regions have responsibility for environmental protection, including police procedures relating to the provision of permits required for certain commercial activities (e.g. cafes, restaurants, hotels, industry, etc.).

The three Belgian regions are therefore required to implement their duties within the framework of Federal, European and international regulations.

This section of Annex C of the report relates to the legislation associated with neighbour and neighbourhood noise in the Walloon region. The legislation associated with the Flanders region and the Capital Region of Brussels is the subject of the following chapter of Annex C.

C2.1.2 Relevant Legislation

The main legislative instruments in the Walloon Region are:

- Civil Code (Burgerlijk Wetboek - articles 544 and 1382);
- Royal Decree 24/2/1977 (KB – Koninklijk Besluit);
- Penal Code (Strafwetboek – article art. 561, 1); and
- Framework Law of 18 July 1973 on Fight Against Noise.

The Royal Decree, Penal Code and Civil Code are federal instruments that apply across Belgium. Noise emitted by *non-permanent establishments* is regulated by the Royal Decree 24/2/1977. This applies to the following:

- individuals (e.g. neighbours);
- parties organised in the outdoors (marquees) – limited to twice a year in the same location ⁽¹⁾;

⁽¹⁾ Note that the Royal decree would normally apply to many 'musical activities' organised during the yearly 'Gentse Feesten' (Gent festival). However, organisations can apply to the city Council for an exemption six weeks in advance. If granted the organisations boundary ts are then 100 dB(A) until 12 pm, and 70 dB(A) until 3 am.

- dancehalls or clubs where dancing is occasional (maximum 12 times a year, twice a month and not more than 24 days in total a year); and
- smaller sized bars or clubs.

The Civil Code regulates private neighbourhood noise lawsuits which are heard at the Peace Court. This is the lowest court in Belgium and is similar to the Magistrates Court in the UK. The system is one of tort liability where the plaintiff has to show:

- that there was damage;
- the cause of the damage; and
- the causal link between the cause and the damage.

In addition the plaintiff has to state a claim, which they find to be fair. If the judge accepts the plaintiff's claim, he decides on the level of a compensatory sum, which is not specified under any law.

The Penal Code regulates noise disturbance caused at night which requires police intervention. The first step is the noting of the facts in an official report by the police. A breach of (administrative) law is punishable under criminal law and fines can be levied.

Communes ⁽¹⁾ are directly responsible for the enforcement of noise legislation. They are also responsible for granting permits for certain commercial and industrial installations (e.g. cafes, hotels, discos) which include operational noise levels. Regional authorities are responsible for noise levels in the environment and in public places and also have an advisory role and control capacity for other public authorities.

Table C 2.1 below provides an example of the neighbour noise limits established in the City of Liege.

Table C2.1 *Noise Limits in Liege*

Noise Source	Location	Relevant Period	Authorised Level
All sources	Inside buildings	7.00 am to 9.00 pm	5 dB(A) above ASL ⁽¹⁾
All sources	Outside buildings	7.00 am to 9.00 pm	10 dB (A) above ASL
All sources, occasional noises	In all locations	7.00 am to 9.00 pm	25 dB (A) above ASL
All sources	In all locations	7.00 am to 9.00 pm	0 dB (A) above ASL

(1) Communes are small, city level administrations. In the Province of Liege there are several Communes.

Noise Source	Location	Relevant Period	Authorised Level
Circular and chain saws, etc.	In all locations	Prohibited on Sundays - and bank holidays, as well as between 7.00 am to 9.00 pm	
Loudspeaker	In all locations (subject to authorisation)	At any time.	Should not be audible from the street.
Alarm sounding device	In all locations ⁽²⁾	At any time. Maximum duration of 10 min.	100 dB(A), one metre from the source.
Land mowers	In all locations	Prohibited between 9.00 pm & 7.00 am Monday to Saturday. Prohibited on Sunday and bank holidays, except between 10.00 am to 5.00 pm.	

(1) ASL - Ambient Noise Level

(2) Installation is subject to authorisation granted by the City Administration, and must be performed by a licensed company. Unjustified and repetitive activation of the alarm can lead to the withdrawal of the authorisation.

Complaints are made to the Environment Police, the police or the city health and safety department. The requirement for mediation or prosecution is made by the Peace Court. Any criminal procedure will involve a Prosecutor.

The following penalties apply:

- Third class penalties up to 450 Euros; and/or
- Confiscation of equipment.

The decision to confiscate equipment is made by the peace judge or the prosecutor

C2.2 *GUIDANCE AND EDUCATION*

No sources of guidance or other education programmes were identified in Liege.

C2.3 *CURRENT ENFORCEMENT PRACTICES*

Complaints are directed to the Safety and Health Service, the Environment Police or the Police. With regard to night-time noise, complaints are usually addressed by the general service of the Police. The police can also intervene while patrolling, even if where no complaint has been made. They will usually attend the scene.

Only the Environment Police are entitled to carry out noise measurements. In addition, the agent who performs the measurements must be specially licensed. Noise measurement is based on the noise 'emergence'. This is the difference between the ambient noise including the disturbing noise and the ambient noise without the disturbing noise. Noise measurements are usually made in cases concerning commercial establishments, which play music for example. The use of noise measurements in responding to neighbour noise is rare.

The authority attending the scene establishes an official report, which is transmitted to the defendant and copied to the plaintiff. Certain measures to limit noise can be ordered at the plaintiff's expense, such as the setting of noise limiting device on stereo equipment, although it is rare that the authority orders such measures. The environment police and agents of the health and safety department usually give technical advice only on noise control measures. They also have powers to close a commercial establishment or to declare a house/flat unsuitable for habitation. The latter solution can be justified by the general state of the house/flat as recurrent noise problems often occur in deprived areas and are indicative of other socio-economic problems.

If a second visit is necessary in the case of multiple complaints, a more thorough investigation takes place. On average, a second intervention is necessary only 10% of cases.

The peace judge (at the district level) may also play the role of mediator on the request of the neighbours concerned. Lawyers may also assist in this process. If one party does not agree to mediation, the case is examined in court. Either party can also request a decision from the peace judge.

C2.4 *THE RIGHT OF APPEAL*

There is a right of appeal to the superior court. The procedure can be very long, lasting up to ten years in some cases. No additional data on the system of appeal was obtained during the study.

C2.5 *LINKS TO OTHER STRATEGIES*

The authorities in charge of noise regulation and control often cooperate with other authorities, mainly on a case-by-case basis. For example, if there is a problem near a restaurant due to the noise caused by the closing of car doors, the health and safety department will consult with the police and the city administration to prohibit parking in the area.

C2.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

Investigations are usually conducted by two agents for safety reasons, and can take around one hour. A second visit may take a little longer. Currently,

there are six people working in the Health and Safety Department in Liege, covering a population of around 200,000 and dealing with noise issues, associated mainly with commercial and industrial installations. Only two people are authorised to take noise measurements. In the Industrial Installations Department, ten people are authorised to make noise measurements, usually while inspecting the installations. Agents of the environment police can also take noise measurements. In Liege they have two teams of four people, working during the night over alternate two-week shifts.

Generally, a visit from the police or the Safety and Health Service is sufficient to solve most neighbour noise conflicts, and it was reported that around 90% of complaints are solved in this way. Around 10% require a second visit. There are no data available on the number of complaints resolved.

There is an apparent seasonal increase in the number of complaints. Representative from the Safety and Health Department stated that complaints increase slightly during the summer months due to an increased number of outdoor private parties (e.g. barbecues). However, the representative from the environment police receive more complaints during the student year.

No statistics are available to break noise complaints down by source.

C3 BELGIUM, FLANDERS

C3.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C3.1.1 *Introduction*

This chapter of Annex C relates to the legislation associated with neighbour and neighbourhood noise in the Flanders region and the Capital Region of Brussels. Since the control and enforcement of certain environmental matters is administered through Federal Government, there is some overlap with the Walloon region of Belgium, discussed in the previous chapter, C2.

C3.1.2 *Relevant Legislation*

C3.1.3 *Introduction*

There are four legal instruments that allow for the management of disturbance resulting from neighbour and neighbourhood noise in Flanders:

- VLAREM (Vlaams Reglement betreffende de milieuvergunning) - Flemish Regulation on Environmental Permits - 1991, updated and supplemented by Decree in 1995;
- Royal Decree 24/2/1977 (KB - Koninklijk Besluit);
- the Penal Code (Strafwetboek); and
- the Civil Code (Burgerlijk Wetboek).

VLAREM and the Royal Decree are used in conjunction with the Civil and Penal Code. VLAREM applies to Flanders only. The Royal Decree, Penal Code and Civil Code are federal instruments that apply across Belgium.

VLAREM

VLAREM is a Flemish legal instrument that regulates environmental permits and sets environmental standards:

- VLAREM I (6 February 1991) deals primarily with procedural aspects; and
- VLAREM II (1 June 1995) describes emission values and qualitative goals.

In Flanders all “*permanent establishments*” ⁽¹⁾ require a VLAREM permit. These permanent establishments are defined in VLAREM as establishments:

- open to the public

(1) i.e. not halls where only occasional parties or music concerts take place.

- where music is played (bars and cafes, dancehalls, clubs etc.) and
- which measure at least 1,076 square foot (100 m²).

These establishments need to comply with the VLAREM noise standards. The target noise values differ for rural areas, industrial areas, residential areas, recreation areas etc, and VLAREM distinguishes between the target values for noise outdoors and indoors, the time of day or night, and takes into account the type of noise (whether the noise is constant, fluctuating, incidental, intermittent etc.).

In cases of detached buildings, the outdoor standards are applied and the noise is measured by the façade of the complaining party. In cases of buildings with a common wall, the indoor noise standard is applied.

In the case of repeated recorded infringements, the Environmental Services Department can take administrative measures to close the establishment, withdraw night permits or confiscate equipment.

Royal Decree 24/2/1977

Noise emitted by *non-permanent establishments* is regulated by the Royal Decree 24/2/1977.

Therefore, this applies to following:

- individuals (e.g. neighbours);
- parties organised in the outdoors (marquees) – limited to twice a year in the same location ⁽¹⁾;
- dancehalls or clubs where dancing is occasional (maximum 12 times a year, twice a month and not more than 24 days in total a year); and
- smaller sized bars or clubs.

Noise limits apply to the level of music emitted, as measured in the complainant's property. There are no fixed penalties, as the penalty is at the discretion of the court. This may include the confiscation of equipment.

The Civil Code

The Civil Code regulates private lawsuits concerning neighbourhood noise at the Peace Court. This is the lowest court in Belgium and is similar to the Magistrates Court in the UK. The system is one of tort liability where the plaintiff has to show:

⁽¹⁾Note that the Royal decree would normally apply to many 'musical activities' organised during the yearly 'Gentse Feesten' (Gent festival). However, organisations can apply to the city Council for an exemption six weeks in advance. If granted the organisations noise limits are then 100 dB(A) until 12 pm, and 70dB(A) until 3 am.

- that there was damage;
- the cause of the damage; and
- the causal link between the cause and the damage.

In addition the plaintiff has to state a claim, which they find to be fair. If the judge accepts the plaintiff's claim, he decides on the level of a compensatory sum, which is not specified under any law.

The Penal Code

The Penal Code regulates noise disturbance caused at night, which requires police intervention. The first step is the noting of the facts in an official report. A breach of (administrative) law is punishable under criminal law and fines can be levied.

C3.1.4 Relevant Legislation – Ministry of Brussels Capital Region

The following legal instruments relate to the control of neighbour and neighbourhood noise in Brussels:

- Ordinance 17 July 1997 - concerning noise disturbance in the city and surroundings; and
- Ordinance 25 March 1999 – control and enforcement of Ordinance 127 July 1997.

Ordinance 25 March 1999 states that the following is punishable with an administrative fine of 2,500 to 25,000 Bef (60-600 Euros) – in accordance with Ordinance 17 July 1997:

- noise on public roads which unnecessarily disturbs or damages citizens peace or health;
- noise on public roads between 10 pm and 7 am which unnecessarily disturbs or damages citizens peace or health; and
- abnormally loud behaviour or the 'not stopping' of abnormally loud behaviour by pets which are under their responsibility.

Ordinance 25 March 1999 states that the following is punishable with an administrative fine of 25,000 to 2,500,000 Bef (600 – 60,000 Euros) in accordance with Ordinance 17 July 1997:

- noise on public roads or in public places which requires permission;
- owner, keeper or user of a source of noise which exceeds the norms set by the Government; and

- preventing officials from carrying out noise measurements.

Following the investigation of a complaint, the facts of the case will be recorded in an official report that are sent to the Public Prosecutor (*Procureur des Konings*), to decide whether to prosecute or to levy an administrative fine. Whether an administrative fee is charged is decided once the defendant's defence has been heard.

Since 1974 there have been 28 different legal instruments (Police Decrees, Ordinances of Brussels Capital Region, Royal Decrees) regulating noise from both public and private sources, including noise from lawn-mowers (e.g. use of lawn-mowers is prohibited between 8pm and 7 am and on Sundays and on public holidays ⁽¹⁾).

C3.2 *GUIDANCE AND EDUCATION*

C3.2.1 *On a City Level- Gent*

The Environmental Services Department of the City of Gent does little in terms of education and guidance, mainly due to a lack of personnel and financial resources.

C3.2.2 *Flanders Region - the 'MiNa-Council'*

The MiNa Council ('MiNa-Raad') is the 'Council for the Environment and Nature' and advises the Flemish Government on policies for all issues regarding the environment or environmental protection. The Council is a consultative body which has representatives of environmental and nature conservation organisations, and the main socio-economic organisations.

The MiNa-Plan 2 is the Flemish Environmental Policy Plan for 1997-2001. The Plan consists of 13 themes. Theme 10 deals with noise disturbance and includes Action 77 ⁽²⁾, which was to be a campaign to raise awareness to combat noise hindrance by residents. Unfortunately this action was never implemented although it is hoped that this will be carried over to the next MiNa Plan for 2002-2006.

C3.3 *CURRENT ENFORCEMENT PRACTICE*

The Environmental Services Department of the city of Gent and the Gent Police collaborate on cases where noise complaints are made about the hotel, restaurant and catering industries, or complaints regarding individuals (e.g. neighbours).

The City's 'Guide for Dealing with Noise Problems' describes three phases in the complaints procedure:

(1) The Brussels Decree AGB/BBR 2/07/98 concerning the combat against neighbourhood noise

(2) Actie 77 - Sensibiliseringscampagne voeren ter bestrijding van geluidshinder door de bevolking

- Phase I: when a noise complaint is received about a hotel, restaurant or individual (or pets under individuals' control such as barking dogs), the police are called to the scene. The police investigate the issue in the neighbourhood and encourage the parties to settle the matter amicably. If the complaint is about noise disturbance at night, the police can record the fact of the case in an "official report" ⁽¹⁾.
- Phase II: the Environmental Services Department take noise measurements. If the noise level exceeds VLAREM standards or the norms set out in the Royal Decree 24/2/1977, the Environmental Services official will log his findings in an official report.
- In the case of repeated recorded infringements, the Environmental Services Department can take administrative measures to close the establishment or withdraw night permits. This can also be done by the police in cases of persistent complaints on the basis of their own judgment (i.e. where noise levels are not measured).

Although the Environmental Services Department is an administrative unit with normal office hours, from the end of October 2001 one member of staff is on call during the weekends (from Friday evening to Sunday morning) for complaints relating mainly to bars and cafes.

C3.4 *THE RIGHT OF APPEAL*

The VLAREM regulation allows for an appeal procedure to the Ministry of Environment in instances where the Environmental Services Department took administrative measures such as closing the establishments or withdrawing night permits. No information on the timescales involved or on what proportion of cases go to appeal was identified during the study.

C3.5 *LINKS TO OTHER STRATEGIES*

Action 79 of MiNa 2 (see also *Section C3.2.2*) defines noise insulation norms that apply to renovated and to new buildings.

The initiative was taken by AMINAL (Administratie Milieu-, Natuur-, Land- en Waterbeheer – Administration within the Flemish Government for Environment, Nature, Land and Water policy). AROHM (the Administration for Spatial Planning, Housing, Monuments and landscapes) and the building sector were also involved. Research has been conducted into norms for the insulation of party walls and the Flemish government is to be advised on the results of this study shortly (December 2001). In 2002 research will be undertaken to advise on appropriate norms for exterior walls.

(1) In Dutch, "PV-Procesverbaal". This is an official report or record of evidence which records facts and can later be used as evidence in court.

C3.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

C3.6.1 *The Environmental Services Department, City of Gent*

Complaints

The Environmental Services Department received 376 complaints on environmental problems in 2000. More than one third of these (129) concerned noise. No further breakdown of these statistics by noise source is available. Officers from department deal with a range of issues, of which noise is just one. Therefore, it has not been possible to identify how many staff are available for dealing with noise complaints.

Noise Measurements

In 2001 the department carried out noise measurements for 210 establishments. Officials are authorised to record facts (such as infringements of noise standards) in an official report. As a consequence of the 210 measurements, 57 official reports were produced.

These measurements were carried out as a result of:

1. **Pro-active investigations:** these are carried out for establishments about which there have been frequent complaints. This can be in certain areas of the city, e.g. known clubbing areas. Measurements for noise problems were carried out for 203 establishments. 51 infringements of VLAREM noise standards were recorded in an official report.
2. **On demand of the police:** measurements were carried out for seven establishments, which resulted in six recordings of infringements of VLAREM noise standards.

C4.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

In Denmark there is no specific legislation to address neighbour and neighbourhood noise. However, elements of a number of different statutes are relevant to the control of noise, and these are described below.

- *Environment Protection Act* (Miljøloven LBK nr 753 af 25/08/2001) regulates noise from commercial activities in mixed housing and business areas (referred to a category three activities) including, for example restaurants and bars, sports centres, industry etc. The Act is enforced by local authorities. Legal and procedural complaints relating to the enforcement of the Act can be made to the 'Miljøklagenævnet'.
- *Act on Social Housing* (Lov om leje af almene boliger LBK nr 562 af 19/06/2001) regulates neighbour nuisance through a complaints council and prosecution if tenants exhibit 'unsocial behaviour' which includes noise.
- *Private Tenant Act* - (Bekendtgørelse af lov om leje, LBK Nr 347 af 14/05/2001) under the Act landlords are obliged to ensure that his tenants can live without significant disturbance from other tenants within his property by setting up house rules (although this is not mandatory), which the tenants must then adopt.
- *Act on Environment and Gene Technology* (Lov om miljø og genteknologi CIR nr 210 af 16/12/1982 from LOV nr 356 af 06/06/1991) this gives local authorities the power to specify certain hours of the day during which the use of noisy equipment in non-commercial activities, such as lawnmowers and other tools, is prohibited. However, there is no obligation for local authorities to do this.
- *Police Regulation* (Politi Vedtægten) - Section 3 regulates noise that causes a disturbance in public spaces, including for example, excessively loud music played within a building which has open windows, so causing disturbance outside. However, this regulation does not address neighbour noise emanating from within the same block of housing, which is regulated by the Act on Social Housing (as described above).
- *Act on Construction of Housing* (Lov om Boligbyggeri) sets out requirements for noise insulation in new housing which all developers are required to comply with.

The Planning Act (*Planloven*) deals with noise at a regional, local and planning level and is overseen by the Ministry of Environment. This involves the

development of regional and local plans by Local Authorities (Counties and District Councils) respectively. However, the only provisions relating to noise are for the construction of new neighbourhoods, for which an external maximum noise limit of 55 dB(A) is permitted. There is no provision to reduce noise levels arising from existing buildings and activities in the area when planning for new developments. Furthermore, the limit of 55 dB(A) is rarely used, as new neighbourhoods are seldom established in Denmark. Local authorities, under the supervision of the Ministry of Environment, enforce the Planning Act. Individuals can complain over procedural and legal issues to the 'Naturklagenævnet'.

Neighbour noise disputes between individuals living in their own properties are not addressed by any legislation in Denmark, and as a consequence, there is little knowledge on this subject.

Although private mediation organisations do exist, both parties must agree to mediation to resolve their problems, and to pay for the costs themselves. A mediation service is currently being piloted in three police administration areas, although this applies only to criminal charges. More information is provided in *Section C4.5*.

C4.2 *GUIDANCE AND EDUCATION*

A brochure was released by the Housing Ministry 'Boligministeriet' in 1997 which included practical guidance on how to insulate homes against noise from neighbours, including advice on the insulation of walls, floors, ceilings, stairways, windows, common utilities like ventilation, gas boilers, elevators etc, and against electrical goods. The leaflet also refers to further technical information on noise insulation. No further information on campaigns released since this date was identified during this study.

Seminars on changes in practice or legislation are generally arranged by the Ministry of Environment and professional associations as required.

C4.3 *CURRENT ENFORCEMENT PRACTICE*

C4.3.1 *Environment Protection Act (LBK nr 753 af 25/08/2001)*

Local authorities have the remit to control noise levels in different zones of activity. The zone of activity that is relevant to this study is category three: mixed housing and commercial activities, to which the following maximum external noise levels are applied:

- 55 dB(A)⁽¹⁾ during daytime working days, measured over 8 hours;
- 45 dB(A) between 6pm and 10pm measured in one hour values; and
- 40 dB(A) after 10pm measured in 30-minute values.

(1) A 5 dB correction applies to impulsive or tonal noise.

Noise levels are measured by officers from the local authority and are usually attended.

Individuals can send written complaints relating to commercial activities to the Environmental Protection Authority. An investigation will then commence (including noise measurements) within eight days of receiving the complaint. The other party or complainee (i.e. the person responsible for making the noise) is not contacted until the authority has established the level of the problem. This is perceived to be the most cost efficient way as prior notice may often lead to the other party reducing the nuisance temporarily, so that the control authority receive repeat complaints at a later stage.

After the scope of the problem has been established, the complainee is contacted and informed about their rights of access to information. A deadline is given by which time the complainee is required to change the activity that is the cause of the noise. If the deadline is not respected, the authority sends a final warning, where after the police can take action.

Penalties may include a fine or a custodial sentence although there are no fixed limits. Equipment can also be confiscated, although it is understood that this occurs rarely in practice.

The Environmental Protection Authority acknowledges the importance of contact between both parties to solve the problems most efficiently. However, they do not receive mediation training.

Private mediation services are available although the individuals concerned must meet the costs associated with these.

C4.3.2 *Act on Rent of Social Housing (LBK nr 562 af 19/06/2001)*

Council for Tenant Complaints (Beboer Klagenævnet)

All local authorities with social housing estates are obliged by law to set up a Council for Tenant Complaints. Small rural local authorities can set up joint Tenant Complaint Councils. These councils deal only with complaints in social housing relating to unsocial behaviour within the housing estate. Unsocial behaviour includes '*unacceptable noise causing significant nuisance for other tenants by unacceptable noisy behaviour, use of music or machines*'. Physical violence, dangerous behaviour, health hazards and smells are also included in the definition of unsocial behaviour.

The Act does not cover neighbour noise disputes between individuals living in their own properties, and this is not legislated for in Denmark.

Each council consists of three members, nominated by the state (the chair) and the local authorities (two lay members). The chair must have a law degree. The two members are chosen from candidates put forward by the social

housing organisations in the local authority. In case of social disputes, a social worker can join the council, but without a voting right.

Local authorities provide the necessary accommodation for the council as well as paying costs of administration and expenses. The local authorities pay the members of the council.

The procedure for dealing with complaints is described below.

1. Complaints have to be submitted in writing together with a payment of DKR100 (£8.50).
2. No later than one week after the submission of the complaint, the council informs the complainee of the complaint.
3. The complainee must submit his views within two weeks, although some exceptions to this exist.
4. The Council decides whether further investigation is needed and has the right to ask for further information from the involved parties as well as from public authorities. The Council can also go on site to investigate.
5. The Council sets a deadline, typically of two weeks to deliver a response.
6. The vote of the chair determines the result if the two other members do not agree.

Possible penalties include:

- cancellation of the contract;
- conditions set on the contract to eliminate the problems. If the conditions are not respected, the contract can be cancelled;
- the tenant can be made obliged to meet with the neighbours complaining about noise. A mediator can be appointed; and/or
- a warning that if anti-social behaviour is repeated, the tenant may face action under the above listed items, may be issued.

C4.3.3 *Private Tenant Act (LBK Nr 347 ad 14/05/2001)*

The landlord is obliged to ensure that tenants can live without significant disturbance from other tenants within his property. He can choose (but it is not obligatory) to set up house rules, which the tenants must adopt. Such rules are individual to each private property. Private tenants can also choose

to make a civil charge, if house rules are not established or do not solve the dispute.

The use of a Tenant Complaint Council for tenants in private housing was piloted in Aarhus and Copenhagen (Bolig Klagenævnet) until January 2001, which was similar in remit to that in place for social housing tenants. The trial ended in Aarhus, as there were very few complaints (24 in three years).

C4.4 *THE RIGHT OF APPEAL*

C4.4.1 *Environment Protection Act (LBK nr 753 af 25/08/2001)*

Neither party can appeal against a decision made by the Environmental Protection Authority. However, it is always possible to raise a civil law case at the court. In addition, legal and procedural complaints relating to the enforcement of the Act can be made to the 'Miljøklagenævnet'.

C4.4.2 *Act on Rent of Social Housing (LBK nr 562 af 19/06/2001, Chapter 17)*

Both parties can appeal the decision taken by the Tenant Council to the 'Housing Court'. Only cases where warnings have been issued cannot be appealed.

C4.4.3 *Private Tenant Act (LBK Nr 347 ad 14/05/2001)*

Both parties can appeal a decision made under private landlord house rules in a civil lawsuit.

C4.4.4 *Police Regulation*

Individuals can appeal to the Ministry of Justice if they want to complain about the behaviour of the police. If individuals want to appeal about the content of the complaint issued against them, they can do so at the 'statsanklageren' or public prosecutor.

C4.5 *LINKS TO OTHER STRATEGIES*

The Council for the Prevention of Crime 'Kriminal Præventive Råd' is a trial mediation scheme, set up in 1998 to run until June 2002 in three police administrative areas, to mediate in neighbour conflicts. The council is involved only after the police have issued criminal charges. To date, the trial has led to 120 cases where people have met and 160 cases with no mediation meetings. Only one case has involved noise.

Two other organisations offer mediation in conflicts: the Centre for Conflict Resolution 'Center for Konfliktløsning' and Centre for Danish Mediation. These two organisations can help neighbours, but both parties are required to pay for the service and it is little used in neighbour conflicts.

The contact at the Council for the Prevention of Crime in Denmark also recommended the approach to mediation that has been adopted in Norway. Norway has an Act on Mediation (1991), which was recently reviewed and enforced from 1st January 2001. The Act addresses both criminal and civil law and covers cases such as family and neighbour conflicts, car theft, burglary, violence and vandalism.

All local authorities have a Mediation Council with laymen who have been selected for their personal qualities as mediators. A structured three-day training course is offered before the mediator is finally accepted. The prosecuting authority, the parties themselves or a third party can bring cases to the council. Third parties can be schools, other public bodies or 'Child Care'. There is no age limit to bringing a case to the council and the services are free. Today, there are 40 Mediation Services in Norway, and 700 mediators across the country.

During 2000, the Mediation Councils received a total of 6,527 cases of which 3,706 were civil and 2,834 criminal cases. Of these, agreements were obtained in 91% of the cases, 81% of the agreements were followed, 0.5% were re-negotiated, 5% broken and 13% of the agreements are ongoing. No breakdown of this data was available to identify what percentage of cases relate to neighbour noise.

C4.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

C4.6.1 *Act on Rent of Social Housing (LBK nr 562 af 19/06/2001)*

In Aarhus (the second largest urban area in Denmark, with 275,000 inhabitants) there were 35 complaints relating to noise in 2000 (of a total of 116) and 27 in 1999 (of a total of 136). Approximately 4 people work full time in the secretariat, which also deals with other issues.

A national evaluation of the Council for Tenant Complaints showed that between the start of the Council in July 1998 to June 2000 an average of 909 cases were brought before the council each year. Of these, the council made a decision on 613 (67.4%) cases; 66 (7.3%) were negotiated, 159 (17.5%) were dismissed without a decision or settlement and 71 (7.8%) were still in progress. During the development of the Act on Social Housing, a total of 4,000 complaints were expected per year, but in reality, only one quarter of the expected cases were submitted to the council.

On average, there is one case for every 500 social housing apartments (there are a total of 483,000 social housing apartments in Denmark). The National Association for Social Housing has advertised this service widely as a means to settle disputes with neighbours. 30% of the complaints were related to house rules (i.e. noise, violence, smells, behaviour, pets, harassment etc) and around one third of these cases were investigated by site visits (mainly due to

noise). The processing of complaints typically takes around nine weeks, and in very few cases (0.3%) did the council contact regulatory authorities to solve difficult cases.

The local authority regulation of noise from regulated activities and disturbances of public order in public spaces is generally considered to be efficient and quickly solved. However, with regard to noise from private tenants, the current legislative system includes various regulations and is considered to be a complex and poorly streamlined system.

The Council for Tenant Complaints, which has been adopted for social housing, are considered to be working well. However, attempts to use a similar system for private tenants (e.g. the Aarhus trial described in *Section 4.3.3* above) indicated that few complaints of this nature occur, and as a result, the Aarhus trial was closed in January 2001.

The main criticism of the system at the moment relates to a lack of cohesive policy or integrated approach to dealing with neighbour and neighbourhood noise.

C5.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

There are several Acts that can be applied in cases of neighbour and neighbourhood noise. These are outlined below:

- The Health Protection Act (736/1994) and the Environmental Protection Act (86/2000) are general acts that guarantee the health of residents and their environment, and public comfort.
- The Housing Companies Act (809/1991) and the Act on Residential Leases (481/1995) are acts under private law and contain regulations for occupants on the order to be maintained in dwellings.
- Sound insulation requirements and noise level requirements for technical equipment in buildings are issued in accordance with the Land Use Planning and Building Act (132/1999).
- Municipal ordinances may contain restrictions on noise-generating activity.
- The Act on Neighbourhood Relations (26/1920) is a private law and regulates relations between adjoining properties and includes the prevention of noise nuisance.

C5.2 GUIDANCE AND EDUCATION

The issues surrounding neighbour and neighbourhood noise in Finland are not widely known and therefore, are not well publicised. However, Finland does have a National Day of Silence, although it is understood that this is not widely advertised.

The Ministry of the Environment has a website with a section that addresses noise ⁽¹⁾ although this is limited to industrial noise. The Ministry has also published several reports on noise, the nuisance caused by it, and on the legislative means available to address it.

The Helsinki City Environment Centre is currently publishing a leaflet for residents detailing the responsibilities of the authorities regarding noise prevention and control.

The town or municipal ordinances also contain guidelines about what noise you are permitted to make and when. When someone moves into an area, they are given a set of the guidelines with their papers, which are also

(1) <http://www.vyh.fi/eng/welcome.html>

available at local authorities in booklet form. However, these are considered to be 'common knowledge' and are generally respected and obeyed.

No further guidance or educational material was identified during the study.

C5.3

CURRENT ENFORCEMENT PRACTICE

Health Protection Act

The noise level in a housing unit or other indoor space must not pose a health hazard to those residing in the unit or interior space. The Ministry of Social Affairs and Health assess health hazards. If noise that may pose a health hazard occurs in a housing unit or other living area the municipal health protection authority may require those causing the noise to take measures to end or restrict it.

In situations where the noise is the result of a defect in a housing unit or other premises, the owner or person in possession is responsible for correcting it. If it is not possible to eliminate the defect, or the owner has not taken the measures required by the health protection authority, the municipal health protection authority can be contacted.

The municipal health authority is authorised to issue the regulations necessary to eliminate a health hazard or to prevent it from arising. In urgent cases, the official in charge of health protection may issue a ban or regulation with immediate effect. The municipal health authority can also issue general regulations to prevent a health hazard and to monitor health conditions (health protection ordinance).

A fine may be imposed for failure to notify a breach of a regulation, or for an offence that poses a health hazard.

If the act was deliberate, or the result of gross neglect and has caused a health hazard, the offender may be fined or imprisoned for a maximum of six months for an offence that poses a health hazard.

Environmental Protection Act

The Environmental Protection Act and Decree stipulate what activities require a permit or notification. Activities that generate noise and require a permit to operate include permanent or long-term industrial activities such as extensive road works or other construction works, shooting ranges and car racing tracks.

Activities that may cause permanent unreasonable strain on neighbours may also require a permit, this includes noise. However, every case is assessed individually and so there is no single rule that can be applied.

According to the Environmental Protection Act, the temporary generation of particularly disruptive noise requires a permit. Examples of this are outdoor concerts and excavations. It is unlikely that this would be applied directly to noise from neighbours such as a loud party or noisy children.

In decisions regarding permits or notification, the environmental protection or health protection authority may issue regulations concerning noise levels, restrictions on noise or noise prevention. Enforcement of such regulations is the responsibility of the authority making the decision, in most cases the municipal environmental protection authority. The municipal environmental protection authority may also issue regulations concerning activity that does not require a permit or notification.

In addition to administrative measures, the police can also be notified of a breach of regulations. The police conduct a preliminary investigation and then turn the case over to a prosecutor.

Such cases can be resolved in district courts. If a sentence is issued for an environmental offence, the penalty can vary from a fine to six months of imprisonment. To date, no one has been imprisoned for the offences described above.

Housing Companies Act and Act on Residential Leases

If persistently disruptive activity takes place in an apartment, or the rules of the building, i.e. those written in the Tenancy Agreement, are not being observed, the housing company can intervene. They have the power to take possession of the apartment (for a maximum of three years) after noting the disturbance and issuing a written warning.

Town or Municipal Ordinance

The Helsinki City Ordinance, for example, states that it is prohibited to cause openly disruptive noise. Machinery and equipment operating in the vicinity of housing units between the hours of 9 pm and 7 am may not cause any more noise than is necessary to complete their work. Brushing and/or beating of carpets, furniture and bedding is permitted on weekdays between 8 am and 7 pm, but not on Saturdays and the eves of holidays between 9 am and 4 pm.

The Ordinance further states that dogs may not disturb the surroundings of residents of a house by barking or howling.

The police, who have the power to stop disruptive activity, immediately if necessary, enforce observance of the Ordinance.

Complaints Procedure

Those that find the noise disturbing are responsible for recording the complaint. Their first point of contact is usually the freeholder of their property. It is the housing company's responsibility to give a verbal or

written warning depending on whether or not they feel that the noise is offensive enough. If those that are causing the disturbance persist, then complaints must be made again. If all residents of the apartment block want persistently noisy neighbours removed from the building, this can be done with the support of the above legislation.

As a rule, residents inform either the police or the municipal health and environmental protection authorities, depending on the type of noise nuisance involved. Each case is assessed individually and so the procedures involved vary from case to case.

Police patrols may intervene if an activity is openly disruptive. A municipal authority can accept notification only during office hours, and undertakes corrective action when necessary. However, they are only contacted in extreme cases and are not often used to resolve neighbour and neighbourhood noise issues.

Municipal authorities (health inspectors and environmental inspectors) have sound level meters at their disposal. With these meters, they can measure the equivalent continuous noise levels (L_{Aeq}), the maximum noise level (L_{Amax}) and the impulse levels (L_{AImax}). Such measurements are always required for establishing the existence of noise, where noise control measures are required.

Barking Dogs

In a situation where a dog is disturbing residents by barking or howling, the police or the manager of the house may be called in to intervene. If it is found that the animal is being mistreated and the owners are committing an offence against the animal protection regulations, a vet may also be called in to investigate and evaluate the situation.

Persistently Loud Music

This is most likely to be dealt with by the manager of the house, through a series of verbal and written requests/warnings.

Loud Parties

This is usually a matter for the police. They may intervene and either stop a party, for instance, or ensure that the noise level is lowered. Equipment cannot be confiscated.

A Noisy Factory

In the majority of cases this kind of activity will require an environmental permit from the appropriate environmental authority. In a situation where a permit has not previously been required the municipal environmental protection authority is usually responsible.

If the noise generated by a factory exceeds the value allowed by the permit, or if a reference value applies, the authority first requests that the noise level be lowered and then later if necessary demands it.

C5.4 *THE RIGHT OF APPEAL*

If a noise complaint is pursued in the courts, well-documented evidence of the noise disturbance is required to reach a verdict. It takes a period of approximately one year to go through the system.

C5.5 *LINKS TO OTHER STRATEGIES*

There are strict planning and building guidelines in Finland that aim to insulate against the cold and noise. The housing company and landlords are responsible for ensuring that the condition of their existing buildings conform to these building regulations. If complaints are made it is often the fabric of the building that is checked to make sure that any improvements that could be made to improve noise insulation are made. For example if there is a particularly noisy lift or a persistent problem with slamming doors.

C5.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

It is difficult to determine the extent of the neighbour and neighbourhood noise problem in Finland due to the lack of any statistics. Any statistics that are recorded are held by the authority that dealt with the complaint. This is dependent on which piece of legislation has been applied to deal with it. For example, in cases where civil laws are applied the environmental and health authorities are not informed as they are not involved.

A survey in Helsinki in 1983 showed that neighbour noise was the most significant source of noise nuisance after traffic. Unfortunately this survey was not nationwide and was only done in central Helsinki.

It is considered that the current legislation is difficult to apply, as there are a number of practicalities that need to be overcome. For instance, the measurement of noise can be costly and time consuming.

The legislation applied to neighbour and neighbourhood noise in Finland is most effective in large municipalities where the authorities are kept well-informed and formal procedures can be applied. In small municipalities more informal tactics are more frequently employed to deal with noise complaints. The majority of disputes and complaints are resolved through informal agreement, usually with the support of the housing authority. Involvement from the environmental authority is limited to extreme cases only.

C6 FRANCE

C6.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C6.1.1 *Introduction*

The following legislative instruments are relevant to the control of neighbour and neighbourhood noise in France:

- Public Health Code (art.1, L.2);
- Civil Code;
- General Code on Territorial Collective Units (Art. L.2212.2);
- Law on Noise 1992;
- Decree No 95-408 of 18 April 1995 *On Fight Against Neighbouring Noise and Modifying the Public Health Code*; and
- Law of 1976 on Classified Installations (now integrated in the Environment Code).

C6.1.2 *Noise Sources Covered*

All sources of neighbourhood noise are included (e.g. cafes, clubs, pubs etc), with the exception of noise from transport infrastructure, national defence activities and installations, 'installations classified for the environment' and noise from mining and quarrying operations. Installations classified for the environment are regulated under specific legislation, and include industrial establishments, agricultural facilities and small professional activities often located in cities such as petrol stations, garages and printing facilities etc.

C6.1.3 *Control Powers*

Local authorities have considerable powers to control neighbour and neighbourhood noise. In this report Strasbourg is used as an example to illustrate these powers and their associated procedures.

The Mayor is responsible for 'public tranquillity' and can adopt regulations (arrêtés) regarding noise in the framework of his police responsibility. For example, the Mayor can take an arrêté to determine times when noisy DIY and gardening activities are authorised. In 1998, the Mayor of Strasbourg regulated neighbour noise in the community of Strasbourg through such an arrêté. Article six of the arête (dated 9th July 1998) relates specifically to 'private properties' and noise from private housing, and article seven to noise from animals. In addition, in cities with more than 20,000 inhabitants, a

communal service for hygiene and health must be established and is responsible for neighbour noise.

In cases where the Mayor is not taking the necessary measures, despite official request, the préfet (representative of the State in the departments and the regions) has a power of substitution and can intervene.

Classified installations are controlled by inspectors from DRIRE (Regional Direction for Industry and Environment under the responsibility of the Ministry of Industry and the Ministry of Environment). General noise limits are set for all classified installations.

C6.1.4 *Complaints Procedure*

Where possible, upon receipt of a complaint, direct mediation will be applied with the consent of both parties. Where the administrative procedure is required, a complaint is made usually to the Mayor or to the police.

Where the law has been breached, the authority involved will establish an official report that is transmitted to the prosecutor within five days. In the case of persistent noise, an official mediator can be involved on request of the plaintiff. The Mayor can also adopt an individual arrêté relating to the source of noise e.g. a requirement to keep a noisy dog in an enclosed place.

The criminal procedure is based upon an official report. The prosecutor can order mediation prior to a hearing in a criminal court (the police court). In the case of civil proceedings, the plaintiff must give evidence that there is a fault. Civil proceedings are initiated in cases involving individuals (e.g. in relation to neighbour noise) without the participation of the State, and where the plaintiff is seeking compensation for the damage caused. Criminal proceedings are followed in cases of public interest, for instance in public order offences.

With regard to classified installations and in cases of non-compliance with noise limits fines can be imposed. The préfet can also establish specific measures by arrêté. The operator may be required to pay for measurements by an authorised laboratory or to conduct noise isolation works.

C6.1.5 *Penalties*

Third class penalties of up to 450 Euros apply. In addition, it is also possible to confiscate the item that is giving rise to the noise, although in reality this rarely occurs as a court judgement is required. It is also possible to provide financial compensation to the complainant.

C6.2 *GUIDANCE AND EDUCATION*

Various guidance and education documents have been published, including the following:

- an education document called *The Noise* for 8 to 12 years old children;
- *A Charter for Good Neighbouring*, which includes 20 practical pieces of advice to avoid neighbour noise. This leaflet is intended for advertising in blocks of flats etc;
- advertising (affiche) *Your floor is your neighbour's ceiling*;
- a leaflet called *Neighbouring Noise* edited by the Ministry of Environment which explain procedures available to citizens for solving noise problems;
- education materials for teachers to be used as a tool to inform their pupils about possibilities to reduce noise; and
- information on the health effects of noise.

In Strasbourg, different education activities have been undertaken, including:

- an exhibition at the city hall called *The Noise Today* to advice the inhabitants of Strasbourg. After the exhibition, the authorities noted a significant increase in the number of complaints relating to neighbour noise; and
- a Poster campaign: '*Shh...sleep is precious to all. At night, less noise*'.

At the national level, the Government has organised regional noise awareness events since 1999. A training programme is also available to train between 10,000 and 15,000 officers.

C6.3

CURRENT ENFORCEMENT PRACTICES

In the first instance a complaint relating to neighbour or neighbourhood noise is recorded by the Hygiene and Health Service or the police, depending on which service is contacted by the complainant. As a general rule, an officer will attend the scene. Officers from the police and the Hygiene and Health Service both deal with all types of noise complaints.

Noise levels are recorded by the police if they have qualified employees and noise monitoring equipment, or by an agent of the Department of Sanitary and Social Affairs on the request of the prefecture (State Department) or commune. Noise measurement is not compulsory for behavioural noise (i.e. noise caused by individual people). However, it is compulsory for noise caused by a commercial or professional facility. For example, if the noise is caused by someone who is giving piano lessons, it will be considered as a professional activity. If the noise is caused by someone playing the piano as a

hobby, it is considered as a neighbour noise and noise measurement is not compulsory.

Noise levels should be measured for at least 30 minutes outside or inside the property at the place where the plaintiff finds the noise the most disturbing. Noise measurement is based on the noise 'emergence'. The noise emergence is the difference between the ambient noise including the disturbing noise and the ambient noise without the disturbing noise. The emergence must be below 3 dB(A) at night (between 10.00 pm and 7.00 am), and below 5 dB(A) during the day. The emergence limit increases if the duration of the noise event is shorter. It should be also noted that the level of ambient noise including the disturbing noise must be below 30 dB(A).

Where possible, health officers tend to solve noise conflicts directly without establishing an official record. In cases where an official record is established, the whole procedure can take from two to six months before the guilty party pays the fine. The level of the fine varies in relation to the circumstances (e.g. the level of noise, the number of people disturbed, the economic status of the guilty party). For example, in the case of a commercial activity such as a bar or club, the fine may be in the region of 1500 Euros. If a student were the cause of the noise, the fine would be in the order of 150 to 450 Euros.

A criminal procedure is initiated by the Mayor or by authorised agents on the basis of the official report. The official report is transmitted to the prosecution within five days. The prosecutor reviews the complaints and makes a decision. At this stage of the procedure, the prosecutor can decide to submit the case to a mediator with the parties' agreement. The mediator is nominated for one year by the first President of the Court of Appeal and receives a specific training recognised by the Ministry of Justice. The mediator informs the prosecutor of the mediation results. If the mediation fails, the prosecutor can close the affair or initiate an action in law.

The judge can condemn the guilty party to;

- pay a fine; or
- compensate the plaintiff for the damages caused. The evaluation of the damage takes into account the number of offences.

The civil procedure is initiated by the plaintiff who must give evidence of a fault or negligence, or the existence of a nuisance.

Since September 1998, night correspondents have been established in certain areas. Their function is to prevent and solve neighbour conflicts (including those relating to noise). This is paid for by the State, territorial authorities and social housing bodies. The correspondents will intervene on the request of the inhabitant. In around 50% of cases where the correspondents have intervened, the conflict has been in relation to noise. This operation is considered to be very successful, with around 60 to 90% of inhabitants

interviewed reacting positively to the system. There are currently 25 night correspondents covering 12,000 homes.

Although a part-time mediation service is available, this is not always considered to be effective, particularly where there is a serious conflict, as the parties involved may refuse to speak to one another, even through a mediator.

C6.4 *THE RIGHT OF APPEAL*

Both parties have the right of appeal to the corresponding superior jurisdiction. For civil cases, the appeal is made to the Court of Appeal or the Court of Cassation depending on the sums of compensation involved. It is understood that very few cases go to appeal. No information on the timescales involved was identified during this study.

In case of neighbour noise, the qualified officer who investigates the complaints makes a judgement as to whether the noise constitutes a nuisance or not (as described above in *Section B6.3*). An official record can be established on the basis of this judgement. It is very difficult to contest the decision of a qualified officer, however, if there are a number of persons prepared to give evidence that the noise was not causing a disturbance, a judge can decide to cancel the official record.

In the case of classified installations, the préfet or the inspector's decision can be contested through the administrative court.

C6.5 *LINKS TO OTHER STRATEGIES*

C6.5.1 *Housing*

For blocks of flats built after 1970, it is prohibited to lower the initial acoustic quality. Very often, the co-property regulation (a regulation that is approved by all the people owning a flat in the same property) includes provisions on noise. Such documentation is taken into account by the court when examining noise related complaints.

C6.5.2 *Planning*

Since 1998, a preliminary noise level assessment must be conducted as part of the Environmental Impact Assessment process before a construction permit can be obtained. The arrêté of 1998 gives the Mayor the power to require such a 'noise study' whenever it is considered as necessary.

The Service for Hygiene and Health in the City of Strasbourg has seven inspectors (dealing with noise and other environmental issues) and one noise engineer, dealing with a population of around 264,115.

In addition, there are 30 policemen, of which 12 constitute the Environment Brigade, and have received specific training noise on noise control. This service was established in 1996 in Strasbourg, but does not exist in all French cities.

The Service for Hygiene and Health in Strasbourg receives approximately 150 complaints concerning neighbour noise, and the city police respond to around 1,000 complaints for neighbour noise, and night noise each year. It has not been possible to assess the number of complaints that have been taken to prosecution by the police, as these statistics are not recorded.

In general, the authorities consider the existing system to be effective, although there are weaknesses associated with a lack of co-operation between different authorities and limited financial and human resources. Better provision of information to the public was also identified as a means of improving the system.

A report on neighbour noise and the communes was issued in July 2000 ⁽¹⁾. The study aimed to review actions taken in a group of cities of different sizes, to identify difficulties and evaluate the actions undertaken with a view to applying good practice to the territory. According to the report, in 1998 the number of noise complaints received by 118 Health and Security Services covered by the survey amounted to 7,271 complaints for a population of 9,600,000 inhabitants.

Noise complaints were broken down as follows:

- neighbour noise (e.g. behaviour) - 29.4%;
- noise from public places (e.g. bars, discos) - 18.9%;
- noise from artisan and commercial activities - 14.7%;
- noise caused by barking dogs - 14%;
- noise linked to infrastructure - 13%; and
- other - 10%.

However, it should be noted that these figures do not take into account complaints received by the municipal police.

The report also includes proposed measures to improve the legislation and enforcement practice, as described below:

(1) A copy of this report can be viewed at
<http://www.environnement.gouv.fr/dossiers/bruit/200009-hugel>

- establishing services responsible for the prevention and control of neighbour noise or improving the function of existing services in terms of their expertise and financial and human resources;
- creating a network between the different services to exchange experience;
- more cooperation with other services such the police, the préfet, health and environment services, the prosecution, local associations, the Centre for Information and Documentation on Noise; and
- better education of the population.

Other more general measures include:

- informing the Mayor and its services on their role and powers;
- adopting municipal and préfectoral arrêtés on noise ;
- introducing simplified procedures for imposing fines;
- education in schools;
- raising awareness and training;
- encouraging communication between neighbours; and
- encouraging greater police involvement.

It is understood that long-standing complaints are relatively rare. However, in many cases other, underlying issues are considered to be the root cause of noise complaints, particularly in the case of neighbour noise.

C7 GERMANY

C7.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C7.1.1 Introduction

Germany is a federal state consisting of 16 'Länder' or States, which correspond broadly to the Regions in the UK. Each State is divided into a number of 'Bezirkämter' or Boroughs, of which there are 12 in Berlin and seven in Hamburg. In carrying out this research, interviews were held with the Federal Environment Agency as well as with representatives from the environmental authorities in two Länder, Berlin and Hamburg.

Some aspects of noise are legislated for at a national level, and others, at the regional level of Länder.

C7.1.2 Federal Germany

A number of statutes provide controls at the federal level of government and these are described below.

Regulation on Lawnmower Noise (8. Ordinance for the enforcement of the Federal Immission Control Act - Bundes-Immissionsschutzgesetz (8. BImSchV))

This legislation provides noise emission limits for lawn mowers and is applied to the manufacturers and suppliers of lawn mowers and regulates as well as the use of lawn mowers. The emission limits correspond to the European regulation. Additionally users are not allowed to use lawn mowers between 7pm and 7am on workdays, and during Sundays and bank holidays unless the lawnmowers comply with certain noise restrictions ⁽¹⁾.

Regulation on Sports Facilities (18. Ordinance for the enforcement of the Federal Immission Control Act - Sportanlagenlärmschutz-Verordnung(18. BImSchV))

This regulation was adopted in 1991 following continued noise disturbance from sports events. It places a relatively strict requirement on the planning and construction of new sports facilities in relation to neighbourhoods, but also softens the requirements on existing facilities. Especially strict noise limits can be used for sporting activities on Sundays and Bank holidays.

Technical Guideline on the Protection Against Noise (6. Administrative Regulation for the Enforcement of the Federal Immission Control Act - Technische Anleitung zum Schutz gegen Lärm vom 26. August 1998)

This legislation regulates noise levels from fixed installations such as air conditioning and heat exchangers, by setting operational limit values that vary

(1) ie with an emission limit of less than 88 dB(A) (sound power level) or produced before 1987 with a sound pressure level (at a distance of 10 m) of less than 60dB(A).

according to the time of day, and in different land use zones. The legislation is relevant to industrial, commercial and private installations.

The General Administrative Regulation for the Protection Against Construction Noise (Technische Anleitung zum Schutz gegen Baulärm vom 19. August 1970))

This legislation regulates noise from construction sites. Where necessary, the relevant environmental authorities may require the use of eco-labelled 'Blue Angel' plant and equipment, which can bring about a significant reduction in the level of noise disturbance experienced.

Sound Proofing Measures in Housing (no federal legislation but a Technical Standard that is administratively used on the regional level)

This regulation sets noise limit values and standards (DIN 4109) in sound proofing of houses, which is dependent on the use of the rooms

Section 117 of the public order regulation (Ordnungswidrigkeitengesetz OWiG)

This regulation includes a penalty for individuals or businesses that give rise to noise that significantly disturbs neighbours or the general public. This law is designed to apply to all cases, where federal and regional law does not address this type of nuisance.

Bank Holiday and Sunday Regulation (Feiertagsschutz-Verordnung GVBl. S. 615)

This regulation, which dates from 1954, applies on bank holidays and Sundays, where this is not addressed in other ordinances. All large public works are not permitted on Sundays and bank holidays between 5 pm and 5 am the following day.

Section 906 of the Private Right Law (Bürger Gesetz Buch-BGB)

This article gives people in Germany a 'right to quietness' and allows an individual who feels that their quiet is being disturbed, to obtain a court judgement against the person causing the noise. However, sufficient evidence is required to demonstrate that the noise described is causing a considerable disturbance and that it is not typical for activities according to the land use of the area where the complaining person lives. This applies only to neighbour noise arising from individuals.

C7.1.3 Länder Specific Regulations

The Berlin & Hamburg Ordinance Die Berliner Lärmverordnung und Hamburger Lärmverordnung GVBl.I S.36)

Both 'States' have noise ordinances that limit noise from private and certain commercial activities (for example public amusement parks and motor sport activities in Berlin). The environmental authorities are responsible for the enforcement of the ordinances in both States. Noise limits vary depending on the time of day.

In Berlin, the following rules apply:

- it is prohibited to make noise that may disturb the 'nights rest' between 10 pm and 6 am; and
- it is not permitted to make noise which can disturb other people **objectively** and **unreasonably** between the following hours:
 - 6 am – 7 am;
 - 8 pm and 10 pm on working days; and
 - 6 am - 10 pm on Sundays and Bank holidays.

In addition, disturbance from musical instruments and loudspeakers, motor sport, public fairs and noise from the keeping of animals should be avoided during the daytime (i.e. 7 am to 8 pm).

The Hamburg noise ordinance includes the following controls:

- noise which causes disturbance is not allowed between the hours of 8 pm and 7 am;
- the use of radios and musical instruments must be kept to a level that does not cause disturbance during the quiet hours of 1pm to 3 pm and 8 pm to 7 am; and
- lawn mowers and other noisy outdoor equipment may not be used at all during the quiet hours of 1 pm to 3 pm and 8 pm to 7 am.

These limits cover neighbour and neighbourhood noise (as set out in the German Emission Protection Act) and include public spaces and housing estates. There are a number of exemptions under specified conditions including the use of loudspeakers during sport, cultural or tourist events or the use of loudspeakers on building sites.

The Berlin Ordinance does not cover soundproofing in buildings.

Other regulations on noise include the:

- Section 117 of the Regulatory Offence Act (Ordnungswidrigkeitengesetz) which regulates neighbour noise nuisance between 7 am and 8 pm;
- *Pub Act* which sets limits on noise from clubs, pubs and Biergärten; and
- *Sporting Ground Ordinance (18 BImSchV)* which sets stringent controls on sport arrangements and facilities used on Sundays or on Bank holidays.

The Regulatory Offence Act and the Berlin Ordinance are administered and enforced by the local 12 *Bezirkämter* in Berlin and seven *Bezirkämter* in Hamburg.

Individual States are responsible for the enforcement of the Technical Guideline on the Protection Against Noise (*Technische Anleitung zum Schutz gegen Lärm* vom 26. August 1998) which regulates noise levels on fixed installations such as air conditioning and heat exchangers. The regulation is mandatory and as such is considered to be effective. However, there is evidence to suggest that it is not always sufficiently enforced, since the ability of the individual or company involved to pay for the improvements required is also taken into account. If an individual is dissatisfied with a decision relating to the enforcement of this legislation, the case can be taken to a civil court.

C7.1.4 *House Regulations*

Owners of housing estates are able to set up *house regulations*, which are legislated for under the BGB (*Bürgerliches Gesetzbuch*). If, following a series of warnings, noisy neighbours do not change their behaviour; the house regulation comes into force. These regulations vary widely and can apply to privately and publicly owned housing estates.

The rules of the BGB (§553) state that a landlord can evict a tenant if they give rise to continued noise disturbance. Complainants can also require the landlord to solve the noise problem with noisy tenants, and make the landlord responsible if the noise problems arise due to poor noise insulation (i.e. below the DIN 4109 standards). Finally, a complainant can have his rent reduced if the noise is significant and is not dealt with (BGB §537) as described above.

C7.2 *GUIDANCE AND EDUCATION*

As part of the 'International Quiet Day' on 12 April 2000, the German Federal Government published a comprehensive booklet 'Laut ist out' that included information on the scale of noise problems in Germany, legal instruments to combat noise and what individuals can do to reduce noise from their own activities. The types of noise included in the booklet include all sources that may affect private individuals such as street noise, different types of transportation noises, train, air, industrial noise, sports and neighbourhood noise problems.

Berlin leads campaigns on noise on Sundays and Environment Day. No campaigns specifically aimed at neighbour noise are in place as the ordinance that covers this type of noise is currently under revision.

The German authorities generally encourage individuals to attempt to solve neighbour noise disputes themselves. In cases where the noise disturbance cannot be solved without the involvement of the authorities, there are three independent legal means of dealing with noise problems, which individuals can choose to take: criminal law, civil law and the constitutional court.

Criminal Law - the police can be contacted for noise which is disturbing public order or for noise disturbances which are regulated under federal and regional law. The maximum penalty is 10,000 DM (5,000 Euros) if other solutions cannot be found. The complaining party is not liable to cover any costs.

Civil Law - this can be used between private parties, for instance when the noise is coming from neighbouring private property. The relevant law (BGB §906) requires the disturbance to be significant and beyond legal limit values. However, the complainant must demonstrate that the noise complained of is giving rise to nuisance, which may lead to significant costs.

Constitutional Law - can be applied when a noise disturbance, which is regulated by an authority, has not been dealt with. However, in such cases, it may take years before a decision is reached.

For areas where an ordinance or law is in force people can contact the environment authorities within each *Bezirkamt* in Berlin or Hamburg for instance, or the police if the relevant authority is closed.

Evidence that the noise complained of is 'significant' is required in order for the authorities to act. In gathering this evidence, the authorities may carry out noise measurements or simply witness the disturbance, in which case a subjective judgement is required by the investigating officer. If the disturbance is considered to be significant, the person responsible for making the noise will be asked to change their behaviour such that the noise no longer causes a disturbance. If the disturbance persists, authorities have the right to confiscate material (e.g. musical instrument, televisions etc) or to give penalties up to DM10,000 (5,000 Euros) for behavioural noise disturbances and up to DM 100,000 (50,000 Euros) for noise from commercial activities.

There are no specific mediation services in Berlin or Hamburg.

C7.4

THE RIGHT OF APPEAL

C7.4.1

Noise Ordinance

Individuals can make a complaint against a decision taken by the authorities or about the procedures used and either make a petition to the parliament in the 'Bezirke' or take a case to the 'Verwaltungsgericht' (Constitutional Court), which has a general jurisdiction over disputes concerning administrative law. The Constitution Court may take many years to make a decision on a case.

Privately, neighbours can also go to the civil court 'Amtsgericht' to complain about noisy behaviour.

C7.4.2 *House Regulations*

It is possible to contest a private house ruling through the civil court, after a house regulation has come into force.

C7.5 *LINKS TO OTHER STRATEGIES*

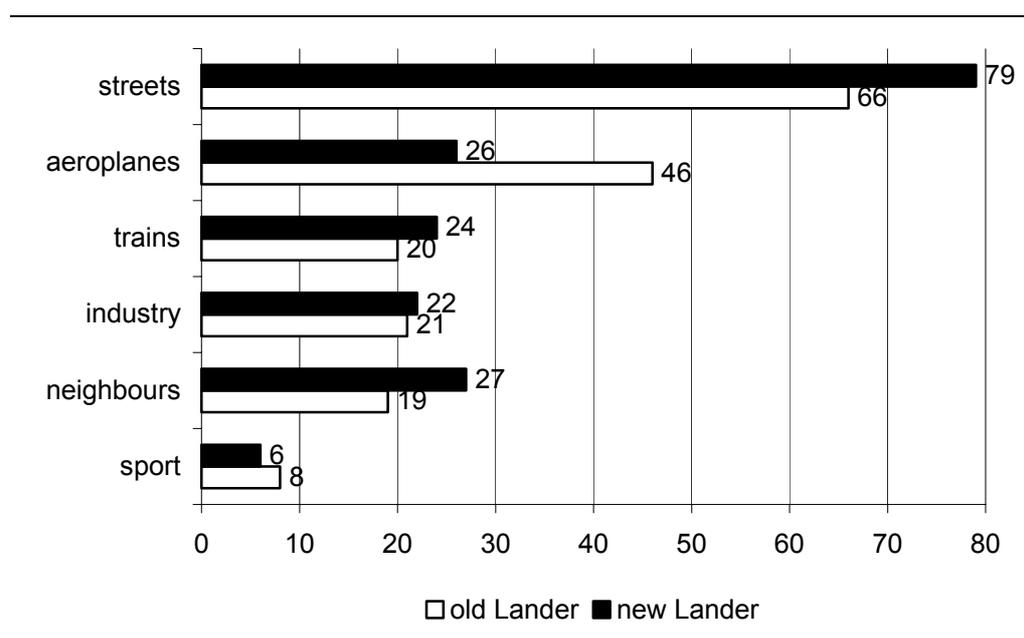
Eco labelling of electrical goods and machines play a role in the reduction of noise disturbances. The 'Blue Angel' eco-label guides consumers and industry towards particularly quiet machinery ranging from lawnmowers to construction site machinery.

The DIN 4109 sets minimum standards on buildings less than 20 years old, including noise insulation. However, there are no regulations setting standards for houses older than 20 years.

C7.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

According to an annual survey of noise disturbance in Germany, neighbour noise disturbed 19% of the population in the 'old' Länder and 27% in the 'new' Länder in 2000 ⁽¹⁾. These figures are comparable with those associated with disturbance from industry and railway noise. *Figure C7.1* below presents data on the *perceived* level of noise disturbances in Germany, rather than the actual number of complaints.

Figure C7.1 *Perceived Noise Disturbance in Germany, % of Population*



(1) The 'new' Lander refers to former East Germany and the 'old' Lander to former West Germany.

There is no overview of the scale of neighbour and neighbourhood noise problems in Berlin. The central authority, however, defines this type of noise as an important problem in the town, resulting in a high level of complaint. Similarly, there are no statistics, which relate specifically to Hamburg, although the central environment authority estimates that around 200 complaints per year relate to neighbour noise.

In both cases, the authorities acknowledge that the current system is not optimal. Complaints can persist for long periods, turning into neighbour disputes against which the authorities can do very little. In addition, there are no specific mediation services in Hamburg or Berlin.

The rate of development in Berlin is leading to problems associated with noise, in addition to air quality and dust. The 'Senatverwaltung für Stadtentwicklung' intends to incorporate these issues into one piece of integrated legislation. As part of the revision, the quiet hours, within which disturbance is not allowed, will be expanded.

No published data on the proportion of complaints that go to prosecution is available. However, it is understood that most complaints can be dealt with immediately, although the authorities may need to witness the noise in order to determine whether it is giving rise to a disturbance, before a complaint can be resolved.

In Hamburg, there is one person per Borough (Bezirkamt) for dealing directly with neighbourhood noise. In addition, two officers in the Hamburg environment authority are responsible for manning the environment helpline, which citizens can use to make a complaint. The Police also deal with noise problems.

C8.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C8.1.1 *Introduction*

Several legislative instruments address neighbour and neighbourhood noise in Greece, at the national and regional level of government. For administrative purposes, Greece is subdivided into 54 *Prefectures*, which have independent powers.

A summary of the main provisions is provided below.

C8.1.2 *Police Regulation (PR) 3/96 - Greek Government Gazette (GGG) 15/B/12.01.96*

This regulation gives powers to the Police for preserving public peace. Hours of public peace hours are defined as:

- summer period - (April 1 to September 30) between 3 pm and 5.30 pm, and between 11 pm and 7 am; and
- winter period - between 3.30 pm and 5.30 pm and between 11 pm and 7 am.

Certain activities are prohibited during these hours (e.g. use of any musical instrument, radio or TV etc at high volume). Other activities are prohibited at all times (e.g. football and other games creating noise in the streets, plazas and in public places in general).

The PR does not specify any procedures other than for obtaining a permit for a public hall with musical instruments or other noisy operations. Individuals can complain to the police at any time when they are disturbed and usually a patrol car arrives to ask the person to reduce the noise. In case of non-compliance the person causing the noise can be taken into custody. Individuals may sue other individuals or a business for common peace disturbance. This would normally take place in the civil court.

Penalties are usually limited to fines and in some cases a business may be prohibited from operating, or equipment confiscated.

In addition, a permit is required for the operation of any kind of musical instruments, the playing of songs and recitations and the use of radios, televisions, etc, in public halls (e.g. cafes, sweet houses, bars, taverns, restaurants pubs, discos, etc).

C8.1.3 *Law (L) 1650/86 GGG 160/A/16.10.86 Law for the Protection of the Environment, Article 14 – Protection from Noise*

This legislation covers all sources of noise and is enforced by the Ministry of Environment, Physical Planning and Public Works (MEPPPW). The MEPPPW set noise limits in neighbourhoods according to land use. The penalties associated with a breach of this law involve the use of a ‘restraining order’ to prohibit the activity which is giving rise to the noise. Individuals may appeal to the Supreme Court.

C8.1.4 *Other Relevant Statutes*

The following statutes, as described in *Box C8.1* are also relevant to the control of neighbour and neighbourhood noise. In most cases, the legislation is enforced by the Greek Police.

Box C8.1 *Other Relevant Statutes*

-
- **Ministerial Decision (MD) A5/3010 - GGG 593/B/02.10.85** – a permit is required to play music in entertainment halls and shops. Penalties may include a fine in the civil court, or the closing down of the establishment.
 - **MD 61371/90 - GGG 603/B/18.09.90** - a permit is required for the use of loud speakers in election campaigns etc. This is controlled by the Greek Police. The permit defines hours of use and the power of the speaker to be used. Penalties may include a fine in the civil court, or the closing down of the establishment.
 - **Common Ministerial Decision (CMD) 7034/1298 - GGG 368/B/24.03.00** - specifies a minimum distance between noisy entertainment activities and areas used for housing and other sensitive land uses, and is enforced by the Greek Police. Penalties may include a fine in the civil court, or the activity in question may be stopped.
 - **CMD 11733/91 - GGG 384/B/10.06.91** - includes measures to abate noise emanating from the testing, installation and repair of car alarm systems in commercial establishments, and is enforced by the Police. A permit is also required to operate such a facility. The penalty is a fine in the civil court.
 - **Presidential Decree (PD) 38/96 - GGG 26/A/16.02.96** - specification of terms and conditions for establishment and operation of shops for maintenance and repair of cars, motorcycles, motorbikes etc. A permit is required to operate such a facility. The penalty is a fine in the civil court.
 - **PD 455/76 - GGG 169/a/05.07.76** – specifies terms and conditions for establishment and operation of vehicle stations and the installation inside them of car washes, car lubricants etc. A permit is required to operation this type of facility. The penalty is a fine in the civil court.
 - **PD 1180/81 GGG 384/B/10.6.91** – a permit is required for the operation of small industries and commercial installations of any kind. Permits, which include noise limits are authorised and enforced by the Prefecture. The penalty is a fine in the civil court.
-

In addition, there are several pieces of legislation which relate to the operation of construction machinery such as:

- MD 56206/1613/86 – GGG 570/B/09.09.86 on EC type approval for machinery and site plant.
- CMD 69001/1921 - GGG 751/B/18.10.88 on EC type approval for the noise limit values for machinery and site plant.
- MD 765/91 – GGG 81/B/21.02.91 specification of noise level limit values for hydraulic shovels with wires, earth dozers, loaders and loader- graders.

C8.2 *GUIDANCE AND EDUCATION*

Guidance on neighbour and neighbourhood noise is provided at a national level by the MEPPPW Noise Department. Their Internet site provides general information on programmes and studies for the abatement of noise, environmental impact studies, noise audits in industries, noise protection works (e.g. sound barriers), condition of the acoustic environment and noise research etc.

On a regional level, most Prefectures and cities have a city planning service and within that an environmental department, who may be involved with noise. However, in general, information on neighbour and neighbourhood noise in Greece is lacking. Education on neighbour and neighbourhood noise is provided in certain areas centrally by the Noise Department of MEPPPW for the Prefectures.

Other than the Police Regulation 3/96, which relates to the measures for preserving the public peace, there are no standards, codes of practice or guidelines on neighbour and neighbourhood noise.

There are no education leaflets or courses supplied by MEPPPW. In Greek Universities, there are no official curricula for noise, apart from that included as part of certain environmental impact type studies, but these focus more on transportation noise. Little reference, if any, is given to neighbour and neighbourhood noise.

Currently, there is no active strategy to reduce noise complaints through education and publicity.

C8.3 *CURRENT ENFORCEMENT PRACTICE*

No significant differences in the written law and the law in practice were identified during the study. Complaints are typically made to the Police department by telephone. A complaint may also be filed with the Noise Department of the MEPPPW or the Environmental Department of the local Prefecture. In matters of neighbour and neighbourhood noise, especially pertaining to Police Regulation 3/96, the local police respond to the

complaint. In the case of a complaint with the MEPPPW, an environmental health official responds to the complaint.

The police usually attend the scene, in most cases, within an hour of receipt of the complaint. For complaints filed with the Noise Department of MEPPPW, or the Environmental Department of the Prefecture, a health official may attend the scene within a few days.

Noise levels are not recorded during police visits. However, when a case is investigated by a health official, trained personnel undertake noise measurements. Typically, the following parameters are recorded:

- L_{Aeq} ;
- noise level percentiles (e.g. L_1 , L_{10} , L_{95});
- L_{Amin} ; and
- L_{Amax} .

The offending equipment cannot be confiscated unless a court order specifies so (in very rare occasions). In most cases, a fine will be set in the civil court. The police or public officials also attempt to help resolve disputes without resorting to prosecution. There are no mediators or a regulatory watchdog. When the case reaches a civil court, the disputes may be resolved in the trial process.

The procedures used to investigate noise problems and to enforce the law usually fall in two categories:

- neighbour noise (e.g., a barking dog, a persistently noisy Hi-Fi, a loud party); and
- neighbourhood noise (e.g. a noisy factory, a noisy construction site).

The police usually deal with cases of neighbour noise. A police officer may make a recommendation to lower the noise, and if the problem persists and more complaints are made within the same night, may make an arrest. The complainant may also sue through the civil court process.

In the case of neighbourhood noise, a complaint can be made in much the same way, through the police. However, if the police are unable to stop the activity, because there is a permit of some kind, then the individual may protest to the Noise Department of the Prefecture or of the MEPPPW. An official is then assigned to the problem, who will visit the scene within a few days to take noise measurements, conduct interviews and prepare a report for the Prefecture. If a violation of noise limit values set by legislation is recorded, the Prefecture will ask the Police to enforce compliance to the limits. If the violation continues, the Prefecture may suggest a fine, or even prohibiting the activity in question. The complainant may also sue through the civil court. In cases of neighbourhood noise where the noise is within the limits set in the

Environmental Terms of the activity, the complainant may appeal to the Supreme Court for a restraining order of the activity.

C8.4 *THE RIGHT OF APPEAL*

If an individual is prosecuted they can appeal through the appropriate legal channels available to a civil court case. In addition, the person who is responsible for causing the noise can appeal using the civil court system of Greece. It is not known what percentage of complaints go to appeal, or what proportion of appeals are successful.

C8.5 *LINKS TO OTHER STRATEGIES*

The regulatory approach to neighbour and neighbour noise is loosely linked to housing and planning strategies. For example, there are building code regulations for noise insulation, and several zoning laws have been passed for specific regions in Greece, limiting amongst other things, noisy activities in areas of housing.

C8.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

Based on the opinion of both the national and local contacts, the Police regulation for neighbour noise is considered to be an adequate, although not effective means of dealing with neighbour and neighbourhood noise. For example, complaints are investigated quickly, but solutions cannot always be found quickly and amicably.

The law is not considered to be as effective for dealing with neighbourhood noise, since there are certain shop owners who have good relationships with local police, and are therefore, difficult to control or shut down. In such cases results may be achieved only through a coalition of citizens seeking enforcement through a Court Decision.

Factual information about the neighbour and neighbourhood noise problem is not available nationally and in most cases not even locally. Since neighbour and neighbourhood noise is typically handled by the local police, who respond after a phone call, most incidents are not recorded, particularly where they are resolved on the scene. The incidents are recorded only if the complainant files a suit with the local police department. This information is not gathered by any national or local body, so is difficult to compile.

With regard to complaints filed with the MEPPPW or with local Prefectures, these are not systematically organised or categorised, but are filed together with thousands of other applications and complaints for other matters. Therefore, no statistics on the scale of the neighbour and neighbourhood noise problem in Greece were identified during this study.

The scale of the neighbour and neighbourhood noise problem is considered to be greater during the summer period, due to an increased number of sources of noise operating and the practice of sleeping with open windows. The greatest percentage of complaints arise from music halls and other entertainment halls.

The majority of complaints are resolved through informal, amicable agreement or through mediation from the local police. In only a few cases is the problem resolved through prosecution, of which PR 3/96 is the most commonly used statute.

In general complaints relating to particular types of neighbour noise, e.g. parties, barking dog, etc can be resolved immediately. Other noise complaints, relating to noise from factories, construction sites, clubs etc, may be more persistent taking days, or months to be resolved. In some cases, complaints persist for long periods.

The level of official resource required to deal with neighbour noise (e.g. loud parties etc.) is generally low, equating to a few person hours per complaint. For persistent cases (e.g. discos, etc.) several person days may be required. The number of full time personnel involved is difficult to estimate as the police typically deal with complaints of neighbour noise, especially during the night-time. Usually, there is only a small number of staff dealing with noise complaints at the MEPPPW Noise Department or in the local Prefecture.

The use of police for involving many neighbour and neighbourhood noise disputes is considered to be a cost-effective use of official resources. This also allows technical noise specialists from the MEPPPW or local Prefecture to focus time and resources on more complex or persistent complaints.

C9.1 OVERVIEW OF THE LEGISLATIVE FRAMEWORK**C9.1.1 Introduction**

The law relating to neighbour and neighbourhood noise from domestic and commercial premises (i.e. those not licensed under the Integrated pollution Control (IPC) Licensing regime ⁽¹⁾) and activities such as pubs, clubs, commercial operations and local industry in Ireland, is governed principally by two legal instruments:

- Environmental Protection Agency Act 1992; and
- Environmental Protection Agency Act 1992 (Noise) Regulations 1994 (S.I. No. 179 of 1994).

Prior to the introduction of the Environmental Protection Agency Act 1992 (hereafter referred to as the EPA Act) and the associated Regulations, the control of neighbour and neighbourhood noise was covered by the Public Dance Halls Act 1935 (in the case of noise from nightclubs and dance halls) and the Planning Acts (1963 to 1992). The Planning Acts were frequently criticised as being weak and ineffective in allowing complainants to take action against sources of noise nuisance. Not only were three co-signing complainants required to validate a complaint, but the procedure was often cumbersome and unsuccessful. In addition, those responsible for causing the noise could simply use the defence of “taking all reasonable care” ⁽²⁾ and escape conviction.

C9.1.2 Environmental Protection Agency Act 1992

The EPA Act repealed the provisions of the Dance Hall Act and the Planning Acts and replaced them with a new system that allows individuals to apply for a District Court Order (DCO) to prevent further nuisance. The Act also allows for noise regulations to be prepared and if necessary, for noise limits to be defined. To date, only one set of regulations has been prepared.

A summary of the main provisions of the EPA Act and Regulations made under the act are described in *Box C9.1* below.

(1) IPC licenses are prescribed under the Environmental Protection Agency Act 1992 and the Environmental Protection Agency (Licensing) Regulations 1994 (SI No. 85 of 1994).

(2) Defined in the Environmental Protection (Noise) Regulations 1994 (SI No. 179 of 1994).

Environmental Protection Agency Act 1992

- Section 106 of the Act provides for the preparation of regulations and standards to limit or prevent noise in certain areas. However, to date, no noise standards have been prepared.
- Section 107 provides for the limitation or prevention of noise concerning a premise, process or works (i.e. non-IPC licensed activities) by a local authority or the Environmental Protection Agency. The authority or the Agency may serve a notice upon the person in charge, requiring measures to be taken within a specified period of time.
- Section 108 provides for the limitation or prevention of noise concerning a person who is alleged to have made, caused or been responsible for such noise giving reasonable cause for annoyance. The regulations also provide that failure to comply with the requirement of a notice or a notice as amended, issued by a local authority under Section 107 may be prosecuted summarily by the local authority.

Environmental Protection Agency Act 1992 (Noise) Regulations 1994

The Regulations prescribe the form of notice to be served under Section 108 by a local authority or a person who intends to make a complaint to the District Court. The Department of Environment and Local Government has published a guidance leaflet, providing details on these regulations.

Environmental Protection Agency Act 1992 (Commencement) (No. 2) Order, 1994

This order brings into operation, with effect from 1 July, 1994, Section 18(1) of the EPA Act. This repeals Section 51 of the Local Government Planning and Development Act 1963 dealing with noise nuisance, and replaces it with Section 108 of the EPA Act. It also commences the Third Schedule to the 1992 Act, which amends certain provisions of the Air Pollution Act, 1987.

Although Section 106 of the EPA Act provides for the establishment of noise standards or limits, to date, no restrictive limits have been set. Consequently, it is not an offence to cause excessive noise *per se*. The principal instrument of noise control is through Section 108 that provides for the right of any person (including private individuals and representatives of a local authority or the EPA) to take action against neighbour and neighbourhood noise by applying for a Court Order to be served by the District Court. A guidance leaflet issued by the Department of Environment and Local Government (DoELG) states that a complaint may be initiated:

“whenever you consider a noise to be so loud, so continuous, so repeated or of such duration or pitch, or occurring at such times that it gives you reasonable cause for annoyance”.

A notice must be served on the person (s) responsible for causing the alleged noise nuisance, stating that a complaint will be heard at the Court. A copy of the relevant notice is provided in *Appendix A* (at the end of Annex C). At least seven days later, the District Court will hear the complaint and may then issue an Order to deal with the nuisance. If the Court deems that the noise level is regarded as a nuisance, the Order may require cessation of the noise or

reduction to a specified limit. Breach of the notice may result in a penalty of up to IR£1000 (1,300 Euros), a custodial sentence of up to 12 months, or both.

The Irish system allows local authorities to leave the vast majority of noise nuisance to be dealt with by individuals. Only on rare occasions would the local authority intervene and use Section 108 themselves, (for example, for dealing with persistently bad tenants in local authority housing).

Despite the establishment of rights for individuals, not all actions taken under Section 108 may be successful. Valid defences include taking "all reasonable care" to limit the noise or if the noise is in accordance with a licence issued under Irish law (e.g. public entertainment licences or planning consents which set noise levels for specified hours of operation).

Noise emitted from IPC licensed premises is controlled by conditions attached to the licence and hence, is enforced by the Environmental Protection Agency.

C9.1.3 *Other Legislation Relating to Neighbour and Neighbourhood Noise*

Road Traffic (Construction, Equipment and Use of Vehicles) Regulations, 1963 (S.I. No. 190 of 1963).

Articles 29 and 85 of the Regulations provide for controls on vehicles so as not to cause excessive noise when in use.

European Communities (Construction Plant and Equipment) (Permissible Noise Levels) Regulations, 1988 (S.I. No. 320 of 1988).

These regulations, made by the Minister for Industry and Commerce, give legal effect to EC Directives ⁽¹⁾ on the approximation of the laws of the Member States relating to permissible noise levels from construction plant and equipment (for example, compressors, tower cranes, welding generators) designed for use in or around civil engineering or building sites.

European Communities (Lawnmowers) (Permissible Noise Levels) Regulations, 1989 (S.I. No. 102 of 1989)

These regulations, made by the Minister for Industry and Commerce, give legal effect to EC Directives (as above) on the approximation of the laws of the Member States relating to the permissible noise level of motorised lawn mowers.

(1) Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.

C9.2

GUIDANCE AND EDUCATION

A small number of privately-run, professional training courses are available for local authority employees and environmental monitoring personnel, although these are not accredited by the Irish Government. Nor are they widely subscribed to.

At the National Level, the DoELG has published a leaflet, *A Guide to the Noise Regulations*, which briefly describes the rights of individuals under Section 108 of the EPA Act and the subsequent regulations, and provides the complainant with a pro-forma Notice to send to the person responsible for causing the noise. The Environmental Protection Agency has also published guidance in 1995, *Guidance Note for Noise in relation to Scheduled Activities*. However, this relates only to industrial noise and describes techniques for controlling noise, setting noise limit values and compliance monitoring with respect to IPC licensing conditions.

At the regional level, as far as could be determined, the only detailed noise guidance that has been published exists within County Dublin, covering Fingal, South Dublin and Dun Laoghaire-Rathdown County Councils (all located within County Dublin). The guidance provides noise levels, definitions of standards and details of how noise should be monitored. A copy is provided in *Appendix B*. However, the guidance applies only to industrial, commercial or public leisure activities, since action against domestic noise can be sought under Section 108 of the EPA Act.

Dublin City Council, also within County Dublin, have prepared guidance on the Standard Operating Procedure (SOP) for the investigation of noise complaints. A copy is provided in *Appendix C* and described in *Section C9.3*.

C9.3

CURRENT ENFORCEMENT PRACTICE

C9.3.1

Introduction

This section of the report provides a description of current enforcement practice relating to neighbour noise and neighbourhood noise.

Following the receipt of a noise complaint by a local authority, the details of the complaint are forwarded to the environmental health unit or the noise control unit, where these have been established ⁽¹⁾. The details may be recorded in a log of complaints and according to the type of noise complaint, subsequent action may be taken.

There is usually no other party involved in mediation or resolving complaints.

(1) The provision of an environmental health unit or noise control unit is not mandatory and therefore varies between districts.

C9.3.2 *Neighbour Noise*

In the case of neighbour noise, the local authority will send the complainant a Section 108 form. Section 2.3 of Dublin City Council's noise control policy describes this procedure for 'opting out':

"Complaints arising from noise emanating from a domestic premises, (other than from where a business is been carried on), including a flat or apartment, should not be dealt with by the Noise Control Unit. However there may be special circumstances such as intimidation or anti-social behaviour by the alleged offending party, or other circumstances, where it may be more appropriate for the Noise Control Unit (i.e. the Local Authority) to take action. Due consideration should be given to investigation of such complaints arising from these domestic premises."

Since there is no legal obligation for local authorities to prepare SOPs or other procedural guidance, no standard approach to dealing with noise complaints exists. Dublin City Council, which received 381 noise complaints in 2000, is likely to be the busiest local authority in the country in this respect. Their SOP states that written or verbal complaints are registered in a log and the details entered into a standard complaint sheet. All complaints are forwarded to a Case Officer who is obliged to contact the complainant within three working days. If the complaint can be dealt with under Section 108, the City Council's involvement will cease at this stage.

C9.3.3 *Neighbourhood Noise*

If the complaint does not involve a private residence, the details of the complaint are entered into a Case Summary Sheet. A field inspection will normally take place within three days, depending upon the nature of the noise source. Other authorities may carry out inspections as soon as possible following the complaint. Noise levels are not necessarily recorded at this stage in the proceedings.

If the alleged noise nuisance occurs intermittently, the complainant is advised to keep a log of the noise for a period of one month from the date of complaint. After this time, the local authority will determine if a Section 107 Notice should be served upon the person responsible for causing the noise. The local authority must keep a register of the notices.

It is unlikely that any other authority will be involved in dealing with noise complaints. However, it has been suggested that the Gardai may accompany local authority personnel in some cases where security is an issue.

According to the Dublin City Council SOP, monitoring of noise emissions will take place after the owners of the source premises have been notified. This represents a "courtesy" notification and there is no legal obligation to do so. Whether the noise complained of constitutes a nuisance or not is determined by monitoring on no more than two occasions over a period of three months. Personnel inspecting noise complaints which occur during the night-time, or over long periods of time may utilise data-loggers which record noise events

monitored through a sound level meter over time. Night-time noise complaints may also be recorded via voicemail or answer phone facilities which are then dealt with the following day.

There are no national standards defining which noise units should be used to describe an alleged nuisance. In determining which noise units should be used, the Dublin City Council SOP makes reference to the following:

- Best Available Techniques Not Exceeding Excessive Cost (BATNEEC) ⁽¹⁾;
- BS 5228: Noise and Vibration on Construction and Open Sites, Parts 1 to 5 - in relation to noise from construction sites;
- BS 4142: Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Area - in relation to noise from non-IPC industrial premises;
- UK Noise Council Code of Practice on Environmental Noise at Concerts 1995; and
- Greater London Council Code of Practice for Pop Concerts.

The noise units described include a daytime limit of 55 dB $L_{Aeq, 60 \text{ minutes}}$ and a night-time limit of 35 – 45 dB $L_{Aeq, 15 \text{ minutes}}$. Similar standards have been adopted by other local authorities.

Offending equipment cannot be confiscated by local authority employees, nor is there any provision for the District Court to do so.

There are no mediators or watchdog bodies that monitor how noise complaints are dealt with.

C9.4

THE RIGHT OF APPEAL

There are limited third-party rights of appeal with Section 107 Notices. The complainant may appeal to the Ombudsman if the local authority fails to serve a Notice. They can also appeal to the local authority to request the amendment or revocation of a Notice.

The defendant may appeal within the timescale stated in the Section 107 Notice served upon them by the local authority or the EPA. This appeal is made to the District Court. A representative from Dublin City Council claimed that no appeals had ever been submitted to their knowledge.

(1) Defined in the Environmental Protection Act (1995) Integrated Pollution Control Licensing - Guidance Note for Noise in relation to Scheduled Activities (LC8).

C9.5

LINKS TO OTHER STRATEGIES

The noise control regime in Ireland is not clearly linked to any other strategies. However, with regard to building standards, there are parameters for noise controls set for the construction of residential buildings (e.g. wall density and thickness) and noise limits are integrated into planning conditions for the construction and operation of non-residential land-uses. Noise control is also an issue addressed by the licensing of public houses by the Department of Justice.

C9.6

HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?

The Irish system has the legal provisions available to address a broad range of neighbour and neighbourhood noise. However, it has been suggested by local authority personnel that the current system is decidedly weak in that there is no offence of causing excessive noise *per se* since no absolute noise limits apply. Consequently, in determining whether a noise offence has been committed, a subjective judgement of whether the noise constitutes a nuisance must be made by the local authorities.

Despite these apparent weaknesses, the majority of noise complaints received are dealt with effectively and only a very small percentage result in prosecution by the local authority under Section 107 of the EPA Act. In addition, many are resolved amicably without recourse to the provisions of the Act.

No statistics are available that describe what proportion of complaints require prosecution. However, it is estimated that the figure is around 1% since most cases can be resolved fairly easily.

Up to three noise complaints may be received per day by environmental health officers in Dublin. Although it is likely that the frequency and number of complaints might be reduced outside of the capital, there are no national statistics on the numbers of, or trends in, noise complaints. In 2000, 381 noise complaints were received by Dublin City Council. These are broken down by source in *Table C9.1* below.

Table C9.1 *Total Noise complaints received by Dublin City Council, 2000.*

Type	Number	Percent (%)
Domestic	87	23
Commercial	136	36
Construction	71	18
Intruder Alarms	41	11
Roadworks	24	6
Others	22	6
Total	381	100

This type of data is not available for other authorities in Ireland.

The majority of commercial complaints related to amplified music from licensed premises, machinery noise and mechanical ventilation/extract systems.

According to officers from Dublin City Council, this is no significant pattern in the number of type of complaints in relation to time of day and time of year, although it has been suggested that there may be a tendency for more exposure to noise during the summer months.

It has also been suggested that local authority resources restrict the ability to deal with domestic noise nuisance. For example, there are three environmental health officers to cover the areas served by Fingal, South Dublin and Dun Laoghaire-Rathdown County Councils, accounting for a population of approximately 600,000 persons (i.e. one officer per 200,000 population). Similar ratios of staff per head of population are found in Dublin, which has a population of approximately 480,000.

C10 **ITALY**

C10.1 **OVERVIEW OF LEGISLATIVE FRAMEWORK**

C10.1.1 **Introduction**

The main legislative instruments relating to noise in Italy are:

- The Civil Code (article 844) for neighbour noise;
- The Penal Code (article 659) also for neighbour noise; and
- Framework Law number 447/95 covering neighbourhood noise.

Each statute is discussed in more detail below.

C10.1.2 **Role of Public Authorities**

Ministry of Environment

The Ministry of Environment oversees the implementation of noise-related legislation at the national level. The Ministry was created in 1986 in order to *inter alia* implement EC Directives and other international legislation, and to issue new laws and guidelines for regulating environmental matters. New legislation is first passed by the State Parliament by way of Presidential Decrees, and implemented through Regional level legislation. It is enforced by the Provincial and Municipal administrations.

Regional Authorities

Regional authorities are responsible for issuing laws at a regional level, and to implement national legislation and general guidelines.

The National Environmental Protection Agency (*ANPA, Agenzia Nazionale per la Protezione dell'Ambiente*) co-ordinates the activities of the Regional Authorities, and also serves as a technical consultant to the Minister of Environment. The regional corresponding Authority is the Regional Environmental Protection Agency (*ARPA, Agenzia Regionale per la Protezione dell'Ambiente*). ARPA is responsible for the enforcement of statutory controls on pollution and the inspection of industrial facilities in place of the Local Health Authorities (*Azienda Sanitaria Locale - ASL*). Not all Italian Regions have instituted their ARPA at present.

Provincial and Municipal Administrations

The Local Sanitary Administration (*ASL, Azienda Sanitaria Locale*) is responsible for the enforcement of statutory controls on pollution and the inspection of industrial facilities where ARPA is not yet in force.

The Municipalities (*Comuni*) have the ultimate power to issue a building permit for any kind of building and/or industry in their administrative area.

C10.1.3 *Framework Law 446/95 (Legge Quadro sull’Inquinamento Acustico)*

This legislation defines the responsibilities of the different public bodies including the Regional, Provincial and Municipality authorities.

In particular, the power to release permits is held by the Municipalities while ARPA, on request of the public bodies, has the responsibility to control limits and compliance with the existing legislation.

Table C10.1 below provides a summary of relevant noise legislation in Italy.

Table C10.1 Italian Noise Legislation

Name	Title	Summary	Note
DPCM 01/03/1991	<i>Limiti massimi di esposizione al rumore negli ambienti abitativi e nell’ambiente esterno</i>	The first decree regulating external noise issues. According to this Decree, municipalities are divided into six areas depending on their sensitivity (e.g. rural or industrial areas). Maximum daytime and night-time noise levels are set for each area.	This law comes into force when land-use is not defined and rules for a specific source of noise have not been approved.
L 447/95	<i>Legge Quadro sull’Inquinamento Acustico</i>	Sets out the general principles and grants to the Ministry of Environment a central co-ordinating role.	Framework law on noise pollution.
DPCM 14/11/1997	<i>Determinazione dei valori limiti delle sorgenti sonore</i>	Sets emission limits (limits set at the source of noise), immission limits (set at the receiver), attention values and quality values for each type of land use, in accordance with law n° 447/95.	
DM 16/03/1998	<i>Tecniche di rilevamento e di misurazione dell’inquinamento acustico</i>	Sets noise matrices for measurements, in accordance with law n° 447/95.	

DPCM: Decree of the President of the Republic (*Decreto del Presidente della Repubblica*)
DM: Ministerial Decree (*Decreto Ministeriale*)

Other important decrees, which are not described above include limits and rules for different sources of noise. Currently, executive application rules apply only to the following sources of noise, which set noise limits at receptors:

- Pubs, discos, entertainment places: DPCM n°215 of 16/04/1999 “*Requisiti Acustici delle Sorgenti Sonore nei luoghi di intrattenimento danzante e di pubblico spettacolo e nei pubblici esercizi*” sets internal and external noise limits in accordance with DPCM 14/11/1997; and
- Autodromes: DPCM n° 304 of 03/04/2001 “*Regolamento Recante Disciplina delle Emissioni Sonore Prodotte nello Svolgimento delle Attività*”

Motoristiche sets limits at receptors for motor sport activities in an autodrome.

In addition, there are executive construction rules, which fix emission limits for working machines (DM n° 308 of 26/06/1998) and vehicles (DM of 23/03/2001).

C10.1.4 *DPCM 14/11/1997 Determinazione dei valori limiti delle sorgenti sonore*

DPCM 14/11/97 sets emission limits, imission limits, attention values (i.e. above which remediation is required) and quality values (long term target values) for different types of land use, in accordance with the Framework Law 447/95. However, none is directly applicable to neighbour noise.

C10.1.5 *The Civil and Penal Codes*

Other types of noise are managed by the civil and penal codes. Article 844 of the Civil Code states that in order to prevent an activity that is giving rise to noise, it is necessary to determine that the noise in the complainant's house is beyond 'normal tolerability'. Article 659 of the Penal Code relates to the disturbance of working or resting activities by shows or other public entertainments. The acoustic emission from discos, pubs etc must nevertheless be authorised according to the Regional laws (see *Section 10.5.2*).

Neighbour noise, which is concerned with the right of ownership, is covered by the Civil Code, but is also related to the 'right to health'. In these situations the civil court manages disputes, in accordance with the civil procedure code. In some cases, the Penal Code is also used, when noise interferes with resting activities, this might include for example, people speaking with loud voices at night in public open spaces (e.g. outside pubs, in streets, squares and parks). In these situations the criminal court manages disputes and the judgement can be a fine or a custodial sentence of up to three months.

In these situations the Local Health Authority (ASL) has the responsibility to control the noise in relation to its affects on health.

The distinction between the two codes is not always clear, and often depends on the individual policeman who is called to file a complaint or members of the legal profession who deal with the case at a later stage.

No noise standards are available for Civil and Penal codes. However, guidelines on the enforcement of the Civil Code suggest that the L_{Aeq} should be no higher than the L_{A90} plus 3 dB. If the L_{Aeq} exceeds this value, the noise complained of may be causing disturbance.

C10.2 *GUIDANCE AND EDUCATION*

In accordance with Framework Law 447/95 the Municipality is required to approve an education program focusing on the following:

- “too much noise means pollution”; and
- “it’s possible to make less noise”.

Currently, a Decree which fixes common rules for educational programs has not been developed. Nevertheless, some municipalities have approved programs in their areas.

Figure C10.1 below includes an example of an education leaflet published in Milan in 2001. The slogan reads “The Silence is Music for our Ears”.

Figure C10.1 *Example of an Educational Leaflet - Milan 2001*



The leaflet describes the main sources of noise in cities, and what the associated noise input are. In addition, the leaflet includes ten simple suggestions on how people can reduce noise pollution from Hi-Fi and TV equipment, home parties, shouting outside of the pubs, driving, how to choose an alarm or a washing machine, etc.

Educational programs refer to neighbour noise in particular because there is no legislation that fixes limits or other rules for this type of noise, and disputes between neighbours are resolved only in court.

C10.3 *CURRENT ENFORCEMENT PRACTICE*

Complaints relating to neighbour and neighbourhood noise are typically made to urban policemen, or put in writing to the local public administration.

If the source of the noise is a neighbour’s house, people shouting in the street or in front of a pub for instance, or loud music etc, urban policemen deal with

the complaints and file a “*complaint against unknown people*”. In this case the ASL (Local Health Authority) records the noise level at the receptor, which is then reported to the police. The dispute may then be resolved in the civil or penal court.

For certain noisy commercial or industrial complaints, when it is clear who is responsible for causing the noise, complaints are made to the local public administration. In this case the ARPA (Regional Environmental Protection Agency) records noise levels. The Mayor makes the decision on the penalty associated with disturbance, which may include remediation or a fine, in accordance with the relevant legislation.

A summary of the way in which complaints relating to different sources of neighbour and neighbourhood noise are dealt with in Italy, is provided below in *Table C10.2*.

Table C10.2 *Current Enforcement Practice - Summary*

Reference Legislation	Authority	Type of sources	Decision
Civil or Penal Code	ASL	Barking dog Persistent noisy Hi Fi Loud party Loud voices outside	The requirement for work to reduce noise/remediation is dealt with in the civil court. Where the penalty is a fine or arrest , this is determined in the penal court.
Framework law 447/95	ARPA	Loud activity Factory Open air entertainment Construction site*	Noise remediation measures might include urban planning or acoustic barriers as indicated by the Mayor.

* According to law n° 447/95, the Mayor fixes limits and rules.

Penalties do not allow for the confiscation of equipment.

The ARPA and ASL record noise in dB(A) over a period of sixteen hours, between 6 am and 10 pm during the daytime and for eight hours, between 10 pm and 6 am during the night-time, in accordance with *DM 16/03/1998*.

The following noise parameters are recorded at each receptor L_{Aeq} , L_{Amin} , L_{Amax} , L_{01} , L_{10} , L_{50} , L_{90} and L_{99} . Frequency analysis is used if appropriate.

C10.4 ***THE RIGHT OF APPEAL***

An individual prosecuted in relation to noise can appeal to the civil or penal court, or to the municipality.

In the case of the civil or penal court, the timescale depends on the civil procedure and can last from a few months to several years. In most cases, disputes are dealt with in the civil court.

Civil procedure begins with an urgent action, the noise must cease within 45 days, following which time the case will be heard, including the review and evaluation of technical reports associated with the case, which can take up to two years. A judgement will then be pronounced.

The timescales associated with the criminal procedure are usually shorter and involve a fine.

Where complainants are unhappy with a decision made by the courts, an appeal can be heard in accordance with the guidelines established in the civil and penal codes.

C10.5 ***LINKS TO OTHER STRATEGIES***

C10.5.1 ***Introduction***

In Italy there are a number of laws and decrees associated with housing and planning strategies that also relate to the control of noise. These are described in more detail below.

C10.5.2 ***Housing***

Italian legislation also sets noise limits both inside the receptor building and as imission limits for discos, pubs and other buildings. For example, *DPCM n°215 of 16/04/1999* sets external noise limits for pubs, discos and places of entertainment places, that are enforced in accordance with *DPCM 14/11/1997₁* and *DPCM of 05/12/1997* sets noise limits for lifts, the discharge of water, toilets, air conditioning and heating systems in flats (e.g. noise levels in bedrooms should be less than 35 dB(A)). If these levels are exceeded, residents can take action to ensure that noise levels are reduced.

C10.5.3 ***Planning***

In accordance with the Framework Law 447/95, each Municipality has the duty to prepare an *acoustic zoning plan* of its administrative area. This plan should contain specific noise limits for each type of land use in the municipality (e.g. residential areas, industrial areas etc).

If the noise level at receptors is higher than maximum level allowed, the municipality has to remedy this through changes in urban land use or traffic management or works relating to commercial/industrial activities. These zoning plans are currently being formulated.

The land use classes described and the reference periods of 0600 to 2200 and 2200 to 0600, were introduced by *DPCM 1 March 1991* and confirmed by *DPCM 14 November 1997*.

In addition, before the commencement of a new activity (e.g. disco, factory etc) it is necessary to carry out a noise impact assessment. For existing activities, a remediation plan developed with respect to imission limits must be presented to the municipality.

C10.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

In Italy there are no published statistics on neighbour noise complaints. However, every two years the municipalities which have more than 15,000 inhabitants, must report on the environmental noise conditions in the area.

Each public body has an office dedicated to noise pollution. The number of officers based at the ARPA and in the Municipality, is usually dependent on the size of the population in the area.

C11 LUXEMBOURG

C11.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C11.1.1 *Introduction*

The law relating to neighbour and neighbourhood noise in Luxembourg is governed principally by the *Law on the Fight Against Noise* of 21 June 1976, in addition to the *General Regulation of the Luxembourg City Police (Chapter II)* of 26 March 2001. The main provisions of this legislation are described in more detail below.

Other relevant statutes include:

- Grand-ducal Arrêté of 15 September 1939 on usage of audio equipment;
- Grand-ducal Arrêté of 16 November 1978 on noise levels from music establishments and in neighbouring areas;
- Grand-ducal Regulation of 8 May 1981 on nomination of experts and agents responsible for investigating and reporting non-compliance with legal provisions in the field of fight against noise and air pollution; and
- Grand-ducal Regulation of 1st April 1988 on admissible noise levels for lawn mowers.

Industrial and commercial facilities are covered by legislation on Classified Installations (commodo/incommodo). Noise limits are tied to authorisations for installations subject to permits or installations that require declaration under grand-ducaux arrêtés. The police or officials from the Ministry of Environment control compliance with noise limits included in permits. An official record is established and transmitted to the Prosecutor who then decides whether to initiate a criminal procedure.

C11.1.2 *The Law on the Fight Against Noise*

This legislation covers all sources of noise that cause damage to human health, work capacity or well-being. Control powers are vested in the police, although the Ministry of Environment is responsible for co-ordinating other authorities activities with regard to noise.

The police and certain experts and agents designated by grand-ducal arrêté are responsible for investigating and identifying cases of non-compliance with the legislation. The police can enter any establishment if they have reason to think that there is a potential case of non-compliance with the regulations on noise. However, they are not entitled to enter dwellings, except if there is a

serious presumption that the source of the noise is in the dwelling. In this case, it is possible to enter the dwelling only between the hours of 6.30 am and 10.00 pm, with an order from the prosecution judge.

In the case of prohibited noise emissions, imminent or existing, the Ministry of Environment can take emergency measures including prohibiting the use of equipment or activities, which may give rise to noise. These are provisional measures and must be confirmed within eight days by the competent minister. Within 40 days of the notification of the decision of confirmation, the person(s) condemned can lodge a statement of grievance (or plaint) in the Council of State.

The penalties associated with non-compliance can include fines from 10,000 to 80,000 LF (250 to 2,000 Euros) and/or eight days to six months imprisonment. In addition, it is possible to close commercial and industrial premises down. The criminal code provides for the following sanctions for night-time noise:

- fines from 1,000 to 10,000 LF (25 to 250 Euros, criminal liability); and/or
- one to five days imprisonment.

C11.1.3 *General Regulation of the Luxembourg City Police*

The General Regulation of the Luxembourg City Police compliments national legislation. This prohibits a disturbance of public tranquillity by excessive noise. Specific provisions cover the following sources of noise:

- animals;
- radio, television and musical instruments as well as singing;
- engines from motionless cars - (at night, shutting car or garage doors or starting or stopping vehicles so loudly that it can disturb other people);
- Skittle games (prohibited between 11.00 pm and 8.30 am if it constitutes a nuisance for the neighbourhood);
- construction works; and
- lawn mowers, saws and other noisy equipment - usage is prohibited at night and on Sundays and bank holidays.

C11.2 *GUIDANCE AND EDUCATION*

No guidance for regulators and the general public, or information on other educational programmes was identified during the study.

Complaints are received directly by the police, usually via an *intervention centre*. Generally, the police will attend the scene and try to calm people down. The police will treat the problem by phone only if it is a recurrent case and when they know the people involved and the problem. The police do not have the right to confiscate the equipment that is giving rise to the noise. If there is a formal complaint to the police, the complaint is transmitted to the prosecutor and the case examined in the district court. Usually, the prosecutor and the court do not use the testimony of the police officer. The court decision is based upon the official record established by the police officer and the plaintiff's declaration.

Recently, the police department have purchased a sound level meter, although its use is still under trial. Prior to the use of the equipment, officers were unable to record noise levels in response to complaints. However, it is understood that significant improvements in the effectiveness of the complaints procedure have been noted, and as a result, the department plan to purchase additional noise monitoring equipment. In particular, since the police are now able to obtain evidence of non-compliance with standards, the people responsible for causing the noise are generally more willing to remedy the situation.

The establishment of a mediator is currently envisaged in Luxembourg. However, the police officer interviewed considered that the police are already playing such a role and that a mediator is not necessary.

It was reported that noise from industrial and commercial establishments is generally easier to remedy since the penalties for non-compliance can result in the closure of an establishment.

It is understood that procedures in other regions of Luxembourg do not vary from those described above.

There is a right of appeal to the court decision in the high court. However, the procedure is lengthy and it can take around six months for the court to make a decision on the case in the first instance, followed by another six months if a subsequent appeal is made.

The appeal procedure differs for civil and criminal prosecutions. In the case of criminal proceedings, appeals are rare as the fines associated with criminal prosecutions are generally insignificant. In addition, only the complainee is entitled to appeal. In the case of civil prosecutions, both parties can appeal.

Do date, it is understood that no appeals have been made.

C11.5 *LINKS TO OTHER STRATEGIES*

Information on this topic was not forthcoming, suggesting no strong linkages are in place.

C11.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

The territory of the City of Luxembourg covers the city itself and two other communes, and includes a total of 100,000 residents. Twenty-four officers are always present in the intervention centre, and some police officers at police stations (commissariat) are also involved in noise cases. Therefore, it is not possible to evaluate exactly how many officers deal with noise issues.

Each complaint takes about two to three hours to be processed. However, in more difficult cases, the police can spend up to 150 hours on a case.

In 2000, the police carried out 340 visits in response to night complaints relating to cafes, bars and discos etc. No official reports were completed and all complaints were dealt with directly. Ten visits were made to investigate night time neighbour noise in the City of Luxembourg and forty visits in the territory of Luxembourg, each resulting in an official report, indicating that it was not possible to solve these problems directly.

The current system was considered to be satisfactory by the officer interviewed as part of this study, although it was felt it had improved significantly following the purchase of a sound level meter. It was also suggested that a system of 'taxed warnings' would be effective in avoiding lengthy court proceedings. A taxed warning is a financial sanction imposed directly by the police on the person responsible for causing the noise. Payment is immediate. However, if the individual refuses to pay the fine an official record is established that leads automatically to a court hearing.

C12.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

The main legislative instruments for controlling noise in the Netherlands are:

- The Environmental Protection Act 1993 (EPA) (Wet Milieubeheer ⁽¹⁾); and
- The Noise Nuisance Act 1979 (Wet Geluidshinder) ⁽²⁾.

Noise norms or limits for companies are included in permits awarded on the basis of the Environmental Protection Act (EPA). Norms for companies that do not require a permit, are included in a General Rule laid down in the EPA. For example, the EPA specifies a noise norm for small enterprises of 50 dB (A), which is measured over 24 hours. The EPA incorporates environmental legislation for specific issues, such as for example, noise through the Noise Nuisance Act. The Noise Nuisance Act (Article 73) specifies the official method for measuring and calculating industrial noise, which is described in the Manual for Industrial Noise (*Handleiding industrielawaai*, uitgave 1999) and also specifies noise limits.

The Penal Code (Article 431) specifies that there is to be no noise during the *night's rest hours*, which are defined in local regulations (*Algemene Lokale Verordeningen*). For example, in Amsterdam night rest hours are between 12 pm and 7 am, and in other cities, between 10 pm and 7 am. The Penal Code is enforced by the police.

The size of the administrative (financial) penalty under the penal code is set by the judge and can vary from 82 to thousands of Euros. Other non-financial penalties may include asking people to move if they live in rented accommodation of a housing association.

The Ministry for Housing, Spatial Planning and Environmental Management has delegated the implementation of the EPA to the provincial and communal environmental services (the 'Milieudienst') departments. The 1998 memo MIG (*Modernisering Instrumentarium Geluidbeleid – Modernising Instruments for Noise Policy*) deals with the decentralisation of policies against noise disturbance.

The 'Milieudienst Amsterdam' is the Environment Department of the City of Amsterdam. It is responsible for implementing the environmental regulations in Amsterdam, which relate to matters such as odour control and hazardous waste. However, the Milieudienst is also responsible for providing environmental advice to the government and to the population of Amsterdam.

(1) This law regulates almost all types of environmental problems such as noise, emissions, waste, transport, energy use etc. This is in line with the Netherlands' Integrated Environmental Policy.

(2) Last amendments in Law of 21 December 2000 (technical adjustment - lowering limits values)

In most neighbourhoods, an inspector holds a weekly consultation hour for this.

All the legislation concerning noise is currently under revision. These revisions are expected by the end of 2002. The new legislation will include a requirement for all local provinces and local councils to develop a noise policy plan for their area. In addition, the decentralization of noise regulation will delegate more responsibilities to the local level. It is hoped that this will enable local governments to integrate noise policies into a wider environmental policy framework, which deals with both environment and planning issues.

C12.2 ***GUIDANCE AND EDUCATION***

A campaign was recently (December 2001) run which uses commercials on local television to ask people to refrain from causing noise disturbance during the festive season. The commercial also informs people of a special telephone number for contacting Environmental Services to report noise disturbance complaints in relation to the hotel, restaurant and catering industry.

The Dutch Noise Disturbance Foundation (NSG - Nederlandse Stichting Geluidshinder) also campaigned on the issue of noise disturbance from neighbours at the end of the 1970s and early 80s. The general theme of the campaign, which used adverts in magazines, on billboards and TV commercials, was "let's be considerate to one another". Certain cities also have a Neighbourhood Day, which used to show how being a good neighbour can improve life together.

C12.3 ***CURRENT ENFORCEMENT PRACTICE***

C12.3.1 ***Who does what?***

Communal environmental inspection services (milieudienst) are responsible for noise arising from companies (restaurants, bars, etc.) only. Noise problems between neighbours, are dealt with by the "neighbourhood directors" within the police. However, in practice the police, communal environmental inspection services, Housing Associations, health departments and voluntary organisations involved in Neighbour remediation, all collaborate in an 'integrated approach' to solve environmental and other communal problems.

C12.3.2 ***The Police - Neighbour Noise Complaints***

The police deal with complaints of noise disturbance by neighbours (e.g. loud music, barking dogs). The procedure for dealing with complaints is outlined below:

- Step 1: neighbours make a complaint about noisy neighbours to the police.

- Step 2: the police go to the scene, talk to both parties and record the complaint and findings at the scene in a report (*'mutatie'*). Sometimes this solves the problem. If this is not likely to solve the problem the police give the complaining party the phone number of the not-for profit organisation "Neighbour Mediation". Because of privacy laws the police cannot inform the organisation, the parties have to take the initiative themselves. This organisation was set up in the beginning of December 2001.
- Step 3: in cases of repeated complaints and where neighbour mediation has not solved the problem, there are two different options:
 1. In cases of owner occupied housing the police can fine the person responsible for causing the noise. A judge enforces this and both parties can appeal. In cases of persistent barking from dogs, the animals can be taken away if the owners have been given repeated warnings. Equipment can also be confiscated.
 2. In cases where the housing is owned by a Housing Association, the police collaborate (under the *'Extreme Hindrance'* collaboration – see *Section C12.5*) with the Housing Association. The latter have a duty to their tenants to ensure they can live in an 'optimal atmosphere'. If negotiations were to no avail, the Housing Association can file for a fast track procedure at the magistrates court (*kortgeding*), which can result in people being forced to move within two weeks. The Housing Association is then asked to find another residence for the people who are forced to move. However, this can result in moving the problem from one area to another.

C12.3.3 *The Environmental Services – Commercial Noise Complaints*

The Milieudienst Amsterdam enforces the EPA and is therefore responsible for curbing noise disturbance from companies. Machines, music installations, refrigeration equipment, loud employees etc may be the cause for the noise disturbance. The Milieudienst collaborates with the police to undertake controls.

The Milieudienst Amsterdam distinguishes several steps in dealing with complaints:

- Step 1: a noise complaint is received – e.g. on the Environment complaint line which has a special number. The complaints are registered. A copy of the information provided on the City of Amsterdam's website (in Dutch and English) is provided in *Box C12.1*.



The Environment Service Department

Environment complaint line: 020-5513456



A business can still pose a threat to the environment despite regulations and licences. The environment complaint line is open round-the-clock to receive complaints about noisy bars, a sudden smell or excessive dust emanating from factories. Complaints about smells, noise, excessive waste, and soil, air and water pollution are noted and the caller receives confirmation. As soon as the culprit is found and, if the complaint turns out to be justified, the Environment Service Department collaborates with the company in finding ways to prevent the problem in the future. If the complaint cannot be solved by the department, the caller is referred to the appropriate agency.

- Step 2: the Milieudienst will go to the scene and investigate whether the complaint is about an organisation required to comply with the EPA and whether the complaints is well founded (i.e. are noise limits exceeded). The officials will investigate whether the noise limits have been exceeded at the house of those who made the complaint. Although the Milieudienst operates over normal office hours, once or twice a week officers work outside these hours. If the Milieudienst cannot go to the scene, they can send in the police who will log the facts both in a report for their own records and in a special report for the Milieudienst.
- Step 3: if noise levels are exceeded, the person responsible for causing the noise will be sent a letter logging these facts (sommatiebrief). This can be on the basis of records of the Milieudienst or police depending on who visited in response to the complaint. The letter includes details of how much time they have to alleviate the problem. The defendant also has the opportunity to appeal against this. This would be in the form of a hearing at the town hall. If the defendant loses this hearing, the case can be taken to the High Court to appeal on points of Law.
- Step 4: If the problem has not been solved in the indicated time, the Milieudienst will record the noise levels for the second time. If these still exceed the norm, the officials will levy a fine. The Milieudienst has the authority to do so without police intervention. The size of the fine varies in accordance with the defence. The defendant can appeal against this decision. If the defendant does not pay the fine a bailiff can be used.
- Step 5: If the situation is still not solved (e.g. the owner of a club pays the fine rather than solves the problem), the Milieudienst has the

authority to have the business closed or to confiscate the materials causing the noise (e.g. hi-fi installation).

C12.3.4 *Noise Disturbance Foundation (Nederlandse Stichting Geluidshinder –NSG)*

The Noise Disturbance Foundation (NSG) acts as an information source on all noise-related matters in the Netherlands. The NSG advises government, organisations, companies and individuals who require information on dealing with noise disturbance. This information can include the details of legislation, or more practical information such as noise insulation for houses. The NSG is funded in part by the Government, in addition to private funding.

C12.4 *THE RIGHT OF APPEAL*

A defendant can appeal against a decision made by the Milieudienst by going first to the Town Hall and then the High Court (see also *Section C12.3*). As this process can take up to two years, it is possible to confiscate hi-fi's etc in between the appeal to the Town Hall and to the High Court.

Complainants can also appeal to the City Hall if they are unhappy about a decision made by the authorities or the court.

There is no published information on the number of prosecutions that result in appeals, or on what proportion of appeals are successful.

C12.5 *LINKS TO OTHER STRATEGIES*

C12.5.1 *Police of Amsterdam*

The council of Amsterdam, police of Amsterdam, communal health departments and several housing associations collaborate on situations of "Extreme Hindrance". These are situations that may seem hopeless because they have continued for long periods, and for which the parties involved can see no solution except for moving house.

This 'Extreme Hindrance' collaboration was established 5 years ago in an official decree so that the Housing Associations could participate without contravening the privacy legislation.

C12.5.2 *Amsterdam's Environmental Services Department (Milieudienst)*

Construction Programmes

The Milieudienst has joined forces with the local authority-building department to find ways of curtailing the nuisance aspect of building and construction. Construction programmes always have an impact on liveability and sustainability and residents in the immediate vicinity are exposed to noise, dust and other inconvenience.

In addition, the construction legislation (*Bouwbesluit*) is to be changed next year so that floors have to allow for an extra 5 dB of insulation. Research by the TNO on the relationship between noise complaints and buildings' noise insulations has informed this policy change (see section 3.2).

Housing Associations also have internal regulations, which stipulate, for example, that residents are not allowed to lay down laminate floorings, which may increase impact problems. Many lessee organisations for blocks of flats have similar regulations.

Local Development Plans

The local authorities' plans take noise into account when deciding what types of establishments are permitted on certain premises (e.g. avoiding a concentration of pubs, clubs in one area).

C12.6 ***HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?***

C12.6.1 ***The Police of Amsterdam***

An Amsterdam Police representative feels that much has been achieved in the past few years. This is especially due to the new Integrated Approach, in which all parties collaborate on the issue of noise disturbance from neighbours (e.g. council of Amsterdam, police of Amsterdam, communal health departments and several housing associations).

C12.6.2 ***The Environmental Services of the City of Amsterdam***

An officer from the Milieudienst Amsterdam also consider that much has been achieved in the past 10 to 15 years and that their actions have led to businesses taking preventive measures against noise. However, it is felt that more could be done if extra funds were available to hire additional control personnel.

The population of the city of Amsterdam is around 750,000. Approximately 200 people currently work for the Milieudienst. How many of these work on noise disturbance is very difficult to establish as all staff deal with a full range of environmental complaints, including noise. However, in Amsterdam in 2000 there were 2078 environmental complaints - over half of these (1088) concerned noise.

No breakdown of this data by noise source was identified during this study. In addition, there is no data to indicate what proportion of complaints result in prosecution.

C13.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

The Noise Pollution Act 2000 (*Decreto – Lei 292/2000 de 14 de Novembro de 2000*) came into force on the 14th May 2001. The Act applies nationally and includes all sources of noise. Article 10 of the Act regulates neighbour and neighbourhood noise.

The Act gives the local police a mandate to intervene in cases of noise problems. If the noise occurs during the night, the police have the authority to order the individual(s) responsible to stop the activity giving rise to the noise immediately. During the daytime, the police are required to allow a sensible period of time before the noise should be abated. If the person who has caused the noise does not follow the orders of the police they can be taken to court. The penalties associated with the Act have been published in a Decree, and range from 100,000 – 750,000 Escudos (500 – 4,000 Euros). In exceptional cases the machinery or other offending equipment can be confiscated. Where noise limits exist, complaints are determined in relation to these limits. However, where noise limits do not apply, a subjective assessment of the noise complained of is required.

C13.2 GUIDANCE AND EDUCATION

Portugal applies International and European standards, but does not have any national guidelines or codes of practice. There is an unofficial translation of the code of practice attached to the ISO 1996 noise standard, although it is understood that this is used only as an internal document.

With regard to education programmes, local authorities and the Ministry of Environment are keen to become involved in the large number of courses on technical and practical elements of noise control that are expected following the adoption of the Noise Act. In addition, the Portuguese Acoustical Society provides courses on all types of noise, including neighbour and neighbourhood noise.

The Ministry of Environment has issued leaflets and advertisements in the media to help raise the awareness of the general public on both their rights and obligations. However, there is no other active strategy, such as an Annual Noise Awareness Day.

C13.3 ***CURRENT ENFORCEMENT PRACTICE***

C13.3.1 ***Introduction***

Prior to the adoption of the new Decree it was possible to complain to any of the local authorities, which resulted in a degree of confusion for residents. One of the aims of the new Act was to resolve this problem, by appointing the police as the competent authority for dealing with noise complaints.

However, in practice this has resulted in new problems, as there are three different types of police in Portugal:

- city police - PSP,
- police in small towns; and
- Metropolitan police.

As a result, the general public are unclear as to which authority deals with complaints. In addition, the police do not have the authority to record noise levels, which is also giving rise to problems. In this case, it is necessary for the police officer to advise the complainant to contact their local authority who are able to carry out the required measurements. Other institutions, such as Universities can also carry out measurements. In the view of the one of the officers who took part in this study, members of the public use the local authority service infrequently, because they are unaware of this service or in some cases, because the authority does not have the appropriate equipment.

The legislation is nationwide. However, operating procedures may vary in different areas depending on the level of resources available.

It is possible to confiscate offending equipment, but only in exceptional cases, for example, in the cases of persistent, repeat offences.

Noise cases are finally decided in court, although it is necessary to obtain sufficient noise measurements to demonstrate that the legislation has been breached.

There are no mediators or watchdogs in the Portuguese system, but if the noise problem cannot be solved it is usually down to the lawyers to try to find an amicable solution to the problem and to avoid going to court.

C13.3.2 ***Complaints Procedures***

A complaint about a barking dog, loud music or a party would need to be addressed to the police in the manner described above, depending on whether the noise occurs during the day or during the night.

In the case of works to a dwelling or DIY, if the works occur after 6 pm or at the weekend, the resident is required to apply for a permit, and to justify why the works must take place during this time. In practice, written confirmation from the affected neighbours that they agree to the works, is also required.

For commercial construction works, an environmental assessment is required by the Ministry of Environment, to which conditions can be attached.

With regard to noisy factories, complaints must be addressed to the Ministry of Environment or Industry. The Ministry would then install noise measurement equipment in order to compare the measured levels with the relevant noise emission limits. A report is produced that details any works required to correct the situation. The penalty associated with non-compliance can result in the loss of an operating permit at a facility.

C13.4 *THE RIGHT OF APPEAL*

There is a right of appeal under the Portuguese administrative and judicial procedures for both complainants and complainees. However, no information on the number of prosecutions which are appealed, or on the timescales associated with the appeal process could be obtained.

C13.5 *LINKS TO OTHER STRATEGIES*

There are new national limits for the construction of dwellings that relate to the level of insulation between rooms and common areas.

There are no clear links between planning strategies or crime reduction, although there is a provision for noise considerations to be taken into account during the approval of planning applications.

C13.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET ?*

Most noise complaints are solved quickly and amicably, with few cases going to court. If no agreement can be reached, this is often due to other underlying problems, in addition to noise. The new Decree presents numerous enforcement problems, in particular for local authorities that are poorly equipped and resourced for the new system. There are also a number of technical problems (e.g. the penalties are too small to deter offenders) and the judicial system is considered to work poorly.

In 1995, 44% of Portuguese people considered that noise was the most severe environmental problem that affected them. Noise from restaurants and road traffic were considered to be the most significant sources. This is also reflected in statistics on complaints, of which up to 60% relate to noise.

Housing standards and education programmes are considered to be the most successful developments in this area over the last few years.

C14 SPAIN

C14.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

C14.1.1 Introduction

There is no national legislation relating to neighbour and neighbourhood noise in Spain. However, a draft Noise Act was produced around five years ago and it is expected that this will be adopted soon following its alignment with the forthcoming EC directive on the Assessment and Management of Environmental Noise. For the purpose of this study a review of relevant legislation and enforcement practice for the Autonomous Community of Madrid and the Autonomous Community of Catalonia has been carried out.

C14.1.2 Madrid

The city of Madrid recently adopted a General Municipal Order on Environmental Protection relating to noise (*Ordenanza General de Proteccion del Medio Ambiente, articulado referente a contaminacion acustica, de 30 de mayo de 2001*). In addition, the Autonomous Community of Madrid has a Decree on Noise dating from 8th June 1999. This Order includes all sources of noise.

The competency for dealing with noise problems in Madrid lies with the Environment Division of the Madrid Town Hall. However, the Autonomous Community of Madrid intervenes when the Town Hall of any village within its territory does not have noise legislation to deal with a noise problem, or does not for some reason apply it.

The Decree and the General Municipal Order referred to above, are very similar in content.

C14.1.3 Barcelona

In Barcelona, Title III of the Municipal Order on Environmental Protection of 1999 (*Ordenanza Municipal de Medio Ambiente*) deals with noise issues in general and article 59 deals with neighbour and neighbourhood noise specifically. The Autonomous Community of Catalonia has not yet adopted noise legislation, but a draft Decree on noise is currently being discussed in Parliament. The Order covers all sources of noise.

C14.2 GUIDANCE AND EDUCATION

Spain has a Basic Building Standard (*Norma Basica de Edificacion - NBE CA-88*) that is currently under revision. There are no codes of practice or guidelines, but there are educational leaflets and a few courses offered by the town halls and also by the Institute of Acoustics. In particular, the Institute has sent educational leaflets and letters to primary schools.

Most of the courses on noise are to provide professional training, rather than to raise the awareness of the population generally. In the case of environmental courses for secondary education, noise is the least developed of the environmental disciplines studied.

With regard to active strategies, the Town Hall of Barcelona is launching a Program for the reduction of noise in January 2002. The program has 16 objectives, although none of these address neighbour and neighbourhood noise directly. The main aim of the campaign is to raise awareness amongst the population (including young people) and to improve the procedure for dealing with noise complaints. The Program also hopes to harmonise noise assessment criteria and methodologies between the various competent bodies and, where necessary, provide financial resources to implement the findings of the Program.

For the past four years, the Institute of Acoustics has also organised an annual Noise Day, including roundtables, printing of educational leaflets, letters to the media, etc, but only during the last years have positive results been noted. The representatives that took part in this study were not aware of a 'Noise Awareness Day' in Spain.

C14.3 **CURRENT ENFORCEMENT PRACTICE**

C14.3.1 **Madrid**

The Environment Department of the Town Hall of Madrid deals with all noise complaints and provides a 24-hour service, particularly as most noise problems in the city of Madrid occur during the night and relate to noise from bars and discos etc.

Upon receipt of a complaint to the Environment Department, the complaint is registered and assigned to an officer to investigate on site. This will include the measurement of noise levels. If the complaint is considered to be a technically difficult one, a noise specialist will attend. If the complaint is less difficult, a "trained officer" (i.e. one that has undergone specific training for at least 50 hours) will attend. In this case, it is also possible for a municipal police officer to respond to the complaint. In addition, measurements must be carried out in the presence of the complainant.

The noise metric used is the L_{Aeq} equivalent continuous sound level (*nivel sonoro equivalente*). There are two periods for measurements:

- Day-time - 7 am to 11 pm; and
- Night-time - 12 pm to 7 am.

Noise thresholds are also provided for different geographical areas, depending upon their use, although it is understood that these have not yet been established. This is described in *Table C14.1* below.

Table C14.1 Noise Thresholds

Noise Area	Noise thresholds dB(A) (Day/night)	Examples
Silent	45/35	Hospitals
Slightly noisy	55/45	Residential areas, educational centres, etc.
Tolerably noisy	65/55	Commercial areas, hotels, administration, etc.
Noisy	70/60	Industry, infrastructure.
Very noisy	No thresholds	Trains, open air concerts, airports, etc.

These noise levels are used to determine whether the legislation has been broken. Although measurements are normally carried out by the local authority, in some cases people may go elsewhere, for example, to the Institute of Acoustics. This may happen in cases when people do not trust the efficiency of the official procedure and want the Institute to produce evidence for use in Court that the noise levels experienced are dangerous to health.

The procedure for dealing with complaints is the same for different sources of noise. Although, in the case of barking dogs, complaints are only attended if the dog is on the balcony and cannot go inside the house or if the dog is left alone for a long period of time (outside or inside of the home).

The severity of the problem is established with reference to the following:

- Moderate - when the noise levels exceed the legal threshold by 3 dB.
- Severe - when the legal threshold is exceeded by between 3 and 5 dB.
- Very severe - Repeated severe infractions.

The associated penalty is a fine, which varies depending on the source of noise and the degree of the infraction, as described below in *Table C14.2*.

Table C14.2 Penalties for Infraction

Source of noise	Vehicles	Other Sources
<i>Severity of Infraction</i>		
Moderate	Pts 50,000	Pts 300,000
Severe	Pts 50,000-Pts 100,000	Pts 300,000-Pts 600,000
Very severe	Pts 100,000-Pts 300,000	Pts 600,000-Pts 1.000,000
1 Pts = 0.006 Euro		

In the case of other sources, besides the fine, the authority can order the 'sealing' of the offending noise source. For example, a noise-limiting device may be applied to a Hi-Fi to prevent the equipment from sounding above a certain volume. In addition, penalties may also include the closure of the offending activity for a period of between two to six months.

C14.3.2 *Barcelona*

Currently in Barcelona, there is no clear definition of responsibilities for responding to noise complaints. Residents may either call the police or the Town Hall, both of which provide a 24-hour service.

In practice, the authority that has been contacted by the resident will go to the site and investigate the complaint. If the noise occurs between the hours of 10 pm and 8 am and is due to loud music, a loud domestic appliance or other noisy activity such as the moving of furniture, the police officer may request that the activity is stopped immediately.

If the noise occurs during the day, it may take longer for a request to stop the activity to be issued. Depending on the complexity of the problem, a file will be opened and a specialist inspector assigned to the case will carry out noise measurements. Residents can also choose an external technician to make the measurements. Neither the inspector nor the external technician would need to be present during the measuring procedure.

Offending equipment cannot be confiscated.

The Municipal Order of Barcelona also provides for noise arising from specific sources such as animals, air conditioning and intruder alarm, as described below.

- **Animals** - it is not permissible to leave animals alone for more than 12 hours and measures should also be taken between 10 pm and 8 am to control noise from animals.
- **Intruder Alarms** - if the owner of a sounding alarm cannot be located, civil servants from the Town Hall have the authority to disconnect it. The owner of the alarm will also have to bear the costs associated with this.
- **Air Conditioning** - there are specific rules and standards for the noise levels from these appliances. Furthermore, in the case of their installation in an old building, the community neighbourhood must agree this.

Penalties may be fiscal or can include other measures such as the suspension of aid. There are no mediators or watchdogs for dealing with noise problems in Spain.

C14.4 *THE RIGHT OF APPEAL*

There is a right of appeal under the Law on Administrative Procedures for both complainants and complainees. No statistics on the proportion of cases that go to appeal, or on the typical timescales involved could be obtained during this study.

C14.5 *LINKS TO OTHER STRATEGIES*

There is no specific link between noise and other policies, with the exception of national building standards, in either Madrid or Barcelona, nor is noise taken into account in crime reduction strategies.

C14.6 *HOW FAR ARE THE LEGISLATIVE OBJECTIVES MET?*

C14.6.1 *Madrid*

Although the existing legislation was considered to be sufficient by officers in Madrid, the enforcement of the legislation is not considered to be effective. There are many unresolved noise complaints, which may take between one and two years to solve due to the requirements of the Law on Administrative Procedures. Recently, the City of Madrid has made substantial resources available to combat all sources of noise, however, this is not necessarily the case for other cities in Spain. The representative from the Institute of Acoustics interviewed as part of this study felt that the provision of 'noise areas' as described in *Section C14.3.1* and *Table C14.1* will make the noise control system far more effective in practice.

C14.6.2 *Barcelona*

The main problem associated with the enforcement of legislation relates to the lack of a common approach between the various districts in Barcelona, and it is hoped that a new Program on Noise Reduction will help to improve this.

C14.6.3 *Cultural Factors*

According to national statistics, noise is considered to be the main environmental problem for the general public in Spain. However, traditionally, noise has also been perceived as something that one has to 'learn to live with' which may explain the reported passivity of the authorities and the lack of linkage to other strategies. For example, in the past there has been little consideration of noise when planning noise-sensitive development such as hospitals and housing. However, in both Madrid and Barcelona, noise is becoming more of a priority for residents and for the authorities.

There are no published statistics on the number and type of noise complaints dealt with by the authorities in Spain.

C15.1 OVERVIEW OF LEGISLATIVE FRAMEWORK

Approximately two years ago a law was passed in Sweden called the *Environmental Code*. This is the most widely used law for dealing with complaints of neighbour and neighbourhood noise, and consists of standards and guidelines that can be applied to all sources of noise.

The Environment and Health Committee has overall responsibility for environmental issues, but local Environment and Health Administrations, of which there are 25 in Sweden, enforce the legislation. The Environmental Code is referred to as a framework law, and as such, can be interpreted in a number of ways, although the overall outcome is generally the same.

Under the Environmental Code the burden of proof can be reversed. This means that if a complaint is issued against you, it is your responsibility to prove that you are not in breach of the regulations and that you are not causing a disturbance. In order to apply the provisions of the Code it is necessary to demonstrate that the noise is not temporary or petty. Unfortunately, as this is often the case with neighbour noise, the Code is not considered to be effective in dealing with this type of noise. In addition, there are no standards, guidelines or other laws that address neighbour noise issues.

Penalties can be put in place by the Environment and Health Administration to those that have been found guilty of committing a noise offence. A fine is issued but payment will only be enforced if another offence is committed.

C15.2 GUIDANCE AND EDUCATION

There are additional standards and guidelines (e.g. relating to building methods to minimise noise) in Sweden but they are not used as frequently as the Environmental Code. Guidelines also exist for dealing with noise from commercial premises and construction sites.

There are no active strategies in place to raise awareness and reduce noise complaints through education or publicity. There is no National Noise Awareness Day or equivalent, however, it is understood that this is currently being investigated.

C15.3 CURRENT ENFORCEMENT PRACTICE

When a complaint of neighbour noise is made, it is usual for the complainant to approach the person who is responsible for causing the noise directly. In this way, it is hoped that many cases can be resolved through informal and amicable agreement. However, if the issue cannot be resolved and the

problem persists, the complainant may approach the landlord of the property. In Sweden, landlords are considered to be responsible for dealing with complaints between neighbours in the first instance, and the authorities are often reluctant to get involved. The emphasis is placed upon the landlord to address the problem directly through a verbal and/or written warning. If the complaint were related to the fabric of the property (e.g. a noisy lift, or fan) then this would have to be rectified in accordance with legislation on construction methods and building practice.

In addition, when renting a property, residents are required to sign a contract that sets out rules and guidelines. Such contracts typically include rules and guidelines relating to noise (e.g. it is not permitted to play music at a level that is audible outside your own apartment, maintenance works must be between certain hours etc). These contracts serve to protect both the landlord and other tenants against issues such as neighbour noise.

If the problem continues, a landlord can take the complaint to the local authority Environment and Health Administration. For the case to be considered there must be evidence of the complaint made against the resident and it is necessary to demonstrate that every attempt to resolve the complaint has been made. An Environmental Health Officer would then visit the property to assess whether they feel that there has been a violation of the guidelines and standards set out in the Environmental Code. Noise measurements are taken if it is considered necessary, either by the officer or by an independent noise consultancy. Noise limits are included in guidelines produced by the National Board of Health and Welfare, although it is understood that these are applied loosely when investigating complaints. As a result, the investigating officer also make a subjective assessment of the complaint.

If it is found that an offence has been committed, this will be dealt with by the Environment and Health Administration at the environmental court/committee. However, it is understood that few cases are prosecuted in this way. Environmental Health Officers do not have the power to confiscate equipment, although the police can. The police are rarely involved in these situations, unless there is a considerable problem or if access to property is required to silence the noise.

In some areas a 24 hour service known as the 'squad' has been established to deal with complaints on large housing estates. This service is provided by property companies and therefore, is not a public service.

In the case of private properties the procedure is slightly more complex, due to the absence of any 'responsible party' such as a landlord. It is understood that in these situation, the problem is generally solved amicably between both parties without involving any other mediator, although neighbourhood associations often become involved.

If the complaint involves noisy pets, a department within the Environmental Health office ensures that no abuse is taking place. The social services may become involved when complaints relate to children.

C15.4 *THE RIGHT OF APPEAL*

If the person responsible for causing the noise would like to challenge the judgement made by the court, they must do so within three weeks to the judgement. If the appeal fails, the case can be taken to the Environmental Court, and beyond that, the case must go through a period of validation before it goes to the Environmental Rights Court of Appeal. It is understood that very few noise cases go to appeal.

C15.5 *LINKS TO OTHER STRATEGIES*

There are preventative strategies in place to help avoid neighbour and neighbourhood noise problems, initiated mainly during the early stages of planning and development. Standards relate to the level of insulation in new properties (e.g. the use of double and triple glazing) but there are no schemes in place to improve existing buildings.

There are also proposals for a new scheme for buildings that face onto busy roads or other sources of noise, to ensure that all new properties that fall into this category have a 'quiet side' that is protected from noise. This would contain the bedrooms and other reception rooms.

C15.6 *HOW FAR ARE THE LEGISLATIVE FRAMEWORKS MET?*

The Environmental Code can be interpreted in a number of different ways and as a result, is not considered to be effective. For example, the same case tried in different authorities may give rise to different outcomes. Consequently, better definition of the guidelines is required.

In Stockholm, which has a population of around 650,000, in 2000, approximately 200 neighbour and neighbourhood noise complaints were made to the Environment and Health Administration, as described below:

- 120 complaints related to noise from music;
- 70 complaints related to noise from 'installations' such as lifts; and
- 10 complaints related to neighbour noise.

On average, each complaint takes around one month to investigate. Long-standing complaints also exist which are difficult to solve. These occur most frequently in flats due to party walls that are insufficient to insulate against noise.

It is understood that the number of noise problems is on the increase, but that this is not reflected in statistics, as complaints relating to late night parties, noisy dogs etc are typically resolved without the intervention of outside agencies.

The Environmental Health Department feel that the most successful aspect of the Environmental code is the opportunity to reverse the burden of proof.

Appendix 1

Section 108 Notice Form

Specimen Form of Notice

Environmental Protection Agency Act 1992

Notice pursuant to section 108 (3) of the *Environmental Protection Agency Act 1992* of intention to make a complaint to the District Court in relation to noise giving reasonable cause for annoyance.

Complainant

<i>INSERT YOUR NAME</i>
<i>and address</i>

Defendant

<i>INSERT NAME OF PERSON/BODY ALLEGED TO HAVE MADE THE NOISE</i>
<i>AND ADDRESS</i>

WHEREAS the above-named complainant alleges that the above-named defendant is the person/body (*delete as appropriate*) making, causing or responsible for the following noise, namely:

Insert nature, source, date, time etc of noise complained of

at

<i>insert location</i>

 in District Court district No.

--

and District Court area of

--

which noise is so loud/so continuous/so repeated/of such duration or pitch/occurring at such times (*delete whichever terms may not be appropriate*)

as to give reasonable cause for annoyance to:

- I. the complainant
- II. a person in any premises in the neighbourhood
- III. a person lawfully using a public place (*delete as appropriate*)

NOTICE IS HEREBY GIVEN to the defendant that the complainant intends to make a complaint pursuant to section 108 (1) of the above Act to a sitting of the District Court for the said court area and district to be held

at

<i>insert details of Court sitting concerned</i>
--

on the

<i>date</i>

 day of

<i>month</i>

 20

<i>year</i>

 at

<i>time</i>

 am/pm

being a date not earlier than 7 days from the date of this notice, and to seek an order pursuant to that section in relation to the said noise.

dated this

<i>date</i>

 day of

<i>month</i>

 20

<i>year</i>

 Signed:

--

To

<i>INSERT DEFENDANTS NAME</i>

 of

<i>insert address</i>

Appendix 2

Guidance on Noise Standards: Dublin County

NOISE POLICY

FINGAL, SOUTH DUBLIN, DUN LAOGHAIRE-RATHDOWN COUNTY COUNCILS

The purpose of this page is to outline how the Local Authorities deal with noise problems and the standards used.

Environmental noise legislation in Ireland is contained in the Environmental Protection Agency Act 1994 and the Planning Acts. The legislation is quite limited e.g. it is not an offence to create noise per se but a Local Authority may serve a Notice requiring that noise levels be reduced and it is an offence to disobey such an order. Also, an individual or a Local Authority may get a Court Order to limit noise which must be obeyed.

When the legislation was introduced no standards were proposed by the Government so the Guideline below has been developed to fill this gap. This Guideline should only be used for the circumstances for which it was intended.

GUIDELINE ON NOISE LEVELS

To be applied only in industrial, commercial or public leisure activities. Not to domestic, transport or construction noises.

The noise level outside any residence, at the boundary of any residential zoned area, any site for which residential development has a least outline approval, any hospital or any school shall:

1. Not contain and pure tones.
2. Not exceed the background level by 10dB(A) or more or exceed 65 dB(A) by day or 45 dB(A) by night, whichever is the lesser.

In the case of noise which will only last a short time (i.e. a few weeks) the above standards may be temporarily relaxed.

In cases where it is impossible to measure the noise due, for example, to the interference of traffic noise, prediction methods should be used.

The duration and frequency of noise events should be considered when assessing annoyance.

A correction for impulsive character of 5dB(A) shall be added to the measured or predicted level where appropriate.

If background levels cannot be measured on site due to the continuous presence of the noise under investigation then measurements at another site that approximates the conditions at the site of interest may be used.

When a background is established in relation to a particular reception point all future noise sources affecting this point shall be assessed with respect to the originally established background.

It shall not be necessary to attain a standard below 45 dB(A) by day or 35 dB(A) by night where very low backgrounds exist.

In the case of premises where frequent musical events occur e.g. discos, pub music, etc. a level of Noise Rating Curve 25 shall not be exceeded.

Where specific guidelines have been drafted for assessing specific types of events e.g. concerts, they should be used instead of these proposals.

DEFINITIONS

- Noise Level: The Leq for worst hour by day or worst 15 minutes by night with impulsive correction.
- Background Level: The L95 at the appropriate time and under similar conditions.
- Day: 08.00 - 22.00 Monday to Friday; 09.00 - 1700 Saturday.
- Pure Tone: An octave band that exceeds both adjacent octave bands by 3dB or more.
- Measurement Location: One metre from the facade.
- Equipment Standards: I.E.C. Type I as minimum.
- Calibration: Calibration shall be carried out before measurement in all cases and before and after measurement when the measurement period exceeds 24 hours.
- Weather: Measurements shall not be carried out where the windspeed is so high that it affects the accuracy of the readings and preferably when the windspeed does not exceed 5m/sec. The windspeed and direction should both be recorded.
- Frequency Range: 31.5 Hz - 16 KHz
- Noise Rating Curve: As previously defined by the International Standards Organisation.

In the case of domestic noise the Councils will not get involved but the procedure under Section 108 of the EPA act is available. The Department of the Environment has produced a leaflet on the subject (*copied into the guidance*).

Appendix 3

Noise Complaint
Investigation Procedure
(extracts), Dublin
Corporation.

Noise Control Unit - Service Delivery Specification Complaint Investigation Procedure.

1. Legal Framework: E.P.A. Act 1992 (Sections 107 and 108)

1.1 Section 107.-(1) Where it appears to-

(a) a local authority in relation to any premises, processes or works, other than an activity for which a licence is required under Part 4, or

(b) the agency in relation to an activity for which a licence is required under part 4 but has not been issued,

that is necessary to do so for the prevention or limitation of noise, the local authority or the Agency, as the case may be, may serve a notice on the person in charge.

(2) A notice pursuant to this section shall indicate requirements for the prevention or limitation of the noise and may-

(a) specify the measures which appear to the local authority or the Agency, as the case may be, to be necessary in order to prevent or limit the noise,

(b) direct the person on whom the notice is served to take such measures as may be specified in the notice to prevent or limit the noise, and

(c) specify a period, which the local authority or the Agency, as the case may be, considers reasonable in all the circumstances of the case, within which such measures are to be taken.

(3) Person may make representations to local authority or agency re. notice and local authority or agency may having considered any such representations, may amend a provision of the notice or may confirm or revoke the notice and shall inform the person of such amendment, confirmation or revocation.

(4) A person on whom a notice under this section has been served shall, within the period specified, comply with the requirements of the notice or, as the case may be, the notice as amended.

(5) If notice not complied with the local authority may take such steps as it considers reasonable and necessary to secure compliance with the notice and may recover costs and expenses incurred.

(6) It shall be a good defence, in a prosecution for a contravention of this section in the case of noise caused in the course of a trade or business, for the accused to prove that he took all reasonable care to prevent or limit the noise to which the charge relates by

(a) providing, maintaining, using, operating and supervising facilities, or by employing practices or methods of operation, that, having regard to all the circumstances were suitable for the purposes of such prevention or limitation, or

(b) the noise is in accordance with -

(i) the terms of a licence under this act, or

(ii) regulations under section 106

(7) A register of notices must be kept by the local authority (at Community and Environment Department, Block 4, Ground Floor).

1.2 Section 108 - (1) Where any noise which is so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place, a local authority, the agency or any such person may complain to the district court and the court may order the person or body making, causing or responsible for the noise to take the measures necessary to reduce the noise to a specified level or to take specified measures for the prevention or limitation of the noise and the person or body concerned shall comply with such order.

(2) It shall be a good defence, in the case of proceedings under subsection (1) or in a prosecution for contravention of this section, in the case of noise caused in the course of a trade or business, for the accused to prove that-

(a) he took all reasonable care to prevent or limit the noise to which the complaint relates by providing, maintaining, using, operating and supervising facilities, or by employing practices or methods of operation, that having regard to all the circumstances, were suitable for the purposes of such prevention or limitation, or

(b) the noise is in accordance with-

(i) the terms of a licence under this Act, or

(ii) regulations under section 106.

(3) Before a complaint is made to the District court under subsection (1) the local authority or the person concerned, as the case may be, shall serve a notice in the prescribed form of the intention to make such a complaint, within such time as may be specified in the notice, on the person alleged to have made or have caused or have been responsible for the noise.

Appendix 2 : Department of the Environment Guide to the Noise Regulations
including Section 108 Notice in prescribed form.

(4) This section shall not apply to noise caused by-

(a) aircraft, or

(b) such statutory undertaker or local authority, as may be prescribed, in the exercise of powers conferred on it by or under any enactment in such circumstances as may be prescribed.

1.3. Section 8 - (1) Any person who contravenes any provision of this Act or of any regulation made under this Act, or of any order made under this Act, or of any notice served under this Act shall be guilty of an offence.

(2) Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with

the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager secretary or any other officer of such body, such person shall also be guilty of any offence.

(3) In this section, a reference to the contravention of a provision includes, where appropriate, a reference to a refusal, or a failure to comply with that provision.

1.3 Definitions

“Occupier” in relation to any premises, includes the owner, a lessee, any person entitled to occupy the premises and any other person having, for the time being, control of the premises;

“Person in charge” includes an occupier of a premises or a manager, supervisor or operator of any activity;

“Premises” includes any messuage, building, vessel, structure or land (whether or not there are structures on the land or whether or not the land is covered with water) or any hereditament of any tenure, together with any out-buildings and curtilage;

“Public place” includes any place to which the public have access, whether by right or permission, or whether subject to, or free of charge;

“Statutory undertaker” as defined in the Planning Act 1963 - means a person authorised by a British or Saorstát Eireann statute or an act of the Oireachtas or an order having statutory force to construct, work, or carry on a railway, canal, inland navigation, dock, harbour, gas, electricity, or other public undertaking.

1.4 Interpretative Documents

Interpretation of the above is provided in the following documents a summary of which is included in appendix 1:

E.P.A. Act - Guidance notes for noise in relation to scheduled activities
B.A.T.N.E.E.C.

British Standard: Noise Control on Construction and Open Sites -
B.S. 5228: Part 1 Code of Practice for basic information and procedures for noise control.

British Standard Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas. B.S. 4142: 1990.

United Kingdom Noise Council Code of Practise on Environmental Noise at Concerts.

Greater London Council: Code of Practise for Pop Concerts.

2. Noise Control - Unit Complaint Investigation Policy.

2.1 Complaints arising from noise emanating from a public place and which may cause annoyance in a public place and or subsequently in a private premises should be pursued by the Noise Control Unit.

2.2 Complaints arising from noise emanating from a private premises- other than the type of premises listed below in **2.3**, and which may cause annoyance in a public place and/or subsequently in a private premises, should be pursued by the Noise Control Unit.

2.3 Complaints arising from noise emanating from a domestic premises, (other than from where a business is been carried on), including a flat or apartment, should not be dealt with by the Noise control Unit.

However there maybe special circumstances such as intimidation or anti-social behaviour by the alleged offending party, or other circumstances, where it may be more appropriate for the Noise Control Unit i.e. the Local Authority to take action. Due consideration should be given to investigation of such complaints arising from these domestic premises.

2.4 Complaints in relation to air pollution as well as noise pollution must be referred to the appropriate officer in the Air Pollution section.

3 Noise Control Unit Objective

Investigation of complaints alleging public noise nuisance (as defined in the unit policy) to determine if public noise nuisance exists and if such noise nuisance exists, to take appropriate action, advisory and/or legal, to secure abatement of the nuisance.

4 Definitions

Case Officer: Environmental Health officer working in the Noise Control Unit with responsibility for noise control in the area in which the complaint occurs.

Noise Nuisance: Any noise which is so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place.

5. Complaint Receipt Procedure

5.1 Written Complaints

All complaints received in writing, whether directly from the complainant or as a referral through a third party, must be forwarded directly to the Case Officer.

If any correspondence refers to air pollution a copy of this correspondence must be referred to the appropriate air pollution officer.

5.2 Telephone Complaints

All officers except the case officer are requested to seek the following details only:

- 1) Complainant's name, address and telephone number.
- 2) Name and Address of person / premises / company complained of.
- 3) A brief outline of the complaint.
- 4) Ascertain whether previous complaints were made in relation to the person or premises complained of.

All details should be noted in writing, preferably on the standard complaint form (form 1) and the complainant advised that the case Officer will contact them within 3 working days if possible. The details of the complaint should be forwarded to the Case Officer on the day of receipt.

- 5) If the complainant also wishes to complain about air pollution details of the complaint must be forwarded to the air pollution officer of the area.

5.3 Complaint made in person at the office

All meetings with members of the public should be held at the Community and Environment reception area. If the Case Officer is not immediately available the complainant should be brought to the reception area and the Case Officer so advised.

Where Case Officer is not available, the officer meeting the complainant is requested to seek the following details only:

- 1) Complainant's name, address and telephone number.
- 2) Name and Address of person / premises / company complained of.
- 3) A brief outline of the noise complaint.
- 4) Ascertain whether previous complaints were made in relation to the person or premises complained of.

- 5) If the complainant also wishes to complain about air pollution details of the complaint must be forwarded to the air pollution officer of that area.

All details should be noted in writing preferably on the standard complaint form (form 1) and the complainant advised that the Case Officer will contact them within 3 working days, if possible. The details of the complaint should be forwarded to the Case Officer on the day of receipt. If the complainant is unwilling to provide their name and address explain that it will be problematic to establish nuisance in the case of anonymous complaints. **If they are still unwilling to give the details then advise the complainant that the complaint cannot be accepted or dealt with.**

5.4 Case Officer: Procedure for receipt of complaints .

Determine whether the complaint comes within the terms of reference of the legal and policy parameters outlined above.

If the complaint does not come within the legal and policy parameters outlined above the complainant should be so advised and told that this office cannot take action in relation to the complaint.(eg. *Letter Sect108.doc*) If appropriate refer the complaint to the relevant enforcement agency or department.

If the complaint comes within such parameters the case officer should obtain details as outlined in the standard Complaint Form (*Case Summary Sheet - Case Summary Sheet also serves as complaint form and database sheet*).

The complainant should be advised of the normal procedure for dealing with such complaints (Ref. Action) and the name and contact telephone number of the Case Officer.

An appointment should be arranged with the complainant to carry out an on-site inspection. An initial inspection should be carried out within 3 working days of the receipt of complaint.

If the complaint refers to air pollution as well as noise pollution where possible the initial inspection must be carried out jointly with the air pollution officer.

Where it is not possible to carry out an inspection within 3 working days telephone or written confirmation of the receipt of the complaint should be made to the complainant, advising the complainant of the name and contact telephone number of the Case Officer and proposed inspection date.(*Letter Comprecd.doc - optional*)

If the complaint relates to a private noise nuisance the complainant should be advised re. private action under section 108 of the E.P.A. Act 1992 and the standard D.o.E. information leaflet "A Guide to the Noise Regulations " should be forwarded to the complainant if required. (Appendix 2)

The Case Officer should enter the complaint in the Logbook. If a new complaint then a file should be set up.

6. Pre Inspection Assessment

- 1) If available, research the case history of the person(s) and/or premises complained of.
- 2) If available, research the history of the complainant.
- 3) If applicable identify processes involved. Research appropriate noise prevention/control data including relevant codes of practise and standards.

Where new information is obtained a copy of the information should be filed under "noise control - general information"

- 4) Determine if there is planning permission for the premises or process and check planning conditions.

If the premises/process is unauthorised under planning law or if the premises/process is not in compliance with planning conditions details regarding the complaint should be referred in writing to the planning department. The Planning Department should be advised of action taken by the Noise Control Unit under the E.P.A. Act and requested to forward details of action taken under planning law.

As the E.P.A. Act is the primary legislation for dealing with noise complaints, all valid complaints should be assessed and dealt with by the Noise Control Unit regardless of planning status of the premises.

7. Inspection

Note: Where necessary (on the grounds of personal safety or nature of premises etc.) initial inspections (and subsequent inspections if necessary), should be carried out jointly by 2 E.H.O.s

7.1 Call to the complainant(s). The E.H.O. should present identification / authorisation.

Confirm details of the complaint and ensure that the information on file is correct.

7.2 If the noise complained of is intermittent or irregular, or if otherwise necessary, provide the complainant with a noise log sheet, to be completed over a 1 month period from the date of inspection. (*Logsheet.doc*)

Advise as to the correct recording of events on the log sheet and of the importance of such a record to determine if a noise nuisance exists and as potential evidence if legal action is required. Completed log sheets must be returned to the case officer. The complainant should be advised that where completion of a log sheet is deemed necessary no legal or formal action can be taken unless a correctly completed log sheet is returned.

The complainant should be advised that the log sheet must be completed and returned within 8 weeks from the time of forwarding from this office. Where the logsheet is not returned within the time specified the nuisance will be deemed to be abated.

If Log Sheet is forwarded by post it should be accompanied by an explanatory letter. (*Letter Loglette.doc*)

A subsequent reminder letter regarding the return of the completed logsheet may be forwarded if necessary (*Letter Logremind.doc*)

Advise the complainant that they will be notified of the outcome of the investigation and if necessary, of control measures to be taken.

7.3 Call to the person / premises complained of.

The E.H.O. should present identification / authorisation.

The person/proprietor should be advised of the complaint received and of normal procedure for dealing with such complaints.

An overview of the process / premises / situation should be sought prior to inspection.

Examine and evaluate the premises / situation and how it relates to the person making the complaint.

Examine any noise control measures in place.

All details should be recorded in writing at or immediately after the inspection.

The Noise Case Summary Sheet should be completed for each case investigated and the form placed at the front of each file. (*Compsum.doc*)

Advise the person / proprietor that they will be notified, in writing, of the outcome of the investigation and of abatement measures to be taken, if necessary.

8. Decision process

8.1 No nuisance exists:

Criteria:

On-site inspection, keeping of logsheets and/or noise monitoring have failed to indicate that a noise nuisance exists or,

Complainant advises Noise Control Unit that no nuisance exists or,

Complainant fails to complete and return logsheet on request.

Action

Advise complainant and person complained of that the Noise Control Unit is satisfied that no nuisance exists and that this office can take no further action

Letter to be forwarded to the complainant and person complained of advising of same. (*letter Noaction.doc*)

8.2 Nuisance exists but premises / operation subject to E.P.A. licensing or exempt under E.P.A. Act:

Action

Advise complainant and person complained of that the matter is outside the jurisdiction of the Noise Control Unit and that this office can take no further action.

Refer the matter, in writing, to the relevant agency. (*Letter Eparefer.doc*)

8.3 Possible Noise Nuisance:

Action

In a situation where the noise is intermittent or irregular and it is not possible to confirm nuisance at the time of inspection provide the complainant with a noise log sheet, to be completed over a 1 month period from the date of inspection. (*ref. inspection 7*)

If nuisance is established by means of log sheet proceed as per Nuisance exists(8.4).

8.4 Nuisance exists:

Criteria

Noise nuisance is confirmed by on-site inspection and /or correct completion of logsheet.

8.4.1 Formal Action

If deemed necessary as further proof of nuisance, arrange for noise monitoring to be carried out at the boundary of the premises complained of. If that location is not feasible, noise monitoring to be carried out at the complainants' premises.

At least 1 week before the proposed monitoring date write to the complainant to confirm the date and time of monitoring and advise re: standard monitoring procedure(*Letter Mondate.doc*). Write to the person complained of confirming details of the complaint received and of the intention to carry out noise monitoring in the immediate future. (*Letter 1stwarn.doc*)

Noise monitoring: as per Noise Monitoring - Standard Operational Procedure to be carried out over a suitable period. Noise monitoring to establish nuisance at a given premises will not be carried out on more than 2 occasions in any 3 month period.

Where noise nuisance confirmed by means of logging of noise events and, where necessary, monitoring a section 107 notice (prescribed form) should be served on the offender.

When the time limit on the notice is complete arrange a re-inspection and repeat on-site inspection, noise monitoring and/or logging of noise events.

If at this stage a noise nuisance is established legal proceedings should be initiated.

Where noise nuisance is not established proceed as per No Nuisance Exists.(8.1)

8.4.2 Informal Action

A written or verbal warning is given to the person complained of, confirming nature of noise nuisance, detailing action to be taken to abate the nuisance and specifying a time limit for such action to be taken. (*e.g. letter Construc.doc*)

The decision to take informal action, where nuisance is confirmed, is a discretionary decision by the Case Officer, based on the guide outlined below. Where informal

action does not secure an abatement of a nuisance within the specified time frame, formal / legal action should be initiated immediately.

Guide for taking informal action:

The works being carried out are short-term and are a unique occurrence or,
The person in charge/ operator has proved co-operative and/or has reached agreement with complainants or any possible complainants regarding hours of operation and noise emissions or,
Where nuisance is difficult to prove, but inspection and assessment of case notes indicate that noise nuisance is likely and that immediate response is required.

9 Record Keeping

Details of the complaint should be entered on the Noise Case Summary Sheet, the first part of which serves as the complaint form and is the source of information for the noise control data base.

Details of the complaint should be entered or updated in the noise complaint logbook.

Details of the complaint should be entered or updated on the database.

All information, correspondence and records should be placed on file.

DAT recordings should be labelled with name and address relating to monitoring location and date of recording and stored in the container provided. The container should be kept adjacent to the noise monitoring equipment.

All the above should be listed under the address of the premises / person complained of, with the exception of private noise complaints under section 108 where the Noise Control Unit only provided advice to the complainant. Such files should be kept together in a single annual Section 108 file.

Annex D

Related Research

D1 RELATED RESEARCH

D1.1 INTRODUCTION

In the course of the study various ongoing studies into issues related to neighbour and neighbourhood noise management were identified. The most relevant of these are listed and in some cases summarised below.

D1.2 RELEVANT RESEARCH

D1.2.1 *A Review of Construction Noise Management Methods across the EU, Volker Irmer, 2001-2002.*

This review is not sponsored, and is ongoing. Some of its findings are summarised as follows.

In Germany, construction sites are regulated under the Federal Protection Law (Bundes-schutzgesetzes §22) as sites do not need prior environmental approval from the environmental authorities. However, the Protection Law stipulates that damaging environmental impacts should be avoided as much as possible given available technology (standards as set out in the Federal Emission Protection Law) and that unavoidable damaging environmental impacts should be kept to a minimum. An additional regulation on construction noise (Allgemeinen Verwaltungsvorschrift zum schutz gegen Baulärm) sets Federal detailed rules on the limit values on noise and procedures for dealing with sites in case of non-compliance. This regulation is enforced by the individual States (Bundes Länder). The authorities can also restrict the time of activity if the construction sites cannot comply with the noise limit values, using available technology. (The study does not give the limit values, but lists some of the peculiarities of the regulation and also mentions what mitigation measures can be applied).

In Austria, regulation of noise from construction sites is at the discretion of the individual States (Bundesländer), which have found different solutions. For instance, Kärnten, Salzburg und Wien have no limit values but general regulations to avoid noise from construction sites, while Tyrol and Oberösterreich have set limit values for individual types of receptor.

Sweden has set detailed noise limit values and time of day restrictions on noise from construction sites. (These are identified in the report).

Denmark has no legal framework in place to deal explicitly with noise from construction sites, but at complaints from neighbourhoods, the environment authorities can choose to apply limit values and time restriction used on industrial and commercial sites.

The Netherlands has no legal framework dealing with construction site noise disturbing neighbourhoods, but local authorities can set appropriate rules.

The Government set a national recommendation in 1981 to avoid working on construction sites between 7pm and 7am and not to exceed a limit of 60dB(A).

The study also reports on the UK, Hungary, Switzerland and Hong Kong.

D1.2.2 *The Development of a Standardised Interview To Assess Domestic Noise Complaints and their Effects (SIANCE), Prof SA Stansfeld, B Brown, and C Cobbing, for DEFRA and DoH, 2000*

The study undertaken is response to a the large increase in the number of domestic noise complaints to Local Authorities in recent years, and aimed to produce a standardised interview to:

- provide a tool for Local Authority officers to use to *assess* the effects of domestic noise; and
- provide a survey tool which will be used to research the effects of domestic noise.

This study achieved this aim with the production of an interview method that was considered psychometrically reliable and valid. It is hoped its use will help with domestic noise complaints assessments and help to provide consistent complaints report data to aid research into this complex area.

D1.2.3 *Neighbour Noise Annoyance Studies, Jef Van Dongen, TNO, Netherlands, 1998 to 2002*

In 1998 the Dutch Ministry of Housing, Spatial Planning and the Environment, published a policy memorandum entitled “Noise and housing” ⁽¹⁾. This memorandum was partly based on the results of two studies into noise annoyance from neighbours ⁽²⁾.

- RIGO Research en Advies BV carried out research into social norms (which norms do occupants apply to themselves and their neighbours, what is their tolerance in terms of duration, frequency, volume, times of the day etc.).
- TNO Prevention and Health studies dose-effect relationships, including considering which factors other than noise from neighbours alone, such as social, environmental and individual-related factors, influenced dose-effect relationships.

Based on these studies, the Government accepted ⁽³⁾ its role in 1999 as both facilitating the local handling of avoidable noise (agreements between all directly involved parties such as local council, police, landlords, and residents) and amending building regulations based on these studies.

(1) Ministerie VROM, beleidsnotitie 'Geluid en Wonen', Den Haag: 1998

(2) “RIGO Research en Advies BV” and “TNO - Nederlandse Organisatie voor Toegepast Natuurwetenschappelijk Onderzoek” (Dutch Organisation for Applied Research on Natural Sciences”).

(3) Policy Note 13 July 1999.

In 2001 this led to the simplification and amendment of the Dutch building regulation. One of the changes is the increase of the minimum norms for impact noise insulation between dwellings by 5dB. In the longer term this will help decrease the nuisance caused by noise from neighbours, more particularly the nuisance of noise from footfalls in the premises above. The new regulation will come into force on 1 April 2002.

D1.2.4 *International Institute of Noise Control Engineers (I-INCE) Technical Study Group (TSG) 3 Noise Policies and Regulations*

I-INCE's TSG 3 is collating information on noise legislation from all its members. This process is ongoing. Whilst the exercise concerns all types of noise, rather than neighbour and neighbourhood noise in particular, it may reveal neighbour and neighbourhood noise legislation.

D1.2.5 *Project SYLVIE, For the European Commission, Under the LIFE Programme*

Project SYLVIE (Systematic Noise Abatement in Inner City Residential Areas – in German) is aimed at alleviating noise, and achieving a significant reduction of noise disturbance in the 5th and 12th District of Vienna. SYLVIE is an action orientated project designed to initiate the necessary measures to change behavioural patterns to help reduce noise in urban residential areas.

The SYLVIE noise abatement project consists of the following;

- A noise analysis in a selected abatement area. Noise measurements are taken by the Council of Environmental Concerns MA 22, and locals are asked to report their views on noise by returning postcards that have been sent to every household in the district.
- Noise abatement procedures will be instigated in accordance with the principals of Local Agenda 21. This will involve a consultation period with all concerned parties.
- Project SYLVIE will include negotiations between those causing the noise and those disturbed by it in order to reach a resolution to any conflict.
- Public Relations work, awareness campaigns and an online information system aim to establish and maintain a dialogue with the general public.
- Project SYLVIE will have a budget of €800,000 spread over three years and will attract a 50% subsidy from the EU.