

# NOISE MONITORING CODE OF PRACTICE

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Prepared by:	Liz Smith
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## 1 INTRODUCTION

- 1.1 Stockport Homes Limited (SHL) is committed to taking positive action in conjunction with partners, to deal with all forms of Anti-Social Behaviour (ASB).
- 1.2 The overall strategic direction for tackling ASB in Stockport is agreed and monitored through the Safer Stockport Partnership (SSP). SHG is a key partner within this, helping to deliver some of the overarching priorities set out in the SSP Partnership Plan. SHG actively participates in a number of Sub-Groups of the SSP which monitor crime and incident patterns, agree partnership approaches to tackling them and ensure that vulnerable victims and witnesses are supported.
- 1.3 This Code of Practice (COP) sets out the ways in which SHG will use Noise Monitoring Equipment (NME) which are installed in SHG customers' properties on a temporary basis and are intended to capture evidence of ASB in on-going cases being dealt with by the customer.
- 1.4 The overall aim of the code of practice is to:
  - Reduce the fear of crime, creating a safer environment
  - Enhance customer safety in and around the monitored areas
  - Help detect anti-social or criminal activity, identify perpetrators and provide evidence through high quality recording that assists the ASB Team or Greater Manchester Police (GMP) in the apprehension of offenders and that may lead to successful legal action
  - Ensure that the NME is used effectively, appropriately and in compliance with the Information Commissioners Office's Code of Practice linked to surveillance and GDPR.

## 2 STRATEGIC LINKS

- 2.1 This COP has been written to take account of obligations imposed by national legislation and other strategies. In particular:
  - Data Protection Act 2018
  - Freedom of Information Act 2000
  - Environmental Protection Act 1990
  - The Human Rights Act 1998
  - Regulation of Investigatory Powers Act 2000
  - Civil Evidence Act 1995
  - Crime and Disorder Act 1998
  - ASB, Crime and Policing Act 2014
  - General Data Protection Regulation (GDPR) (EU) 2016/679.

- 2.2 The NME COP has clear links to many of SHG's strategies, policies and action plans, in particular:
- ASB Strategy 2019-22
  - ASB Policy
  - Domestic Abuse Policy
  - Hate Crimes Policy
  - Unacceptable Behaviour Policy
  - Neighbourhood Action Plans
  - Information Governance Policy.
- 2.3 The NME COP clearly links to the organisational vision, mission and aims, in particular to:
- Be accountable to customers
  - Maximise efficiency
  - Reduce inequalities
  - Build strong collaborative relationships locally, regionally and nationally
  - Improve the environment.
- 2.4 The NME COP complies with and compliments Stockport Council's strategic objectives, policies and procedures and the ASB Strategy 2019-22 which is linked to SHG's mission of 'One team, transforming lives'. Underpinning this are SHG's aims and the COP clearly links to these, specifically:
- Engage residents and communities
  - Provide comfortable, affordable homes
  - Deliver thriving, safe and sustainable neighbourhoods
  - Support the Council to meet its aims in Stockport.

### **3 PURPOSE OF THE NME SYSTEM**

- 3.1 The NME is intended to provide an increased level of security and to capture evidence of ASB in on-going cases being dealt with by the ASB Services Team and related purely to cases that affect SHG's Housing Management function. SHG does not install NME in private sector cases and these will be referred to the Council. These referrals will be sent via password protected email to the relevant Neighbourhoods Manager in the Public Protection Unit as listed in the ASB Procedure.
- 3.2 The NME has been designed to:
- Help detect anti-social noise activity, identifying perpetrators and providing evidence of a quality recording that assists the ASB Services Team in establishing if noise nuisance exists or not.

## 4 KEY FEATURES AND OPERATION OF THE SCHEME

- 4.1 The day-to-day management of the NME scheme and compliance with the Code of Practice is the responsibility of the ASB Services Manager. The ASB Case Support Officers who operate the NMEs are suitably qualified and trained to fulfil their duties.
- 4.2 NMEs are overt and are installed in customers' properties on a temporary basis for a minimum of seven days after which time it is removed and recordings are reviewed.
- 4.3 The scheme is co-ordinated from Cornerstone, 2 Edward Street, Stockport, SK1 3NQ. Systems that are not in use are housed securely in a locked store room. Checks of all NMEs must be carried out by the ASB Case Support Officers to ensure they are in working order prior to each use – this includes checking flexes are in good working order and properly attached to appliances and plugs. Annual portable appliance testing (PAT) must also be undertaken and is arranged by the Case Support Officers.
- 4.4 Recordings captured on the NME are downloaded from the system itself to a secure, encrypted laptop which is only accessible by either the ASB Case Support Officer or ASB Services Manager.
- 4.5 Recordings that are needed for use in further action are saved to the laptop which is stored in a locked cabinet until the outcome of any proceedings, after which it is deleted. Recordings can also be 'burned' (copied) to disc for trial purposes and will be stored as above. Recordings that show ASB are deleted within one month of the complainants being told the outcome<sup>1</sup>.

## 5 DATA

- 5.1 The NME will only hold data for the purposes specified and staff can only disclose information to people or agencies as set out below.
- 5.2 Electronic personal data is stored in the form of audio recordings. All personal information stored should be accurate and of a good quality admissible in a Court of Law. Storage of data should follow guidelines laid down by the Information Governance Policy.
- 5.3 SHG has ownership and copyright of all recorded material which will only be used for purposes defined in this COP.
- 5.4 No information recorded by the NME will be sold in any form to any outside agency for commercial, documentary or entertainment purpose.

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<sup>1</sup> In case the complainant wishes to listen to the recordings with the case officer

- 5.5 The playing of recorded audio material to the public will only be allowed in accordance with the law and /or in compliance with the needs of the Police in connection with the investigation of crime. In this instance, this will be conducted in accordance with the provisions of any relevant Code of Practice under the Police and Criminal Evidence Act 1984 and any advice and guidance given to the public from time to time; or in any other circumstances provided by law. The provisions of the Data Protection Act and General Data Protection Regulation (GDPR) (EU) 2016/679 apply in noise monitoring cases.
- 5.6 Data will be stored on the hard drive of the laptop for a maximum of four weeks in cases where no significant noise nuisance is recorded or until the conclusion of legal action in other cases. After this time the data will be deleted. Summary notes of what was recorded (or not) in all cases will be added to React.
- 5.7 Copies of data can be made to disc as per 4.5. Once the copy has been made and issued, storage of the data reverts back to using the hard drive. Under no circumstances is data stored on disc, unless it is to be used in legal proceedings.

### **SHARING DATA WITH MEMBERS OF THE PUBLIC**

- 5.8 Requests for disclosure of information from members of the public will be directed to the Assurance Manager ([assurance@stockporthomes.org](mailto:assurance@stockporthomes.org)).
- 5.9 SHG Information Governance Policy describes the company's approach to dealing with requests for information. Requests for information are dealt with under the relevant legislation (Freedom of Information Act or General Data Protection Regulation (GDPR) (EU) 2016/679).

### **SHARING DATA WITH OTHER AGENCIES**

- 5.10 The General Data Protection Regulation (GDPR) (EU) 2016/679 recognises that it is sometimes appropriate to disclose personal data for certain purposes in relation with criminal justice. In these cases, individuals' rights may occasionally need to be restricted. In particular, the Act deals with several situations in which personal data is processed for the following 'crime purposes':
- the prevention or detection of crime
  - the capture or prosecution of offenders.
- 5.11 As well as the sharing data with the police, SHG may also share data as follows:
- In connection with civil disputes where ordered by the Courts or in accordance with the provisions of the Civil Evidence Act 1995

- To solicitors acting for defendants or victims in connection with criminal proceedings. Recordings can be requested if the defendant or victim is a data subject. Such requests should be made in writing and directed to the Assurance Manager/ASB Services Manager
  - To Stockport Metropolitan Borough Council, who is the Data Controller, in connection with legal action being taken regarding nuisance or other anti-social or criminal behaviour
  - To any other organisation for whom SHG is providing a NME service and who are the Data Controller of the recordings captured.
- 5.12 In some circumstances, approval for access to those not listed above may be given by the ASB Services Manager in agreement with the Assurance Manager.

## 6 INSTALLING NME

- 6.1 When a NME is to be installed in specific cases, the Investigating Officer dealing with that case must complete a referral form and send it to the ASB Case Support Officer (see Noise Monitoring forms at Appendix One).
- 6.2 The Investigating Officer must write to the perpetrator advising that the equipment will be installed in a neighbouring property within the following three months. (See Appendix Two). Please note that NME can only be installed in cases relating to SHG's housing management function. Any private sector cases requiring noise monitoring equipment must be referred to the Council.
- 6.3 Once a noise monitoring request has been received the ASB Case Support Officer must:
- Notify the Investigating Officer and complainant of an approximate installation date. Equipment is installed for a period of seven calendar days
  - Attend the customer's property on the installation date and position the equipment in the most appropriate room/space
  - Provide the customer with instructions on how to record noise nuisance when it occurs
  - The ASB Case Support Officer must return to the customer's property after one week and remove the equipment. Where cases require noise monitoring for more than one week approval should be sought from the ASB Team Leader.
- 6.4 The ASB Case Support Officer must analyse the sound levels recorded and liaise with the Investigating Officer. If the Case Support Officer and Investigating Officer are completely satisfied that there is no nuisance, then the Investigating Officer will inform the complainant and if necessary arrange the noise monitoring equipment to be installed again. This should be carried out a maximum of three times. If after the third

time of monitoring, a nuisance is not established, the Investigating Officer will make the decision to close the case ensuring that all necessary support is offered to the complainant.

- 6.5 If the ASB Team believes that the noise constitutes a nuisance, or is unsure as to whether it constitutes a nuisance, then they should contact the Neighbourhoods Team Manager within Place Neighbourhoods Service at the Council to enable them to listen to the recordings and view the accompanying diaries as the Statutory Power to deal with noise lies with the Council
- 6.6 The Case Support Officer should provide a copy of the evidence to the appropriate Neighbourhood Officer at the Council; who will then examine all evidence to determine whether a nuisance exists.
- 6.7 If the Neighbourhoods Officer is satisfied that a nuisance exists then they will inform the Neighbourhoods Team Manager and Investigating Officer and ASB Case Support Officer at SHG. A decision will then be made as to whether it is appropriate to serve a Noise Abatement Notice (NAN) in accordance with the Environmental Protection Act 1997.
- 6.8 If served, a copy of the NAN should be provided to SHG for their records. If the nuisance is deemed to fall just short of a statutory nuisance then a 'seven day warning letter' will be sent to the perpetrator by the Council who will again provide a copy of the warning to SHG for their records. The Investigating Officer must then log the NAN on the 'perpetrators orders' tab in ReAct. Any seven day letters should be logged in additional notes on React. If the evidence obtained includes other ASB, e.g. shouting and banging, then this should be referred back to SHG for their own action which could include (but is not limited to) Community Protection Notices, Acceptable Behaviour Contracts or Injunctions.
- 6.9 If the nuisance persists after the service of a NAN, then further monitoring should be carried out by the ASB Case Support Officers, who are appropriately trained to do so, in the form of further NME monitoring. It is important that the Investigating Officer/Case Support Officer inform the Council of the potential breach and discuss whether MATRON<sup>2</sup> recordings alone will be sufficient or whether out of hours witnessing in person is needed, for example in the case of noise in flats. The need for 'in person' monitoring will be agreed on a case by case basis between the ASB Team Leader and the Neighbourhood Team Manager within Place Neighbourhoods Service at the Council.
- 6.10 If after obtaining further evidence, the Investigating Officer/Case Support Officer points 6.5 and 6.6 should be repeated. If the Neighbourhood Officer at the Council is satisfied that the nuisance is persisting, then the next course of action should be discussed. If the nuisance is as a result

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<sup>2</sup> Formal name of the NME systems

of noise making equipment, such as music systems, then seizure should be considered as the first option in accordance with the Council's own procedure.

- 6.11 If the nuisance persists after a seizure of equipment or the nuisance changes in type i.e. starts to include other ASB, then a decision will be made as to the most appropriate course of action – this may be prosecution by the Public Protection Team or other action by SHL or both.

## **7 SECURITY INFORMATION/CONFIDENTIALITY**

- 7.1 Access to the data recorded and downloaded will be strictly controlled and will be limited to those who have a responsibility to operate and manage the NMEs. Data will be used in a responsible way and only accessed for legitimate reason which must be evidenced and the evidence recorded on React.
- 7.2 Breaches of the COP and of security of data is strictly prohibited and, if any occur, will be subject to investigation in line with the disciplinary procedure and potential dismissals could be taken against anyone found to be accessing data inappropriately.
- 7.3 Circumstances in which permission will be granted to access, view or download recordings captured on the NME are clearly defined in section six.
- 7.4 The ASB Case Support Officers will be present at all times when recordings is listened to including when listened to in Court and ASB proceedings. Public access to demonstrations will not be allowed unless specifically authorised by the ASB Services Manager.
- 7.5 An audit of the NME Scheme can be carried out at any time and for areas agreed between the ASB Services Manager and the auditors with Terms of Reference clearly defined.

## **8 EVALUATION**

- 8.1 Evaluations are carried out at the end of an ASB case by undertaking a customer satisfaction survey. The evaluations include:
- Views and experiences of the customer using the service
  - Whether the customer felt supported during the case.

## **9 MONITORING**

- 9.1 The ASB Services Manager continually monitors the operation of the NME scheme.

## **10 CHANGES TO THE CODE OF PRACTICE**

- 10.1 Major changes to the Code of Practice will only be made after appropriate consultation with relevant interested groups, including GMP and any other organisation.
- 10.2 The Code of Practice will be reviewed on a three year basis or if any legislative changes take place; whichever occurs first.