

Noise Issues Consultation Paper



Comhshaol, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government

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Introduction

Summary

The Minister for the Environment is initiating a review of all matters pertaining to noise and noise nuisance. This document has been prepared to assist and inform those who wish to make a submission on the issue of noise and is the first step in a process through which the Minister for the Environment intends to achieve the following goals:

- to make the procedures for dealing with noise issues more accessible and understandable for the citizen;
- to ensure that noise complaints can be dealt with in a timely manner;
- to address classes of noise problems not currently covered by legislation;
- to consolidate the various pieces of existing legislation where appropriate.

Purpose and Scope of Consultation

The Programme for Government contains a commitment to *'publish comprehensive legislation on noise pollution'*.

The Programme also directly addresses two specific noise issues:

- under the heading **Quality Living Spaces** – the programme commits to require all new apartments and other high density developments to comply with minimum design standards dealing with space, light, noise protection, etc; and
- under the heading **Environmental Efficient Housing** – ensure noise insulation levels protect the quality of life of home owners.

As an initial step in developing and progressing these commitments, the Minister for the Environment, Heritage and Local Government, Mr. John Gormley, T.D., is seeking the views of key stakeholders on the effectiveness of existing legislation in addressing noise pollution and how it might be improved.

By way of background, the Green Party published a Private Members Bill on Noise in November 2006. This Bill was aimed primarily at modernising the current system that protects people from noise pollution such as noise emanating from car alarms, building works etc. To provide for a more effective system the Green Party proposed the simplification and enhancement of the current legislative framework.

Following its introduction in Dáil Eireann, the Government did not oppose the Bill at a second stage debate in November 2006. The Bill was referred to the Select Committee on Environment and Local Government in accordance with Standing Order 120(1). The full provisions of the 2006 Bill may be viewed at

<http://www.oireachtas.ie/documents/bills28/bills/2006/5606/b5606d.pdf>

The issues which gave rise to the 2006 Bill remain a priority for the Minister and underpin the commitment to new legislation in the Programme for Government. The Minister is also conscious of the fact that the second-stage Dáil debate in November 2006 exposed a range of concerns in relation to noise that was much broader than those addressed in the 2006 Bill. For transcripts of the **November** debate see:

<http://historical-debates.oireachtas.ie/D/0628/D.0628.200611280025.html>

The concerns highlighted during the second stage debate in the Dáil can be categorised as falling under the following headings: Infrastructure; Planning/Construction; Commercial/Industrial, Recreational and Anti Social. A summary of these concerns is outlined under each heading.

Infrastructural

- Road traffic noise, railway related noise, and air traffic and in particular noise from low flying helicopters.

Planning/Construction

- Although building regulations provide for the insulation of elements (certain floor and walls) of dwellings to resist sound coming from neighbouring dwellings or buildings, it would appear that there are complaints from apartment dwellers that they are losing sleep at night because of the noise from next door.
- General construction noise including noise from pile-driving and Kango hammers,

Commercial / Industrial

- Air conditioning units on shops
- Noise, violence and disruption arising from the exiting of clients from Bars/Nightclubs/Discos
- Sounds linked to industrial installations
- Blasts from quarries and rock breaking which continues around the clock in quarries

Recreational

- Noise from jet-skis
- Levels of noise at a disco internally and externally and noise from outdoor events.

Anti Social

- Continual and persistent car and house alarms
- Noise from neighbourhood parties
- Particularly high domestic noise levels at weekends
- Animal noise including in particular the baying of dogs
- Young people loitering and engaging in boisterous activities at 3 a.m. or 4 a.m. generating a considerable level of noise in residential areas.

Implementation of 2006 Environmental Noise Regulations

There have been further relevant developments. The Environmental Noise Regulations 2006 (S.I. No 140 of 2006) which give effect in Ireland to EU Directive 2002/49/EC on the assessment and management of environmental noise. were introduced in March 2006. Environmental noise means unwanted or harmful outdoor

sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic, air traffic, and from sites of industrial activity. This is the area to which the commitment in the Programme for Government explicitly refers. The management of some of these sources of noise, particularly those related to use of infrastructure, is dealt with under the Environmental Noise Regulations. Local authorities, in association with the EPA, are in the process of implementing the 2006 regulations. Noise maps have been completed and the local authorities are at present drawing up action plans.

Examination of Issues

The Minister has initiated an examination of all of the issues raised, in the light of recent developments, from an environmental perspective and the practical and effective legislative provisions and other measures that might be brought forward to address them. This consultation has a particular focus on noise nuisances.

The extent to which the definition of 'environmental pollution' in the Environmental Protection Agency Act 1992 and the corresponding provisions of sections 106, 107 and 108 adequately address the commitment in the Programme for Government are key questions for consideration.

The range of existing legislative controls in relation to noise is considerable. These have been developed over the years on an ad hoc basis in response to specific problems.

The current examination and consultation is the first comprehensive review of all the existing provisions and developments for many years. It is a general public consultation. Some stakeholders, because of their particular functions, are specifically invited to participate in the review:

- Environmental Protection Agency.
- Local Authorities.
- City and County Managers Association.
- Local Authorities Members Association.
- General Council of County Councils.
- Association of Municipal Authorities of Ireland.
- All Government Departments.
- The Courts Service.
- An Garda Síochána.
- Dáil Select Committee on the Environment, Heritage and Local Government.
- Dáil Select Committee on Health and Children

The consultation will form part of the Regulatory Impact Assessment for whatever legislation the Minister ultimately proposes to publish in response to the commitment in the Programme for Government. The Minister envisages a Government Bill to replace the 2006 Bill and he may revert to some, or all, of this group of stakeholders prior to finalising the provisions he proposes to introduce.

A: Existing legislative Background

Section A sets out the wide range of existing legislative and regulatory provisions that relate to noise. For ease of reference, the issues are discussed under the following headings:

A1	Infrastructural Noise	A6	Recreational
A2	Vehicular and Road Noise	A7	Anti-social Behaviour
A3	Aircraft Noise	A8	Dogs
A4	Planning and Building Legislation	A9	Other Noise Sources
A5	Commercial/Industrial		

A1. Infrastructural Noise

Environmental Noise Regulations 2006

- A1.1 The Environmental Noise Regulations 2006 give effect in Ireland to Directive 2002/49/EC on the assessment and management of environmental noise. For the purpose of the Regulations, environmental noise means “unwanted or harmful outdoor sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic, air traffic, and from sites of industrial activity.”
- A1.2 The Directive applies to noise to which humans are exposed, particularly in built up areas, public parks or other quiet areas in an agglomeration, in quiet areas in open country, near schools, hospitals and other noise sensitive buildings and areas. It does not apply to noise from domestic activities, noise created by neighbours, noise at work places or noise inside means of transport or due to military activities in military areas.
- A1.3 The Directive requires the making of Action Plans by local authorities to reduce ambient noise using a range of measures from traffic planning to use of economic incentives. The Environmental Protection Agency is the designated national authority for the purposes of these Regulations and exercises general supervision over the functions and actions of noise-mapping bodies and action planning authorities, and provides guidance or advice to such bodies and authorities, where necessary. An Action Plan must at least include the following elements:
- a description of the agglomeration, the major roads, the major railways or major airports and other noise sources taken into account,
 - the authority responsible,
 - the legal context,
 - any limit values in place,
 - a summary of the results of the noise mapping,
 - an evaluation of the estimated number of people exposed to noise,
 - identification of problems and situations that need to be improved,
 - a record of the public consultations organised,
 - any noise-reduction measures already in force and any projects in preparation,

- actions which the planning authorities intend to take in the next five years, including any measures to preserve quiet areas,
- long-term strategy,
- financial information (if available): budgets, cost-effectiveness assessment, cost benefit assessment,
- provisions envisaged for evaluating the implementation and the results of the action plan,
- the Action Plan should also contain estimates in terms of the reduction of the number of people affected (annoyed, sleep disturbed, or other).

A1.4 The regulations provide a framework against which further measurements can be developed in an informed and strategic manner. Action plans are being drawn up by local authorities at present.

Noise Provisions of the Environmental Protection Agency Act 1992

A1.5 The main statutory provisions on environmental noise are contained in the Environmental Protection Agency Act 1992 (“the EPA Act”). Section 4 of the Environmental Protection Agency Act 1992 contains clarification on what constitutes noise pollution in that the definition of ‘environmental pollution’ includes noise which is a nuisance, or which would endanger human health or damage property or damage the environment.

A1.6 Section 106 of the EPA Act gives the Minister power to make regulations for the purpose of preventing or limiting any noise, which may give rise to a nuisance or disamenity, constitute a danger to health or damage property. No such regulations have been introduced to date. It is understood the provisions are stated in too general terms making it difficult to introduce changes in legislation by means of regulations rather than through primary legislation.

A1.7 Section 107 of the EPA Act provides significant powers to local authorities and the EPA, including power to take steps themselves to ensure compliance with the terms of a notice to control noise in relation to any premises, process or works and recover the cost of such an action. For more detail on section 107 please see paragraph A5.1.

A1.8 Section 108 of the EPA Act allows any person, a local authority or the EPA to make a complaint to the District Court about noise levels which are a reasonable cause for annoyance. For more detail on section 108 please see paragraph A7.1

A2. Vehicular and Road Noise

A2.1 EU legislation transposed into Irish law sets standards for permissible sound levels and exhaust systems on new motor vehicles.

Faulty / Modified Exhausts

A2.2 The Road Traffic (Construction, Equipment and Use of Vehicles) Regulations, S.I. 190 of 1963, require that vehicles should be fitted with a silencer or other device suitable for reducing to a reasonable level noise caused by the escape

of exhaust gases from the engine and prohibits use of a vehicle which causes any excessive noise in a public place.

- A2.3 An assessment is also made under the National Car Test Service concerning the effectiveness of the silencer in reducing exhaust related noise, as far as is reasonable, as part of the roadworthiness tests for heavy and light goods vehicles and private cars. The Minister for Transport can make regulations to deal with problems associated with modified or faulty exhausts on motor vehicles with under section 13 the Road Traffic Act 2002.
- A2.4 Since 1970, four EU directives have been cutting vehicle noise levels by a total of 90%. The last directive i.e. Directive 92/97/EEC, which fixed the noise limits at 74 dB(A) for cars and 80 dB(A) for commercial vehicles, entered into force on 1 October 1996 for all vehicles. At that time, it was expected that noise limits would be reduced every 4-5 years, similar to exhaust emissions reductions.
- A2.5 This did not happen due to the increased understanding that further vehicle noise reduction would not result in lower noise perception by society. This is due to the fact that tyre/road noise emerged as the dominant noise factor.
- A2.6 However, the introduction and implementation of the Noise Regulations 2006 will provide a framework for local authorities to address ambient noise.

Car / Vehicular Alarms

- A2.7 Under EU standards 95/56/EC, car alarms should sound for a minimum of 25 seconds and a maximum of 30 seconds. The audible alarm signal may sound again only after the next interference with the vehicle. There should be protection against false alarms using adequate measures including mechanical design and design of the electrical circuit, application of operation and control principles for the alarm system and components thereof and it should be ensured that alarms cannot signal unnecessarily in the event of an impact on the vehicle, electromagnetic compatibility or reduction of battery voltage. If any category of vehicle is fitted with a "device to prevent unauthorised use", an immobiliser, or an alarm, then the requirements of 95/56/EC must be met.

Using a vehicle horn

- A2.8 Section 86(2) of The Road Traffic (Construction, Equipment and Use of Vehicles) Regulations, S.I. 190 of 1963 clearly states that a driver should only use a horn to warn other road users of on-coming danger, or make them aware of the driver's presence for safety reasons when reasonably necessary. The horn does not give right of way. It further states that a horn should not be used in a built-up area between 23.30hrs and 07.00hrs unless there is a traffic emergency. Enforcement is a matter for the Gardaí.

A3. Aircraft Noise

- A3.1 The Irish Aviation Authority (IAA) is vested with many of the regulatory functions pertaining to aircraft noise.

- A3.2 Under EU requirements, aircraft must be certified to noise standards set down by the International Civil Aviation Organisation and operating restrictions are in place with regard to take offs and landings. Noise abatement procedures to be observed by aircraft are in place at Dublin, Cork, Shannon, Kerry, Galway and Weston. These are published in the Aeronautical Information Publication (AIP) for Ireland.
- A3.3 Operating Noise at airports is regulated by European Communities (Air Navigation and Transport Rules and Procedures for Noise Related Operating Restrictions at Airports) Regulations 2003 (S.I. No. 645 of 2003.) These Regulations apply to civil airports that have more than 50,000 movements of civil subsonic jet airplanes per year, and in Ireland only apply to Dublin Airport. However in addition to these Regulations, the Environmental Noise Regulations 2006 will address the issue through Noise mapping and Action Plans.
- A3.4 The IAA will shortly be undertaking a formal review of the airspace and helicopter routings within the Greater Dublin Area which will result in a formal Helicopter Route structure being implemented. The target date for the results of this process is likely to be in the third quarter of 2008. The issue of helicopter noise will be considered as part of the environmental aspects to be considered by the review,
- A3.5 The IAA does not licence helipads with the exception of elevated heliports, however, the regular use of lands for the landing and take-off of a helicopter constitutes a material change of use of the land by reference to section 3 of the Planning and Development Act, 2000 and, therefore, comes within the meaning of “development” and requires planning permission.

A4. Planning and Building Legislation

Building Regulations

- A4.1 A number of complaints arise in the case of noise nuisance from an adjoining apartment or house where standards of construction appear to be questionable.
- A4.2 The current Irish Building Regulations call for certain constructions to offer “reasonable resistance” to both airborne and impact sound. In the absence of any form of objective criterion, reference is often made to the guidance values put forward in the “Similar Construction” method described in Technical Guidance Document E.
- A4.3 Part E of the Building Regulations (Sound) sets out the legal requirements in relation to sound insulation in buildings, including dwellings and apartment blocks. The related ‘Technical Guidance Document E’ provides guidance on how to comply with the requirements of Part E.
- A4.4 Home Bond is currently carrying out a major study of sound insulation standards in buildings. A review of Part E of the Building Regulations and the related TGD - E will be initiated in the light of the results of the Home Bond

study and in consultation with the Building Regulations Advisory Body (BRAB).

A4.5 Responsibility for compliance with the Regulations is a matter for the builder. Enforcement is the responsibility of the 37 local Building Control Authorities. The resources of local authorities allow a number of spot checks to be carried out, however, no detailed testing is involved. Testing for compliance is resource intensive (up to one day for a comprehensive noise test). It is open to property owners to have independent sound testing carried out by an independent consultant to ascertain whether the building is in compliance with the Building Regulations.

A4.6 It is currently open to homebuyers to ensure compliance with the building regulations by taking civil actions against builders/developers through the court system where there is a breach of contract between the parties concerned, should they so wish.

Penalties

A4.7 Penalties for breaches of the Building Regulations are set out in the Building Control Act 1990. The maximum penalties were substantially increased under the Building Control Act 2007 from £800 (punts) to €5,000 on summary conviction or at the discretion of the court, to imprisonment for a term not exceeding six months or to both the fine and the imprisonment ; with fines for ongoing offences from £150 (punts) per day after summary conviction; and from £10,000 to €50,000 on conviction on indictment or at the discretion of the court, to imprisonment for a term not exceeding two years or to both the fine and the imprisonment. The increased penalties came into effect on 1 March 2008.

Planning and Development Act 2000

A4.8 The Planning and Development Act 2000 section 34 states:

Where

- (a) an application is made to a planning authority in accordance with permission regulations for permission for the development of land, and*
- (b) all requirements of the regulations are complied with,*

the authority may decide to grant the permission subject to or without conditions, or to refuse it.

Section 34(4)(c) relates to planning conditions regarding noise reduction / prevention:

(c) conditions for requiring of measures to reduce or prevent

- (i) the emission of any noise or vibration from any structure or site comprised in the development authorised by the permission which might give reasonable cause for annoyance either to persons in any premises in the neighbourhood of the development or to persons lawfully using any public place in that neighbourhood, or*
- (ii) the intrusion of any noise or vibration which might give reasonable cause for annoyance to any person lawfully occupying any such structure or site;*

Planning and Development Regulations 2007- SI 135/2007.

- A4.9 These regulations introduced a planning exemption for micro-renewable energy systems on domestic dwellings and attached a condition to the exemption which requires that noise levels from wind turbines must not exceed 43dB(A) during normal operation, or in excess of 5 dB (A) above the background noise, which ever is greater, as measured from the nearest neighbouring inhabited dwelling.

Planning and Development Regulations 2008

- A4.10 The Planning and Development Regulations 2008 (SI/08/235) provide planning exemptions for renewable technologies for commercial, public, industrial and agricultural buildings where noise levels do not exceed 43dB(A) during normal operations as measured from the nearest party boundary.

Spatial Planning Issues

- A4.11 Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for Apartments were published by the Minister in September 2007. In relation to overall design issues for apartments, the guidelines draw attention to the fact that noise from central courtyard play areas, particularly in smaller schemes, can diminish residential amenity. Therefore, designers need to find solutions which will balance this with the need for communal play and recreational amenity. The guidelines also say that the design and construction of apartments needs to ensure that noise transmission between units is minimised.
- A4.12 The guidelines were published as statutory guidelines under section 28 of the Planning and Development Act 2000, which requires planning authorities to have regard to them in the performance of their functions.
- A4.13 Draft Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas were published by the Minister for public consultation in February 2008. The draft guidelines are accompanied by an Urban Design Manual which illustrates the best practice set out in the guidelines.
- A4.14 In addressing neighbourhood design issues, the Manual draws attention to the fact that noise conflict issues can arise in mixed-use developments where noisy units, such as cafés, are placed too close to residential units or where retail deliveries are made at night. The Manual suggests specifying management controls at planning stage to mitigate such problems and also levels of sound insulation in the residential units in excess of minimum standards. When finalised later this year, these guidelines will also be published under section 28 of the Act.

Noise during Construction and ongoing operations

- A4.15 The planning system is used to control noise from construction works and from the use of premises for which planning permission is granted. Conditions can be attached to individual permissions, (under section 34(4) of the Planning and Development Acts) to “reduce or prevent the emission or the intrusion of noise and vibration,” such as the imposition of noise levels

during the construction phase and/or imposing permitted noise levels and operating hours that are permitted in the use of the premises (see paragraph A4.8). Furthermore, a local authority or any individual may use sections 107 or 108 of the EPA Act to address a noise complaint from construction.

A5. Commercial / Industrial

Noise from commercial premises, processes or works

- A5.1 Section 107 the EPA Act provides significant powers to local authorities and the EPA to control noise. A local authority or the Agency (in respect of a licensable activity) have the power to serve a notice on any person in charge of any premises (incl. pubs and discos), processes or works requiring that person to take the measures set out in the notice in order to prevent or limit noise. Included in this category would be instances involving air conditioning/ventilation systems, refrigeration systems and similar noise sources from premises
- A5.2 The criteria for deciding on whether to serve a section 107 notice is wide and might be summarised as to whether such a course of action appears to the local authority “to be necessary for the prevention or limitation of noise”. The Environmental Protection Agency Act, 1992 (Noise) Regulations 1994 (SI No 179 of 1994) also provide that failure to comply with the requirements of a notice issued by a local authority under section 107 may be prosecuted summarily by the local authority/Agency. Alternatively, the local authority/Agency may take reasonable steps to ensure compliance and recover the cost as a simple contract debt.
- A5.3 Under section 4 of the Courts (No.2) Act 1986, any person is entitled to object to the renewal of an intoxicating liquor licence at the annual Licensing Court. The objection to the renewal of the licence can be made, inter alia, on the grounds of the peaceable and orderly manner in which the premises were conducted in the last year. With regard to the application for a special late night exemption, the Intoxicating Liquor Act 2000 provides that a court shall not grant a special exemption order in respect of any premises unless it is satisfied that the special occasion will be conducted in a manner which will not cause undue inconvenience to persons residing in the vicinity of those premises.

EPA Licensable Industrial Activities

- A5.4 Certain activities that are required to be licensed under Integrated Pollution Prevention and Control regulations may be subject to noise conditions. The relevant guidance is set out in the EPA publication “*Guidance Note for Noise in Relation to Scheduled Activities*”. This document contains suggested noise limits of 55 dB(A) $L_{A,T}$ for daytime and 45dB(A) $L_{Aeq,T}$ for night-time; with said limits to be applied to “*sensitive locations*”. Whilst these limits have a very specific application, they have appeared in many different contexts and often form the basis for conditions in planning permissions.
- A5.5 Activities that are subject to an IPPC licence or a waste licence are required to comply with noise limit values imposed by the EPA. Penalties are as follows:

- For a summary conviction in the District Court: a fine not exceeding €1,270 (as well as a fine not exceeding €127 for every day on which the offence is continued) or imprisonment for any term not exceeding six months.
- On conviction or indictment in the District Court: a fine not exceeding 12,700 euro (as well as a fine not exceeding 1,270 euro for every day on which the offence is continued) or imprisonment for any term not exceeding two years.

If the court decides, the penalties above may include both a fine and imprisonment, having regard to the risk or extent of damage to the environment arising from the act or omission constituting the offence. There are relatively few complaints from these premises.

Alarms – Commercial Premises

- A5.6 All alarm installers were required to register with the Private Security Authority with effect from 1 November 2005 and from 1 August 2006 alarm installers were required to obtain a licence from the PSA in order to operate.

To obtain a licence, installers have to prove that they have attained the EN 50131 standard, which provides for stricter controls regarding minimum and maximum durations of 90 seconds and 15 minutes respectively for the sounding of external intruder alarms in buildings. In the case of a faulty alarm, a local authority may serve a notice under section 107 of the Environmental Protection Agency Act 1992 or an individual can initiate action to deal with it under section 108. While there is provision under section 107 for direct action by the local authority, it may only be taken after time is allowed for commenting on the terms of a notice and after the period for taking action has elapsed and does not allow early resolution of the problem particularly when the person in charge of the premises is not available.

Quarries

- A5.7 Section 261 of the Planning and Development Act, 2000 took effect from 28 April, 2004. Section 261 introduced a once-off system of registration for all quarries, except those for which planning permission was granted in the 5 years prior to that date. Under the registration system, quarry operators must supply full details of their operations to the planning authority, including information on the area of the quarry, the material being extracted, the hours of operation, and the traffic, noise and dust generated by the quarry.
- A5.8 Guidelines to Planning Authorities on Quarries and Ancillary Activities have also been published by the Department. The Guidelines offer guidance on planning for the quarrying industry, through the development plan and the determination of applications for planning permission. The majority of Irish quarries have been in operation since before the planning system came into existence, however, this legislation provides a statutory framework for local authorities to ensure that both new and existing quarries are operated to the highest standards. Planning authorities are required to consult with local communities regarding the operation of any quarry registered with them.

[Quarry Guidelines for Planning Authorities 2004](#)

- A5.9 Extractive industries are associated with many noise generating activities-removal of topsoil and overburden, excavation with machinery, drilling and blasting of rock, crushing and screening of aggregates, transport of raw materials and finished products within the site and on public roads, etc.
- A5.10 Blasting (which occurs at quarries, but not in sand and gravel pits) can give rise to vibration, audible noise, flyrock and dust. The levels of vibration caused by blasting and well below those which can cause structural damage to properties. Nonetheless, vibration transmitted through the ground and pressure waves through the air (air overpressure) can shake building and people may and may cause nuisance. Audible noise accompanies overpressure.
- A5.11 Noise can cause annoyance; nuisance, sleep disturbance and can also affect wildlife. Residential properties, schools, hospitals, nursing homes, churches etc. are also noise –sensitive receptors.

Best practice/ possible mitigation measures:

- A5.12 The nearer a site is to noise –sensitive properties or areas, the more stringent should be the controls on noise emissions. There are several methods of noise control:
- Earth mounds erected around the site boundary can provide acoustic as well as visual screening. A buffer zone can be maintained between the excavation area and the site boundary; the width of the zone needs to be decided on a case by case basis, depending on such factors as the nature and scale of extraction and the settlement pattern in the vicinity. Soft ground (grassland and cultivated fields) attenuation can sometimes have a greater impact in reducing noise than barrier attenuation, especially if the ground supports sound absorbing vegetation.
 - Conveyor belts and crushing/screening equipment can be housed to provide acoustic screening. It is important that sound reduction equipment fitted to machinery is used and maintained properly.
 - Haul roads within the site should have as low a gradient as possible, and paving should be considered if practicable where noise sensitive receptors are likely to be affected.
 - For deep workings, quarry faces may provide a barrier, depending on the relative location of the quarry face and the noise – sensitive area or property.
 - The professional control of drilling and blasting operations can ensure, through design to the layout of the working, that blasts are directed away from sensitive neighbouring dwellings. Use of the “delayed blasting technique, whereby the blast takes place in a series of timed small explosions rather than a single large blast , helps to minimize the vibration in the rock body.
 - It is recommended that quarry operators provide advance notification of blasting to nearby residents, e.g. through written notices or by using warning sirens, or other locally agreed arrangements.

- A5.13 A planning authority can impose conditions on the operation of a registered pre 1964 quarry or may require such a quarry to apply for planning permission in certain circumstances. Authorities will also be able to restate, modify or add to conditions on the operation of a quarry which has received planning permission in the 5 years prior to 2004.

A6 Recreational

Licensing of Public Outdoor Events

- A6.1 Under section 231 of the Planning and Development Act, 2000 and Part 16 of the Planning & Development Regulations, 2001 a licence is required in respect of the holding of outdoor events and applies to events which take place wholly/mainly in the open air with an audience in excess of 5,000 (in any one event).
- A6.2 A draft Management Plan prepared in accordance with appropriate codes of practice must be submitted with the application together with a statutory €2,500 fee (event held for profit/gain). The plan may cover noise issues.
- A6.3 There is a duty of care on the person(s) granted the licence and a duty on every person attending such events to conduct themselves (as far as reasonably practicable) to ensure that any person attending is not exposed to danger.
- A6.4 Although a licence is not required for the holding of an event by a local authority, public notice procedures apply and a Plan for management of the event/drawings available for public inspection (written submission within five weeks) must be prepared.
- A6.5 Penalties for an offence include that the local authority may revoke a licence if the person to whom the licence is granted is convicted of an offence under the relevant Part of the Planning Act. On conviction in the District Court, fines of up to €1,905 can be imposed together with fines of up to €507 per day for continuing offences or to a term of imprisonment of 6 months or both. On conviction in the Superior Courts, the maximum fine is €12,700,000 (€12,700 per day for continuing offences) and up to 2 years imprisonment, or both.

Events below the threshold of 5000

- A6.6 Noise from outdoor events and concerts below the threshold of 5000, are not licensed under section 231 of the Planning and Development Act, 2000 and Part 16 of the Planning & Development Regulations, 2001. Such events have been successfully managed by some local authorities using section 107 of the EPA Act 1992 and the Planning Code.
- A6.7 Site design, layout and management systems are important in minimising the environmental impact of noise. The location of the stage, the orientation of the speakers, the type of sound system, the control of sound power levels, and the duration and timing of the entertainment can all be engineered to reduce the noise impact. The noise control unit of the local authority may specify conditions and restrictions in a Notice under the Environmental Protection

Agency Act 1992 in order to prevent persons in the neighbourhood of the event being unreasonably disturbed by noise. It is understood that in the case of one local authority this Notice will have regard to the criteria in the Code of Practice on Environmental Noise at Concerts issued by the Noise Council (United Kingdom).

<http://www.dublincity.ie/SiteCollectionDocuments/Advisoryhandbook.pdf>

Jet skis

- A6.8 Several local authorities have issued bye-laws regulating the use of jet-skis and fast power craft in their functional areas. Typically the bye-laws restrict the locations in which such craft can be operated in addition to restricting times of use and speeds.

Quad Bikes

- A6.9 A small number of local authorities have issued bye-laws regulating the use of quad bikes in their functional areas. Typically the bye-laws prohibit the use of the vehicles in specific locations.

A7. Anti social behaviour

- A7.1 Section 108 the EPA Act allows a local authority, the EPA or any person to make a complaint to the District Court about noise levels. The kind of noise that justifies a section 108 complaint, is 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”. There is provision for a “good defence” in court based on all reasonable care taken to prevent the noise nuisance or that the noise is in accordance with a licence issued under the EPA Act. The court may make an order, requiring the person or body making, causing or responsible for the noise to take measures to prevent or limit the noise.

- A7.2 Environmental Protection Agency Act, 1992 (Noise) Regulations 1994 (SI No 179 of 1994) prescribe the form of notice to be served under section 108. The District Court charges a nominal fee of €18 for processing the action.

- A7.3 ENFO the environmental information service of the Department has published a Guide to the Noise Regulations for the assistance of the public.

- A7.7 Penalties for

- breach of any regulations made under section 106 of the EPA Act, or
- non compliance with the terms of a notice under section 107, or
- non compliance with the terms of a District Court order under section 108 of the EPA Act

are €1,270 on summary conviction or on conviction on indictment, to a fine not exceeding €12,700,000 or to imprisonment for a term not exceeding ten years or, at the discretion of the court, to both such fine and such

imprisonment, having regard to the risk or extent of damage to the environment arising from the act or omission constituting the offence.

The Garda Síochána and Anti social behaviour in domestic situations

- A7.8 The Garda Síochána has a range of powers, as confirmed in case law, in relation to breach of the peace arising from domestic premises. These include a power of arrest in a private place for a breach of the peace contrary to Common Law. This power does not allow for the Gardaí to enter a dwelling with the intention of simply requesting the person to lower the noise. However, there is nothing preventing the Gardaí from knocking on the door to request a person to lower the noise. A visit by the Gardaí and a request to cease or lower the noise may resolve many once-off instances of noise-related breaches of the peace.

Antisocial behaviour in public places

- A7.9 The Garda Síochána has a range of powers available to it to deal with noise arising from anti-social behaviour in public places. Late night anti-social behaviour can be dealt with under current legislation, primarily the Criminal Justice (Public Order) Act, 1994. Section 5 (disorderly conduct in a public place) refers to offensive conduct and serious annoyance and section 6 deals with threatening, abusive or insulting behaviour. There are also avenues available to Gardaí under the Criminal Justice (Public Order) Act 2003 and Part 11 of the Criminal Justice Act 2006, particularly section 113 – 115 of the Act, with regard to closure orders and the policing of anti-social behaviour respectively. In addition, the force operates a Community Policing Policy.
- A7.10 Throughout its history, the force has always aimed at providing a full service to local communities while at the same time providing resources for other responsibilities. Under Community Policing a member of the Garda Síochána is given responsibility for policing a specific area. He or she works in uniform and makes every effort to meet and build up a constructive relationship with the people who live there. The Gardaí liaise with all community groups providing a link between the residents and the local station.
- A7.11 Garda management is conscious of the importance of Community Policing and as such appoint members who are energetic, resourceful and have the capacity to understand and resolve difficulties as they arise, using a problem solving approach.
- A7.12 Results to date are very encouraging. A Garda working full-time in an area can greatly increase the satisfaction level among the public, reduce crime and vandalism giving a sense of well being to local residents, and addressing the fear of crime. Consequently those most vulnerable in society now have a better sense of security.

Private Residential Tenants

- A7.13 In the case of noise nuisance being caused by individuals in private rented accommodation, the Residential Tenancies Act 2004 contains a provision for third parties who are adversely affected by a failure on the part of a landlord to enforce tenant obligations, to refer a complaint to the Private Residential Tenancies Board (PRTB) in accordance with the procedures in the Act.

A7.14 Penalties or means of redress include that a person guilty of an offence under the 2004 Act shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both.

Local Authority Housing Tenants

A7.15 Local authorities are empowered under section 62 of the Housing Act 1966, to initiate proceedings to secure an eviction where a tenant has breached the conditions of the tenancy agreement. Noise nuisance and other problems caused by local authority tenants are covered under this legislation.

A8. Dogs

A8.1 Under the [Control of Dogs Act 1986](#) as amended by the [Control of Dogs \(Amendment\) Act 1992](#) all local authorities in Ireland are responsible for the control of dogs. Local authorities have the power to appoint dog wardens, provide dog shelters, seize dogs, impose fixed charge notices (formerly known as on the spot fines) and take court proceedings against owners.

A8.2 Noise from barking dogs is covered by section 25 of the Control of Dogs Act 1986. This allows a person to make a complaint to the District Court in respect of a nuisance as a result of excessive barking by a dog. The Court can make an order requiring the occupier of the premises in which the dog is kept to abate the nuisance by exercising due control over a dog, it can also limit the number of dogs that can be kept on a premises, or can direct that a dog be delivered to a dog warden to be dealt with as unwanted.

A8.3 Problems arising from barking dogs can also be dealt with by individuals under section 108 of the Environmental Protection Act 1992 (see paragraph A7.1).

Penalties

A8.4 A person guilty of an offence shall be liable on summary conviction to a fine not exceeding €1,905 (£1,500) or to imprisonment for a term not exceeding 3 months or to both. (Control of Dogs Amendment Act 1992 (section 9(2)) as amended by the Local Government Act 2001 (section 211(2)).

A9. Other Noise Sources

Wind Turbines and Wind farms

A9.1 There are two distinct noise sources associated with the operation of wind turbines; aerodynamic noise caused by blades passing through the air, and mechanical noise created by the operation of mechanical elements in the nacelle - the generator, gearbox and other parts of the drive-train. Aerodynamic noise is a function of many interacting factors including blade design, rotational speed, wind speed and inflow turbulence; it is generally broadband in nature and can display some "character" (swish). Mechanical noise from a wind turbine is tonal in nature. Advances in turbine technology

and design have resulted in reduced noise emissions. The most recent direct drive machines have no high-speed mechanical components and therefore do not produce mechanical noise.

A9.2 Turbine noise increases as wind speeds increase, but at a slower rate than wind generated background noise increases. The impact of wind energy development noise is therefore likely to be greater at low wind speeds when the difference between noise of the wind energy development and the background noise is likely to be greater. Wind turbines do not operate below the wind speed referred to as cut-in speed, usually around 5 metres per second. Larger and variable speed wind turbines emit lower noise levels at cut-in speed than smaller fixed speed turbines. Noise from wind turbines is radiated more in some directions than others, with areas down-wind experiencing the highest predicted noise levels. At higher wind speeds noise from wind has the effect of largely masking wind turbine noise.

A9.3 Draft Planning Guidelines have been issued by the Department with regard to design and siting of wind turbines and can be found at:

<http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/FileDownload.1633.en.pdf>

A9.4 Good acoustical design and carefully considered siting of turbines is essential to ensure that there is no significant increase in ambient noise levels at any nearby noise sensitive locations. Sound output from modern wind turbines can be regulated, thus mitigating noise problems, albeit with some loss of power. An appropriate balance must be achieved between power generation and noise impact. Noise impact should be assessed by reference to the nature and character of noise sensitive locations.

A9.5 In general, noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres. Planning authorities may seek evidence that the type(s) of turbines proposed will use best current engineering practice in terms of noise creation and suppression.

Wind Energy Development Guidelines June 2006

Noise limits

A9.6 Noise impact should be assessed by reference to the nature and character of noise sensitive locations. Noise limits should apply only to those areas frequently used for relaxation or activities for which a quiet environment is highly desirable. Noise limits should be applied to external locations, and should reflect the variation in both turbine source noise and background noise with wind speed. The LA90, 10min descriptor, which allows reliable measurements to be made without corruption from relatively loud transitory noise events from other sources, should be used for assessing both the wind farm noise and background noise. Any existing turbines should not be considered as background noise.

A9.7 In general a lower fixed limit of 45 dB(A) or a maximum increase of 5dB(A) above background noise at nearby noise sensitive locations is considered appropriate to provide protection to wind farm neighbours. However, in very quiet areas, the use of a margin of 5dB(A) above background noise at nearby noise sensitive properties is not necessary to offer a reasonable degree of

protection and may unduly restrict wind energy developments which should be recognised as having wider national and global benefits. Instead, in low noise environments where background noise is less than 30 dB (A), it is recommended that the daytime level of the LA90, 10min of the wind farm noise in low noise environments should be limited to an absolute level within the range of 35-40 dB (A). Separate noise limits should apply for day-time and for night-time as during the night the protection of external amenity becomes less important and the emphasis should be on preventing sleep disturbance. A fixed limit of 43dB(A) will protect sleep inside properties during the night. Where the occupier of a noise sensitive property has a financial interest in the wind energy project, day and night time levels may be increased.

Noise from Agricultural sources

- A9.8 Noise from agricultural sources, “bird scarers” can be dealt with under section 107 or 108 of the EPA Act.

Other

- A9.9 There are many sources of noise and this paper identifies and provides detail on several key noise sources that might impact upon everyday activities and the need for rest. However, there are other noise sources not addressed in detail where there may be some impact on the general public. Included in these is Noise from Army Firing Ranges, Emergency Services, local authority operations – including refuse collection and Road cleaning. Submissions on these or any other noise sources not already specified are also welcome.

B: EFFECTIVENESS OF CURRENT LEGISLATION AND OTHER ARRANGEMENTS

B1 The analysis suggests that there are few areas of environmental noise or noise nuisance that are not covered by some legislative provision. However, the effectiveness of the existing controls is adversely affected by the following factors:

- Lack of powers of a type which can result in immediate or short-term abatement action e.g. powers of entry, intervention, seizure or closure, in situations where nuisance is severe.
- The burden on the citizen in terms of following through on a noise complaint.
- The resources available to enforcement authorities nationally and locally both in following up legal proceedings and in provision of an out of office hours service.
- There is a lack of awareness of the impacts of the activities of the person responsible on near neighbours.
- There appears to be some lack of awareness of the wide range of avenues available to persons affected by nuisance noise. A lack of information on the part of the affected person may lead to delays in seeking redress from the appropriate authorities or through use of the correct procedures.
- Levels of penalties, in some cases, are not a sufficient deterrent.
- Lack of national standards for best practice or codes of practice or guidelines with some statutory backing results in inconsistent application of controls.
- A more integrated, and joined-up, approach to noise management is required because of the variety of sources and the remedies which can be applied.
- The profile of Environmental noise/ noise nuisance needs to be raised. While noise is referred to in some individual local authorities annual reports and EPA reports, there is no national annual noise report to monitor levels of noise complaints, enforcement activity and identify ongoing and emerging problems which need to be addressed.

C: INTERNATIONAL EXPERIENCE

- C1.1 No European country adopts an approach where there is one single authority for dealing with all types of noise nuisance, be it neighbourhood noise, construction noise, transport noise or aviation noise. As in Ireland, responsibility for these issues tends to be sectoral, with local authorities taking the majority of the responsibilities where commercial and construction noise is concerned. Those countries that do provide enforcement for neighbourhood noise tend to do so through the police force, and a pattern of shared responsibility between the police and local authorities is a common trend.
- C1.2 Countries, which provide 24-hour cover on noise issues, tend to do so through enforcement authorities that are already operating a 24-hour service, i.e. the police. When countries involve the police in noise nuisance enforcement, some take a breach of the peace approach e.g. Scotland, while some have a section within the police who are trained to deal with such problems e.g. Belgium. A general rule of thumb appears to be that when a noise nuisance is relatively straightforward, e.g. loud party in a neighbour's house, the police deal with the problem but when the problem becomes more complex then local authorities tend to look after it.
- C1.3 The introduction of noise limits, as in the United Kingdom, appears to have mixed success. While the UK experienced some problems with enforcement of the Noise Act, Belgium appears to be satisfied with its similar approach (the UK gives local authorities responsibility for enforcement while Belgium has trained police officers for the job). Some countries ignore decibel limits and specifically restrict the times during which certain activities can be undertaken e.g. DIY, lawn mowing, etc.
- C1.4 In summary, while we can learn from experience in other countries, there appears to be no single ideal solution that can be applied directly in an Irish context and instead a multi-faceted approach should be adopted.

D: PROBLEMS AND POTENTIAL SOLUTIONS

More Integrated Approach and Enhanced Noise Nuisance Profile

There is a strong need to raise awareness of the impact of environmental noise and noise nuisance and to take a more integrated approach to the prevention, management and abatement of noise. The 2006 regulations provide a framework for such integration at local level. Under the regulations, the Environmental Protection Agency has a coordinating role in relation to the preparation of noise maps and the preparation, by local authorities, of local noise action plans.

Scope for Improvement

Clarification of roles and reassignment of some key responsibilities would help to give new impetus in this area. While the Minister for the Environment, Heritage and Local Government would retain the policymaking and legislative functions, responsibility for coordination of technical aspects including research, reporting and standards approval could be assigned to the Environmental Protection Agency. Specifically, the Agency could be asked to prepare an annual report on noise pollution and nuisances, including identification of those which may require additional measures to resolve them. The report could include summaries of noise prevention, management, abatement/enforcement activities of other authorities.

The Agency could be given a statutory role in relation to approval of standards codes of practice guidelines for the purposes of noise control. Improved coordinating structures at national level could be considered, such as an advisory committee to the Minister or an Interdepartmental committee. The desirability of using existing structures, such as Comhar, could be explored. Availability of adequate information and awareness campaigns as well as improved legislative provisions would help to raise the profile. Some of these aspects are elaborated upon further in the following paragraphs. The main problems in the case of specific sources of noise would appear to be in the following areas.

D1 Infrastructural Noise

D1.1 Infrastructural noise generated by road, rail and air traffic movement is being addressed by the Noise Regulations 2006. The implementation of these Regulations is at an advanced stage with local authority Action Plans on mitigation of ambient noise due later in 2008.

D2. Vehicular and Road Noise

D2.1 Vehicular and Road Noise is essentially a sub-set of Infrastructural noise, and as previously discussed at section A2, the introduction and implementation of the Noise Regulations 2006 should result in a lowering of ambient noise levels from traffic as local authorities formulate and implement Noise Action Plans.

D3 Aircraft Noise

- D3.1 Aircraft movements can often be the principal contributor to noise levels in areas close to airports. Initiatives such as establishing a local airport Stakeholders Forum, such as currently operates in Dublin which comprises representatives from the airport, aviation regulators, local authority and local interest groups, should be encouraged.
- D3.2 A particular problem in some areas is the use of private helicopters. As set out at A3.4, a formal review of the airspace and helicopter routings within the Greater Dublin Area will shortly be initiated by the IAA which will result in a formal Helicopter Route structure being implemented. The target date for the results of this process is likely to be in the third quarter of 2008. The issue of helicopter noise will be considered as part of the environmental aspects to be considered by the review,
- D3.3 Consideration could be given to expanding the European Communities (Air Navigation and Transport Rules and Procedures for Noise Related Operating Restrictions at Airports) Regulations 2003 to other airports in Ireland which are beneath the 50,000 movements of civil subsonic jet airplanes per year.

D4 Planning and Building

Road construction and general construction noise.

- D4.1 The main problems would appear to be early morning rather than late night working and noise levels from machinery on sites. Different authorities apply different time etc. according to local conditions.
- D4.2 The National Roads Authority has published the document "*Guidelines for the Treatment of Noise and Vibration in National Road Schemes*", which sets out the procedure to be followed in respect of "the planning and design of national road schemes".

Scope for Improvement

- D4.3 The NRA could be requested to review its guidelines with a view to improving performance in this area.
- D4.4 An approved national operation standard for the main types of noise would introduce consistency and productivity for construction works. Where it is deemed necessary to predict noise levels associated with construction activities (see section 6.0), this should be done in accordance with a recognised standard such as BS5228: Part 15. This standard sets out sound power levels for plant items normally encountered on construction sites, which in turn enables the prediction of noise levels at selected locations.

http://www.nra.ie/Publications/DownloadableDocumentation/Environment/file_3482,en.PDF

Noise Insulation in Building Regulations

- D4.5 To address the perceived lack of compliance with building regulations and standards, there is a need for a system of random inspections and adequate enforcement resources for building control authorities.

D5 Commercial / Industrial

Noise from certain premises (including shops, pubs, clubs restaurants, businesses)

- D5.1 Noise from these types of premises can include noise from extraction and ventilation systems, music, and early morning deliveries. Failure to comply with a notice under section 107 of the EPA Act may be prosecuted summarily by the local authority or EPA which may result in a fine. The amount of the fine, even if the maximum is applied, may be insignificant in the case of large commercial activities and the offender may be prepared to go through the legal process and carry the fine as an unavoidable expense rather than carry out remedial works or curtail activities at a greater economic cost. If the non-compliance persists it is necessary for the local authority or the Agency to serve another notice.
- D5.2 One of the consequences of the smoking ban is increased noise levels around pubs, which can be a problem at night particularly if close to residences. There are real difficulties in arriving at solutions in many cases due to restrictions on space and the need to comply with the law as to areas where smoking is not permitted.

Scope for improvement

- D5.3 It may be useful if the local authority or the EPA is given access to the District Court for the purposes of following up on any non compliance with a Court Order (in the same way as the nuisance provisions of the Public Health Act 1878 apply) Closure orders could be provided for in certain circumstances. It can be examined if such closure orders might be applied through an administrative procedure rather than as currently through court orders.
- D5.4 An examination of the possibility of additional powers for the Gardaí, EPA or authorised officers in terms of closure /prohibition orders could be undertaken.
- D5.5 In situations where there is compliance with approved codes of practice, a provision could be introduced that such compliance could be used as a "Good Defence" in enforcement proceedings (see section E – Codes of Practice / Guidelines).

Alarms – Commercial Premises

- D5.6 The main problem is with faulty or non-compliant alarms where the keyholder/owner of a commercial premises is not contactable due to holidays or other reason. Guidelines could suggest that within an hour two keyholders should be contactable in such situations. The possibility of legislating that all intruder alarms, including those fitted prior to 1 August, 2006, be fitted with cut-off switches following 15 minutes of operation could be explored. A two year deadline for compliance could be provided for, after which keyholders/owners of commercial premises with alarms sounding beyond this period could be prosecuted. There may be scope to provide An Garda Síochána with powers of entry to disable alarms which sound continuously and invoice the keyholder/owner for costs incurred. This possibility will be examined in consultation with the Office of the Attorney General. The possibility of introducing regulations providing for the mandatory use of monitored alarm systems could also be explored.

Quarries and Ancillary Activities

- D5.7 The EPA currently does not licence quarries. However, the EPA publication "Guidance Note for Noise in Relation to Scheduled Activities" contains a discussion of the primary sources of noise associated with mineral extraction and offers guidance in relation to the correct approach to be followed in respect of assessment and mitigation. Suggested noise limit values are 55dB $L_{Aeq,1hr}$ and 45dB $L_{Aeq,15min}$ for daytime and night-time respectively, although more onerous values may be appropriate in areas with low levels of pre-existing background noise. In respect of blasting, reference is made to EPA guidance to the effect that "blasting should not give rise to air overpressure values at the nearest occupied dwelling in excess of 125dB(Lin) max. peak with a 95% confidence limit".
- D5.8 Consideration could be given to including quarries under the EPA licensing system.

D6 Recreational

Recreational Noise

- D6.1 There is scope for local authorities to make greater use of bye-laws where use of Jet skis, scrambler motorbikes, fireworks, and clay pigeon shooting, present difficulties.

Open Air Events below the threshold of 5000

- D6.2 The proposed improved enforcement powers in relation to section 107 of the Environmental Protection Act will result in more effective control of noise from this source. Scope for improvement might also include a lowering of the number of participants permitted without a licence being obtained under section 231.

D7 Anti social behaviour

- D7.1 The largest number of noise complaints arise from antisocial behaviour in domestic situations. Problems can usually be resolved by simply bringing the problem to the attention of the person responsible. Detailed measurements or sophisticated evidence are required in only a very small percentage of cases. While the existing provisions of section 108 of the EPA Act provide redress in many cases, the biggest difficulty is how to deal with noise nuisance from adjoining or adjacent dwellings or premises between the hours of 11pm and 7am in an efficient and effective manner, bearing in mind that this is a civil matter. If the problem is persistent there may also be intimidation (or fear of such), alcohol or drugs involved.
- D7.2 Generally speaking if there is late night anti-social behaviour the Garda Síochána is called out. The legal basis for its involvement are its powers under Common Law in relation to breach of the peace and under the Criminal Justice (Public Order) Acts in relation to anti-social behaviour. A request to cease the activity is often sufficient to deal with the situation.
- D7.3 The powers available to the Garda Síochána in relation to noise nuisance situations were intended to deal with a wider range of situations .

Consequently, the willingness to use powers in noise nuisance situations may not be consistent across all areas.

- D7.4 The Intoxicating Liquor Bill, 2008, which is currently before the Oireachtas, contains a provision to deal with drinking, etc in public places, where the drinking is likely to cause nuisance, annoyance or breach of the peace. In those cases Gardaí are given new powers to seize alcohol and to direct the persons to move on. The definition of 'public place' is any place other than an occupied dwelling, e.g. derelict site, unoccupied house or flat, building site as well as open spaces. Gardaí may enter such places without warrant.

Scope for improvement

- D7.5 It may be preferable if the circumstances in which the powers of an Garda Síochána in relation to noise nuisance were more clearly defined. Enforcement, particularly after normal office hours, could be strengthened if the Garda Síochána had specific powers in relation to noise nuisance and could invoke a wider range of powers, e.g. fixed charge notices (formerly known as on the spot fines) for first time offences or access to the Courts for an order requiring the owner to take specific action.
- D7.6 There may be need to give a legal basis for greater cooperation between local authority enforcement officers and an Garda Síochána in the more difficult situations, whether outside or within normal office hours. This could be at the request of the local authority or at the request of an Garda Síochána if additional technical advice/monitoring equipment was required for evidence. Such a provision should also apply to local authority initiatives under section 107 of the EPA Act.
- D7.7 The continuous sounding of a burglar/car alarm is not a criminal offence. As such the matter remains one of civil remedy being the only course of action open to the people aggrieved. There may be scope to provide an Garda Síochána with powers of entry to vehicles to disable alarms which sound continuously and invoice the householder for costs incurred. This would require further detailed discussion and consideration particularly in relation to the issue of liability for direct and ancillary losses which would be likely to arise. There may also be scope for members of the Gardaí to be made authorised officers for with the purposes of the control of noise nuisance under sections 107 and 108 of the EPA Act. The "Good Defence" provisions could be extended to include compliance with a code of practice or guidelines approved by the EPA.
- D7.8 It is proposed to explore further with the Office of the Attorney General options for making early interventions, having regard the issue of Constitutional protections of private property.

Penalties provided for and Penalties imposed

- D7.9 A wide variety of penalties is provided for. Some of these, through the passing of time, have become ineffective. Imposing the maximum penalties may not be sufficient. In the case of noise from commercial premises penalties imposed, even at the maximum levels are capable of being regarded as an unavoidable business expense rather than incurring the cost of abatement action. The threat of an appeal to the High Court and the risk of

high legal costs can deter victims from pursuing complaints. Strengthened enforcement measures are proposed elsewhere in the document.

Scope for improvement

- D7.9 There is a strong case for increasing the penalties on summary conviction to the maximum allowable under District Court rules as at the time the legislation is passed by the Oireachtas. (Current level €5,000).
- D7.10 A system of fixed charge notices along the lines of that used against littering could provide an additional useful tool to enforcement officers.

D8 Dogs

- D8.1 The possibility of increasing the current impose fixed charge notices of €30 for not keeping a dog under proper control could be examined.
- D8.2 Failure to pay impose fixed charge notices can lead to prosecution in District Court with a maximum fine of €1904.61 and/or 3 months imprisonment.
- D8.3 Comment: It was noted that most people are reluctant to make complaints directly to neighbours / District Court due to threats / intimidation / 'still have to live next door'. Most people would prefer if the local authority or the Gardaí took action (not possible under current legislation)

D9 Other Noise Sources

- D9.1 **Wind Turbines**
Equally, the EPA does not licence wind turbines but consideration could be given to including these constructions under the EPA licensing system governed by the same publication "*Guidance Note for Noise in Relation to Scheduled Activities*". This document contains suggested noise limits of 55 dB(A) $L_{Ar,T}$ for daytime and 45dB(A) $L_{Aeq,T}$ for night-time; with said limits to be applied to "*sensitive locations*". Whilst these limits have a very specific application, they have appeared in many different contexts and often form the basis for conditions in planning permissions.
- D9.2 With specific regard to wind energy developments, a "*lower fixed limit of 45dB(A) or a maximum increase of 5dB(A) above background noise at nearby noise sensitive locations*" is suggested. This may be relaxed in areas with low background levels. A fixed limit of 43dB(A) at night-time is deemed appropriate.
- Burglar Alarms - Domestic Premises**
- D9.3 Similar to the situation with commercial premises discussed at A5.7 and D5.6, the main problem is with faulty or non-compliant alarms where the domestic householder is not contactable due to holidays or other reasons. Guidelines could suggest that within an hour two keyholders (trusted friend / neighbour) should be contactable in such situations. The possibility of legislating that all intruder alarms, including those fitted prior to 1 August, 2006, be fitted with cut-off switches following 15 minutes of operation could be explored. A two

year deadline for compliance could be provided for, after which householders with alarms sounding beyond this period could be prosecuted. There may be scope to provide An Garda Síochána with powers of entry to disable alarms which sound continuously and invoice the householder for costs incurred. This possibility will be examined in consultation with the Office of the Attorney General. As in D5.6 above, the possibility of introducing regulations providing for the mandatory use of monitored alarm systems could also be explored.

D9.4 A variety of references to noise is contained in the legislation described above and these references could be examined in the context of preparing new legislation with a view to eliminating any conflict or confusion.

D9.5 However, it can be seen that there are a large number of different areas of legislation involved in the area of noise abatement. In some of these areas the enforcement capacity of local authorities and other agencies is subject to resource limitations. Local authorities and other state agencies are subject to public service recruitment policy and restrictions on staffing levels. There are many important areas of service delivery and it is not always possible to provide resources in the face of competition from other priority competing services. The potential to significantly increase staffing levels is often constrained by resource limitations.

E CODES OF PRACTICE / GUIDELINES

- E1 A number of public authorities use a range of non-statutory measures such as Codes of Practice Guidelines to assist their customer in carrying out their functions. There would be many benefits for all concerned if the codes of practice had statutory recognition. The Environmental Protection Agency has powers under sections 76 and 77 of the EPA Act in relation to the approval of codes of practice. Section 77 provides for the receiving in evidence of a code of practice under the seal of the Agency without further proof. There may be a need to strengthen these provisions to provide that compliance with approved Codes of Practice or guidelines would be regarded as a “Good Defence” in court proceedings under sections 107 and 108 of the EPA Act.

Good Neighbour Guidelines

- E2 Consideration could be given to developing ‘Good Practice Guidelines’ on how to be a good neighbour which would include advice on actions individuals can take to reduce neighbourhood noise. These guidelines could set out benchmarks for what is acceptable and unacceptable behaviour e.g. times that lawn mowers should be used, house parties etc. The guidelines could also cover the main recreational activities. Such guidelines can also be a support tool in a legal setting.

Codes of practice – Commercial Activities

- E3.1 Commercial activities in neighbourhoods can also be the source of noise nuisance e.g. refuse collections, noise from construction worksites, parking of refrigerated vans in estates, outdoor events etc. As the local authorities are responsible for the licensing of a number of these commercial activities, a Code of Practice on the operation of these activities could be very useful in preparing terms and conditions for approvals.
- E3.2 A single Code of Practice could be developed for local authority use with separate information for use by individual citizens. An alternative is the development of a combined Code of Practice and information book for use by any interested party.

Development of Best Practice across Local Authorities

- E4 The EPA Environmental Enforcement Network can be used to ensure that best practice is shared by local authorities and other public bodies. The key objective of the Environmental Enforcement Network is to foster co-operation between the various public service bodies involved in the enforcement of environmental legislation, so that a higher and more consistent standard of enforcement is achieved throughout the country. In pursuit of this objective, the functions of the Network are to:
- Ensure more effective co-ordination in the implementation of environmental enforcement activities;
 - Provide a framework for a co-ordinated approach to special investigations/actions;
 - Develop a consistent approach to the enforcement of environmental legislation;
 - Promote the exchange of information and experience in the application and enforcement of environmental legislation;

- Provide assistance to local authorities and other relevant agencies in the development of best practice; and
- Provide a mechanism for feedback to policy makers and legislators on the practical implementation of policies and regulations.

Dispute Resolution through mediation

E5 Mediation could be considered as an alternative to more lengthy, costly, and adversarial approaches to dispute resolution. In the UK those affected by noise can opt to seek the support of organisations like 'Mediation UK'. The service is free and the agency act as an honest broker in disputes where noise nuisance is an issue between neighbours. Mediation could be piloted in a number of local authority areas to deem its effectiveness, before becoming national. Mediation could be championed both by the local authority and the courts service.

Raising Awareness / Profile of Noise Issues

E6 A national campaign to raise awareness of noise issues could be useful. The campaign would concentrate on providing readily available information. The "Person Responsible" campaign could be conducted at periodic intervals through appropriate national media such as radio and television.

Scope for Improvement

E7.1 Two aspects need to be addressed, i.e.

- Provision of comprehensive readily accessible information to persons affected by noise on the most effective route to addressing their situation, and,
- Promotion of greater awareness among persons responsible about the damaging impacts of certain noises on the quality of lives of those affected.

E7.2 ENFO, the Environmental Information Service of the Department has published a guide to the noise regulations. This could form the basis for a more comprehensive leaflet on all potential avenues for redress. This material could be made more readily available on an interactive website. ENFO, the EPA or some other appropriate Agency could be asked to develop such a site as a matter of urgency, and the site could be amended as proposed legislative amendments are introduced.

F: RESPONDING TO THIS CONSULTATION

Comments are invited on any of the issues raised in this paper. Submissions should be marked “Noise Legislation Review” and sent, not later than 31 October, 2008, preferably by email, with “Noise Legislation Review” in the subject line, to: noiseconsultation@environ.ie

Or

Eoin Deegan

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