

REPORT TO: Executive Board Sub Committee
Date: 20 March 2008
REPORTING OFFICER: Strategic Director – Environment
SUBJECT: Audible Intruder Alarms-Powers to Control
WARDS: All

1.0 PURPOSE OF THE REPORT

The purpose of this report is to brief the Committee in relation to new powers available to local authorities to deal with audible intruder alarms and to recommend to the Committee the adoption of the use of discretionary powers, as part of an initial trial. This report has been requested by the portfolio holder Councillor Harris.

2.0 RECOMMENDATION: That

2.1 The Sub-Committee

(1) adopt the provision in the Clean Neighbourhoods and Environment Act 2005 for dealing with misfiring alarms and that authority to act under these provisions is delegated to the Strategic Director-Environment and to the Operational Director E&RS and that they be given the power to authorise individual Environmental Health Officers and suitable technical staff to implement these new powers; and

(2) that a voluntary scheme for registration of keyholders is introduced and its impacts reviewed over a 12 month period; and

(3) that if following that review a formal alarm notification area is considered necessary, then this be made.

3.0 SUPPORTING INFORMATION

3.1 Audible intruder alarms are widely used to protect property from unauthorised entry and are often required by insurance companies. Burglar alarms that are sounding should be reported to the Police so that evidence of criminal activity can be investigated. Alarm systems that sound for long periods of time, causing serious noise disturbance to neighbours, and where there is no evidence of a break-in will need to be dealt with as a noise nuisance

3.2 With improved technology and the advent of the twenty-minute cut out device misfiring intruder alarms causing complaint and nuisance is not the issue it used to be. But poorly maintained and badly installed

alarms can mis-fire and the environmental health division still have to deal with some 20 incidents per year. In the last full calendar year the Council dealt with 22 incidents. Of these 8 were out outside normal office hours. The vast majority were dealt with informally by contacting the householder or a keyholder often via information from a neighbour. Only on one occasion did it prove necessary to obtain a warrant and gain access by force.

- 3.3 The Clean Neighbourhoods and Environment Act 2005 introduced new powers which allow a local authority to designate its area, or parts of it, as an alarm notification area. Once the designation is in place, the occupiers or (if none) the owners of alarmed residential and non residential properties in the designated area, must nominate a key holder for the premises and notify the local authority of the contact details of the keyholder.
- 3.4. In the event of an alarm sounding and causing a disturbance, the local authority can then make contact with the keyholder to silence the alarm.
- 3.5 Where an alarm notification area is designated, it then becomes an offence to fail to nominate and provide details of a keyholder.
- 3.6 The designation process is prescribed in that local authority must publish a notice of the proposal in a local newspaper requesting representations be made to the authority within a specified time period of at least 28 days.
- 3.7 If a local authority then decides to go ahead after having reviewed any representations received, it must again publish a notice in the newspaper of the decision and send a copy to the address of all premises affected explaining the new requirements and the date on which the designation takes effect (not less than 28 days hence).
- 3.8 The penalty for failing to notify the local authority of keyholders in a designated area is a maximum fine of Level 3 (currently £1,000). The local authority may adopt a fixed penalty notice scheme for this offence, for offenders to discharge liability to the offence by payment of a fixed penalty rather than face prosecution in the Magistrates Court.
- 3.9 The Act also introduces new powers for officers to enter and silence the alarm where occupiers or keyholders cannot be reached and the alarm is causing annoyance and sounding for 20 minutes continuously or 1 hour intermittently. These powers are available for officers to use regardless of whether alarm notification areas are established.

Current Procedure for Silencing Misfiring Burglar Alarms

- 3.10 When a complaint is received during office hours about an alarm that is misfiring, and alleged to be causing a noise nuisance, Officers first check whether keyholders' can be ascertained. If they have, then attempts are made to contact the keyholder to get the alarm silenced. At the moment there is no requirement for such details to be lodged with the Council. Officers also attempt to contact any available neighbours and the installer of the alarm if details are given on the alarm box. If no keyholder can be contacted and all other informal routes for solving the problem have been exhausted, then there is no option but to pursue the formal legal remedy.
- 3.11 In these cases arrangements for a warrant to be obtained under Schedule 3 of the Environmental Protection Act 1990 from a Justice of the Peace through contact with Magistrate's Court. Once having obtained the warrant, this is executed in the presence of and with the assistance of a locksmith and an alarm engineer after also notifying the Police.
- 3.12 It may be necessary to follow this action with a formal Abatement Notice in order to ensure that the alarm is either fitted with a cut out device and or serviced to prevent future problems. Abatement notices are also used for alarms that sound and cut out but regularly and frequently enough over a long period of time to become a nuisance.

New provisions for dealing with misfiring alarms

- 3.13 The new provisions under the Clean Neighbourhoods and Environment Act 2005 provide that if an Authorised Officer of the Council is satisfied that:
- an alarm has been sounding continuously for more than 20 minutes, or intermittently for more than 1 hour; and
 - the noise is likely to give persons living or working in the vicinity reasonable cause for annoyance (Note: this is a lesser standard than having to establish the existence of a Statutory Nuisance); and
 - reasonable steps have been taken by the Council to get the nominated keyholder to silence the alarm;
- then the Officer may enter the premises (without the need for a Warrant) to silence the alarm, including taking with him such other people (e.g. a contractor) as are needed to silence the alarm. However, the Officer may not enter the premises by force.
- 3.14 To date there has been some reluctance by local authorities to take on board the new provisions, because of uncertainty of interpretation of force and reasonable force until such time, as they have been tested in Court. Notwithstanding, as the new provisions will allow for misfiring

alarms to be silenced much more quickly, and less expensively, thus shortening the period that anyone living or working nearby has to suffer the effects of the associated noise pollution, the new provision does represent a positive way of tackling the alarm nuisance issue.

4.0 Keyholders and Designation of an alarm notification area.

- 4.1 If an alarm system is reported as causing a noise nuisance, the Council will try to contact a keyholder so that the problem can be resolved quickly and with the minimum of fuss. Dealing with problem alarms would be more manageable if the Council had on file a database of keyholders.
- 4.2 A Code of Practice from the early 1980's advises that persons installing alarms provide the local Police, in writing, with the names, addresses and telephone numbers of at least two keyholders who can operate and silence the alarm and that the Council be provided with details as well. The same code of practice recommends the alarm be installed with a device that stops the alarm sounding after 20 minutes. Many alarm installers now offer a monitoring service with the system. This means that if the alarm is activated a call will be made to a 24 hour manned listening station and the police will automatically be notified. Unfortunately, this has very much fallen by the wayside and there is no comprehensive database.
- 4.3 Large numbers of local authorities are operating a voluntary registration scheme with what appears to be varying degrees of success. These Councils are prepared to hold on a voluntary basis and free of charge a record of keyholders who can be contacted if the need arises. Any detail the Council holds is strictly confidential and kept securely. It is proposed that the Council consult on the introduction of such a scheme for Halton and, introduce it for a trial period. The scheme will have to be "marketed" widely.
- 4.4 Should this scheme fail to produce a worthwhile boroughwide database the alarm notification area provisions could then be considered and introduced.
- 4.5 In the event that the Council proceeds with an alarm notification area, it is considered appropriate to designate the whole Borough, rather than specific areas, in order to ensure all residents receive the same quality of service and same enforcement sanction.

5.0 POLICY IMPLICATIONS

- 5.1 Adopting the new provisions to deal with misfiring alarms can be accommodated in existing enforcement policies. The policies are subjected to equality audits.

- 5.2 Any such extensive databases will need to meet the Councils policy and practice on the safe storage and handling of personal data.

6.0 OTHER IMPLICATIONS

- 6.1 Adopting the streamlined provisions to silence alarms can be met within current resources.
- 6.2 Providing a voluntary registration scheme will add some administrative burden but can be absorbed into existing systems. If it is to be effective it may need to be launched with adequate publicity for which there is no current funding but use of inside Halton could reduce costs significantly.
- 6.3 Moving to designation of the Borough, as an alarm notification area and compulsory registration of keyholders will be very costly to start with no external funding available. Enforcing the new provisions effectively may require extra staff or extra duties for current staff both in Environmental Health and Legal Services. Although looking a shared delivery with other Authorities may be possible. The penalties would generate extra income, although such income is likely to be minimal. There would be an ongoing revenue cost of publicising and keeping up to date a compulsory register. There may well be some ITC costs in developing the database.
- 6.4 The ability to declare alarm notification areas does not alter the Council's powers to take noise nuisance action in relation to misfiring alarms which cause a statutory nuisance.

7.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

7.1 Children and Young People in Halton

None

7.2 Employment, Learning and Skills in Halton

None

7.3 A Healthy Halton

It is clear that should voluntary registration or an alarm notification area be established covering the whole of Halton with an expected consequential reduction in the number of unnecessary alarm notifications, a measurable improvement in the quality of life could be achieved.

7.4 A Safer Halton

Misfiring burglar alarms that are left to sound uncontrollably reduces confidence in such security systems and a reduction in the time during which they are left to misfire could therefore have a positive benefit in Community Safety terms.

7.5 Halton's Urban Renewal

None

8.0 RISK ANALYSIS

- 8.1 Local experience shows that the number of complaints about noise from burglar alarms on premises has significantly reduced over the last ten years. This is due to their greater sensitivity/reliability and to the fact that 20 minute cut-out devices are now the 'norm'. Whilst providing an opportunity for further improvement the work involved in establishing and maintaining an alarm notification area with may be disproportionate to the benefit likely to be obtained. Compulsory notification with legal sanctions could well be viewed by the community as heavy-handed interference by the Council and risk a negative impact upon the Council's image. The risk is that the system could well become unmanageable and fail to deliver the intended aim of preventing noise nuisance. This risk will have to be fully explored if after reviewing the voluntary scheme a detailed appraisal of designation options is drafted.

9.0 EQUALITY AND DIVERSITY ISSUES

- 9.1 The enforcement of this piece of legislation is not intended to have either a positive or negative impact upon equality and diversity. The Council invites and seeks feedback on its regulatory activities and would respond to any suggestion of differential impact.

LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

There are no background papers within the meaning of the Act