

**Decision Maker:** PUBLIC PROTECTION AND ENFORCEMENT PORTFOLIO HOLDER

**Date:** 28<sup>th</sup> July 2021

**Decision Type:** Urgent Non-Executive Key

**Title:** PROPOSED CHANGES TO OUT OF HOURS NOISE SERVICE

**Contact Officer:** Joanne Stowell, Assistant Director of Public Protection  
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**Chief Officer:** Director of Environment and Public Protection

**Ward:** (All Wards);

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1. Reason for report

The Out of Hours Noise Service (OOHS) is staffed on a voluntary basis by competent Environmental Health or Technical Officers; the pool of available officers has declined, and the ability to provide the service is jeopardised.

This urgent report presents a review of the OOHS to determine the reason for the decline in available officers, and further presents a revised service that should encourage take-up of the shift openings moving forward.

This is an urgent decision report, and is presented outside of the normal committee route as permitted in the constitution.

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2. **RECOMMENDATION(S)**

The Portfolio Holder is requested to

- i) Consider the options for the provision of an out of hours noise service in Bromley and to
- ii) Agree that Option Two is run for a pilot period of 12 months with a view to being made permanent if successful.
- iii) Agree that a further report be brought back to Members in September 2022 detailing the impact of the changes prior to confirming permanent implementation.

## Impact on Vulnerable Adults and Children

1. Summary of Impact:
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## Corporate Policy

1. Policy Status: Not Applicable:
  2. BBB Priority: Excellent Council Quality Environment Safe Bromley Vibrant, Thriving Town Centres Healthy Bromley:
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## Financial

1. Cost of proposal: £30,000 per annum
  2. Ongoing costs: £30,000 per annum
  3. Budget head/performance centre: Public Protection – Community Safety
  4. Total current budget for this head: £401k controllable budget.
  5. Source of funding: Annual MOPAC Grant
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## Personnel

1. Number of staff (current and additional): Not Applicable
  2. If from existing staff resources, number of staff hours: 6647 additional hours a year
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## Legal

1. Legal Requirement: Non-statutory:
  2. Call-in: Not Applicable as this is an urgent decision:
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## Procurement

1. Summary of Procurement Implications: Not Applicable
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): A total of X noise complaints are received by the OOHS by telephone which may require a real-time response. Potentially all Bromley residents benefit from this service.
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

3.1 Local Authorities have a statutory duty to take practicable steps to investigate noise and nuisance. It is for each authority to determine the service offer, and there is no requirement to have an out of hours service (OOHS).

#### **OOHS Historical Provision from 2011**

3.2 In 2011 the Council operated a 7 day per week, 24 hours per day noise service; the decision to introduce an 'out of hours' service was based on the demand from both residents and the police for this provision.

3.3 The 2011 OOHS was provided by 8 Officers; the rota and offer were broken down into the following areas:

- 5pm-Midnight Service: (17:00-midnight). Introduced in 2002, this proactive and reactive service responds to all complaints and provides local residents the flexibility of officers visiting them at home after office hours to carry out noise monitoring visits, install noise monitoring equipment or investigate complaints.
- Call Out: (17:00-08:00 hours). A reactive service where a single officer will respond to 'emergency' complaints including; intruder and car alarms, parties, construction noise including street works, noise from licensed premises and 'rapid response' referrals.
- Party Patrol: (Saturday 22:00-04:00 hours). A reactive service where two officers work together and respond to complaints about parties only.

The service was provided by staff in Public Protection on a voluntary basis, whereby those that worked from 5pm-Midnight take time off in lieu. The remainder was covered by a callout rate with an element for on call and an element for overtime. Staff who volunteered for the party patrol were paid an all-inclusive flat rate payment. The breakdown of these figures is not available, however, the cost of the service at that time was funded from the existing revenue budget at an annual cost of £34,200.

3.4 In 2011 the Public Protection & Safety Portfolio Holder and PDS Committee requested a review of the out of hours noise service. The review assessed the current demand for the service and includes alternative methods of providing the service including the potential for joint working and service reductions, it also included the options available for financial savings.

3.5 Members were provided with details of various options for financial savings of the service, and 4 Options were considered:

- 1.Option 1 - Discontinue the out of hours noise service (Saving £34k)
- 2.Option 2 – Reduce the provision of the Party Patrol service (Saving £9k)
- 3.Option 3 – Joint working with the Metropolitan Police (Saving £9k)
- 4.Option 4 – Maintain current level of service

3.6 The Portfolio Holder agreed that Option 3 be run for a pilot period of 3 months with a view to being made permanent if successful, and that Option 2 be implemented if the trial of Option 3 proved unsuccessful.

3.7 A verbal update was presented to the Public Protection PDS committee held on the 29 November 2011, whereby Members were advised that it had not been possible to implement

Option 3 due to difficulties in securing, in advance, sufficient police support. As such and in line with Members' previous decision, the dedicated Saturday night party patrol service was withdrawn on 7th January 2012.

### **OOHS 2012**

3.8 In March 2012 a further report was presented to the PDS committee (ES12047), that updated Members, whereby it was explained that from January 2012 onwards, the Party Patrol element ceased, and the OOHS was provided by a single standby officer who responds to all emergency noise complaints including complaints specifically about party noise, reported on a Saturday night. However, as a result of withdrawing the party patrol service, and reducing the number of Officers, it became necessary to apply criterion for referring party noise complaints to the standby officer. The criterion being that the party must affect more than one property; i.e. more than one complaint about the same party must be received before the noise officer will respond. It also became a prerequisite that the standby officer must request police assistance before attending a noisy party that required remedial action.

3.9 From 2012, the OOHS element rota was split as follows:

- Weekday service 17:00 – 03:00
- Weekend Service 08:00 – 03:00 –(1 Officer) as above

The cover for weekday and weekends was currently provided by a single Officer and covered 88 hours of call out.

### **OOHS 2013**

3.10 In 2013 the Council was successful in a bid for MOPAC funding to cover the OOHS; from this point the service became grant funded, the Party Patrol element was reintroduced, however, the service still relied on voluntary cover.

### **OOHS 2021**

3.11 The current MOPAC annual grant for the OOHS is £30K, and it is still staffed entirely on a voluntary basis by competent Environmental Health or Technical Officers. In recent times, the officers willing to commit to these shifts have decreased; there is an over reliance on 2 officers, and a risk that the OOHS will be stood down when officer availability is compromised.

3.12 As a result of the above, the OOHS service cover was placed on the risk register with a red rag status, and a review was undertaken to determine viable options for progression, and this included reducing the operational hours of the OOHS, to target resources at times where demand for the responsive service is highest', with a view that a reduced shift would also encourage additional competent officers to volunteer.

### **The Duty**

3.13 The Environmental Protection Act 1990 places a duty upon every local authority to take reasonably practicable steps to investigate a complaint. The method for discharging this duty is not however dictated by statute and the Council has no legal duty to maintain an OOH service.

3.14 Legislation does not specify timescales within which the investigation of a complaint shall take place (our Performance Indicator for complaint response is 5 working days), and the team are able to use alternative monitoring techniques and methods to either support or replace investigations currently undertaken by the OOHS. These will ensure the service provided continues to be high quality in the event that a shift cannot be covered, or in the event that funding stops and the service ceases to be provided.

### **Current Service**

3.15 Currently the general OOHS has 2 elements:

- Weekday service 17:00 – 03:00 – (1 Officer) this is a reactive service for alarms and for clients who are on the priority list (those clients whose nuisance resulted in an abatement Notice being served). Where these criteria are met, an Officer visits a client at home to carry out an assessment, or (in the case of alarms) arranges for works in default.\*
- Weekend Service 08:00 – 03:00 –(1 Officer) as above  
The cover for weekday and weekends is currently provided by a single Officer and covers 88 hours of call out.

**\*where service requests are made by telephone and where a real time reactive response is possible.**

- Party Patrol Saturdays between May and September (2 Officers) 22:00hrs – 04:00hrs – this service is separate and in addition to the OOH service, and responds solely to complaints about noisy parties affecting more than one property. Where this criteria is met, 2 Officers visit a client at home to carry out an assessment, and if a nuisance is witnessed, advises the person responsible to cease the nuisance.

3.16 Party Patrol was suspended during COVID; however, complaints of parties were still investigated by the standard duty OOH Officer.

### **Breakdown of Cost from the Current Service**

3.17 Appendix 1 Table 1 presents the cost of the current service broken down to its component parts. In essence for the general OOHS 1 Officer covers 88 hours, and received a daily rate of £34 for weekdays (10 hrs) and £108 for weekends (19hrs).

3.18 Party Patrol (May to September 22:00hrs to 04:00hrs Saturdays only) is covered by 2 Officers and attracts £150 a night (6 hours).

### **OOHS 5 Year Trend Analysis**

3.19 Appendix 2 Tables 1 to 5 provide data over a 5- year period from which annual averages have been derived. In brief the following can be determined:

- 1319 OOH service requests are received
- 800 OOH service requests a year (15.5 a week) are received by telephone (only those received by telephone get a reactive response)

- The demand for the OOHS service has declined overall, however there was an anomalous year 2019-20 where the service requests increased
- July is the busiest month
- 7% of all OOH service requests on a weekday by telephone are received between 01:00-03:00hrs (0.3 people a week)
- 12% of all OOH service requests on a weekend by telephone are received between 01:00-03:00hrs (1.2 people a week)

### Proposed Service Offer and Rota

3.20 Appendix 3 provides details of the proposed new service offer (table 1), the proposed rota (table 2) and the proposed cost break down (Table 3).

3.21 In Brief, the proposed changes (in so far as they materially affect Bromley residents) are presented in Table 1 below are as follows:

**Table 1 Material Changes to Service Offer and Rota**

	<b>Proposed Change</b>	<b>Difference</b>	<b>Average No of people affected a week</b>
A	Start the service at 18:00hrs on weekdays	1 hour later (17:00hrs)	0.5
B	Finish the service at 01:00hrs on weekdays	2 hours earlier (03:00hrs)	0.3
C	Start the service ay 10:00hrs on a weekend	2 hours later (08:00hrs)	0.5
D	Finish the service at 01:00hrs on weekends	2 hours earlier (03:00hrs)	1.2
E	Remove the priority list for reactive response (e.g. those who have a Notice served or where a nuisance has been witnessed),	Open out service to all users whereby it is established that the noise is ongoing at the time of the call back.	Unknown*
F	Remove the 2 Officers for Party Patrol	require OOH Officer to cover parties	Not Applicable
G	Finish the service at 01:00hrs on Saturdays May - September	3 hours earlier (04:00hrs)	0.046

\*whilst numbers cannot be determined, this proposed change will open up the service to more people

### Option Appraisal

#### 3.22 Option One Maintain Current Rota and Service Provision

As highlighted at 3.15, this rota is entirely serviced by volunteers who have the competencies to assess and determine the correct enforcement outcomes for statutory nuisance. The pool of

competent Officers is small, and as such, the same Officers are relied upon, and 1 Officer is on call for 88 hours Monday to Sunday.

Officers are not incentivised to continue to provide call out cover, as the current remuneration is low. Moreover, as the pool of competent Officers is so small, and the same Officers are used to provide cover, they feel that they have limited free time, and the time between their on-call duty and work commencing the next day is not sufficient.

**Costs** £30,000 (Appendix 1 Table 1)

**Benefits:** It is in Budget

**Risks:**

- Maintaining the status quo does not move the service from remaining as a Red Risk on the risk register
- The service offer is limited for those not on a priority list
- The Party Patrol becomes the shift of choice as it's a shorter shift with a higher rate

The risks outweigh the benefits; for that reason, this option is discounted.

**3.23 Option Two Change the Service Offer and Rota as described in Appendix 2 and 3 for a trial period of 1 year,**

The service offer is provided in detail in Appendix 2 table 1 and in brief in section 3.21 above.

**Costs** £30,000 (Appendix 3 Table 3)

**Benefits:**

- The metrics as given in Appendix 2 Tables 1 to 5 and section 3.21 above demonstrate that the proposed changes to the service start and finish times will not materially affect the majority of service users.
- The new service offer will be beneficial to service users as some barriers to service will be removed (priority list removed)
- The rota is more attractive to officers, as the rates per shift are increased and they have time to return home and eat a meal, and more rest time between on call periods
- Within budget
- The changes are set for a 1-year period, a review can be set at the 6 month mark to gauge whether changes need to be made.

**Risks:**

- The option to furnish the service is still voluntary, and does not remove the risk of loss of service through lack of cover entirely
- Service complaints may be received by people used to accessing the service past between 17:00hrs – 17:59hrs and 01:01-03:00hrs weekdays, and 08:00hrs – 09:59hrs and 01:01-03:00hrs weekends (average 1.5 people a week)

- Service complaints may be received by people used to accessing the service during party patrol season 03:01hrs-04:00hrs (average 0.046 people a week).  
The benefits of this option outweigh the risks; for that reason this option is preferred.

### 3.24 **Option Three – Make Contractual Changes to Build in Cover to the OOH Rota**

This option would build in contractual cover for the OOHS.

**Costs** Unknown- Officer Salary plus rotating shift allowance, plus weekend enhancement (the rates of which would need to be negotiated)

**Benefits:**

- Cover for OOHS would be provided through contractual arrangements

**Risks:**

- This change would require a significant change to terms and conditions, and would require consultation, and there may be a failure to agree with the Union
- Should the current MOPAC grant cease, any contractual commitment would then need to be covered by the existing revenue, for which there is no provision.
- Even if the MOPAC grant was maintained, it would not cover the costs of contractual changes
- It is hard to recruit to this type of shift pattern

The risks outweigh the benefits; for that reason, this option is discounted.

## 4. **IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1 The law pertaining to nuisance specifically does not take vulnerabilities into account, notwithstanding this, it is not anticipated that the proposed changes would adversely affect vulnerable groups.

## 5. **POLICY IMPLICATIONS**

- 5.1 This recommendations within this report remain in line with the current Portfolio Plan for Public Protection and Enforcement, Building a Better Bromley and the Safer Bromley Partnership Strategy.

## 6. **FINANCIAL IMPLICATIONS**

- 6.1 The existing £30k MOPAC funded budget is sufficient to contain proposed expenditure based on the activity levels detailed within this report.



6.2 There is a potential funding risk if the MOPAC grant is reduced or stopped in future years. If this were to be the case then the level of provision of this service would need to be considered once again or alternative funding identified.

## 7. PERSONNEL IMPLICATIONS

7.1 The current service is provided by staff in Public Protection on a voluntary basis, with a set on call rate that differs between weekday, weekend and Party Patrol. The proposed Option 2 would still provide a service on a voluntary footing, whereas Option 3 would require consultation due to changes in terms and conditions.

## 8. LEGAL IMPLICATIONS

8.1 Under the Environmental Protection Act 1990, local authorities have a statutory duty to take “such steps as are reasonably practicable” to investigate noise complaints and take action to remedy noise if this constitutes a statutory nuisance. This duty is reinforced by section 6 of the Human Rights Act 1998 which makes it unlawful for a local authority to fail to act to protect individual and community rights to private and family life, which includes the impact of serious pollution.

8.2 To fulfil these duties local authorities must have adequately resourced and competent officers available to take appropriate action. There is no legal requirement to provide an out of hours service, however, the determination of what constitutes an appropriate level of resource to commit to the noise service will be guided by the assessment of local needs and an evaluation of staffing, revenue and capital operational costs. As such, there is no definition as to what is considered practicable, and the size and type of a noise service varies between Local Authorities.

8.3 In 2011 the OOHS was cut from previous 24hr 7 day a week provision. The proposed changes are not as drastic, and the 5-year trend analysis as provided in Appendix 2 demonstrates that the service provision will still be in place during periods of highest demand.

<b>Non-Applicable Sections:</b>	PROCUREMENT
Background Documents: (Access via Contact Officer)	Report No.ES11095 REVIEW OF THE OUT OF HOURS NOISE SERVICE 26th July 2011  Report No.ES12047 UPDATE ON THE PROVISION OF THE OUT OF HOURS NOISE SERVICE 13th March 2012

## Appendix 1

Table 1 Current Costs

Days	Start	Finish	No of Officers	Daily hours	Weekly Hours	Annual Hours	No officer days per annum	Hourly Rate per officer	Daily Rate per officer	Weekly rate per officer	Annual Cost
OOH Mon-Fri	17:00	03:00	1	10	50	2600	260	£3.40	£34	£170	£8670
OOH Sat & Sun	08:00	03:00	1	19	38	3952	104	£5.68	£108	£216	£11,232
Bank Holiday	08:00	03:00	1	19	19	95	5	£8.30	£158	£158	£790
Party Patrol Sat Eve-Sun Morn	22:00	04:00	2	6	12	264	40 (2 officers)	£25	£150	£150	£6600
Total						6647*	409				
Budget										£30,00	
Rota Costs										£27,642	
Budget Surplus										£2538*	
Total										£30,000	

\* surplus used to monitor OOH events etc and extra cover

## Appendix 2 5 Year Trend Analysis OOHS

### abbreviations

SR	Service Request
PP	Party Patrol
OOH	Out of Hours
WD	Weekday
WE	Weekend

**Table 1 General Metrics average 5 years**

General Metrics average 5 years			
No of OOH SR received all methods	No of OOH SR received PA by telephone (inside and outside of operating times)	No of calls per week	% of SR rec by telephone
1319	800	15.5	61%*

\* only 37% for 20-21

**Table 2 SR Received by telephone inside and outside of operating times average 5 years**

SR Received by telephone inside and outside of operating times average 5 years		
Year	No OOH SR Received by Telephone	% change
2016-17	894	
2017-18	806	-9.8%
2018-19	796	-1.2%
2019-20	917	+15.2%
2020-21	587	-36%
Total	4000	

**Table 3 - % of calls received by month average 5 years**

% of calls received by month average 5 years												
Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
% calls Received	6%	5%	6%	7%	10%	9%	15%	12%	11%	7%	6%	6%

**Table 4 - OOH SR received by telephone time and day average 5 years inside operating hours -weekdays**

OOH SR received by telephone time and day average 5 years inside operating hours - weekdays			
% of SR received by phone between 17:00-18:00 WD	% of SR received by phone between 18:00 01:00 WD	% of SR received by phone between 01:00-02:00 WD	% of SR received by phone between 02:00-03:00 WD
11%	82%	5%	2%
0.5 a week	4.2 a week	0.2 people a week	0.1 people a week

**Table 5 OOH SR received by telephone time and day average 5 years inside operating hours - weekends**

<b>OOH SR received by telephone time and day average 5 years inside operating hours - weekends</b>				
% of SR received by telephone between 08:00-10:00 WE	% of SR received by telephone between 10:00-01:00 WE	% of SR received by telephone between 01:00-02:00 WE	% of SR received by telephone between 02:00-03:00 WE	% of SR received between 03:00hrs - 04:00hrs during PP season
5%	83%	8%	4%	0%
0.5 people a WE	8.8 people a WE	0.8 people a WE	0.4 people a WE	0.046 people per Saturday during PP season

## Appendix 3

### Table 1 Proposed Service Offer

	<b>Stop</b>	<b>Reason</b>	<b>Start</b>	<b>Benefit</b>
A	Remove the priority list	As other residents not on the list are excluded from the reactive service	Requiring Officers to visit all issues that are telephoned in and where the nuisance is confirmed as ongoing when called back, and following triage of the case via NoiseApp where appropriate	As nuisances will be witnessed in real time and cases brought to resolution quicker
B	Relying on 1 officer to cover 7 days	The on call length is too onerous when they have to work the next day from 07:00 The pool of officers is too small, and previously available Officers are no longer willing to furnish the service	Split the week into weekdays and weekends	To encourage more officers to join the rota
C	Working until 03:00 weekdays	As only 7% (representing 0.3 people a week) of calls come in after 01:00hrs on a weekday	Finishing at 01:00	As officers can return to work after being on call with a longer break, and the reduction in hours would not materially affect service provision for the majority. Moreover, most parties or issues start before this time, and would have been reported ahead of this cut off.
D	Working until 03:00 weekends	As only 12% (representing 1.2 people a week) of calls come in after 01:00hrs on a weekday	Finishing at 01:00	As above
<b>Party Patrol</b>				
E	Stop Party Patrol	the remuneration for this is far higher, for shorter shifts, and so it's preferred by Officers and it affects the availability for general OOH shifts.	requiring OOH Officer to cover parties that come in, regardless of the season	This is essentially a duplication in service. The statistics cannot be disaggregated specifically for Party Patrol, however, the overall numbers (calls on a Saturday between 22:00-04:00hrs) do not support the continuation of this service in it's current form, and an OOH officer will cover this element.
F	Officers working in pairs on weekends (party patrol)	As this is inefficient, and takes resources away from OOH	One OOH per week and one over the weekend	As Officers wear BWC and are not expected to break up parties without police assistance, their safety should not be compromised. Should additional Officers be needed, then the budget surplus can be used for this cover

**Table 2 – Proposed Rota**

Day	Times	Total daily hours	Total weekly hours	No of Officers
Monday -Friday Friday	18:00-01:00	7	35	1
Saturday & Sunday	08:00-01:00	17	34	1

\* On a rolling basis, each officer will work 4 days on. E.g. if a shift started on a Monday, the Officer would work Mon-Thur and the next shift would Cover Fri-Monday and so on

**Table 3 – Cost of Proposed Service**

Days	Start	Finish	No of Officers	Daily hours	Weekly Hours	Annual Hours	No of officer days per annum	Hourly Rate per officer	Daily Rate per officer	Weekly rate per officer	Annual Cost
OOH Mon-Fri	18:00	01:00	1	7	35	1820	260	£5.70	£40	£200	£10,400
OOH Sat & Sun	10:00	01:00	1	15	30	1560	104	£8.67	£130	£260	£13,520
Bank Holiday	10:00	01:00	1	15	15	75	5	£10.59	£180	£180	£900
Total						3455	369				
Budget										£30,00	
Rota Costs										£24,820	
Budget Surplus										£5,180*	
Total										£30,000	

\* surplus used to monitor OOH events etc and extra cover