

Decision Maker: Public Protection & Enforcement PDS Committee

Date: 24th January 2024

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

Title: Update on the Current Out of Hours Noise Service Provision

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Ward: All wards

1. Reasons for this report

- 1.1 Following a decision to change the delivery of the Out of Hours Noise Service (OOHNS) on 31st January 2023 (ES20254) it was agreed to provide an update on the new service in 12 months' time.
 - 1.2 Due to the timeline required to employ staff, and the current market shortage of qualified staff, a temporary alternative delivery model was put in place to enable the launch of the new service on 11th August 2023. This was a commissioned service that was awarded to TMS Protection Ltd.
 - 1.3 This report assesses the current demand for OOHNS, reviews the current arrangements in place, and provides an update on the performance of the contracted service provider.
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2. **RECOMMENDATION(S)**

That the Committee:

- i) Note current service demand trends and
- ii) Note the review of the current service provision by TMS Protection Ltd.

- iii) Note the proposal to move the service to a commissioning model of delivery, with an initial contract extension for a further 12 months, from 31st March 2024 to March 2025.

Impact on Vulnerable Adults and Children

1. The OOHNS benefits all residents but is of particular benefit to residents who wish to concentrate, recover, relax, rest, or sleep, without undue significant disturbance. This can include vulnerable adults and children.
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Transformation Policy

1. Policy Status: Not Applicable
 2. Making Bromley Even Better – Priority 4 – For residents to live responsibly and prosper in a safe, clean, and green environment great for today and a sustainable future.
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Financial

1. Cost of proposal: Estimated Cost £ 80,000/annum
 2. Ongoing costs: £0
 3. Budget head/performance centre: Public Protection, RT 52000 (£3.3m)
 4. Total current budget for this head: £50,000
 5. Source of funding: £30,000 grant from the Mayor's Office for Policing and Crime, London Crime Prevention Fund (MOPAC) and £50,000 LBB funding
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Personnel

1. Number of staff (current and additional): 0 FTE
 2. If from existing staff resources, number of staff hours: Nil
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance
 2. Call-in: Not Applicable as this report is for information not for decision.
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Procurement

1. N/a
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Property

1. N/a
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Service operates using an electric vehicle.
 2. Social value of OOHNS provision is significant, allowing residents a remedy to enable them to concentrate, recover, relax, rest, or sleep, without undue significant disturbance.
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Impact on Health and Wellbeing

1. The OOHNS benefits all residents but is of particular benefit to residents who wish to concentrate, recover, relax, rest, or sleep, without the stress of undue significant disturbance.
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Customer Impact

1. All residents and businesses in the borough can access the OOHNS to report noise and nuisance issues in the periods/days that the service is operational.
 2. Over the last 3 years there has been an average of 2,838 noise concern reports/year to the council's Public Protection Division. There was a peak in reporting during the COVID-19 lockdown periods, however, there has been a rising trend in reporting from 2019 to 2022, showing a gradual increase in the number of service users.
 3. Currently approximately 70% of service users report noise issues outside of standard business hours, e.g., in the evening, night, and over weekends and bank holidays.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Required
2. Summary of Ward Councillors comments: N/a

3. COMMENTARY

- 3.1 Following a decision to change the provision of the OOHNS (ES 20254), and an assessment of the market to employ the new staff, a commissioned service was launched on 11th August 2023.
- 3.2 The revised service is now provided on Friday, Saturday, Sunday, and Bank Holidays between the hours of 19:00 and 02:00.
- 3.3 The intention was to recruit directly employed staff to deliver the service, however, it was not possible to complete a recruitment and induction process in time to commence the revised OOHNS before the busier summer months. It is also known that the market for appropriately qualified staff is difficult, with a high risk of an unsuccessful recruitment process. Consequently, Public Protection appointed an external supplier to provide the service to enable the service to launch.
- 3.4 Following a competitive tender process, TMS Protection Ltd was awarded the contract to deliver the OOHNS service.
- 3.5 The current contract expires on 15th March 2024 with the Council having an option to further extend the contract up to 31st March 2025.

3.6 Service Delivery

3.6.1 The award of the contract to TMS Protection Ltd. was for the following service provision:

- The service provider will provide two (2) appropriately experienced uniformed officers, in a vehicle, to respond to resident complaints of noise and nuisance across the whole of the borough of Bromley.
- The service provider will provide this service weekly between 19:00 and 02:00 Friday, Saturday, Sunday, and on Bank Holidays.

3.7 Performance of the Service Provider

3.7.1 At the commencement of the service Key Performance Indicators (KPIs) were agreed and reported on (see Table 1).

Table 1 – OOHNS Key Performance Indicators

KPI	Target		Aug-23	Sep-23	Oct-23	Nov-23
Number of substantiated complaints about the service received *	nil		0	0	0	0
Number of calls received	n/a		29	55	34	14
Number of calls not attended due to the issue being resolved verbally over the phone or on establishing that the nuisance had ceased	n/a		10	23	11	3
Number of calls requiring attendance	n/a		19	32	23	14
Number of calls requiring attendance that were attended within 60 mins of complaint receipt	70%	%	74%	59%	70%	86%
		number	14	19	16	12

Number of calls requiring attendance that were attended within 90 mins of complaint receipt	80%	cumulative %	84%	100%	96%	86%
		cumulative number	16	32	22	12
Number of calls requiring attendance that were attended within 120 mins of complaint receipt	100%	cumulative %	95%	100%	100%	93%
		cumulative number	18	32	23	13
Number of calls requiring attendance that were attended over 121 mins of complaint receipt	0%	cumulative %	5%	0%	0%	7%
		cumulative number	1	0	0	1
Type of venue - Residential	n/a		15	24	24	12
Type of venue – Commercial occupied	n/a		4	5	6	2
Type of venue – Commercial unoccupied	n/a		0	0	0	0
Number of verbal warnings resulting in a compliant response	n/a		11	13	12	9
Number of Community Protection Notice (Warnings) issued	n/a		1	3	2	0
Number of licensed venues attended and compliant	n/a		6	31	48	48
Number of licensed venues attended where an issue was identified and referred to the Council	n/a		30	6	5	38
Number of safeguarding referrals recommended/made	n/a		0	0	0	0

3.7.2 * In September 2023, two complaints regarding the OOHNS were received:

- A resident was disappointed that the service was not available on a Monday night, to which the Head of Service responded outlining the reasons for the change to the service's operational hours.
- A licence holder of a licenced premises made allegations regarding the approach and attitude of the attending contract staff on shift. On investigation, the body-worn camera footage provided by the contractor vindicated the team in question, a letter was sent to the publican explaining this.

3.7.3 During the first 3 months service provision has been maintained at 100% of its operational capacity with no shifts unstaffed. This is a significant improvement from when the staffing on the service was voluntary. See report ref ES20254.

3.7.4 Table 2 shows how many calls were made to the service for noise and nuisance outside of normal office working hours throughout the week. The most popular days and hours to make a report are during the revised OOHNS operational hours (greyed out in the table), which are 1900 to 0200 on Fri, Sat, Sunday and BH Mondays.

Table 2: OOHNS Service Demand

(24hrs Clock) Hr Slot	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
0 - 1	18	11	6	5	7	15	17
1 - 2	1	1	2		1	5	4
2 - 3	2	1	1			4	
3 - 4	1				2		2
4 - 5							1
5 - 6				1			
6 - 7				1			1
7 - 8		1			3		1
8 - 9						2	
9 - 10						8	3
10 -11						1	1
11 -12						3	2
12 -13						3	
13 - 14						2	2
14 - 15						5	3
15 - 16						7	2
16 - 17						4	1
17 - 18						3	1
18 - 19	3				3	6	4
19 - 20	7	1	5	3	1	6	4
20 - 21	2	4	5		2	8	6
21 - 22	5	1	5	4	3	9	2
22 - 23	5	2	3	2	1	23	6
23 - 00	3	5	4		8	23	4

- 3.7.5 Currently TMS Protection Officers are authorised to serve Community Protection Notice Warnings to offenders, when they remain unwilling to comply with a reasonable request to abate a nuisance.
- 3.7.6 If formal enforcement action is required this is referred to the LB Bromley Noise & Nuisance team to take forward the next working day.
- 3.7.7 The contractor has the following on-shift priorities to ensure they target the complaints appropriately. In order they are:
- Provide the service weekly between 19:00 and 02:00 Friday, Saturday and Sunday and Bank Holidays.
 - Respond to all received complaints within the agreed KPIs as they are passed through from the Customer Contact Centre.
 - Prioritise complaints from the 'Referral List', which identifies the subjects and addresses currently served with an active Statutory Abatement Notice – to witness a breach of the notice and enable effective, rapid enforcement.
 - Planned site visits from the 'Programmed Inspections Spreadsheet'. These are updated weekly by enforcement teams in the Public Protection Division and include monitoring current issues at licensed premises, food premises, late night venues, anti-social behaviour hot-spots, town centre night-time economy areas, etc. This is not an exhaustive list, this type of monitoring site visit could range from checking if a business

premises is open and operational beyond approved hours, to compliance with their licence conditions, to checking the impact of a Temporary Event Notice, to providing a visible uniformed presence in sensitive or alleged ASB hot spots.

- 3.7.8 The presence of the OOHNS team in the Borough has been seen as a positive step, by the Police (Safer Neighbourhood Teams and Licensing Police), by Licensees, and by members of the public, all of whom have commented positively on the reaction time and response that the current service offers to complaints.

3.8 Future Service Provision

- 3.8.1 The current level of service to the public has met the service requirements of the contract specification. The quality of the provision has broadly met the expected KPIs and in March 2024 will have been running for 8 months.
- 3.8.2 As the current contract has the provision to extend for a further 12 months until March 2025 within it, it is intended that this provision will be implemented.
- 3.8.3 This overcomes the market difficulties in the recruitment of qualified staff and provides greater service resilience.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

The assessment of statutory nuisance specifically excludes the individual circumstances and vulnerabilities of the complainant as the assessment is based on the reasonableness of the circumstance to an average person. Notwithstanding this prescription in law, the OOHNS benefits all residents who wish to work, concentrate, recover, relax, rest, or sleep, without undue significant disturbance. This does include vulnerable individuals and groups.

5. TRANSFORMATION/POLICY IMPLICATIONS

The recommendations within this report are in line with the current Portfolio Plan for Public Protection and Enforcement, Building an Even Better Bromley, and the Safer Bromley Partnership Strategy.

6. FINANCIAL IMPLICATIONS

The estimated annual cost if the contract is extended for 12 more months is £80,000. There is a funding risk if the MOPAC grant is reduced or stopped in future years. If this were to be the case, the service would incur a pressure of £30,000 per annum. The level of budget provision for LBB's OOHNS would need to be reconsidered.

7. PERSONNEL IMPLICATIONS

None

8. LEGAL IMPLICATIONS

Part III of the Environmental Protection Act 1990 provides that it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under the Act, and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.

To fulfil these duties local authorities must have adequately resourced and competent officers available to take appropriate action. While there is no specific legal requirement to

provide an out of hours service, the determination of what constitutes an appropriate level of resource to commit to the noise service is guided by the assessment of local need and an evaluation of staffing, revenue, and operational costs. The assessment as to what is considered reasonably practicable reflects local circumstances, and the size and type of a noise service varies between Local Authorities.

9. PROCUREMENT IMPLICATIONS

None

10. PROPERTY IMPLICATIONS

None

11. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

There are neutral environmental and carbon reduction implications from the proposals contained in this report. The OOHNS would not be undertaking any activity at night that they wouldn't normally do in office hours, they are simply doing it at a different time of day when the roads are clearer and journeys smoother, potentially working more efficiently and to a slight environmental benefit. However, when the service moves to the new offices at Churchill Court office space in the 24hr Hub will need to be heated, so the slight environmental benefit of one will cancel out the slight disbenefit of the other.

The social implications are as outlined in para. 4 of this report.

The OOHNS benefits all residents but is of particular benefit to residents who wish to work, concentrate, recover, relax, rest, or sleep, without undue disturbance. The economic implication is that if individuals and households are unable to undertake the above activities, particularly sleep or recover from illness, due to noise disruption, they will be more likely to be over-tired the next day or be absent from work for longer, therefore be less economically efficient.

12. CUSTOMER IMPACT

All residents and businesses in the borough can access this service during its operational hours to report impactful noise and nuisance issues.

13. WARD COUNCILLOR VIEWS

Not applicable

Non-Applicable Headings:	7, 9, 10, 13
Background Documents: (Access via Contact Officer)	None