

**WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 29th MARCH 2011**

Question

Will the Minister:

1. Set out the role of the Health Protection Unit with respect to statutory nuisance and advise members for each year since the Statutory Nuisances (Jersey) Law 1999 came into force:
 - 1.1 the number and nature of the complaints it has received;
 - 1.2 the number of abatement notices it has issued;
 - 1.3 the number of prosecutions it has embarked upon; and
 - 1.4 the number and nature of convictions it has obtained and the penalties meted out for each offence?
2. State what she considers the benefits of this legislation?
3. State what she considers to be the weaknesses or disadvantages of the legislation?
4. State the number of officers engaged in enforcing this legislation and the amount of time they spend upon it?

Answer

The role of Health Protection in relation to statutory nuisance

The Officers from the Health Protection Service regulate in accordance with Statutory Nuisances (Jersey) Law 1999, one of a number of pieces of legislation designed to protect public health and wellbeing and ensure health equality. The regulatory role involves conducting investigations, either in response to complaints or as part of ongoing monitoring activities and seeking resolution/action in order to stop an existing nuisance or prevent the occurrence of a potential nuisance.

The Law is wide ranging and includes, but is not limited to, emissions such as smoke, light, dust or smell; noise from buildings and vehicles or machines in the street; domestic water supplies that are liable to contamination; foul water sources; animals kept in such a way as to be a nuisance or health risk and overcrowding or poor sanitary conditions in structures used for human habitation. (See appendix 1 for details).

Number and nature of complaints received

Between 2008 and 2010, Officers from the Community Health and Public Protection Team have been engaged in approximately 3,600 site visits or meetings a year relating to existing or potential sources of statutory nuisances. These can be in response to complaints received or related to proactive prevention. The nature of these varies considerably but includes odour and noise nuisance; pest control; infectious diseases; smoking and insanitary housing conditions

It should be noted that some investigations and enquiries are undertaken but the event may not actually be a statutory nuisance. Officers have to assess each complaint on its merit and make use of extensive guidance to determine what falls within the definition of statutory nuisance.

When investigating complaints there is an inherent responsibility to collect robust and comprehensive evidence, this can lead to long and protracted cases potentially taking many months. The time spend on each visit or case also varies substantially with a full housing inspection taking many hours but a barking dog taking significantly less.

Statutory nuisance abatement notice served and prosecutions embarked on

Enforcement work is a mixture of advice, education and where necessary the use of legal instruments. The first legal remedy is the serving of an abatement notice requiring prevention or recurrence of a Statutory Nuisance. This formalises a time frame in which to stop and/or prevent the Statutory Nuisance.

Year	Number of Statutory Nuisance Abatement notices served
2002	15
2003	5
2004	3
2005	1
2006	4
2007	8
2008	12
2009	5
2010	4

Health Protection has not, as yet, been forced to take a Statutory Nuisance abatement notice recipient to the Royal Court for non-compliance. Where abatement notices have been served they have either been complied with or the case has developed, leading to the withdrawal of the abatement notice. Therefore there have been no “convictions”, as this is a judgement of the Royal Court.

Benefits of the legislation

The issues dealt with under the Statutory Nuisances (Jersey) Law 1999 are key health determinants. They impact across all work public health work undertaken to address health inequalities and protect the public, including vulnerable people, from matters that are prejudicial to their health or wellbeing and or cause nuisance and distress in their lives.

Officers are often an individual's or a family's last hope of changing or preventing unreasonable behaviour inflicted on them by others. Without the Statutory Nuisances (Jersey) Law 1999 there would not be a States body to assist. The law is currently the only means used to protect the health and well being of tenants in private rented accommodation and is also a critical to mediating and resolving disputes between neighbours. Disputes that can blight people's lives.

The Statutory Nuisance Law not only provides a legal remedy to protect the public but it is also both scaleable and proportionate. Those who cause a problem are given the opportunity to stop without further consequences but, if they choose not to, there are legal measures available.

Weaknesses or disadvantages of the legislation

It is important to avoid, wherever possible, cross over and /or duplication in a regulatory regime. The introduction of the waste management licensing process by the Planning and Environment Department provides a means to ensure waste is carried and disposed of in a safe way. The waste law contains specific remedies to protect human health and the environment, whilst also having the remit to prevent an operation from causing nuisance to a third party. This in part negates the need to apply Statutory Nuisance provisions to an operation that holds a Waste Management Licence. Therefore there may be grounds to amend the Statutory Nuisances (Jersey) Law 1999 where a Waste Management Licence has been issued.

State the number of officers engaged in enforcing this legislation and the amount of time they spend upon it?

The Statutory Nuisances Law is one of many pieces of legislation regulated by Environmental Health Officers. None of the Officers' time is dedicated solely to Statutory Nuisance therefore it is not possible to provide a breakdown on time spend specifically on one piece of legislation. Officers are also engaged in other initiatives which protect health and proactively prevent nuisances occurring in the first instance, for example: consulting on planning applications, licence applications and entertainment permits. (See appendix 2 for a breakdown of health protection activity)

The structure of the Environmental health team is currently subject to review.

Appendix 1: Statutory Nuisances (Jersey) Law 1999 Article 2

Matters constituting statutory nuisances

(1) Subject to paragraphs (2) and (3), the following matters constitute “statutory nuisances” for the purposes of this Law -

- (a) any premises in such a state as to be prejudicial to health or a nuisance;*
 - (b) smoke emitted from premises so as to be prejudicial to health or a nuisance;*
 - (c) fumes or gas emitted from premises so as to be prejudicial to health or a nuisance;*
 - (d) light energy emitted from premises so as to be prejudicial to health or a nuisance*
 - (e) any dust, steam, smell, or other effluvia arising on or emanating from industrial, agricultural, trade or business premises or resulting from processes conducted on such premises and being prejudicial to health or a nuisance;*
 - (f) any accumulation or deposit which is prejudicial to health or a nuisance;*
 - (g) any animal, bird, insect, reptile or fish kept in such a place or manner as to be prejudicial to health or a nuisance;*
 - (h) noise emitted from premises so as to be prejudicial to health or a nuisance;*
 - (j) noise emitted from or caused by a vehicle, machinery or equipment in a street so as to be prejudicial to health or a nuisance;*
 - (k) any well, tank, cistern, water-butt or other water supply howsoever constructed which is used for the supply of water for domestic purposes which is so placed, constructed or kept or maintained as to render the water therein liable to contamination prejudicial to health;*
 - (l) any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance;*
 - (m) any tent, van, shed or similar structure used for human habitation which is in such a state, or so overcrowded, as to be prejudicial to the health of the inmates, or the use of which, by reason of the absence of proper sanitary accommodation or otherwise, gives rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health;*
 - (n) any other matter constituting a statutory nuisance by virtue of Regulations made under Article 3.*
- (2) Sub-paragraph (c) of paragraph (1) does not apply in relation to premises other than private dwellings.*
- (3) Sub-paragraph (h) of paragraph (1) does not apply to noise caused by aircraft other than model aircraft.*
- (4) Sub-paragraph (j) of paragraph (1) does not apply to noise made by -*
- (a) traffic;*
 - (b) any naval, military or air force of the Crown; or*
 - (c) a political demonstration or a demonstration supporting or opposing a cause or campaign.*

Appendix 2: Health Protection Activity

Public Protection Team (1.6 FTE Environmental Health Officer, 2 FTE Health Protection Technicians)

- Alcohol licensing and places of refreshment
- Food complaints/hazard warnings
- Food hygiene inspections
- Food labelling
- Infectious disease control
- Nuisances originating from food premises e.g. noise/odours
- Port health
- Sampling (food & milk)
- Sanitary accommodation standards
- Swimming pool inspections
- Unfit Food
- Community Health
- Planning Consultation

Community Health Team (3 FTE Environmental Health Officers, 3 FTE Health Protection Technicians)

- Air quality
- Contaminated land
- Drainage
- Entertainment licensing
- Exhumations
- Filthy and verminous premises
- Health based environmental monitoring (heavy metals, radioactivity, air quality) e.g. taking samples of milk, seaweed, fish and shellfish for radioactivity uptake.
- Housing disrepair and unfitness
- Noise (domestic premises and commercial non food premises)
- Nuisances (domestic and commercial non food premises)
- Priority re-housing on health grounds
- Radon and radiation
- Staff accommodation and lodging houses
- Tobacco control legislation
- EIA & Planning Consultation

Registration and Inspection Team duties:

- Applications for housing on health grounds
- Inspection and registration of care homes
- Inspection and registration of Yellow Fever centres
- Registration of healthcare professionals
- Tattooing and skin piercing registration