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James Gray MP
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From Jim Fitzpatrick MP
Minister of State for Food, Farming and Environment

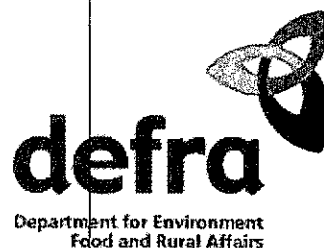
Jim James,

Thank you for your letter of 21 July to Alan Johnson on behalf of a number of your constituents about noise nuisance from altered car exhausts. Your letter has been forwarded to Defra and I am responding as the Minister responsible for local environmental quality issues.

The Noise and Statutory Nuisance Act 1993 amended the Environmental Protection Act 1990 to extend the statutory nuisance regime (a new section 79(1)a), giving local authorities the duty to issue abatement notices where they are satisfied that a statutory nuisance exists or is likely to occur or recur from a vehicle, machinery or equipment in a street. However, this can only be used to tackle problems of noise when the vehicle is stationary. In the case of moving vehicles, the noise from traffic is specifically excluded from Section 79 of the Environmental Protection Act 1990. Traffic is not defined within the Act. The legislation relating to noise from cars in general (for example under the Road Vehicles (Construction and Use) Regulations 1986) falls to the Department for Transport. Defra is not aware of any proposals they may have for any changes to the legislation which may have an impact on vehicle noise emissions.

Yours Sincerely


JIM FITZPATRICK MP



Our ref: MC144438/IF

10 August 2009



Home Office

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Reference: M17717/9

11 AUG 2009

Dear James,

Thank you for your letter of 21 July to the Home Secretary on behalf of a number of your constituents about problems caused by the anti-social use of vehicles. I am replying as Minister with responsibility for this policy area.

Since 1 January 2003, the police have had the power to seize vehicles being driven in a careless and inconsiderate manner or off-road without consent and in a way which causes alarm, distress or annoyance to members of the public. The measure introduced by Section 59 of the Police Reform Act 2002, was brought in specifically to respond to growing public concern about the anti-social use of vehicles. Youths racing vehicles around estates and driving recklessly on roads and footpaths or across parks and open spaces have been a growing problem which can blight local communities causing misery and distress to people going about their daily lives. The power enables the police to put an immediate stop to this dangerous and anti-social behaviour.

The seizure does not depend on prosecution for, or proof of, these offences, only on reasonable belief as to their commission. There is a requirement for seizure to be preceded by a warning, but this is waived when the person concerned has already been given a warning in the previous 12 months, when a warning has already been given to him or another person on the same occasion or when it is impracticable to give a warning. The owner can reclaim the vehicle on payment of prescribed removal and storage charges. Work undertaken with the Association of Chief Police Officers in 2005 indicated that forces had been using the section 59 power and had found it effective in reducing complaints about the anti-social use of vehicles including motor-cycle nuisance.

Local authorities can make byelaws prohibiting the use of vehicles in particular areas and also have the power to seize vehicles causing a noise nuisance. Anti-Social Behaviour orders can also be used to curb the misuse of motorbikes by youths. It is for local agencies to decide on the most appropriate intervention to tackle the problem in their area.

I can confirm that it is contrary to regulation 54 of the Road Vehicles (Construction and Use) Regulations 1986, to alter an exhaust or silencer so as to increase noise. During the MoT test, these components are checked and a vehicle should fail if it emits noise that is unreasonably higher than a similar vehicle fitted with a silencer in average condition. This might occur if the exhaust has holes in it or if a modified exhaust has been fitted. As it is not practical to test a vehicle in service in the way that it was checked before it entered service, this assessment is a subjective judgment, based on the MoT tester's experience of vehicles of that type and age. The police are responsible for enforcement of these requirements outside the MoT test on public roads. They also have powers to take action if they suspect a vehicle is making excessive noise which is avoidable through reasonable driver care.

I can confirm that there is no specific in-service noise limits for vehicles in law. Any such limit would need to be linked to the original standard met by the vehicle, and would differ from vehicle to vehicle. Difficulties of testing in service (eg. background noise) have also mitigated against the establishing of in service noise limits. Like the MoT tester, the police therefore have to make a subjective judgement on the noise made by a vehicle based on the age and model of the vehicle.

As a potential aid to the police, the Department of Transport has funded a research contract to ascertain whether a robust and repeatable test for measuring vehicle noise, suitable for use by non-technical bodies such as the police, might now be technically feasible. This work has been completed and the results are now being considered. Whilst it is by no means certain that the technical and practical difficulties associated with such a test will be resolved, if the results are positive from a technical and economic viewpoint then this test could go a long way towards simplifying what is required to be done by the police and other enforcement bodies in order to get a successful prosecution, especially in more marginal cases.

With regard to the purchase of loud exhausts, under the Road Traffic Act 1988 it is an offence to supply or offer to sell a vehicle part such as a racing type exhaust if this would cause a contravention of road traffic regulations when fitted to the vehicle. However, it is not practical to determine at point of sale the use to which the exhaust might be put and these devices can be purchased for legitimate off-road sports activities. Enforcement would be very difficult and the

focus of measures to control this nuisance is therefore on controlling noise from vehicles in use.

Finally, the Government's programme to address the causes of anti-social behaviour seeks to change the way that all agencies and services challenge and confront poor behaviour. If the public make demands on local enforcement agencies, such as the police, for action on anti-social behaviour and disrespect, this will help the Government's efforts to tackle these problems. I would therefore encourage your constituents to continue to draw these problems to their attention to ensure that they are given an appropriate priority.

Yours aye

West of Spirehead

PP ALAN CAMPBELL