



Chartered
Institute of
Environmental
Health

Code of Practice on Noise from Ice-Cream Van Chimes Etc. 1982

Response to the Department for Environment, Food and Rural
Affairs consultation

May 2012

The Chartered Institute of Environmental Health

As a **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines; run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,500 members across England, Wales and Northern Ireland.

Any enquiries about this response should be directed in the first instance to:

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Code of practice on noise from ice-cream van chimes etc 1982

I refer to your consultation paper under the above title published in March. The comments of the Chartered Institute of Environmental Health on the various questions posed follow.

Option 1 – to keep the Code as it is

Q1A. Are you supportive of this option [to retain the CoP unaltered]? Why/Why not?

No. While we would not object if this were the conclusion, the CIEH would be sympathetic to some amendment of the current Code.

We write that since we know from our own experience that the Code is often ignored, yet we know that complaints are concentrated on particular features. If it is assumed that different features of the Code are breached at similar frequencies, that suggests the public is more concerned about some features than others. Those which do not seem to be a problem might reasonably be relaxed.

Q1B. Do you think that the Code causes any problems in its current state?

The Code is technically out-of-date (see footnote 5 for example). It is also somewhat vague in places; terms such as 'as loudly' and 'narrow' (in point 9 of the summary) are open to interpretation and, hence difficult both to enforce and to comply with.

Q1C. Do you have any data on the current costs to mobile vendors, local authorities or local residents (e.g. in terms of complaints or levels of annoyance) as a result of the current Code? Please provide details.

The CIEH canvassed data on the numbers and causes of complaints about from English local authorities last November.

While it has to be said that the total numbers of complaints recorded nationally (at c.1,000 per year) was not high, complaints about the duration of chimes, the volume of chimes and about sounding outside permitted hours stood out as both relatively numerous and widespread. Still numerous but less widespread were complaints about the frequency of sounding, sounding while stationary and sounding so as to give reasonable cause for annoyance.

Complaints about chimes sounding other than on approach to a selling point, while in sight of another vehicle, sounding within 50m of sensitive premises or about vendors failing to reduce the volume of chimes in quiet areas or narrow streets were all, by comparison, less numerous.

Q1D. Do you have any data on the current benefits to mobile vendors, local authorities or local residents (e.g. in terms of sales generated) as a result of the current Code? Please provide details.

No.

Option 2 – to retain but relax the Code

Q2A. Are you supportive of this proposed change [to permit chiming for up to 12 seconds continuously rather than for only four]? Why/Why not? Please suggest alternatives if appropriate.

Yes. Four seconds is somewhat restrictive and our experience is that it is often broken. A longer period might be sensible, nevertheless we note that the duration of chiming is already the cause of a significant proportion of total complaints. While it is not the purpose of chiming to play a recognisable tune, if 12 seconds is sufficient to do that there would seem no need for any longer period.

Q2B. Are you supportive of this proposed change [to permit chiming every two minutes rather than only every three]? Why/Why not? Please suggest alternatives if appropriate.

No. In the light of the proposed conditions referred-to in Q2D, ie to permit chiming only on the approach to a selling point and, once, while stationary at a selling point, this condition would appear to be redundant; a van more than two minutes away from a selling point could not be said to be approaching it.

Where selling points might be separated by less than two minutes driving time, the annoyance repeated chiming within a short time/distance might give rise to should be controllable under the Control of Pollution Act.

Q2C. Are you supportive of this proposed change [to allow chiming, once, while stationary]? Why/Why not? Please suggest alternatives if appropriate.

While we understand it would make more sense commercially to allow chiming at the point of sale rather than only when a van may be still two minutes drive time away, we would have concerns for householders outside whose homes vans stopped regularly (perhaps for reasons of road layout), not least given the relaxations proposed in respect of chiming duration and hours. We would not, therefore support this change in residential areas. Where, notwithstanding, a food vendor is trading elsewhere (e.g. a lunchtime sandwich seller on an industrial estate) we would not object.

Q2D. Are you supportive of this proposed change [to allow chiming on approach to or at a selling point rather than only on approach]? Why/Why not? Please suggest alternatives if appropriate.

The proposal is, first of all, unclear whether chiming might be allowed when stationary in addition to being allowed on approach or, as an alternative to that but, in either event, our comments about chiming while stationary above apply. It follows that we would not support this change in residential areas.

Q2E. Are you supportive of no change on this point [no chiming while in sight of another vehicle which is trading]? Why/Why not? Please suggest alternatives if appropriate.

Yes. The consequence of changing this could be 'stereo' or even competitive chiming.

Q2F. Are you supportive of no change on this point [no chiming within 50m of sensitive premises]? Why/Why not? Please suggest alternatives if appropriate.

We think some such restriction should remain though we are not sure that 50m is enough, particularly if the chiming vehicle may no longer be moving. It is also, arguably, over-precise and a 'within sight' condition might be easier both to enforce and comply with.

Q2G. Are you supportive of no change on this point [chiming limited to once within two hours in the same street]? Why/Why not? Please suggest alternatives if appropriate.

The maintenance of this condition would not be compatible with allowing chiming both on approach and when stationary at a selling point. Its purpose is also undermined by multiple vans chiming in the same street, nevertheless we think it should not be changed, at least in residential areas.

Q2H. Are you supportive of no change on this point [a noise limit of 80dB(A) at 7.5m]? Why/Why not? Please suggest alternatives if appropriate.

The volume of chimes currently generates a significant proportion of total complaints. If it is reasonable to assume that during periods of peak ice-cream selling weather many houses will have their windows open, this limit represents c.65dB(A) inside those houses and if chiming is to be allowed when stationary in residential areas, we think this limit will need to be reduced substantially. There is no technical reason why chimes could not be sounded at different levels when stationary and moving, indeed, lower levels are already required in 'quiet areas'.

Q2I. Are you supportive of the proposed change on this point [to change 'quiet areas' to 'areas of low background noise']? Why/Why not? Please suggest alternatives if appropriate.

Yes, nevertheless if a lower noise limit needs to be prescribed for the purpose of chiming while stationary in a residential area, the opportunity should be taken to transcribe that here and to remove one aspect of the uncertainty in this condition.

Q2Ji. Do you support a change in the times between which it is an offence to sound chimes [from 12.00-19.00 to 10.30-20.00]? Why/Why not?

We doubt that a change to an earlier start time would increase complaints and we would not object to that but we do have concerns about a later finishing time. The point is, of course, about ice-cream vans and young children who might be particularly attracted (indeed, who are intended to be attracted) by their chimes. While the consultation paper notes claims by the industry that children's bedtimes are getting later, no good evidence is presented to support that claim and even if it had been, it has to be asked if that trend should be encouraged. It might also be considered that it is not just about waking young children but about interrupting their 'winding-down' time in preparation for bed too; that, necessarily, begins earlier.

We would not, in any event, support a change in s.62 to include the delivery of pre-paid goods. There is no commercial driver for this (the goods having been bought already) and it is, in fact, simply gratuitous advertising.

Q2Jii. Do you have any evidence to support or reject an earlier start time of 10:30am (or any other earlier time)?

No.

Q2Jiii. Do you have any evidence to support or reject a later end time to after 8:00pm (or any other later time)?

There is a wealth of material available via the internet recommending children's bedtimes but most point more or less to the same thing. The BBC (http://www.bbc.co.uk/health/physical_health/child_development/primary_sleep.shtml) suggests, for a five-year old, deducting 11 hours from the usual waking time, thus if waking time is 7.00am, bedtime should be no later than 8.00pm. Another website reports 3-6 year olds going to bed between 7.00-9.00pm (<http://www.webmd.com/parenting/guide/sleep-children>).

Q2Jiv. Are there any other changes to section 62 of COPA that you would support? Why?

Whereas Approved Codes are intended to demonstrate 'Best Practicable Means' where that phrase appears in the 1974 Act, in the context of s.62 it represents, at most, merely good practice. Though we would like to consider further, there would seem to be an argument to amend s.62(3) to enhance its status, that would be to say that in determining whether a loudspeaker was giving reasonable cause for annoyance, regard should be had to the Code.

Q2K. Do you have any data on the potential costs to mobile vendors, local authorities or local residents (e.g. in terms of increased numbers of complaints or levels of annoyance) if these proposals were implemented? etc.

No.

Q2L. Do you have any data on the potential benefits to mobile vendors, local authorities or local residents (e.g. in terms of increased sales) if these proposals were implemented? etc.

No.

Option 3 - Keep the Code in the form of a non-statutory Industry Code

Q3A. Are you supportive of this option? Why/Why not?

No; such a Code would lack the necessary status and undermine the whole concept of Approved Codes of Practice.

Q3B. Do you have any data on the potential costs to industry bodies, mobile vendors, local authorities or local residents if this option was taken?

No.

Q3C. Do you have any data on the potential benefits to industry bodies, mobile vendors, local authorities or local residents if this option was taken?

No.

Option 4 – Remove the code

Q4A. Are you supportive of this option? Why/Why not?

No. This option would remove the certainty which benefits vendors, create unequal trading conditions and lead to inconsistent enforcement. As with the previous option, it would also undermine the whole concept of ACoPs.

Q4B. Do you have any data on the potential costs to mobile vendors, local authorities or local residents if this option was taken?

No.

Q4C. Do you have any data on the potential benefits to mobile vendors, local authorities or local residents if this option was taken?

No.

Noise Measurements

Q5. Do you support the proposed change to the text on making noise measurements? Why/Why not?

We are puzzled at the new phrase 'if used at ground level'; and at what height should a microphone be positioned otherwise? Calibration after taking any measurements also seems excessive and free-field conditions could be hard to meet in some streets; it should be enough to apply an appropriate correction.

General questions

Q6. Prior to this consultation did you know that there was a Code of Practice on Noise from Ice-Cream Van Chimes Etc. 1982?

Yes.

Q7. Prior to this consultation did you think the Code needed changing?

Yes

Q8. Prior to this consultation had you experienced annoyance as a result of chiming? (This could be personal experience or witnessed as part of your role as an environmental health practitioner, for example.) Please provide details.

Yes. In my personal capacity, and in the last week alone, I have witnessed ice-cream sellers sounding their chimes for longer than the prescribed duration and after 8.00pm.

Q9. Which of the four options above would you favour? Why?

The CIEH favours option 2 for the reasons given.

**Q10. Do you have any additional evidence to support or refute any of the options?
Please provide details.**

No.