

Neighbourhood Noise Complaints

Advice to Householders

This leaflet is designed to explain how you and the Council can deal with noise in residential areas



Noise Nuisance

In judging nuisance actions the Courts have accepted that a certain amount of inconvenience, annoyance and disturbance must be acceptable.

Otherwise, it would not be possible to mow lawns, ring church bells or even talk loudly in your own garden. The key question is "Is the noise more than is tolerable to a reasonable person?" The loudness, type, time and duration of a noise and the characteristics of the neighbourhood are all important factors in assessing noise for nuisance. To be a statutory nuisance noise must **significantly** interfere with your use or enjoyment of land or property.

Sources of neighbourhood noise can be diverse. The main complaints are about loud music and TV, barking dogs, DIY and misfiring alarms. If you are being disturbed by noise from residential neighbours there are three possible reasons:

- ◆ They are behaving unreasonably or some defect has occurred. For instance, they may be frequently playing loud music late at night or allowing their dog to bark continuously or an audible intruder alarm may be regularly misfiring when they are away.
- ◆ The neighbours are behaving normally, but the sound insulation in the walls or floors between you may be inadequate.
- ◆ You may have become over-sensitive to the noise, particularly if you do not get on with your neighbours. Some people will "tune in" to a particular noise and find it annoying even when most other people would not.

What can you do if you believe you are suffering from noise nuisance?

The first thing to do is to approach your neighbour where practical. Politely explain that you are being troubled by the noise, ask them to stop or reduce the noise to an acceptable level and keep a written record of your conversation. If the problem continues, write to them explaining the effect that the noise is having on you. Ask them to stop or reduce the noise and refer to any previous conversations you may have had. Keep a copy of your letter and start a diary of events that disturb you.

Most disputes are best settled by people talking about the problems and showing consideration for each other. This may be assisted by use of a mediation service and the Council supports the Cambridge Mediation Service whose details are listed under "Useful Contacts" at the end of this leaflet.

What happens if the noise continues?

Normally the Environmental Protection Act 1990 is used to deal with cases of neighbourhood noise which amount to a nuisance. This Act allows the Council to take action to abate the noise or you to take a case to the local Magistrates Court.

Within 7 working days of receipt of a complaint Environmental Health Officers will start an investigation and will assess the available evidence to determine if the problem amounts to a statutory nuisance. At no time during an investigation will your identity be discussed with the person complained about unless the Council is legally bound to do so. This usually occurs only when Court proceedings are necessary.

How will your complaint be investigated?

The Council will take reasonable steps to investigate your complaint and your co-operation will be essential. You may be requested to keep a log sheet over a period of time to give the investigating officer an insight into the nature and frequency of the noise you have complained about. The information will assist him in making a decision on the best way to investigate and deal with your problem. He will be able to decide whether a visit to the person causing the problem is appropriate or if noise measuring or recording equipment should be used because the noise occurs at night or at irregular intervals. If you do not complete a log when requested your complaint will be closed.

On completion of the Environmental Health Officer's investigation you will be advised of the conclusions and of any further action which may be possible.

What will the alleged source be told?

When you return your log sheet the Council will consider what actions are necessary to further investigate your complaint. If it is decided that noise monitoring equipment will be used to collect data which may contain collateral information then the Council will write to the alleged source at this point to comply with Human Rights Legislation.

How long will the investigation take?

This depends upon the nature and frequency of the noise. In some cases the existence of a noise nuisance can be determined relatively quickly but others may require more detailed investigation and evidence gathering.

What will the Council do if a nuisance is found to exist?

If the Council is satisfied that a statutory nuisance exists, it will point this out to the person responsible and will seek to resolve the problem informally. If this is not possible, an Abatement Notice will be served requiring the person responsible to stop the nuisance. The person receiving the notice can appeal against the terms of the notice at the Magistrates Court.

What if the nuisance is caused by a business?

The law recognises that some businesses have to make a noise in connection with their lawful operations. Therefore Business and Trade premises are able to defend against an abatement notice by demonstrating that they are employing the "Best Practicable Means" to prevent or minimise noise nuisance. In taking abatement action the Council will have regard to this defence.

Court Action

The Council can only take court action following the service of an abatement notice which has not been complied with. This will only be considered as a last resort. If the Council initiates court proceedings then you must be prepared to give evidence to the Court under oath.

Penalties

A person who is found guilty of an offence is liable to an unlimited fine.

Individual Action

When the Council investigates noise complaints they do so from an impartial position. You may be advised that no nuisance was found or that it was not possible to gather evidence of nuisance even after reasonable investigations. In such circumstances you can take your complaint directly to the Magistrates Court using the procedure set out in Section 82 of the Environmental Protection Act 1990. To do this you will still require a substantial amount of evidence and should contact the Clerk of the Court at the local Magistrates Court to discuss the procedure. You may also wish to seek independent legal advice regarding the above and your civil rights.

Useful Contacts

The Clerk to the Justices

Peterborough, Huntingdon and Fenland Magistrates' Court,
Bridge Street,
Peterborough,
PE1 1ED
(DX 742250 PETERBOROUGH 23)
Tel: 0845 310 0575
www.hmcourts-service.gov.uk

Cambridge Mediation Services

Llandaff Chambers,
2 Regent Street,
Cambridge,
CB2 1AX
Tel: 01223 302514

Citizens Advice Bureaux

Huntingdon Tel: 01480 388900
St Ives Tel: 01480 388909
St Neots Tel: 01480 388

For more information

Environmental and Community Health Services
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
PE29 3TN

Tel: 01480 388302
Email: envhealth@huntingdonshire.gov.uk
Website: www.huntingdonshire.gov.uk