

THE LAW

Environmental Protection Act 1990

The Council's Environmental Protection Team deals with Noise Nuisance under Part III of the Environmental Protection Act 1990. Section 79 (1) (g) states that a noise nuisance is:

- noise emitted from premises so as to be prejudicial to health or a nuisance ("Prejudicial to health" means injurious, or likely to cause injury to health)

Section 2 of the Noise and Statutory Nuisance Act 1993 amends the list of nuisances' under Section 79 (1) of Environmental Protection Act 1990:

- ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street;

This enables local authorities to deal with vehicles, equipment or machinery located in the street which are emitting noise that amounts to a 'statutory nuisance'.

Control of Pollution Act 1974

Noise from Construction Activities are controlled by the Council under Section 60 & 61 of the Control of Pollution Act 1974.

Loudspeakers in the Street are controlled under Section 62 which limits the times during which loudspeakers may be sounded in the street (i.e. ice cream van chimes)

WHAT IS A NUISANCE?

A nuisance is an act that causes unreasonable disturbance to the use and enjoyment of your property.

Reasonable expectations are:

- To be able to sleep without disturbance during the times normally used for sleeping.
- To have access to qualified staff to assess the existence of nuisance, including out of hours by arrangement.
- Not to hear *excessive* noise from neighbours in their home on a *regular* basis, e.g. DIY, barking dogs, loud music, alarms

The council will investigate complaints regarding:

- Domestic Noise (loud music; televisions / radio; persistent shouting, banging or other unreasonable domestic noise)
- Building and DIY work at unreasonable times of the day
- Noise from Entertainment Venues (Pubs, Nightclubs etc)
- Noise from Commercial Premises (e.g. Refrigeration Equipment)
- Noise from Construction Sites
- Persistent barking dogs
- Noise from Intruder Alarms (including car alarms)
- Noise emitted from, or caused by, a vehicle or equipment in the Street

Note:

Noise has to be consistent, excessive and / or unreasonable. Light sleepers and those sensitive to noise will have to accept some disturbance.

The council can not deal with noise from ordinary domestic activities or where poor sound insulation exists. The Law does not permit anybody the right to silence.

ASSESSING NUISANCE

An officer will need to determine if noise amounts to a statutory nuisance. This will require diaries to be kept by the complainant. Failure to return diaries will result in limited action being taken. Also, the word of the complainant, alone, is not sufficient for the Local Authority to prove nuisance. Therefore the investigating officer must be able to witness the nuisance, possibly on several separate occasions. This may include the use of surveillance equipment.

The following are factors that the officer will take into consideration:

- Time of Day
- Frequency
- Duration
- Intensity
- Character of the Noise
- Your location
- Motives of the Defendant

The officer will review the evidence at each stage of the procedure.

THE COMPLAINTS PROCEDURE

In order to give you an efficient and effective service, the following procedure is applied to all new complaints.

You may receive a form to complete, to confirm certain details to help us give a quality service.

Complaints about problems, which have already been reported, will trigger another stage in the procedure or lead to further investigation.

1) Initial Letter Stage

Letters are sent to:

- a) the address where the noise causing the alleged nuisance is occurring, and;
- b) the person who made the complaint - a "nuisance diary" is enclosed to record details of any further nuisance.

Should the noise continue and this results in complaint(s) to the Council, the next step in the procedure taken.

2) Second Letter Stage

At this stage an officer may visit the address where the noise originates and interview the occupier if available. A second letter will also be delivered. You will receive a letter informing you about the action we have taken, and a replacement diary if appropriate.

3) Further Complaints & Abatement Notice

If the problem is still continuing the noise will be monitored. Should the investigating officer decide that the noise amounts to a "statutory nuisance" an "Abatement Notice" will be served on the person responsible for the nuisance, or the owner or occupier of the property from where the noise originates. The Notice will prohibit the recurrence of further noise nuisance or, if necessary, specify a time limit for remedial work to be done.

4) Further Complaint & Prosecution

The noise will be monitored and if a "statutory nuisance" still exists this will normally result in the next step in the procedure, which is to prosecute the person who received the Abatement Notice, in the Magistrates Court. If convicted, a fine of up to

£20,000 in the case of a company, or up to £5,000 in the case of a private individual, can be imposed.

Noises occurring outside normal working hours – An officer will examine your diary and arrange to visit your property on programmed visits when noise is likely to be witnessed. On some occasions, you may be requested to contact a call-out number to facilitate noise monitoring.

If the investigating officer, after 3 or more visits, is not satisfied that a nuisance exists you will be informed of this and given information about section 82 of the Environmental Protection Act 1990. This enables any "aggrieved" person to take action through the Magistrates Court in respect of noise nuisance.

5) Further Nuisance & Court Action

Offenders can be fined up to 10% of the maximum fine per day for any further offences.

For further advice contact Geoff Dowker direct on (01229) 876366

Public Protection Services has a target for the relevant officer to contact a complainant within 3 working days of receipt of a complaint.



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Procedure for Dealing with Noise Nuisance Complaints

