



Bothered by smoke, odour or dust



1st Edition 2004

Designed and printed by Bracknell Forest Borough Council's
Design & Print Services ☎ 01344 352028/352020

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There **is** something you can do

Are you bothered by smoke, dust or odour ?

If you are, then you are not alone - statistics collected from local council environmental health departments in the UK show that complaints to them have increased every year for at least the last 5 years.

- A national survey of over 2000 households found that almost one third felt that nuisances spoil their home life to some extent.
- The most common source of objection to smoke was through bonfires from neighbours, and animal related odours.
- In Bracknell Forest complaints have doubled in 5 years.

So what can you do about smoke, dust or odours?

Generally speaking these nuisances are unwanted as they invade the home and make using that home uncomfortable.

If smoke, dust or odour are upsetting your life then this booklet can show you how you may be able to deal with the problem in a number of positive and constructive ways.

To help you, we've arranged the booklet in three sections.



The first called **"A quiet word about smoke, odour or dust and formal action"**, explains what to do about noise from neighbours, local commercial and industrial premises and vehicles.



The second, **"Additional smoke, odour or dust controls"**, tells you about specific controls to deal with this type of nuisance.



The third section, entitled **"Planning to stop the smoke, odour or dust"** shows you how to get involved in the planning stages of of a likely source of smoke, dust or odours to ensure that it does not become a problem in the future.

The final section **"How to get more advice about smoke, odour or dust"** is a handy quick reference guide including details of both local and national agencies and publications.

Further Reading

The Stationery Office Publications

Available from PO Box 276, London SW8 5DT

- Clean Air Act 1993
- Control of Pollution Act 1974
- Environmental Protection Act 1990
- Pollution Prevention & Control Act 1999
- Pollution Prevention & Control Regulations 2000
- Planning Policy Guidance Note 12 - Development Plans and Regional Planning Guidance



Working with the court

When you contact the court, tell them you wish to make a complaint under section 82 of the Environmental Protection Act 1990. You will probably need to visit the court where the procedure will be explained to you and you may be asked for evidence of the problem. This will show the Magistrates that you have an arguable case. You should also let the court know if you have notified the Environmental Health Office of the problem.

The court will decide if a summons can be issued to the person responsible for the nuisance, and may ask you to serve it (by hand or by post) on them. If you serve the notice, you should keep a careful record and ensure that the notice is served well before the hearing date. When the time comes for the hearing you will have to attend court to give evidence.

The person responsible for the nuisance will very likely come to court to defend himself/herself, and may even make counter-accusations. You do not need to have a solicitor to represent you at the hearing, although you may do so if you wish.



You will need to be prepared for the possibility of having to pay the costs of taking the case to court if you are not successful. These costs will include your costs, those of your solicitor if you have one, and any witnesses you call in support of your case. Under some circumstances the other party's costs could be included as well.

Failure to comply with the abatement notice

It is an offence, without reasonable cause, not to comply with the requirements of an abatement notice. For offences relating to domestic premises, the Magistrates Court may apply a fine of £5,000 per offence with a further fine of up to but not exceeding £500 for each day on which the offence continues after conviction. When the nuisance arises on industrial, trade or business premises, the maximum fine is £20,000 per offence.

Local Councils have powers to gain entry to premises to enable them to abate a nuisance. The most common time for them to use this power is to stop misfiring burglar alarms but it is a power rarely used.

Best practicable means

It is a defence in any court proceedings relating to nuisance arising on industrial, trade or business premises to prove that the best practicable means have been used to prevent or counteract the effect of the nuisance. This recognises that there can be technical and other limitations as far as industry is concerned. Council officers are trained to look for best practicable means in investigating and taking action against nuisance in these cases.

Seeking an injunction

If, after investigating a complaint, the Council considers that summary proceedings would not provide an adequate remedy, it may decide to seek an injunction in the High Court. However, this is a rarely used provision since most cases are effectively dealt with using statutory nuisance law.

