

## Noise Nuisance Guide

### What is the law relating to noise nuisance?

Under the [Environmental Protection Act 1990](#), the Council has a duty to investigate complaints of statutory nuisance (as defined in section 79).

If Council Officers are satisfied of the existence, or likely occurrence, of statutory nuisance, they are under a duty to serve an abatement notice (section 80).

### What is a statutory nuisance?

People often believe that any noise is OK up until 11:00 pm. This is not true. Excessive noise could constitute a statutory nuisance at any time.

It is also commonly believed that there is set decibel level, above which noise is considered a nuisance. Again, this is not the case. Whether noise amounts to a statutory nuisance is the opinion of the investigating officer(s) and many factors are taken into account. Statutory nuisance can only be assessed by officers who are suitably qualified and trained.

The factors taken into account in assessing noise nuisance include:

1. **Time of day or night the noise is occurring** – higher noise levels are likely to be more acceptable during the day than at night
2. **Duration** – the longer the noise continues, the more unreasonable it may become
3. **Frequency** – if the noise occurs every day it will be more unreasonable than if it occurs once a month
4. **Nature of the noise** - noises which have a tonal element such as a knock, hiss or hum may be considered more annoying
5. **Nature of the area** – for example, a cockerel crowing may be considered more unreasonable in a residential setting than in a rural setting, whereas noise from an air conditioning unit may be more acceptable in a town centre environment than in the countryside
6. **Who is affected** – noise must be affecting someone at their property – no action can be taken if you notice loud music whilst standing outside a pub

Statutory nuisance is a high level of nuisance and more than a mere annoyance. It will have significant impact on the enjoyment of a person's property and is likely to be more than a one-off occurrence.

### What you can do if you are affected by noise

#### Speak to your neighbour

It is often better to try to resolve any issues yourself in the first instance.

Although it can be daunting speaking to your neighbour about a problem, the whole process can start off on the wrong foot if the first they hear about an issue is from the Council.

We often hear the words *“Why didn’t they just come and talk to us - we could have sorted this out?”*

Try to avoid getting emotional; you may have been suffering with the problem for a long time but this might be the first they have heard of it.

Explain how the noise is affecting you and what you would like them to do about it.

Try to understand the situation from their perspective as well as your own. Remember there are always two sides to a story!

If you don’t feel confident speaking to your neighbour, you could write them a letter explaining the problem. If the problem is continuing you may want to follow it up with a further letter saying that, if the matter is not resolved within a set timescale, you feel you have no option but to make a complaint to the Council.

Keep notes of when you have spoken with your neighbour and copies of the letters you send in case you need to refer to them in the future.

### **Start collecting your evidence**

In order to deal with your complaint, the Council will need evidence of what you are experiencing.

1. **Download the noise nuisance app** – available for Apple and Android devices. The app allows you to make short recordings of the noise you are experiencing and keep a diary of incidents. Make sure all recordings are made inside your property. For further information see the [noise app guide](#). In some instances, we may ask you to complete diary sheets as well.
2. **Download the noise nuisance diary** – if you do not have an Apple or Android device, keep a record of the times and dates, along with the impact that the noise is having on you using the [noise nuisance diary sheet](#).

### **Complaining to the Council**

Complete the [online form](#) or call the Council on 01344 352000 to report your complaint.

An officer will contact you within 5 working days.

### **The Investigation Process**

The Council will normally contact the person complained of in the first instance, either in person, by telephone or in writing, to advise them that a complaint has been received and that we are looking into it. Details of who made the complaint are not provided.

We will also normally write to the person making the complaint, asking them to provide evidence of the noise problem (or to continue with collecting the evidence if they have already done so).

You will need to be patient - it can take time to investigate noise nuisance and there is no immediate solution in many cases. Officers will need to consider all the evidence provided to them before deciding on the best course of action.

In accordance with the Council's [enforcement policy](#), Officers will usually attempt to resolve any issues informally before resorting to formal action.

Informal action could include verbal or written communication to make the person complained of aware of any issues and possibly giving advice on how to resolve it.

### **Taking Formal Action**

The Council can only take formal action where there is sufficient evidence that noise amounts to a statutory nuisance under section 79 of the Environmental Protection Act 1990.

Primary evidence would include:

1. Noise nuisance diary sheets
2. Recordings made using calibrated noise monitoring equipment installed by the Council
3. Visits by Council Officers and/or Police Officers
4. Witness statements

Supplementary evidence could include:

5. Recordings made using the noise app
6. Recordings made using digital cameras or mobile phones

### **What are my options if the Council cannot help?**

There may be instances where we are unable to assist, for example if we are unable to obtain sufficient evidence that noise amounts to a statutory nuisance. In these instances, you may wish to consider:

1. **Taking your own case to a Magistrates Court** – you have the option of presenting your own evidence to a Magistrates Court
2. **Mediation** – Community mediation services may be able to assist, such as Resolve ([www.resolvemediation.com](http://www.resolvemediation.com))