

## **NOISY NEIGHBOURS**

Noise from neighbours is a common source of disturbance and it can be very upsetting. The main problems are caused by barking dogs, loud music or TV, shouting, banging doors and DIY activities. Remember, no house or flat is totally soundproof: so everyone can expect a certain degree of noise from neighbours. If you are being disturbed by noise from neighbours it may be because:

- The neighbours may be behaving unreasonably; for example, playing loud music late at night or allowing their dog to bark all day
- The neighbours may be behaving normally, but the sound insulation between your home and the source of the noise is not sufficient to cut out the sounds of normal, everyday living
- You may have become over sensitive to the noise. Some people tune into the noise from next -door and find it annoying while others would not.

### **What can I do?**

Firstly, try approaching your neighbour to explain, politely, that you are troubled by the noise. Although you may find this difficult it is surprising how often neighbours are unaware of the unhappiness they are causing. Most will be happy to do what they can to reduce the noise. However, approach the matter carefully if you think your neighbour might react angrily to a complaint. In cases where you might feel threatened, or where previous personal approaches have not worked you may wish to contact the Council for further advice.

If your neighbours are living in a housing association property or rent privately it may be worth discussing the problem with their landlord or managing agent. Most tenancy conditions include a requirement that tenants do not cause a disturbance to neighbours. The landlord may be prepared to take action if serious disturbance is being caused.

If your neighbour continues to cause a disturbance you may wish to complain to the Council.

### **Making a complaint to the Council**

Under Section 79 of the Environmental Protection Act 1990, (as amended), Local Authorities have powers to deal with defined statutory noise nuisances. However, the Act is very specific about what does and does not constitute a noise nuisance. The noise must be coming from private land or property, or be generated by vehicles, machinery or equipment in the street. These powers apply not only in order to control existing noise but also noise that is expected to occur or recur.

### **What is a Statutory Nuisance?**

This cannot be easily defined but could be described as an unreasonable interference with the enjoyment of your property. It must occur regularly and continue for a period of time that makes it unreasonable.

The following are unlikely to be a statutory nuisance:

- A one off party
- Neighbours arguing
- A lawnmower used during the day
- A baby crying, children playing or dogs barking occasionally

The Council has no control over the following:

- Road traffic/revving engines on the public highway
- People shouting/laughing or screaming on a public road or footpath
- Air traffic noise

Each case will be judged on its merits. The following factors will be taken into consideration:

- The time of the noise (noise can be a nuisance at any time day or night)
- The duration of the noise
- How often the noise occurs
- The type of noise
- Whether it is socially acceptable (eg. bonfire night or church bells)

The investigating officer, not the complainant, will make the decision on whether noise is a statutory nuisance. Case law requires us to act as the 'ordinary reasonable person' when reaching a decision. We cannot, therefore, take into account those who have a different or higher expectation of peace. These include shift workers or people who are studying or ill.

### **How will my complaint be investigated?**

We will try to resolve your complaint informally. After discussing the issues with the complainant the alleged perpetrator will be advised, usually by letter, that a complaint has been received. They will be made aware of the legal powers available to the Council if they cause a statutory noise nuisance.

Your details will be kept confidential. However, it may be necessary for you to attend subsequent court hearings, as a result of legal action taken by the Council in respect of a statutory noise nuisance. You will be sent written confirmation of your complaint enclosing a diary record sheet to enable you to keep a written record of any further noise disturbance from your neighbour's premises. If you are unable to complete a written record please advise the investigating officer as soon as possible. We will endeavour to assist you in finding another way to record the necessary details. You should return the diary when you think it gives us enough information to assess the level of nuisance that you are suffering. If the diary sheets are not returned further action will not be possible and the case will be closed.

If the diary sheets are returned the investigating officer will assess the written evidence and decide whether the noise could be classed as a statutory nuisance. If the officer decides that the noise could not be classed as a statutory nuisance you will be advised verbally and/or in writing.

If the diary sheets indicate the likely existence of a statutory noise nuisance the investigating officer will contact you to discuss the next step in the process. This could include visits to your property or the installation of noise monitoring equipment, if appropriate. There is also an Out of Hours noise monitoring service, whereby Noise Officers can witness the problem if it occurs at night.

If after a thorough investigation no statutory nuisance is substantiated the case will be closed. You will be advised of alternative courses of action open to you.

If a statutory nuisance is proved to exist the offender will be served with a Section 80 Noise Abatement Notice under the Environmental Protection Act 1990. If the offender continues to cause a nuisance after the Notice has been served there is scope within the legislation to enter their premises to seize noise-making equipment. If the problems still continue the case may be passed to the Legal Department with a view to taking the offender to court. The maximum penalty, if found guilty, is £5000.00.

For further information please contact:

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