

NEIGHBOUR NOISE



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NEIGHBOUR NOISE PROBLEMS

Noise from neighbours is a common source of disturbance. The most frequent complaints are about barking dogs, loud music or TV, shouting, banging doors and DIY activities. Remember that no house or flat is totally soundproof. We must all live within the constraints of our individual properties. Garages and gardens tend to offer minimal sound insulation so these can have a greater effect on neighbours. Everyone can expect some noise from the people who live around them. You could be disturbed for the following reasons:

- The neighbours are behaving unreasonably
- The neighbours are behaving normally, but sound insulation in your home is poor so that you can hear the sounds of normal everyday living
- The sensitivity and tolerance of people varies
- Clash of lifestyles

What Can You Do?

If you are being disturbed by noise from a neighbour:

- First, approach your neighbour and explain politely that you are being troubled by noise. You may find this difficult, but often people are unaware that they are causing a problem. Most will be glad to do what they can to reduce noise. However, approach the matter carefully if you think your neighbour might react angrily to a complaint.
- If the problem continues, start a diary recording dates, times and cause of the noise, and the effects it has on you. Write to your neighbour explaining the problem. Ask them to stop the noise nuisance, referring to any conversations you may have had and what, if anything, they agreed to do about it. Keep a record of any conversations you have or letters you write. If your neighbours are tenants, discuss your problem with the landlord (if they are private tenants, you may need to find out who the landlord is). Most Conditions of Tenancy require that tenants do not cause nuisance to neighbours; a local authority or housing association should take action if a nuisance is being caused.

Are There Alternatives to Legal Action?

Noise disputes are often resolved informally. Legal action should be a last resort. It is unpleasant and will inevitably further sour the relationship between you and your neighbour. It is very important that you do your best to resolve any problem in a friendly way.

Mediation

Many areas have mediation services which can help you to resolve noise and other neighbour problems.

Sound Insulation

If the problem seems to be inadequate sound insulation, there are DIY measures that can help:

"Improving Sound Insulation in Homes" from the Building Research Establishment is available at:

www.bre.co.uk/PDF/SOUNDINS_HOMES.PDF

More detailed guidance published by the Building Performance Centre at Napier University is available at:

www.arcamedia.co.uk/html/hsi.html

Action by the Council

If the problem persists, contact your local Environmental Health Department for advice. Under Section 80 of the Environmental Protection Act 1990 (EPA), they must take "all reasonable steps" to investigate your complaint. Each local authority will have a policy to ensure that it meets its responsibilities. This may require you to provide diary/log sheets in the first instance, or they may write to the person allegedly causing the nuisance. They may install noise monitoring equipment. Some areas offer a call-out service. They may write to the person causing the nuisance saying that a complaint has been made, asking them to take any steps that may be necessary to reduce noise. If they believe a statutory nuisance is occurring or likely to occur or recur they must take action. A statutory nuisance is defined in the EPA as - "noise emitted from premises so as to be prejudicial to health or a nuisance".

The determination of a statutory nuisance - which is a subjective judgment by an Environmental Health Officer (EHO) or Technical Officer - will consider factors such as volume/level of intrusion into complainant's property, duration, frequency and time of day.

If the noise continues, an Environmental Health Officer (EHO) or Technical Officer should call, ideally at a time when you expect the noise to occur, to see whether in their judgment the noise is a statutory nuisance. They will consider the type of noise, how loud it is, how often and at what times it occurs. If the local authority is satisfied that a statutory noise nuisance exists they must issue a notice requiring the neighbour to stop causing the nuisance. If the person, without reasonable excuse, fails to comply with the notice, he or she is guilty of an offence and can be prosecuted.

EHOs are the recognised experts and their professional judgment is very important - they must base their opinion on what is "reasonable to the average person". No dispensation can be given to people with heightened sensitivity or a need to sleep during the day.

Local authorities take noise problems very seriously and will do their best to help. However, if you feel that the Council is not fulfilling its legal obligations you can, as a last resort, complain to the local authority ombudsman.

Night Time Noise Offence

The Anti-social Behaviour Act 2003 amends the Noise Act 1996 and enables local authorities in England and Wales to use night time noise powers. These powers are additional to existing nuisance provisions. To enforce these powers local authorities must ensure that an officer takes reasonable steps to investigate complaints about noise emitted from dwellings – including gardens - between 11pm and 7am. If an officer is satisfied that the noise exceeds or may exceed the permitted level, a warning notice may be served on the person responsible. If, when measured from the complainant's home, the noise is found to exceed the permitted level, the local authority officer can issue a fixed penalty notice of £100, enter the dwelling and confiscate the noise making equipment (obstructing confiscation carries a fine of up to £1000) or prosecute (fine up to £1000). This Act does not apply in Scotland but powers of seizure are available to the police under the Civic Government (Scotland) Act 1982.

Taking Your Own Action

Alternatively you can take independent action by complaining direct to the Magistrates' Court under section 82 of the Environmental Protection Act 1990. This is quite simple and need not cost much; you do not need to employ a solicitor but it is advisable to obtain some legal advice. Your local authority may be able to advise you about this.

Before approaching the Court it is a good idea to write to the noise-maker saying that unless the noise is abated by a certain date (e.g. two weeks) you will complain to the Magistrates' Court. Keep a copy of all correspondence. If the noise-maker ignores either a verbal or written request by you to abate the noise, contact the Justices' Clerk's Office at your local Magistrates' Court explaining that you wish to make a complaint under section 82 of the Environmental Protection Act 1990. The Clerk of the Court should be able to advise you further.

You must give at least three days' notice of your intention to complain to the Magistrates' Court to the person considered responsible for the noise. The notice should provide details of the complaint and may be delivered by hand or by post. A solicitor can do this for you (a solicitor's letter will show you are serious). You need to prove to the Magistrate, beyond reasonable doubt, that the noise you are complaining about amounts to a nuisance. The diary you keep will be important evidence.

Although the law says that only one person needs to be affected for there to be a nuisance, in practice the evidence of other witnesses will strengthen your complaint.

A date will be set for the hearing and the person about whom you are complaining will be summoned to Court. You will be required to explain your problem and produce evidence of the disturbance.

You will have to give your own evidence and cross-examine your supporting witnesses to draw out their evidence. The neighbour will be able to cross-examine you and your witnesses and may produce their own evidence.

The law relating to business premises is slightly different: they can defend themselves by proving that they are using the "best practicable means" to prevent the noise.

If you prove your case the Court will make an order requiring the nuisance to be abated, and/or prohibit recurrence of the nuisance. It also has the power at the time the nuisance order is made to impose a fine on the defendant (currently up to £5,000). If this order is ignored further Court action will need to be taken; you must therefore continue to keep records of noise nuisance in case it is necessary to return to Court. If you fail to prove your case you may have to pay some of the defendant's expenses in coming to Court. Under the London Local Authorities Act 2004, local authority officers can issue fixed penalty notices to London residents who breach noise abatement notices.

Anti-Social Behaviour

Noise can be part of a more serious neighbour problem. Under the Housing Act 1996 social landlords can take action against tenants for anti-social behaviour. The Anti Social Behaviour Crime and Policing Act 2014 enables Councils, the Police, housing providers and authorised persons to apply to the Courts for an injunction where an individual has engaged or threatens to engage in anti-social behaviour. If the court considers the application just and convenient it will grant the injunction for the purpose of preventing anti-social behaviour, or to serve a community protection notice if the conduct of the individual or body is having a detrimental effect (of a persistent or continuing nature) on the quality of life of those in the locality, and the conduct is unreasonable.

Further Information

Noise Abatement Society

Advice and support for noise sufferers

Free Advice Helpline 01273 823 850

Email: info@noise-abatement.org

Environmental Law Foundation

Legal support and advice to individuals and communities

Tel: 0330 123 0169

E mail: info@elflaw.org



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You may also be interested in our leaflets on:

- Noise Pollution
- Contaminated Land and Your Home
- Domestic Smoke
- Fireworks

Environmental Protection UK is an active organisation which monitors environmental issues and lobbies Government and other authoritative bodies on important issues, with the aim of improving the quality of life for all UK residents.

Contact us at Environmental Protection UK:

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