



## Noise nuisance investigation advisory leaflet

Although further defined in law, in simple terms, a Statutory Noise Nuisance is something, which is unreasonable and causes substantial interference in the use and enjoyment of a person's property. It is much more than just an annoyance or being aware of something.

**The Environmental Health Section is able to investigate many noise problems, but not all noise.**

**Noise that the section can investigate:**

Domestic	Business	Noise on the street	Other
Noisy DIY	Construction and demolition sites	Stationary vehicles (including car alarms and stereos)	Noise from the use of vehicles on private land
Dog barking	Agricultural noise	Equipment and machinery in the street	Leisure activities including shooting and motor racing events
Audible intruder alarms	Industrial/plant noise	Loudspeakers in the street	
Domestic entertainment noise such as amplified music	Commercial noise	Ice-cream vans	

**Noise that the Section is unlikely and cannot investigate:**

Unlikely (*)	Cannot
Children's noise	Transport noise e.g railways
Shouting, screaming and raised voices	Noise from aircraft
Noise from sexual activities	Noise from moving vehicles (including loud exhausts)
Slamming doors	Off road motorcycles (when used on the road)
Heavy footsteps	People on the street

(\*) Behavioural or lifestyle noise problems often arise from substandard sound insulation between properties i.e. a neighbour may be behaving reasonably but sound insulation between the properties is not good enough to cut out the sounds of normal every day living such as those in the above table.

**How will a noise complaint be investigated?**

A named officer who is trained to assess noise complaints and the existence of a statutory nuisance will investigate any complaints received. The initial stage of the investigation is to request complainants to complete diary record sheets. The diary should be completed over

a minimum time scale (which will be stated in the initial letter) and then be returned to the investigating officer for assessment. Diary sheets are used to gather evidence of the noise, including what time it occurs, how long it goes on for, how loud it is and the effect it is having on the complainant.

All complaints received will be treated as allegations. We do not reveal the identity of complainants to the alleged perpetrator; however in some instances the alleged perpetrator may be able to guess the identity of the complainant.

**NB: If the diary is not returned to this Department, the investigation may be closed and a letter will be sent to both parties confirming this action.**

Once we receive diary evidence we will assess the information and depending on the quality of the evidence provided we may:

- request further diaries
- refer the complaint to another department
- advise we are unable to take further action
- attempt to witness the noise for ourselves
- contact the alleged perpetrator
- Install noise monitoring equipment

If we feel that the evidence indicates a problem which may amount to a statutory nuisance, we will attempt to witness the noise for ourselves in order to confirm the allegation. This may involve a visit and/or the installation of recording equipment within an affected habitable room in the complainant's property (kitchens, conservatories etc are not considered to be habitable rooms). The noise recording equipment is only offered under circumstances which merit its use; it is not available upon request.

A statutory nuisance is determined by one of our officers, not the person who has complained. The decision is based on what an 'ordinary person' would accept. We cannot therefore take into consideration shift workers or people who are studying or unwell. We will take into account:

- The time of day/night
- How long it lasts
- How often it happens
- Whether it's socially acceptable, for example fireworks on bonfire night, or church bells ringing
- The surrounding environment
- The type and volume of the noise

If any evidence confirms the existence of a statutory noise nuisance, enforcement action may be taken and an Abatement Notice served.

Whilst your evidence is vital in terms of providing a picture of the problem, overall judgements regarding statutory noise nuisance will only be made by Officers of this Section. This Section will not take any enforcement action based on the judgements of police officers, community safety wardens, councillors etc. although we may use any statements provided as supporting evidence.

Finally, should the perpetrator choose to ignore the conditions detailed in an Abatement Notice, further evidence will be gathered to confirm a breach, which may lead to prosecution of the perpetrator in the Magistrates Court.

The above method is used to investigate most complaints, however certain type of noise such as short term events and audible intruder alarms are investigated differently. An allocated officer will contact you to discuss should the investigation differ from the above.

### Repeat complaints

Should the council receive a further complaint within 3 months of the initial complaint being closed then we will re-open it for further investigation. Should a complaint be re-opened then the alleged perpetrator will not be notified in writing however further monitoring may be carried out. Should a complaint be received outside of the 3 month period then a new complaint will be opened and either party notified as appropriate.

### **Other Departments and Organisations who may be able to help**

- The Durham County Council Planning Service can investigate breaches of planning conditions
- Landlords or housing associations of tenanted properties from which noise nuisance emanates
- Building Research Establishment offers advice on improving sound insulation within homes
- Durham County Councils Anti-Social behaviour team are able to investigate certain types of noise.

### **Taking your own private legal action**

Should you not wish to involve the local authority you can complain direct to the Magistrates' Court under **section 82 of the Environmental Protection Act 1990**.

It is best to try to resolve the problem informally by writing to the person responsible for the noise. If you are unable to identify who is actually causing the problem, write to the owner or occupier of the premises concerned. Say that you consider they are causing a nuisance and that unless they stop, or satisfactorily resolve the problem, you may make a complaint, under the above legislation, to the Magistrates' Court.

The Court will need to be persuaded that your complaint amounts to a statutory nuisance. It is important therefore that you keep a written record of the dates, times and duration of the problem and a description of its nature e.g. barking dogs. You will also need to demonstrate the impact the nuisance is having upon the reasonable occupation of your home.

If the Court are satisfied that there is a nuisance they may issue an order requiring the nuisance to stop or prohibiting its recurrence.

For further information contact the Clerk of the Court, Durham Magistrates Court, Old Elvet, Durham, DH1 3HW.



## **Instructions on completing Diary Sheets**

Thank you for taking time to complete this diary sheet, describing the problem/behaviour you are experiencing.

Diary sheets are very important because they provide us with a picture of the behaviour and assist us in what action we need to take to find a solution.

In those serious cases where we have to go to court, they also illustrate to the Judge what has been happening, who has been causing it, and how long it has gone on for. Most importantly, they show the Judge how it is affecting you.

Please do not be put off from completing diary sheets. We use the evidence in them to determine what appropriate preventative and or enforcement action could be taken in response to the problem.

**There are some circumstances where the law requires the Council to take action and that action may result in the person causing the nuisance being able to identify who you are. The Council would need you to attend Court as a witness if the action resulted in criminal proceedings against the person causing the nuisance. If this is a concern for you, please discuss it with the Investigating Officer. In some circumstances, your name and address can remain anonymous / confidential and therefore you would not have to attend Court unless you want to. If you wish to remain anonymous, this will limit the types of action we are able to take, but again, this can be discussed with the Investigating Officer. Even if you want to remain anonymous, we still need you to put your name and address on the diary sheet otherwise we may not be able to take action on the information you have provided.**

- It is important that all sections of the diary sheets are completed with as much detail as possible. Write as much information as you can. If you have any questions, please do not hesitate to contact the Officer dealing with the case who will be happy to advise you.
- Please note that you should only record those incidents that you have witnessed directly and not information that has been told or passed to you by another person. If you do wish to pass on this type of information, please let us know who told you and we can try to speak to them directly.
- **All information will be dealt with in the strictest confidence.**

### **Declaration**

The record above is true and represents the type of behaviour I / we are experiencing.

Signed \_\_\_\_\_ Date: \_\_\_\_\_

***If considered necessary by the Council would you be prepared to make a statement and give evidence in Court? YES / NO (delete as appropriate)***

**Please return all completed diary sheets to the investigating officer.**





