

ARE YOU CREATING A NOISE NUISANCE?

INTRODUCTION

This advice leaflet has been prepared to assist you in the event that you have been accused of causing a noise nuisance. It is possible that you have received this leaflet because of your own enquiry or as a result of a complaint having been received by the City Council.

The leaflet goes some way to advise you on how to avoid causing unnecessary noise nuisance and includes some sensible 'dos' and 'don'ts' if you wish to maintain friendly relationships with your neighbours.

The law recognises that frequent disturbance by noise is not only an annoyance, but also causes stress and ill health, particularly if sleep is affected.

Most complaints made by members of the public to the Environmental Health Division concern noise nuisance, and of those complaints the most common relate to barking dogs, excessively loud amplified music, unreasonable shouting, slamming doors, other domestic activity including DIY, continuous or frequent sounding of intruder alarms, and noise from vehicles including vehicle alarms, loud music, slamming doors, revving engines, and tooting horns.

More often than not, these noises are a problem because they are occurring at noise sensitive times, either late at night or in the early hours of the morning, or both. The noise can be so loud or annoying in its character that it can be a problem at any time, but all noise will be more noticeable and potentially more disturbing at quieter times of the day.

Living in close proximity to other people requires compromise. Neighbours must be fair to each other, that is, not to make too much noise too often, nor to expect total quiet. It is about being reasonable and considerate, and achieving a balance between doing what it is that you would like to do in or near your premises, and what your neighbours can reasonably expect in terms of the quiet enjoyment of their property.

WHO CAN TAKE ACTION?

YOUR NEIGHBOUR

▪ INFORMAL ACTION

Your neighbour may approach you directly to let you know that you are causing a disturbance. Please recognise that most neighbours need to pluck up the courage to discuss their problem with you face to face, and it is only fair and courteous that you give him a sympathetic hearing. This is also an opportunity to put your view forward if you feel that you have not behaved unreasonably, or to agree upon a reasonable compromise that will be fair to both parties. Try and stay on good terms with your neighbour. Confrontation and a breakdown in communications will not help the situation, and will usually make matters worse.

Your neighbours might prefer to drop you a note to let you know about their problem. Again, look at the complaint sympathetically and try and sort out the matter amicably. Whether they choose to meet you, or write you a line, in either case he is being fair because they are giving you a chance to consider their problem and to take action in an informal and polite manner.

Of course, **your neighbours also have the right to tell the council about the problem and to ask for assistance at a very early stage.** A visit, or a letter, from an officer of the City Council might be

the first time that you are being made aware of the problem. Whichever is the case, you will be asked to put your side of the story if you wish, and to take corrective action on an informal basis. If the nuisance stops, then there will usually be no need for further investigation or more formal action by the City Council.

▪ YOUR NEIGHBOURS LEGAL RIGHTS

Your neighbours have legal powers to take a complaint further. Under Section 82 of the Environmental Protection Act 1990, they can make a complaint about the noise nuisance direct to the Magistrates Court. Your neighbours are obliged to give you notice in writing of the complaint, and to tell you that they intend to take legal action. They must take this action at least three days before making a complaint to the Court. This gives you a further opportunity to sort matters out before the case comes to Court.

If the Court is satisfied that your neighbours have good evidence to support their complaint of noise nuisance, and you will be summonsed to appear at a court hearing where a Magistrate will hear the full case against you. If you lose the case, the Magistrate can make an Order requiring you to abate the nuisance, and, additionally, you may face a fine. You might be required to pay the costs of the case. If the nuisance still continues then you will have committed an offence, and you will be required to return to Court.

THE CITY COUNCIL

Your neighbours have the right to make a complaint of noise nuisance to the City Council, and the **Council has a duty to investigate and to take action if the complaint is substantiated.** The investigating officer will deal with the complaint and the concerned parties in a fair and even handed manner. However, it is usual practice to keep the complainants details confidential.

The Council's principal powers in relation to statutory nuisances are contained in Sections 79 to 80 of the Environmental Protection Act 1990, as amended by the Noise and Statutory Nuisance Act 1993.

to a formal investigation being made, an officer of the City Council will normally write to you informally to let you know that a complaint has been received and giving you details of the complaint. Initially you will be requested to consider the complaint and to abate any nuisance arising from your premises, and if the nuisance stops, then there will be no further action taken.

In some cases, the investigating officer might initially visit you at your premises to discuss the problem. In the case of a barking dog, this may be the dog warden. But whether you receive a letter or a visit in the first instance, we appreciate that there are two sides to a story, and you have the opportunity to tell us your side of the case, and what you say will be taken into consideration.

If the nuisance continues, then a formal investigation will be undertaken. **If the investigating officer has evidence that the complaint appears to be justified you will be allowed one further informal opportunity to stop any problem occurring. If the nuisance continues after this then the City Council has the duty to serve a legal notice on the person(s) responsible for the nuisance.**

The noise nuisance abatement notice will clearly detail the nature of the nuisance, what must be done to abate the nuisance, and allow you time to take appropriate action. Sometimes the notice will require immediate action where this is reasonable in the case. You have the right to appeal to the Magistrates Court within 21 days if you disagree with the notice, but where the action required is immediate or within less than 21 days, the notice must usually still be complied with before the appeal is heard.

If there is evidence that the notice has not been complied with, without reasonable excuse, then an offence has been committed and legal proceedings may then be instituted to secure compliance with the notice. In Court, the Magistrate can impose a maximum fine of £5000 on persons found guilty of an offence on domestic premises, and up to £20,000 where the nuisance arises on trade or business premises. There may also be a daily penalty for as long as the nuisance continues.

WHAT CONSTITUTES A 'NOISE NUISANCE'?

A simple definition of noise is 'unwanted sound'. When this unwanted sound becomes a nuisance depends on various factors. Faced with an accusation of causing a noise nuisance, it is useful to ask yourself a number of sensible questions - these are the sorts of questions which an investigating officer or a Magistrate would ask:

- **Is the noise loud, and/or does it have some other annoying quality which makes it disturbing?**
- **Is it frequent and/or how long does it normally last?**
- **Does the noise occur at unreasonable times, such as very early in the morning or too late in the evening?**
- **Is it due to unreasonable behaviour, and is the noise problem easily put right?**
- **Does the noise arise from normal behaviour, and/or is the real problem poor sound insulation between the premises?**

Crucially, would a reasonable person consider the noise to be a nuisance, having regard to the circumstances? Environmental Health Officers will apply their professional judgement in each case when making a decision, and a Magistrate will normally accept their view.

To reduce noise problems to neighbours, here are some simple guidance:

Do think about your neighbours when planning to do something very noisy, e.g. having a noisy party, playing loud music or DIY work. Speak to your neighbour beforehand if possible.

Do be sympathetic and co-operative if asked by a neighbour to reduce noise.

Do turn amplified music down at a reasonable time, especially if you have elderly, very young, or ill neighbours to consider.

Do realise that your pleasure should not lead to your neighbour's distress.

Do fit your house alarm with a cut-out device and properly maintain the system to prevent frequent and unnecessary triggering of the alarm.

Don't play your hi-fi too loud, especially at noise sensitive times.

Don't have frequent or late parties in the same house or flat.

Don't use noisy domestic appliances too late at night.

Don't leave dogs alone for long periods, especially outdoors.

Don't allow children to jump on floors if this disturbs people below.

Don't sound car horns, slam doors and rev engines at night.

Please feel free to contact us if you require further advice or information:

Manchester City Council, Public Protection, Environment on Call, PO Box 204, Manchester. M12 5WL or telephone: 0161 234 5004, Fax: 0161 274 7245 Email: envhealth@manchester.gov.uk