



NEIGHBOURHOOD NOISE NUISANCE

INTRODUCTION

It is likely that you are reading this leaflet because you recently made a complaint to the department about a noise nuisance. This leaflet is designed to give some general guidance on what to do when bothered by excessive and unreasonable noise. In terms of this guide, 'neighbours' can mean local businesses as well as your immediate residential neighbours, and 'noise' can include vibration.

What is Noise Nuisance? - Noise is generally defined as "unwanted sound". However, no one has the right to absolute silence, and some people are less tolerant of certain types or levels of noise than others.

Noise nuisance to neighbours is inevitable from time to time because we live in very close proximity to others. When deciding whether a noise is a 'statutory noise nuisance' with legal remedies, the main criterion used is 'reasonableness'.

Consider these factors about the noise you are complaining about:

- How loud is the noise, and/or does it have an annoying quality?
- When does the problem occur - is it at a sensitive time of the day or night?
- How long does the noise normally last, and how often does it occur?
- Is the problem due to unreasonable behaviour, and is it something which could be easily put right?
- Is the noise caused by normal behaviour, or is the real problem poor insulation between the properties, especially flats?
- Would an average and reasonable person consider this noise to be a problem, or is the complainant possibly over sensitive to the noise because of personal expectations or circumstances?

These are the sorts of factors which the Local Authority must consider when making a judgement about whether the problem you are complaining about is likely to be a statutory noise nuisance, and whether it would be proper to take further action against your neighbour on your behalf. Ask yourself these questions when deciding whether the complaint is one that you wish to pursue, possibly in the Courts. Remember that your neighbour has 'rights' too, and the Council must deal fairly with all parties involved in the situation.

Remember that there are, at present, no legal "permitted" noise levels or times, and that the assessment of noise nuisance is usually a subjective matter. This normally relies more on what the ear can hear, rather than measurement with a sound level meter, together with an application of the notion of 'reasonableness' based on the factors described above.

DEALING WITH NOISE PROBLEMS - THE FIRST STEP

The Direct Approach - Solving a noise problem involves communication. **In the initial stages, it is usually courteous to make a direct and informal approach to the neighbour responsible for the problem yourself.** Your neighbours may not be aware that they are causing a nuisance, and this approach often secures a satisfactory improvement. Admittedly, some neighbours can be difficult to approach. Try to arrange a casual discussion at a suitable time when both you and your neighbour are unlikely to be too tired or stressed. It is best to be polite, reasonable, firm, and to have accurate details of your complaint. Explain how the noise is affecting you, and ask if they could do something about it. It might be helpful to take along a friend or another neighbour to

support you, but keep the discussion as far as possible friendly and reasonable. Be open to accepting a compromise situation if this is fair and maintains good neighbour relations.

Or, if you feel you are unable to personally approach the neighbour, consider writing a polite letter giving the facts as you see them without making unnecessary comments, and remember to keep a copy of any correspondence.

The direct approach assumes that there is still a reasonable relationship between you and your neighbour. **Taking a very formal approach at the outset may result in future contacts being confrontational.** A breakdown in friendly relationships and communications with your neighbour is not going to help resolve your problem, and may even make matters worse. **Obviously, if there is any risk of violence, then keep away! If you are threatened with violence, contact the Police for advice immediately.**

HOW THE CITY COUNCIL CAN HELP

If, despite your own informal approaches the nuisance persists, or possibly because you are reasonably frightened of your neighbour and feel unable to make a direct approach, then you can ask the Council to help.

Section 80 of the Environmental Protection Act 1990 gives the Council powers to deal with statutory nuisances. We will need to know the nature of your problem, where the noise is coming from if known, your name and address and details of any action you have already taken to try and resolve the problem informally.

Anonymous complaints may not be investigated because of difficulties in gathering information about the problem and trying to prove that someone is being affected by the alleged nuisance, but you can seek advice from the Council without giving personal information about yourself in the first instance.

As an initial step, a neighbour will usually be sent an informal letter advising them that a complaint has been received, together with some helpful information about noise problems. **Please be reassured that your neighbour will not be told who is complaining.** We will write to you at the same time asking you to monitor the situation for evidence of any improvement to the problem. Of course, in some cases it might be obvious to a neighbour who the complainant is, and if the matter were to be brought before the Court, then we may need you as a witness in the case. However, you will be consulted at all stages of the investigation about the action the Council will take. **Fortunately, the majority of noise problems are resolved at a very early stage, without recourse to court action.**

You will normally be asked to keep a diary of noise events if the initial advisory letter to your neighbour does not achieve a satisfactory level of improvement. The diary will ask for details such as dates and times the noise is occurring, the type of noise you are complaining about, any other witnesses to the problem, and how you are affected by the nuisance. If the noise problem is easily witnessed, then visits to your premises will usually be made at this early stage.

The next course of action will usually be dependent upon the evidence of your diary records, and/or any other evidence which may be available. If the available evidence indicates that there appears to be a problem occurring which is actionable by this Division, then the neighbour will be told in writing that a noise nuisance investigation is in progress. The neighbour will be asked again to take appropriate action to stop any nuisance occurring, but that if the nuisance stops, then no further action will be taken. Your neighbour also has the right and the opportunity at any stage of this investigation to contact the investigating officer and to give their side of the story concerning the complaints if they so wish.

If after this second notification there is still no satisfactory improvement, then you will need to contact the City Council Officer who is dealing with your complaint for further advice.

Further action will require evidence and visits to your home or premises at appropriate times, which will be arranged with you in an attempt to witness the noise problem. Being able to witness the nuisance is essential if further formal action is to be taken by the Council against your neighbour.

If the noise you are complaining of is frequent, and at predictable times, then witnessing your problem is unlikely to be too difficult. After listening to the noise, and taking into account all the other circumstances, the investigating officer will come to a decision as to whether a statutory noise nuisance exists. **If the officer witnesses a statutory noise nuisance, a legal notice will be served requiring that the nuisance be abated within a specified period.** If the noise nuisance continues after this period, then further visits will be required to hear the noise and to prove that the noise nuisance notice has not been complied with.

If breaches of the Notice are established, the Council's Solicitor will be consulted with a view to taking the matter to the court. Your own evidence may also be required and you may then be asked to act as a witness in support of the action against your neighbour.

Unfortunately, many alleged noise nuisances are unpredictable, and they can occur late at night or in the early morning hours, or the noise may be infrequent or of short duration. We will endeavour to carry out a full investigation into your complaints, but **witnessing the nuisance occurring will prove to be much more difficult, or may not be possible.** If nuisance is proven to the satisfaction of the investigating officer, the action outlined above will be taken.

What if a reasonable investigation has been carried out, but this fails to substantiate your complaint, what next?

TAKING YOUR OWN ACTION

The Law recognises that in certain cases of noise nuisance it is difficult for the Local Authority to obtain a satisfactory amount or quality of evidence which would be needed to take the formal action (outlined above) under the powers offered by Section 80, despite a proper investigation having been made, and given the necessarily limited resources available to the Council to assist you.

For this very reason, Section 82 of the Environmental Protection Act 1990 gives you the right to make a complaint directly to the Magistrates Court. If your complaint is successful they will make an Order upon the person responsible to abate the nuisance. You do not need a solicitor.

Before making the complaint, consider carefully the factors outlined earlier. In all the circumstances, is your complaint reasonable? You must also remember that you will need to support your allegations with evidence. This can be verbal, but you are strongly urged to keep a running diary of noise nuisance events. This will add substance to your complaints, and aid your memory of events.

If possible get the support of witnesses, and particularly any neighbours who might also be suffering the noise. Never be tempted to act in any way which would allow your neighbour to make counter allegations against you, as this will weaken your case considerably.

If, because of the circumstances, you need to take, or wish to consider taking your own action under Section 82, then contact this Department and ask for a copy of the **"Taking Your Own Nuisance Action"** leaflet, which explains more fully the law and procedure to take your own nuisance action.

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