

NOISE ENFORCEMENT PROTOCOL

Noise has been defined as sound unwanted by the recipient. The degree of annoyance is dependent upon the type, frequency, duration and time of the sound, and the recipient's attitude to it. Noise can arise from many sources, such as:

- Neighbourhood e.g. amplified music
- Animals e.g. barking dogs
- Street e.g. ice cream van chimes
- Commercial / industrial e.g. extraction fans
- Leisure e.g. clay pigeon shooting
- Construction / demolition e.g. plant noise
- Audible intruder alarms e.g. house or car

However the following sources cannot be dealt with as actionable noise complaints:

- Road traffic
- Over flying aircraft
- People shouting or slamming doors

This Protocol broadly describes the agreed standards of service for all noise complaints. The following principles have been adopted in this Noise Enforcement Protocol as a summary of the public's reasonable expectation in dealing with noise:

- To be able to sleep at night without disturbance
- To be able to enjoy the use of one's property without unreasonable interference from noise
- Qualified professional staff available to assess the existence of statutory nuisance
- Respond out of normal office working hours where necessary to assess statutory nuisance

(A statutory nuisance is something which causes a significant deterioration in the use or enjoyment of your home)

In general noise can be categorised into 3 types:

- Noise which occurs continually e.g. extraction fans at industrial premises
- Noise which, by and large, follows a regular pattern e.g. amplified music every weekend from a public house
- Noise which occurs randomly e.g. amplified music from domestic premises

Complaints to the Environmental Health Section can be received in a number of different ways:

- In person
- By letter
- By telephone
- Via a third party e.g. councillor, MP
- Outside normal working hours via Careline.

In all instances the case officer will respond to the complainant within the performance indicator target, except in the case of a new complaint received out of normal working hours when a response will be made the next working day when ever practicable.

The investigating officer has discretion in the manner of his / her investigation bearing in mind the CIEH Noise Management Guide. However in general, but depending upon individual circumstances and available information, one or more of the following courses of action will be taken after an initial investigation by the case officer:

- Visits will be made at times the alleged nuisance is likely to occur
- Noise monitoring and recording equipment will be left at the complainant's home
- The complaint will be registered on the 'out of hours' list for investigation by the duty call out officer

In most instances the complainant will also be required to maintain diary sheets for typically 21 days (standard letter), initial correspondence to the complainant will also include Worcester City Councils Noise leaflet. The purpose of the diary is to build up a picture that will help in establishing whether a nuisance exists and to help in the effective targeting of resources. Diary sheets can also be used in evidence in legal proceedings. Contact with the complainant shall be instigated at least every 21 days to keep them informed of the progress of the investigation.

The person causing the alleged nuisance will be contacted at an early stage and informed that their activities are allegedly causing a nuisance, standard letter . They will be given the opportunity to change their behaviour. Following this and on subsequently establishing that noise amounting to a nuisance is occurring or likely to recur they will be served with an abatement notice.

Should the complainant specifically request that the person causing the alleged nuisance is not contacted at an early stage in the investigation, then on establishing a noise nuisance or the likely recurrence of one, and in line with the Enforcement Concordat, they would be told that any future occurrence will result in the service of an abatement notice.

Following the service of an abatement notice Environmental Health staff are contactable 24 hours per day to respond to notification that the terms of the notice have been contravened, and will make all reasonable efforts to visit as soon as is practicable.

Where complainants have stated that they will not give evidence in Court, should legal proceedings be necessary, then formal action will not be taken by the Council.

Complainants will be advised at the outset on how to take their own action and will be sent the guidance leaflet, Appendix1, and the Mediation South Worcestershire leaflet.

ADVICE ON HOW TO TAKE PRIVATE LEGAL ACTION FOR PROBLEMS CAUSING A NUISANCE

General nuisance problems arising from such things such as barking dogs, loud music, DIY work, amplified music, bonfires, smell and odour problems and noise from construction and demolition sites often cause annoyance. However, due to the fact that these type of problems are often intermittent, irregular or unpredictable in occurrence they are difficult to control.

Sometimes it is not possible for officers of this Section to witness the problem, and take legal action to resolve the problem.

The law under section 82 of the Environmental Protection Act 1990 enables any person affected by a nuisance to make a complaint direct to a Magistrates Court and request the issue of a summons.

You may wish to consider taking such action in which case you should follow the recommended procedure below:-

- Discuss the problem, if possible, with the person creating the nuisance. They may not be aware that they are causing the problem.
- If the nuisance continues, write to the person explaining the problem, ensuring that the letter is dated and a copy is kept for future reference.
- If the problem continues, gather all the relevant information you need to present to the Court. You should provide the full name and address of the person causing the nuisance.
- Detailed evidence is important so you are strongly advised to keep a written record of the time the nuisance starts and finishes, a brief description of the type of problem and the effect it is having on you, eg. Preventing or interrupting you from sleep, relaxing, reading or watching the T.V.
- You may wish to take legal advice or consult a solicitor although you do not have to do so.
- Before you take out proceeding against any person you will need to give them formal written notice of your intention to do so on the attached form. There needs to be 3 days written notice in respect of Noise Nuisance and 21 days notice in respect of other types of nuisance.

When you are satisfied that you have sufficient evidence and you have given notice, you will need to visit your local Magistrates Court.

