

Noise



What is a noise nuisance?

Many people do not realise that their music or other noise may cause a nuisance to their neighbours. They might act in a more responsible and considerate way if you politely tell them about the problem.

Under the Environmental Protection Act 1990, we can take action against anyone who causes a statutory noise nuisance to their neighbours. A statutory noise nuisance is much more than just being able to hear a noise, it has to have an unreasonable effect on a person's use of their home or garden.

Many other factors determine whether or not a noise is a statutory nuisance, and these can be:

- the time of day or night;
- where you are (for example, in the countryside or a town);
- how long the noise lasts;
- the volume of the noise; and
- the type of noise.

A noise nuisance can be caused by many things including music, DIY, motors and animals.

If you have any comments on noise from road traffic, phone Essex County Council Highways on 0845 6037631.

If you have any comments on noise from aircraft or from Southend Airport, phone Southend Airport on 01702 608100.

Information

You should first try to deal with the problem in the following ways.

- By talking to the person responsible for the noise.
- By using a mediation service such as Positive Solutions Mediation Ltd.
Phone: 01268 220835
Website: www.psmmediation.co.uk

Making a complaint

If you cannot sort the problem out yourself, you can make a complaint to us. We will only take legal action if we are satisfied that the noise can be considered to be a statutory nuisance and we have evidence (suitable for a court) to support the case. In most cases, we will follow the procedure below.

- We will send an informal letter to the person you have complained about to tell them about the problem.
- We will give you a set of diary sheets that you may want to fill in to show when and how the noise affects you.
- One of our officer's may visit you to make an assessment.
- If your diary shows that the noise may be a nuisance, we may also install noise-monitoring equipment in your premises.

- If we find that the noise is causing a statutory nuisance, we will send the person responsible an 'abatement notice' telling them to stop or reduce the nuisance, or to prevent it from happening again.
- If the noise continues, we will give you a further nuisance diary and an officer may visit you again to assess the noise.
- In some cases we will get a warrant to enter the premises and remove the equipment that is causing the nuisance.

If the person responsible has not taken the action set out in our abatement notice, our final option is to take them to a magistrates' court where they may be fined, and an order made for them to give up the equipment causing the noise.

Taking your own legal action

Under section 82 of the Environmental Protection Act 1990 you can take your own action against a person you think is causing a nuisance. The rest of this leaflet gives guidelines on what to do, but we recommend that you get professional advice from your own solicitor.

You should go to the clerk's office at the magistrates' court. Explain that you want to make a complaint under section 82 of the Environmental Protection Act 1990. You will need to provide evidence of the nuisance to show that you have a case.

Rochford District Council

Council Offices, South Street, Rochford,
Essex SS4 1BW

Phone: **01702 318111**

Email: **customerservices@rochford.gov.uk**

Website: **www.rochford.gov.uk/noise**

The clerk will tell you that you **must** give the person responsible for the nuisance three days written notice that you intend to take action in the magistrates court. Make sure that your records, and those of any other witnesses, are kept up to date and that your witnesses will support you in court.

The clerk to the court will set a date for the hearing, and will send a summons to the person responsible (you may have to pay a fee for this). In court, you will have to explain your case and produce the diary you have kept. Your witnesses will also have to give their comments. The person you have complained about can cross-examine you.

If the magistrates are convinced that you have a case, they will make an order for the nuisance to stop. The court can also fine the person responsible for the nuisance. If the person responsible ignores the order, you must keep records of the continuing nuisance and, if necessary, return to court with your evidence.

You may find our leaflets 'Other sources of help and advice' and 'Statutory nuisance – taking your own private action' useful.

The magistrates' court serving the area is:

Southend-on-Sea Magistrates' Court
80 Victoria Avenue
Southend-on-Sea
Essex SS2 6RG

Phone: 01245 313300

If you would like this information in large print, Braille or another language phone us on
01702 318111