

Environmental Health

Have you received a letter about nuisance



Answers to questions you may have after a complaint about a nuisance is made against you

Why didn't my neighbour speak to me about this?

We always encourage people to discuss any problem with their neighbour before making a complaint. However, some people are not comfortable doing this, and this may not necessarily be a reflection upon you. By law, we must investigate all complaints that we receive, and that is why you have been contacted. It does not mean that we agree or disagree with your neighbour.

I think this complaint has been made because of a dispute over another matter. What should I do?

We do not want to waste time and money dealing with a complaint that may not be genuine, or that has been made because the person making the complaint has fallen out with their neighbour over another matter. In many cases, we do not know the background of the situation until the person being complained about tells us. However, by law we must continue to investigate the complaint.

In cases where the relationship between neighbours has broken down, we can recommend a mediation service.

(Mediation is where you sit with your neighbour and a trained mediator to calmly talk about the problem and how it can be solved.)

This does not bother my other neighbours, so how can it be a problem?

By law, we do not need to receive more than one complaint before we become involved. Your neighbours may genuinely not be affected by your actions, or perhaps they are affected but do not feel confident enough to mention it to you.

It can be difficult to judge whether you are disturbing your neighbours as what bothers one person may not be a problem to another. Some people may not be fussed about what noises they hear between 8am and 5pm, but strongly object to anything outside of these hours.

People who are being disturbed by a nuisance often find it difficult to complain because they do not know whether the problem is against the law. And very often it can be difficult for us to give them advice until we have investigated their complaint further.

Decisions about whether something is a nuisance are based on how the problem would affect an average person. We often put ourselves in the position of the person complaining and ask: 'If I was the person living with this problem how would it affect me, and could I put up with it?'

What do you look for when investigating a complaint about a nuisance?

Nuisance law is criminal law, so we have to gather enough evidence to prove to a court, beyond reasonable doubt, that this problem is a statutory nuisance (that is, a nuisance that is recognised by law and that we can take action against). This usually involves looking at how long the nuisance goes on for, how often it happens (for example, every day, every week, once a month and so on) and what time it happens at. This is because some nuisance, like noise, may cause more of a disturbance if it happens late in the evening or during the night.

The setting the person making the complaint lives in is also important – a person living next to a farm might expect to hear noise very early in the morning, and also to notice some farmyard smells! Our investigating officer will make an assessment to decide whether something is just irritating and annoying, or whether it is a statutory nuisance.

What powers do you have to stop something if it is a statutory nuisance?

If our investigation finds that the problem is a statutory nuisance, we could issue an abatement notice. This is a legal document that orders you to stop causing the nuisance. It may also contain conditions to make sure that you do not cause a nuisance in the future.

Not keeping to an abatement notice is a criminal offence, and you may be prosecuted and have to pay a fine.

You could be fined up to £5000 for nuisances arising from a home, and up to £20,000 for nuisance from industrial or trade premises. You may also have to pay our costs of taking you to court.

For noise nuisance we can seize and remove any item causing the noise nuisance, including CDs, tapes, musical instruments and so on.

So, if you don't want to do anything, does this mean I am not breaking the law?

Not necessarily! We may decide not to take action because we do not have enough suitable evidence to decide whether there is a statutory nuisance, or there may be some other reason that prevents us from completing our investigation.

We may get involved again if we receive another complaint in the future, as we have a duty to investigate all complaints of nuisance.

If the person who originally complained makes another complaint, we will try to make sure that they have good reason to want us to investigate the matter again.

If the person making the complaint does not want to involve us, they can take action themselves by taking their complaint direct to the magistrates' court under section 82 of the Environmental Protection Act 1990.

Does this complaint mean that I cannot even enjoy myself in my own home, and use it as I want to?

For a problem to be considered a statutory nuisance it has to be unusual or excessive for the type of property and how it should be used, or something unreasonable or malicious that is being done by a person at that property and which affects another person living in their property.

The law is not intended to restrict you, and it recognises that there will be some circumstances where your actions may have an effect on your neighbours. In fact, the outcomes of previous court cases have shown that using a home normally does not amount to a nuisance.

If properties have shared walls (terraced and semi-detached properties), a certain amount of noise (for example, occasional DIY noise or noise arising as part of everyday life) is going to be heard. Similarly, there is nothing in the law to prevent single events such as a one-off garden bonfire that is smoky or a one-off party or celebration that is noisy. But you still have a responsibility to take reasonable steps to keep the disturbance you might cause to your neighbours to a minimum.

What can I do to avoid causing a nuisance to my neighbours?

We have a range of leaflets that explain the law and give some suggestions to help you prevent causing a nuisance.

We have leaflets on the following:

- DIY noise
- Being a considerate contractor
- Barking dogs – advice to owners
- How to reduce cockerel crowing
- Noise nuisance
- Premises and vehicle alarms
- Bonfires and smoke
- Dark smoke
- Odours
- Light nuisance

You can view or download a copy of these leaflets from our website at www.rochford.gov.uk/nuisance

Citizens Advice

Website: www.citizensadvice.org.uk

Legal Aid Agency

Website: www.justice.gov.uk/legal-aid

Rochford District Council

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

Phone: **01702 546366**

Email: customerservices@rochford.gov.uk

Website: www.rochford.gov.uk/nuisance

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