

Environmental Health

Noise nuisance



Nuisance policy

We are committed to protecting the environment, and the health of our residents, from the effects of noise pollution. This booklet provides information about our policy on dealing with complaints of nuisance, and acts as a guide for those who have made, or are considering making, a complaint.

We believe that residents in the Rochford District area should have the following rights.

- To be able to sleep without disturbance during the times normally used for sleeping. However, light sleepers and those sensitive to noise will have to accept some disturbance.
- To have access to qualified staff, including out of normal working hours when arranged beforehand, to assess the nuisance.
- Not to regularly hear excessive noise from neighbours (for example, loud music, barking dogs, alarms, DIY).

This guide deals mainly with ways to control noise. However, we investigate complaints about other nuisances (for example, bonfire smoke, smells and so on) by following the same general procedures and principles.

Statutory nuisance

From time to time, we are all exposed to noise from other people's activities. If this noise becomes too loud, lasts a long time or is at an unreasonable time of the day, we can assess whether or not the noise amounts to 'statutory nuisance' (that is, nuisance as defined by law) and decide what action we can take.


The Environmental Protection Act 1990 (as amended by the Noise and Statutory Nuisance Act 1993 and the Noise Act 1996) gives us the power to investigate complaints of a nuisance, and to take action if we are satisfied that there is a statutory nuisance.

Nuisance, in terms of the Environmental Protection Act 1990, can be defined as:

'An unreasonable and significant emission of noise that causes significant and unreasonable interference with the use and enjoyment of your premises'.

It is much more than just being able to hear a noise, or something that is annoying or irritating.

Nuisance law is criminal law, and offenders could be fined and have any equipment making the noise taken away from them. So, we must gather enough evidence to prove 'beyond all reasonable doubt' that there is a nuisance, and that the steps we have taken to stop the noise are reasonable.



This evidence may include evidence you provide, and it often takes time for us to gather and assess all the evidence we need.

In some cases, even if we prove that there is a statutory nuisance, the person responsible for the nuisance can make a 'best practicable means' defence.

This defence is only available to businesses, and only if they have taken all reasonable and appropriate measures to prevent the nuisance.

Making a complaint

Before you make a complaint, we recommend that you try talking to the person causing the problem in case they do not know that they are disturbing you. If this does not solve the problem, you can complain to us as follows.

During office hours

You can make a complaint during normal office hours in the following ways.

By phone: 01702 546366 or on-line: www.rochford.gov.uk/noise

In person or in writing: The Council Offices
South Street
Rochford
Essex
SS4 1BW

Out of office hours

We do not currently offer an out-of-hours service for reporting a noise nuisance.

Your complaint **must** include the following details.

- Your name, address, phone number and e-mail if you have one, so we can keep you informed
- We will not reveal your name and address, but the person you have complained about may guess this. Also, your address may have to appear on a legal notice, or you may need to be a witness if the case goes to court. Sometimes we may need to share your details with another agency like the police, to help resolve your complaint, but we will advise you if we need to do this.
- If your complaint does not include your name and address, we will **not** investigate your complaint as we need this information to get evidence about how you are being affected.
- The exact address (or site) the noise is coming from and the type of noise (for example, loud music, barking dogs).
- When the noise happens and how long it goes on.
- The way the noise affects you (for example, stops you from sleeping).
- Where, when and in what circumstances you can hear the noise (for example, in the lounge over the sound of the TV).
- Any action you have taken to try to deal with the problem (for example, talking to the person causing the problem).

Types of complaint and what we will do

If you contact us by phone, a member of our customer services team will record your details and the details of your complaint. A case will be raised and passed to a member of our Environmental Health team, who will aim to contact you within five days.

The officer dealing with your complaint will tell you what action we will take. We will usually follow the procedure set out on the following pages.

Neighbour noise (general procedure)

If we accept your complaint, we will send a letter to the person you have complained about. This will tell them that a complaint has been made and ask them to consider ways to prevent their actions from being a nuisance.

At the same time, we will send you a letter to confirm what we have done. We will also send you a set of diary sheets for you to fill in if the nuisance continues. You would need to fill these in for a period of 21 days to give us evidence of the alleged nuisance.

These diaries are very important, and we may use them as evidence in court. Please be honest and accurate as magistrates do not look kindly on exaggerated or inaccurate evidence and may throw the case out of court.

If your diary sheets show that the noise is unreasonable and it happens during office hours, an officer may visit you to assess the nuisance. We may arrange a visit for regular nuisances that arise out of office hours.

Or we may leave a locked recording device at your premises for a period of time. You would need to turn the device on when the noise happens.

If we carry out visits, we will usually make up to three visits at the time when the noise is most likely to happen, and usually based upon when your diary sheets show the noise happens.

Barking dogs

We will follow the general procedure set out on the previous page. An officer will be willing to give advice to dog owners.

Noise from pubs, clubs, bars and restaurants

You should complain to the Licensing Team by phoning 01702 318058.

Noise from factories, building sites and public works (for example, roadworks)

We will follow the general procedure set out on the previous page. However, you must accept that noise from building sites and public works is often short lived, and a defence of best practicable means could be put forward. In some cases, we can take action, under the Control of Pollution Act 1974, to limit noise from building sites.

Noise from security alarms

We have procedures in place with the police, magistrates' courts, locksmiths and alarm specialists to allow us to enter premises and vehicles to silence alarms. However, if we have given the person responsible for the alarm a notice for causing a statutory noise nuisance, we need to give them at least an hour's notice before we can arrange this action. This notice period may be extended if we need to get a warrant to enter premises.

Vehicles, machinery, and equipment on the road (not including general traffic noise)

We can take action to deal with noise from stationary generators and compressors. It may not be possible to silence some generators, particularly if they are temporary and needed for safety reasons (for example, at mobile traffic lights).

Action when the nuisance is not witnessed by an officer

The officer that you are dealing with will tell you what action has been taken, and what further options are available to you.

You may need to take legal action yourself under section 82 of the Environmental Protection Act 1990 or a similar law. Your diaries will be a valuable source of evidence for this action. Please see our leaflet 'Statutory nuisance – Taking your own private action'.

Action when the noise is witnessed by an officer

The officer will make a judgement as to whether the noise amounts to a statutory nuisance.

If we are satisfied that the noise amounts to a statutory nuisance, we will issue an 'abatement notice' under the Environmental Protection Act 1990. However, we may first take informal action to try to solve the problem. We will explain to you what action we are taking.

It may be difficult to solve the problem to everyone's satisfaction. However, we will keep you informed of our progress.

Abatement notices

Once an investigating officer has decided that there is a statutory nuisance, we may issue a formal abatement notice.

An abatement notice is a legal document that orders the person responsible to stop causing the nuisance. It may also contain conditions to make sure that a nuisance is not caused in the future.

Penalties

Not keeping to the requirements of an abatement notice is a criminal offence and we can take 'works in default' (see page 10) to stop the nuisance. Offenders may be prosecuted in a magistrates' court, and they may have to pay a fine.

Offenders could be fined up to £5,000 for nuisances arising from a home and up to £20,000 for industrial or trade premises, plus any costs we are awarded.

Prosecution

We will consider prosecuting people responsible for making a noise nuisance if we think they have broken the law. We will first get advice from our Legal Services section to assess whether the legal action is likely to be successful.

Any recommendation Legal Services make to start legal proceedings must be authorised by a relevant senior officer of Environmental Health.

Works in default

Works in default can be any reasonable action we take to make a person keep to an abatement notice, and this may include the following.

- Getting a warrant to enter premises and turn off an alarm (we may change the door locks afterwards).
- Getting a warrant to enter premises and remove the equipment that is causing the statutory noise nuisance.
- Disconnecting car alarms.

We may charge the person responsible for the nuisance our reasonable costs of taking necessary action.

Seizing (removing) equipment

If the person responsible for causing a noise nuisance does not keep to their abatement notice, we can get a warrant to enter their premises and remove any equipment that is making the unreasonable noise.

Items we can remove include hi-fi equipment, musical instruments, CDs, tapes and so on.


If we prosecute the person responsible for the noise, we may get a 'forfeiture order'. This gives us the right to not return the items.

Complaints and compliments about our service

If you are not happy with how we have dealt with your complaint you can make a complaint using our website www.rochford.gov.uk.

Your case will be reviewed, and you will be sent a response.

If you think that we have dealt with your complaint particularly well, let us know as it encourages us to provide a better service.



Other advice leaflets that you may find useful are listed below:

- Bonfires and smoke
- Dark smoke
- Light
- Odours
- Premises and vehicle alarms
- Statutory nuisance - taking your own private action
- Other sources of help and advice

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

Rochford District Council

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

Phone: **01702 546366**

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

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