

Statutory nuisance - general advice



Under the Environmental Protection Act 1990 we must investigate complaints about nuisance, and take action if we are satisfied that the matter is a statutory nuisance.

What is a statutory nuisance?

Statutory nuisance is generally defined as nuisance that is unreasonable and significant, and which has an unreasonable effect on a person's enjoyment of their property. It is much more than just something that is annoying.

Examples of statutory nuisance include the following.

- Unreasonable and very loud noise
- A lot of smoke
- Blinding light
- Extremely strong-smelling fumes or odours

Making a complaint

Many people do not realise that they may be causing a nuisance. So before you make a complaint, we recommend that you try to talk to the person and politely tell them about the problem. If this does not solve the problem, you can make a complaint by phoning us or visiting our website.

If you contact us by phone, the person you first make your complaint to will make a record of it and put you through to a member of our team. If nobody on our team is available at the time, someone will call you back within five days.

The person dealing with your complaint will tell you what action we will take, and will usually follow the procedure set out in this leaflet.

Your complaint must include the following details.

- Your name, address and phone number so we can keep you informed. (We will not give these details to anyone else unless more formal action is necessary).
- The exact address (or site) the nuisance is coming from and the type of nuisance (for example, loud music, smoke, odour, light).
- When the nuisance happens and how long it goes on.
- The way the nuisance affects you (for example, stops you from sleeping and so on).
- Where, when and in what circumstances you can hear or notice the nuisance (for example, in the lounge over the sound of the TV or when the windows are open).
- Any action you have taken to try to deal with the problem (for example, talking to the person causing the problem).

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.

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.

What we will do

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 the nuisance happens during office hours, and an officer is available, they may visit you to assess the nuisance. We may arrange a visit for regular nuisances that arise out of office hours.

We will usually make up to three visits at the time when the nuisance is most likely to happen.

If we are satisfied that the matter 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.

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

Rochford District Council

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

Phone: **01702 318111**

Email: customerservices@rochford.gov.uk

Website: www.rochford.gov.uk/nuisance

What happens if it is not a statutory nuisance

The officer you are dealing with will tell you what action we have taken and what other options are available to you.

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

We may also be able to put you in touch with a mediation service which can help settle problems between neighbours.

We can investigate a number of issues relating to statutory nuisance. We have produced a range of advice leaflets (listed below) which explain the law and give some suggestions to help prevent causing a nuisance.

- Advice on being a considerate contractor
- Barking Dogs
- Bonfires and Smoke
- DIY noise – advice to householders
- Dark Smoke
- Light
- Odours
- Premises and vehicle alarms
- Noise
- 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

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