

Frequently asked questions by those who have had a noise complaint made about them.

1 Why have I received this letter?

Calderdale Council has received a complaint from someone who is concerned about noise in the area and they believe it is coming from your premises. If this is the case we are taking this opportunity of writing to you to alert you to this and give you the opportunity to moderate the noise and hopefully resolve the issue.

The Council has a legal duty to investigate all complaints concerning potential noise nuisance and this letter is the first stage of that process. The majority of neighbour noise complaints are resolved on receipt of this letter and result in no further action by the Council.

Please note that this letter is not a threat of legal action. If you are confident that you are not causing unreasonable noise disturbance to your neighbours you have nothing to worry about.

2 Why is neighbour noise such a problem?

The Council receives on average over 1000 neighbour noise complaints a year mainly from people who feel their neighbours are acting unreasonably by creating too much noise. These complaints consist of loud music, barking dogs, DIY noise, intruder alarms, raised voices and banging etc. Noise from neighbours cannot only be annoying and irritating but it can prevent relaxation, cause sleep disturbance and deprivation and result in long term damage to the health and the well being of the person suffering the noise.

3 How can the Council accuse me when they have not even heard the noise?

At this stage **we are not accusing you of making the noise**, we are merely drawing your attention to the fact that we have received a complaint that may or may not involve you or your property. We believe that people would want to know if someone had made a complaint that may concern them and informing you in this way is the most effective method.

We receive a large number of neighbour noise complaints and when we investigate them we find that they vary from being very serious cases of noise nuisance to others which are relatively minor problems. Some complaints also turn out to be totally unfounded and in a minority of cases some are deliberately malicious.

Receiving this letter gives you the opportunity to think about any instances when you or your family may have created unreasonable levels of noise, whether inadvertently or otherwise and what measures you could take to prevent a recurrence. It also sets out what action the Council can take if we receive further complaints. Furthermore it gives you the opportunity of contacting us if you feel the complaint is completely unsubstantiated, malicious or there are other background issues which you feel we should be aware of.

4 What happens next?

If we do not receive further allegations, nothing will happen and the file will be closed.

If we do receive further complaints and the Environmental Health Officer investigating the complaint considers it warrants further investigation then they will visit you to discuss the matter. The purpose of the visit will be to put the further allegations to you with dates and times of the alleged occurrences; they may also make suggestions as to how the issue could be resolved. They will also outline the action we will take if further complaints are received.

This action may involve monitoring the noise at the time it is occurring. The purpose of this is to gather evidence to establish whether or not the noise emanating from your premises is unreasonable and constitutes a statutory nuisance.

If the noise is considered to amount to a statutory nuisance then the Council is legally obliged to serve a noise abatement notice, normally on the person responsible for making the noise.

5 I have received a noise abatement notice; what should I do?

If you have received a noise abatement notice it means that the Environmental Health Officer who served it considers there is a **serious problem** in relation to noise emanating from your premises and you need to take action to stop it.

You need to read carefully the contents of the noise abatement notice and comply with the requirements of the notice within the timescales specified. Anyone receiving an abatement notice has the right to appeal to the magistrates' court within 21 days of service of the notice. Details of how to appeal are outlined in the notes contained with the notice.

6 What happens if the noise abatement notice is breached?

Breaching a noise abatement notice is a **criminal offence**. In terms of deciding whether or not to prosecute the offender for the breach of notice the Environmental Health Officer would be guided by the Environmental Health Enforcement Policy, a copy of which can be found on the Council's web site: <http://www.calderdale.gov.uk/environment/environmental-health/policy/index.html>

If there is evidence of continuing breaches of the notice we will consider applying for a warrant from the magistrates' court to enter your premises by force if necessary and **seize all noise making equipment**. This could be audio visual equipment (e.g. CD and DVD players and recorders, amplifiers, tuners, speakers; mp3 players, docking stations, music servers, computers, gaming machines, TVs, radios, CDs and DVDs etc). It could also include hand and power tools, and other plant and machinery.

If a warrant is granted then this will be executed at any time after the breach of the notice has occurred and no prior warning is given to the person breaching the notice. Equipment seized under this action is held pending a court case and the magistrates would then decide what to do with the equipment following the case. In our experience it is unusual for the equipment to be returned to the owner pending successful prosecution.

Fines of up to £5,000 can be imposed on someone breaching an abatement notice or £20,000 if commercial premises are at fault.

7 Can I play my music louder at some times of the day rather than others?

The law with regard to noise nuisance does not specify any set times at which you can play your music louder; neither does it specify any acceptable levels at which music can be played.

The concept of noise nuisance is based on reasonableness and being a good neighbour. It's all about thinking of the effect your music may have on others and having a bit of consideration. For example if you play loud music during the night time period you will disturb your neighbours and that is unreasonable and would be regarded as a noise nuisance.

When considering whether a noise amounts to a statutory nuisance the Environmental Health Officer will take the following factors into account:

- Type of noise
- How loud and/or annoying the noise is
- The time of day or night it occurs
- How often it occurs - taking into account when it first became a problem and when it is likely to cease.
- How long it lasts when it occurs

- Character of the area where the noise occurs (e.g. rural, residential, commercial, town centre etc.)
- Whether the complainant is being over sensitive.

Noise is likely to be considered a statutory nuisance if it prevents or significantly interferes with your neighbour from undertaking normal routine activities. (e.g. causes sleep disturbance, prevents them watching TV, does not allow them to open windows etc.)

You also need to be aware that it is not only loud music that has the ability to cause nuisance. Often people complain about problems with low frequency noise (the bass notes). The constant low level “thumping” that is prevalent in some types of music can be particularly irritating even at relatively low volume and could be sufficient to be regarded as a noise nuisance.

Clearly the type of property you live in plays a big part on whether or not people will be bothered by the noise you generate from playing music. This is particularly the case in back to backs, over and under dwellings, terraced, semi detached premises, and flats. Noise is transmitted from one property to another by the noise travelling through the air and also the structure of the building. Most dwellings are constructed to a standard that resists the passage of normal sound levels from one dwelling to another but cannot cope with excessive noise levels.

8 Can I agree times and levels at which I can play my music?

By far the best way to deal with neighbour noise problems is by talking to your neighbours, however we realise that this is not always possible for a number of reasons. In circumstances where it is possible you may be able to come to some agreement with regard to best times to play the music and also by agreeing acceptable volume levels. Setting acceptable volume levels has its limitations as the levels vary from different sources of music but nevertheless it may provide a basis for reaching a potential solution to the problem.

9 I thought I could create as much noise as like in my own home.

No, the requirements of the Environmental Protection Act 1990 with regard to noise apply to owner occupiers, tenants in social housing or private rented accommodation. If you create excessive noise that is deemed to be a statutory nuisance then action can be taken by the Council under the above Act.

10 Where can I get further information?

Further information about a specific complaint can be obtained from the Environmental Health Service. Contact details can be found at the top of our letters or on the Council’s web site. www.calderdale.gov.uk

General information about neighbour noise can be found on the following web sites:

- General information about noise nuisance - Directgov web site
http://www.direct.gov.uk/en/HomeAndCommunity/WhereYouLive/NoiseNuisanceAndLitter/DG_10029682
- General information about noise nuisance – DEFRA web site
<http://www.defra.gov.uk/environment/quality/noise/>
- General information about noise nuisance – National Society of Clean Air
<http://www.environmental-protection.org.uk/>
- The law on noise nuisance:
statutory nuisance - S79 Environmental Protection Act 1990.
<http://www.legislation.gov.uk/ukpga/1990/43/section/79>

abatement notices - S80 Environmental Protection Act 1990.
<http://www.legislation.gov.uk/ukpga/1990/43/section/80>
- Advice on barking dogs - DEFRA web site
<http://archive.defra.gov.uk/environment/quality/noise/research/barkingdogs/constantbarking.pdf>
<http://archive.defra.gov.uk/environment/quality/noise/neighbour/documents/barkingdog.pdf>