

Frequently asked questions by those making neighbour noise complaints

1 I've received the Council's letter and noise logs; what will happen next?

The person you have complained about has now been contacted and we have notified them that someone is concerned about the level of noise allegedly coming from their premises. We have asked them to moderate the noise so as not to cause annoyance to their neighbours.

In the majority of cases this initial contact is sufficient to resolve the matter and we do not receive further complaints. However if the noise continues and you are still bothered by it, we have asked you to keep a diary of any further incidents of the noise on the enclosed noise log sheets. The purpose of these logs is to record any further incidents of noise that cause you annoyance or disturbance so we can make an assessment of the complaint and determine what further action to take.

2 Why is it important to keep noise logs?

If you do not keep noise logs and submit them we assume our initial letter to the person you are complaining about has resolved the noise problem. No further action will be taken and the case file will be closed.

If you are still bothered by the noise after our initial letter you should keep the noise logs for at least 2 weeks before submitting them to the address on the noise logs. You can keep them for a longer period if you wish as sometimes the noise may reduce after the initial complaint but reoccur later or it may only be a weekly occurrence for example.

3 I've submitted my completed noise logs; what happens next and when?

We will assess the noise logs and if we consider the complaint is justified we will visit the person you have complained about to discuss the matter and suggest ways forward to resolve the issue. You can expect this to happen within 7 working days; however this will be dependent on workloads and sometimes may take a little longer. You will be contacted and notified of the outcome of our discussions.

4 The noise is still a problem even though the Council has contacted the offender; what are you going to do about it?

If the noise continues we will attempt to witness the noise either by undertaking a visit to your premises at the time the noise is likely to occur or we may install noise monitoring equipment to record the noise. If we consider

the noise amounts to a **statutory nuisance** then we will serve a legal notice, called a noise abatement notice, on the person causing the noise. This will require the person responsible for the noise to stop causing a nuisance. If that person does not comply with the terms of the notice then they may be guilty of an offence and may be prosecuted.

A person who has been served with a noise abatement notice has the right to appeal against the terms of the notice to the magistrates' court, within 21 days of service of the notice. To successfully defend the appeal, the Council must have sufficient evidence to justify its action in relation to the service of the notice in the first place and also that the steps we have asked the person to undertake to abate the noise nuisance are reasonable.

5 The Council has served a noise abatement notice but the noise is still occurring; is there anything else that can be done?

In cases where there are significant or persistent breaches of the abatement notice the Council will consider seizing any noise making equipment. This involves obtaining a warrant from the magistrates' court to enter the premises. This action is generally only taken in extreme cases.

6 What is the Council's responsibility in relation to noise complaints?

Under section 79 of the Environmental Protection Act the Council has a duty to take all reasonable steps to investigate noise complaints. In relation to neighbour noise it generally does this by writing to the person allegedly causing the problem, in the first instance, requiring them to reduce the noise.

In circumstances where further investigation reveals the noise amounts to a statutory nuisance then the Council will serve a noise abatement notice requiring the noise to be stopped altogether, reduced to a satisfactory level or limited to certain times of the day.

A person served with a noise abatement notice can appeal the notice within 21 days from it being served. If this occurs we may require you to appear as a witness in the magistrates' court. If a person on whom an abatement notice has been served does not comply with the terms of the notice, without a reasonable excuse, then they are guilty of an offence and can be prosecuted.

The Council does not have any powers to require noise to be stopped immediately without first determining that the noise amounts to a nuisance and serving an abatement notice. Not all noises complained of amount to a statutory nuisance and therefore there will be circumstances where the Council can take no action.

7 How much noise should I reasonably have to tolerate?

Sound plays an essential part of our daily lives and we rarely appreciate all its functions. For example it allows us to communicate with each other, it

provides enjoyable experiences such as listening to music, it can alert or warn us such as a ringing telephone or car horn.

People's perception of sound is often judged as to whether the sound they are experiencing is pleasurable and welcome. Sound that is unpleasant or annoying is called noise which is basically unwanted sound.

We all experience noise at some time of the day and have to tolerate it. For example the sound emanating from the earphones of an mp3 player may well be pleasurable to the listener but irritating to the person sat next to them on the bus. What is clearly music to one person is noise to another. In such situations where the noise is only a minor annoyance and of limited duration we tend to endure it or take action ourselves for example by moving seats.

Likewise in the home there will be noises emanating from neighbouring properties and the wider environment that affect us in our homes which ideally we could all do without, but in reality we all have to accept as they are part of every day normal living. The Council can do little about these normal every day annoying noises.

However, the Council has powers to deal with noise which amounts to a statutory nuisance; that is noise which can be regarded as unreasonable and excessive to the average person. The Council can deal with excessive noise which is causing significant disturbance and adversely affecting the quality of life of the average person undertaking normal activities in the home. It has not got the power to deal with noises that result in minor irritation or annoyance to individuals or to individuals who may be particularly sensitive.

8 Am I being over sensitive to the noise?

The circumstances of every noise complaint are different and people's reaction to noise is subjective. People who complain to the service often have a genuine concern about the noise they are experiencing and to them, as a lay person, anything that annoys them is a nuisance. However, whilst the Council will do what it can to resolve a noise complaint informally in the first instance, if that fails it has to have regard for the legal test for noise nuisance which is particularly rigorous and objective. For a noise to be a statutory nuisance it must be unreasonable and excessive and be more than a mere annoyance. Matters of personal taste and preference cannot be considered in relation to the assessment of noise nuisance.

Sometimes people can become anxious and preoccupied by a noise which when heard by an average person would be not be regarded as a problem. In such instances it is unlikely the noise would be regarded as a statutory nuisance. These circumstances can sometimes arise when a person has been subjected to a particular noise for a long period and they perceive it has getting worse over time but in reality it is the complainant's sensitivity to the noise that has increased.

The different lifestyles which people lead can sometimes come into conflict as a result of noise. For example a night shift worker who sleeps during the day may be disturbed by his neighbour's ordinary everyday activities which prevent him sleeping. It is unlikely that such noises would be regarded as a statutory nuisance.

If the Environmental Health Officer investigating your complaint considers you are being over sensitive then they will inform you and advise what further action you could take in relation to the complaint.

9 What criteria is used to determine noise nuisance?

In determining whether a noise amounts to a statutory nuisance the Environmental Health Officer investigating the complaint will have regard to:

- 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 sufficient consideration has been given to the effect of the noise on neighbours.
- Whether the complainant is being over sensitive.

The everyday use of a property can also be an issue and poor sound insulation between adjoining properties can give rise to complaints. In circumstances where normal every day activities can be clearly heard in adjoining properties the Council will generally not take enforcement action but will offer advice on how to minimise the impact of the noise. However in situations where unreasonable behaviour results in excessive noise transmission through poorly insulated properties then action will be taken. For example the playing of loud music late into the night, the use of domestic appliances located against party walls at unsociable times etc.

Consideration will be taken of an individual's tolerance to noise and often complaints arise as a result of differences between the person making the noise and the person receiving it. The law of nuisance pays no regard to the sensitivities of particular individuals and complaints arise as a result of different lifestyles. Provided the noise is not unreasonable or excessive then there is little the Council can do.

The Environmental Health Officer investigating your complaint will inform you when he has undertaken the investigation whether he considers the noise amounts to a statutory nuisance in his opinion.

10 How does the Council go about witnessing the noise?

The Environmental Health Officer dealing with your complaint will try to visit you in your home at the time the noise occurs. He/she will determine the most appropriate time to visit from the information provided by you in noise logs you have submitted. You may also be given an out of hour's number to contact to enable you to request the services of the duty standby Environmental Health Officer to assist in the investigation.

Where it is necessary to make noise monitoring visits to your house to witness the noise we will undertake a maximum of 3 visits. This restriction is necessary to ensure adequate resources are apportioned fairly to all jobs and a disproportionate amount of time is not spent on any one job.

In order to ensure that you get the maximum benefit from these visits it is essential that the information recorded in the noise logs is accurate and correct and provides a true representation of the noise you are experiencing. Before calling an officer out to witness the noise you must ensure that it is representative of the extent of the noise problem you regularly experience.

In circumstances where the noise is unpredictable and/or intermittent we may install noise monitoring equipment in your house. This equipment will allow you to activate it and record the noise when it occurs.

11 How long will it take to deal with my noise problem?

This varies and is dependent on the type of noise, how often it occurs and how compliant the person who you have complained about is. The quicker the person responds to approaches from the Council the sooner your complaint will be resolved to your satisfaction.

If they respond quickly to the Council's initial warning letter, then the issues could be resolved within a few days of you making the complaint. Approximately 80% of complaints are resolved at this stage.

If the noise continues after the Council's initial warning letter has been sent and you progress to the next stage, which involves compiling noise incident logs, submitting them for assessment and us visiting the person allegedly making the noise; then assuming they comply at this point it could take approximately 6 weeks.

If the noise continues after the visit by the Environmental Health Officer and he/she has to gather sufficient evidence to justify service of a noise abatement notice then assuming the notice is complied with, this could take a few months.

If the noise continues after the noise abatement notice is served and the Environmental Health Officer has to gather sufficient evidence to justify prosecuting the person then this could take several months.

12 Will I still be able to hear the noise after the complaint has been resolved?

Perhaps, in all likelihood you will still be able to hear some of the noise you originally complained about. However the noise you hear should not be so annoying or disturbing so as to materially interfere with your daily routine and should not disturb to the degree it did prior to your complaint.

13 What can I do if I am still bothered by the noise and the Council cannot take any further action?

If the Council has not been able to witness the noise or they feel that the particular complaint is best dealt with by undertaking a private action you can take action by complaining directly to the magistrates' court under section 82 of the Environmental Protection Act 1990. A separate advice booklet is available from the Council, which explains the procedure to be followed.

14 Where can I get further information?

Further information about the 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>
taking private action – S82 Environmental Protection Act 1990.
<http://www.legislation.gov.uk/ukpga/1990/43/section/82>