



Taking your own legal action

Section 82 of the Environmental Protection Act 1990 allows you to take your own action against a person causing an alleged nuisance. Brief guidelines on what to do follow below, however you are advised to seek professional advice from your own solicitor.

Once your evidence has been gathered you should go to the local Magistrates' Court.

At the Court you should go to the Clerk's Office and explain that you wish to make a complaint under Section 82 of the Environmental Protection Act 1990. You will need to be able to produce evidence of the nuisance as detailed above to show that you have an arguable case.

The Clerk will tell you that you must give three days written notice to the person responsible that you intend complaining direct to the Magistrates Court. Ensure that your records, and those of any other witnesses, are kept up to date and that these witnesses will support you in Court.

The Clerk to the Court will set a hearing date and will serve a summons on the 'offender' (you may have to pay a fee for this). In Court you will be required to explain your case, produce your diary and any witnesses. The 'offender' will be able to cross examine you if he wishes.

If the Magistrates are convinced that you have a case, they will make an order requiring the nuisance to be abated, and prohibiting its recurrence. The Court can also impose a fine on the 'offender'.

If the Order is ignored, you must keep further records and if necessary return to Court with your evidence.

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Noise Nuisance

What is a noise nuisance?

Many people are completely unaware of the effect their enjoyment of loud music or other noisy activities may have on their neighbours. They might well act in a more responsible and considerate way if the facts are politely brought to their attention.

A noise nuisance would be a significant and unreasonable emission of noise, that affected you in a significant and unreasonable way.

It is more than 'annoyance' and much more than the mere detection of a noise.

Many other factors determine whether or not a noise is a statutory nuisance and these can be:

- The time of the day
- Your location e.g. urban / rural
- The duration of the noise
- The volume of the noise
- The character of the noise

A noise nuisance may be caused by many activities including music, DIY, fans and motors and barking dogs.

Unfortunately, noise from road and air traffic cannot be dealt with.

Informal action

Rather than resort to the law, you may wish to try the following:

- Discuss and resolve the matter directly with the person responsible for the noise (how would you feel if the situation was reversed and your neighbour made a complaint to the council?).
- Use a mediation service.

Making a complaint

Before the council can take legal action on anyone's behalf, it must be satisfied that a "statutory nuisance" exists and that evidence (suitable for a Court) has been gathered to support the case. In most cases, the following procedure will be followed:

- An informal letter will be sent to the person complained of to inform them of the problem.
- You will be asked to keep an accurate diary, detailing when the noise occurs and how the noise affects you.
- Noise monitoring equipment may be installed in your premises if the diary indicates a nuisance exists.

- An Officer of the Council may visit when the noise occurs to make an assessment.
- If a statutory nuisance is found to exist, an 'Abatement Notice' may be served to prohibit or restrict the noise.
- If the noise continues, you will be asked to maintain a nuisance diary and an officer will make another visit when the noise is alleged to occur.
- In some cases the Council may obtain a warrant to enter premises and seize nuisance making equipment.

The final option is to take the 'offender' to a magistrates court where a fine may be imposed and their equipment forfeited.

The Magistrates court serving the area is:

Magistrates Court Details

