



## Dealing with noisy neighbours

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This note provides general information on finding a solution to noise nuisance caused by neighbours. It does not address all issues associated with noise nuisance.

### Contents

|    |                                       |   |
|----|---------------------------------------|---|
| A. | Introduction                          | 2 |
| B. | Legislation                           | 2 |
| 1. | History                               | 2 |
| 2. | Current legislation                   | 2 |
| a. | Environmental Protection Act 1990     | 3 |
| b. | Noise Act 1996                        | 4 |
| C. | What to do if your neighbour is noisy | 5 |

## **A. Introduction**

Noise nuisance takes many forms and can be dealt with in a number of ways. In most cases personal negotiation is often the best course of action thereby avoiding court costs and lingering resentments. In the event that such negotiations break down or are impossible to establish, mediation may help.

A third party mediator can often achieve results that would be impossible for the two parties to achieve alone. Mediation UK<sup>1</sup> is a charity that seeks to provide mediation services to the public for just this kind of neighbour dispute. More information is available from their website: [www.mediationuk.org.uk](http://www.mediationuk.org.uk)

Should this fail the local authority or police may be able to help. If a nuisance is being committed officials can require that the noise is stopped or prevented and can take action to ensure this.

## **B. Legislation**

### **1. History**

Legislative controls on noise are of more recent origin than those for other forms of pollution. Prior to the *Noise Abatement Act 1960* noise was largely dealt with locally as a nuisance under local bye-laws. Under the 1960 Act, noise became a statutory nuisance for the purposes of the *Public Health Act 1936*, thus enabling local authorities to take action for noise nuisance under a procedure not unlike current practices for statutory nuisance.

The 1960 Act also introduced a complaints procedure whereby private individuals could take action: the Act required that three or more people, each of whom occupied land or premises affected by the noise nuisance, could complain directly to a magistrate. The “three neighbour rule” was to deter malicious and frivolous complaints. However this rule was not carried forward to either the *Control of Pollution Act 1974* or the *Environmental Protection Act 1990*; under both of these only one person need be affected for action to be initiated for statutory nuisance.

### **2. Current legislation**

There are currently a variety of statutory controls on noise. These include provisions to control noise from construction sites and vehicles and provisions to allow the drawing up of codes of practice on specific noise problems.

There are two pieces of legislation that are particularly relevant to dealing with noisy neighbours; the *Environmental Protection Act 1990* (EPA) and the *Noise Act 1996*. These are discussed below. In addition to these Acts, excessive noise from rented dwellings can often be dealt with as a breach of tenancy agreement where the agreement includes a

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clause prohibiting excessive noise. The 1985 *Housing Act* (as amended) contains certain provisions enabling council landlords to evict tenants that exhibit nuisance behaviour (including noise nuisance). Similar provisions can be found in the 1988 *Housing Act* in respect of assured and assured shorthold tenancy and in the 1977 *Rent Act* in respect of regulated tenants. See standard notes SN/SP/1012 and SN/SP/1264.<sup>2</sup>

**a. Environmental Protection Act 1990**

Part III of the *Environmental Protection Act 1990* (EPA) applied in England and Wales from 1 January 1991 and in Scotland from 1 April 1996. Section 79 of the EPA, as amended, defines a number of statutory nuisances:

(1) [Subject to subsections (1A) to (6A) below], the following matters constitute “statutory nuisances” for the purposes of this Part, that is to say—

- (a) any premises in such a state as to be prejudicial to health or a nuisance;
- (b) smoke emitted from premises so as to be prejudicial to health or a nuisance;
- (c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;
- (d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
- (e) any accumulation or deposit which is prejudicial to health or a nuisance;
- (f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
- (fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;]
- (fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;]
- (g) noise emitted from premises so as to be prejudicial to health or a nuisance;
- (ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street [or in Scotland, road];]
- (h) any other matter declared by any enactment to be a statutory nuisance;

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below [or sections 80 and 80A below] and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.<sup>3</sup>

In relation to the statutory nuisance for noise there are a number of important exemptions including for aircraft, traffic and political demonstrations. The definition of noise includes vibration.

The EPA makes it possible for an environmental health officer to declare a situation concerning noise a statutory nuisance and thereby serve an abatement notice to the responsible person, or to attach an abatement notice to a premises.

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<sup>2</sup> Information provided by Wendy Wilson, Social Policy Section, February 2006

<sup>3</sup> The *Environmental Protection Act 1990* (chapter 43)

There is a degree of flexibility involved with the definition of statutory noise nuisance:

The [EPA] does not specify maximum sound levels or advise on acceptable times of day or duration for noise. The noise must materially interfere with the normal use of a house or garden to be designated as a statutory nuisance.

If the council decides there is not a statutory nuisance, the aggrieved person may be able to take their own action through the courts. Many councils have leaflets detailing this procedure.

If the council decides that there is a statutory nuisance, it should serve a notice on the person causing the noise problem, but will often try to resolve matters informally. Once a notice is served the recipient must deal with the nuisance within a stated period or run the risk of being prosecuted. As well as taking the person to court, the council can do the work itself to abate the nuisance and recover the cost from the offending party.<sup>4</sup>

There are no set limits for the level of noise that can be emitted before it is considered a statutory nuisance. This is because noise is a subjective matter. Sensitivity to noise is influenced by a range of factors and personal circumstances and to legislate for such variety would place restrictions on the effectiveness of the legislation. For example, a report found that people were much less sensitive to the noise of lawnmowers than voices or loud music, even though lawnmowers are the most commonly heard noise and are very loud.<sup>5</sup>

The use of statutory levels of noise to decide whether something is a nuisance could result in people who are suffering from a quiet but highly annoying noise not being able to address their situation.

The recent *Clean Neighbourhoods and Environment Act 2005* amended the EPA so as to enable the local authority to defer the issuing of a noise abatement notice for seven days. This is to enable it to persuade the offender to abate the nuisance or to take steps to ensure that it does not happen again. However, the local authority can issue an abatement notice straight away if it so chooses.

In Scotland, in addition to the EPA, action can also be taken under the *Civic Government (Scotland) Act 1982* which covers many aspects of minor neighbourhood noise.<sup>6</sup>

## **b. Noise Act 1996**

The *Noise Act 1996* (as amended) introduced a range of other powers relating to night time noise, between the hours of 23:00 to 07:00. The Act better enables local authorities and

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<sup>4</sup> Statutory nuisance procedure, *Environment Agency*, 2004

[http://www.environment-agency.gov.uk/yourenv/eff/pollution/399148/400402/?lang=\\_e](http://www.environment-agency.gov.uk/yourenv/eff/pollution/399148/400402/?lang=_e)

<sup>5</sup> Phase 2 of Research into Neighbour and Neighbourhood Noise in England, Scotland, Wales, Northern Ireland and Other Countries in the EU, *Environmental Resources Management*, October 2003

<sup>6</sup> The Pollution Handbook, *NCSA*, 1 February 2005, p142

police to deal with one-off noisy events that were not adequately covered by the EPA. A specific noise limit is defined in regulations. The Act is in addition to the existing statutory nuisance procedures. Under the Act:

- Officers can serve a notice on offenders and dwellings
- A £100 fixed penalty notice can be issued
- Fines can be retained by the local authority to fund functions under the Act
- Noise making equipment can be seized<sup>7</sup>

The *Clean Neighbourhoods and Environment Act 2005* extended the provisions of the *Noise Act 1996* to licensed premises as well as dwellings. The fixed penalty that can be issued to licensed premises is set at £500.

### **C. What to do if your neighbour is noisy**

If you are suffering as a result of a noisy neighbour, the best solution may be to speak directly to the neighbour about your concerns. The neighbour may be unaware that they are causing a problem and an amicable conclusion may be reached.

Failing this, the first step would be to complain to the local environmental health office at the local authority. They have a duty to investigate noise complaints where reasonable and they will determine whether the noise is indeed a nuisance in statutory terms.

It may be that the noise is intermittent and therefore a diary of the noise may have to be kept for a period of time to aid in the determination of nuisance. There may also be a requirement to install noise monitoring equipment. This process may take some time before further steps can be taken.

One-off noisy events at night, such as a party, can be dealt with immediately by the local environmental health office.

Once a noise has been established as causing a nuisance, the local authority may serve an abatement notice requiring the nuisance to be stopped. Fines may be issued where the nuisance continues.

A practical guidance leaflet for those suffering from noise nuisance has been produced by the Department for the Environment, Food and Rural Affairs. It is called *Bothered by Noise*, and is available at:

<http://www.defra.gov.uk/environment/noise/neighbour.htm>

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<sup>7</sup> The *Noise Act 1996* (chapter 37)