

Bothered by Noise or Other Nuisances?

This booklet gives advice to those experiencing problems with noise, smells and other environmental nuisances

Nuisances can occur from many sources including homes, industrial operations, construction sites and licensed premises. The types of nuisances can be wide ranging and include noise, dust and smoke emissions, smells and accumulations and artificial light shining onto residential properties.

1. What can you do

It is a fact of life that we all make noise, whether we are talking to others, playing music, entertaining, driving in our cars or just going about our daily business.

What is a noise or a nuisance to one person may be pleasurable to another. Garden fires can be a useful way to clear garden vegetation but if they occur too frequently and are poorly constructed so that excessive smoke blows onto a neighbouring property they can be a nuisance. Whilst it is important that we are tolerant, excessive nuisances can be extremely disturbing and reduce a person's quality of life.

If a nuisance is upsetting you then this booklet provides useful information on how the problem can be resolved.

To help you, we've arranged the booklet (tool kit) in the following sections:

- Taking your own action – 'A quiet word - approaching your neighbor'
- What types of nuisances we can help with
- How to report a nuisance complaint
- What is statutory noise nuisance?
- Top tips to avoid causing noise nuisance
- Taking your own action – complaining to a Magistrates' Court
- Hearing Disorders
- Enforcement
- Mediation

2. 'A quiet word - approaching your neighbour'

Approaching your neighbour. In the first instance we always advocate that you try to resolve matters informally by either speaking or writing to the person responsible for the nuisance.

If you are concerned about the nuisance coming from a neighbour's home, a local business including pubs or a building site, often the best way to deal with the problem is to go to the source.

Talk to the person or company responsible for the nuisance and politely point out the problem. You are likely to find they are unaware that they are disturbing you. Our experience is that people are keen to avoid a fall out or have "official involvement" from the Council.

If you or the person who is creating the nuisance both live in properties owned by a registered provider or a private landlord, then please contact your landlord or the registered provider, as they may have a independent complaint process which should be followed in the first instance.

Remember, we may all be guilty of making noise or causing another nuisance at some time without knowing it. The problem is not always one of inconsiderate behavior, even homes that have reasonably good sound insulation may not cope with noise from powerful modern equipment.

As with most things in life, good communication is key, here are some simple tips which you can use when speaking to a neighbor or business causing you a nuisance. If you do not wish to speak face to face you may wish to write to the neighbor or business using one of our suggested template letters at the back of this booklet, others are available on our website – www.cumberland.gov.uk

- Remain polite and calm at all times, raising your voice or behaving in a threatening manner will aggravate the situation and is best avoided.
- Explain to them what's disturbing you and your family and tell them how and when you are being disturbed.
- Invite them into your home to witness the disturbance so they can hear, smell or see it for themselves (if it is safe to do so).
- Remember that you are trying to find a solution for the future that both you and your neighbour can live with.
- Do not put too much effort into raising problems of the past.
- Please keep a note of the date and time you spoke and what was said.
- You could always seek mediation together.
- Abusive or threatening behaviors, is likely to require a multi-agency response. If you have concerns about safety contact the Police on 101. Or in an emergency contact 999.
- Rowdy behaviour in the street – this is a police matter.
- Traffic noise including essential road works and maintenance.
- Railway noise including essential maintenance.
- Aircraft noise (for low flying aircraft you can contact **01768 891391**).
- Odours from domestic homes, such as cooking, cigarette smoke or illegal substances.

3. What types of nuisance we can help with

Generally speaking, we can investigate ongoing or regular nuisance problems.

If the nuisance is a one-off or limited in duration, for example, a one-off party, the occasional use of hedge trimmers or an occasional garden fire, we are unlikely to be able to help you.

The exception to this is noise from alarms.

Other examples of noise that we are unlikely to help with are:

- Children playing, for example in a garden, public space or park.
- Babies crying.
- Voices unless it is unreasonably loud or at unreasonable times.
- Everyday domestic noise, for example washing machines, vacuuming, mowing lawns, boilers.

4. How to report a nuisance official complaint

If you have attempted to resolve the matter informally with the person or business responsible for the nuisance and the problem is continuing to affect you, you can make an official complaint. To do this you need to:

1. Report It MyCumberland online or complete the information at the end of this booklet, and
2. Send us evidence of the continuing disturbance using the Witness Record Sheet (available online or at the end of this booklet). For noise nuisance problems you may be offered the Noise App to take and submit recordings, after you have submitted your Request for Formal Investigation form.

If you wish to use the Noise App to record future problems ensure you choose YES at the end of the Request for Formal Investigation form.

Official complaints will not normally be considered unless both the request for formal investigation and evidence has been submitted.

Once an official complaint has been received you will receive a letter with a further Witness Record Sheet or given Officer consent a code for the Noise App. At the same time the person/s causing the nuisance will receive a letter informing them that a complaint has been received.

Start gathering evidence

The nature of nuisance complaints can make investigations quite complex and more often than not they will take time to investigate, particularly where the nuisance is happening only occasionally. Gathering evidence and supporting information about the nuisance is a key part of any investigation. The witness sheet can help with this process.

This evidence will help us find out if the problem is a Statutory Noise Nuisance. NB. A statutory nuisance is more than just being able to hear the noise or notice an odour or see smoke from a BBQ.

Collecting evidence using a Witness Record Sheet

Use the Witness Record Sheet at the back of this booklet to log details about the noise or other nuisance issue (see smoke nuisance diary sheet for smoke/or additional column on appendices). Please follow the steps below:

- Complete all sections of the record sheet, making sure you capture the facts of each incident and the effect on you or your family. Keep records for at least two weeks or six entries.
- Make sure you enter both a start and finish time for the nuisance. If you only enter a start time we have no idea how long the nuisance continues. It is also important to be accurate about the duration of the noise - if you enter misleading information and the investigation moves on to monitoring, the recordings will not verify the information and the case is likely to be closed due to lack of evidence.

- Try to keep entries as legible as possible. (If you already have a service request number remember to use this in the box provided.)
- We cannot be responsible for the loss of any evidence submitted, so please remember to keep a copy.

Information entered on the Witness Record Sheet may be used as evidence in court if legal proceedings are deemed necessary; therefore the entries made must be truthful and accurate.

Once you have returned the request for formal investigation and witness record and have opted to use the Noise App, a code for the Noise App will be given subject to Officer consent and completion of the witness record.

Collecting evidence using the Noise App

You will be notified if you require to use the Noise App and given a code. With the free Noise App you are able to make audio recordings of the noise (up to 30 seconds) and enter details about the nature of the disturbance that make up an electronic noise diary.

You can then send the recordings to us. Whilst the audio clips may not be sufficient on their own to determine if the noise is a statutory nuisance, they will help us resolve your complaint quicker.

The App is free to download at www.thenoiseapp.com and is available for Android or iPhone. For terms and conditions on the use of the Noise App please visit our website, www.cumberland.gov.uk

5. What is statutory nuisance?

The word 'nuisance' is often used by people to describe something which is inconvenient or annoying to them.

Nuisance does however, have a legal meaning to describe situations which go beyond annoyance or an irritation and affect many people or regularly interfere with the use and enjoyment of a person's property.

The Environmental Protection Act 1990 (section 79) describes these matters as **statutory nuisances**.

In determining if something constitutes a **statutory nuisance** many factors are considered including:

- Location - Is the nuisance typical for the area? A cockerel crowing in the country is more accepted than a cockerel crowing in a quiet residential area.
- Time of day - A statutory nuisance can exist at any time, however the effects of noise late at night when most people are more likely to be sleeping would be given greater weight than the same noise occurring during the day.
- Frequency - How frequently are you affected by the nuisance? Noisy parties held weekly would be viewed differently to one held occasionally.
- Duration - How long are you disturbed? A dog barking at the postman or occasional passer-by would be viewed differently to one barking most of the day.
- Sensitivity and Intensity - How loud is the noise and how intrusive is it? How strong is the odour? We all have different thresholds and tolerances. In determining nuisance the judgement would be how the nuisance would affect an ordinary individual, not someone who had a particular sensitivity to the nuisance complained of.
- Number of people affected - A view will be taken on the number of people who are, or could be, affected by the noise. If only one person complains when the whole street could equally be affected, then there could be a challenge that the individual making the complaint could be unduly sensitive. See intensity above.

Although noise is the most common nuisance complaint received by us, other statutory nuisances can include: smells, accumulations, animals kept in a manner that may be

considered as a risk to health, smoke, dust, insects from premises and artificial light. Although other nuisances can exist in common law it is these Statutory Nuisances that the council can investigate on behalf of those affected.

Statutory nuisances are specified in section 79 of the Environmental Protection Act 1990.

If there is more than one type of nuisance that is affecting you; please complete a Witness Record Sheet for each matter.

Noise from pubs and clubs?

If you are experiencing noise nuisance from a pub or club it may be necessary to request a review of their premises license or club premises certificate. For more information on this process and an application form, visit our website www.cumberland.gov.uk

6. Top tips to avoid causing a noise nuisance

The best advice is to use common sense and try to be considerate of your neighbours.

- Keep music or TV volume as low as possible, especially late at night when people may be trying to sleep.
- Site speakers away from the party walls and on rubber mats.
- Reduce the bass.
- Keep windows and doors closed if you are having a party.
- If you are having an outdoor event remember that noise will travel and affect people further away.
- If you have a dog which is kept in the yard or garden whilst you are away from the property you have no idea whether the dog is barking when you are not there.
- If the dog is kept inside keep them away from the party wall.

- Remember that noise is more likely to become a nuisance at times when people would normally be sleeping.
- A one-off party will rarely be a legal statutory nuisance, however always try to be reasonable - if you can, let the neighbours know in advance and give an approximate finishing time. Let them know that they can come round to the property if the noise is a problem and act to remedy the noise if you receive complaints.
- Avoid DIY activities late at night. If you are going to cause a great deal of noise or hammering or work for a prolonged time period - tell your neighbour in advance.
- Make sure your alarm is not faulty and follow manufacturers instructions. Inform key holders that you are away and ask them to make regular checks of the property and leave appropriate contact details with neighbours.

7. Taking your own action - complaining to a Magistrates' Court

Under Section 82 of the Environmental Protection Act 1990, If, for whatever reason, we do not take action, or if you do not wish to involve us, you can seek a ruling from a Magistrates' Court. The Magistrates' Court will need to be persuaded that the problem amounts to a statutory nuisance. It is important that you keep a written record of the dates, times and duration of the nuisance, as well as a description of it and the distress it causes you. A step by step guide to the process is on our website, www.cumberland.gov.uk

Before you complain to a Magistrates' Court, you should take the steps described in the section 'A quiet word - approaching your neighbour', on page two of this booklet. If you are thinking of taking your own action you should seek advice from the clerk at the court. Before you start legal proceedings,

you are required to notify the person responsible for the nuisance that you intend to take legal action, a template letter can be found on our website. Keep copies of the letters you send. The person responsible for the nuisance must receive three days' written notice before you begin proceedings.

What happens at court?

Taking your own action at a Magistrates' Court is intended to be an inexpensive and relatively simple process. You don't have to have a solicitor and can represent yourself. If you win the court case, the court will issue an order telling the offender to stop the nuisance and what they have to do to achieve this.

The court may also give the person making the nuisance a fine and may award you reasonable costs associated with bringing the case to court.

If you do not win, you may have to pay your own costs and possibly the costs of the person you have taken to court.

Further help and advice is available from:

- www.cumberland.gov.uk
- Citizens' Advice Bureau.
- A solicitor.

Action under Civil Law

Civil Law can also be used to control any nuisance which has affected you. This involves hiring a solicitor who will start the process of obtaining an injunction in the County Court. This can be quicker and more effective but can be an expensive process.

8. Hearing Disorders

Councils often receive noise complaints from people who are disturbed by high pitch, or buzzing noises. When officers investigate, no noise can be heard and it is found that the complainant has been suffering from tinnitus.

Tinnitus is the name given to the condition of noises 'in the ears' and/or 'in the head' with no external source. Tinnitus noises are described variously as ringing, whistling, buzzing and humming. Further advice on tinnitus can be obtained from the British Tinnitus Association www.tinnitus.org.uk

Cumbria deaf vision can provide a range of advice, information and assistive technology to reduce, or overcome any difficulties you may be having with your hearing.

Cumbria Deaf Association |
Supporting deaf people since 1894

Hyperacusis is when everyday sounds seem much louder to you than they should. Treatment can help. See a GP if you think you have hyperacusis.

Noise sensitivity (hyperacusis) - NHS
(www.nhs.uk)

9. Enforcement

During the course of the investigation, the Officer will provide regular updates, if the Officer is satisfied that a statutory nuisance exists or is likely to occur or recur an Abatement Notice is likely to be served as the most appropriate course of action. This notice will be served on the person responsible for the nuisance. This may require the person or company to: halt the activity, limit it to certain time frames, or list actions to limit the issue including improvement works in a given time period. It does not necessarily mean an activity may completely halt but that the impact of nuisance has been reduced to a reasonable level. An Abatement Notice may be appealed against to a Magistrates' Court within 21 days of the Abatement Notice being served.

The maximum fine for non-compliance with an abatement notice is £5,000 plus £500 for each day the offence continues after conviction or up to £20,000 if the offence relates to a trade or business activity.

In some instances, an Officer maybe unable to prove a statutory nuisance during the course of an investigation, however alternative recourse maybe available under the Anti-social Behaviour, Crime and Policing Act 2014 if it can be evidenced on reasonable grounds that the conduct of that person is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and the conduct is unreasonable.

The use of Community Protection Warnings gives the recipient the opportunity to modify their behavior without any formal sanctions being taken. If conduct continues after service of the Warning a Community Protection Notice further action may be considered. Failure to comply with is an offence under Section 48 of the Anti-social Behavior, Crime and Policing Act 2014 is an offence.

Where appropriate some cases may require a multi-agency approach and a Cumberland local focus area Hub referral may be required as the appropriate step working with partners to assist in finding a solution such as mediation.

10. Mediation

Restorative mediation is a voluntary, confidential and free to use service that can often support people impacted by antisocial behavior and crime to move on from the events and gain closure. People who have previously accessed and embraced the service often report increase feelings of safety and confidence from the support they receive. Restorative mediation practitioners can work with single or multiple parties to potentially help them find or develop resolutions to the issues. It's a voluntary, confidential and free to use service. A referral can be made through the Environmental Health team or the local focus HUB.

Appendix 1

Example letter that you could send to your neighbour.

Additional letters for commercial noise and noise from licensed premises are available on our website.

Dear Neighbour/Business (or name if known)

I am writing as a neighbour/nearby resident. This is a friendly note to make you aware that I/my family are being disturbed by noise (other nuisance) from your property, write their address here...

The noise (nuisance) that disturbs me/my family is (describe noise (nuisance) here).

I am sure this is not being done on purpose but the noise (other nuisance) is affecting the enjoyment of my/our home and I would be grateful if you would (reduce the noise/turn the music down/not light fires when my washing is out etc.)

Please do not take this personally; I really hope we can solve this in a friendly way.

Please contact me if you want to discuss this face-to-face (delete this option if not appropriate).

Many thanks.

Name, address and contact details

Appendix 2

Request for Formal Investigation

You must complete this if you want to make an official complaint. If you are genuinely unable to approach a neighbour or business, please advise us as soon as possible.

Use this form to tell us of any noise or other nuisance issues, and the steps you have already taken to resolve the issues you describe. Please be aware that in the first instance we cannot action your request unless you have already made contact with your neighbour about the problem.

I have read and understood the statement above

Name

Your address (Including postcode)

Telephone (if possible please give a mobile number)

Email

Address where the nuisance is coming from
(without this we will not be able to progress your complaint)

Occupant's name (if known)

Description of occupant(s) if name not known

Landlord of person's causing nuisance (if known)

The nature of the problem

How long has it been happening for?

How often is it happening?

Have you spoken directly or posted a letter to your neighbours?

If you have spoken to them, then answer questions marked with a *

If you have sent them a letter answer questions marked with #

* Date and time you spoke to your neighbour

* Who did you speak to (visual description if name not known)

* What was discussed and outcome of conversation?

* What has happened since?

Date you sent letter to your neighbour, and how sent? e.g. hand delivered, Royal Mail

Please attach copy of correspondence (photocopy or scan will be accepted)

I have attached copy

Have you spoken to your neighbour after they got the letter? If yes, please state details of the discussion

What has happened since?

NOISE ONLY

Would you like to use the Noise App in future to record the noise you are experiencing?

Yes

☐

No

☐

For all cases complete the declaration below

I declare that to the best of my knowledge all the above details are a correct and truthful statement and that I would be willing to be a witness in any legal proceedings should this be required.

Signed

Date

Please return with the Witness Record Sheet to: Environmental Health, Cumberland Council,

1) Carlisle, EnvironmentalHealth@ 2)Allerdale Environmental.Health@

3) Copeland envhealth@ e.. **@cumberland.gov.uk**

Appendix 3

Witness Record Sheet

TYPE OF NUISANCE (IE NOISE, SMOKE, ODOUR ETC)

This must be completed before you proceed

Case Reference Number (if known)

Your name

Address

Address where the nuisance is coming from
(without this we will not be able to progress your complaint)

Date	Start time	End time	Description of problem	Effect of noise or other nuisance, and any other information including what room you are in when affected

Date	Start time	End time	Description of problem	Effect of noise or other nuisance, and any other information including what room you are in when affected

Please return to Customer Contact Centre, Cumberland.gov.uk

Appendix 4

Example of letter of intention to start action under section 82

Your name and address Date

Address of premise nuisance coming from

Dear Sir/Madam

Further to my previous letter dated... I write to confirm that I am still suffering due to... I am therefore letting you know of my intention to start proceedings under section 82 of the Environmental Protection Act 1990 due to the unreasonable amount of noise or other nuisance (e.g. loud music) coming from your property.

The noise/other nuisance (e.g. odour from) is so bad that it can be clearly heard/smelt in my property and is stopping (me)(my family) from getting to sleep at night (or enjoying the use of our property or otherwise).

I have gathered evidence over the last six weeks to support this and will be presenting this to the Magistrates' Court.

Unless the noise/other nuisance stops or significantly reduces, I shall have no other option than to take my complaint to the Magistrates' Court and apply for an Abatement Order under the above mentioned legislation.

I intend to start this action on ***date*** should the noise/other nuisance continue.

Sign

(date the letter and keep a copy)

If you need this document in another format do let us know.

Any feedback you would like to provide regarding the service do let us know at:

www.cumberland.gov.uk

If you have any comments on any part of the process, please contact the team on **0303 373 3730** or: **www.cumberland.gov.uk**