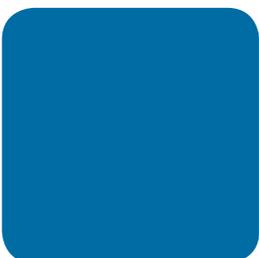
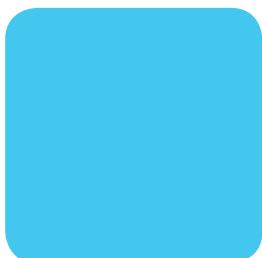
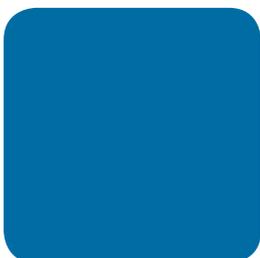
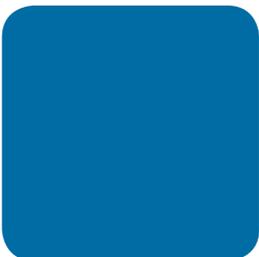
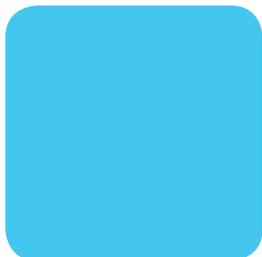
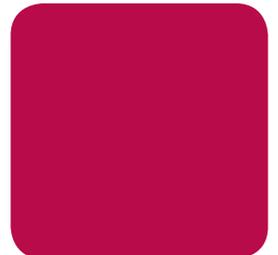
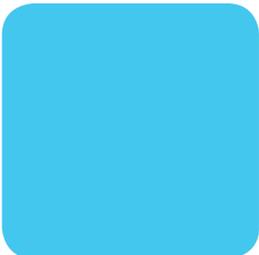


Bothered by Noise or Other Nuisances?

**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 other people, playing music, entertaining, driving in our car or just going about our daily business.

What is a noise or a nuisance to one person may not be to someone else. 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 in the following sections:

- 'A quiet word' - approaching your neighbour
- What is statutory nuisance?
- What types of nuisances we can and cannot help with
- How to make an official complaint
- Top tips to avoid causing noise nuisance
- Taking your own action - complaining to a Magistrates' Court
- Hearing Disorders.

2. 'A quiet word' - 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.

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 behaviour; 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 neighbour or business causing you a nuisance. If you do not wish to speak face to face you may wish to write to the neighbour or business using one of our suggested template letters at the back of this booklet, others are available on our website - **www.carlisle.gov.uk/Residents/Environmental-Problems/Anti-Social-Behaviour**

- Remain polite and calm at all times, raising your voice or behaving in a threatening manner will aggravate the situation and should be avoided.

3. What is statutory nuisance?

- Explain to them what's disturbing you and your family and tell them how and when you are being disturbed.
- You may wish to invite them into your home to witness the disturbance so they can hear, smell or see it for themselves (only 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 emphasis on raising problems of the past.
- Please keep a note of the date and time you spoke and what was said.
- You may agree to seek mediation together.

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. A nuisance can affect many people or regularly interfere with the use and enjoyment of a person's property.

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.

4. Types of nuisance we can and cannot help with

- Number of people affected - A view will be taken on the number of people who are, or could be, affected by the nuisance. 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 City 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.carlisle.gov.uk/Residents/Environmental-Problems/Anti-Social-Behaviour

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 take formal action.

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.
- Rowdy behaviour in the street - this is a police matter.
- Traffic noise including essential road works and maintenance.
- Railway noise.
- Aircraft noise (for low flying aircraft you can contact **01768 891391**).

5. How to make an official complaint

If you have attempted to resolve the matter informally with the person 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. Complete the Request for Formal Investigation form in appendix 2 of this booklet, and
2. Send us evidence of the continuing disturbance using the Witness Record Sheet (available online or in appendix 3 of this booklet) For noise nuisance problems you may consider using our free **Noise App** to take and submit recordings, after you have submitted your Request for Formal Investigation form (you will not need to complete the witness record sheets). 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 Witness Record Sheets have been submitted. Once the complaint has been formally logged, you will be contacted by an officer from Carlisle City Council.

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 (see section 3). 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

Continue to use the Witness Record Sheet in appendix 3 of this booklet to log details about the noise or other nuisance issue. 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.

6. Top tips to avoid causing a noise nuisance

Once you have returned the Request for Formal Investigation form and the Witness Record Sheet, a Carlisle City Council officer will contact you. If you have chosen to use the Noise App instead of completing the Witness Record Sheet, a code will be given to you.

Collecting evidence using the Noise App

Using 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.carlisle.gov.uk/Residents/Environmental-Problems/Anti-Social-Behaviour

Please note that you will require a code from Carlisle City Council before you can submit recordings.

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 setting on the audio equipment.
- Keep windows and doors closed if you are having a party.
- If you are having an outdoor event, remember that noise will travel and could disturb 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 a dog is kept inside keep it 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.

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

- Make sure your alarm is not faulty and follow manufacturer's 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.

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.carlisle.gov.uk/Residents/Environmental-Problems/Anti-Social-Behaviour

Before you complain to a Magistrates' Court, you should take the steps described in section 2 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 in appendix 4 of this booklet. 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.

8. Hearing Disorders

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.carlisle.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.

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 a hearing disorder such as 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 or by telephoning **0800 018 0527**.

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

Address:

The Swaledale Suite
Upper Ground Floor
Tannery House
Harraby Green Business Park
Carlisle
CA1 2SS

Tel/Minicom: **01228 210205**

Fax: **01228 210206**

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 (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,
Civic Centre,
Rickergate,
Carlisle,
CA3 8QG
or email customerservices@carlisle.gov.uk

Appendix 3

Witness Record Sheet

For noise you can use the Noise App - www.thenoiseapp.com

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 noise is coming from

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

continued overleaf

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, Civic Centre, Carlisle, CA3 8QG
or email customerservices@carlisle.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 have any comments on any part of the process, please contact the team on **01228 817200**
or email **customerservices@carlisle.gov.uk**