



Each year the Council's Environmental Protection team receives over 1000 complaints about nuisance issues. This fact sheet explains how we investigate and assess complaints made under nuisance law.

### **Contacting the source yourself**

In the interest of keeping good neighbourly relations you should always first consider making an approach to the source of the problem, either in person or by letter.

Advice on doing this can be found on our website, or from the Environmental Protection team. **(Our contact details are at the end of this fact sheet)**

### **What type of problem can we investigate?**

The law requires local authorities to investigate complaints from residents relating to noise, smoke, fumes or gases, accumulations, animals, insects and artificial light. The source of the problem must always be on another property, either a privately owned domestic property or commercial/industrial. ***COUNCIL TENANTS are asked in the first instance to contact their Housing Officer, who will carry out the initial investigation into their complaint. CNH Tenancy Services can be contacted on 01509 634666 or via the Council's web site; [www.charnwood.gov.uk](http://www.charnwood.gov.uk).***

### **When can the Council take action?**

We can only take action when an investigating officer decides that a complaint involving any of the matters mentioned above is serious enough to constitute a statutory nuisance, by being prejudicial to health **or** a nuisance that causes a substantial interference with the average person's use and enjoyment of their own property. **We cannot take legal action** in cases where the investigating officer feels that the problem, although irritating and annoying, is not bad enough to be a statutory nuisance. In addition, we cannot take action against any nuisance that is related to the ordinary domestic use of a property; for example, noise from doors slamming, DIY work at acceptable times (see our fact sheet on DIY noise for more information), people shouting and children running around. Similarly, there is nothing in the law to prevent



isolated occurrences such as a one-off smoky garden bonfire, noisy party or other one-off celebration.

## **How does the Council assess the problem?**

Current nuisance law does not specify any guidelines about whether a particular level of noise, odour, smoke or other specified matter constitutes a statutory nuisance. Investigating officers have to use their legal knowledge and experience to form an opinion from the following factors;-

- Is something unreasonable, malicious or excessive being done by a person at the source property?
- Is something unusual or excessive occurring in the way that the source property is being used?

If the answer to either of the above is 'Yes' then the investigating officer will want to know;-

- How many incidents have occurred to date; e.g. one, ten or more?
- How often do the incidents occur; e.g. monthly, weekly, daily or hourly?
- How long do the incidents last for; e.g. seconds, minutes, hours or longer?
- What is the impact of the nuisance; e.g. how loud and intrusive is the noise? How strong is the odour?
- Does the problem occur at a sensitive time of the day or night; e.g. is there a noise occurring during the night time?

## **Some examples of what might and might not constitute a legal nuisance**

These are rarely easy decisions to make, but;-

- A dog barking incessantly will be considered to be more serious than one that barks briefly when the postman calls, or someone walks by.
- Regularly occurring, prolonged sessions of loud music or TV noise would be more likely to be a statutory noise nuisance than occasional, barely audible TV or music.
- Frequent smoky bonfires that taint washing, or can be smelt inside a house are more serious under the law than a one-off bonfire, even if this is very smoky.

## **How does the Council investigate complaints?**

The investigating officer will take such steps as are reasonably practical to investigate the complaint. Under normal circumstances the following procedure will be followed;-



- You will be asked to fill in diary sheets over 2-3 weeks to provide written evidence about the number of incidents and how they affect you.
- A letter will be sent to the source drawing their attention to the complaint made against them.
- **If there is no improvement in the problem you must return the diary sheets otherwise it will be assumed that the matter has been resolved.** If the information supplied on the diary sheets indicates there could be a statutory nuisance being caused, the investigating officer will investigate further.
- This will typically involve the use of surveillance equipment such as tape recorders, video cameras or proactive visits by the officer.
- If the case officer obtains evidence that substantiates the allegations, we will take action to improve the situation. This could require some form of informal control work being carried out, but usually involves serving an abatement notice on the person responsible. An abatement notice places a legal obligation on the person responsible to stop the nuisance altogether **or** control it to reduce the intrusion to a reasonable level deemed appropriate by the investigating officer.
- Failure to comply with an abatement notice is a criminal offence, so if the problem continues the case officer will again have to witness the problem. However, this time the evidence will be used in legal proceedings in a magistrates' court where the perpetrator may be fined, or receive other punishment.

It is usual for it to take as long as 3 months from the start of an investigation to serving an abatement notice, and longer still if we subsequently need to go to court for action against the breach of the notice requirements.

### **What can I do if I disagree with the officer's decision?**

There is provision in the law for a complainant to take their own action through a magistrates' court, in much the same way as the Council would proceed. A resident may wish to do this if they are dissatisfied with the investigating officer's decision, or if they have particular reasons for not involving the Council in their complaint from the outset. A fact sheet giving advice on this action is available from the Environmental Protection team.

### **Do the Council investigate all complaints?**

The Council are legally obliged to investigate all complaints that are made by residents within their area that fall under the provisions of nuisance legislation, but we try to avoid being drawn into situations involving on-going neighbour disputes or complaints made in retaliation against action by another party. Our involvement under these circumstances may further inflame relations and prejudice our investigation and any



subsequent legal action we may take. In such situations we can offer advice to the complainants on taking their own legal action or contacting a mediation agency.

## **What do I do if I want to make an official complaint?**

If you have discussed your complaint with the source, but failed to improve the situation, or if you do not feel able to contact your neighbour about a problem for any particular reason, you can ask the Council to investigate. **Our contact details are listed below. You will need to tell us;-**

- The nature of the complaint
- The address where the problem is being caused
- Your own name and address and a contact telephone number and/or email address

**Please note that we are unable to act on anonymous complaints because of the legal requirements of nuisance and human rights law, and the practical issues of effectively investigating nuisance complaints. We will keep the complainant's details confidential during the investigation, but we cannot guarantee this if the case eventually goes to court.**

### **If you require more information please contact:**

Environmental Protection team, Charnwood Borough Council, Southfields,  
Loughborough, Leics LE11 2TX

*Office Opening Hours: Monday to Thursday 8.30am to 5.00pm; Friday 8.30am to 4.30pm*

Tel: (01509) 634636 Fax: 01509 262076 E-mail: env.health@charnwood.gov.uk

We have more information about nuisance law on our website at;-

<http://www.charnwood.gov.uk/environment/environmentalprotection.html>

To arrange for an explanation of any part of this document in your language or to receive a copy in Braille, on audio tape or large print please call 01509 634567.

This information is available in different formats. To access these please phone (01509) 634560.

এ তথ্যাদি অন্যান্য মাধ্যমে পাওয়া যায়। এসব পেতে হলে দয়াকরে (01509) 634560 এ নাম্বারে টেলিফোন করুন।

這資料具不同的格式，請致電 (01509) 634560 索取。

આ માહિતી જુદી જુદી પદ્ધતિઓમાં ઉપલબ્ધ છે. તે મેળવવા માટે કૃપા કરી આ નંબર પર ફોન કરો (01509) 634560.

यह जानकारी अलग-अलग प्रारूपों में मिल सकती है। इनको पाने के लिये कृपया यह नंबर डायल कीजिये (01509) 634560.

ਇਹ ਜਾਣਕਾਰੀ ਵੱਖ-ਵੱਖ ਸ਼ਕਲਾਂ ਵਿੱਚ ਮਿਲ ਸਕਦੀ ਹੈ। ਇਹ ਹਾਮਿਲ ਕਰਨ ਲਈ ਮਿਹਰਬਾਨੀ ਕਰਕੇ ਇਸ ਨੰਬਰ 'ਤੇ ਫੋਨ ਕਰੋ (01509) 634560

