

## NUISANCE FROM ARTIFICIAL LIGHT



Changes in the law now require local authorities to take reasonable steps, where practicable, to investigate any complaints of artificial light nuisance. Domestic and commercial security lights and sports facilities cause most problems of this nature. This fact sheet explains how the Council will investigate and assess such complaints.

### Can the Council deal with nuisance from any artificial light source?

The law identifies some 'exempted premises' where, because of their nature and importance to the community, some exterior lighting may be necessary to prevent crime, disorder and safety hazard. These exempted sources include airports, transport facilities, goods vehicle operators and defence facilities amongst others. The law also recognises the need for **commercial security lights and floodlighting of 'relevant' sports facilities** (but not those on domestic properties) and whilst the Council can investigate complaints against nuisance from these types of lighting, the operators of these facilities have a defence in the law of 'best practicable means', which influences any legal action that the Council might wish to take. However, they are still expected to use artificial lighting responsibly and with consideration to local circumstances. **Streetlights** are not specifically exempt, but because they are not located on a 'premise' they do not fall within the scope of the law.

### When can the Council take action?

An investigating officer will firstly have to consider whether the source of the light is an exempted premise. If it is not from an exempted premise the officer must then decide whether the artificial light 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 action merely because a person is aware of light spilling onto their property from another source.** The action we can take will be also be influenced if the source is an industrial trade or business place, outdoor illuminated sporting facility or other premise covered by the defence of 'best practicable means'.



## **What factors determine whether or not an artificial light source is a statutory nuisance?**

Investigating officers have to use their legal knowledge and experience to form an opinion from the following factors; -

- What is the nature of the surrounding area; e.g. rural/urban/commercial
- How many light nuisance incidents have occurred to date; e.g. one, ten or more?
- How often is the light in use; e.g. monthly, weekly, nightly or hourly?
- What time of the night is the light in use from and when is it turned off?
- How long does the light last for; e.g. seconds, minutes, hours or longer?
- What is the impact of the light; e.g. how bright is it in your house and what rooms are affected?
- Have any measures been taken to mitigate the impact of the light by the complainant; e.g. use of curtains or blinds?

## **Contacting the source yourself**

We always encourage complainants to try to resolve the matter informally by making a direct approach to the person responsible for the light, 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)** You may also wish to pass on a copy of a leaflet produced by the Institution of Lighting Engineers 'Domestic Security Lighting, Friend or Foe' available at the 'Lighting FAQs' page at [http://www.theilp.org.uk/index.php?page=lighting\\_faqs](http://www.theilp.org.uk/index.php?page=lighting_faqs) which provides useful guidance on the use of these types of light fitting. If you have discussed your complaint with the source, but failed to improve the situation, or you do not feel able to contact your neighbour about a problem for any particular reason, you can then ask the Council to investigate.

## **How does the Council investigate complaints of artificial light nuisance?**

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 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 a pre-arranged visit by officers, who will call at both properties if possible.
- 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 requiring them 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 given a fine, or receive other punishment.

It is usual for it to take some time 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?**

**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.**

Unlike other types of nuisance complaints that we investigate it is also **unlikely that we will be able to maintain the confidentiality of complainants** during an investigation into artificial light nuisance, since the source may want specific advice from us on what adjustments need to be made to the lighting to avoid causing the nuisance, and this will require us to make reference to the affected property.

***CHARNWOOD NEIGHBOURHOOD HOUSING TENANTS are asked in the first instance to contact their Housing Officer, who will carry out the initial investigation into their complaint. Tenancy Services can be contacted on 01509 634666 or via the Council's web site; [www.charnwood.gov.uk](http://www.charnwood.gov.uk).***

**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](mailto: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 হল দায়করে (01509) 634560 এ নাম্বারে টেলিফোন করুন।

這資料具不同的格式，請致電 (01509) 634560 索取。

आ भाषिती जुडी जुडी पद्धतिओमां उपलब्ध छे. ते भेगववा माटे कृपा करी आ नंबर पर झेन करो (01509) 634560.

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