

ADVICE TO COMPLAINANTS

East Cambridgeshire District Council

www.eastcambs.gov.uk



**ADVICE FOR
COMPLAINANTS ON
NEIGHBOUR PROBLEMS**

Although Environmental Services try their best to resolve your noise or other public health related problems, there are some complaints that cannot be resolved by us and formal action cannot be taken under the present legislation. In this leaflet we have tried to explain the main reasons for this. This also give details of further action you may be able to take yourself to try to resolve the problem.

Why couldn't Environmental Services take further action regarding my complaint of nuisance?

Some types of noise or nuisance such as odours, occur only occasionally or by their very nature are intermittent. It may be difficult for the Officer to witness the nuisance or noise to obtain further evidence within three visits. To assess a Statutory Nuisance the Officer has to consider the type of noise or nuisance, how it affects your day-to-day activities, the locality, the frequency, the duration, plus other factors. Officers are trained to accurately assess your problem and to establish if it can be demonstrated by Environmental Services that a Statutory Nuisance exists. If it has not been possible for an officer to witness the nuisance or it is a type of nuisance which may not constitute a Statutory Nuisance, this Service will be unable to take further formal action.

What can I do now?

You can consider taking your own action under section 82 of the Environmental Protection Act 1990. This is quite a simple process. You do not have to employ a solicitor, but you may need to obtain some private legal advice.

You should contact the Citizens Advice Bureau initially as there are a number of different ways that you may be able to take private action. This depends on the nature of your case. If the Citizens Advice Bureau advise you to consider taking your own action under Section 82 of the Environmental Protection Act 1990, please see below a general guide for your assistance and information.

- (a) It is important that anyone troubled by what they consider is unreasonable behaviour should firstly approach the person thought to be causing the problem. You could consider explaining politely how you are affected by their behaviour and request their co-operation to resolve the problem.

Having approached the person responsible for the alleged nuisance, you should keep a detailed record of the times the nuisance starts and stops, the dates on which it occurs and a detailed description of the way in which the alleged nuisance is affecting you e.g. noise preventing or interrupting sleep. To assist you in keeping a record you can use a noise record form similar to that used by Environmental Services. You can obtain a copy of the diary sheet by contacting Environmental Services or from the Council's site on the Internet www.eastcambs.gov.uk This record will form the basis for your case in the Magistrates Court and therefore should be kept, recording in detail all occurrences of nuisance, up to the court hearing.

- (b) You must then advise the person responsible for the alleged nuisance of your intention to approach the Magistrates Court if the nuisance is not abated. This must be in writing specifying the matter(s) complained of and giving not less than three days notices of your intention to proceed under Section 82 of the Environmental Protection Act 1990. A copy of that letter should be kept. A proforma letter which can be used for this purpose is attached.
- (c) After you have gathered the evidence you should go to the Magistrates Court at Cambridge and explain that you want to take out a summons under Section 82 of the Environmental Protection Act 1990. You can also explain that you have approached the Local Authority but formal action could not be taken due to the nature of your complaint or because of the difficulties the Service has experienced in obtaining satisfactory evidence. The Court staff will then guide you through the relevant procedures.

It is advisable at this stage to discuss with the Court Officers the procedures for claiming and/or paying costs.

You will have to show the Magistrates that you have an arguable case and will have to provide the full name and address of the person responsible for the nuisance and a copy of your dated warning letter advising them of your intention to institute such proceedings.

Any supporting evidence from neighbours can be useful to substantiate your case.

The Magistrates, if satisfied that you have an arguable case, will then arrange for the summons to be issued and will advise you of the time and date of the hearing of the case.

(d) After the summons has been served you should continue to keep a record of evidence as previously described. You should bring that to the Court when you appear on the date of the hearing.

The common law also provides you with a remedy by way of an injunction to abate a nuisance but this procedure would entail obtaining the service of a solicitor.

Are there alternatives to legal action and useful contacts?

Legal action however should always be a last resort. It is unpleasant and will inevitably further sour the relationship between you and your neighbour. It is very important that you do your best to resolve the problem in a friendly way. Some areas have mediation services, which can help you to resolve neighbour noise problems.

Association of Cambridge Mediators, Sheraton House, Castle Park, Cambridge CB3 0AX. Tel 01223 370063 or enquiries@cambridgemediators.co.uk

The Noise Abatement Society can also provide advice and information on neighbour noise. <http://noiseabatementociety.com/helpline-and-support/contact-us/>

Cambridge Magistrates Court, 12 St Andrews St, Cambridge CB2 3AX

Tel 01223 376000

Email: cb-enquiries@hmcts.gsi.gov.uk

<http://www.cambsmagistrates.org.uk/>

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**NOTICE OF INTENTION TO BRING PROCEEDINGS
ENVIRONMENTAL PROTECTION ACT 1990: SECTION 82(6)**

TO: *1 _____

DATE: _____

OF *2 _____

Re Section 82 of the Environmental Protection Act 1990
Notice if Intention to take Proceedings

I am writing to you as the [person responsible][owner of] the premises known as

*3 address _____

The (description of the nuisance) from the above premises is such that a Statutory Nuisance as defined by Section 79(1) of the Environmental Protection Act 1990 is being caused. Brief details of some, but not necessarily all, of the matters which are contributing to the nuisance are as follows:

*4 _____

Urgent action is necessary to abate the Statutory Nuisance and prevent it recurring.

I would ask that, within the next seven days

(i.e. by the *5 _____ day of _____ 20 ____), you either:-

- (a) ensure the necessary action is taken to abate the Statutory Nuisance and prevent it from recurring, or
- (b) provide me with a detailed timetable setting out the remedial action you intend to take to abate the Statutory Nuisance and prevent it from recurring.

This letter should be taken as Notice of my intention to initiate proceedings in the Magistrates' Court under Section 82 of the Environmental Protection Act 1990 if the Statutory Nuisance still exists and you have failed to provide a satisfactory timetable of remedial action by the said *5 _____ day of _____ 20 ____

Yours faithfully

[Add name and address in block capitals here]

6 _____

* see notes over for completion

Notes for completion of Notice of Intention to bring Proceedings (under Section 82(6) of the Environmental Protection Act 1990)

1. Insert name of person causing the noise nuisance. It is suggested that you send copies of the Notice of Intention to the owner(s) and occupier(s) of the premises from which the noise is coming. It is essential that the notice is sent to named persons.

2. Insert the full address of the person named in 1.
3. Insert the full address of the premises from which the noise nuisance comes.
4. Insert the details of why the noise is considered to be a nuisance. For example:
 - Excessive noise of amplified music at unreasonable hours.
 - Incessant and persistent barking of a dog at all hours.

Please note that allegations of noise amounting to a nuisance must be supported by detailed records of the time the nuisance starts and stops, the dates on which it occurs, and a detailed description of the way the alleged nuisance is affecting you, e.g. preventing or interrupting sleep; or interfering with the reasonable enjoyment of your home. You should keep a record of the noise in a format similar to the Councils noise nuisance diary sheet.

5. Insert a date at least seven days after the date at the top of the form.
6. Insert your full name and address.

Rubbish Accumulations/Overgrown Gardens/Eyesores

It is sometimes difficult for formal action to be taken regarding rubbish complaints, overgrown gardens or where a property is an eyesore. This Service would usually try to resolve the problem for you informally by sending a letter to the appropriate owner or occupier to ask for their co-operation to clear rubbish, cut back overgrowth or maintain their property. If their co-operation is not obtained it may be difficult in these cases to take any formal action by the service of Notices and as such, no further action can be taken.

Particular cases that could not be dealt with formally would be:-

- a) Rubbish that is inert, e.g. wood, metal etc and where there is no evidence of rats without evidence of rodent infestation
- b) Overgrown garden without evidence of a rodent infestation as identified by a Pest Control Officer or Environmental Services Officer.
- c) A badly maintained but occupied property may be considered unsightly to neighbours but may not be considered a Statutory Nuisance under the legislation.