



NEIGHBOUR NOISE PROBLEMS

How to take your own private action

Some types of noise nuisance occur occasionally or at night. If it is not possible for an Environmental Health Officer to witness the noise or they consider they may not feel able to take action on behalf of an individual who has made a complaint, you can take your own action under section 82 of the Environmental Protection Act 1990.

It is advisable to contact the Citizens Advice Bureau initially as there are a number of different ways that you may be able to take private action dependent on the nature of your case.

If the Citizens Advice Bureau advise you to consider taking your own action under S82 of the Environmental Protection Act 1990, this is a general guide for your assistance and information.

If such a course of action is undertaken the following procedure should be followed:-

- (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, explaining politely how they are affected by their behaviour and requesting their co-operation in agreeing a cause of action to prevent a recurrence.

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 I enclose a noise record form, which can form the basis for your recording. 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 that occur up to the court hearing.

- (b) You must then advise the person responsible for the alleged nuisance informing them of your intention to approach the Magistrates Court if the nuisance is not abated. This must be done 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 Ely and explain that you want to take out a summons under Section 82 of the Environmental Protection Act 1990. Also explain that you have approached the Local Authority who have advised you to take private action in view of the difficulties they would experience 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?

Legal action however should 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.

To find out if there is one near you contact:

Mediation UK, Alexander House, Telephone Avenue, Bristol BS1 4BS
Tel: 0117 904 661

The Noise Network can also provide advice and information on neighbour noise:

Noise Network, PO Box 968, London SE2 9RL
Tel: 0181 321 9997

If you require any additional advice or assistance, please contact our Domestic Team on 01353 616297

**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 noise from the above premises is such that a Statutory Nuisance as defined by Section 79(1)(g) 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 noise 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]

(signed) *6 _____

* see notes over for completion

envhea/Neighbour Noise Problems

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. A record in the layout of the noise record form provided is suitable.

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