

Environmental Health

Complaints about Noise from Entertainment Premises



Entertainment from pubs and clubs can make a positive contribution to the community. However, it can also be a source of noise nuisance.

It is inevitable that some noise from entertainment premises will be audible from time to time especially for those living in close proximity, however noise from entertainment should not prevent local residents from enjoying their homes. It is the responsibility of the Designated Premises Supervisor (DPS) to ensure that any noise coming from the premises does not affect nearby residents.

Where noise significantly affects others and is considered to be a nuisance, this Authority is able to take enforcement action. This can result in a notice being served on the person responsible for the noise or the owner/occupier of the premises where the nuisance occurs.

Failure to comply with a notice is an offence and any evidence gathered may be used to prosecute. Under the Environmental Protection Act 1990 this could result in an uncapped fine (previously a maximum fine of £20,000). Under the Anti Social Behaviour, Crime and Policing Act 2014 an uncapped fine (previously a maximum fine of £20,000) can be imposed or a fixed penalty notice of £100 can be issued.

What the premises can do

When holding entertainment the premises should consider whether the activity could cause a nuisance – the following simple measures can be very effective in reducing noise:

- ❖ If a neighbouring property adjoins the rooms where entertainment is held, this may not be suitable for loud events, is there an alternative room?
- ❖ Background noise levels of the neighbourhood generally decrease in the evening. This makes entertainment noise more noticeable so it is important to carry out regular sound checks at the boundary and near to neighbouring properties.
- ❖ Bearing in mind noise can escape through outlets, preventative measures may be required, such as ensuring windows are shut and doors are not propped open during events (preferably doors should be fitted with a self-closing mechanism device) and alternative ventilation should be provided when necessary.

- ❖ The person holding the event should be experienced/competent in this area and a competent person must be present during the event to ensure that if problems do arise, they can be dealt with in an appropriate manner.
- ❖ Producing a Noise Management Scheme is a good way of controlling the possible causes of noise. This involves writing an individual premises plan stating measures that can be adopted to avoid noise disturbance from the premises.
- ❖ Ensuring Management control the sound levels and not the DJ.
- ❖ If speakers are on the floor use absorbent mats/material – keep them away from any walls that adjoin neighbours. Smaller speakers scattered around the premises are better than one large one next to the DJ. Preferably hang the speakers from the ceiling, if there are no flat(s) above.

If these measures are unsuccessful, further steps may need to be taken, such as:

- ❖ Installation of noise limiters to prevent noise when it rises above a pre-set decibel level.
- ❖ Investing in double glazing/secondary glazing.
- ❖ Applying sound insulation to walls and rooms used for events.
- ❖ Adaptation of the entrance to the entertainment room to include two sets of doors providing a lobby to prevent noise escaping.

Taxis and deliveries

Deliveries and taxis beeping horns, particularly early in the morning or late at night can also cause a noise nuisance.

Taxi drivers are not permitted to sound their horns while stationary or between the hours of 11:30pm and 7:00am in built up areas, except when other vehicles pose a threat.

Deliveries should be avoided at times when background noise levels are low, i.e., early morning or evening, especially if there are residential properties nearby. When loading and unloading takes place, methods to minimise noise should be considered.

Patrons

It is the responsibility of the Designated Premises Supervisor (DPS) to ensure that whilst patrons are on their premises (including entering and leaving) they do not cause a nuisance to nearby residents. This can be avoided by displaying notices asking patrons to be considerate whilst outside the premises. Door staff can also be aware of potential problems and control noisy patrons.

Lowering the volume of music towards the end of the evening will encourage people to leave in stages rather than all at the same time resulting in people loitering outside the premises. The DJ can also make announcements to ask people to be considerate when leaving.

Beer gardens and play areas

Beer gardens and play areas have the potential to create a noise nuisance, especially during the summer months when these areas tend to be used more frequently. Properties nearby are more likely to have doors and windows open or people outdoors.

To avoid problems, music should not be played outside, if it is, ensure that it can only be heard on the premises. Also ensure all doors leading to the garden/play area remain closed. Management should control patrons' behaviour to ensure noise does not reach an unreasonable level. Closing off outdoor areas after a certain time, erecting appropriate signage asking patrons to be mindful of noise they create and ensuring garden/play areas are located away from residential boundaries can also reduce the potential to cause a noise nuisance.

Cleaning and bottling out

Emptying bottles in bins or moving bins outside can create considerable noise and can be a particular problem after closing time. This can be avoided by locating bins as far away as possible from residential properties, not carrying out this activity late at night or early morning and ensuring there is a smooth path between the pub and the storage area.

Special events

If you would like to hold a special event it can be useful to inform neighbours about how long the event will last. In addition to carrying out regular sound checks you may want to ask neighbours to contact you if they are disturbed unreasonably so steps can be taken to resolve complaints. You will also need to check whether additional licences are required.

Extractor fans and refrigeration compressor units

Complaints are also received about noise from units of this type. If a complaint is received and validated, you should consider buying a pre-silenced or quieter compressor or changing the location of the unit, you may need to consider planning permission in these cases.

What is nuisance?

There has to be an unreasonable element to the activity causing the problem, not just an annoyance.

A nuisance can be defined as an unreasonable interference with the use and enjoyment of someone else's property. This takes account of frequency, duration and intensity of the nuisance amongst other factors.

What if I am affected by entertainment noise?

The friendly approach

In most cases we advise that the informal approach is the best course of action in the first instance. This gives the person responsible time to take steps to address the issue. They may not be aware that a problem exists or to what extent it affects those nearby. By staying calm and taking on board both points of view, the problem can hopefully be resolved straight away.

How do I complain?

To investigate a complaint, we need the following information:

- the address to where the noise is coming from*
- the complainant's name and address (details are not disclosed in the initial stages of the complaint)*
- when and how the noise affects the complainant*
- any other relevant information would be useful*

What to do if still suffering a nuisance?

If the problem cannot be resolved informally an official complaint can be made. The Council has a duty to investigate complaints of this nature and we have a standard procedure for investigation to ensure that each complaint is treated fairly and with no bias. An investigation may last over 6 months while sufficient evidence is gathered, however, if a complaint is open for longer than this, we will keep all relevant parties informed.

Once an official complaint has been made the following procedure is followed:

1. Making contact

Contact is made with the person(s) allegedly responsible for the noise, making them aware that we have received a complaint and advising them accordingly. A letter is sent to the complainant asking them to complete and return a diary sheet detailing when and how the noise affects them.

The problem is often resolved once the issue has been raised with the person responsible for the noise, however if the problem persists, we would then ask the complainant to return a completed diary sheet.

We do **not** disclose details of the complainant during the initial stages of the complaint. However, during the investigation we may have to identify who is affected in order to resolve the situation. In some cases the complainant's address may be included on an enforcement notice or the complainant may need to appear in court to give evidence, though this is very rarely necessary.

2. Assessment of completed diary sheet and recording the noise

The returned diary sheet is evidence and essential for the investigation to demonstrate the frequency and duration the complainant is being affected. Recording equipment may be installed in the complainant's property to gain an indication of the problem and also to justify any out of hour's resources that may be required.

3. Witnessing the noise

If we think the noise is a potential problem, then we will arrange for officers to try and witness the nuisance in the complainant's home.

It should be stressed that the person being affected by the noise must understand that they continue to play an active role throughout the investigation.

4. Establishing a nuisance and taking formal action

If we witness the noise to be having a detrimental impact on neighbouring properties we will use the most appropriate legislation to take enforcement action. In the first instance, this would be an Abatement Notice under the Environmental Protection Act 1990 or where appropriate, a Community Protection Notice under The Anti Social Behaviour, Crime and Policing Act 2014.

Before a notice is served we may take a witness statement from the complainant(s). The statement is used to show how the noise affects them, how long it has been happening and details other important facts. A statement is a legal document and could be used as evidence in court, if needed.

5. Breach of notice

If the person responsible does not comply with the notice, then further evidence will be gathered. Once sufficient evidence has been collected, the case would then be referred to our Legal Team with a view to prosecution. The complainant may be required to appear in court to give evidence.

Do we always take formal action?

In some cases after careful consideration further action cannot be taken. The reasons for this may be due to lack of evidence, sensitivity, the fact that the problem only occurs occasionally, is hard to witness or because there is no unreasonable element to the complaint.

Advice for complainant's – taking your own action

As an alternative, the complainant may decide to take their own action under Section 82 of the Environmental Protection Act 1990, by complaining directly to the Magistrates Court. For further information on this please contact us directly or alternatively visit the Council's website (our contact details can be found at the end of this booklet).

Turn over leaf for Enforcement Procedure/Premises Licence

Enforcement Services Procedure Licensing Act 2003

The Licensing Act gives the Local Authority powers of enforcement. The Enforcement Team can deal with a breach of conditions regarding the Premises Licence.

A Premises Licence is needed to hold entertainment, such as:

- ❖ Plays
- ❖ Films
- ❖ Indoor Sporting Events
- ❖ Boxing or Wrestling Events
- ❖ Live Music *
- ❖ Recorded Music *
- ❖ Performances of Dance *
- ❖ Anything of a similar description to that falling within (see *)
- ❖ Provision of Late Night Refreshment
- ❖ Supply of Alcohol

Other Licences may also be needed when providing entertainment such as:

- Performing Rights Society (PRS) Licence - visit www.prsformusic.com. Requires payment to the owner of the copyright for using the music.
 - Phonographic Performance Ltd (PPL) Licence – tel. 0207 5341000 or email info@ppluk.com. Required for the playing of original sound recordings, in most circumstances a PPL is needed as well as a PRS.
 - Video Performance Ltd (VPL) Licence – tel. 0207 5341000 or email info@ppluk.com. Needed for playing original sound recordings on the soundtracks of videos.
- ❖ ***NB: Cinema Licences for using Karaoke machines no longer exist.***

The Environmental Health Department will be consulted on all Premises Licence applications and be asked to make comments as a where necessary to try and reduce noise disturbance to local residents. These can appear on the licence as conditions which must be abided by. Compliance with these conditions however does not necessarily rule out the existence of a Statutory Nuisance but will detail our main concerns.

For further information and advice about the Licensing Act 2003, please contact the Licensing Team on 01283 508505.

Breach of premises licence conditions – complaint procedure

A person affected by the activities of a premises that has the benefit of a Premises Licence can complain. The issues raised must fall within the licensing objectives, as follows:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Enforcement Team will investigate your complaint following the procedure below:

1. Making contact

Initial letters are sent to relevant parties advising that we will visit and monitor the premises to discuss the issues raised in the complaint.

2. Visiting the premises and complainant

The Enforcement Team will visit the premises and complainant to discuss how the issues can be resolved.

3. *Monitoring*

Monitoring of the premises by the Enforcement Team will take place over a 4 week period.

4. *Establishing breach of conditions and taking formal action*

If sufficient evidence is gathered with regards a breach of conditions the Enforcement Team may call for a review of the Premises Licence. This would involve findings being brought before the Licensing Act Sub Committee.

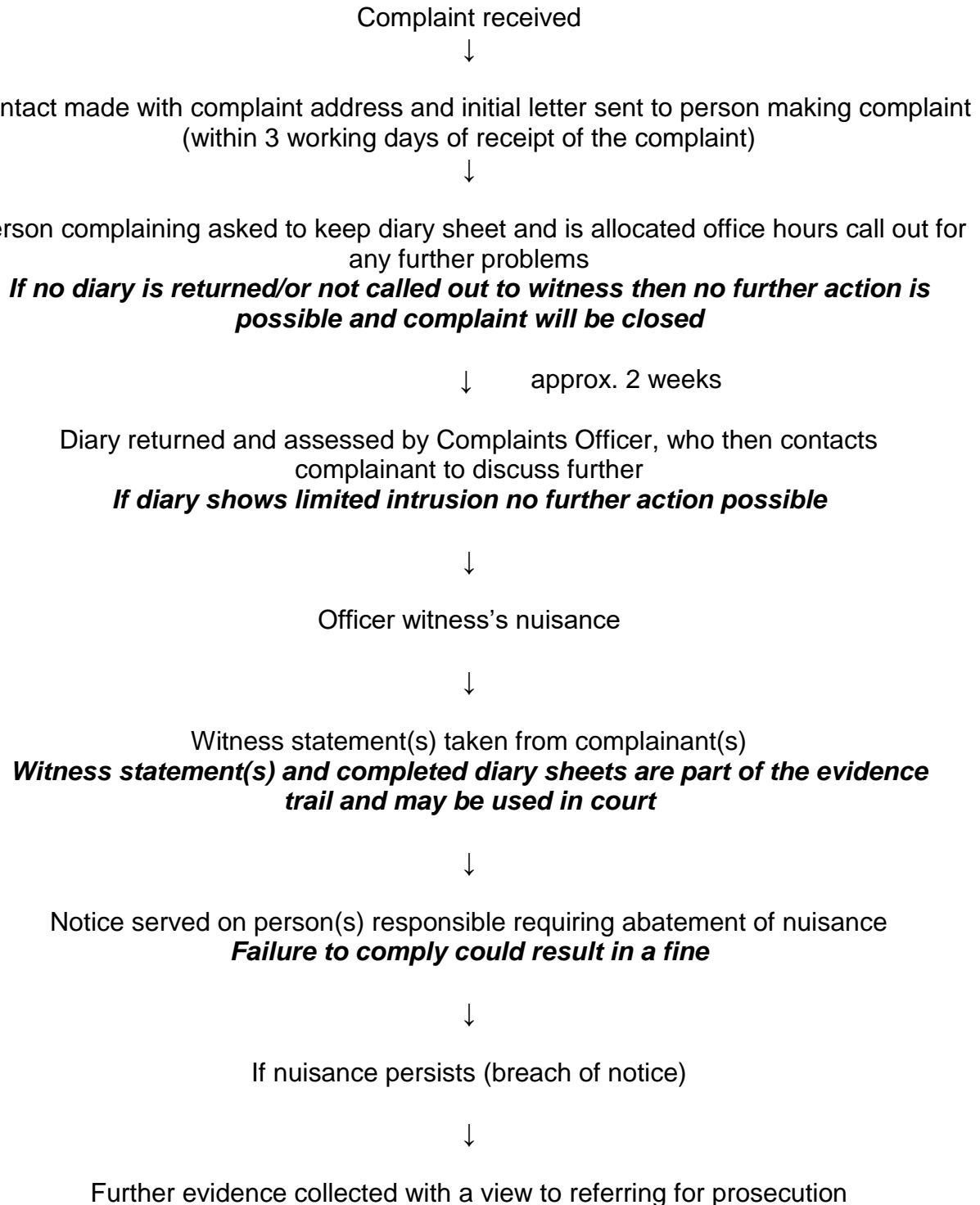
Calling for a premises licence review

If, as the complainant you decide that the problems you are experiencing are serious enough you may wish to call for a review of the Premises Licence. The following procedure must be followed:

- A review application form will need to be completed and returned to the Licensing Office. Copies of the application are also required to be sent to the responsible authorities and the premises licence holder.
- If the application for review is accepted the Licensing Department will arrange for the advertisement of the application by placing a blue notice on the premises and on the Borough Council's website. This notice will commence a 28 day consultation period.
- At the end of the consultation period a hearing will be convened by The Licensing Act Sub Committee within 20 working days.
- You will be advised of the date of the hearing and an agenda will be forwarded to you. You will be required to attend.
- At the hearing the Committee will then make a decision based on the facts presented to them.

**Complaints Procedure – Entertainment Noise
Environmental Protection Act 1990 (Statutory Nuisance)
The Anti Social Behaviour, Crime and Policing Act 2014**

The flow diagram shows the general procedure which this Department follows when investigating a noise complaint.



Contact Us

You can contact us:

- By telephone:

Environmental Health 01283 508524
or 01283 508578

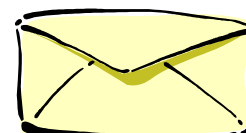


Licensing & Enforcement Team 01283 508505 or
01283 508506

- By email: ehsupport@eaststaffsbc.gov.uk
enforcemen@eaststaffsbc.gov.uk
licensing@eaststaffsbc.gov.uk



- By post: Environmental Health
East Staffordshire Borough Council
Burton Town Hall
King Edward Place
Burton upon Trent
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DE14 2EB



- By calling in at ESBC Customer Service Centre, Market Place,
Burton upon Trent

Visit our website at: www.eaststaffsbc.gov.uk

Environmental Health Pages: <http://www.eaststaffsbc.gov.uk/environmental-health>