

# Commercial/Industrial Noise Nuisance



A certain amount of noise from commercial/industrial premises is reasonable, to be expected and is unlikely to constitute a nuisance. However, excessive/unreasonable noise can be a problem to nearby residents, especially if continuing through the night. Restrictions on times of operation may be in place through planning conditions and if breached can be enforced by the Planning Department.

It's not always possible for a site to reduce noise, however they must take all reasonable steps to ensure that noise does not affect neighbouring properties, for example carrying out noisy processes in the daytime and ensuring windows and doors are kept closed when noisy work is being carried out.

Noise from commercial/industrial premises can cause a nuisance at anytime, day or night. Obviously, people tend to be more aware of noise at night or early in the morning when trying to sleep and background levels are quieter.

## Construction Sites

It is inevitable that some noise from construction and demolition sites will be audible and to a certain extent should be expected, as the work taking place is essential and will only last for a short period of time. However, their operations are capable of causing a nuisance and therefore a Code of Practice is in place to ensure that all reasonable steps are taken to make sure that noise emitted from the site does not cause a nuisance to neighbouring properties. This includes ensuring that all heavy work is done during the daytime, at reasonable times, not too early in the morning or late at night, and weekend working should only take place if essential.

Time limits for operation on construction sites may be imposed as a planning condition and if so, can be enforced by the Planning Department.

From a Statutory Nuisance perspective, noise from construction sites can cause a nuisance at anytime, day or night. Obviously, people tend to be more aware of noise early in the morning when trying to sleep and background levels are quieter.

Additionally, in some cases a Notice can be served prior to or during the works under the Control of Pollution Act 1974, which can control the way the works are done, the hours of operation and what plant or machinery can be used. This Notice is only implemented on large scale developments and is used at the discretion of the Authority.

## **Q. What to do if suffering a nuisance?**

In most cases we advise that the informal approach is the best course of action in the first instance. This gives those responsible for the noise time to take steps to resolve the problem, especially if they are not 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.

If the problem cannot be resolved informally you can contact us to make a formal complaint.

## **Q. How do I complain?**

You can phone, write or email - all we need to know is:

- Which address/premises the noise is coming from.
- Complainant's name and address - details are not disclosed in the initial stages of the complaint.
- What type of noise the complainant is experiencing, how regular it is and any other relevant information would be useful.

# Noise Complaint Procedure

## 1. 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 for the noise time to take steps to resolve the problem, especially if they are not 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.

## 2. Making a Complaint

If the problem cannot be resolved informally a formal complaint can be made to us. We, as an Authority, have a duty to investigate complaints of this nature. We have a standard procedure for investigating complaints to make sure that each complaint is treated fairly and with no bias. This involves gathering evidence to support the case. If the Authority is satisfied that the noise amounts to a Statutory Nuisance, formal action can be taken. An investigation by this Department may last over 6 months. If a complaint is open for longer than this, we will keep all relevant parties informed. The main steps involved are explained below.

## 3. Sending Letters

A letter is sent to the person responsible for the noise, making them aware that we have received a complaint and advising them accordingly. We also write to the complainant asking them to complete and return a diary sheet detailing when the noise is happening and how it is affecting them.

The problem is often resolved when we send a letter to the person responsible for the noise. If the noise persists we then ask the complainant to return the diary sheet.

***We do NOT disclose details of the complainant during the first stages of our investigation. However, if a Statutory Nuisance is witnessed at any time during the investigation, the complainant's address will be included on the 'Noise Abatement Notice', as being the property affected by the nuisance. The complainant may need to appear in court to give evidence though this is very rarely necessary.***

#### **4. Assessment of Diary and Recording the Noise**

The return of a completed diary sheet is essential to continue with the investigation. We carefully look through it and decide if the complaint needs further investigation. If it does, we arrange to install recording equipment in the complainant's property. If a good indication of the noise is not captured straightaway we would normally allow up to three occasions for the equipment to be installed. We then listen to the tape and decide if we think a potential nuisance is being caused.

#### **5. 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.

#### **6. Establishing a Nuisance and taking Formal Action**

If we witness the noise and establish that it is a **Statutory Nuisance under the Environmental Protection Act 1990** we must then serve a **Section 80 'Abatement Notice'**. The Notice is a legal document and is addressed to the person responsible for the noise, requiring them to abate the nuisance to a level that does not constitute a Statutory Nuisance.

Before a Notice is served we take a witness statement from the complainant. 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.*

#### **7. Breach of Notice**

If the person responsible does not comply with the Notice, then further evidence will need to be gathered to show that the Notice has not been complied with. Once sufficient evidence has been gathered, 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.*

### **Q. Do we always take formal action?**

In some cases after careful consideration we decide that a Statutory Nuisance cannot be substantiated. The reasons for this may be due to lack of evidence, noise sensitivity, the fact that the problem only occurs occasionally and is hard to witness or because there is no unreasonable element to the complaint.

# Advice for Complainant's - Taking your own action

If we are unable to substantiate a Statutory Nuisance or alternatively you decide to take your own action, you can complain about the noise directly to the Magistrates Court. The Magistrates Court will need to be persuaded that the noise problem amounts to a Statutory Nuisance.

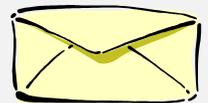
Before complaining to the Magistrates it is important to informally approach the person responsible for the noise. Before you start legal proceedings you must give at least 3 days notice in writing to the person responsible for the noise explaining that you intend to take legal action. At this stage you should seek advice from the clerk at the court, tel. 01785 223144 and advise them that you wish to take action under Section 82 of the Environmental Protection Act 1990.

If the Magistrates think that you have an arguable case, a summons will be issued and delivered to the person responsible for the noise. This will confirm the date and time that has been arranged for a court hearing. If the Magistrates decide in your favour, then the court can take various steps to solve the problem.

## **Contact details**

*By post:*

Environmental Health  
East Staffordshire Borough Council  
The Town Hall  
King Edward Place  
Burton upon Trent  
Staffordshire  
DE14 2EB



*By telephone:*

01283 508578



*By email:*

[ehsupport@eaststaffsbc.gov.uk](mailto:ehsupport@eaststaffsbc.gov.uk)



Visit our website at: [www.eaststaffsbc.gov.uk](http://www.eaststaffsbc.gov.uk)

Pollution Pages: <http://www.eaststaffsbc.gov.uk/environmental-health/pollution>

# Flow Chart Noise Complaint Procedure

The flow diagram below shows the general procedure which is followed by Environmental Health in the investigation of noise complaints:

