

Other private action

It is possible to take private action in court to obtain an injunction and/or damages because of a neighbour noise problem. On this occasion you would be advised to contact a solicitor for further assistance. (We must stress that keeping a diary of the noise could be invaluable, whether or not the council pursues the case).

Useful addresses

Environmental Protection
People and Places Directorate
Wyre Council
Civic Centre
Breck Road
Poulton-Le-Fylde
Lancashire
FY6 7PU

Tel. No. 01253 891000

Address to : The Clerk to the Magistrates Courts

Fylde and Wyre PSD
The Esplanade
Fleetwood
Lancashire
FY7 6AT
Tel No. 01253 757000

Lancaster Magistrates Court
George Street
Lancaster
Lancashire
LA1 1AX
Tel No. 01254 597000

You can also contact us at our website wyre.gov.uk/noise

Please note : There is no charge for the noise service carried out by the Council.

**If you would like this leaflet in larger print
then please ring 01253 891000**



Environmental protection - noise nuisance

Introduction

Noise from neighbours is a common source of nuisance, and for some people it can be very upsetting. Some of the most common examples of this type of noise include a barking dog(s), loud music or, loud TV and DIY activities. If you are being disturbed by noise from your neighbours, one of three things could be happening:

- The neighbours may be behaving unreasonably, for instance by playing music too loud
- The neighbours may be unaware of the problem, for example a dog that barks only when left alone or children that turn the radio up when the parents are out
- You may have become over-sensitive to the noise, particularly if you don't get on with your neighbours. People sometimes "tune in" to the noise from next door to find it annoying even when most other people wouldn't

What is a noise nuisance?

A statutory noise nuisance is a noise that unreasonably affects the use of your property by disrupting the enjoyment of your television, causing sleep disturbance, or other similar interference, rather than just causing mere annoyance.

What Can You Do?

Firstly, you could approach your neighbour either personally or by other means, for example, by letter, and explain politely that you are being troubled by the noise.

It would be very useful and advisable to record a diary with the dates and times of the noise problem, what the noise was and most importantly, how it affected you at the time. This may be useful if the evidence were ever to be used in court at a later date.

If having informed your neighbour of the problem, you find that there is no improvement, you may wish to consider reporting the matter to the council.

Action by the council and the noise procedure

Wyre Council has powers under the Section 80 of the Environmental Protection Act 1990 to take action where a **statutory noise nuisance** is proved to exist.

If you wish to use our service then you must return the form (enclosed) confirming that you wish to continue with a complaint about the noise.

When the council receives your completed form:

- a letter will be sent to you, advising of the three methods by which the Environmental Protection Department will deal with your complaint, along with some diary sheets that you are asked to complete as a record of evidence.
- the person creating the noise will also receive a letter stating that we have received a complaint alleging a noise nuisance and advising of the possible modes of action they may face. At this stage, your name and address will not be divulged. (However, at some point during the investigation, it may be necessary to release your address to the perpetrator).
- you will be given a daytime telephone number that you may use if the problem occurs during the hours of 9am – 5pm Monday to Friday, so that an officer may attempt to witness the noise. Unfortunately, we cannot guarantee that an officer will always be available, as the speed of our response is dependant upon the demands on the service at that point in time. If the noise only occurs outside office hours, for example at night or at the weekend, we will visit on three separate occasions, at times pre-arranged by yourself and the case officer, or if necessary, a sound-level recorder can be placed so that recordings of the noise affecting you can be made from within your property.

Your diary sheets will be collected from you periodically, throughout the course of the investigation.

The letter sent to the person creating the noise can often solve the problem, and they may either contact us for advice, or simply stop the noise. However, if the noise does continue, the case officer will commence a formal investigation as described above.

When the case officer calls at your property, they are there to see whether in his/her judgement the noise represents a **statutory nuisance**.

- They will consider factors such as the type of noise, how loud it is, how often it occurs and what length of time it goes on for. If the council is satisfied that a **statutory noise nuisance** exists, they will issue an abatement **notice** requiring the person causing the noise to abate (**stop**) the nuisance.
- If the person causing the noise, without reasonable excuse, continues to cause a problem for example does **not** comply with the notice, he or she is guilty of an offence. Once the noise has been witnessed again by an officer and if a statutory nuisance still exists, they can be prosecuted and/or the equipment making the noise seized by the council.

The council's officers are the recognised experts, and their professional judgement is very important. If they consider that a statutory nuisance is being caused, a Magistrate will normally accept their view. However, the officer may consider that a statutory nuisance is not being caused. The noise may still upset you, and the officer may be very sympathetic to the effect the noise is having on you personally, but they may not be able to say in all honesty, that the noise would really represent a nuisance to another person. If this situation arises, you will then have to pursue the matter without the help of the council.

Taking your own action

The law recognises that the officer may not always be satisfied that a noise nuisance exists, either because the events are so irregular that he/she has been unable to witness the noise or because he/she does not consider it to be a statutory nuisance. Should this be the situation in your case, then you can take independent action by complaining directly to the Magistrates' Court under Section 82 of the Environmental Protection Act, 1990.