

SOME USEFUL TIPS FOR TAKING PRIVATE NUISANCE ACTION

- Keep a written record of the dates, times and duration of the offending noise, as well as a description of its nature and the distress it causes you in the reasonable occupation of your home
- You should try and resolve the problem informally prior to contacting the court by writing to the person responsible
- Make sure the letter is dated and keep a copy as this will help strengthen your case and show that you have acted in a reasonable manner and given the alleged offender the chance to rectify the problem before resorting to legal measures
- You may wish to consult a solicitor who is familiar with Courts and Court procedure
- They should also be able to advise you on your chances of success in proving your case
- You are entitled to represent yourself, and if you do so, the Clerk of the Court will give you advice and guidance, or you can contact your local Citizens Advice Bureau.

WHAT IS A NOISE NUISANCE?

Noise is a subjective thing and different people react to it in different ways. What can cause extreme annoyance to one person may be hardly noticeable to another.

While a noise can be irritating, it may not constitute a nuisance in the legal sense. There are no fixed levels of noise which constitutes a statutory Noise Nuisance; individual circumstances differ and each case needs to be judged on its merits.

In deciding whether or not a noise is sufficient to amount to a Noise nuisance, the Environmental Health Officer will have to consider what would be the likely reaction of the **average reasonable person** to the noise, taking into account not only its loudness, but also such factors as when, how often and for how long the noise occurs. It should be noted that legislation does not make allowance for shift workers.

IF YOU WISH TO DISCUSS A NOISE NUISANCE PROBLEM, RECEIVE FURTHER INFORMATION, OR WISH TO MAKE A COMPLAINT, PLEASE CONTACT:

Environmental Services Department
Carrickfergus Borough Council
Museum & Civic Centre
11 Antrim Street
Carrickfergus
BT38 7DG

Tel: (028)9335 8000

Email: sec2.envhealth@carrickfergus.org



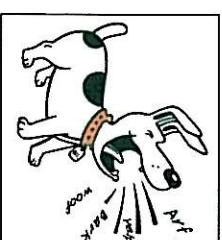
Carrickfergus Borough



Carrickfergus Borough

Environmental Health Department

A STEP BY STEP GUIDE TO NOISE COMPLAINT INVESTIGATIONS



1. THE FRIENDLY APPROACH

Before making a complaint to the Council, try speaking about the problem to the person responsible for creating the noise. If they are unaware of the problem it is causing you, a personal approach may be more effective than intervention by Council Officers.

2. COMPLAIN TO ENVIRONMENTAL HEALTH

When the Council receives a complaint we will contact the person responsible for the alleged nuisance. This will be in writing and will advise them of the complaint and the legal position.

We will also write to the complainant and ask that they complete and return a noise monitoring diary should the problem continue.

We will not release the identity of the complainant at this stage without their consent.

3. ASSESSMENT OF THE DIARY

On receiving a completed monitoring diary we will assess whether or not the disturbance reported may constitute a nuisance. This depends on factors such as the level of noise/ how often it occurs/ its duration and how people are affected.

At this stage the complainant will be asked if they would be willing to provide evidence in court.

Depending on the circumstances, the Council may approach the person responsible for creating the noise to try to deal with the problem informally (although we are not obliged to).

4. MONITORING

Where monitoring diaries indicate a noise nuisance may exist, the Environmental Health Officer will then need to obtain evidence to confirm that the alleged nuisance identified in the monitoring diary exists. This will be done either by visiting and witnessing the alleged nuisance ourselves, or by installing monitoring equipment at an appropriate time.

Generally, we are prepared to make **up to three attempts** to witness or record the alleged nuisance (in line with adopted Noise Procedures). If no evidence of the alleged noise nuisance is obtained, the investigation will be closed. However, should circumstance change significantly, we may re-investigate.

Complainants are entitled to pursue Private Nuisance Action at this stage. Further details are provided in Section 8 of this leaflet.

5. ESTABLISHING NUISANCE

If evidence of a nuisance is obtained, a Noise Abatement Notice will be served **on the person responsible** for causing the noise nuisance OR if that person cannot be found, the **owner or occupier** of the land from which the nuisance arises. The address of where the nuisance is experienced must appear on any Notice served by the Council.

6. MONITORING COMPLIANCE WITH THE ABATEMENT NOTICE

The Council will ensure that the Noise Abatement Notice is complied with. In instances where the Abatement Notice has not been complied with or is breached, the next step will involve prosecution of the person responsible.

7. LEGAL ACTION

In taking the person responsible for the nuisance to court, the Environmental Health Officer will need to collate all the evidence obtained during the investigation. This will include evidence in the form of a statement from those affected by it. This will normally be based on the monitoring diaries kept during the investigation. Complainants will often be required to give evidence in court in order to prove the case, at this stage the complainant **must be willing** for their name to be disclosed.

If found guilty, the person responsible will be fined by the Magistrate (up to £5000 max per breach) and restrictions to prevent the nuisance recurring may be imposed.

8. PRIVATE NUISANCE ACTION

If the Council are unable to take action, or you do not wish to involve them, you can take your own private noise nuisance case to a Magistrates Court. If they are satisfied a nuisance exists, the Court must make an Order for one or both of the following:

- Requiring the person causing the nuisance to stop in a specific time and/or
- Not allowing the Nuisance to occur again

The Court may also fine the defendant up to £5000 max. If the person causes a nuisance without reasonable excuse, after an Order has been made by the Court, they have committed a further offence and may be fined again.