

Taking Your Own Action

If you would prefer to take your own action, or if we can no longer help you with your noise problem (for example if our investigation could not establish a noise nuisance) the following guidance may help.

You can use the Environmental Protection Act 1990, Section 82, to deal with noise that is a statutory nuisance. Courts can use it to force neighbours, businesses and so on to stop creating or reduce the effect of too much noise.

We cannot offer advice on how you should go ahead with any particular case, but set out below is an outline of things that might help you if you are suffering from a noise nuisance.

It is a good idea to try to sort out problems in a friendly way. Your neighbours may not realise that their actions are causing a nuisance or they may not have any control over the cause for complaint. A personal approach can sometimes get the result you want. If you are worried about approaching them personally, a polite letter may sort out the problem. Even if it fails, it will help to show the courts that you have acted reasonably.

In the case of noise you will usually need to show the courts that the noise unduly interferes with your comfort and convenience.

The courts will balance your right to "quiet enjoyment" of your property with the right of the other person to use their premises in a normal way. It is unlikely that the courts would support someone seeking complete silence, as people need to tolerate a certain amount of noise, but you do not have to experience unreasonable levels. When deciding what is an unreasonable level the courts will look at the level and nature of the noise, together with its frequency, how long it lasts, the times and days the noise happens and how the noise would affect the average person. For example, a shift worker who has to sleep during the day or a home worker who needs complete silence to work might not be considered to be average people when deciding upon noise nuisance.

The Courts

Taking legal action is fairly straightforward and you can take it in easy steps that we explain below. Many people have used this legal action, without needing a solicitor. You can represent yourself during the court hearings if you feel confident enough. The procedure is not difficult and you can get advice from the Citizens' Advice Bureau, and the magistrate's courts.

Before you start legal action:

1. Speak to the person who is making the noise. Try to come to a suitable arrangement, for example turning the music down, or perhaps limiting the hours of the noise.
2. If you do not want to speak to the person, or if the noise continues after you have spoken to them, write to the person explaining the problem and telling them what action you would like them to take to reduce the noise. Make sure you date the letter and take a copy.

3. If the situation does not improve, (and if you are not already keeping one) start keeping a written diary of the noise. Include in the diary record:
 - a. When the noise happens, including the date and time;
 - b. The length of time the noise lasts;
 - c. What type of noise it is (for example loud music, machinery, and people shouting).
 - d. Why is it a nuisance, for example because you cannot get to sleep, the effect on your life and so on.

If you know about any other person bothered by the noise, or who has witnessed the noise, ask them if they would be willing to give evidence at court if you started proceedings against the person making the noise. If they are, ask them to keep their own diary of the noise. They will also need to make a written statement if the matter goes to court.

You can now take legal action against the person making the noise under section 82, Environmental Protection Act 1990.

The Procedure

You must have enough evidence to support your claims. Proceedings under section 82 are criminal matters, and your case must be proved beyond reasonable doubt.

First of all, you must give the person responsible for the nuisance at least three days' notice in writing. This notice must say that you are going to bring proceedings in the magistrates' court if specific action is not carried out. You must date this letter and keep a copy. If you post the letter you should send it recorded delivery.

If there is no improvement after you have sent the letter, you should contact the clerk of the court and tell them you want to make a complaint under section 82 of the Environmental Protection Act 1990. They will probably make an appointment for you to go and see them.

To find the details of the right magistrates court, visit www.find-court-tribunal.service.gov.uk/courts/bath-law-courts-civil-family-and-magistrates.

At the court, you will see one of the clerks of the court who advises the magistrates. They will explain the procedure and will take the details of your complaint. In other words they will ask you for the information they need to decide whether they should issue a summons. A summons is a document that tells the person who is causing the nuisance that you have complained to the court about the noise and that they must go to the Court at a time and day to 'answer' the complaint. There is no fee for this.

You must give the clerk any schedule of the work, or change in behaviour, which you consider should be done to stop the nuisance. In many cases this may be as simple as asking the other person not to play loud music at night, but it may be that with certain types of noise nuisance technical matters will arise, and you will need to have information from a specialist. The summons will give the date, time and place of the hearing. You should continue to keep a record of the noise nuisance. At the hearing the person who has been summoned will be asked to plead 'guilty' or 'not guilty'.

If the person pleads 'guilty' it is likely that the matter will be dealt with then. You will be asked to present your case and give the court copies of any written evidence, for example, your diary of the noise and any letters that you might have written. The magistrates will want you to tell them

what you need to reduce or get rid of the nuisance and will then make an order that the other person does what you have asked, or to take some other reasonable action.

If the person pleads 'not guilty' the case will be put back so that a trial can take place. You will be asked how many witnesses you will be calling, and the day for hearing will be read out in court. You will need to prepare your case for that hearing. Get written statements from any of your witnesses, and write one about your own experience.

Put together any other evidence that you might have, for example, doctor's notes, experts reports and so on. You must send a copy of everything that you are going to use at the trial to the other person (or their solicitor if they have one) as soon as possible.

If, at the hearing, the magistrates are satisfied that there is a nuisance, they will grant what is called 'an abatement order'. This tells the person who is causing the nuisance that they must stop the nuisance from causing you trouble any longer. They can also be fined and ordered to pay costs.

Costs

If you are successful, the court might make an order that the other person should pay your costs. You should keep a record of any costs that you or your witnesses have had to pay, for example, having to take a day off work unpaid, travel expenses and so on.

In other circumstances, magistrates can decide how to award costs and either you or the person causing the nuisance could pay all or part of both sides' costs according to the circumstances. In some cases you might be able to get legal aid to help your case. This will only be available if you employ a solicitor to act for you, and you are on a low income.