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## 1. Reporting domestic noise nuisance to the Council

Environmental Health deals primarily with noise from non-Council domestic properties. If the subject of your complaint is a Council tenant the Housing Nuisance Team will initially deal with the complaint.

To be a nuisance, the noise must be more than annoying or simply audible. It must significantly interfere with your enjoyment of your own premises and appear unreasonable to the average person. It is important to understand that noise nuisance investigations are about how you are affected. We will be unable to help without your co-operation and evidence.

Some types of noise are more likely to be a nuisance, such as loud music and DIY noise. It is very unlikely that we would be able to take action for normal domestic noise (for example people moving about their own home) or where there is poor sound insulation between dwellings. This is because we need to show the noise is being caused unreasonably.

Noise nuisance investigations are usually carried out in four stages.

**Stage 1:** We will provide you with some preliminary diary sheets, or you can fill in the online sheet at <http://www.reading.gov.uk/nuisance>. This should be filled in for 2 weeks. The information you provide will be assessed against a number of factors, including:

- The time of day the noise occurs
- How long the noise goes on for
- The type of noise
- The location in which the noise occurs
- How loud the noise is
- How the noise affects you

This will allow us to determine whether the noise is likely to be a statutory nuisance.

**Stage 2:** If we think a nuisance may be occurring, we will write to the person causing the noise to let them know a complaint has been made. In many cases this will solve the problem. You will be asked to continue completing diary sheets for a further 2-3 weeks to see if there is any change in the noise.

**Stage 3:** If there is continuing evidence of nuisance, we will either arrange to install monitoring equipment or ask you to call an officer out to witness the nuisance during the day. If the noise occurs out of hours we can make special arrangements for an officer to attend even if it is late at night or a weekend.

**Stage 4:** If we witness the noise and are satisfied that a statutory nuisance exists, we can issue a noise abatement notice under the Environmental Protection Act 1990 requiring the person responsible to stop causing the nuisance noise. If the notice is ignored, we must witness the nuisance again so that we can take legal action. In the case of persistent noise problems we have the power to seize noise-making equipment (for example, amplifiers and speakers) after obtaining a warrant from the magistrates' court.

We ask for you to be patient while we investigate, as it can take time to collect sufficient evidence of nuisance to enable legal action, especially when it is irregular or unpredictable. Please note that we cannot guarantee success. If we are unable to help, we will let you know so that you can consider action yourself. Please see the fact sheet **A guide to section 82 of the Environmental Protection Act 1990** for more details.

## 2. Reporting commercial noise nuisance to the Council

The Environmental Protection team in Environmental Health has responsibility to investigate complaints of nuisance noise coming from commercial premises. Allegations of this nature are investigated under the Environmental Protection Act 1990 ("the Act").

Noise can amount to a statutory nuisance under the Act, and if a noise nuisance exists the Council has powers to ensure that the noise is reduced to a level where it is no longer considered a nuisance. To be a nuisance, noise must be more than annoying or simply audible. It must significantly interfere with your enjoyment of your own premises and appear unreasonable to the average person. It is important to understand that noise nuisance investigations are about how you are affected. We will be unable to help without your co-operation and evidence.

Noise nuisance investigations are usually carried out in four stages:

**Stage 1:** We will provide you with some diary sheets, or you can fill in the online sheets at [www.reading.gov.uk/noise](http://www.reading.gov.uk/noise). These should be filled in for 2-3 weeks. The information you provide will be assessed against a number of factors, including:

- The time of day the noise occurs
- How long the noise goes on for
- The type of noise
- The location in which the noise occurs
- How loud the noise is
- How the noise affects you

This will allow us to determine whether the noise is likely to be a statutory nuisance.

**Stage 2:** Usually at the same time as stage 1 we will write to the premises causing the noise to let them know a complaint has been made and give them appropriate advice regarding how they may reduce the noise. In many cases this can solve the problem. You will be asked to continue completing diary sheets to see if there is any change in the noise.

**Stage 3:** Once we receive your completed diary sheets, and if there is continuing evidence of nuisance, there are a number of different options depending on the nature of the problem, including: installing noise monitoring equipment, or arranging a suitable time to visit you to witness the nuisance, or if the noise occurs out of office hours we can make special arrangements for an officer to attend.

**Stage 4:** If we witness the noise and are satisfied that a statutory nuisance exists, we can issue a noise abatement notice under the Environmental Protection Act 1990 requiring the company responsible to stop causing the nuisance noise. If the notice is ignored, we must witness the nuisance again so that we can take legal action.

We ask for you to be patient while we investigate, as it can take time to collect sufficient evidence of nuisance to enable legal action, especially when it is irregular or unpredictable. Please note that we cannot guarantee success. If we are unable to help, we will let you know so that you can consider action yourself. Please see the fact sheet **A guide to section 82 of the Environmental Protection Act 1990** for more details, which is available on the Council website [www.reading.gov.uk/noise](http://www.reading.gov.uk/noise).

### 3. Guidance on submitting logged nuisance recordings

Your submissions are an essential part of the investigative process, as they show how the noise is affecting you and your household. It is very important that the submissions are completed in detail and this guidance is intended to help you to do this.

Submitting logs at the time the nuisance occurs will help to make the record as accurate as possible.

#### *Type of noise*

Please describe the type of noise, for example loud music, loud television noise, noise from D.I.Y. activity, etc.

#### *Day and date*

Each log will be date and time stamped. Care should be taken when making notes in the early hours of the morning, as it is easy to become confused about the day and date.

#### *Time started*

Please write down the time the noise started if different to the actual log recorded. Please make sure you clearly show the time of day the noise occurred, by either stating am or pm, or using the 24-hour clock system.

#### *Duration*

Please write down how long the noise went on for. If the noise is not continuous, but frequently repeats over a period of hours, please make a separate note once every couple of hours or so.

#### *Location of the noise*

Please try to describe where exactly the noise is coming from. For example, "from ground floor front room at No. 32" or "the back garden at No. 64".

#### *Description of the incident*

Please describe how the noise affected you. Please be as specific as possible. Examples can include 'woke me up', 'had to turn up the volume on my television', or 'forced me to go out'. Please avoid using expressions like 'ditto', ditto marks (" " ") or other forms of shorthand.

We appreciate that noise can be frustrating, but please keep your notes to the point. It is best if you avoid making personal comments about neighbours or commenting about matters that are not relevant to the noise. Please remember that these diary sheets may be given in evidence if legal action is taken.

**If other people within the household are being impacted at different times of the day or night to yourself they should register themselves via the noise app or can submit written diary sheets.**

## 4. Guidance on completing diary sheets

Your diary sheets are an essential part of the investigative process, as they show how the noise is affecting you and your household. It is very important that the diary sheets are completed in detail and this guidance is intended to help you to do this.

The diary sheet has nine columns, in which you will need to write down different bits of information. It is important that you complete the sheets at the time that the noise occurs, as this will help to make the record as accurate as possible.

### *Type of noise*

Please describe the type of noise, for example loud music, loud television noise, noise from D.I.Y. activity, etc.

### *Day and date*

The correct day should be written down in the 'day' column, and the date in the 'date' column. Care should be taken when making notes in the early hours of the morning, as it is easy to become confused about the day and date.

### *Time started*

Please write down the time the noise started. Please make sure you clearly show the time of day the noise occurred, by either stating am or pm, or using the 24-hour clock system.

### *Duration*

Please write down how long the noise went on for. If the noise is not continuous, but frequently repeats over a period of hours, please make a separate note once every couple of hours or so.

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We appreciate that noise can be frustrating, but please keep your notes to the point. It is best if you avoid making personal comments about neighbours or commenting about matters that are not relevant to the noise. Please remember that these diary sheets may be given in evidence if legal action is taken.

### *Signature*

The person making the record should sign and date each entry at the time of writing.

## 5. Sound insulation and nuisance

Poor sound insulation between adjoining properties is a cause of many complaints throughout the country. It may make every day sounds of ordinary living; for example children playing, footsteps across a floor and doors banging, intolerable. It is a particular problem in premises originally constructed as single household dwellings, which have been converted into self-contained flats and in buildings constructed during the 1960s when standards for noise attenuation were not as good as modern day standards.

Following the common law cases of *Southwark v Mills*, *Baxter v Camden LBC* and *Vella vs LB Lambeth* it was found that a lack of sound insulation between premises leading to noise nuisance cannot be remedied under the Environmental Protection Act 1990.

These cases found that it is not reasonable to expect neighbours to behave especially quietly because sound insulation between their properties is poor. Therefore normal, everyday noise will not constitute a statutory nuisance.

As a result of these cases statutory action cannot be taken by the Environmental Protection and Nuisance team to require the provision of sound insulation in such cases. If however, normal everyday noise is undertaken in an unreasonable way, for example musical instruments loudly playing for long periods of time, the Environmental Protection and Nuisance Team may be able to help.

### **Improving Sound insulation to your premises**

Further advice can be obtained from the current Building Regulations Document E- Resistance to the Passage of Sound and Building Research Establishment's Sound Insulation Tips on how to improve sound insulation to your premises.

Residents need to be aware of Party Wall Legislation as both owners of the linked party walls and floors may be liable for the costs of sound insulation improvements. Advice on minimising noise from laminate flooring by using acoustic underlay and sealant can be obtained from [www.defra.gov.uk](http://www.defra.gov.uk).

### **Housing Act 2004 - Housing Health and Safety Rating System**

External and internal noise is one of the hazards assessed in the Housing Act 2004 (HHSRS). The HHSRS is a risk assessment tool used to assess potential risks to the health and safety of occupants in residential properties in England and Wales. The assessment will show the presence of any serious (Category 1) hazards and other less serious (Category 2) hazards. There is a mandatory duty to take appropriate action to reduce Category 1 hazards.

For noise nuisance caused by a lack of sound insulation to be classed as a Category 1 hazard there would need to be clear evidence of physiological or psychological illness or stress caused by excessive noise unless there are significant defects to party walls floors or external windows. If a Category 1 hazard is determined both owners of the linked party walls and floors may be liable for the costs of sound insulation improvements. If you would like more information, please contact the Private Sector Housing team at Reading Borough Council on tel 0118 937 3787.

## 6. A guide to section 82 of the Environmental Protection Act 1990

While we try to resolve all complaints of nuisance noise we receive, cases sometime arise in which we are unable to assist. In these situations, the law allows private citizens to take their own legal action to try to prevent nuisance noise.

Before taking legal action, you should exhaust every other available option to resolve the matter. The steps you should consider taking include:

- Speaking to your neighbour about the problem. If you are happy to do so, it might be helpful to invite your neighbour to hear the level of noise themselves;
- If the problem seems to be caused by poor sound insulation, you may wish to explore whether practical steps can be taken to improve the sound insulation between you and your neighbour;
- It may be appropriate to seek the services of a mediation service to mediate the dispute between you and your neighbour;
- If your initial steps to approach your neighbour are unsuccessful, write to them about the problem. Refer to your previous conversation and stress the effect the noise is having on you and your family.

If the situation does not improve, you may want to proceed with legal action. The legislation which you can use is Section 82 of the Environmental Protection Act 1990. If you take action under this section, the matter will be heard in the Magistrates court.

Before you take action under this section, you must advise the person responsible for the noise that you intend to take legal action. This notice must be in writing and must give three clear days notice of your intentions. You can contact the clerk of your local Magistrates court to ask for further details on how to proceed. Remember to ask for enough court time for your case to be fully heard.

“Nuisance” is a legal term which covers many circumstances including those of noise. The court will look to see how loud and unreasonable the noise is and whether they think that the average person would be unreasonably affected by it. To satisfy the court that a nuisance is being caused, you will need to provide good evidence. You should keep a log of the disturbance and, if possible, bring witnesses along to court with you.

On the day of the hearing, you will need to attend court and convince the Magistrates that a nuisance is being caused. Your neighbour may try to defend themselves and convince the court that there is no nuisance. Don't forget to take all your papers and evidence to court with you.

**NOTE:** Before taking legal action, you must be sure that you have a strong case. If you win you may be entitled to claim your expenses in bringing the case (e.g. Witness expenses, wages lost, travelling costs). If you lose you may have to pay the defendants costs. It is strongly advised that you seek professional legal advice before proceeding. You may be able to get free legal advice - ask at your local Citizens Advice Bureau if you think you may be eligible.