



## Regulatory Services

# Dealing with Domestic Noise Nuisance and Noisy Neighbours

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### How to contact us:

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M32 0TH

Telephone: 0161 912 1377

Email: [environmental.protection@trafford.gov.uk](mailto:environmental.protection@trafford.gov.uk)

## **1. Introduction**

This booklet is designed to help you deal with domestic noise nuisance. It contains advice about what the council can do to help you resolve the situation and to inform you on what rights you have and what action you can take yourself.

The Environmental Protection Act 1990 requires the council to take reasonably practicable steps to investigate a complaint of a statutory nuisance made by a person living in its area. This is the law the council uses to take action where noise is found to be excessive and causing a disturbance.

The advice takes into account local and national guidance to ensure the council's noise service is cost effective and meets the needs of the community.

## **2. Trafford Council's Customer Pledge**

The customer pledge is a guide to the services the council provides and the standard of service you can expect to be delivered. You can view a copy of the pledge by typing this link in your browser:

<http://www.trafford.gov.uk/residents/our-customer-pledge.aspx>

In dealing with complaints about noise nuisance, the council pledges to:

- Respond to requests for services within five working days.
- Aim to resolve all domestic noise complaints within 60 working days.

## **3. What is a domestic noise nuisance?**

Domestic noise is a common source of disturbance. The most frequent complaints are about barking dogs, loud music or TV, shouting, banging doors and DIY activities. However it is not a simple matter to decide when this noise becomes a nuisance as defined in law.

The council's officers have to consider whether the noise has too much impact on someone's right to the reasonable enjoyment of their property. This is done by carrying out a noise nuisance investigation which is described below under section 5: "What the council will do".

Please note that the council cannot take action in every case. Any special circumstances that may make someone more susceptible to noise nuisance cannot normally be considered. For example, shift workers who sleep in the day cannot expect the same degree of quiet as can be expected at night. Infrequent noise is also unlikely to be something the council can take action over.

#### **4. What you can do**

You can approach your neighbour and explain politely that you are being troubled by noise. Most will not realise the effect the noise is having on you and be happy to resolve the problem. However you should approach the matter carefully if you feel that your neighbour might react angrily.

If the problem continues, you could write to your neighbour asking them to stop the nuisance. Refer to any conversations you've had and what, if anything, they agreed to do about it. If your neighbours are tenants, you could discuss the matter with their landlord, however you will need to find out who that is if they rent privately. If this approach fails, then the council may be able to help.

You may find it helpful to keep a written log of incidents as they happen. A diary form is included within this booklet for you to use.

#### **5. What the council will do**

Following the receipt of your complaint, an officer will be assigned to investigate the matter. He or she will contact you by phone within five working days to get more details about the problem.

If the matter relates to a property owned or managed by Trafford Housing Trust or any other housing agency, then the matter will be referred to them. The council will liaise with the agency to ensure the matter is investigated.

In all other cases, you will receive a diary form for logging instances of the noise. (If you wish, you can complete the diary form inside this booklet instead). The diaries are an important source of evidence and you may be asked to carry on keeping them throughout the investigation.

Your completed diary will be reviewed and a decision will be made whether to investigate further. If there is enough evidence to investigate, an informal warning letter will be sent to the person responsible for the noise. You will receive a letter at the same time with a further diary form to complete and return.

If your returned diary shows that the problem has not been resolved, then an officer will visit you to attempt to witness the nuisance. If the noise happens at times when officers are not normally available or is sporadic in nature, then monitoring equipment can be left with you that lets you record the noise when it happens.

The officer will attempt to collect evidence of the nuisance up to a maximum of 3 times, either by visiting you when the noise is happening, or by leaving the monitoring equipment with you, or by a combination of the two.

The evidence will be assessed to establish whether the noise is causing a 'statutory nuisance' as defined by the Environmental Protection Act 1990. If so, and all means of resolving the matter informally have been exhausted, a Noise Abatement Notice will be served under section 80 of the Act requiring the noise to be abated within a specified time period.

It is an offence to breach the terms of a Noise Abatement Notice and this may result in a prosecution case being taken against the offender in the Magistrates' Court. If convicted, the offender would be liable to pay a fine (currently up to a maximum of £5,000).

If the notice is persistently breached, then the council can apply for a court warrant in order to seize your neighbour's noise making equipment such as hi-fi systems, radios, TVs and so on.

You may be asked to support any legal action taken by the council by appearing in Court to give evidence as a witness.

## **6. When the council cannot take action**

Sometimes it is not possible for the council to take action to resolve your complaint. This may be due to the noise being too infrequent or not severe enough to be considered as a statutory nuisance. Where this is the case, you will be informed of the decision and given an explanation as to why no action is possible.

There may be cases where the noise is part of an ongoing neighbour dispute. The involvement of a mediation service could help you to resolve any dispute or argument you have with your neighbour. Officers can give you more details about what services are available.

If the council cannot help and you don't want to consider mediation, then please see the information below about what action you can take yourself should you wish to.

## **7. Taking action yourself**

Section 82 of the Environmental Protection Act 1990 gives individuals the right to take independent action against noisy neighbours by complaining directly to the Magistrates' Court.

Below is a procedure for taking action in this way. If you would prefer to discuss the matter first, the council's Pollution officers will be happy to help. Also you can visit any of five Citizens Advice Bureau offices in the Trafford area for free, independent, confidential and impartial advice on your rights and responsibilities. Contact Citizens Advice Trafford on 0300 330 1153 or visit [www.traffordcab.org.uk](http://www.traffordcab.org.uk) for more information.

Before you approach the court you should try to resolve the problem by talking to your neighbour. Use the diary sheet within this booklet to begin a written log of all incidents and carry on until the nuisance is resolved. Talk to other neighbours and encourage them to keep records of incidents if they are also being affected.

If there is no improvement then write to your neighbour describing what the problem is and requesting that they prevent any further disturbance by a certain date (eg. within two weeks). Mention that you could take legal action under section 82 of the Environmental Protection Act 1990 to abate the nuisance. Date the letters and keep a photocopy for future reference together with any other correspondence you receive.

If your neighbour ignores your letter and carries on causing a nuisance, contact Manchester and Salford Magistrates Court on 0161 830 4200 for advice about making a complaint under section 82 of the Environmental Protection Act 1990.

Before taking action, you will need to give written notice to your neighbour describing the complaint and explaining that you intend to bring proceedings at the Magistrates Court. A pro-forma notice is included in this booklet which you can use if you wish (make sure you photocopy the notice before delivering it).

You must allow at least three clear days for the nuisance to improve. If it doesn't improve after this period, contact Manchester and Salford Magistrates Court who will set a date for the hearing and summon the noise maker to attend.

At the hearing, you will need to prove to the Magistrate, beyond reasonable doubt, that the noise you are complaining about amounts to a nuisance. You will be requested to explain the problem and produce evidence of the nuisance being caused. The diaries you have kept and copies of correspondence with your neighbour will be important evidence.

The case will be treated as a court hearing and you may have to present your own evidence and cross-examine any supporting witnesses you have to draw out their evidence. The neighbour will be able to cross-examine you and your witnesses and may produce their own evidence in defence. A solicitor could help you handle the case although it is not absolutely necessary to employ one.

If you prove your case the Court will make an order requiring the nuisance to be abated, and/or to prohibit recurrence of the nuisance. If the order is ignored then the noise maker will have committed an offence and will be liable to pay a fine (currently up to a maximum of £5,000). You must continue to keep records of noise nuisance in case it is necessary to return to Court.

If you fail to prove your case you may have to pay costs to the defendant, in addition to any costs incurred by yourself.

## **8. How to make a complaint to the council**

Please see the front cover for our contact information. Before making a complaint, have the following information ready to give to us:

- Your name, address, telephone number and email address if you have it. (Sorry, we can't accept anonymous complaints, but we will keep your details in confidence)
- The name (if you know it) and address of the person(s) responsible for the noise
- If you know who owns the property where the noise is coming from
- A description of the problem (e.g. what is causing the noise, when it's happening, for how long, how it's affecting you, etc.)
- What you have done to try to resolve the problem with your neighbour

Section 82 of the Environmental Protection Act 1990

**NOTICE OF INTENTION TO BRING PROCEEDINGS**

To: \_\_\_\_\_

Of: \_\_\_\_\_

I \_\_\_\_\_

Of: \_\_\_\_\_

Being aggrieved by a statutory nuisance, namely:

\_\_\_\_\_

\_\_\_\_\_

in relation to the premises known as:

\_\_\_\_\_

\_\_\_\_\_

HEREBY GIVE YOU NOTICE under section 82(6) of the Environmental Protection Act 1990, that I intend to bring proceedings for an order under section 82(2) of the said Act in the Manchester and Salford Magistrates Court sitting at Crown Square, Manchester M60 1PR against you, as [the person responsible for the said nuisance] [the {owner} {occupier} of the said premises].

Signed \_\_\_\_\_

Dated \_\_\_\_\_

