

factsheet

Regulatory Services

www.charnwood.gov.uk/factsheets

Dealing with Neighbour Nuisance



Unlike a lot of other UK laws the current nuisance law does not give any guidance about what particular level of noise, smoke or other specified matter amounts to a legal nuisance. This means that council officers have to assess the circumstances of each complaint to determine whether they are dealing with a matter that can be dealt with under the law. This fact sheet guides you through the issues that have to be considered and will hopefully give you an

indication of whether your problem is likely to be one that falls within nuisance law.

COUNCIL TENANTS are asked in the first instance to contact Housing Services Anti Social Behaviour team on 01509 634666 or email information@charnwood.gov.uk

Is your problem an issue that can be investigated?

Most neighbour nuisances that we investigate relate to problems from noise, smoke, fumes or gases, accumulations and artificial light. The source of the problem must always be on another property. We cannot investigate matters that occur on the road or pavement except in cases of malfunctioning car alarms, loudspeakers and on-going vehicle repairs for business or personal gain.

Are there any particular exceptions I need to be aware of?

Unless there are exceptional circumstances we cannot take action against any nuisance that is related to ordinary day to day activities

such as noise from doors slamming, children playing, people talking or odour from cooking. These are not the type of issues that the law is intended to be used against. In addition, it should be noted Statutory Nuisance is limited to 'the ordinary person' i.e. someone who is not unusually sensitive.

This means we cannot always help people with acute sensitivities (e.g. can hear the faintest noise from next door) and also people with special requirements (e.g. shift workers having their sleep disturbed by day to day activities) or unrealistic expectations (e.g. feel that they should not experience another person's activity on their property).

How much are you being affected by the problem?

To be a legal nuisance the problem must cause you a significant interference with your use and enjoyment of your own property. In extreme cases it might even be considered harmful to health. The legal focus is on situations where there are multiple incidents that recur on a regular basis and cause a significant impact over a reasonable length of time when they occur rather than a one-off or occasional occurrence. For example;

- The nuisance will cause you a major disturbance through the loudness of the noise, unpleasantness of the odour, the thickness of the smoke etc.

- The nuisance will recur on a regular basis; perhaps daily or at least three or four times a week
- The incidents will last for a long period; perhaps on/off throughout the day or at least lasting in excess of one or two hours
- Because nuisance law does not specify days or times when certain activities are allowed or prohibited it is possible to experience a nuisance at any time of the day or night, but sometimes the problem might be made worse because it occurs at a sensitive time of the day or night, for example noise or artificial light causing sleep disturbance

How does your situation compare against these examples of typical situations involving what might be considered a legal nuisance?

Normally a legal nuisance involves someone persistently behaving unreasonably and possibly maliciously, or even failing to act responsibly, in order to control a nuisance and as such;

- Some one who has been having smoky bonfires on a weekly or fortnightly basis regularly for some weeks or months where the smoke soils washing, or can be smelt inside a house, is more likely to causing a legal nuisance rather than someone who has a one-off bonfire, even if this is very smoky.

- The dog owner who fails to control their dog(s) allowing loud barking to recur constantly (or on and off for the majority of the time) over a long period of time on regular occasions will be more serious than when a dog barks briefly when the postman calls, or occasionally when someone walks by.
- Hearing your neighbour's TV or music is unlikely to be a legal nuisance if it is barely audible in your home or only occasionally louder. However, your neighbour could be causing a legal nuisance if they regularly play their music or TV for prolonged periods at a volume that is excessively loud in your home.
- An accumulation of domestic food waste that might attract vermin, flies or cause an overpowering stench is more likely to be a legal nuisance than a garden with overgrown vegetation or an inert heap of bricks, wood or glass.
- Noisy DIY work using power tools or hammers outside of the recommended times on our DIY Noise fact sheet is more likely to be a legal nuisance than this type of work being carried out at other times.
- In the same way, the person with a badly adjusted security light that prevents someone from sleeping most nights, the house owner who keeps some chickens that can always be smelt in the neighbour's garden could all be causing a legal nuisance.

The above examples are a general guide but in some cases there may be additional circumstances that make it difficult for residents to make a clear assessment; if you are uncertain about your situation in any way please contact the Environmental Protection team who will be pleased to discuss your concerns with you.

What do I do next if I think my problem may be a legal nuisance?

a) **Contacting the source yourself**

In the first instance we would encourage you to discuss your problem with the source; they may be unaware of the nuisance they are causing and such an approach will help to keep good neighbourly relations and lead to a quicker resolution. Advice on doing this can be found on our fact sheet 'Discussing a nuisance problem with your neighbour' at our web page at

www.charnwood.gov.uk/pages/environmentalprotection

There is also a 'Sample letter to neighbour' there that you can copy and adapt if you would rather write than speak to your neighbour.

b. **Making a complaint to the Council's Environmental Protection team**

If you have discussed your complaint with the source, but failed to improve the situation, or if you do not feel able to contact your neighbour about a problem for any particular reason, you can ask the Council to investigate. Our contact details are listed below. You will need to tell us:-

- The nature of the complaint
- The address where the problem is being caused
- Your own name and address and a contact telephone number and/or email address

Please note that we are unable to act on anonymous complaints because of the legal requirements of nuisance and human rights law, and the practical issues of effectively investigating nuisance complaints. We will keep your details confidential during the investigation, although we may have to review this with you if the case eventually goes to court. In addition, it will be very difficult to help you if your complaint is part of an on-going neighbour dispute or made in direct retaliation against action by another party. Our involvement under these circumstances may further inflame relations and prejudice our investigation and any subsequent legal action we may take. In such situations we can offer advice to the complainants on taking their own legal action or contacting a mediation agency.

How will the Council investigate my complaint?

Because nuisance law is criminal law we firstly have to investigate the matter to see if we can obtain suitable evidence. The Investigating officer will take such steps as are reasonably practical and under normal circumstances the following procedure will be followed;-

- A letter will be sent to the source advising them of the complaint. At the same time you will be sent some diary sheets to monitor the situation for improvements.
- If the problem continues you must write down details of the incidents and how they affect you on the forms and return these after 2/3 weeks. If you do not return the completed diary sheets or contact us to say that the problem is still continuing we will assume that the problem has stopped, or is no longer occurring at a level that causes you a significant disturbance, and the case will be closed.

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- The officer will assess the information and, if it indicates that a legal nuisance may be occurring, arrange to investigate further by using surveillance equipment such as noise nuisance monitoring equipment or proactive visits by the officer.
- If the case officer obtains evidence that confirms the allegations we will usually serve an abatement notice on the person responsible for the problem, and depending on the circumstances, require them to stop the nuisance altogether **or** control it to reduce the intrusion to a reasonable level deemed appropriate by the investigating officer.
- Failure to comply with an abatement notice is a criminal offence, so if the problem continues the case officer will have to witness the problem again only this time the evidence will be used in legal proceedings in a magistrates' court where the perpetrator may be fined, or receive other punishment.

It is usual for it to take as long as 3 months from the start of an investigation to serving an abatement notice, and longer still if we subsequently need to go to court for action against the breach of the notice requirements. Any decision on whether to proceed formally ultimately rests with the investigating officer using their legal knowledge and experience to form an opinion from the evidence available as to whether the situation is serious enough to amount to a legal nuisance.

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Contact us for further information at;

Environmental Protection team, Regulatory Services, Charnwood
Borough Council, Southfields,

Loughborough, Leicestershire LE11 2TX

*Office Opening Hours: Monday to Thursday 8.30am to 5.00pm; Friday
8.30am to 4.30pm*

Tel: (01509) 634636 Fax: 01509 231313

E-mail: env.health@charnwood.gov.uk

<http://www.charnwood.gov.uk/pages/environmentalprotection>

To find out if this information is available in other formats, or for help understanding it in your language, please call (01509) 634560.

This information is available in different formats. To access these please phone (01509) 634560.

এ তথ্যাদি অন্যান্য মাধ্যমে পাওয়া যায়। এসব পেতে হলে দয়াকরে (01509) 634560 এ নাম্বারে টেলিফোন করুন।

這資料具不同的格式，請致電 (01509) 634560 索取。

आ माहिती जुद्धी जुद्धी पद्धतीओमां उपलब्ध छै. ते मेणववा माटे हुपा करी आ नंबर पर सेन करी (01509) 634560.

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