THE ROYAL BOROUGH
OF
WINDSOR & MAIDENHEAD

NOISE NUISANCE
ENVIRONMENTAL PROTECTION Act 1990
Section 82

HOW TO DEAL WITH NOISE PROBLEMS YOURSELF

A Self-Help Guide
WHAT IS THIS PACK FOR?

Environmental Protection Officers who have had considerable experience in dealing with nuisance have prepared the pack. Its purpose is to explain, in a straightforward and helpful way, how you can take your own action against a noisy neighbour who is causing you distress.

WHAT DO YOU HAVE TO DO?

Informal action

It is necessary to tell the person concerned that they are causing you distress as they may be unaware of this. You should normally approach the person who is causing you a problem. If this fails you may need to put your concerns in writing; attached is a suggested letter that you can use for this purpose.

Please ensure you are calm, fair and open when discussing problems and ask for cooperation. Explain how the noise affects you, your family, and your life and ask your neighbour to try to help by thinking of you.

If there is an improvement thank them and ask them to keep to that level of noise. Should there be no improvement with the noise situation, or if you do not feel confident about approaching your neighbour directly you will need to put your concerns in writing.

Fill in the necessary details and obtain a photocopy (or fill out a further letter) and keep this for yourself as a copy.

Hopefully once you have given this letter to your neighbour, it may on its own result in the problem being resolved. You may find that your neighbour has not known that their actions have been disturbing you and you may be able to come to some arrangement with them which suits you both.
Dear Neighbour

For some time I have been disturbed by noise created within your premises.

The main problem seems to be

I should welcome the opportunity to discuss this problem with you in order that we may resolve the matter as soon as possible.

The Local Authority have informed me that there is provision under Section 82 of the Environmental Protection Act 1990 for me to take my own action and that I can apply to the Courts for a noise abatement order to be issued.

You will appreciate that I have no wish to do this and I hope to be able to resolve the problem amicably with you.

I look forward to hearing from you in the near future.

Yours sincerely
WHAT IF THE SITUATION REMAINS THE SAME OR DETERIORATES?

Take Formal action

If, after you have sent the letter, the noise, which is disturbing you, continues to persist, you will need to consider approaching the courts for an order to abate the nuisance.

The magistrates will need to be satisfied that your complaint is justified. To help prove your case you should note each time the noise problem occurs and a diary sheet has been included with this pack for this purpose. It is essential that it be completed at the time the event occurs and kept in a safe place for use later.

Completing the Diary Sheet

You will note that on the sheet there are a number of headings. It is important that you include the date and the time that the noise started and finished. The two times are perhaps sometimes difficult to judge as the noise may not be a nuisance initially or may cease to be a disturbance, although it can still be heard.

You should therefore consider carefully what you are recording and the manner in which it disturbs you.

The judgement you make must be reasonable in terms of both your occupancy of your part of the dwelling and that of your neighbour. You cannot expect absolute silence or no disturbance at all from your neighbours. Therefore, you should carefully assess how the noise is intruding into your use of your premises.

You will have to make a judgement as to how serious the nature of the noise is. This may be difficult to do if it is of an intermittent or varying nature or the action creating the nuisance appears to be a one off event (such as Birthday party or anniversary).

If you are unsure as to whether or not to proceed you may need to seek advice from the Environmental Protection Officer who is responsible for your area whose address and telephone number is given at the end of this pack.

In completing the diary, you should attempt to describe what you think is making the noise for example, loud television, machinery operating, noisy domestic activities, and try to make an assessment as to how loud the noise is:

- Does it intrude over your enjoyment of your own television set?
- Is the volume level so loud that you can hear it in different rooms?
You will see that there is also a further column for comments this should include if the noise stops you sleeping, relaxing, working and how it makes you feel for example tense, headache and so on. You should complete your name and address and you should establish, as far as possible, the address and the location from which the noise arises. You should take care in doing this in order to avoid any confrontational situation.

After a reasonable period of time, say 3 / 4 weeks, if no improvement has been made you should consider taking your evidence to the magistrates.

**Complaining to the Courts**

The procedure is straightforward and you should not feel daunted if you have no experience of Court procedures.

You are required under Sections 82 (6) and (7) of the Environmental Protection Act 1990 to give at least 3 days written notice of your intention to bring proceedings against any person and a suitable letter is enclosed for this purpose.

If you do intend to proceed you should complete this, ensuring that your description of the nuisance is clear. Take a copy as you will need this later.

You must have a ‘Complaint Form’ filled in with details – a suitable form is attached. You should write to:

East Berkshire Magistrates’ Court,
Admin Centre, Reading Magistrates’ Court
Castle Street
Reading
Berkshire
RG1 7TQ

Or visit:

East Berkshire Magistrates’ Court,
The Law Courts, Chalvey Park,
Off Windsor Road,
SLOUGH,
Berk. SL1 2HJ.

Enquiries: 0118 980 1800 or email: TV-BerkshireMCEng@justice.gov.uk

Inform the Court official of your address and that you wish to start an action under Section 82 of the Environmental Protection Act 1990.

Explain that you have kept a diary of events and that you have previously written to the person causing the nuisance informally and that as there has been no change. You have now informed them (at least three days previously) of your intention to bring proceedings.
Confirm that you have copies of these letters available to show the court. You will then be 
advised where you are to attend and at what time. You should ensure that you can be 
available, but be aware that there will be other cases being heard and that your own case 
may be delayed or set back.

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Example letter 2

Address

Date

Dear

ENVIRONMENTAL PROTECTION ACT 1990

You will recall that I wrote to you some time ago regarding the disturbance caused to me by 
noise created from within your premises.

I regret to have to inform you that I am still being troubled by this and I feel that that I have no 
alternative but to apply to the Courts for a noise abatement order to be issued under Section 82 of 
the Environmental Protection Act 1990.

Sections 82 (6) and 82 (7) require me to give you at least three days of my intention to bring 
proceedings. You should therefore take this letter to be formal notification of my intention to 
make application to the courts.

Yours sincerely

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ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
On the day of the initial hearing you will be interviewed, having taken the oath (or having affirmed).

Do not get worried or concerned. The Court Clerk will help you through the formalities – he/she will advise you and tell you when you should speak.

The Clerk will advise the Justices on points of law during your submission and will also help clarify points in your evidence.

The Court will listen to your explanation of the events and will, assuming they felt that there is a case to answer, issue a "Summons" against the person who you are complaining about. This will outline the details of your complaint and specify a date and time when the case will be heard. Again you should ensure that you are available and be aware that there will be other cases being heard and that your own case may be delayed or set back.

At the main hearing you will give your evidence first and the Magistrate will be particularly interested in seeing the diary of events that you have kept and would also hear evidence, on your behalf, from your friends or relatives who can support your claim. Do not get emotional or over anxious. Stay calm so that you can think clearly and explain your case to the magistrates to the best of your ability.

The person whom you have summonsed will be able to cross-question both you and any witnesses that you bring. They will also be able to submit evidence to try to disprove your case or prove that there is mitigating circumstances, which should be taken into account.

Likewise you will be able cross-question them and any witnesses that they bring.

The Magistrates will, on the evidence and the arguments presented, decide whether or not a nuisance exists. If they decide in your favour, an order prohibiting the nuisance and its recurrence at any other time will be made.

If the nuisance order is contravened then you will have to consider informing the court. A further summons will be issued which will require the person on whom the order was made to appear before the Court and your evidence of the contravention of the conditions of the order will be heard in a similar manner to your original application.

If it is proved that the notice has been contravened then the magistrates can impose a fine.
Using a Solicitor

It is not necessary to employ a solicitor to represent you at either the initial application or any subsequent hearing providing that you feel confident that you will be able to explain the situation to the Magistrate yourself.

The Court will ensure that your best interests are represented when you present your evidence and you should not feel daunted if the other side employs a solicitor.

You are able to have a friend or colleague act as your advisor on the day of the hearing and they can take notes on your behalf but they cannot address the court.

If the person that you have summonsed convinces the Magistrates that there is no case to answer you may be liable, at the discretion of the Court, to pay their costs and you should bear this in mind when deciding what action you are going to take.

Further Advice

You may also seek informal advice from the Environmental Protection Officer who has responsibility for your area. Please contact:

Environmental Protection
Communities, Enforcement & Partnerships
Royal Borough of Windsor & Maidenhead
Town Hall St Ives Road, MAIDENHEAD SL6 1RF
Tel No: 01628-683800
E-mail: environmental.protection@rbwm.gov.uk

The advice given above is intended to outline the provisions of Section 82 of the Environmental Protection Act 1990 and is intended to inform, in general detail, residents and others. Judgement of a noise nuisance is primarily subjective and the opinion of one individual may differ from that of another, particularly as to the severity of the event etc. The final interpretation of events and necessary remedy lies with the Courts.

Neither the Council or its officers can be held responsible for the failure of any action (and the consequences thereby) taken under Section 82 of the Environmental Protection Act 1990.
READ
this information pack through carefully.

TALK
to your neighbour calmly. Explain the problem and how it affects you and your life. Ask them to try to stop the problem.

SATISFACTORY  BETTER  NO IMPROVEMENT

THANK your neighbour for their help and ask for a little more effort.

WRITE a letter to explain your concerns.
Example letter no. 1

BETTER  NO BETTER

Keep a diary sheet of events – a sample is attached.

If there is no improvement then you may take formal action using the powers that are given to you in the Environmental Protection Act 1990.

THANK your neighbour. Tell them how this has improved your life.

ALLOW a reasonable time (2 weeks)

Problem solved

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DiY Noise Pack V 3.0 2018
Informal action gave no improvement

Keep on maintaining the diary sheets

LETTER
Write a letter to the person causing the problem.

Example letter no. 2

WAIT
You must allow at least 3 days before proceeding further.

FILL IN THE COMPLAINT FORM

Copy attached

CONTACT THE COUNTY COURT CLERK

Telephone the Court Clerk. Explain your problem and tell him/her that you have followed the Council’s advice pack. The Clerk may ask to see you to discuss your evidence & advise you if you have a good case. If you have a good case they will sign the form & you can go ahead.

MEETING with the Clerk to the Court

The Clerk agrees that you have a good case. You may proceed

The Clerk says that your case cannot proceed.

Take all your information with you –
- noise record sheets
- copies of letters
- the complaint form

You may get advice on strengthening your case or you may be advised to drop your action.

THE COURT HEARING
The Clerk will help you. The Citizens’ Advice Bureau (CAB) will help you through the process if you want help

You do not need a solicitor but you may ask one to advise you or to attend.

Legal aid is not normally available. Check with the CAB.

The Court may decide that you have suffered nuisance. It may require that the noise is prohibited. It may decide that your neighbour must pay costs of the case including your costs.

The Court may dismiss the case. In this case you will be responsible for paying all costs including your neighbour’s costs.

ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

DiY Noise Pack V 3.0 2018
**ROYAL BOROUGH OF windsor & maidenhead**

**ENVIRONMENTAL PROTECTION TEAM**

Town Hall St Ives Road, maidenhead Sl6 1RF

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