



# Ceredigion County Council

## Investigation of Noise Complaints

### Advice to Public

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This **Advice Note** outlines the framework the Council uses for administering, prioritising and investigating noise complaints. Due to the wide range of complaints relating to noise, it is not practicable to write a procedure for every eventuality and each case is investigated and its outcome determined on its own merits.

Complaints regarding noise are prioritised, responded to and properly investigated according to the criteria and time frames outlined in this document.

The investigating officer may use a variety of investigation, monitoring and enforcement techniques in order to resolve cases involving noise complaints. Formal enforcement options may include the service of notices, seizure of equipment, works in default and taking complementary action such as involving social services, licensing departments or police where anti-social behaviour is associated with the complaint.

#### **How to make a complaint**

Complaints can be made by:

- Complaint in person
- Telephone
- Email
- Letter
- Via website

#### **How will my Complaint be dealt with?**

When a complaint is received, the following minimum information will be requested:

- Your Name (note policy on dealing with anonymous complaints)
- Your Address
- Your Contact telephone number
- Details of the source and nature of the noise
- Any other relevant information, e.g. if the complainant has previously made a complaint regarding the same noise problem, and any actions taken by the complainant to resolve the issue.

- **What happens next?**

Your complaint information will be referred to the relevant team or investigating officer for investigation. Actions that are available to the Council include:

- The Council is statutorily obliged to investigate a noise complaint regardless of who owns the property. The Council may have to take formal action to resolve your complaint. Although the Council will maintain confidentiality by not revealing your identity to the persons/company complained of, you may be asked to provide a witness statement to support formal action; at this stage the Council cannot guarantee your anonymity
- When circumstances preclude your complaint being progressed e.g. noise from road, rail and aircraft in flight, MoD activity, you will be advised accordingly and where appropriate given the contact details of organisations that may help you further
- The licensing team will be advised of any outcomes resulting from investigations involving noise from licensed premises
- Liaison with partner organisations including Dyfed Powys Police, Registered Social Landlords and other Council Departments will be considered where necessary to seek a resolution to your complaint.

## **What is a Statutory Nuisance?**

It is important to draw a distinction between a statutory nuisance and what is a mere annoyance. You may be informed that the noise you complain of is not a **statutory nuisance** and that the Council can take no further action on your behalf. In these circumstances you will be informed of your rights to take your own action under Section 82 of the Environmental Protection Act 1990.

Statutory Nuisance is defined in Section 79 of the Environmental Protection Act 1990. Issues that may be considered a statutory nuisance include:

- [noise from premises or from vehicles, equipment or machinery in the street](#)
- [smoke from premises](#)
- [smells from industry, trade or business premises](#) (for example, sewage treatment works, factories or restaurants)
- [artificial light from premises](#)
- insect infestations from industrial, trade or business premises
- accumulation or deposits on premises (for example, piles of rotting rubbish)

To count as a statutory nuisance it must do one of the following:

- **unreasonably** and **substantially interfere** with the use or enjoyment of a home or other premises
- injure health or be likely to injure health

## **How will we prioritise your complaint?**

- Your complaint will be categorised by the investigating officer as high, medium, low or 'other case', according to the type, severity and the extent of its impact in terms of the number of people affected.
- Changing circumstances will allow a complaint to move up or down the priority categories as appropriate. The investigating officer will keep cases under review and reassess them as circumstance dictates.

## **High priority case criteria**

High priority cases will be dealt with first. If any of the following apply then the complaint is considered as a high priority:

- Does the noise occur regularly, i.e. more than once a week?
- Has there been more than one complaint about the same noise source within the last three months, such as:
  - Multiple complainants by several households on the same or different dates
  - Multiple complaints by one household on different dates
- Does the noise cause sleep disturbance during the night?
- Has the nuisance already been witnessed by officers, noise recording evidence obtained or mobile phone app data received?
- Have noise diary sheets from an initial complaint been satisfactorily completed and returned and do they indicate the likelihood of a statutory nuisance?
- Is the noise likely to seriously affect several households, e.g. premises alarm or vehicle alarms in the street, or is the noise persistent or continuous, e.g. it occurs for more than 60 minutes, or for not less than 20 minutes at least twice in 12 hours?
- Is it continuous, i.e. 24/7?
- The amount of information given by you can also determine its priority, for example, have you given your full contact details (name and address) and are you willing to allow access for assessment of statutory nuisance?

Examples of high-priority cases may include prolonged mechanical noise, late night music noise from licensed premises, security alarms or short-term very high-level noise events such as construction works.

## **Medium-priority case criteria**

The complaint does not warrant an immediate response but it could progress to a high priority complaint.

- Is the noise of moderate duration, for example, less than an hour on a frequent or intermittent basis but without any discernible pattern?
- It does not recur more than twice in 24 hours
- It does not recur regularly, i.e. less than once a week, or

- Is it a repeat complaint where there is a time lag of more than 3 months between the current complaint and the last event?
- Have you given full contact details and are you willing to allow access for assessment of statutory nuisance?

Examples may include residential loud music, DIY works, barking dogs, occasional music events ending before 23:00, noise from air handling plant of restaurants, pubs, etc.

### **Low-priority case criteria**

The complaint falls outside the criteria for medium priority complaint. This may include:

- Irregular events and/or long intervals between the noise events being complained of
- Intermittent, short duration (e.g. less than half an hour) noise at random intervals
- Complaints relating to one-off parties at domestic premises with no history of complaints.

### **Other cases criteria**

Some complaints cannot be dealt with by the Council and so cannot be resolved by this service. For example, transportation noise (road, rail and aircraft) and military noise sources are outside the jurisdiction of the legislation enforced by the Council.

### **How will we investigate your complaint?**

When sufficient information has been received to investigate and prioritise the complaint it will be investigated in accordance with the following timescales

#### **High-priority complaints**

- Your complaint will be acknowledged by telephone call and followed up in writing within 5 working days. Where appropriate, a site visit will be arranged.
- Where a potential statutory nuisance is suspected noise monitoring may be undertaken. You may be requested to make use of the Noise APP facility.
- During the course of the investigation, the investigating officer will maintain regular contact with you, updating you on action being taken and the outcome of this action.

#### **Medium- and low-priority complaints**

- Your complaint will be acknowledged by telephone call and followed up in writing within 10 working days. You will receive a letter with noise diary sheets and other standard documents and instructions on use of the Noise APP where appropriate.

- You will be encouraged to maintain diary records of the offending noise until such time as the case is resolved.
- Where diary sheets are returned and they indicate a potential statutory nuisance, the following actions may be undertaken at the discretion of the investigating officer:
  - Undertake site visit for further investigation of noise
  - Install noise monitoring and/or recording equipment at complainant's property,
  - Encourage use of the mobile phone Noise APP
- The priority of complaints is reassessed during regular case reviews as additional evidence (site visit, diary sheets, additional complaints) becomes available.

Where your complaint relates to a matter that may be the responsibility of another service area or external body, for example, licensing, housing association, police, the investigating officer will refer details of your complaint to the appropriate service area or external body and maintain records of the action taken.

Where insufficient information has been provided, the officer will attempt to contact you to obtain the additional information required, either by telephone, email or letter.

### **The Noise APP**



The Noise App is a simple way that you can submit recordings of alleged noise nuisance to the Council in order to assist with ongoing noise nuisance investigations.

It allows you to show us the nature of the noise disturbance you are experiencing and allows us to appropriately prioritise your complaint. Recordings are submitted instantly to a secure location where

only authorised officers of Ceredigion County Council will be able to access the recordings and your personal data.

### **Site visits**

When visiting the site, the officer will have regard to the type of noise they are investigating to determine the best course of action.

Investigations are likely to include:

- Detailed observations of all noise witnessed inside your premises, both extraneous noise and the noise being complained of, e.g.
  - Volume – audible over TV/radio, conversation
  - Any acoustic feature – whine, hiss screech, hum, bangs, clatters, clicks or thumps which is irregular enough to attract attention

- Affected rooms (windows open/closed)
- Outdoor amenity space such as a garden affected
- Continuous or intermittent
- For entertainment noise – the type of music, heavy bass beat, lyrics, song title, DJ/MC comments vocals audible and/or intelligible
- The character of the neighbourhood
- Any environmental conditions that may be affecting the severity of the noise such as wind or temperature gradients
- Detailed description as to how, in the officer's opinion, the noise is affecting the use of your property, e.g. disturbing or preventing sleep, unable to study/concentrate, interfering with watching TV, unable to hold telephone conversations, unable to relax. o Any particular sensitivities of the complainant (e.g. are they ill, or a shift worker)
- Number of persons/households affected
- Reasonableness of the activity causing the noise, taking into account the time of day, duration, frequency, etc.

**Note:** For industrial noise, consideration will be given to undertaking a formal BS4142: 2014 investigation and report.

- You may be requested to have sound recording equipment installed at your premises. This can be a valuable tool for investigating complaints. It is very useful in assessing the number of times that events occur, for example, dog barking, cockerel crowing or loud music and can give an indication of the severity of the problem. Alternatively you may be given instructions to submit recordings via the Noise APP.

### **Service of abatement notice**

Where an investigating officer is satisfied a statutory nuisance exists or is likely to occur or recur, the officer will consider serving an abatement notice, under section 80 of the EPA 1990. The investigating officer has the discretion to defer service of a notice for up to seven days (note: this applies to statutory noise nuisance under section 79(1)(g) only), while the Council takes appropriate steps to persuade the perpetrator to abate the nuisance. This provision does not apply if the local authority is satisfied that informal action will not be successful or if the nuisance is likely to last for less than seven days.

If the nuisance has been abated during the period of deferral, the investigating officer will write to the perpetrator advising the nuisance has been dealt with to the satisfaction of the Council, and you will be informed accordingly.

### **Breach of an abatement notice**

If the notice has not resulted in abatement of the nuisance or a breach (or breaches) of the abatement notice are substantiated, the investigating officer may consider any or all of the following additional enforcement actions:

- Additional site visits will be required where repeat complaints are received in order to gather evidence to substantiate the failure to comply with the notice.
- Send additional warning letters
- Invite the perpetrator to attend an interview under caution
- Prosecute and/or undertake works in default.

### **Works in default of an abatement notice**

Where an abatement notice has not been complied with, the local authority may abate the nuisance by carrying out works in default. Prior to any works in default being carried out, the investigating officer will ensure the person(s) served with the abatement notice has been advised of the action.

A warrant, obtained under section 81(3) of the EPA 1990 or section 10(7) of the Noise Act 1996, may need to be obtained prior to entering the premises and executing the works, including seizure of equipment.

### **Seizure of equipment**

Where a notice has been served, seizure of equipment may be considered in order to ensure the abatement of a statutory nuisance, in accordance with powers contained in section 80(3) of the EPA 1990 clarified by section 10(7) and the Schedule in the Noise Act 1996.

### **Resolution/closing the complaint**

The closure and resolution of a noise complaint may occur when the investigating officer has followed the investigation through to its completion (having regard to any local and specific noise procedures) and resulting in one of the following:

- You withdraw the complaint
- No statutory nuisance has been identified
- Informal action has been taken e.g. mediation or a warning letter and the nuisance abated
- Formal action has been taken and the nuisance abated
- The matter has been referred to an external agency or another department
- The Council determines that investigation of the complaint or effective Council action is not reasonably practicable.

You will be informed in writing, of the outcome of the case and if appropriate offered advice on taking private action under section 82 of the EPA 1990.

Upon resolution of your complaint, whether this happens formally or informally, all records, evidence and data will be filed in accordance with the internal protocols of the department.

## Anti-social Behaviour, Crime and Policing Act 2014

In many cases noise complaints arise as a result of neighbour disputes or anti-social behaviour. In circumstances where Anti-Social Behaviour is confirmed, appropriate action will be taken under the Anti-Social Behaviour, Crime and Policing Act 2014.

Anti-social behaviour is defined under section 105(4) of the Act as “**behaviour causing harassment, alarm or distress to members or any member of the public**”.

In some cases the Anti-Social Behaviour, Crime and Policing Act runs parallel to other pre-existing legislation such as the Environmental Protection Act 1990 - statutory nuisance provisions, in others it provides a quicker and more pragmatic solution to problems that took longer to resolve using the existing legislation such as eviction of nuisance tenants.

The Act includes measures to protect communities from the serious harm that can be caused by anti-social behaviour. They are:

- **Criminal behaviour order** which is issued by the **courts** after a person has been convicted for a criminal offence. Under the order, a person who has been convicted would be banned from certain activities or places, and would also be required to address their behaviour, for example by attending a drug treatment programme. A breach could see an adult face up to five years in prison.
- **Police dispersal power** allows the **police** to disperse anti-social individuals and provide short-term respite to a local community. The power is preventative and allows an officer to deal instantly with someone's behaviour in a particular place and to confiscate related items.
- **Community protection notice** enables **local councils** and the **police** to stop persistent environmental anti-social behaviour, like graffiti, neighbour noise or rubbish on private land.
- **Public spaces protection order** is a power which allows a **local council** to deal with a particular nuisance or problem that is detrimental to the local community's quality of life by imposing universal conditions on the use of that area. This can be used to tackle issues like dog fouling and restricting the consumption of alcohol.
- **Closure power** which allows the **police** or **local council** to close premises where anti-social behaviour has been committed, or was likely to be committed.
- **Absolute ground for possession** which will speed up the possession process in cases where anti-social behaviour or criminality has already been proven by another court.

### Giving victims a say

The Anti-social Behaviour, Crime and Policing Act 2014 also includes two new measures which are designed to give victims and communities a say in the way anti-social behaviour is dealt with:



- **Community trigger** which gives victims the ability to demand action, starting with a review of their case, where the locally defined threshold is met.
- **Community remedy** which gives victims a say in the out-of-court punishment of perpetrators for low-level crime and anti-social behaviour.

These powers are more flexible, quicker to obtain and less bureaucratic, making it easier for the **police, local councils, social landlords** and other **local agencies** to deal with anti-social behaviour and puts victims at the heart of the process.