

Epping Forest District Council

Noise Investigation Policy and Procedure

July 2021

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1. Introduction

We aim to respond to complaints of unreasonable noise fairly, impartially, consistently and in accordance with legislation, government guidance and codes of practice. We have published our procedure so that you know what to expect from us and understand what is required of you if you decide to report a noise problem to us.

We try to approach enforcement in a graduated way. Often an informal approach is sufficient to resolve matters and no further action is necessary by the Council. If that is not the case formal action can be taken if necessary.

The Council recognises that the public has a right to expect a consistent approach to the investigation of noise complaints. The advice given here outlines our procedure for dealing with noise complaints.

Noise is often defined as 'unwanted sound'. What constitutes 'noise' is a very personal matter; one person's favourite music might well be another person's unwanted sound. When a complaint is received, we will consider whether we have a duty to investigate the noise being complained of and what legislative powers are available to us.

Council Officers are designated experts in assessing the existence of statutory nuisance and their professional judgement is very important. If they consider a statutory nuisance exists, a magistrate will usually accept their view. It is not always possible for the Council to establish the existence of a statutory nuisance; this may be because the nuisance occurs only occasionally, and it is not possible for the officers to witness the nuisance. In other cases, the officer may assess the noise being complained of as not a statutory nuisance and something we cannot act on. Where this is the outcome of a complaint, you can consider taking your own action by complaining directly to the Magistrates' Court under Section 82 of the Environmental Protection Act 1990. More information can be found in **Appendix 1**

You may consider using a mediation service. Neighbourhood disputes are common and can cause a great deal of upset and bad feeling between people. Mediation provides an opportunity for people to communicate better, to understand one another's concerns, and to jointly come up with ideas for how to end their dispute. An expert mediator can get you and your neighbours talking again, clear up misunderstandings, agree practical steps for how to make things better between you and move on from your disagreements. More information can be found in **Appendix 2**

What we will not investigate

- Anonymous complaints.
- Complaints where access to the complainant's premises to witness noise and assess nuisance is necessary but is not allowed by the complainant.
- Non statutory nuisances

What is not a Statutory nuisance?

- A one-off party
- Neighbours arguing
- A lawnmower used during the day
- Heavy footfall on stairs
- General domestic noise
- Poor noise insulation between properties rather than unreasonable behaviour by your neighbour
- A baby crying, children playing or dogs barking occasionally.

We cannot consider any special sensitivities of a complainant such as ill health or a night worker trying to sleep during the day,

Noise from Fireworks

The time limits are imposed by Fireworks Regulations and enforced by the Police, not by the Council. The Fireworks Regulations 2004 prohibits the use of fireworks between 11pm to 7am, with these exceptions:

- up to midnight on 5 November (Bonfire Night)
- up to 1am following the first day of Chinese New Year
- up to 1am on the day following Diwali day
- up to 1am on the day following 31 December (New Year's Eve)

We will not investigate firework noise because in most cases the activity is brief and is usually carried out during permitted hours.

Other agencies are responsible for the following types of noise:

- Noise complaints from moving vehicles on the highway e.g. revving engines and car stereos – complaints of this nature should be reported to the Police at the time of the incident.
- Noise from aircraft in flight are dealt with by the Civil Aviation Authority this includes helicopter flights from North Weald Airfield and Lippett's Hill
- Anti-Social Behaviour. Please use the link below to report Anti-Social Behaviour to Community Resilience Officers. Anti-Social Behaviour can include nuisance neighbours, rowdy and nuisance behaviour and intimidating groups taking over public spaces.
<https://www.eppingforestdc.gov.uk/crime-and-safety/report-anti-social-behaviour/>

2. Noisy building work and construction sites

Building and development sites can cause significant levels of noise. Construction works include the demolition, maintenance, repair, erection, construction of buildings or roads and any engineering construction work

Much of this noise is unavoidable and noise control methods are a balancing act between the needs of the developer to carry out the works and the rights of neighbours to the quiet enjoyment of their properties.

The Council aims to minimise the impact of noise from such works on residents. The main control that the Council can impose on construction sites is to limit the times during which they are permitted to make noise that their neighbours can hear. For general construction works the Council usually imposes (when necessary) the following limits on noisy works:

- Monday to Friday 8am to 6pm
- Saturdays 8am to 1pm
- Sundays and bank holidays no noisy activities allowed.

Some particularly noisy activities, such as pile driving, may be subject to stricter time controls to allow neighbours some relief from excessive noise.

Some activities may be allowed outside of normal working hours when there is a good reason for this to happen. This might be for health and safety reasons or because the work cannot be completed within the time normally allowed.

When limits are imposed

The Council usually only imposes time limits on construction sites when they are causing problems for residents. Remember, it is not the work that is being restricted, but noise from the work. **If the work is not disturbing anyone, then the Council does not need to impose restrictions on that work.** This means that quiet work could go on at almost any time of the day.

3. Noise from Car and Intruder Alarms

We have powers to deal with noisy alarms that do not stop after 20 minutes.

Intruder alarm systems should be fitted with a 20-minute cut-out device to prevent prolonged ringing. It is an offence (fine up to £2,000) to permit an alarm system to ring for more than 20 minutes.

If you cannot contact the property owner or keyholder of the property or vehicle, report the alarm online <https://www.eppingforestdc.gov.uk/crime-and-safety/report-noise-problem/>. We do not provide an out-of-hours response service for alarm noise, If the alarm is still sounding after an hour, and the owner/occupier or in the case of car alarm, registered keeper has not been found, we can deactivate the alarm the next working day.

4. How do I complain about noise?

Many people who have suffered noise from a neighbour have successfully resolved the matter for themselves by writing or speaking to the person causing the problems. In most cases this is the best approach because many people are unaware they are causing a problem and will take steps to reduce their noise when approached. Further guidance on direct negotiation with a neighbour can be found in **Appendix 3**.

If you live in a housing association property, you need to raise the issue with your housing officer as the first step. As your landlord they have a duty to ensure their tenants do not act unreasonably and cause nuisance to others.

If you live in an EFDC property, a privately rented property or are an owner occupier you need to follow the guidance below.

For a complaint to be considered, you will need to have completed diary sheets for a period of 3 weeks and upload them onto the online reporting form <https://www.eppingforestdc.gov.uk/crime-and-safety/report-noise-problem/>

If you require assistance because of literacy, language, or other difficulties we will offer support to assist you to make your complaint. This includes translation support, if necessary, to obtain adequate information. Contact us on 01992 564000.

What information do I need to provide?

- You need to provide full details of the problem you are experiencing, including a completed noise diary for 21 days, an example and template can be found here – <https://www.eppingforestdc.gov.uk/crime-and-safety/report-noise-problem/> or **see appendix 4**
- Details of the person making the complaint are always treated confidentially, we **WILL NOT** investigate anonymous complaints. We need to establish who the noise is affecting and how it is affecting them.
- Once we have received your noise diary, we will assess whether the noise is something we can take action on, taking into account the following:
- We are satisfied that the noise is affecting a specific person or persons
- It is not a malicious complaint against a person

- Complaints via a third party will not be acted upon until the person affected has been contacted by us to confirm the details, and the 3rd party has permission to act on their behalf.

To investigate a complaint, the person or persons who are being complained about will be contacted to discuss the complaint. If you do not want us to do this, we will not be able to investigate your complaint and it will be closed with no further action taken.

It may be necessary to share information with the police, other Council departments and other authorities/agencies such as social landlords. By submitting a complaint, you are agreeing to the sharing of your information as required in accordance with our information sharing agreements, strictly controlled under GDPR rules

5. What happens next

When we receive a complaint, the details will be added to our computer database, this will tell us whether there have been any similar complaints made for the same property in the past. Records are kept for 7 years in line with our document retention policy, after this time the records are deleted.

Your complaint will be assigned to an officer who will be responsible for supervising and progressing the investigation of the complaint to resolution. The Council will have regard to the Regulators Code and the Council's Enforcement Policy. <https://www.eppingforestdc.gov.uk/wp-content/uploads/2019/02/corporate-enforcement-policy-draft-v1.2.pdf>

Once we receive a complaint, we need to review the information you have provided to enable us to decide on the best course of action - that may include:

- **No action**, not something we can investigate, or an anonymous complaint, so the case closed
- **Informal action**
- **Formal action** such as serving an abatement notice or other sanction, if there is sufficient evidence that unreasonable noise has been occurring and witnessed by a designated officer of the Council

The case officer will provide you with information on how the investigation will proceed, what you can expect from the service and what you will need to do to enable us to fully investigate your complaint. You will be informed of the name and contact details of the case officer as they will be responsible for your complaint until completion.

If we are unable to gather evidence and there remains insufficient evidence for the Council to act formally, no further action will be taken, and the case officer will close the case. We will write to you confirming what we have done and the reasons why the matter is not actionable.

6. Further complaints and prosecution

If we have served a formal notice and there is reason to believe that it has not been complied with the Council will undertake further investigation and decide how to proceed. If a notice is not complied with, there are a number of enforcement options available.

If we decide that prosecution is the most appropriate course of action and the person complained against does not accept they are causing unreasonable noise, they have a right to appeal against any notice served on them. In some cases, you may be asked to provide a formal witness statement and may be required to appear in court. We will also give statements, where requested, to other agencies such as housing associations where they may wish to take action to seek possession of a property on the grounds that the nuisance is a breach of a tenancy agreement. We will consult you before taking this course of action and respect your decision if you feel that you cannot contribute in this way. This

may mean however that we will be unable to progress the case.

Legal proceedings can be lengthy and lead to delays in securing a resolution. For example, up to and beyond 12 months depending on the complexity of the case.

In some circumstances, it may be decided that further action is not justified or practical even if a nuisance is shown to continue. Prosecution and any legal proceedings are very serious options and we carefully consider taking such action having due regard to the Council's own and national guidance on enforcement and prosecution. If we decide not to pursue a case, we will fully explain our reasons in writing to you.

7. Closure of Case

On the closure of a complaint a customer satisfaction survey may be sent to you, this is your opportunity to comment on the quality of the service provided and gives us valuable feedback to establish what we are doing well and what we need to improve on.

8. Out-of-Hours service

The Community Resilience Team provides a limited out-of-hours service to investigate complaints and gather evidence of alleged breaches of formal notices at times of day when the Council Offices are closed. This service is not open to new complaints and is only used where the Council is satisfied there is a likely nuisance based on the information provided within the diary sheets.

The Out-of-Hours service is currently under review

9. Persistent Complainants

In a minority of cases people pursue their complaints in a way that is unreasonable and may also be considered harassment of the person they are complaining about. Their behaviour may be unacceptable or be unreasonably persistent in their contact and submission of information. This can impede the investigation of their complaint (or complaints by others) and can have significant resource issues for us.

This can occur either while their complaint is being investigated, or once we have concluded a complaint investigation. The Council has developed a proportionate approach when responding to unreasonable complaint behaviour and this is set out in our Unacceptable Customer Behaviour Policy.

10. Comments/compliments/complaints about our service

If you wish to comment, complain, or compliment us on the service that you have received please contact your case officer in the first instance. Further details about the Council's comments/compliments and complaints procedures can be found on our website;

<https://www.eppingforestdc.gov.uk/your-council/comments-compliments-and-complaints/>

Appendix 1 Private Action

TAKING ACTION IN THE MAGISTRATES COURT YOURSELF

If noise from a neighbour is materially interfering with your use of your property, you have been unsuccessful in resolving the problem informally and, for whatever reason, the Council has been unable to help or you do not want to involve them, you may be able to take action in the Magistrates Court yourself under section 82 of the Environmental Protection Act 1990.

Magistrate must be satisfied that there is a case to answer. The following will help you to put your case:

1. Keep a detailed record of the problem and its effects. The record must be accurate, stating each date and time the problem occurred, and describing how it affected you (for example, could not sleep, could not hear TV)
2. Stick to the facts and do not exaggerate any effects or times. Remember, there must be an unreasonable amount of interference to the enjoyment of your property
3. Provide as much evidence as possible to support your allegation of a nuisance
4. You must advise the noise maker in writing of your intention to go to Court, giving at least three days' notice. The Court will ask if you have done this.
5. You should consider taking legal advice about the strength of your case first because if you lose the case, you may have to meet defence costs.

Section 82 of the Environmental Protection Act 1990 provides that you may go directly to the Courts either before or after contacting your local Council. You are responsible for any expenses and costs involved.

You do not need to have a solicitor, but both you and the person you are complaining about have a right to be represented. You can obtain help or advice from the Citizens' Advice Bureau or other agencies.

STEP 1

Discuss the problem with the person or organisation making the noise. Often, they can stop or reduce the impact of the noise.

STEP 2

Keep an accurate record. Talk to other neighbours and make sure they keep records too.

STEP 3

If the noise continues, write to the person, or organisation. Explain the problem clearly. Keep a copy of the letter and note the date when it was sent.

STEP 4

After discussing the problem with the person responsible for making the noise, and writing to them, you can apply to the Magistrates Court under the Environmental Protection Act 1990 Section 82. You must give **AT LEAST 3 DAYS NOTICE** in writing to the person making the noise of your intention to take proceedings.

STEP 5

Go to the local Magistrates Court office and explain that you want to seek an order under Section 82 of the Environmental Protection Act 1990. A member of staff will tell you what to do.

You will need to produce evidence to show the Magistrates that there are grounds for complaint.

Take a full written record of the evidence to Court with you, bringing enough copies for the Court and the defendant (*at least 3 copies*).

If the Magistrates are satisfied that there are grounds for complaint, they may issue a summons and serve it on the defendant (the person responsible for making the noise).

The defendant will be summoned to attend a court hearing so that the Magistrates can determine if an order should be issued to stop the noise.

If your action is successful you are entitled to claim your costs **BUT you may be liable to pay costs if your action is unsuccessful.**

Appendix 2 **Mediation**

Civil Mediation Council

<https://civilmediation.org/mediator-search/>

You can find a professional mediator through the Civil Mediation Council. All mediators registered with this body have completed recognised training courses, abide by a recognised Code of Practice, are appropriately insured, undertake annual continuous professional development, and offer access to a complaints service if necessary. They can provide you with an assured dispute resolution service.

If you would like to discuss your dispute directly with an individual mediator, for example one you know or have heard of and would like to use, you can search by the initial of their surname or by your post code to find your known mediator or any other mediators in your local area.

However, if you are unsure about selecting a mediator and would welcome some advice and assistance you can search for the mediation providers covering your area and approach them for help. Mediation providers will discuss the nature of your dispute with you and then identify one or more of the appropriately experienced and skilled mediators on their panel for you to choose from and assist you in the initial stages of making contact with the one of your choice.

Please note that both parties in the dispute will need to agree to mediation and it is helpful to have agreed this before you approach a mediator

APPENDIX 3 DIRECT NEGOTIATION WITH A NEIGHBOUR

Be prepared

Be clear about the nature of the problem, for example the cause of the noise, when did it happen, is it a “one off” and why you feel it is unreasonable. Think about how it affects you. Does it disturb your sleep or prevent you hearing your TV? Think about what you want your neighbour to do.

Don't approach them when the noise is happening, and you are angry. Instead try to speak to them when you feel calmer and arrange a time and place where you and your neighbours can discuss the matter properly.

Be prepared to listen to them

It is important that you try to understand your neighbour's perspective even if you do not agree with them. By listening to each other it is more likely that a long-lasting solution can be found.

Remember to stay calm

The best results are achieved if you remain calm throughout your discussion. It is strongly advised that you do not accuse your neighbours of ~~being~~ upsetting you. Instead explain the effect their behaviour has on you

If your dispute is with a neighbour

Talk to your neighbour face-to-face. This is much better than pushing notes through their door or banging on the wall

If you feel unable to speak directly with your neighbour you could send them a letter detailing what you believe to be the problem, how it affects you and what action you think your neighbour could take to resolve the matter. We have included a sample letter below.

Speaking face-to-face

Be calm and friendly. Say you are glad you have got together to sort things out.

Tell your neighbour what the problem is, how you feel and how it affects you. Express how you feel but without blaming your neighbour. This will help you get your message across.

Trying to solve the problem

Look for common ground. Even agreeing to differ is a start. Make sure that you bring all the issues into the open. Work on the easier issues first.

Separate the problem from the person. Approach this as if you and your neighbour are getting together to solve a common problem.

Two heads are better than one - be open to your neighbour's suggestion.

Try to find a co-operative solution in which both you and your neighbour participate.

Look at all the options before picking the best one for you both. If you are unable to talk things through amicably with your neighbour, you may wish to consider a mediation service.

When you reach agreement

Make sure you know who has agreed to do what, and by when. It may be a good idea to write this down, and both sign and keep a copy.

Agree a date to check how your agreement is working out.

Agree how you will let each other know about any future problems.

Don't

Interrupt, shout or verbally abuse.

Assume others have the same values as you do.

Assume people are doing things just to annoy you.

Imagine your neighbours know what is really bothering you if you have never told them.

Retaliate - it will make things worse and put you in the wrong.

Argue about exactly who did what – concentrate on what you want to happen in the future.

Bring up things which have nothing to do with the present problem

Agree to solutions you think are unfair, just for a quiet life.

These tips assume there is no threatening behaviour or danger of physical violence.

If there is, you should report to the Police. [Report a crime | Essex Police](#) online or ring 101

Sample letter to neighbour

Date:

Your name and address

Dear neighbour

I am writing to let you know that noise from your property is affecting me.

The noise that affects me/us is..... (*describe noise and when it occurs*).

It affects me/us because .. (*describe what effect it has and how it makes you feel*)

You may not have been aware of this before, but I would appreciate it if you could
..... (*suggest what you think would resolve the issue*).

Thank you

Yours sincerely

Sign (House no.) (Keep a copy)

***Please only send one letter as repeat letters may result in an allegation of harassment against you.**

APPENDIX 4

Diary Sheet

| Address where noise is coming from | | | | | |
|------------------------------------|------------------------|--------------|--------------|---------------------------------|--------------------------|
| DATE | DESCRIPTION OF PROBLEM | TIME STARTED | TIME STOPPED | ROOMS IN YOUR PROPERTY AFFECTED | THE EFFECT IT HAD ON YOU |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

This statement consisting of page(s) signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Name _____ Signed _____ Date _____

Address _____

LOGSHEET NO: of..... Continue Overleaf

Continuation sheet

Address where noise is coming from:

| DATE | DESCRIPTION OF PROBLEM | TIME STARTED | TIME STOPPED | ROOMS IN YOUR PROPERTY AFFECTED | THE EFFECT IT HAD ON YOU |
|------|------------------------|--------------|--------------|---------------------------------|--------------------------|
| | | | | | |
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| | | | | | |

Name

Signed

Date

LOGSHEET NO:

..... of.....

