

Noise Nuisance

An Information Pack



Why Have You Been Given This Pack?

You have been given this pack because we need your help to provide the information to properly investigate your complaint about noise. This pack explains what you have to do and why it needs to be done.

When you have completed the diary form, we will examine the details to see if the Council can start to take further action to resolve the problem.

What Can You Do About the Problem?

In the first instance, talk to the person or business responsible. They may not be aware that there is a problem. It is always best to try to resolve the problem in a friendly and informal manner.

What Can A Local Authority Do?

Under Section 79(1) of the Environmental Protection Act 1990 “all reasonable steps” must be taken to investigate a complaint. Once you complain to the local authority, the matter becomes a formal, legal process and you may be required to give evidence in court. If the local authority believe a statutory nuisance is occurring or likely to occur or recur, it must take action.

The slightest inconvenience may be, and often is, considered a nuisance by the layman if it causes annoyance; however, the legal definition is more restrictive. It would be impracticable to provide a remedy against every action that an individual found objectionable.

For example, when dealing with a noise problem, it must be accepted that everyday sounds produced as result of “reasonable” activity intrude or annoy, but are not a “nuisance” in legal terms. Similarly, pigs smell and those that live near farms may have to accept smells which would not be acceptable in town. It is a matter of degree, and your diary form will help us decide if we can take action.

What Will Babergh / Mid Suffolk District Council Do?

As part of our commitment to Customer Care, we aim to begin investigations within 3 working days, and to keep you informed of progress with regard to your complaint.

STEP 1 - An Officer appointed to deal with your complaint will contact you to discuss the problem and establish if a nuisance may exist. It will then be decided if further investigations are required by the Council.

STEP 2 - A letter will be sent, where appropriate, to the person or business causing the problem, informing them that a complaint has been received. You may be asked to keep a diary of the events which are disturbing you, i.e.: when it occurs, and how long it goes on for. If the problem continues, it is important that the diary is returned. If the diary has not been returned within a 4-week period, the case will be closed.

STEP 3 - Once the completed diary has been received by the Council, and it appears there may be a statutory nuisance, the Case Officer may arrange to visit you to witness the problem. This may include the opportunity for you to specify up to 3 occasions when a visit should be made. Alternatively, noise monitoring equipment may be installed in your property for you to record instances of the noise. The Council does not have unlimited resources and cannot promise to investigate matters on an “open-ended” basis.

STEP 4 - If the Officer is satisfied there is an actionable statutory nuisance, an Abatement Notice will be served requiring the person/business to abate the nuisance. Failure to comply with the notice without reasonable excuse is an offence. The matter is put before a Magistrates’ Court, and you will be expected to support the details in your diary by acting as a witness. If the facts of the case are proved, the Magistrate may impose a fine on the offender or give time to do the necessary work to prevent the nuisance recurring.

However, if the nuisance is caused by a business, it may prove that the “best practicable means” have been used to abate the nuisance. This defence takes into account not only the cost and practicality of the works required, but also the location and character of the area.



Taking Your Own Action

If you do not wish to involve the Council, or we do not feel it appropriate to take action, you can contact the Magistrates' Court directly. Private actions can sometimes be more successful because the "burden of proof" may be less demanding. You may wish to take your own legal advice before proceeding.

How To Fill In Your Diary

Nuisance is a subjective matter. This means one man's music may be another's racket. What we need to know is:

- ▶ When does it happen, how long does it go on for and how often?
- ▶ How does the nuisance affect you and your family?
- ▶ How does it prevent the enjoyment of your home and garden in a reasonable manner?
- ▶ Does it vary, or have particular characteristics at different times?

Do not assume that if a problem occurs on 4 days of the week, it will do so on the 5th. Remember that the diary may be produced as evidence in **court**, so be thorough, accurate and honest.

What If The Noise Occurs Outside Office Hours?

Babergh / Mid Suffolk District Council offers an **EMERGENCY SERVICE ONLY**. Normally, officers will want to install noise recording equipment in your property before making arrangements for out-of-hours witnessing. If there is a problem outside office hours, you should telephone the usual number for Babergh and Mid Suffolk District Councils (0300 1234 0000) and you will be given the number for our out of hours call handling service. All calls will be screened by a trained operator who will pass calls to an Officer **if appropriate**. Ongoing noise complaints **will only** be responded to as an emergency if prior arrangements have been made with the Case Officer. It may be that your complaint will be logged only.

Babergh / Mid Suffolk District Council

You must complete these personal details before returning this statement.

Data Protection: Babergh District Council and Mid Suffolk District Council (BMSDC) will be Data Controller of the information you are providing. That means BMSDC will be responsible for looking after it as required by the Data Protection Act 2018. They will only use the information for the purpose explained on a form. As required by the Data Protection Act 2018 the information will be kept safe, secure, processed and only shared for those purposes or where it is allowed by law. For more information on how we do this and your rights in regards to your personal information and how to access it, visit our website (www.babergh.gov.uk/the-council/your-right-to-information), or call Customer Services on 0300 1234000 and ask to speak to the Data Protection Officer. © 2018 Babergh and Mid Suffolk District Councils.

DEPARTMENT: Environmental Protection

DATE:

STATEMENT OF:
(Insert your name here)

AGE:
(If over 21, state "over 21")

YOUR ADDRESS:

Job No.:

Officer Dealing:
(These details can be found on the standard letter accompanying this diary)

OCCUPATION:

ADDRESS WHERE NUISANCE IS ARISING:
.....
.....

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 WILLFULLY STATED IN IT ANYTHING WHICH I KNOW TO BE FALSE, OR DO NOT BELIEVE IT TO BE TRUE.

DATED THE:..... DAY OF:..... 20..... *(Please complete)*

SIGNATURE:

PRINT YOUR NAME HERE:

Nuisance: An Information Pack

Date	Start time	End time	Description of nuisance including effect on your household

Please complete the details at the top of the page overleaf before sending in this completed statement .

Date	Start time	End time	Description of nuisance including effect on your household

If you have any queries or require more information, please contact

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SMS Text Mobile: 07827 842833