

# IMPORTANT ADVICE FROM YOUR ENVIRONMENTAL PROTECTION SERVICE

(Please read all the document)

## FREQUENTLY ASKED QUESTIONS:

### 1. Why have I received this letter?

Swindon Borough Council has a legal duty to advise and assist all local people on possible noise nuisance issues. Nearly everyone agrees that noise from neighbours can **potentially** be a serious problem, whether it is caused by loud music, barking dogs, DIY, intruder alarms or shouting and banging. Business and industry can also be a source of disturbance, for example, late night deliveries, workshop activities and noise from ventilation systems are common causes of complaints. If the noise is bad enough to prevent relaxation or deny sleep, the long-term effect can be damaging to the health and well being of the person on the receiving end.

We have sent you this letter to alert you to the fact that someone has told us they are unhappy about noise they are experiencing, and they believe it is coming from your address. They have approached the Environmental Protection Team at Swindon Borough Council for advice. When we receive a complaint, we have a legal duty to take 'reasonably practicable' steps to investigate.

In order to reach the best outcome for people who may continue living near each other for years to come, our policy is to encourage people to try to contact the other party directly themselves to discuss the matter or allow us to refer them to Swindon Community Mediation Service for their advice service on the best way to discuss neighbour issues. **In some cases if the complainant is unable or unwilling to do this or has alleged to have tried this and had no success we will send the letter that you have now received.**

### 2. How can you allege that I have caused a nuisance if you have no evidence?

We handle approximately 1200 cases per year involving a whole range of complaints; **some turn out to be serious cases of noise nuisance while at the other extreme, we receive some complaints that are deliberately malicious and unfounded.** For this reason, if informal means are alleged to have failed, we begin by writing to the person **alleged** to be causing the problem. **At this stage we are not accusing you of anything and our records do not imply that the complaint is founded.** However we believe the letter gives you a chance to think about whether the noise you may have made was unreasonable and if the complaint is justified, it allows you to think how you might avoid a similar problem in the future.

The letter also allows you to contact us if you feel the complaint was completely unsubstantiated, malicious or there is other background information that you feel we should be aware of (see below first). Lastly, it gives notification that a complaint has been received and what would happen next if we receive further allegations.

**Please note that our letter is NOT a threat of legal action. If you are confident that you are not causing unreasonable noise disturbance to your neighbours, you should have nothing to worry about.**

In the vast majority of complaints that we handle, the simple informal letter you have received is enough to prompt people to consider the noise they make and how it affects others and if there has been a valid problem it generally resolves the problem.

### **3. What happens next?**

Nothing will happen next, unless we receive further allegations. If that happens we will advise the person making the complaint that in most cases we can only take action if we or some other independent person/service witness the noise and we agree that the noise is unreasonable and could amount to a nuisance in law. As such if you are not causing a nuisance you would have nothing to worry about.

In cases where we obtain such evidence, we contact the person again as soon as possible (either on the day/night or within 5 working days of the visit). Depending on the severity of the noise we witnessed, our next action would be to either write a warning letter, or **if we are satisfied that there the nuisance may recur we are legally obliged to serve an abatement notice on the person**. An abatement notice requires the person receiving it to stop causing a noise nuisance. Anyone receiving an abatement notice has the legal right to appeal against the notice to the local magistrates court. An abatement notice carries advice notes saying how this can be done.

### **4. What happens if an abatement notice is breached?**

Breaching an Abatement Notice is a **criminal offence**, and if this occurred, we would look to our enforcement policy to decide whether to prosecute the person. If there was a risk or evidence of continuing breaches we may seek a warrant from the magistrates to enter the premises by force and seize any equipment or goods that were being used to cause the nuisance (commonly stereo or TV equipment). This could happen within hours or days of the breach and we are not obliged to warn people that we are going to take this action. The equipment would then be held pending a court case and the magistrates would decide what to do with the equipment. We are not aware of any case in Swindon where the equipment has been returned to owner after a

successful prosecution. Fines are up to £5000 for breaching an abatement notice or £20000 if commercial premises are at fault.

### **5. Are there specific times of day I can play my music louder and what level of noise is permissible to not cause a statutory nuisance?**

The most commonly used law relating to noise nuisance (Section 79 of the Environmental Protection Act 1990 – see ‘further information’ at the end of the document), does not define precisely what is or is not a nuisance, i.e. it does not specify noise levels or set time limits for making a noise. Instead, the concept of nuisance depends on:

- how often the noise occurs,
- how loud it is,
- the time of day / night,
- the nature of the area (i.e. rural, residential, city centre etc) and;
- whether or not the sound has a particularly irritating characteristic (for example a high pitch whine from a factory, or a heavy bass beat from a stereo/TV).

Essentially, if the problem is severe enough to be prejudicial to health or it stops your neighbour from enjoying a normal routine (e.g. prevents them from watching TV, stops them sleeping, or means they are unable to open their windows) then it is likely to be a nuisance in law.

Noise produced from stereos and TVs is more likely to be a problem in flats or terraced/semi-detached houses if the equipment is powerful and the insulation is poor. It is a fact of life that if you live in a house detached from other neighbours you may be able to create more noise without causing a disturbance than if you live in a joined house/flat. If you make noise greater than the insulation can cope with, your neighbours will hear it and it could cause a nuisance.

### **6. If noise from the stereo or TV is a problem can you set the level for me?**

Unfortunately no. This is because the noise level produced from the TV or stereo depends to some extent on the programme or on the track being played so a single level would not be practical.

### **7. Can you tell me who has complained about me?**

We are not able to disclose who has made the noise complaint. If we did, not only might it prevent people seeking advice about genuine problems but it would also breach the Data Protection Act.

Please note that we do not respond to anonymous noise complaints. This protects our staff as well as those allegedly causing the noise.

## **8. I own my house / I am a private tenant, so that means I can do what I like, doesn't it?**

No. The Environmental Protection Act 1990 applies to owner-occupiers, council tenants and those in private rented accommodation as well as businesses and noise from vehicles, machinery and equipment in the street. You must consider the noise that you make and take action if it is unreasonable. However, if you rent your property from a landlord and we witness noise amounting to a nuisance, then we can serve an Abatement Notice on you AND / OR your landlord to prohibit the noise. Many of the complaints we receive are about noise from shared rented housing (Houses in Multiple Occupation – HMOs). If we have to serve an Abatement Notice in these cases and it is also served on the landlord, it is quite common for the landlord to serve Notice to Quit on the tenant(s) responsible – another reason for taking noise complaints seriously.

## **9. What if I am a Council tenant?**

If you are a Council tenant, then any complaint of noise nuisance is investigated in exactly the same way as with anyone else. However, the Council is also your landlord, and your tenancy agreement includes a clause requiring that you do not cause nuisance to your neighbours. So, if we receive complaints we will forward these to the estate management team for their information.

## **10. Where can I get more information?**

More information about neighbour noise can be obtained from calling us via the number on the top right hand of the short letter. **If the officer who sent the letter is not available they, or a colleague will contact you by telephone within 1 working day. In most cases the officer who sent the letter would be the best person to talk to you, as they would have spoken directly with the complainant.** Alternatively you can contact us on 466068, or via [ep@swindon.gov.uk](mailto:ep@swindon.gov.uk).

We believe that people can often gauge whether they are likely to be causing a problem by telling friends and family about the problem and what if anything they have been doing and asking for an honest opinion as to how they would react if one of their neighbours were doing something similar. Other sources include:

- The National Society for Clean Air and Environmental Protection (NSCA), 44 Grand Parade Brighton, UK BN2 9QA. 01273 878770

<http://www.nasca.org.uk/>

- The Department For Environment, Food and Rural Affairs <http://www.defra.gov.uk/environment/noise/neighbor.htm> (Our noise booklet comes from this department and covers the key issues)
- The full text of the key law relating to neighbour nuisance (Section 79 of the Environmental Protection Act 1990) is available online from HMSO. (We can provide copies of this text if you do not have access to the web):

<http://www.hmsso.gov.uk>

To locate the key text from the homepage follow these steps:

1. click on the picture of a scroll with the word 'Legislation'
2. when the next page appears, click on 'United Kingdom'
3. when the next page appears, click on 'Acts of the UK Parliament'
4. when the next page appears, click on '1990' in the column 'Full text public acts'.
5. when the next page appears, click on 'Environmental Protection Act 1990 (c.43)' in the alphabetical list.
6. You should now see the text of the environmental protection Act 1990. Scroll down the section numbers until you see '79' on the left hand side. You have arrived at the key text!

If you do not fully understand this letter and you wish someone to explain it to you or if you require a leaflet in large print please contact us on Tel 466068 reference the Noise - Frequently asked Questions leaflet.