

SMOKE / ASH / SMUTS NUISANCE INFORMATION & DIARY PACK

Includes:

- 1. Diary Sheet/Questionnaire for the recording of smoke etc. nuisance;**
- 2. A Neighbour Note to give or send to the person or business who is disturbing you;**
- 3. An information leaflet on smoke etc. nuisance.**

Diary Sheet/Questionnaire (SMOKE etc.)



ALL PARTS MUST BE FULLY COMPLETED






Your Name:	
Your Address:	
Your Telephone Number:	
Your Email Address:	
ADDRESS COMPLAINED OF:	
NAME OF OCCUPIER:	
Have you spoken to the person making the smoke about this issue? Please give details:	(We are ordinarily unable to help if you have not done so without good reason; such as a history of aggression/violence)
Have you written to them? Please give details:	(We are ordinarily unable to help if you have not done so without good reason; such as a history of aggression/violence)
Was either approach helpful; if only for a short period? Details:	
Formal intervention by us may ultimately end in Court action. Are you prepared to attend Court and give supporting evidence if required?	<div style="display: flex; justify-content: space-around;"> Yes No </div> (If we are unable to consider Court action, if appropriate, because you are not prepared to give evidence, this significantly limits the things we can do to help 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.

PLEASE NOTE: Information in those columns marked **** will be copied to the person making the smoke.

RETURN TO: Upload to your Swindon Borough Council myaccount case via the following link:
https://www.swindon.gov.uk/info/20023/environmental_problems/358/report_disturbance_by_bonfire_or_other_smoke

Diary Sheets

Colour of smoke rating					
0	1	2	3	4	5
					

EXAMPLE

Date ****	Time (Use 24hr clock)		Description of Smoke ****	Colour of Smoke (0-5)	Weather Condition	Where were you?	How it affected you
	Start	Finish					
20/07/2005	14:00hrs	15:30hrs	<i>Black smoke coming from bonfire</i>	5	Cold / Windy	Bedroom	Ash and smoke throughout house
20/07/2005	23:30hrs	02:30hrs	<i>Deposit of ash/ smut on furniture</i>	2	Mist / Fog / Cloudy etc	Garden	Damage to items, unable to use furniture etc
https://www.swindon.gov.uk/info/20023/environmental_problems/358/report_disturbance by bonfire or other smoke							

Signed

Dated:/...../..... LOGSHEET NO:of.....

Continuation Sheet

[illegible]

Signed

Dated:/...../..... LOGSHEET NO:of.....

Continuation Sheet

[illegible]

Signed

Dated:/...../..... LOGSHEET NO:of.....

Continuation Sheet

[illegible]

Signed

Dated:/...../..... LOGSHEET NO:of.....

Dear Neighbour,

You may not be aware that smoke etc coming from your property is disturbing me in my home. The smoke is so intrusive that I have contacted the Council for advice.

I have been advised by Swindon Borough Council to contact you first before I make an official complaint.

I enclose a leaflet about bonfires, and how to control or limit it so that it doesn't disturb others.

I would very much appreciate it if you would read the **enclosed leaflet**, and do what you can to ensure that the smoke and/or ash and smuts from your premises doesn't disturb me in the future.

Thank You

IMPORTANT ADVICE FROM YOUR ENVIRONMENTAL PROTECTION SERVICE ON THE SUBJECT OF SMOKE AND ASH/SMUTS etc.

(Please read all of the document)

Smoke from other people's bonfires can be a problem, whether it ruins enjoyment of your garden on a sunny day, spoils clothing that is hanging out to dry, or causes an odour in your home. This nuisance pack aims to provide you with detailed information about how we investigate bonfire smoke complaints and it attempts to answer some of the common questions that arise. There are legal remedies available in the form of the Environmental Protection act 1990 Statutory Nuisance Provisions, which can ultimately end in a criminal record for those causing unreasonable disturbance.

If a formal complaint is received; the Council has a legal duty to investigate the matter, and to serve a formal Abatement Notice if Statutory Nuisance is identified or suspected. In order to reach the best outcome for people who may continue living near each other for years to come however, we encourage people to try to contact the other party directly themselves to discuss the matter. This leaflet is provided for those persons suffering disturbance to give to those whose activities may be disturbing them to aid communication and understanding between them. We acknowledge that often, those causing the disturbance do not realise how intrusive it can be for others, and how damaging it can be to those around them, their health and wellbeing, and that those suffering the disturbance may not naturally be confident enough to tackle the issue with those causing the disturbance without assistance.

Bonfire smoke and the law:

It is an 'urban-myth' that there are laws allowing bonfires at certain times of the day, and outlawing them at other times. Any bonfire can cause Statutory Nuisance, and thus be prohibited at any time of day. Similarly; a well-managed bonfire in a rural area, for instance, that causes no disturbance to others is allowable. Bonfire night would be difficult if that were not the case!

In built up areas; it is almost impossible to prevent smoke from a bonfire drifting across other people's gardens or homes and causing a nuisance. As such our advice to people is to not have bonfires in urban areas - plant material can be composted and other materials can be taken to the recycling / refuse point at Darby Close. The Council also offers a 'bulky collection' service, which can be booked by calling (01793) 445501. Nobody 'has to' burn anything; there are other options for disposing responsibly of unwanted materials.

There are strong legal restrictions to prevent fires from causing health risks and nuisance:

- **Smoke from a bonfire must not drift across a street or highway so as to cause a danger to traffic** (this is enforced by the Police).
- **Items must not be burnt on trade or business premises (including demolition sites) that will generate dark smoke** (i.e. tyres, electrical cables, oil, polystyrene foam and other plastics). Doing so is an offence under the Clean Air Act 1993. This legislation is enforced by the Council's environmental protection team and offenders may be liable to prosecution. (Photographs can provide excellent evidence for this offence).
- **Smoke from a garden bonfire must not be a nuisance or prejudicial to the health of other people.** In legal terms it must not cause a statutory nuisance under the Environmental Protection Act 1990. This Act is enforced by Officers from the Council's environmental protection team.

The law does not define precisely what is or is not a nuisance, but in terms of smoke from a bonfire the following would help us in deciding whether the person was causing a statutory nuisance:

1. how often a particular neighbour lights bonfires,
2. whether or not the smoke is drifting into neighbouring properties or gardens,
3. the time of day / night,
4. the nature of the area (i.e. heavily built up or rural and sparsely populated),
5. The weather at the time of the fire, i.e. are neighbours trying to enjoy their gardens on a sunny day? Is washing hanging out to dry? Is the wind direction suitable?
6. d) The type of smoke. Dark smoke (i.e. from burning tyres, plastics, roof felt etc.) will almost inevitably amount to a nuisance because it contains chemicals that are prejudicial to health and has a very acrid odour. However, wood smoke alone can often cause nuisance.

What about wood burning stoves, open fires etc?

Wood burning stoves and open fires are capable of causing Statutory Nuisance too. Stoves and fireplaces installed by professional installers in accordance with current Building Regulations are however, unlikely to do so.

If we receive complaints that such an appliance is causing a Statutory Nuisance; we are compelled to investigate. Our first action in this case will be to check that the installation was done correctly; as an appliance not installed in accordance with current Building Regulations will most likely cause Statutory Nuisance at some point.

Our advice is to consider whether you live in an area appropriate for the use of stoves and open fires in the first place, and if content that this is the case; ensure that you use an accredited installer and that the appliance is installed in accordance with current Building Regulations.

So What Happens Next?

If we receive a formal complaint; we are compelled to investigate. We take complaints of Statutory Nuisance very seriously; and may use monitoring or recording equipment to gather evidence. If we think that Statutory Nuisance is being caused, we will serve a formal Abatement Notice; which makes it a criminal offence to continue to cause nuisance. We operate a 24hour a day response service; and enforcement officers may visit to witness episodes of nuisance at any time at short notice. Ultimately; we may prosecute offenders, and/or gain a warrant from the Court to force entry and abate the nuisance ourselves. Fines on conviction can be £5000 in residential premises, or £20,000 on premises where trade activities take place.

To discuss any of the issues brought up in this leaflet; please call the Council's contact centre (01793) 445500, and ask to speak to Healthy Neighbourhoods. A message will be passed to the team, and an officer will be able to call you back to advise or explain further.

If you have received this leaflet directly from an Officer in the Healthy Neighbourhoods Team; their telephone number will be on the letter that accompanied it, and you should call them direct.