



# **GUIDANCE DOCUMENT**

**ON DEALING WITH**

**A NOISE NUISANCE**

**Environmental Health Department**

## **NOISE NUISANCE**

### **1.0 INTRODUCTION**

The purpose of this leaflet is to advise you as a domestic occupier of your rights on the subject of noise nuisance. Although the Environmental Health Department will investigate complaints of noise from many different sources, in some cases it is not possible to commence legal proceedings. It is in these situations where the advice contained in this leaflet will be of most use. Some reasons are given why the Council may not consider action appropriate or practicable, and guidance is offered on how you can deal with some of the more common sources of noise.

A noise has to be more than merely audible for it to become a nuisance against which legal action may be taken. There are no "permitted" noise levels although guidance on acceptable levels may be obtained from sources such as the World Health Organisations – Guideline values for community noise in specific environments. Each case has to be judged on the basis of the likely reaction of an average, reasonable person to the noise having regard to its nature and source, its loudness and pitch and the time duration and frequency of occurrence. The assessment of noise nuisance is an essentially subjective matter, relying more on ears than measurement with instruments.

A noise may be annoying but not be a nuisance, whereas a noise which is a nuisance is almost invariably annoying.

### **2.0 WHO CAN DEAL WITH ENVIRONMENTAL NOISE PROBLEMS?**

Armagh City and District Council can deal with the majority of noise complaints under The Pollution Control and Local Government (Northern Ireland) Order 1978. Typical noises often dealt with are noise from factories or commercial premises, construction or demolition sites, clubs or public houses, noisy neighbours.

In the majority of cases, Council is empowered to deal with noise as nuisance. The Department which operates these powers in Armagh City and District Council is the Environmental Health Dept and your complaint should be sent or telephoned to:-

Environmental Health Department  
Armagh City and District Council  
Palace Demesne  
Armagh  
BT60 4EL

Tel: 028 3752 9626  
Email: [ehealth@armagh.gov.uk](mailto:ehealth@armagh.gov.uk)

A visit will be made by an Officer as soon as the pattern of events can be established. Diary sheets will be sent to you for this purpose. Where the circumstances are found to require more detailed investigation, arrangements will be made for subsequent visits.

### **3.0 WHAT ABOUT NOISY NEIGHBOURS?**

In the past five years, complaints of noise from neighbours, televisions, dogs, cars, DIY activities and parties, have increased substantially. Such complaints are often difficult for Environmental Health to investigate for a number of reasons. Firstly, in order that action can be taken, the law requires that the Local Authority "is satisfied" that a nuisance exists, or is likely to occur or recur.

Where noisy neighbours are involved, several visits might be required and there is no guarantee that the situation which gives rise to complaint will occur on any of those occasions. An investigating Officer cannot rely on the word of the complainant alone.

Secondly, as the majority of complaints relate to noise during the late evening or early morning, many investigations have to be carried out at that time, and staff limitations may make it impracticable to carry out adequate observations. It therefore may be necessary to install noise monitoring equipment into your property.

Thirdly, it may not be the neighbours who are being unreasonable. Some houses and flats do not have proper sound insulation and in these cases the landlord or owner may have some responsibility to rectify the problem.

#### **4.0 THE LAW SIMPLIFIED**

The provisions relating to action taken by one individual against another are contained in Article 39 of The Pollution Control & Local Government (Northern Ireland) Order 1978. In general terms, Article 39 says:-

- (i) A Magistrate Court may act on a complaint from any person aggrieved by noise where the noise amounts to a nuisance.
- (ii) If a Magistrate Court is satisfied that an alleged noise nuisance exists, or may start again at the same place, the Court must make an Order for one, or both, of the following:-
  - (a) requiring the person causing the nuisance to stop it within a specified time; or
  - (b) preventing the nuisance being started again.

(The reason for the two types of order is to allow for the situation where, having made your complaint, by the time you go to Court the nuisance may have stopped but you feel you have grounds to believe it may well start again).

The person you should take proceedings against is the person causing the nuisance. If you cannot find that out, you can still proceed against the owner or occupier of the premises.

- (iii) Any person who then creates a nuisance without reasonable excuse AFTER an Order has been made against him/her by the Court will have committed an offence and can be fined.
- (iv) Most cases taken by a private individual relate to domestic incidents, but if you proceed against a trade or business, they can make a defence that they are using "best practicable means" to prevent a nuisance. In practice, the Environmental Health Officer will usually act where a trade or business is concerned.

This is a very simplified version of the Law, written in everyday language. The Order itself is much more precise and only the Courts can say exactly what the Law is.

#### **5.0 HOW TO PROCEED – STEP BY STEP**

- (i) It is always better to attempt to resolve a problem without resorting to the Law. If you can discuss the matter with the person concerned, pointing out in a reasonable way that your enjoyment of your premises is being interfered with

and perhaps attempting to agree on a compromise solution, then the situation can be settled without too many bad feelings.

A hostile approach on the other hand, often leads to bitterness and un-cooperative attitudes on both sides.

(ii) Dealing with Disputes with Neighbours – Mediation Northern Ireland

This Organisation is experienced in helping people sort out disputes with their neighbours.

- They listen carefully and patiently to both sides of the dispute;
- They do not take sides and offer a confidential service;
- They will do their best to get you and your neighbour to talk and will sit in to make life easier;
- There is no charge for this service.

Mediation NI can be contacted on:-

Mediation NI  
83 University Street  
BELFAST  
BT7 1HP  
Tel: 028 90 438614  
[www.mediation-network.org.uk](http://www.mediation-network.org.uk)

(iii) If this does not work, then it is important that you keep a diary of the events about which you are concerned. Make a note of the time(s) when the noise started and finished, whether any other person heard it, how loud it was (for example, did it drown the sound of your own television or conversation, did it wake the children?). Although the Environmental Health Officer might use a sound level meter, use of an instrument of this type is wholly unnecessary in the majority of noisy neighbour cases, and the Court will be much more impressed by a simple descriptive record. These notes should be written at the time or as soon as possible after the incident has occurred and while your memory is fresh. We will supply a blank diary form on request or alternatively, it can be obtained from Armagh City and District Council website [www.armagh.gov.uk](http://www.armagh.gov.uk).

(iv) An Officer of the Environmental Health Department will always be prepared to discuss the matter and advise you further. Although complainants are usually kept anonymous during investigations, it is often self-evident to the noise maker who has complained. If the matter should come to Court, it will of course be impossible to avoid revealing the name of the complainant. You will be told whether Armagh City and District Council will act in the case, or whether you should continue with subsequent action yourself.

(v) Taking your Own Action in the Magistrates Court

If you are advised to proceed yourself, write a letter, or send the enclosed A39 Notice addressed to the person responsible for the noise, or the occupier or owner of the premises involved. Make sure that the letter is dated and keep a copy. Tell him or her that you believe that he or she is making noise which amounts to a nuisance and that unless it is stopped or satisfactorily reduced you will have no alternative but to make a complaint to the Magistrates Courts. This step is a legal requirement and it will allow you to demonstrate that you have approached that person in a reasonable manner and that you have provided the opportunity to rectify the situation before taking the next step. You must give at least 3 days notice before seeking Magistrates' Order.

- (vi) If you have no satisfactory response to your letter, then contact the Magistrates' Court at the following address:-

Armagh Courthouse  
The Mall  
Armagh  
BT61 9D

Explain that you wish to make a complaint under Article 39 of The Pollution Control and Local Government (Northern Ireland) Order 1978 against a person creating noise which amounts to a nuisance. You should advise that you have already consulted the Environmental Health Department. You will probably be given an appointment to discuss the matter of procedure, service of summons and calling of any witnesses. As this will be deemed a criminal matter by the Court, you will not have to pay a fee.

- (vii) A date and time will be fixed for a Court hearing. The person against whom you are making the complaint will be informed and will probably appear to defend the case.

Although it is not necessary, you may wish to engage a solicitor to act on your behalf and he will then inform you of how the case should be conducted. The Clerk of the Justices will advise you, should you not wish to engage a solicitor and will guide you during the case.

If the Magistrate decides in your favour, you may be able to claim any costs you have incurred and the Court may decide on awarding compensation to the aggrieved party. The contravention of any Order issued by the Magistrate is an offence and the defendant will be liable to a fine if convicted. It is essential that you maintain a diary in case the Order is ignored and it proves necessary to return to Court.

## **6.0 POINTS TO REMEMBER**

- (i) The question of noise nuisance is determined subjectively and by reference to normally acceptable forms of behaviour.
- (ii) It is always better to deal with problems informally, if at all possible.
- (iii) Remember that your neighbour may have similar complaints about the way in which your activities affect him or her.
- (iv) Always be calm and objective when dealing with such matters and remember that there are always two sides to every situation.
- (v) Legal aid is not available for Magistrate Court hearings.

**THE POLLUTION CONTROL AND LOCAL GOVERNMENT  
(NORTHERN IRELAND) ORDER 1978, ARTICLE 39**

(Notice required to be given by a person aggrieved by a statutory nuisance before instituting proceedings).

Date:

To:

of:

You are hereby notified that

I,

of

intend to bring proceedings against you before

Armagh Courthouse  
The Mall  
Armagh  
BT61 9D

on the grounds that I am aggrieved by the existence of a statutory nuisance, namely:

\*

\_\_\_\_\_  
Signature of Complainant

\*SPECIFY DETAILS OF ALLEGED NUISANCE

See overleaf for requirements as to service of this notice on the defendant

1. A minimum of 3 days notice must be given before instituting proceedings in relation to an alleged statutory noise nuisance.
2. Service of this notice may be served or given in the following ways:
  - (a) by giving it to the defendant or;
  - (b) by leaving it at the defendant's proper (i.e. last known) address or ;
  - (c) by sending it by registered post to that address.
3. If service is to be effected on a corporate body or on a partnership, such service shall be to the registered or principal officer of that body or partnership.
4. Service by post is effected at the time at which the notice would be delivered in the ordinary course of post (two days if 1<sup>st</sup> class, four days if 2<sup>nd</sup> class).
5. Complainants should be prepared to prove service of the notice at the Court hearing and are advised that an independent witness to the giving or leaving of the notice would therefore be of assistance in this respect.