



Nuisance and ASB guide

A guide explaining how Chichester District Council investigates nuisances and anti-social behaviour (ASB) from industrial, commercial and domestic sources.



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This guide explains how Chichester District Council investigates nuisances and anti-social behaviour (ASB) from industrial, commercial and domestic sources.

If you want more information on the Council's Policy on noise it is available at: www.chichester.gov.uk/nuisance

This guide is intended for:

- Residents who are suffering from nuisance and anti-social behaviour
- Those who are allegedly causing a nuisance or anti-social behaviour.
- Businesses whose activities may give rise to nuisance or anti-social behaviour.

Introduction to Nuisance and ASB

The law dealing with nuisance implies a degree of "give and take".

Nuisances can be from noise, odour, fumes, smoke, dust, rubbish/litter, light, insects and animals.

For something to be a statutory nuisance, it will be causing a serious disturbance, much more than annoying or irritating. The disturbance will be persistent or ongoing, occurring on several separate occasions. Activities that give rise to disturbances that occur

rarely and/or are of short duration are unlikely to be a statutory nuisance.

Investigating complaints is only one way in which the Council acts to control nuisances.

There is a lot of work carried out to control nuisances through the planning system, alcohol licensing and prior approval of large construction projects.

ASB can be wide ranging, dropping litter, dog fouling, neighbour noise or any behaviour that negatively affects a community's quality of life and is deemed to be unreasonable and persistent.

How to Report a Nuisance or ASB

If your neighbour is causing the problem, then the first step is to talk to them, as they may not be aware their activities are disturbing you. This applies whether your neighbour is a business or another resident. This informal approach is preferable as it helps maintain good relations between neighbours.

If may be unwise to make your complaint in the heat of the moment, when you are tired or frustrated. It is better to wait until later when the matter can be discussed more calmly.

If this approach fails, or you feel you are unable to approach your



neighbour, you can either ask the Council or take your own legal action.

How the Council will Deal with Complaints

Complaints should be made to the Environmental Management team on **01243 534598** or on the website: **www.chichester.gov.uk/nuisance#making-a-complaint**

All reasonable steps will be taken during the investigation to maintain confidentiality, although complainants should be prepared to give evidence, should the case go to Court.

Each case has to be assessed and dealt with on its merits and in the light of all other service demands upon the Council's resources. Every endeavour will be made to deal with all cases as quickly as possible.

Complainants are sent this nuisance and ASB guide, diary sheets and a covering letter.

If you have complained about a nuisance or ASB, you will be asked to keep a diary of how the alleged problem is affecting you. There is a section on Diary Sheet Guidance, which you should read.

On some occasions, we may ask you to go to an external mediation service at an early stage, if we feel this is the most appropriate course of action.

In most cases we will contact the person/s complained about to let them know we have received a complaint. If you made the complaint, your name will not be revealed to the subject of the complaint. We will advise them on what steps might be taken to minimise the disturbance.

When a completed diary sheet is returned, it will be allocated to an officer, who will assess the evidence to see if the disturbance is justified and would constitute either a statutory nuisance or ASB. We will contact you to discuss your diary.

You may be required to gather further evidence. An officer may also attempt to witness the alleged problem or we may use noise recording equipment.

Statutory Nuisance

If it looks like a nuisance is occurring, the case officer, will contact the person causing the nuisance to inform them that investigations are on going and that recording equipment may be used to monitor the situation. Following our intervention the problem may be resolved.

If the Council's investigation substantiates your complaint and a statutory nuisance is witnessed, our normal course of action is to serve an abatement notice on those responsible for the nuisance to prohibit the nuisance or require abatement of the



nuisance in a set period of time (which could be immediately, or anything up to 3 months if works are required).

When we have served an abatement notice, the recipients have a right of appeal to the Magistrate's Court within 21 days of the service of the notice. In most cases, the terms of the notice remain in force until the appeal has been heard.

If the notice is not complied with after the time specified in the notice, an offence would be being committed. On conviction, the person is liable for a fine (unlimited amount) plus an additional amount payable each day that the offence continues after conviction, or in the case of a statutory nuisance arising from industrial, trade or business premises, not exceeding £20,000.

Whether or not proceedings are taken for non-compliance, a local authority may abate the nuisance and do whatever may be necessary in execution of the notice. This includes the power to seize and remove any equipment that is being used or has been used to cause the nuisance.

If, at the end of our investigation, the Council finds there is not sufficient evidence to substantiate a statutory nuisance, advice will be provided, appropriate to the circumstances of the case, which may include advice on taking private action.

There may also be times when the Council cannot take action e.g. the

nuisance is so sporadic, temporary in nature. In these cases individuals could take their own action (see the section below).

The Council will endeavour to reach a prompt decision at each stage of the investigation, to move rapidly towards resolution of the complaint. However, as you can see, we are unable to progress a complaint without a completed diary sheet.

If you would like further information about nuisance, you should refer to our website, www.chichester.gov.uk/nuisance.

A Duty Officer service is also available Mon-Fri between 10.00 - 12.00 midday and 14.00 - 16.00 hours for general information. However, specific advice about a case is only possible when a completed noise diary is returned.

What is Mediation?

Mediation is a voluntary process where trained mediators speak to both parties in a dispute and attempt to agree a way forward. Chichester Council has an association with West Sussex Mediation Service and our residents may be able to contact them for advice and assistance.

West Sussex Mediation Service
8A Oakhill Road
Horsham, West Sussex RH13 5SB
Tel: 0300 200 0025
info@wsms.org.uk

Taking your own action

You can take independent action on nuisance by complaining directly to the Magistrates under Section 82 of the Environmental Protection Act 1990.

You do not need to employ a solicitor, but it is advisable to obtain some legal advice.

Before approaching the Court, it is a good idea to write to the noisemaker saying that unless the noise is abated by a certain date (e.g. 2 weeks) you will complain to the Magistrate's Court. Keep a copy of all correspondence. If your approach is ignored, contact the Justices' Clerk's Office at the Magistrate's Court explaining the action you wish to take. The Clerk of the Court should be able to advise you further.

You must give at least 3 days notice of your intention to complain to the Court to the person considered responsible for the noise. The notice should provide details of the complaint and may be delivered by hand or by post. You need to prove to the Magistrate, that the disturbance you are subject to amounts to a nuisance. A date will be set for the hearing and the person about whom you are complaining, will be summoned to Court. You will be required to explain your problem and produce evidence of the disturbance.

The neighbour will be able to cross-examine you and your witnesses and may produce their own evidence. If you prove your case, the Court will

make an order requiring the nuisance to be abated, and/or prohibit recurrence of the nuisance and may also impose a fine on the defendant. If this order is ignored, further Court action will need to be taken; you must therefore continue to keep records of the nuisance in case it is necessary to return to Court. If you fail to prove your case you may have to pay some or all of the defendant's expenses in coming to Court.

Anti- Social Behaviour

Anti-social behaviour includes: dropping litter, dog fouling, neighbour noise or any behaviour which negatively affects a community's quality of life and is deemed to be unreasonable and persistent. In these circumstances, officers may be able to target those responsible by serving a warning letter which identifies the problem behaviour and requests them to stop. It also highlights the consequences if they continue. Where the behaviour continues, the officer can serve a Community Protection Notice which includes a requirement to stop doing something, to start doing something or to take reasonable steps to avoid further anti-social behaviour.

Failure to comply with a Community Protection Notice is a criminal offence. If appropriate, a Fixed Penalty notice can be issued or offenders can be prosecuted in the Magistrate's Court where a fine of up to £20,000 for a business and £2500 for individuals.



When deciding whether the behaviour is having a detrimental effect, officers will consult with the victims and or potential victims to better understand the effect the behaviour is having.

Diary Sheets - Guidance

Diary sheets form an important part of the overall evidence that will be used to deal with your allegation.

Your diary sheets may form part of a formal Statement to be used in legal proceedings and therefore they must be completed with utmost care and accuracy.

Precise details of each period of disturbance are required in order that correct and proper evidence can be established. To state that “the noise occurred on and off all morning”, for example, would not be considered good evidence.

You should use the diary sheets to record times when you are disturbed when going about your normal business. You should avoid listening out for problems e.g. staying at home just so you can gather evidence.

It is useful if you can give an indication of severity of the noise in the details column of the diary sheets. Please use a “marks out of ten” system with 1 being slight and 10 being extreme.

Do not forget to read the declaration, date it and sign it before submitting them to your case officer.

Normally diary records should be kept for a couple of weeks, however, in some cases we need longer or shorter. If you are in doubt, please contact this office to discuss it further.

What is statutory noise nuisance?

A noise nuisance occurs when an average person cannot use their own home for its normal purpose as a result of unreasonable noise from someone else’s premises. To be considered a noise nuisance, factors such as loudness, type of noise, how often the noise occurs, intrusiveness, time of day, nature of the locality and unreasonableness are taken into account.

Examples of situations that may lead to a statutory nuisance are:

- Persistent noise from equipment at night so residents are kept awake.
- Televisions or radios so loud that the words can be clearly heard in other properties.
- Music which can be clearly heard, or which has a loud repetitive beat, particularly late at night or the small hours of the morning.
- Frequent or continual barking/howling of a dog.
- DIY (drilling, hammering etc.) in the evening or early morning.



(This list is not exhaustive and is given without prejudice to illustrate noises, which might be a statutory nuisance).

Why can't I make any noise that I like, in my own property?

You can . . . but, problems may occur when that noise crosses a boundary into someone else's property. The boundary can be a fence, a party wall or in flats through the floor/ceiling. In such cases your activities may be causing a noise nuisance or your behaviour may be deemed as anti-social.

How loud can I play my stereo?

There is no easy answer to this question but you must judge the circumstances for yourself depending on where you live, the proximity of your neighbours and the time of day. At night (11pm – 7am) your neighbours shouldn't be able to hear your music at all. The rest of the time, a little noise between neighbours is a normal part of living in many properties, but it should not be excessive.

What time can I do DIY until?

There is no strict answer, unless there is a restriction under any Planning Permission. When people are carrying out DIY or having building works carried out, there will often be an understandable degree of disturbance. Generally

speaking this should be carried out between 8am – 6pm where possible. If home DIY'ers carry out quieter tasks later in the evening, this would not be considered unreasonable.

Other people make a lot of noise, why can't I?

If neighbours are causing you disturbance, it is not acceptable to retaliate or to add to the problem. Everyone is responsible for the noise that leaves their own property.

Respect must be shown to your neighbour and their right to enjoy their own home. If you have a problem with their noise, approach them politely about it or contact the Council for advice.

Can you give me any advice about party noise?

Many people celebrate special occasions by having a party. This is ok, so long as you are considerate and remember that those who live around you may have other priorities and have every right to enjoy their homes without your celebration taking over.

Making sure that the noise is not excessive and finished by a reasonable time is important.

It may help neighbour relations, if you let people know in advance about the nature of the party and the time it will go on until.



The scale of the party you can hold does depend on where you live and how close your neighbours are.

If you live in a property that is attached to others, your party should finish by 11pm to avoid disturbing sleep. If your party goes on past this time they shouldn't really be able to hear it at all. If you live in a detached property, you have got a little more flexibility.

Music outside must be dealt with carefully as the noise will carry a long way, especially as the night gets later. Certain music is more likely to offend e.g. very basey music, offensive lyrics and off key Karaoke.

Ask your guests to leave quietly, raucous goodbyes shouted in the street and car doors banging are likely to stand out and cause disturbance late at night.

House Alarms

When an alarm causes annoyance or noise nuisance by continually or intermittently sounding, the Council has a duty to investigate the complaint and attempt to contact the keyholder to silence the alarm. Where it is not possible to contact the keyholder we are sometimes obliged to take formal action and silence the alarms ourselves at the owners expense.

In order to prevent situations like this it is standard practice for audible alarms to be fitted with a maximum ring time

of 20 minutes. In addition, to ensure that you are contactable if your alarm malfunctions, it is recommended that you either have the system automatically monitored by an alarm keyholding company or that you list your keyholder information with the company that hold the information on behalf of Sussex Police such as "Peace for a Pound".

Further details about this can be found on the following web site:
www.peaceforapound.com

Bird Scarers

Farmers are supposed to follow recommendations from the National Farmers Union guidelines to help prevent problems. This includes:

- Using a number of different types of scarers. Avoid scarers that work by noise early in the morning.
- Only use audible bird scarers as a last resort.
- Never using noisy scarers near buildings where people sleep or where quiet is important.
- Avoid using scarers within at least 200m of sensitive buildings before 7:00am, or before 6:00am elsewhere.
- The effectiveness of a scarer can be prolonged by moving it often.

- Bird scarers should not fire more than four times in any one hour. (All the reports from a multiple chamber gun count as one report if heard within 30 seconds).

Baffles should be used (of straw bales, for example) to concentrate the sound onto the field and away from neighbours where a statutory noise nuisance could be caused.

OTHER COMMON NUISANCES

Keeping of Livestock on Domestic Premises

What are the laws about keeping chickens and other livestock on domestic premises?

There are no laws prohibiting people from keeping chickens or other livestock on their property.

What if they are causing a nuisance?

We may be able to take action where there is an odour and/or noise nuisance in accordance with the Environmental Protection Act 1990.

What advice can we offer?

Keeping livestock in the countryside is less likely to cause a nuisance than say, for example, where it is kept in an urbanised area. Where neighbouring properties are in close proximity problems may arise with odour and noise. For this reason pens etc. should

be regularly cleaned and consideration should be given to keeping livestock away from neighbour's boundaries.

Smoke from Bonfires

When are bonfires allowed to be lit?

There are no laws restricting the times when bonfires are lit. However, we may be able to take action where there is an alleged smoke nuisance in accordance with the Environmental Protection Act 1990. Regular bonfires, or burning for extended periods of time may be considered a nuisance.

Lighting fires that give rise to the production of black smoke may be an offence under the Clean Air Act 1993.

What materials are not allowed to be burnt?

Plastics, rubber, oil, bitumen containing material and any other substance that will give rise to black smoke must not be burned. Garden materials should be dried as much as possible before burning, to minimise the production of smoke. Under most circumstances, it is illegal for businesses to burn any of their trade waste, this offence is dealt with by the Environment Agency.

Advice for a person complaining about a bonfire:

- Try to make a friendly approach to your neighbour to discuss the



problem. They may be unaware that their activities are causing you annoyance.

Request that your neighbours give you prior notice of times when they plan to burn.

- Keep a record of any approaches you make (dates, times, comments, etc). If this action does not bring the matter to a satisfactory conclusion, or if you have a genuine reason for not being able to approach your neighbour, complete a diary record sheet/s to log the precise details about occasions when the bonfires are a serious problem to your household.

It can be difficult for the Council to take action particularly when the burning is intermittent.

Advice on Alternatives to Bonfires:

- Compost any waste vegetation in a suitable container, the compost can then be used on the garden.
- Make use of the Council's collection service for garden waste (see website for full details). This will then be collected without any further charge along with your normal refuse collection.
- Transport the waste to the nearest amenity tip where it can be disposed of free of charge.
- Bulky non-garden waste can be collected by arrangement (a charge is

made for this service, see website for full details). When telephoning ask for the Contracts/Cleansing team.

Advice for a person wishing to burn:

If you have no alternative but to burn the waste material then you should:

- Give consideration to your neighbours e.g. position of the bonfire; have they got washing out; is the wind blowing towards their property etc.
- Ensure that no plastics, rubber, oil, or bitumen containing material or any other substance that will give rise to black smoke be burned. Production of black smoke is an offence under the Clean Air Act.
- Ensure that any vegetation is allowed to dry prior to burning to minimise smoke production.
- Ensure that any bonfire is kept small, constantly supervised and is as far away as possible from neighbouring premises.
- Ensure that the frequency of bonfires is kept to an absolute minimum so as not to cause annoyance to your neighbours.

Light Nuisance

What is light nuisance?

In localised cases, excessive and poorly installed and maintained artificial lighting can cause a disturbance to



neighbouring occupiers. A light nuisance is likely to exist where a source of artificial light significantly and unreasonably interferes with a person's use and enjoyment of their property or is prejudicial to their health. This means that it must be more than an annoyance or simply awareness of the light source.

Light nuisances can be caused by a variety of artificial light sources, including:

- Domestic and commercial security lights
- Domestic decorative lighting
- Commercial lighting of buildings for aesthetic purposes.

However, some sources are exempt such as railway premises and bus stations. Furthermore, we may be unable to take action against some commercial premises or outdoor sports facilities, where reasonable steps to avoid causing a light nuisance have been taken.

How to solve a Light Nuisance

Problem?

You should speak to the person with the light, they may not even be aware that they are causing a problem. A simple adjustment may solve the problem. If

this doesn't work or you don't feel able to speak to your neighbours, you can contact this Environmental Health. We will ask you to complete and return a Nuisance Diary.

There is no fixed level that constitutes a statutory nuisance. The light must affect you in a habitable room (bedroom, living room). If the impact of the light can be reduced by normal curtains/blinds, it is unlikely to be a nuisance. A number of factors will need to be considered such as: time of day/night, location, brightness, duration, purpose of the light, the effect on person(s) affected.

How can I avoid problems with my artificial lighting?

- Do not fit unnecessary lights
- Use low energy light bulbs.
- Do not leave lights on when they are not needed: fit timers where appropriate
- Control external lights with properly adjusted passive infra-red detectors
- Consider using shields or adjusting the angle of lighting.



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