

# North East Derbyshire District Council

## Noise Investigation Procedure

The Council recognises that the public has a right to expect uniformity of approach to problems of noise. The advice given here outlines the Council's standard procedure for dealing with noise investigations. The provisions of the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000 have been considered in the development of these procedures.

### **How do I register a service request for noise nuisance?**

A service request can be made in writing, by email, by telephone, in person or through a third party such as your local Councillor to the Environmental Health Division.

You will be asked to give full details of the problem, together with details of occurrences, action already taken and any previous communication with this department.

Your identity will be kept confidential throughout our investigation however if a prosecution is brought against the person(s) concerned and they plead not guilty it is likely that your details would be passed to their legal defence. If you have any concerns about this issue please feel free to telephone us where we can discuss this issue with you.

If your service request relates to domestic noise you will be asked whether you have approached your neighbour, since domestic complaints can often be settled amicably between the parties without local authority involvement. An informal approach by you is not only courtesy, but also the first step in resolving any differences.

### **Investigating a service request**

Your service request will be assigned to an appropriate officer who will then begin an investigation. All investigations are undertaken in line with the Department's Enforcement Policy, a copy of which can be viewed on the Council Web site or by contacting us.

The Officer undertaking the investigation may need to discuss with you the nature of the service request to clarify issues relating to the problem and to explain the procedures for dealing with the service request. This will include identifying when the noise is at its worst and most intrusive, where appropriate.

You will be forwarded a nuisance monitoring sheet(s) to complete by you. When completed and returned to us the nuisance monitoring sheet(s) will be assessed by the investigating officer in order to focus our investigation to best effect. It is therefore important that you are as precise as you can be in keeping the records. Please appreciate that the nuisance monitoring sheet(s) are likely to be used as evidence in the Magistrates Court as part of our prosecution and you should therefore be mindful of what is written as offensive material or inappropriate comments could jeopardise the case. You will need to record dates, times, duration, type of noise and how it affect the use of your property.

Upon receipt of the completed nuisance monitoring sheet(s) the investigating officer will consider how the case should be investigated. The investigation, where appropriate, may involve you being asked to use a noise recording system to record the noise or concern and/or officers undertaking monitoring visits at times indicated by the nuisance monitoring sheet(s).

On receipt of the service request the person(s) being complained about will be notified of the allegation and will be informed that if the complaint did continue monitoring may be undertaken to substantiate the allegation.

If, on investigation, the Officer is satisfied that noise amounting to a statutory nuisance exists, the Council has a duty to serve an abatement notice on the person(s) concerned under the Environmental Protection Act 1990. The notice will specify the time period within which the nuisance is to be abated.

If the Officer has not been able to witness the noise or witness's only noise which is not considered to be a nuisance, you will be informed:

- (a) of the action already taken to investigate the complaint.
- (b) that the Council is unable to take further action.
- (c) how to take their own action in the Magistrates' Court under Section 82 of the Environmental Protection Act.

## Follow Up

The recipient of a notice served under Section 80 of the Environmental Protection Act 1990 has a right to appeal to a Magistrates' Court. The Court can confirm, amend or quash the notice.

If, once the time specified in the notice has expired or where an appeal has been heard and overruled by a court, the requirements of the notice are breached, the Council can prosecute the offender in the Magistrates' Court. If the prosecution is successful then the offender may be fined and where appropriate served with an antisocial behaviour order.

## General Comments

- The Council does not operate a 24 hour call out service for noise.
- If you are dissatisfied with the way in which your service request has been handled, you can ask for an investigation to be undertaken into the whole matter.
- North East Derbyshire District Council does not have the powers to investigate:
  - Noise complaints in public places such as vehicles in use on the highway e.g. revving engines and car stereos – complaints of this nature can only acted upon by the Police who should be contacted at the time of the incident.
  - Noise from aircraft - complaints of this nature can only be dealt with by the Civil Aviation Authority.

If you have any questions or queries, please get in touch with us through our Clean and Green hotline on 01246 217610 or email [connectne@ne-derbyshire.gov.uk](mailto:connectne@ne-derbyshire.gov.uk)