

### **Taking your own Action**

Some types of noise only occur occasionally and if it is not possible for the investigating officer to witness the noise the Council may not be able to take action on your behalf. In these circumstances you may wish to take independent action by complaining direct to the Magistrates Court under section 82 of the Environmental Protection Act 1990. This is quite simple and it need not cost much. You do not necessarily need to employ a solicitor.

Before approaching the court it is a good idea to write to the person who is making the noise saying that unless the noise is reduced by a certain time, say two weeks, you will complain to the Magistrates Court. If the noise does not stop it is important you keep a written record of the dates, times and duration of the offending noise, as well as a description of its nature and the distress it causes you. Once you have decided to take action you must give three days notice to the person making the noise of your intentions, and provide them with details of your complaint. Deliver your notice by and or post. Make sure you keep a copy.

When you contact the Court tell them you wish to make a complaint under section 82 Environmental Protection Act 1990. You will probably need to visit the court so that the procedure can be explained to you and you may be asked to provide evidence of the problem. This will show the Magistrates that you have an arguable case. You should let the court know if you have notified the Environmental Health Division of this problem.

The court will decide if a summons can be issued and you may be asked to serve it (by post or by hand) on the person responsible for making the noise, stating the date and time of the hearing. If you serve the notice you must keep a record of the date and time of service. When the time comes for the hearing you will have to attend court to give evidence. You may find it useful to consult the Citizens Advice Bureau before starting proceedings. You should contact Gwent Magistrates Court at the following address:

*Clerk to the Justices, Gwent Magistrates Court, 2<sup>nd</sup> Floor, Gwent House, Gwent*

### **Is there anything else I should know?**

The Council is unable to deal with complaints of noise nuisance caused by road traffic, trains and aircraft.

The Environmental Health Officer may be able to advise you on the best course of action if you are disturbed in this way.

### **If you want more advice contact:**

Environmental Health Section, Enterprise House, Rassau Industrial Estate, Ebbw Vale, NP23 5SD Phone (01495) 355054 Fax (01495) 355245

e-mail [environmental.health@blaenau-gwent.gov.uk](mailto:environmental.health@blaenau-gwent.gov.uk)



Public Protection Division  
Environmental Health Section

*a better place to live and work*

# Bothered by Noise?



## Dealing with your complaint

Most of us have experienced a noise problem at one time or another, whether it is from commercial or industrial premises or the house next door. Often noise problems are resolved simply by a polite but nevertheless frank approach to the person responsible for the noise, asking for their co-operation. It must be said that good neighbourly relations will often involve a degree of live and let live. The occasional noisy party, loud hi-fi or barking dog has to be taken in our stride. On the other hand there can be persistent disturbances, which by their very nature, timing and duration cause real inconvenience and anxiety. In these circumstances, no matter how much you have discussed the matter with the person concerned, the noise continues. This noise may then amount to a Statutory Nuisance (a serious prolonged noise problem) and you may need to contact the Environmental Health Division of the Council to investigate. Each different case has to be decided upon its merits, what may be a nuisance in one area may not be in another. The assessment has to take into account the circumstances which would be tolerated by an ordinary reasonable person.

The following are considered as reasonable expectations for residents of or visitors to Blaenau Gwent:

- To be able to sleep without reasonable disturbance;
- Protection from loss of amenity due to excessive noise;
- Qualified professional staff available to assess existence of a nuisance;
- Not to hear someone else's noisy activities in their own home, for example barking dogs or loud music;
- To improve liaison between residents and other groups when this proves necessary, for example between residents and a construction company.

#### **How we deal with your complaint.**

Once you have made your complaint to the Environmental Health Section it will be allocated to a named investigating officer. The council does not take anonymous complaints for two reasons. Firstly in order to be a statutory nuisance the council must be satisfied that the noise it is affecting a specific person or persons. Secondly, the rights of the person being complained about must also be protected ensuring that the complaint made is not malicious. The process of investigating your complaint will then be initiated and the following steps will be followed. The length of an investigation may only take a few hours, in the case of a mis-firing burglar alarm, or several months in the case of intermittent loud music from a domestic property. We always ask for your patience and co-operation while we investigate.

The investigating officer will decide which stage is most appropriate to start the investigation. For non-urgent and recurring problems, such as Barking Dogs the process will start at stage one. This is the most usual course of events. For urgent or on-going problems such as a mis-firing car alarm the officer will start the investigation at stage two.

#### **Stage One Information Gathering and Notification**

A letter will be sent to the person being complained about informing them that a complaint has been received about an activity at their premises. The letter will request that if they feel the allegation is true they take steps to prevent their activities affecting their neighbours. We are legally obliged to inform the person being complained about that we may be monitoring their property for a noise nuisance. You will also be sent a letter and a diary form. You will need to fill in this form for at least two weeks specifying the date, time, type of noise and how it affected you. This information is necessary to build up a picture of the alleged noise problem. It may also be used as evidence in future legal proceedings. Once you have completed the form send it back to the Environmental Health Section in the freepost envelope provided. If the investigating officer feels that the pattern of noise may be a statutory nuisance the complaint will receive a stage two response. If the evidence you provide does not indicate that the noise will constitute a noise nuisance then the investigating officer will write to you to explain why they have made the decision.

#### **Stage Two Investigation**

The investigating officer will write to you within seven days of receiving the completed diary form informing you of our intention to investigate further. This may involve installing an automatic noise recorder at your home on a pre-determined date. This will allow you to record the noise when an officer is unable to be present at your home. No one else will be informed that the monitoring equipment is being installed at your home.

If the officer feels that the monitoring equipment is not appropriate for your case he/she will arrange to visit you during the day when the pattern on your completed noise diary shows that the noise will probably be occurring.

You may also be placed on the out of hours call out register, particularly if the noise that is bothering you occurs out of normal office hours.

#### **What if the officer cannot witness the noise?**

If after installing the monitoring equipment at your home on three separate occasions or after visiting your premises to witness the nuisance you feel is on-going on three separate occasions the investigation will end. We will write to you to inform you of our decision within seven days of the last visit or installation of the monitoring equipment.

#### **Stage Three Formal Legal Action**

Once a statutory nuisance has been established the Council has a legal duty to serve a notice to require the nuisance to be abated. The time period for compliance can range from 30 minutes to several weeks. If the person fails to comply with the requirements of the notice the Council can prosecute them and even seize noise-making equipment. A person on whom a notice is served can appeal to the Magistrates Court within 21 days.