



## Nuisances - Taking your own action

### Step 1

If you have not already done so, try speaking to the person who is causing the nuisance. They may not be aware that a problem exists and may be willing to discuss the matter with you in order to come to a suitable solution.

### Step 2

If this approach fails, write to the person who is causing the nuisance, explaining that you intend to complain to the Magistrates' Court. Keep a copy of the letter.

### Step 3

Keep an accurate written record of all the episodes of nuisance, including dates, times and how the problem affected you. If any of your neighbours also suffer from the nuisance, ask them to collect evidence in the same way.

### Step 4

If the same problem still exists, contact the clerk to the Magistrates' Court at Worcester Magistrates' Court, Castle Street, Worcester WR1 3QZ, telephone 01562 514000. Explain the problem and that you wish to take action under section 82 of the Environmental Protection Act 1990. The clerk will be able to advise you further.

## Statutory Nuisances

The Environmental Protection Act 1990 describes certain nuisances over which legal action can be taken. These are called Statutory Nuisances, and fall into the following categories:

- Smoke, fumes or gases from any premises
- Dust, steam or smells from business premises.
- Accumulations or deposits
- Animals which are badly kept
- Noise or vibration.
- Premises in a poor state

To be a Statutory Nuisance, the above problems must present a significant health risk, or cause substantial loss of amenity. Some things may be annoying, such as a neighbour's wind chimes or occasional garden bonfire, but are unlikely to be a Statutory Nuisance.

If a complaint of Statutory Nuisance is made to the Council, we have a legal obligation to investigate the matter, as far as is reasonably possible. Sometimes, we are unable to witness the noise or are of the opinion that a Statutory Nuisance does not exist. In such cases it is possible for individuals to take their own action and complain directly to a Magistrates Court under section 82 of the Environmental Protection Act 1990. If you wish to take your own action follow the numbered steps.

### **Step 5**

You may wish to seek legal advice before you pursue the complaint further. This may be useful but is not essential.

### **Step 6**

If the clerk agrees that you have a good case, a date will be set for a hearing and the person that you are complaining about will be summoned to attend court. In court, you will be required to explain the problem and produce evidence, such as written records and any other independent witnesses. You will have to give your own evidence and cross-examine your own witness to bring out their evidence. The person against whom you are taking action will be able to cross-examine you and your witnesses and may produce their own witnesses and evidence to contradict yours. A solicitor can do most of this work for you, but this can be costly and you will still be required to explain how the nuisance affects you.

### **Step 7**

If you prove your case, the court will make an order requiring that the nuisance is stopped and/or stopping a recurrence of the problem. The court also has the power to impose a fine on the person causing the nuisance. If the order is ignored, you may need to return to court to take more severe action. If this is the case, make sure that you continue to collect evidence.

### **PLEASE NOTE**

If you fail to win your case, the court may order you to pay the expenses of the defendant in coming to court.

Where the defendant is causing a nuisance at business premises, the law allows the defendant to claim that the Best Practice Means (BPM) are used to avoid causing nuisance

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