

Ask to see the Clerk to the Justices to make application for a summons under Section 82 of the Environmental Protection Act 1990.

When you apply to the Clerk, be ready to tell them the details. Take the following supporting evidence, if you have it:

- The full name and address of the person(s) causing the noise (this is needed for serving the summons correctly).
- The full name of the Occupier, if different.
- The address where the noise arises.
- Any Solicitor's letter to the person responsible for the noise.
- A letter from us advising you to take your own action.
- Documents to support your case (noise diaries, statements of witnesses etc).

The Clerk is likely to advise you that you should try all other methods to resolve the problem before taking your own action in the Court.

If the Clerk is satisfied that you have a case, a date for the hearing will be made and a summons issued.

You may conduct your own case if you wish, but you may be advised to engage a Solicitor at your

own expense. It is always best to have legal advice at some stage to make sure you have a case, and are proceeding correctly.

If you are on a low income you may be eligible for free legal advice (ask a Solicitor). Be warned that should you lose your case you may well have to pay the costs!

Common Law Action

As well as the above procedure, you may be able to take action at Common Law, for which you are advised to consult a Solicitor.

Please note this leaflet is not an authoritative interpretation of the law; it is intended as a guide only. You should contact a Solicitor for legal advice.

TAKING YOUR OWN LEGAL ACTION AGAINST NOISE

What is a Nuisance?

“Nuisance” is a legal term. The Courts have decided, that to be a nuisance, noise has to cause substantial interference with an occupier’s enjoyment of their property or be injurious to health. An assessment has to be made of how loud and unreasonable the noise is. Even if you need particularly quiet conditions because of ill health, or if your previous neighbours were very quiet, the Court has to consider what would be unreasonable to the average person. The advice in this leaflet also applies to other nuisances referred to in the Environmental Protection Act 1990, including smoke, dust and odour.

The Council’s Role

Lewes District Council’s Environmental Health Service can take action against nuisance, but we will only take formal action for noise if we are satisfied that the nuisance exists.

What You Can Do

Before considering legal action, try to speak to the person responsible. Often people do not realise they are causing annoyance and the problem may be resolved amicably. If we have advised you that we cannot take action to deal with your problem, consider asking a solicitor to write a suitable letter to the person responsible.

If all else fails and you feel Court action is the only option left, this is what you need to do.

Preparing Your Case

Firstly, write to the person(s) responsible for the noise giving at least three days notice that you intend to make a complaint to the Magistrates’ Court about the noise nuisance, to seek an Abatement Order. Remember to keep a copy of the letter. (Give 21 days notice for nuisances other than noise).

You will need to collect evidence of the noise. This should include a diary of the times the noise occurred and a description of the noise. (See example below). This needs to be written clearly and in ink. Be careful to write up events as they happen, not some time later; and try very hard not to exaggerate.

DATE	TIME	NATURE OF NOISE AND HOW YOU WERE AFFECTED
12/11/99	11.30pm - 1.45am	Loud music from 13 Decibel Avenue. The partywall was vibrating. Monotonous bass rhythm was clearly audible above the volume of my television set. When I went to bed, I was unable to sleep because of the noise.
19/1/99	10.45pm - 3.30am	Loud music and shouting from 13 Decibel Avenue. The music was louder than the volume of my television set. Mr Quiet of 10 Decibel Avenue, visited me at 11.15pm and heard the noise. When I asked Mr Loud of 13 Decibel Avenue if he would turn the music down, he became very abusive towards me.

Witnesses

Note the names and addresses of anyone else who hears the noise. You will not be allowed to tell the Court what someone else said, so make sure they write down what they heard and saw. Let witnesses write statements in their own words and do not prompt them.

All witnesses must state that the statement is in their own words, is freely given, and at the end of the statement, they should state that they have read through it and that it is a true account of what occurred. Make sure it is signed and dated and, if possible, witnessed. Obtain their full name and address and ask if they will appear in Court, as the Court prefers to have any witness tell them in person what happened.

Ask other neighbours, if they are affected, to keep similar diaries, to support you in Court. (If Environmental Health did not know about these complaints earlier, we may be able to investigate the complaint further at this stage). The more people you can produce to support your case the better. You may have difficulty in proving your case without witnesses particularly if the people complained about disagree with what you say.

Applying to the Court

Go to the Magistrates’ Clerks Office at Lewes Magistrates Court, The Court House, Friars Walk, Lewes, East Sussex, BN7 2PG

Telephone 01273 478889