

A person who commits an offence on non-business/trade/industrial premises will be liable to a maximum fine of £5,000, with a further daily fine of £500 for each day on which the offence continues after conviction.

The authority also has the power to seize equipment where necessary.

### **Can I take my own action?**

You could approach the person causing the nuisance yourself. You should however, consider the risk to your personal safety and property. This may not be the best approach if you have concerns.

If the direct approach does not work, you could use a go-between or 'mediator' to listen to the views of both sides and help to reach an agreement.

To find out about mediators in your area call Mediation UK on 0117 904 6661. Most neighbour mediation is free and is done by trained volunteers.

If you do not wish to involve the local authority, you may complain direct to a magistrates' court under Section 82 of the Environmental Protection Act 1990.

If the court is satisfied that a statutory nuisance exists then they will make an abatement order.

We do have a leaflet with further information on this procedure, or you can obtain advice directly from the clerk at the court.

### **For further information please contact:**

Cornwall Council  
Public Health and Protection

E-mail:

[envhealthandlicensing@cornwall.gov.uk](mailto:envhealthandlicensing@cornwall.gov.uk)

Web: [www.cornwall.gov.uk](http://www.cornwall.gov.uk)

Tel: 0300 1234 212

## Public Health and Protection



# Statutory Nuisance!

**Your complaint, Council procedures and the law**



## What is a Statutory Nuisance?

A statutory nuisance is defined under the Environmental Protection Act 1990 as any of the following that has been assessed by an Environmental Health Practitioner as being “**prejudicial to health or a nuisance**”.

- any **premises** in such a state
- **smoke** emitted from a premises
- **fumes** or **gases** emitted from a private dwelling
- any **dust, steam, smell** or other **effluvia** arising on industrial, trade or business premises
- any **accumulation** or **deposit**,
- any **animal** kept in such a way
- **artificial light** emitted from premises
- any **insect** emanating from relevant industrial, trade or business premises
- **noise** emitted from premises
- **noise** emitted from or caused by a vehicle, machinery or equipment in the street

This means it can be regarded as unreasonable interference with someone’s use of their own property (nuisance), or has prejudicial health effects on a normally healthy person.

## Duty to investigate

Local Authorities have a duty to inspect their area from time to time to detect any statutory nuisances. They must also take reasonable steps to investigate any complaint of statutory nuisance from any person living in its area.

## The investigation

When assessing statutory nuisance, several factors have to be taken into consideration. These include frequency, intensity, duration character, the local environment, time of day, and impact.

An element of repetition is usually required, since a one-off incident will rarely constitute a statutory nuisance.

### Stage 1

When the complaint is first received we will write to the person or business alleged to be causing the nuisance and make them aware of the complaint. We do not however, give out the complainant’s details, unless they have given permission.

The alleged offender(s) will be offered the opportunity to resolve the problem informally without the Council having any further involvement. This person(s) may be unaware of the effects of their activity and once informed may be willing to either stop the activity or to reduce the effects.

In the meantime you will be expected to complete log-sheets, which will provide an indication of how often the alleged nuisance is occurring and will be produced as evidence in the event of legal proceedings.

### Stage 2

If complaints continue to be received then we will start to gather further evidence, which may include the requirement for further logging to be undertaken or a personal visit

by an officer to witness the nuisance in person, and/or the use of recording or monitoring equipment (for a noise complaint).

Please note that if after a maximum of 3 personal visits and/or 2 installations of monitoring equipment a statutory nuisance has not been witnessed, you will be advised to consider private action under Section 82 of the Environmental Protection Act 1990 and we will close our file.

### Stage 3

If the officer is satisfied that a statutory nuisance exists, then an abatement notice may be served on the person causing the nuisance. However, in the appropriate circumstances the service of a notice can be withheld for 7 days.

If the officer is satisfied that a statutory nuisance does **not** exist, then the complainant will be informed and no further action will be taken by the Council unless the situation changes.

## Appeals

The person on whom the notice has been served has 21 days in which to appeal to the Magistrates’ Court. A date will then be set for an appeal hearing.

## What if the nuisance continues?

If a person fails to comply with a requirement of an abatement notice, the Council will instigate legal proceedings. A person who commits an offence on industrial, trade or business premises will be liable to a maximum fine of £20,000 on conviction.