

Sound advice on

NOISE

Don't suffer in silence



SCOTTISH EXECUTIVE

Making it work together

About this booklet

This booklet gives you advice about how to solve noise problems. The noise could be from neighbours, traffic, or a business.

The booklet informs you of your rights and the sort of action you can expect from your local authority and the police. It is not an authoritative statement of legislation.

To help you, we have organised this booklet into three sections.



Section 1

tells you what you can do about noise from neighbours, local commercial and industrial premises, and vehicles.



Section 2

describes additional noise controls such as bylaws and specific controls on noise from construction sites and loudspeakers.



Section 3

explains how you can get involved in planning to prevent noise.

At the back of the booklet, you will find contact addresses for information about noise sources such as aeroplanes, trains, and road traffic.

Introduction

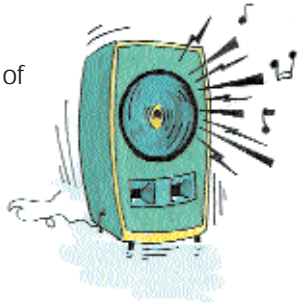
What is noise?

Noise is unwelcome sound. It could be too loud, intrusive, or just occurring at the wrong time, especially at night. For example, no one likes being kept awake by a neighbour's stereo.

Excessive noise can reduce our quality of life, and damage our health and the environment. Sound is measured in decibels (dB), but volume is not the only thing that can affect our attitude or response to sound. Unexpected sound, repetitive bass beats, screeches or whines can be just as annoying. Below, we have illustrated some examples of sound levels.

120dB

Discotheque – 1m in front of loudspeaker



100dB

Pneumatic drill at 5m

90dB

Heavy goods vehicle from pavement or a powered lawnmower at operator's ear





70dB

Vacuum cleaner at 3m or a telephone ringing at 2m

60dB

Normal conversation



50dB

Boiling kettle at 0.5m

40dB

Refrigerator humming
at 2m



30dB

Bedroom at night

0dB

Threshold of hearing





Section 1

What to do if you have a problem with noise

You can't stand your neighbour's stereo playing all night, so what do you do? Don't suffer in silence. You could try talking to your neighbour – explain (politely) that you are being disturbed by her/his noise. You might find this difficult and confrontational, but often people are unaware that they are causing a problem. Your neighbour may therefore be happy to reduce the noise she/he is making. However, approach your neighbour carefully if you think she/he might react angrily. Remember that we may all, from time to time, make a noise without realising we are disturbing other people. The problem is not always one of inconsiderate behaviour – even homes with good sound insulation may not cope with noise from powerful modern equipment.

Similarly, if the noise is from a local business or manufacturer, approach them directly.



If the noise continues, you could start a noise diary, recording dates and times of the nuisance, and the effects it has on you e.g. that you cannot sleep at night. You could write to your neighbour, using the information in your diary to support your case, to emphasise the seriousness of the problem.

Mediation – reaching agreement

If your neighbour does not reduce the noise she/he is making, and the noise is persistent, you could consider mediation – an independent third party will listen to the views of both sides and try to help them reach an agreement. You might find meeting a “difficult” neighbour face to face stressful, but mediation is increasingly popular, and many people find it an effective method of resolving disputes. A number of mediation services are listed at the back of this booklet. Contact your local mediation service or local authority for advice.

It is usually better to resolve neighbour disputes informally – you should only contact your local authority or turn to legal action when all other approaches have failed. Complaining formally will probably worsen your relationship with your neighbour.

How do I complain?

If the problem persists, and you do wish to complain **formally**, you could take your complaint to your local authority. Local authorities are legally obliged to investigate complaints of noise coming from premises (land and buildings) and vehicles, machinery or equipment in the road.

Section 1

Under sections 80 and 81 of the Environmental Protection Act 1990 (as amended by the Noise and Statutory Nuisance Act 1993, and the Environment Act 1995), local authorities have a duty to deal with any noise which they consider to be a statutory nuisance. Section 79 of the 1990 Act lists various statutory nuisances, including noise.

Approaching your local authority

If you wish to complain about noise, you should contact your local authority, usually the environmental health department; their number can be found in the telephone directory.

What will the local authority do?

The local authority may send an environmental health officer to visit your home. She/he may record noise levels to determine whether a statutory nuisance exists. If the officer concludes the noise is indeed a nuisance, she/he can take action immediately. If the noise is intermittent, the officer may ask you to keep a diary of the days and times of the noise, or alternatively leave equipment to record it.

Sometimes, the officer will measure the noise in investigating the complaint. There is no specific level at which noise becomes a statutory nuisance – the environmental health officer must decide if the law is being breached according to the specific circumstances.



Serving an abatement notice

Like you, the local authority may try to solve the problem informally – by persuading the person making the noise to stop. If this fails, and they are satisfied that the noise amounts to a statutory nuisance, they must, under section 80(1) of the 1990 Act, serve an abatement notice on the person responsible. The notice may require the noise to be stopped completely, reduced, or limited to certain times of the day. A person on whom an abatement notice has been served can appeal within 21 days.

Failure to comply with the abatement notice

If a person on whom an abatement notice has been served fails, without reasonable excuse, to comply with the notice, she/he may be prosecuted in the Sheriff Court (section 80(4) of the 1990 Act). Conviction may result in a maximum fine of £5,000, plus a daily fine of £500 for each day on which the offence continues after conviction.

Where the conviction is for noise from industrial, trade or business premises, the maximum fine is £20,000.

Local authorities have powers to gain entry to premises to enable them to abate a noise nuisance. They most often use these powers to stop misfiring burglar alarms. They can also gain access or entry to vehicles, machinery or equipment, to stop problems such as misfiring vehicle alarms when the owner or person responsible cannot be found.

Seeking an interdict

If, after investigating a complaint, the local authority considers that prosecution in the Sheriff Court would not provide a solution, it may ask the Sheriff Court, or Court of Session, to order the person making the noise to stop. (This order is known as an interdict).

Other options

If the local authority does not take action, you could approach the police or take independent legal action.

Police powers

The police can use common law powers (breach of the peace) against a person making excessive noise. Additionally, under section 54 of the Civic Government (Scotland) Act 1982, as amended by section 24 of the Crime and Disorder Act 1998, the police have powers to confiscate sound equipment immediately for up to 28 days if a person fails to stop the noise on being asked to do so by a police officer. The owner can ask for the equipment to be returned to her/him, but will have to pay whatever charge the police consider reasonable to cover their costs.

Courts in Scotland also have the power to order forfeiture of such equipment.

Taking independent action through the courts

If the local authority does not take action, you can take your complaint directly to the Sheriff Court under section 82 of the

Environmental Protection Act 1990.

The court will need to be persuaded that the noise problem constitutes a statutory nuisance.

However, before approaching the court it is a good idea to write to the person making the excessive noise, saying that unless the noise is abated within a fixed period (e.g. 2 weeks), you will complain to the Sheriff Court.

How do I proceed?

If the person making the excessive noise does not stop, write down and keep a record of the dates, times and duration of the offending noise. It may also help if a friend or neighbour can provide evidence that supports your complaint. If you decide to take action under section 82 of the 1990 Act, you must **give at least 3 days' notice in writing to the person making the excessive noise**, and provide her/him with details of your complaint. Deliver your notice by hand or by post (preferably recorded), and make sure your letter is legible, dated and that you keep a copy for yourself – you may need to refer to it later.

Working with the court

When you contact the Sheriff Court, tell them you are making a complaint under section 82 of the 1990 Act. You may find it helpful to seek the advice of a solicitor, or the Citizen's Advice Bureau, before beginning proceedings. It is possible that, in some cases, Legal Aid would be available – again a solicitor would be able to advise you about this. However, Legal Aid would not be available if you pursued your case without a solicitor. Sheriff Clerks are not able to give guidance on the preparation of proceedings.

The outcome

Win

If the court decides in your favour, it will make an order requiring the offender to abate the noise nuisance and prohibit a recurrence of the nuisance.



If the court finds that the nuisance existed at the date of making the complaint, they may award you the reasonable costs incurred by you in bringing the action against the person responsible for the excessive noise. These costs will be awarded whether or not the nuisance still exists or an abatement order is made. If an order is made, the court can require the person responsible to pay your costs.

Compensation

Having won your case, you may choose to go to court again to obtain financial compensation. However, this would be a separate legal action, and you would have to demonstrate that you have suffered loss,

injury, or damage as a result of the nuisance. You could make a claim either in the Sheriff Court or, if the case were serious enough, in the Court of Session. Again, you may find it helpful to seek the advice, and representation in court, of a solicitor.

Lose

If the court dismisses the case, you will normally incur your own costs in bringing the case to court, and you may incur the costs of the other party in addition.

What if the excessive noise persists?

If you win your case, and the noise continues, any person contravening the requirements of the court's order without reasonable excuse will be found guilty of an offence under section 82(8) of the 1990 Act and can be fined.

You should keep your record of noisy occurrences up to date in case the order is being ignored and it proves necessary to return to court. Again, you may wish to gather supporting evidence from a friend or neighbour. The procedure for initiating a future case will be the same as for the original proceedings.

Taking civil action

You can take civil action for noise nuisance at common law by seeking either an interdict to restrain the noise maker from continuing the nuisance and/or by issuing a claim for damages or loss.

Such an action can, however, be expensive, so it is advisable to seek the advice of a solicitor, or the Citizen's Advice Bureau, before going ahead. A solicitor will be able to advise you on your eligibility for legal aid.

If you are dissatisfied with your local authority

If you are unhappy about the way your local authority has handled your complaint, you could make a formal complaint to the authority's Chief Executive. Most local authorities have a formal complaints procedure. Alternatively, contact your local councillor.

Local Government Ombudsman

If you are still not satisfied with your local authority's response to your formal complaint, you can complain to the Ombudsman.

The Local Government Ombudsman is officially called the Commissioner for Local Administration in Scotland, and impartially investigates maladministration.

The Ombudsman service is independent and there is no charge. If a local authority fails to deal with a complaint adequately, this may amount to maladministration.

The Ombudsman cannot, however, question a local authority's decision just because someone does not agree with it.

Any complaint made to the Ombudsman must be brought within 12 months of the day on which you learned of the event about which you are complaining. Before the Ombudsman will investigate a complaint, the local authority must have a chance to answer it.

For the Ombudsman's contact details, see the back of this booklet.



Section 2

Additional noise controls

Bylaws

Some local authorities have made bylaws to control noise, especially certain types of noise occurring in roads or on local authority property such as parks. The type of noise covered may include the playing of musical instruments, radios and stereos. Ask your local authority about bylaws in your area. Licensing conditions may also apply to certain premises such as pubs and clubs.

Loudspeakers in the road

Your local authority has powers to deal with loudspeakers in the road – section 62(1) of the Control of Pollution Act 1974 prohibits the use of a loudspeaker in the road between 9 p.m. and 8 a.m. for any purpose, or the use of a loudspeaker in a road at any other time for the purpose of advertising any trade or business.

A number of organisations are exempt from this ban: the police, and ambulance and fire brigades.

Vehicles which sell perishable foodstuffs (such as ice-cream) are also exempted from section 62, but may only use loudspeakers between noon and 7 p.m. The loudspeaker

must be operated in such a way that it does not give reasonable cause for annoyance.

Using Codes of Practice

Codes of Practice give advice about the minimisation of problems caused by potentially noisy activities. Courts may have regard to relevant codes when considering the defence of best practicable means.

Codes of practice include noise from audible intruder alarms, ice-cream van chimes, model aircraft and construction sites.



Noise from construction sites

Construction activities are inherently noisy and often take place in areas which are normally quiet. To minimise the noise from necessary construction and demolition works, section 60 of the 1974 Act gives local authorities the power to specify the way in which the work must be carried out.

A code of practice (British Standard 5228) provides guidance on managing noise from construction and other open sites.

Neither the 1974 Act nor the related codes of practice set specific limits for construction site noise, which will vary according to local circumstances.

Best practicable means

In proceedings for a statutory nuisance offence, it is a defence to prove that the best practicable means have been used to prevent or counteract the effects of the noise (sections 80(7) and 82(9) of the 1990 Act). It is only possible to use this as a defence where the nuisance arises on industrial, trade or business premises or where the noise arises from a vehicle, machinery or equipment being used for industrial, trade or business purposes. This defence recognises that there can be technical and other limitations in industry.



Section 3

Planning to stop the noise

The planning system can help to prevent potential noise problems. For example, noisy industrial developments can be sited away from schools and hospitals, and buildings and roads can be designed to limit noise. Conditions can also be placed on planning permissions to control noise from pubs, clubs and restaurants, by restricting their opening hours.

When considering an application for planning permission, planning authorities need to consider the noise implications of development. Scottish Executive Development Department Circular 10/1999 Planning and Noise and the accompanying Planning Advice Note 56: Planning and Noise, provide guidance and advice on how noise issues should be handled by planning authorities. These documents are available by contacting the Scottish Executive Development Department (address at back of booklet). They are also available on the Internet (www.scotland.gov.uk/planning).

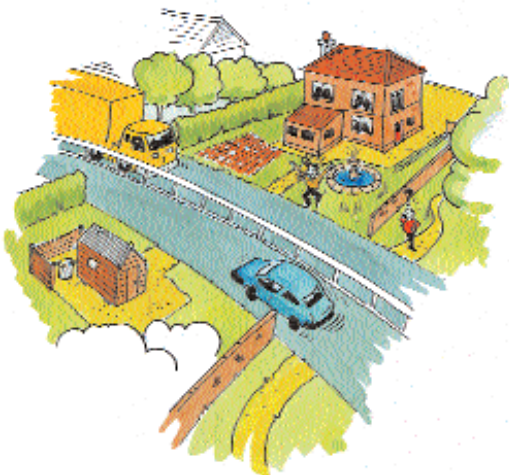
Section 3

If you are concerned about the noise implications of a proposed development you should write to the local Planning Officer and explain your concerns. These will be taken into account by the local authority when they determine the application.

You should also contact your local planning officer if you suspect that conditions attached to a previous approval to control noise are being breached.

Noise from pubs, clubs, etc can also be controlled by conditions contained in licenses issued by local authorities. Licenses may restrict opening hours, and place noise limits on music, for example.

Further general advice on the planning system in Scotland is available in "A guide to the Planning System in Scotland", available by contacting the Scottish Executive Development Department. It is also available on the Internet (www.scotland.gov.uk/planning).



How to get more advice about noise

Listed below are contacts for further advice on noise.

General advice on noise

National Society for Clean Air and Environmental Protection

44 Grand Parade
Brighton BN2 2QA
Tel: 01273 878770
Fax: 01273 606626

NSCA Scotland

Floor 10
Nye Bevan House
20 India Street
Glasgow G2 4PF
Tel: 0141 287 6530/6511
Fax: 0141 287 6592

Mediation

Information on mediation and mediation services can be obtained from:

SACRO

1 Broughton Market
Edinburgh EH3 6NU
Tel: 0131 624 7270
Fax: 0131 624 7269

Mediation UK

Alexander House
Telephone Avenue
Bristol BS1 4BS
Tel: 0117 904 6661
Fax: 0117 904 3331

Community Mediation services in Scotland

Aberdeen Community Mediation

18 Little Belmont Street
Aberdeen AB1 1JG
Tel: 01224 627201

East Lothian Community Mediation

Port Seton Community Centre
South Seton Park
Port Seton EH32 0BQ
Tel: 01875 815503

Edinburgh Community Mediation

27 York Place
Edinburgh EH1 3HP
Tel: 0131 557 2101

Falkirk Meditation Service

4 Orchard Street
Falkirk FK1 1RF
Tel: 01324 503700

Fife Community Mediation

24 Hill Street
Kirkcaldy KY1 1HX
Tel: 01592 597063

Orkney Resource Project

4B Laing Street
Kirkwall KW15 1NW
Tel: 01856 875815

Scottish Borders Mediation Service

Housing Department
Newtown St Boswells TD6 0SA
Tel: 01835 824000

South Lanarkshire Mediation Service

Brandon Gate
1 Leechlee Road
Hamilton ML3 0XB
Tel: 01698 452773

Stirling Council Mediation Service

Community Services

Viewforth
Stirling FK8 2ET
Tel: 01786 443087

The Ombudsman

Commissioner for Local Administration in Scotland

23 Walker Street
Edinburgh EH3 7HX
Tel: 0131 225 5300
Fax: 0131 225 9495

or

FREEPOST
Edinburgh EH3 0EE

Scottish Executive

General advice:

**Scottish Executive
Rural Affairs Department**
Environment Group
Air Quality Team
1-H North Victoria Quay
Edinburgh EH6 6QQ

Planning:

**Scottish Executive
Development Department**
Planning and Development Control Group
Planning Services Division 2
2-H Victoria Quay
Edinburgh EH6 6QQ

Scottish Executive Planning Helpline:
0345 741 741

Noise from roads and traffic

For complaints about excessive traffic noise from local roads and road construction noise, approach your local authority. For complaints about trunk roads (motorways and A roads), and traffic noise issues (including traffic noise insulation), contact:

**Scottish Executive
Development Department**
Transport and Planning Group
Trunk Roads Design and Construction
Division
Victoria Quay
Edinburgh EH6 6QQ

Complaints about rail noise

If you wish to complain about excessive rail noise, contact:

**Director
Railtrack PLC**
Buchanan House
58 Port Dundas Road
Glasgow G4 0LQ

or

**The Rail User's Consultative Committee for
Scotland**
5th floor
Corunna House
29 Cadogan Street
Glasgow G2 0LQ

You may also approach your local authority if you believe local rail noise is excessive.

Insulation from railway construction noise and railway noise

Information on the insulation of homes against noise from the construction or use of new or altered railways is available from:

Department of the Environment, Transport and the Regions

Great Minster House
76 Marsham Street
London SW1P 4DR

Noise from aircraft

General enquiries about policy on noise from aircraft should be directed to:

Department of the Environment, Transport and the Regions

Aviation Environment Division
1/33 Great Minster House
76 Marsham Street
London SW1P 4DR

If you wish to complain about excessive noise from airports, you should contact the airport operator. In Scotland, these are:

Head of Aviation

Glasgow Prestwick International Airport

Aviation House
Prestwick KA9 2PL
Tel: 01292 511 052

Managing Director

Glasgow Airport Ltd

Glasgow Airport
Abbotsinch
Paisley PA3 2SW
Tel: 0141 887 1111

**Managing Director
Edinburgh Airport Ltd**
Edinburgh Airport
Edinburgh EH12 9DN
Tel: 0131 333 1000

**Managing Director
Aberdeen Airport Ltd**
Aberdeen Airport
Aberdeen
Tel: 01224 722331

**Airport Manager
Dundee Airport**
Dundee
Tel: 01382 643242

**Managing Director
Highlands and Islands Airports Ltd (HIAL)**
Inverness Airport
Inverness IV2 7JB
Tel: 01667 464227

(Responsible for airports at Barra, Benbecula, Campbeltown, Inverness, Islay, Kirkwall, Sumburgh, Stornoway, Tiree and Wick).

Noise from military aircraft

Complaints about noise from military aircraft should be made to the relevant RAF station.

Alternatively, complaints or enquiries may be made to:

Ministry of Defence
DAS 4 (SEC)
Room 8249
Main Building
Whitehall
London SW1A 2HB

Claims for loss, injury or damage resulting from military flying should be made to:

Ministry of Defence

Directory of Claims and Legal
Claims 3, Room 804
Northumberland House
Northumberland Avenue
London WC2N 5BP

Compensation for noise from aerodromes

Enquiries should be made to one of the civil airports above or, for military aerodromes:

Ministry of Defence

Directorate of Safety, Environment
and Fire Policy
Room 6/182
St Christopher House
Southwark Street
London SE1 0TD

Noise at work

General, written enquiries about noise at work should be directed to the Health and Safety Executive:

Health and Safety Executive

HSE Information Service
Caerphilly Business Park
Caerphilly
Mid-Glamorgan
CF83 3GG
Fax: 0290 859260

You can also telephone the HSE:

HSE Health and Safety Executive Infoline
Tel: 08701 545500

A series of free leaflets concerning noise at work is available from:

HSE Books

PO Box 1999
Sudbury
Suffolk CO10 6FS
Tel: 01787 881165
Fax: 01787 313995

For specific enquiries, contact the HSE office closest to your workplace.

HSE

Belford House
59 Belford Road
Edinburgh
EH4 3UE
Tel: 0131 247 2000
Fax: 0131 247 2121

HSE

375 West George Street
Glasgow
G2 4LW
Tel: 0141 275 3000
Fax: 0141 275 3100

HSE

Offshore Safety Division
Lord Cullen House
Fraser Place
Aberdeen
AB25 3UB
Tel: 01224 252500
Fax: 01224 252662

Further reading

Stationery Office Publications

Available from the Stationery Office
Bookshop, 71 Lothian Road,
Edinburgh EH3 9AZ

Control of Pollution Act 1974

Environmental Protection Act 1990

Noise and Statutory Nuisance Act 1993

Environment Act 1995

National Planning Policy Guidance (NPPG)
1 – The Planning System in Scotland

Circular 10/99 – Planning and Noise

PAN 56 – Planning and Noise

Code of Practice on Noise from Ice-Cream
Van Chimes, DOE, Welsh Office,
Scottish Development Department,
DOE Northern Ireland, 1982

Code of Practice on Noise from Audible
Intruder Alarms, DOE, Welsh Office,
Scottish Development Department,
DOE Northern Ireland, 1982

Code of Practice on Noise from Model
Aircraft, DOE, Welsh Office,
Scottish Development Department,
DOE Northern Ireland, 1982

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www.scotland.gov.uk