

If the noise continues, further evidence will need to be gathered to prove breach of the Abatement Notice. Failure to comply with the terms of the notice is a criminal offence and can lead to an unlimited fine.

In exceptional circumstances and where appropriate, the council may exercise other powers such as the seizure of equipment e.g. stereo systems, but this will usually be where other action has not been successful.

Confidentiality

All complainants details are kept confidential wherever possible but this may not always be practicable depending on the nature of the complaint. There may be situations where the subject may reasonably assume where a complaint has come from. If the case proceeds to formal enforcement action, it is likely that you will be asked to provide a witness statement. In this event, the details may be made public as evidence may need to be given in court.

Whilst very few cases reach this stage, if you are not willing to give evidence, this may result in the Council not being able to pursue matters.

Taking Private Action

It may be that the investigation has not been able to confirm the existence of a statutory nuisance and the council is therefore not able to take any action. Irrespective of this, you can make a complaint directly to the Magistrates' Court under Section 82 of the Environmental Protection Act 1990. If the court is satisfied that

For Further information or to register a complaint please contact:

Scarborough Borough Council
Town Hall
St Nicholas Street
Scarborough
YO11 2HG
01723 232323

Email:

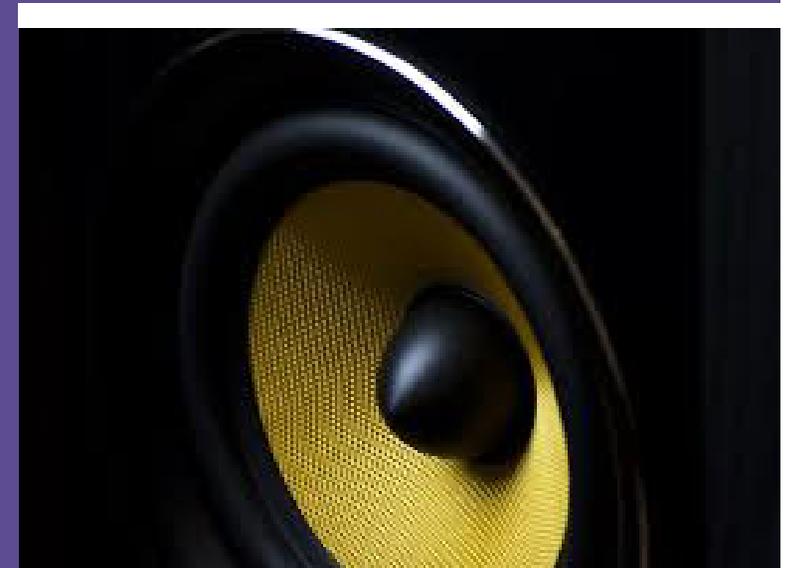
customer.first@scarborough.gov.uk

Do it online:

scarborough.gov.uk

Noise Nuisance

A guide to what you can do



there is sufficient evidence of a nuisance they can make an order requiring it to be abated and prohibiting its recurrence.

"Before you embark on this course of action we would recommend you take independent legal advice".

Scarborough Borough Council
Town Hall, St Nicholas Street
Scarborough YO11 2HG

A guide to what you can do

Noise is essentially unwanted sound and a common source of annoyance. Many of the nuisance complaints received by the Environmental Health Service relate to noise disturbance from both domestic and commercial sources. These range from barking dogs, loud stereo/TV noise and DIY activities in the home environment to, for example, noise from entertainment or refrigeration equipment in commercial settings.

This leaflet is intended to advise you on what you can do to address a noise problem and what options are available to you. It must be borne in mind that no house or flat is totally soundproof and a certain amount of noise from neighbours is to be expected. However, it may be that your neighbours are behaving unreasonably or the intrusion may be due to poor sound insulation, or it is possible you may have become overly sensitive to the noise and find it annoying when other people would not.

A problem can occur in any house or flat where there is a separating floor or wall and if the problem seems to be inadequate sound insulation, a number of measures can be employed. The Building Research Establishment has published a helpful leaflet entitled "Improving Sound Insulation in Homes" (available on their website, www.bre.co.uk) and if you are considering structural improvements, the Council can also provide practical advice on noise reduction measures.

If you are being seriously disturbed by noise, it is not unreasonable to make a complaint. However, it is suggested that you make attempts to help resolve matters in a reasonable and amicable way with your neighbour in the first instance.

Although you may be nervous about approaching your neighbour, they may be unaware that they are causing a problem and friendly communication can go some way to finding a positive solution. Your first step therefore should be to approach your neighbour and politely explain that you are being disturbed. You may find that this informal approach may resolve the problem and prevent it from escalating into a bigger issue.

If you find it difficult to approach your neighbour, or the direct approach does not work, and the property from where the noise originates is rented, you may wish to contact the landlord, especially if this is a social landlord (e.g. Yorkshire Coast Homes, Sanctuary Housing etc). It is often a requirement of tenancy agreements not to cause nuisance and breaches can lead to eviction. Any initial contact you make with the Council regarding noise from social landlord tenants will be referred to them to try and resolve the matter in the first instance.

If the noise does not originate from a social landlord tenant, you can contact the Environmental Health Service to conduct an investigation and ascertain whether the noise amounts to a statutory nuisance.

Contacting the Council

A statutory noise nuisance is a significant and unreasonable noise event that materially interferes with the use or enjoyment of a property, or is prejudicial to health. This is more than simply annoyance and will be influenced by factors such as the time of the day, duration, frequency, volume, locality of the area and character of the noise. The council has to consider whether the noise would represent a nuisance to the "average person" and cannot take into account for example, sleep patterns of night shift workers.

The Council will take all reasonable steps to investigate complaints and our procedure typically involves a number of stages.

- As a first stage, we will write to the occupier or person responsible for the noise advising that a complaint has been received and that the council may be carrying out observations or using recording equipment. The letter will request their co-operation in preventing further complaints and solving the problem.

- As part of this stage in the investigation, noise monitoring sheets will be sent to you and you will be required to keep an accurate diary of the noise disturbance including the type of noise, date and time it occurred, its duration and how it affects you.

- Completion of the forms enables the council to more fully appreciate the problem and how to collect further evidence. Failure to return the forms within six weeks will result in closure of the complaint.

- The completed forms will be assessed by an officer. The officer will consider whether or not the disturbance is unreasonable and they may visit when the noise is occurring, or at a time when it is likely to occur. Alternatively, arrangements may be made to install noise recording equipment into your home.

- Attempts will be made to directly witness the problem or make recordings on three separate occasions. If this does not result in sufficient evidence being gathered to substantiate a nuisance, the case may be closed. This does not preclude you from taking your own private action.

- If there is evidence showing the existence of a statutory noise nuisance, a Noise Abatement Notice will be served on the person responsible, prohibiting its recurrence or restricting the noise level.

