

Appendix 3

Noise Complaints

1.0 Noise Complaints

- 1.1 We expect all our customers to be aware of the noise levels their household causes, to consider the impact it might be having on their neighbours, and to be considerate and sensitive in order to keep disturbance to a minimum. However, we know that sometimes noise from neighbours can cause a nuisance and can be very upsetting, causing annoyance, lack of sleep, stress and generally affecting our customers' quality of life.
- 1.2 No house or flat is totally soundproof, and we all make a degree of noise in and around our homes. Often when people live close together, they may not realise they are disturbing others. It may be, for example, that a neighbour has a different type of lifestyle, such as if they work shifts or have a large family. Some people can also find it harder to tolerate noise than others.

2.0 Informal action

- 2.1 Noise disputes are usually best resolved informally. Legal action is not possible without strong evidence, and might worsen the relationship between the complainant and their neighbour and be stressful. It also takes a very long time. Thus, as long as it is appropriate and safe to do so, we encourage a 'self-help' approach to resolve noise nuisance. This means that we would normally ask the person complaining to approach their neighbour directly, either in person or in writing, and explain to the neighbour politely that they are causing a disturbance.
- 2.2 Another option that we strongly recommend is to consider independent mediation to help the situation. We work in partnership with Mediation Bucks. Mediation is voluntary, and an informal and often successful way of resolving disagreements amongst neighbours. We can refer customers directly, or they can approach Mediation Bucks directly, further details are on our website. Sometimes Mediation Bucks will draw up "Good Neighbour Agreements" to help resolve issues which both parties will commit to.
- 2.3 We may also decide to put penalty points on the perpetrator's Tenancy Sustainment Licence (if they are a Twenty11 tenant). See our Anti-Social Behaviour Policy for more details.

3.0 What else can be done?

- 3.1 If mediation is not a solution and the noise persists, a customer can report their complaint directly to the Environmental Health team at Wycombe District Council. Alternatively, we may refer a case to them. Under Section 79 of the Environmental Protection Act 1990, local authorities have powers to deal with defined statutory noise nuisances. We therefore work closely with the Environmental Health team if the noise is related to one of our tenant.

3.2 A complainant will normally be required to complete an Environmental Health Incident Diary to record the incidents of noise nuisance. This is an important source of evidence to establish frequency, patterns of behaviour, how serious the noise is and its impact. Depending on the issues, the Environmental Health team will then consider investigating further, such as installing a noise recorder to gain the evidence needed to take more formal action. They may also write to the person causing the nuisance saying that a complaint has been made, asking them to take any steps that may be necessary to reduce noise, and also other neighbours may be approached.

4.0 What determines whether further steps are taken?

4.1 Environmental Health staff will consider whether or not the issue constitutes a statutory noise nuisance. In general terms, this is something that interferes with a customer's enjoyment of their home or is a regular disturbance that is considered unreasonable. There is no set level at which noise becomes a statutory nuisance and an assessment will take into account a number of factors including the locality, the time of day or night, and the frequency and duration of the noise complained of. As part of the assessment, distinction is required to be made between "normal living noise" and something which prevents the quiet enjoyment of a person's home.

4.2 To take formal action, there needs to be clear and substantiated evidence of a problem. That means, for example, if the noise nuisance is infrequent or there is no independent evidence to demonstrate a serious problem and back up concerns, then it may not be possible to take further action.

4.3 The following are **unlikely** to be considered a statutory noise nuisance:

- An occasional party
- Neighbours talking or occasionally arguing
- Slamming/shutting of doors
- Washing machine vibrating during the daytime or a vacuum cleaner being used
- Children playing or crying
- Dog barking occasionally
- Lawnmower noise
- People going about their ordinary day to day business
- Occasional DIY at reasonable times

4.4 Section 82 of the Environmental Protection Act 1990, gives complainants the power to take independent action through the local Magistrates' Court to deal with noise and nuisances where, for example, the Environmental Health team consider that the problem is not a statutory nuisance, or the Environmental Health team cannot obtain enough evidence to serve an Abatement Notice or to prosecute.

5.0 If there is a statutory noise nuisance, what happens next?

5.1 If the Environmental Health team are satisfied the noise amounts to a statutory noise nuisance they can serve an Abatement Notice. This is a legal document

that requires the person on whom the notice is served to stop nuisance or restrict it e.g. to certain hours of the day. Breaching an Abatement Notice without reasonable cause is a criminal offence. Any potential breach will need to be investigated and evidence obtained prior to formal action being taken.

6.0 What will Twenty11 do?

- 6.1 In addition to referrals to mediation or advice on Environmental Health services, we may take action due to noise complaints such as alerting the perpetrator to concerns about their behaviour and warning them of possible consequences. When counter allegations are made, we may alert the complainant to these so they also have the opportunity to cease any alleged nuisance. In order to protect privacy and confidentiality, however, we will not normally share details regarding the alleged perpetrator with the complainant or vice versa including information of any specific tenancy actions we may take.
- 6.2 If there are substantiated and serious breaches of tenancy due to noise, and the Environmental Health team has served an Abatement Notice due to statutory noise nuisance or such a Notice is breached, the perpetrator will receive negative penalty points on their Tenancy Sustainment Licence, and we will take formal tenancy action.
- 6.3 The type of formal action we might take could be an injunction or possession proceedings, or we may decide not to renew someone's tenancy. The complainant's evidence may be required if legal proceedings are taken, and this would be discussed with them if needed. We will work closely with the Environmental Health team when making an assessment as to the appropriate way forward.
- 6.4 If the complainant wants to move home as a result of experiencing noise, they will be advised on their options. However, a 'priority move' request made purely on the basis of experiencing noise nuisance will not be agreed.

7.0 Building design

- 7.1 Sometimes our customers may feel that the design of the building they live in is not sufficiently containing noise levels. In these cases, we will do a visual check to ensure the building met the regulations applicable at the time of construction, and we will also identify whether there are any outstanding repairs that are our responsibility to resolve.
- 7.2 Whilst relevant case law - such as Southwark LBC v Mills and Baxter v London Borough of Camden - confirms that a covenant for quiet enjoyment does not oblige landlords to improve sound insulation in their properties, we will, where appropriate, advise the alleged perpetrator of practical measures they can take to assist, such as putting down floor coverings or placing rubber mats under noisy appliances. We may also advise the complainant of steps they can take themselves to improve the transmission of noise.

For further information, customers may wish to look at <https://www.gov.uk/how-to-resolve-neighbour-disputes>