

POLICY FOR DEALING WITH NOISE

INTRODUCTION

This policy sets out in detail the way that Torbay Council will approach noise problems. The Council has to act within the constraints of the law and can only take legal action where the law applies and where satisfactory evidence of a statutory nuisance exists.

As with all legal matters the Courts have the final say in deciding what is a nuisance and how any nuisance should be dealt with.

PRINCIPLES

Torbay Council considers that the citizens of Torbay can reasonably expect:

- to be protected from significant loss of amenity due to noise and vibration;
- to have qualified professional staff available to assess nuisance;
- not to hear someone else's excessive noise in their home on a regular basis, eg music, barking dogs, alarms, DIY.

PRACTICE

Making a complaint

Complaints may be made in person, by telephone, by letter, or by e.mail etc. Trained reception staff in the Environmental Health and Consumer Protection Division will take initial details. The complaint will then be referred to the investigating officer who will contact the complainant **within 5 working days of receipt of the complaint**, (though in practice this is often sooner).

To make a telephone complaint about noise, telephone (01803) 208091.

Letters should be addressed to:

Torbay Council
Environmental Health and Consumer Protection
Roebuck House
Abbey Road
Torquay
TQ2 5EJ

E.mail address:
Environmental.Protection@Torbay.gov.uk

Details needed will include the name, address and telephone number of the complainant, details of type, frequency and duration of the noise and the name and address of the person/premises/vehicle causing the noise. Information on any action already taken and the outcome will also be requested.

ANONYMOUS COMPLAINTS WILL NOT NORMALLY BE INVESTIGATED

Investigation of complaint

The complainant will always be asked whether he/she has attempted to resolve the problem by other means.

In view of the large number of noise complaints made to the Council, as a preliminary step the Council will generally (depending on the urgency of the matter) write to the alleged noise-maker. This will explain the nature of the complaint and asking for action to remedy the situation (a copy of this policy will also be enclosed). Experience has shown that his action is often sufficient to resolve the problem.

A copy of this noise policy will be sent to the complainant, who will be asked to note details of the noise and will be sent record forms for completion. Other methods of recording this information can be discussed and agreed with the investigating officer. It is important that this information is recorded accurately. The complainant will be told the name and telephone extension number of the officer dealing with the complaint.

The complainant's anonymity will be respected by Council staff. There may be cases, however, where the perpetrator of the noise will be aware of the identity of the complainant via previous discussions between the two parties or due to the prevailing circumstances.

If the above action is unsuccessful or inappropriate (due to the urgency of the matter) the investigating officer will contact the complainant. They will arrange to carry out an appropriate investigation that will involve either, monitoring visits or the installation of

noise monitoring equipment, or a combination of both to gather evidence of the alleged problem.

In the case of a vehicle or house alarm prompt investigation will take place to attempt to resolve the matter. (out-of-office-hours an assessment will be made to determine the practicality of formally resolving the issue see below).

If the noise is witnessed at the time of a visit, or recorded using the noise monitoring equipment the officer will, after full assessment of the case (reference will be made to other visits, diary evidence etc.), make a judgement as to whether the noise is a statutory nuisance. It is often, however, necessary to witness the noise a number of times to establish that a nuisance exists or install monitoring equipment for a second time.

If the noise is not witnessed by the investigating officer at the first attempt or there is insufficient evidence on the monitoring equipment then either two further visits will be made when the offending noise is likely to be present or the equipment will be reinstalled.

The complainant's diary or record of events may be essential to enable action to be taken and used as evidence of the extent of the problem. Failure or refusal to complete a diary is likely to limit the action that can be taken.

If the officer has not been able to witness the noise after the three visits or if the noise witnessed is not considered to be a nuisance, or there is insufficient evidence on the monitoring equipment the complaint will be informed:

- of the action already taken to investigate the complaint;
- that the Council is unable to take any further action;
- how to take their own action in the Magistrates' Court under Section 82 of the Environmental Protection Act 1990.

In the first instance when a nuisance is identified, the person responsible for remedying the nuisance will be contacted. Depending on individual circumstances either:

- (a) a statutory notice will be served under Section 80 of the Environmental Protection Act 1990; or
- (b) a written warning will be given.

In appropriate circumstances, in addition to the notice or written letter, the contents of each will be communicated to that person in appropriate format.

The Notice can require that the nuisance stops, or prohibit or restrict its recurrence, and can require works or other steps to be taken to achieve this. If work is to be carried out a reasonable time must be given. In the case of a barking dog for example, the notice can take immediate effect. There is a right of appeal to the Magistrates' Court against a Notice. Complainants will be expected to give evidence if this happens (at this point their anonymity will obviously be lost).

Failure to comply with a notice is an offence and the person responsible for the nuisance may be prosecuted. Witnesses are needed for a prosecution to take place and the complainant may be asked to appear in Court. The Council will not force anyone to appear on its behalf but it may be difficult to take a successful case without such evidence. It may be necessary for a further diary or record of events to be kept.

Industrial/Commercial Noise

Noise problems arising from the above may also be affected by planning permissions. The Investigating Officer will liaise with the Local Planning Authority to determine the appropriate way forward.

Public Houses/Night Clubs

Businesses of this nature may have or need a Premises Licence. Liaison will take place with the Licensing Authority during the initial investigation.

Vehicle/House Alarms

Procedures for dealing with vehicle/house alarms involve the use of other agencies including the police,

Magistrates, locksmiths and alarm engineers. This procedure may take sometime and after midnight, for example, the investigating officer may determine that the disturbance caused by attempting to resolve the matter outweighs that being caused. In these circumstances the matter will be resolved the following morning.

Departures from this policy

If there is a need to depart from the procedure or targets laid down in this document, complainants will be told what will be different and given a reason why.

Human Rights Act 1998

The Council will have due regard to the human rights implications of their activities and decision making while investigating complaints of neighbour noise.

Regulation of Investigatory Powers Act 2000

Remote noise monitoring equipment may be used in the investigation of neighbourly noise complaints. The potential use of the equipment will be detailed in initial correspondence sent to the alleged perpetrator.

If you have any queries regarding this policy please do not hesitate to contact us on the number overleaf.

For more information on Environmental Health Services visit our website at www.Torbay.gov.uk.

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**IF YOU WANT THIS IN AN
ALTERNATIVE FORMAT
CONTACT US ON**

- **01803 208091**
- environmental.protection@torbay.gov.uk
- **At Roebuck House, Abbey Road, Torquay**
- **Or visit our website www.torbay.gov.uk**



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