

## **Noise Nuisance – How to take your own legal action**

The advice below is intended to help you to take your own independent action against the person(s) you believe to be responsible for the noise which is causing disturbance.

These powers are available to you under the provisions of Section 82 of the Environmental Protection Act 1990.

### **Before starting Legal Proceedings you should:**

1. Discuss the problem with the person(s) you believe to be causing the disturbance, in order to try to resolve the problem informally.
2. Keep notes of all such discussions and/or exchanges of correspondence between yourself and the other party.
3. Satisfy yourself that legal action is the only course of action left open to you.
4. Consider taking the advice off a solicitor. It is not essential to be legally represented but it may be in your best interest to consider this at the start.
5. Keep detailed notes of all noisy incidents or events which cause disturbance that you have personally witnessed. These notes can be made on blank paper or on Evidence Forms which can be obtained from Wiltshire Council. It is important that the notes are factually accurate in describing the noise and should include the following:
  - a) a description of the noise
  - b) the date and time the noise started
  - c) the date and time the noise stopped
  - d) how its disturbed you (e.g. woke you up, prevented you from sleeping).

You may record any other relevant comment but it is important that comments relate to noise disturbance and not some other aspect of the person's behaviour which may annoy you.

6. Note down your evidence as soon as possible after the particular noisy incident has ceased. The notes should be kept for as long a period as possible. This should not be less than two to three consecutive weeks.

Be aware that your written evidence is the only way in which the Court Officers can assess the merits of your complaint. Keep the evidence as relevant as possible to the noise problem. Avoid lengthy descriptions of other matters and exaggerations of the severity and/or duration of the noise.

7. Check the situation with your neighbours who may be experiencing the same problems. You must take your own action individually but the moral support of others is always welcome.

## Starting Proceedings

8. When you have collected sufficient evidence and you have decided to proceed, you must give the person alleged to be responsible for the noise at least three clear days notice in writing that you intend to take proceedings against him/her in the Magistrates' Court. You may do this using your own form of words.

PLEASE NOTE that if you do not follow this procedure accurately, any further action, however justified, will fail.

9. When you have done this you must contact the Magistrates' Court either in person (it is or by telephone, to arrange an appointment to make a personal appearance at the Applications Court. The Magistrates' Courts in Wiltshire can be found at
  - The Court House, Pewsham Way, Chippenham
  - The Courts, Wilton Road, Salisbury

## Approaching the Court

10. When you approach the Magistrates' Court for the first time, be sure that you intend to pursue the matter to the end. A great deal of valuable Court time can be wasted if you are not prepared to appear in Court and give verbal and written evidence in support of your case.
11. You must have all the relevant information to hand, particularly the name and address of the person(s) responsible for the noise and the dates and times when the nuisance occurred. You should make it clear to the Court Officers that you wish to institute summary proceedings under Section 82 of the Environmental Protection Act, 1990 in respect of noise.
12. The Court will review your evidence and decide whether or not to issue a summons. It will be your responsibility to serve the summons on the person(s) responsible. The Court officers will give you advice on how to serve the summons properly and how long this is likely to take.
13. The Court officers will tell you when the first hearing date will be. You should carry on keeping written evidence until the case has been heard so that you can give evidence on the situation up to the time of the hearing. After the case has been heard you should still carry on keeping written evidence in case it is necessary to return to the Court with the same complaint.

PLEASE NOTE that if your complaint is not proved and the case is dismissed you may be liable for the costs incurred by the defendant. The amount of these costs will vary, of course, but can be high on occasions.

**If you are not clear about these procedures or would like any further information please contact Wiltshire Council on 0300 456 0100 .**