

ARHM GOOD PRACTICE NOTE

NOISE NUISANCE

Definitions and Obligations

Most leases will include a provision similar to “not to use or permit to be used in the premises any radio, television, record player, tape recorder, or any musical or other instrument or machine or any kind or to practice or permit singing in the premises between the hours of 11 pm and 7am such that the same is audible outside the premises.”

A statutory nuisance is something that, under the Environmental Protection Act 1990, affects a person's health or causes disturbance to them in their property. To be a statutory nuisance a noise must occur regularly and continue for a period of time that makes it unreasonable

There is no fixed level of noise which constitutes a statutory nuisance with each case needing to be judged on its merits. An Environmental Health Officer has to consider what would be the likely reaction of an average, reasonable, person to the noise, taking into account not only its volume, but also such factors as when, how often and how long the noise occurs.

If action is to be taken under Section 80 of the Environmental Protection Act 1990 a diary must be kept recording, source, duration, time, affect, and if possible the volume of any noise nuisance.

Domestic noise is not normally investigated by an Environmental Health Officer unless records can be produced in support of a complaint. Therefore, managers who receive a complaint from one leaseholder about another will need to conduct an initial investigation.

The investigation should last for at least 14 days, recording, time, location, source, duration, effect on the parties, and volume.

Volume of noise can be easily measured using a sound level measuring instrument. These meters can be obtained from most electrical suppliers.

Action taken should relate to the severity of the nuisance.

Persistent noise at low Db levels may be indicative of lifestyle conflicts which may be resolved by:-

- Soundproofing doors/cupboards with neoprene rubber strip
- Additional floor covering.
- Relocation of source of noise, eg. move TV/radio etc. away from party wall.
- Co-operation by leaseholder following visit and explanation

For noise levels between 60-80 Db(A) or where measures above have failed the following solutions should be explored:-

- Ask the resident to have a medical check – there may be a level of clinical deafness. This may be a sensitive issue for the resident, and so should be handled with care. Treatable conditions or hearing aids will resolve a temporary problem.
- Remote speakers, at the resident's cost, will provide more sound without turning up volume on radios/television sets.
- An induction loop system will work for residents who use a hearing aid. The resident should use the "T" setting and turn volume on the TV/radio down. These systems may be supplied free of charge by some Social Service Departments or Charitable Organisations.
- It may be possible for managers to create a 'contract' between Residents.
- Professional mediation may also be used.
- The Royal National Institute for the Deaf may be prepared to act as advocates and advisors

Where there is a high level noise nuisance, or the above steps have failed the following options could be considered:-

- Threat of action for breach of lease. However, whilst there have been several well-publicised actions to end a tenancy for nuisance, there has not been the same level of activity in the leasehold sector, especially in leasehold schemes for the elderly.
- An approach to an Environmental Health Office with a report of a contravention of Section 80 of the Environmental Protection Act 1990. The Environmental Health Office can serve an abatement notice, which will specify the steps to be taken to resolve the problem. Should the noise persist, fines could be levied increasing for each day the noise persists. Alternatively, the Environmental Health Office can seize the offending equipment. It may be necessary for the Environmental Health Office to set their own recording equipment to monitor the level of the noise.
- An approach to the Environmental Health Office emergency response team. These officers work weekends and night times and may assist with abating a serious nuisance, rather than making an approach to the Police.
- If the Environmental Health Office decides not to proceed, an individual may invoke Section 82 of the Environmental Protection Act 1990, by making an application to a Magistrates Court. In this instance the Resident writes to the nuisance resident advising unless the noise stops within 14 days an application will be made. If the noise persists, the resident writes to the Justices Clerk at the Local Magistrates Court advising a complaint is being made under Section 82 of Environmental Protection Act 1990. The Justice will advise further, but usually will write giving 3 days notice to the nuisance.
- An approach to the Environmental Health Office with a request for an action under local by-laws.
- If the individual being affected is a member of staff, member organisations need to be aware of their obligations to their employees under Health and Safety Regulations, and must complete a risk assessment with an action plan being agreed with the member of staff.

DISCLAIMER:

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