

## WHAT IS THE PROBLEM?

Activities or conditions at one property can affect people living or working near-by. Smelly factory processes, dusty building sites, poultry units with a fly problem and smoke from burning waste being some obvious examples.

If you believe that you are being badly affected by activities or conditions at a near-by premises it is usually best to contact someone at the premises to let them know. Explain how you are being affected and ask that the person responsible for the premises (e.g. your neighbour or the manager of the business) be informed of your complaint.

You may find this difficult, but often the person responsible is unaware of causing a problem and will be glad to do what they can to rectify it.

Most disputes are resolved informally, with legal action being a last resort.



## INFORMING THE COUNCIL

The Environmental Protection Act 1990 includes provisions for dealing with Statutory Nuisances. Depending on the circumstances, emissions of smoke, smell, dust, light, flies and similar can be a Statutory Nuisance and complaints can therefore be investigated by the Council. (Refer to separate leaflets for noise nuisances).

If a problem persists, contact Environmental Protection at Torridge District Council. We will advise you on whether the Council may be able to assist and whether alternative regulations may apply (e.g. some industrial processes are controlled by operating permits). If appropriate, we will send you a nuisance complaint form to be completed and returned.

The complainant's identity is not disclosed without prior agreement, but if enforcement action is taken the complainant may be called as a witness in court.

When we receive the completed complaint form an Officer of the Council will normally write to those responsible to make them aware of the problem and give them a chance to rectify it.

## HOW WE INVESTIGATE

If our letter fails to resolve the problem you will be asked to make a record of any recurrences. An Officer will then arrange monitoring to gather evidence of the problem.

The aim is to monitor at times when the problem is most likely to occur.

Officers must give careful consideration to the evidence gathered, weighing-up a number of relevant factors before deciding whether a Statutory Nuisance exists. This decision may require more than one visit and will take account of the type of problem, any impacts it is having, how often it occurs and its duration.

During this stage of the investigation it may be possible to secure a remedy informally, without recourse to any legal action.

Should the Officer conclude that there is sufficient evidence of Statutory Nuisance the Council will normally serve an Abatement Notice requiring the person to stop causing the nuisance. Failure to comply with an Abatement Notice is a criminal offence and offenders may be prosecuted accordingly.

If the Officer concludes that there is insufficient evidence of a statutory nuisance, you will be informed of this and advised of any further action you can take.

If evidence of statutory nuisance is not obtained after three visits we will normally advise you that, unless circumstances change, no further action will be taken by the Council.

## **TAKING YOUR OWN LEGAL ACTION**

Should there be insufficient evidence of statutory nuisance for the Authority to act, you might consider taking legal action yourself. This can be done under Section 82 of the Environmental Protection Act 1990.

This can be relatively straightforward and need not cost much. You do not need to employ a solicitor but it is advisable to obtain some legal advice before embarking on this course of action.

If you can convince the Court that your complaint is justified, it may require the offender to abate the nuisance.

Should you fail to prove your case you may have to pay at least some of the defendant's expenses in coming to Court.

## PLEASE NOTE

*Anonymous complaints will not normally be investigated.*

*The Council does not operate a call-out service. Out-of-hours monitoring visits are undertaken by prior arrangement.*

## CONTACTS

Please address letters to:

**Environmental Protection  
Torridge District Council  
Riverbank House, Bank End,  
Bideford  
Devon, EX39 2QG**

Telephone:  
01237 428700

E-Mail  
[environmental.protection@torridge.gov.uk](mailto:environmental.protection@torridge.gov.uk)

**If you require any assistance in  
understanding this leaflet, please ring  
01237 428700**



# **NUISANCE COMPLAINTS**

## **SMOKE, DUST, SMELL LIGHT, FLIES ETC**



**ENVIRONMENTAL HEALTH AND  
PUBLIC PROTECTION**