



ADVICE NOTE

NOISY NEIGHBOURS

Advice for dealing with noise problems in your block

CONTENTS

Note:

As the leading trade body for residential leasehold management, ARMA is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

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SUMMARY

- Noise problems cause many complaints in blocks of flats. DIY, building activity, late night music, laminated floors and barking dogs are the main culprits.
- Surprisingly, your landlord or managing agent have very limited powers to take action and it's unlikely that a court will evict a leaseholder for being noisy.
- In this advice note we'll take a look at some of the ways you can deal with noise problems in your block.

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FOR FURTHER ACTION

DEALING WITH NOISE

Government advice recommends using a stepped approach for dealing with noise problems:

1. Keep records of the noise
2. Start building a relationship with your neighbour causing the problem
3. Try to have a quiet word with them about the problem
4. Have a stronger word and explain the impact their noise is having on you (and your family)
5. If things don't improve, consider going to a mediation service
6. If that doesn't work, ask your local authority to take action
7. If there's nothing your local authority can do, speak to an abatement society
8. As a final resort, take legal action yourself

Let's have a look at some of these steps in more detail...

Keeping Records

Try to keep a record of the noise as soon as it breaks out. Log the date, time, type of noise and how it's affecting you. This information could be essential to back up your complaint should you want to escalate it, and it could be used in evidence if you go to court.

Approaching Your Neighbours

If you decide to approach your neighbour about their noise, wait until a suitable time. Even if you feel angry about it, try not to lose your temper — it could be used against you at a later time. Plan what you are going to say and keep calm.

Before you approach them, it's important to consider whether there's a risk to your safety. If you feel threatened or intimidated by your neighbour and you're worried they will get aggressive, then approaching them might not be the best option. In these situations, it's probably best to contact the police.

Most problems can be solved amicably without any need for further action. You might feel nervous about approaching your neighbour but they may genuinely be unaware that they are causing too much noise. Often they will be embarrassed about the nuisance they have been causing and will be more considerate in future. But it's important to do this as early as possible before the problem spirals out of control.

Mediation

Neighbour mediation is a useful process where a third party helps people living in the same neighbourhood resolve disputes. It aims to assist both parties in identifying each other's needs, sorting out problems, exploring solutions and negotiating an agreement.

Mediation often helps preserve neighbourly relations or build better ones and it can calm disputes before they escalate. Most services are registered charities although some are part of other organisations like local authorities or Citizens' Advice.

Contacting Your Local Authority

Your local authority has a statutory duty to investigate complaints. Under Section 80 of the Environmental Protection Act 1990, the Environmental Health Officer (EHO) is required to take "all reasonable" steps to assess whether the noise constitutes a statutory nuisance.

If the EHO is satisfied that there is a problem, or one is likely to occur or reoccur, then they have to serve a noise abatement notice. But they may suggest other ways forward:

- **Mediation:** Many local authorities have independent trained mediators who will offer to mediate between you and your neighbour.
- **A warning letter:** Some local authorities may send a warning letter. This might be effective, but it can backfire - it can alert the neighbours to the fact that you've complained so the noise may become more intermittent. Collecting evidence may then become a problem.
- **An abatement order:** Ultimately, if the noise persists and the local authority has deemed the noise a statutory nuisance, they have a duty to serve a notice on the offenders. If the offender fails to comply they can face court action. The local authority also has the power to confiscate any equipment that's causing the noise.

Taking Legal Action Yourself

If your local authority doesn't take action, or if you decide not to involve them, you can take a noise issue to a magistrates' court. The magistrates' court will need to be persuaded that the problem amounts to a statutory nuisance.

This is why it is important to keep a record of the dates, times and duration of the noise as well as a description of its nature and the distress it causes you.

Before you go to a magistrates' court you should seek advice from the Citizens' Advice Bureau, a solicitor, or the clerk at the local courts. But bear in mind that there is no legal aid for this kind of case.

Late Night Music And Parties

If you're being kept awake at night by booming music and loud parties, it will be a relief to know that some local authorities have emergency response teams to deal with urgent noise problems. They can issue warnings, seize equipment and issue fixed penalty notices of £100.

Barking Dogs

If you're being driven mad by incessant dog barking, then this may be classed as a statutory nuisance and it can be reported to your local authority.

Burglar And Car Alarms

Local authorities also have the power to gain entry to a premises to stop noise; a useful point to bear in mind if you're being driven to distraction by a misfiring alarm. Under the Noise and Statutory Nuisance Act (1993) local authorities can disconnect burglar and car alarms.

What Your Landlord Or Managing Agent Can Do

Most leases contain covenants that say leaseholders should not cause nuisance and annoyance to their neighbours. There may be more specific restrictions such as no loud music between 11pm and 7.30am or that floors should be carpeted.

These clauses are all well and good but in practice can be difficult to enforce. Your landlord or managing agent will want to be absolutely clear about the meaning of the covenant before they consider enforcing it. Any benefit of the doubt is always given to the leaseholder.

Some leases don't require the landlord to enforce the covenants; if that's the case then there's no obligation for them to take any action.

Even if your lease does have a clause requiring the landlord to enforce the covenants (a mutual enforceability covenant) there's usually a catch: the leaseholder complaining about the noise will have to pay the landlord's costs of enforcing the covenant.

So how can your landlord enforce a covenant against noise?

They may decide to send a reminder letter to the offending leaseholder, drawing their attention to the relevant clause in their lease. If that doesn't work, then they may choose to take the legal remedies that are open to them: injunction or forfeiture.

Injunctions are costly but can be applied for with or without forfeiture. The leaseholder suffering from the noise can also apply for one and may well be more successful if they do.

Forfeiture's not an easy route and can be extremely costly. Neither will it produce quick results. But the threat of forfeiture itself may well yield a response.

Final Word

If noisy neighbours are making your life a misery, we recommend you take the Government's stepped approach outlined above. Remember, many noise problems can be solved amicably without the need to take serious action — your neighbour may genuinely be unaware they are causing a problem.



FURTHER INFORMATION

- The Government has published two useful guidance booklets on dealing with noise issues and barking dogs. Download both from www.gov.uk/government/publications
- The Noise Abatement Society raises awareness of and finds solutions to noise issues. Call them on 01273 823 850 or visit them at www.noiseabatementociety.com
- Noisedirect is an independent and impartial advice line for noise related issues. Call them on 020 7183 1184 or visit them at www.noisedirect.co.uk

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