



August 2007

Key points:

- Replaces previous version dated August 2006

Noise and neighbour nuisance - what you can do

This factsheet is aimed at people aged 60 and over.

As Scottish law differs from English law, readers living in Scotland can obtain a similar Factsheet 9s, *Noise and neighbour nuisance – what you can do* available by phoning 0800 00 99 66 (free call); from the website: www.ageconcernscotland.org.uk; or by writing to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

Contact details for Age Concern Scotland are:

Causewayside House, 160 Causewayside, Edinburgh EH9 1PR, tel: 0845 125 9732 (lo-call rate).

Those living in Wales or Northern Ireland may wish to contact:

Age Concern Cymru, Ty John Pathy, Units 13/14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ, tel: 029 2043 1555 (national call rate); website: www.accymru.org.uk;

Age Concern Northern Ireland, 3 Lower Crescent, Belfast BT7 1NR, tel: 028 9032 5055 (national call rate), Monday to Friday, 10am – 12pm and 2pm -4pm, website: www.ageconcernni.org.

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There are many types of nuisance, for example:

- loud noise from neighbours;
- a house/building in the area which is dangerous or unhealthy;
- harassment such as verbal abuse or threats; or
- an overgrown garden or encroachment of roots which is interfering with your enjoyment of your home.

If you experience a problem of nuisance, keep an up to date record of events, recording the day, date, time and nature of the incident causing you distress. This will help you to get some perspective about how often the nuisance happens. It will also help the local authority, police and courts to see an established pattern of the nuisance that has occurred over a period of time should you need to take formal action later.

1. The Informal approach

Approaching your neighbour

In most cases, it is advisable to make an informal approach to the people who are causing the problem. Problems may be due to difficulties in communication or differences in lifestyle. Try and speak to them and explain what the problem is. They may be unaware that the noise they are causing or their behaviour is disturbing you. Alternatively, you may write a letter of complaint to your neighbour about the problem and suggesting that they try and resolve it.

If it is difficult to talk to them, particularly if you are suffering serious harassment or abuse, see Section 5 about dealing with serious problems of this type.

Support from other neighbours

If other neighbours are having the same problem you could make a joint approach to whoever is responsible for the nuisance. You may be able to organise a letter signed by the group of people who are affected.

If you are a council or housing association tenant you could also raise this issue at the residents' group meeting. Contact your housing officer to find out when the group meets.

Mediation

Mediation is a way of coming to an agreement without going to court, although it can also take place if there has been court action. An independent mediator will listen to the views of both you and your neighbour to try to help you to reach an agreement or compromise. To find if a mediation service is available in your area, search the Directory of UK Mediation on the website: www.intermedial.org.uk. If you are experiencing nuisance in sheltered or retirement housing, the organisation AIMS (Advice Information and Mediation Service for sheltered housing) may be able to help (see Section 8).

2. What your local authority (council) and other landlords can do

2.1 Anti-Social behaviour

There is no precise definition of anti-social behaviour in housing. It can be of a serious criminal nature including drug dealing, racial and other harassment and physical violence or it can include things such as noise, verbal abuse and vandalism that while not criminal in nature, can be detrimental to the quality of life in the community. The *Crime and Disorder Act 1998* defines it as acting 'in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as themselves'.

Local authorities (councils) and other social landlords (Housing Action Trusts HAT and Registered Social Landlords RSL) have a number of powers to deal with nuisance tenants and anti-social behaviour. It is for them to decide how best to use them, and what action to take according to the circumstances in each case.

The Anti-Social Behaviour Act 2003 builds on existing legislation to clarify and reinforce the powers that were already available (the *Housing Act 1996*, the *Crime and Disorder Act 1998* and the *Police Reform Act 2002*). The *Act* requires all social landlords to publish policies and procedures for dealing with anti-social behaviour and to make a summary of them available free of charge to anyone who requests it.

If you are a victim or a witness of anti-social behaviour you can contact your local anti-social behaviour co-ordinator for assistance; details should be available from your local council or from the website: www.respect.gov.uk.

The *Housing Act 2004* has introduced a number of additional measures to complement those contained in the *Anti-Social Behaviour Act 2003*.

Eviction

The *Housing Act 1996* contains powers which make it easier for landlords to take possession proceedings against anti-social tenants. The grounds for possession apply if:

‘The tenant or person residing in or visiting the dwelling house:

- a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality; **or**
- b) has been convicted of:
 - i) using the dwelling house or allowing it to be used for immoral or illegal purposes; **or**
 - ii) an arrestable offence committed in, or in the locality of, the dwelling house.’

The *Anti-Social Behaviour Act 2003* requires courts to consider the impact of anti-social behaviour on victims, witnesses and the wider community in all nuisance-related housing possession cases when considering whether it is reasonable to make an order for possession.

Security of tenure

The *Housing Act 1996* created a new form of tenure – introductory tenancy – which allows local authorities and Housing Action Trusts to terminate the tenancies of those who do not behave responsibly within the first 12 months without having to prove grounds for possession.

The *Anti-Social Behaviour Act 2003* introduced ‘demoted tenancies’ which are similar in nature to introductory tenancies, but different in that, they can be brought in at any time during a tenancy.

Social landlords have to apply to court for a demotion order. The court will grant the order if a tenant, or another resident of, or visitor to a tenant's home, has used the premises for illegal purposes or has behaved in a way which is capable of causing nuisance or annoyance to any other person.

The *Housing Act 2004* made it possible for local authorities to extend introductory tenancies by a further six months in order to tackle anti-social behaviour.

Injunctions

All landlords can seek injunctions to prevent breaches of a tenancy agreement. The *Housing Act 1996* also allows the court to attach a power of arrest to such injunctions, where there is violence or a threat of violence. It also introduced a power that allows local authorities to apply for injunctions to prevent anti-social behaviour, both by and to their tenants or against people carrying out legitimate business for the council (eg, a caretaker), where violence has occurred or is threatened. The courts may attach a power of arrest to such injunctions.

The *Anti-Social Behaviour Act 2003* gives other social landlords the same powers to protect their tenants as local authorities. It enables them to apply to the court for a housing injunction to prevent behaviour capable of causing nuisance and annoyance which indirectly or directly affects their housing management functions. This makes it easier to exclude certain people from areas where they have caused trouble and protect wider categories of people.

The *Anti-Social Behaviour Act 2003* allows for a power of arrest to be available even where there has been no violence or threat of violence if there is a significant risk of harm occurring eg, psychological or emotional.

Anti-Social Behaviour Orders (ASBO)

These were initially introduced for use by local authorities and police under *The Crime and Disorder Act 1998* and extended for use by RSLs under *the Police Reform Act 2002*. The *Anti-Social Behaviour Act 2003* extends the use of these orders to county councils and HATs.

Either a social landlord or the police, in consultation with each other, are able to apply to a magistrates' court for an Anti-Social Behaviour Order.

The orders can be made against an individual or a group of individuals (perhaps a family) whose behaviour causes alarm, distress or harassment to someone not living in the same household. Their aim is to protect people from further anti-social acts. They will prohibit the named individuals from certain types of behaviour for a fixed period of time, a minimum of two years. If the order is broken this is a criminal offence and the perpetrator (the person responsible for the crime) can be arrested. The order is intended to deal with criminal or serious behaviour rather than minor disputes between neighbours.

Anti-Social Behaviour Orders can only be made against people over the age of 10. If a child under 10 is behaving in an anti-social manner then the council social services department can apply for a child safety order which will put the child under supervision, usually by a social worker, to prevent any repetition of the anti-social behaviour.

The availability of ASBO's has been supplemented by Acceptable Behaviour Contracts (ABC). These are individual written agreements in which someone agrees not to carry out identifiable behaviours that have been defined as being anti-social. If a contract is broken, the person may be served with an ASBO.

Other measures (introduced by the *Housing Act 2004*)

The Housing Act 2004:

- gives social landlords of secure tenants the right to refuse mutual exchange applications if some types of successful court action for anti social behaviour have been taken against them or such action is pending;
- enables social landlords of secure tenants to seek an order suspending the Right to Buy for a specified period on the grounds of anti-social behaviour;
- suspends the landlord's obligation to complete a Right to Buy sale where some types of court action relating to anti-social behaviour are pending.

2.2 Noise and statutory nuisance

Environmental Protection Act 1990 (amended by the Noise and Statutory Nuisance Act 1993)

Your local council has legal powers to take action against noise and health hazards which are 'prejudicial to health and a nuisance'. This is known as a **statutory nuisance**. It will usually be the environmental health department of your local council which will deal with these problems.

If you complain about noise or other nuisance, the council has a duty to investigate your complaint. If it is a problem of noise, an officer may visit to measure the level of noise. There is no legal level at which a noise becomes a 'statutory nuisance'. You can also complain about one-off noise problems, for example parties, while they are occurring. Some councils have 24-hour teams dealing with noise problems.

After its investigation a council may send out a letter of warning. It also has the power to serve an abatement notice which is a legal notice that requires the person responsible to stop the behaviour causing the nuisance. If the perpetrator does not obey the notice this is a criminal offence and they can be prosecuted.

Local authorities have powers to gain entry to premises to enable them to abate a noise nuisance. They might use this power to stop misfiring burglar alarms, gain access to or remove vehicles, machinery or equipment which is causing a statutory nuisance by creating too much noise.

Noise Act 1996 (as amended by the Anti-Social Behaviour Act 2003)

The *Noise Act 1996* gave local authorities powers to deal with noise which exceeds a certain permitted level and which is occurring between 11pm and 7am. The *Noise Act 1996* required local authorities to adopt this power and take on additional duties as a result. The *Anti-Social Behaviour Act 2003* has amended the *Noise Act 1996* so that local authorities no longer need to adopt it in its entirety in order to issue Fixed Penalty Notices for night-time noise offences.

2.3 Complaints about the council

If you are unhappy about the way the local authority has handled your case you can make a formal complaint. Ask your local authority for its complaints procedure.

Alternatively, you can talk to your Councillor. If you are still not happy with the way the council dealt with your complaint you can complain to the Local Government Ombudsman (see section 8).

3. Police

In certain circumstances it may be appropriate to contact the police with nuisance problems. Some types of nuisance are criminal offences; for example, vandalism, a breach of the peace or threats and harassment (see Section 5). The police may also respond to complaints about noisy parties if your council does not have a 24-hour noise response team. The police also now have powers (The *Anti-Social Behaviour Act 2003*) to disperse groups in designated areas suffering persistent and serious anti-social behaviour and to close houses being used by drug dealers, for up to six months.

Community Support Officers

Community Support Officers are employed by the police support staff to complement the work of police officers by focusing mainly on lower level crime, disorder and anti-social behaviour. They are uniformed and spend most of their time on patrol in communities. You can approach them if you have any question or worries about anti-social behaviour. They have a range of powers to tackle anti-social behaviour, for example they can issue fixed penalty tickets, confiscate alcohol consumed in public places etc.

4. Neighbourhood Wardens

You may be able to report a nuisance or harassment to a neighbourhood warden, if there is a Neighbourhood Warden Scheme available where you live.

A warden provides a uniformed, semi-official presence in residential areas and has a duty to promote community safety, environmental improvements and housing management. They will assist you with investigating your complaint and if necessary refer the matter to the police. Not all local authorities have neighbourhood warden schemes. Ask your council or local police whether there are such schemes in your area.

5. Harassment

The *Protection from Harassment Act 1997* prohibits a person from pursuing a course of conduct which amounts to harassment. Harassment is not defined in the *Act*, except that it includes causing the person alarm or distress. For example, it might include verbal abuse, threats or vandalism specifically directed against you, racial harassment or homophobic harassment. The perpetrator must have been harassing you over a course of time not just one incident. If you are being harassed you should report each incident of harassment to the police as it occurs in order to build up the evidence.

If you believe those responsible are council or housing association tenants you contact the council or housing association. Their powers are described in Section 2 above. If you are a council or housing association tenant, your landlord may be able to assist you in moving if this is what you want and it would solve the problem.

For more information about homophobic harassment and crime and how to report it see Age Concern Information Sheet IS/8, *Planning for later life as a lesbian, gay man or bisexual person*. If you live in London you can contact Galop (see Section 8) for advice and support. They may also give initial advice to people living outside London.

Under the *Protection from Harassment Act 1997* you can also take your own civil action in cases of persistent harassment. You can apply to the court for an injunction against the person or people who is/are harassing you.

6. Private legal action

If the nuisance is a statutory nuisance (see Section 2.2) and you wish to take action yourself you can do so through a magistrates' court under section 82 of the *Environmental Protection Act 1990*.

You can also take civil action if a nuisance 'substantially affects your health, comfort or convenience'. This would usually be heard in the county court. It may be possible to take action to get damages to compensate you for any damage to property or to your health or comfort and/or an injunction.

Court action can be complex and costly; take advice before you go ahead. If the case is dismissed you will normally incur your own costs and may incur the costs of the other party.

A Citizens Advice Bureau may be able to advise you. You can find out how to contact your local Citizens Advice Bureau from your telephone directory. You can also take advice from a legal adviser, to locate one contact the Community Legal Service on 0845 345 4345 (lo-call rate) or at www.clsdirect.org.uk, but you will usually have to pay for this unless you qualify under the legal help scheme.

Further information about getting legal advice is available in Age Concern Factsheet 43, *Getting legal advice* (see Section 9).

7. Other common problems and who to contact

This section is intended to provide general information and you should take further advice before starting any action.

Trees

If your neighbour's tree hangs over your property, you can ask the tree owner to trim it back. If this is not done, you have the right to trim the tree back to the boundary line but you must offer the trimmings back. Check with your council to see if the tree has a tree preservation order on it before you start cutting. If it does, you could be fined for cutting it. Trees in conservation areas are automatically protected.

Local authorities have powers to deal with trees on private property that are in a dangerous condition. If you are concerned about the condition of a tree you can contact your local authority (usually environmental department) who will check the condition of the tree.

Hedges

You should not attempt to reduce the height of a neighbour's hedge without seeking advice. Try to resolve the problem with your neighbour by talking or mediation (see Section 1). The Department for Communities and Local Government DCLG has a leaflet *Over the Garden Hedge* which gives advice on how to approach the neighbour about the hedge. If the informal approach does not work you can make a complaint to the local authority but you must have tried to resolve the issue with your neighbour first. The council will charge you a fee for the service.

You can obtain a leaflet *High Hedges: complaining to the Council* from DCLG; it explains what your council can do.

Hedgeline gives advice to victims of hedge nuisance who are members of its organisation, tel: 0870 240 0627 (national call rate - they give information only about Hedgeline), website: www.hedgeline.org.

Parking space

If you live on a publicly maintained road, you do not have any rights to the section of road or pavement outside your property (unless there are local parking restrictions giving a right to a particular space). This means that you do not have the right to park there yourself or prevent anyone else from doing so.

You have a right of access to your driveway and if someone else's car is parked in such a way that it blocks access to and from your property you can stop the owner parking there. Contact the parking section of your local authority. The local authority and the police have powers to remove vehicles that are illegally parked, causing an obstruction on the highway or which are abandoned.

Shared amenities

Responsibilities for maintenance and repairs of shared amenities (such as drains and pipes, drives, the roof of a block of flats) are usually outlined in the property's legal documents. If a shared amenity needs repairing try to find out who is responsible for it. The legal documents may not always provide clear answers. In this case, it might be best to settle in advance that the costs will be shared between the owners and agree the course of action. You will probably need to get a surveyor's report on the part of the property needing repairs and estimates from a builder. Consult and get the consent of the other parties at each stage before costs are incurred.

Planning Permission

If you are concerned about a change of use of property or proposed building work next to your property you can contact the planning team of the local authority to object to a planning application or to check whether permission has been granted or whether its terms and conditions have been complied with.

Children

Noisy children in themselves are not a 'nuisance'. If you are disturbed by neighbours' children (for example you work nights and need to sleep during the day) the best solution is a conciliatory approach to your neighbour.

8. Further information

The organisation **Action on Elder Abuse (AEA)** may be able to give information and emotional support in serious cases of harassment. Although the majority of nuisance and neighbour problems do not fall within the definition of elder abuse used by Action on Elder Abuse, you are welcome to call the Elder Abuse Response helpline. It has a response in English, Hindi, Urdu, Punjabi and Welsh, tel: 0808 808 8141 (free call), website: www.elderabuse.org.uk.

Advice Information and Mediation Service for retirement and sheltered housing (The) - (AIMS), part of Age Concern England, provides specialist impartial advice to those who live in rented sheltered and private retirement housing. AIMS provide detailed casework with a full mediation service available. **AIMS**, Astral House, 1268 London Road, London SW16 4ER, tel: 020 8765 7465 or 0845 600 2001 (lo-call rate), website: www.ageconcern.org.uk/aims.

Department for Communities and Local Government DCLG (formerly the Office of the Deputy of Prime Minister) has a leaflet *Housing and antisocial behaviour: A guide for residents*. It can be downloaded from their website: www.communities.gov.uk or ordered from DCLG Publications PO, Box 236, Wetherby, LS23 7NB, tel: 0870 1226 236 (national call rate).

Department of Environment, Food and Rural Affairs (The) (DEFRA), Information Resource Centre, Lower Ground Floor, Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR, tel: 08459 33 55 77 (lo-call rate), textphone: 0845 300 1998 (lo-call rate), website: www.defra.gov.uk. Publishes a booklet called *Bothered by noise*, Noise – dealing with neighbourhood noise, which describes what you can do about noise problems. They may be available in a local library or from a Citizen's Advice Bureau. It is also available free by calling 0845 955 6000 (lo-call rate).

Directory of UK Mediation. To find out if a mediation service is available in your area, search the Directory of UK Mediation on the website: www.intermedial.org.uk .

Galop, PO Box 32810, London N1 3ZD, tel; 020 7704 6767, helpline: 020 7704 2040, website: www.galop.org.uk. Galop is London's lesbian, gay, bisexual and transgender community safety charity (LGBT); offers advice and casework and has a series of factsheets that you can access on their website.

Home Office (The), website: www.homeoffice.gov.uk/anti-social-behaviour has a lot of information on the subject of antisocial behaviour including how to report it and what is government doing about it.

Noise Network, 2nd Floor, Broken Wharf House, 2 Broken Wharf (off High Timber Street), London EC4V 3DT, tel: 020 7329 0774, website: www.ukna.org.uk or www.noiseresource.org, for further resources and briefing sheets. The Noise Network is a voluntary organisation which acts to try and raise awareness of noise issues. It provides a number of free leaflets including *Noise – what can I do?* which gives advice on how to tackle noise problems.

Ombudsman services

Local Government Ombudsman:

For London boroughs north of the River Thames (including Richmond but not Harrow or Tower Hamlets), Essex, Kent, Surrey, East and West Sussex, Suffolk, Berkshire, Buckinghamshire, Hertfordshire and City of Coventry:

10th Floor, Millbank Tower, Millbank, London SW1P 4QP, tel: 020 7217 4620.

For the London Borough of Tower Hamlets, City of Birmingham, Cheshire, Derbyshire, Lincolnshire, Nottinghamshire, Solihull MBC, Warwickshire and the north of England except the Cities of York, Manchester and Lancaster:

Beverley House, 17 Shipton Road, York YO30 5FZ, tel: 01904 380200.

For London boroughs south of the River Thames (except Richmond) and Harrow, Cities of York, Manchester and Lancaster and the rest of England not included under the other offices:

The Oaks No. 2, Westwood Way, Westwood Business Park, Coventry CV4 8JB, tel: 024 7682 0000.

If you are unsure of the office, contact the Local Government Ombudsman advice line on 0845 602 1983 (lo-call rate), website: www.lgo.org.uk.

Housing Ombudsman Service (for housing association tenants):
81 Aldwych, London WC2B 4HN, tel: 020 7421 3800 or 0845 7125 973 (lo-call rate); minicom: 020 7404 7092; website: www.ihos.org.uk.

9. Further information from Age Concern

The following factsheets may be of use:

Factsheet 33	<i>Crime prevention for older people</i>
Factsheet 35	<i>Tenants' rights</i>
Factsheet 43	<i>Getting legal advice</i>

If you would like

- to find your nearest Age Concern
- any additional factsheets mentioned (up to a maximum of 5 will be sent free of charge)
- a full list of factsheets and/or a book catalogue
- to receive this information in large print

phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ. For people with hearing loss who have access to a textphone, calls can be made by Typetalk, which relays conversations between text and voice via an operator.

Age Concern factsheets and other information materials can be downloaded free from our website at: www.ageconcern.org.uk.

To receive a free e-mail notification when new and updated factsheets are published, please either contact the Factsheet Subscription Service on tel: 020 8765 7200 by email: factsheet.subscriptions@ace.org.uk, or sign up on-line.

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Find out more about Age Concern England online at:
www.ageconcern.org.uk.

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No factsheet can ever be a complete guide to the law, which also changes from time to time. Therefore please ensure that you have an up to date factsheet and that it clearly applies to your situation. Legal advice should always be taken if you are in doubt. (*Age Concern England is unable to give financial or legal advice*).

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