

Neighbourhood and Community Disputes



*Community
Legal Service*

Direct



We don't always get along with everyone we live near. We can sometimes have disputes with our neighbours about anything from too much noise to problems with parking, rubbish, pets, or plans to build or develop their property. This leaflet explains your rights in relation to problems with neighbours, and gives practical advice for dealing with these problems, whether you are complaining about your neighbour or the neighbour is complaining about you. For more serious problems where you are being harassed, racially abused or threatened with violence, you should contact the police, or get advice from an advice centre, community group or the police.

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 15 for sources of information and advice.

A neighbourhood or community dispute normally means a disagreement or conflict with your neighbour or other people nearby. Many can be solved, but there will be a few which will not be.

Neighbourhood or community disputes often arise over things such as:

- noise;
- applications for planning permission to build on land or extend a building nearby;
- children's behaviour;
- access to land or property boundaries;
- parking;
- high hedges;
- rubbish; or
- pets and other animals.

Sometimes there is something more serious behind problems with neighbours, such as racial discrimination.

What can I do if I have a problem with my neighbours?

There are many things you can do if you are involved in a neighbourhood or community dispute. You can:

- try talking to the neighbours who are complaining about you or causing the problem – see 'Dealing with matters yourself' on page 4;
- try mediation – see 'What is mediation?' on page 4;
- contact the police or local authority (depending on the type of problem) – see 'What if mediation doesn't work?' on page 8; or
- take legal action against the person causing the problem – see 'Taking a case to court yourself' on page 11.

What you choose to do first depends on the problem and the circumstances. Usually, you should consider talking to the person causing the problem. It is quicker, costs less, is less stressful and less likely to do harm to your future relationship with them than involving the police or going to court. However, if you are frightened of how the person might react, you should speak to a local community group, an advice group or the police.

If talking to the person causing the problem does not help, this will not affect your legal rights. You can always go on to make a formal complaint.

Dealing with matters yourself

You should try talking to the person who is responsible for the problem, unless you do not feel safe doing this. They may not realise they are bothering you, or they may be unaware the problem exists.

You could also speak to other neighbours affected and get them to support you. You could ask for some help from a local mediation service if there is one in your area. You can find out by contacting Mediation UK (see 'Further help' on page 15).

When talking to the person you have a problem with, follow these tips:

- Try to deal with them directly. If your complaint is passed on by someone else, or overheard, it could be misunderstood and may make matters worse.
- Plan a sensible time and a private place to talk to the other person, when you can be level-headed about the situation, but let a family member or friend know where you are.
- Let the other person or people know you are glad to have the chance to deal with the situation.
- Think carefully beforehand about what you want to say. It is best to be clear about what the problem is.
- Don't accuse, insult or blame anyone, no matter how upset or angry you feel – it will not help and could make things worse.
- Don't assume you know why someone behaved as they did. You may be wrong about the reasons for their behaviour.
- Do give the other person a chance to put their views and explain their feelings. It is important to let them know you are listening to them, even if you don't agree with what they say.
- Be prepared to discuss all aspects of the problem, and spend time talking about how they can be sorted out.
- Work on the problems with everyone who is involved, trying to make sure there is a solution everyone will be happy with.
- Agree to meet again at some date in the future to check on how things are going.

What is mediation?

If you find a direct personal approach doesn't work (or you don't think it will), the next step is to try mediation. Mediation is a way of sorting out disagreements, where a mediator helps the people in dispute to find their own solution to their problem.

Mediation takes a common-sense approach to helping people solve their problems by:

- giving the people a chance to step back and think about how they could put the situation right;
- allowing people to come up with their own practical solutions that will help everyone involved;
- allowing people to rebuild their relationships as they work together to find an agreement.

In this way, mediation is different to the legal process, which is often about finding out who is to blame and who is 'guilty'.

Mediation is generally cheaper and quicker than going to court. It can be used to settle disputes in a range of situations. It is a very good way of stopping them becoming worse. It is best to try to start the mediation process as soon as possible after the problem starts, instead of leaving the situation and hoping it will get better on its own.

How can mediation help?

Talking through your situation with an independent mediator can help in several ways:

- It gives you a chance to tell your side of the story – being listened to can make you feel supported.

- It allows you to admit how upset you are – many people cope with conflict by pretending they do not care.
- It puts you back in charge – ignoring situations or not dealing with conflict can make them seem worse than they are.
- It could help you decide what action to take next, even if that is not mediation.

Most types of mediation start when one person requests it. A mediator then contacts all the people involved to see if they will agree to take part. No one has to take part, and if they change their mind after starting mediation, they can stop at any point.

Mediators then usually visit everyone separately. In most community and neighbourhood disputes, mediators will work in pairs. They will ask each person to explain how they see the current situation, and how they would like it to be in the future. The mediators will also ask for each person's suggestions for sorting out the disagreement.

Information you give the mediators, including things you tell them during mediation, is kept private and confidential unless everyone agrees it can be shared with the other people involved. However, if someone tells the mediators about an incident of

serious abuse, the mediators have to tell the police. Also, if mediation ends with a signed written agreement, this will not be kept private.

Mediations often take place without the different sides meeting face to face. In these cases the mediators carry information from one person or group of people to another. However, it is best to have face-to-face meetings, because they offer more chance of a lasting agreement between the two sides.

If both sides agree to come to a meeting, this is what happens:

- Mediators will explain how the meeting will work, and ask everyone to agree to some basic rules, such as listening without interrupting and not saying offensive things.
- Each person will then have a chance to talk about the problem as it affects them. The mediators will try to make sure that everyone understands what each person has said, and will allow the other side to respond.
- The mediators will then help both sides to agree on the issues that need to be sorted out. Often this leads to solutions that no one had thought of, which makes it easier for everyone to agree to them.

● The agreement is usually written down and signed by both sides and the mediators. It is not enforceable, except in normal contract law through a county court, and it is only effective if the participants keep to it. The reason it is likely to work is that the parties have an interest in making it work. Its strength lies in their desire to resolve the problem. The agreement does not affect anyone's legal rights, and allows anyone involved to deal differently with the dispute in the future, if necessary.

Why is mediation often a good way to sort out problems?

Mediation works because:

- it allows everyone involved to be heard. Many disputes start, or get worse, because of poor communication. Being heard and a simple apology from either or both sides can be all that is needed to put the situation right;
- it encourages people to put forward their suggestions and ideas;
- it is less intimidating than legal procedures. People represent themselves rather than having someone speak for them. If you need support for some reason, you can use an advocate to speak on your behalf;

- it leads to solutions that the parties themselves have decided on, giving them all a sense of ownership of the agreement. As a result, agreements reached in this way last much better than solutions handed down by courts or an arbitrator;
- it can be organised quickly. When disagreements are not tackled, they can escalate. Mediation is easy to arrange and can be completed within weeks; and
- usually it's affordable for all. Most mediation for neighbour disputes is free to those who want to use it. This is because it is usually funded by local authorities, housing associations and other agencies, sometimes including the police, who benefit from disputes being resolved. Many other disputes within communities – with schools, doctors and others – can also be tackled by a local mediation service.

How can I find a mediation service?

Many communities have a mediation service, which is usually free to people who have a dispute. To find your nearest service, call Mediation UK (see 'Further help' on page 15). If there is not one in your community, a mediation service in a nearby area may be willing to help.

What if the neighbour has been or may be violent?

If you are afraid that your neighbour may attack you if you try to discuss the problem, it is obviously best not to approach them. In this case, you should contact the police. If you have a good reason for believing the neighbour will be violent, there is a chance the police already have a record of violence or the threat of violence from them. The police can use powers such as an anti-social behaviour order (ASBO) to protect you and to try to stop the neighbour's behaviour. See 'Anti-social behaviour orders' on page 13 for more.

People's behaviour can sometimes seem strange, especially when they are under stress, and you may feel that you cannot reason with them. Mediation may still help you find a solution to the problem. A mediator will be able to assess whether mediation is possible. If you feel someone is dangerous – a risk to themselves or others – you should contact social services or the police.

Some mental health problems, alcohol or drug abuse make sorting out a dispute harder. You should always consider your personal safety and not put yourself in a position where you might be at risk of violence.

What if my neighbour is racially harassing me?

If you are being harassed by a neighbour because of your race, you should report this to the police. Racial harassment is a crime and the police should take action to stop it. However, remember that many disputes arise between neighbours because people have different lifestyles and cultures.

The Commission for Racial Equality can provide information and advice to people who think they have been racially harassed or discriminated against. See 'Further help' on page 15 for details.

What if mediation doesn't work?

If mediation does not work or is not available to you, and other methods have failed, then you may wish to take more formal action. What you can do will depend on the problem and how you want to approach it.

Problems with noise

Noise is by far the most common cause of problems in communities and between neighbours.

If you live in social housing (usually council or housing association housing), contact your landlord to discuss the problem. If that doesn't work, or the problem is with

someone who has a different landlord to you, go to the Environmental Health Department at your local authority (council).

They will probably ask you to keep a diary of when the noise happens and how bad it is. This will be needed as evidence if your landlord or the council takes any formal action, such as court action. You should also keep a diary if your problem is with another type of nuisance. But use some common sense in keeping a diary – don't include events that you wouldn't otherwise notice. Councils can use a range of laws that cover different types of noise nuisance:

- The Environmental Protection Act 1990 provides the main controls over what are called 'statutory nuisances', which cover noise nuisances from industrial, leisure or domestic activities, including car alarms.
- The Noise and Statutory Nuisance Act 1993 covers noise nuisances in the street, including noise from vehicles, machinery and other equipment such as loudspeakers, and car alarms and burglar alarms.
- If you live in London, the London Local Authorities Acts 1991 and 1996 together provide a 'fast-track' procedure for dealing with

noise from burglar alarms, though only in those London boroughs that have adopted it. The 1991 Act says that people who have alarms must make sure their alarm has an automatic cut-out, and that they must give the police contact details of two key-holders (people who can get into their house or flat).

- Under the Noise Act 1996, it is an offence to make excessive noise from a house or flat at night (between 11pm and 7am). Not all councils use this Act, but some of those that do have a 24-hour noise service, which you can call if you have a problem with a noisy neighbour. The local authority can issue a warning notice and, if the person making the noise does not stop or reduce it, they can be fined. The council can also prosecute the person responsible, and remove any equipment that is making the noise (such as a stereo or power tools).

By law, a council must investigate any complaint about noise. An environmental health officer or technical officer may visit the place where the noise is coming from. They may leave equipment inside your house to record noise disturbance over a period of time.

However, they can take action only if they believe the noise is a 'statutory nuisance'. They need to look at whether the noise nuisance is ordinary, reasonable behaviour. For more, see 'What is a 'statutory nuisance'?' on page 11.

If the council decides that a noise is a statutory nuisance, it can serve an 'abatement notice', telling the person causing the nuisance that they must stop. If they don't, then they are guilty of an offence and the council can prosecute them. If this happens, you may need to make a formal statement about what has happened, and attend court to support the council's case.

If the council officers do not consider noise levels to be a statutory nuisance, they can:

- try to resolve the dispute informally themselves or appoint mediators;
- write to the person causing the nuisance, saying that someone has made a complaint; or
- ask the person to reduce the level of disturbance.

Local councils must also consider possible noise nuisances when considering planning applications. Under the Town and Country Planning Act 1990, they must draw up

plans to deal with the conflicts that can result from new development. This means they could agree to a planning application only if the developer also agrees plans to control problems like noise or pollution.

Problems with building and planning permission

If you are in dispute with a neighbour or someone in your area over a proposed piece of planning (for example, a neighbour's plan to extend their house), you should contact the council planning department. There is a formal process for dealing with planning disputes, but many councils will suggest mediation instead. If they don't, or this doesn't work, you will need to make a planning appeal. The planning department will tell you how to do this.

Children's behaviour

If you have a serious problem with trouble from children in your area, contact your local police community beat manager. They may be able to arrange mediation, or an informal discussion with the children and their families. If the poor behaviour is serious enough to be a nuisance, you could go to the magistrates' court. However, the police are more likely to take action under the powers

they now have – see 'What can be done about anti-social behaviour?' on page 12.

Access to land or property and parking

If you have a problem getting access to your property or, for example, someone is parking on your land when they shouldn't, contact your local police community beat manager. They may be able to arrange mediation, or an informal discussion with the person causing the problem. If it is serious enough to be a nuisance, you could go to the magistrates' court (see 'Taking a case to court yourself', on page 11). However, the police are more likely to take action under the powers they now have – see 'What can be done about anti-social behaviour?' on page 12.

High hedges

If you have a problem with a neighbour's hedge blocking your view or light to your house, and you have not been able to sort out the matter with them directly, contact the council. It can issue a formal notice ordering the neighbour to cut the hedge. If they don't:

- they could face a fine of up to £1,000; or
- the council will cut back the hedge.

However, the council will consider complaints about hedges only where:

- the hedge is evergreen;
- it is over two metres high;
- it is blocking out light; and
- it affects access or 'reasonable enjoyment' of your property.

What is a 'statutory nuisance'?

To take action against someone causing you a problem, a council must be certain that the problem is a 'statutory nuisance'. This is often difficult to decide, but the council must look at whether the behaviour (the noise, for example) is ordinary reasonable behaviour, and how many households it affects. As well as noise, statutory nuisance can include:

- smoke, fumes or gases;
- dust, steam or smells; and
- animals kept in unhygienic or unsafe conditions.

A statutory nuisance must also be a health risk. Typical examples of a statutory nuisance include a neighbour regularly burning rubbish or leaving rubbish in their garden, which encourages rats.

What if the council won't help?

Most councils take nuisance problems seriously and will do their best to help. If you feel your council is failing you, you can take up the matter with your local councillor or the councillors on the environmental health committee. The local library or town hall will tell you who these are.

If you still feel unhappy with how the council has dealt with your case, you can complain to the local government ombudsman in England or Wales. See 'Further help' on page 15 for details.

Taking a case to court yourself

If you feel that the police or council are not doing enough to help you with a problem, you can take action yourself through the courts. But you will need to be sure that you can show there is a nuisance of some kind.

You can take legal action yourself through the magistrates' court under Section 82 of the Environmental Protection Act. You do not need a solicitor and it need not cost much. You must prove to the magistrate 'beyond reasonable doubt' that the problem you are complaining of amounts to a nuisance.

You may need to do this if the nuisance problem occurs occasionally, and it is not possible for the environmental health officer to witness it.

If you want to follow this route, you must tell the neighbour that they have not stopped the nuisance and that, if they don't stop it by a certain date, you will complain to the magistrates' court. If that date passes and they have not stopped, you should contact the Justices Clerk's office at your local magistrates' court, explaining that you want to make a complaint under section 82 of the Environmental Protection Act. The clerk of the court should advise you what to do next.

A date will be set for the hearing and the person you have complained about will be summoned to attend court.

You will have to give your evidence, and cross-examine your witnesses (ask them questions about the nuisance and the person causing it). The neighbour will be able to cross-examine you and your witnesses, and may produce their own evidence to contradict yours.

If you prove your case, the court will make an order saying that the nuisance must be stopped. The court

can also choose to fine the person responsible for the nuisance (up to £2,000 for an individual, or £20,000 for a business). If you lose your case, you may have to pay some of the expenses the other person had to pay to defend themselves in court.

If the court makes an order, but the person who has been causing the nuisance ignores it, you will need to take further court action to make them stop.

What can be done about anti-social behaviour?

The Anti-Social Behaviour Act 2003 gives the police and other organisations, such as local councils, powers to take action for a range of neighbourhood and community problems. Among other things, it:

- allows social landlords, like housing associations, to take action against anti-social tenants, including faster evictions and removing their right to buy the house or flat they rent;
- allows for fixed-penalty notices (where you can be fined without going to court) for noise nuisance and graffiti, (including fines on 16 and 17 year olds as well as adults);
- contains new action to close down 'crack houses';

- allows the authorities to force gangs and other groups of people to leave certain areas where there are ongoing problems with anti-social behaviour;
- provides new ways of dealing with children who behave anti-socially at school or in the community;
- makes it against the law to sell spray paint to children under 16;
- gives local councils new powers to tackle fly-tipping, graffiti and fly-posting; and
- makes it easier for councils to shut down businesses that create noise nuisance.

If the problem is affecting you at your home, you should also tell your landlord. If the situation is very bad, they may be able to offer an emergency transfer to another house or flat.

In more extreme situations where you feel you are in danger, you could apply to your council as homeless, on the grounds that you had to leave your home because of your fear of violence. In that case, the council may have to find you somewhere to stay. However, you should always seek legal advice before making any permanent move, as it can be difficult getting the council to rehouse you.

For more about homelessness, see the Community Legal Service Direct leaflet 'Losing your Home'.

Acceptable behaviour contracts

An acceptable behaviour contract (ABC) is a voluntary written agreement between a person who has been involved in anti-social behaviour and one or more local agencies who are responsible for preventing such behaviour (for example, the police or the local council's housing department). ABCs are most often used for young people but may also be used for adults.

The contract includes a list of anti-social acts that the person has been involved in, and which they must agree not to do again. The ABC also states what happens if someone breaks the terms. This could be an anti-social behaviour order (ASBO) or a possession order (eviction).

Anti-social behaviour orders

An anti-social behaviour order (ASBO) is a court order that is meant to stop someone committing particular anti-social acts or going to certain areas. It lasts for at least two years. An order can even prevent somebody from being with certain people or from going near a house where they have caused problems.

Individuals cannot apply for an ASBO for someone who is harassing them or causing a nuisance, but various authorities can, including:

- the police (and the British Transport Police);
- local authorities; and
- registered social landlords (such as housing associations).

ASBOs are community-based orders that depend on local people to provide evidence of how they are working and to tell the authorities if people break them. It is a criminal offence to breach an ASBO, and if someone does, they can be arrested and imprisoned for up to five years.

An ASBO might not be enough to deal with the problem. Another step would be to get an injunction from the courts under the Protection from Harassment Act to stop someone harassing you. An advice agency may be able to help you with this.

Parenting contracts

These are voluntary arrangements where the parents and a body, for example, a local council's youth offending team, agree a system for improving a child's behaviour. Schools and local education authorities can enter into parenting contracts with the parents of a child who has been a truant or excluded from school.

Parenting orders

These are imposed by a court and can be used when a child or young person has been involved in anti-social behaviour or criminal conduct. Parents will have to attend a parenting course and are responsible for making sure their child goes to school. If the parents don't keep to the order, they could face a heavy fine.

Penalty notices

Local councils, head teachers and the police are able to fine parents if their child plays truant. If the penalty is not paid, the local council can prosecute the parents.

Nuisance neighbours panels

These are new bodies made up of experts from local authorities, the police and voluntary organisations. Their role is to liaise with the community and help solve problems for or about difficult families who live there. These panels are mainly to help social landlords such as housing associations to sort out disputes.

Further help

Community Legal Service Direct
A free, easy-to-use service to help you solve your legal problems.

Call: 0845 345 4 345
to speak to a qualified legal adviser about Welfare Benefits, Debt or Education or find local advice services for other problems.

Log on at: www.clsdirect.org.uk
to search for a quality local legal adviser or solicitor or find links to other sources of online information and help.

Citizens Advice

Your local Citizens Advice Bureau is listed in the phone book, or you can search for a local CAB on:
www.citizensadvice.org.uk/cabdir.ihtml

Mediation Wales (Community Mediation)
phone: 029 20 229955
www.mediationwales.org.uk

Mediation UK (Community Mediation)
phone: 0117 904 6661
www.mediationuk.org.uk

ADRNow

For information about alternative dispute resolution processes and links to ADR services
www.adrnow.org.uk

Advicenow

Information on rights and legal issues including neighbour disputes
www.advicenow.org.uk

Local Government Ombudsman (England)
phone: 0845 602 1983
www.lgo.org.uk

Local Government Ombudsman (Wales)
phone: 01656 641 150
www.ombudsman-wales.org

Mind

For information and advice on mental health issues
phone: 0845 766 0163
www.mind.org.uk

Commission for Racial Equality
phone: 020 7939 0000
www.cre.gov.uk

The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC Leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the CLS Direct website at www.clsdirect.org.uk

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The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at www.legalservices.gov.uk or find the details for your local Legal Services Commission office in the phone book.

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The leaflets are also available online at: www.clsdirect.org.uk

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The leaflets are also available in Welsh, Braille and Audio

To order any of these leaflets contact the LSC leaflet line on **0845 3000 343**
or email LSCLeaflets@ecgroup.uk.com or Fax 020 8867 3225



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