



## Pursuing your own prosecution

If you have a noise problem we can't resolve, or if for whatever reason you want to take action on your own behalf you can complain directly to a Magistrates' Court.

If you need advice from us regarding this process please contact us at [www.westminster.gov.uk/report-it](http://www.westminster.gov.uk/report-it)

**Before complaining to the magistrates** it is important to try to resolve the problem informally. Either talk to the owner or occupier of the property requesting they reduce their noise levels, or write them a letter saying you consider the noise levels they are making are a nuisance. Advise them that unless they stop or reduce the noise you will take your complaint to the Magistrates' Court.

### How to proceed

If the noise levels continue then you have to be mindful that you have to prove that the noise levels you are suffering from constitute a statutory nuisance (something that prevents a reasonable person enjoying their land or property to a reasonable extent).

It is therefore essential you collect evidence of this, such as:

- Details of when and how you contacted your neighbour and asked them to reduce the noise levels giving you concern,
- The dates, times and duration of the noise.
- A description of its nature – for example does it prevent you from hearing the television, is it a loud bang or continuous.
- How much it interferes with your enjoyment of your property, for example does it prevent sleep.

- Use any evidence you think is appropriate, including the use of diary sheets
- Keep details of other people disturbed by the noise who will appear in court as witnesses on your behalf.
- The exact name and address of the person you wish to complain about - Copies of the Electoral Register are available in public libraries. Alternatively, you could obtain this information from the Land Registry.

If you decide to take formal action you must write to the person responsible for the noise giving them not less than 3 days notice of your intention to proceed to the Magistrate's Court.

Your letter must clearly state:

- What it is you are complaining about.
- The remedy (for example asking no music is played after 9.00pm).
- The amount of time you will give them to change their behaviour.

Ensure the letter is dated and you keep a copy. It will strengthen your case if you can show that you have acted in a reasonable manner and given the person responsible for the noise the chance to rectify the situation before resorting to legal measures. At this stage you may wish to consult a solicitor who is familiar with Court procedure. They may also be able to advise you on your chances of success in proving your case. This is not a requirement, however, and you can proceed yourself.

### **Magistrates' Court Procedure**

1. Contact the Clerk to the Justices at your local Magistrates Court and explain that you wish to make a complaint under Section 82 of the Environmental Protection Act 1990
2. Arrange to visit the Court when asked to do so by the Clerk and show the Magistrates your evidence. If they decide you have an arguable case, a summons will be served on the person responsible for the noise, giving the date and time of the Court hearing.
3. You must then attend the Court on this date, together with any witnesses you have. You can either employ a Solicitor or present the case yourself. If you choose to present the case yourself, the Clerk of the Court will give you advice and guidance.
4. If the defendant pleads guilty, you just need to outline the circumstances surrounding your complaint and why you think it is a nuisance. The Court will then decide on the terms of any order to be made, impose any appropriate penalty, and may order the defendant to pay you any costs you have incurred in bringing your case e.g. Solicitors fees. It is a good idea to know your costs before the hearing.
5. If the defendant does not appear or does appear and pleads "not guilty", you will then have to prove your case. The Magistrates will listen to evidence from you and the defendant and decide if a nuisance is proven. They will make any appropriate orders and can impose penalties or dismiss the case. Whatever decision they reach, they may order the loser to pay the other party's costs.