

This is a simple process, need not cost you much and you do not need to employ a solicitor but it is advisable to get some legal advice.

Before approaching the court, you should inform the noise maker that unless the noise is abated within a specific period you will complain to the Sheriff Court. Keep all correspondence between you and the noise maker, as well as the diary suggested previously.

You must give at least three days' notice of your intention to complain the Sheriff Court to the neighbour responsible for the noise.

If the noise continues beyond the date specified contact the Clerk's Office at your local Sheriff Court explaining you wish to lodge a complaint under Section 82 of the Environmental Protection Act 1990. The Clerk will be able to advise you further.

You need to prove beyond reasonable doubt to the Sheriff that the noise you are complaining about is a nuisance. Although the law says that only one person needs to be affected, if you have evidence of other witnesses it will strengthen your complaint.

In court you will have to present your evidence and cross examine your neighbour and any supporting witnesses. Your neighbour also has the right to cross examine you and any witnesses and may produce their own evidence.

Further Information and contacts

Scottish Mediation Network

Web: www.scottishmediation.org.uk

Tel: 0131 556 1221

Email: admin@scottishmediation.org.uk

Improving sound insulation in homes

www.bre.co.uk/pdf/soundsins_homes.pdf

Scottish Public Services Ombudsman (SPSO)

Web: www.spsa.org.uk

Tel: 0800 377 7330

Online: www.spsa.org.uk/online-contact



**Environmental
Protection
Scotland**

About Environmental Protection Scotland

We bring together individuals and organizations across the public, private and voluntary sectors to discuss and promote ideas, knowledge and solutions to achieve our aim of a **cleaner, quieter, healthier and sustainable Scotland**.

Our main policy areas are **air quality, land quality and noise**. We work to deliver those topics as a means to protect and improve public health, tackle climate change and address sustainable development.

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Credits and disclaimer

Parts of this document have been drawn from other documents including material from:
Environmental Protection UK (2007) "Neighbour noise Scotland"

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ENVIRONMENTAL PROTECTION SCOTLAND

Working for a cleaner, quieter, healthier, sustainable Scotland

Noise

Perception of different noise levels:

Noise level	Example
0 dBA	Threshold of hearing
24 dBA	Quiet bedroom
40 dBA	Library
50 dBA	Ordinary conversation
60 dBA	Office environment
70 dBA	Passenger car travelling at 60 km/hr at 7 metres distance
80 dBA	Traffic at a busy road
100 dBA	Road drill
104 dBA	Rock concert
120 dBA	Threshold of pain



**Environmental
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Neighbour noise

Our everyday activities such as watching television, listening to music, doing some DIY and vacuum cleaning all create noise.

As no house or flat is completely sound proof we therefore expect to hear some noise from our neighbours.

Excessive and unwanted neighbour noise, including dog barking, especially at night, is unwelcome, disturbs us and affects our health and wellbeing.

Unwanted noise can arise from:

- Poor sound insulation between buildings
- Neighbours acting and behaving unreasonably;
- People's differing sensitivities to noise levels.
- Or a combination of all three

What can I do?

The first step is to speak to your neighbour—they may be unaware that they are disturbing you and often most people will do what they can to reduce the noise they are creating.

You should only approach your neighbour if you feel comfortable doing so and that they will not react angrily to the complaint.

If you have spoken to your neighbour and the problem is still occurring, you should keep a diary detailing:

- Dates and times of the noise disturbance
- Any conversations you have with, or letters you write to, those creating the noise,
- How the noise affects you

If your neighbours are tenants, speak to the landlord as some Tenancy Agreements require that tenants do not cause nuisance to neighbours. A local authority or housing association may be able to take action if unacceptable noise is being caused.

You can use mediation services to help resolve noise and other neighbour problems (see **Contacts**): an independent third party will listen to both sides and will try to reach an agreement.

What can be done?

Antisocial behavior

The Antisocial Behaviour etc. (Scotland) Act 2004 gives local authorities, and the police, the powers to deal with antisocial noise when it is occurring.

Noise control provisions are optional and can be applied to specific times and/or specific areas. You should contact your local authority to see if they have adopted these powers.

If your local authority has adopted these powers, an authorised officer can issue a Warning Notice if the noise exceeds a prescribed permitted level.

Issuing a Warning Notice usually works, however the officer can issue a Fixed Penalty Notice if the noise continues.

The authorised officer also has the powers to enter a dwelling and confiscate noise making equipment. You should contact your local authority to find out what noise control provisions they have adopted.

Noise Nuisance

The Environmental Protection Act 1990 (EPA) empowers local authorities to deal with noise nuisance. If you complain to your local authority they should take "all reasonable steps" to investigate.

Once it has been verified there is a noise problem, the local authority may write a letter to the person causing the noise telling them that a complaint has been made and requesting that they take all steps necessary to reduce noise. If the noise continues an Environmental Health Officer (EHO) or technical officer may come to your house when the noise is expected to occur and to

determine in their judgement if the noise is a **statutory nuisance**.

The statutory nuisance provisions of the EPA includes powers to issue an abatement notice or a fixed penalty notice to stop the noise the EHO determines to be either prejudicial to health or a nuisance. There is however no statutorily defined limit for the volume of noise which constitutes a statutory nuisance.

Each individual case is for investigation by an environmental health officer who will decide whether the law is being breached according to the specific circumstances.

If it is decided that there is a statutory nuisance the local authority must issue a notice requiring the person to stop causing the noise. If the person does not comply with the notice, without reasonable excuse, they are guilty of an offence and can be prosecuted.

EHOs are recognised experts and their professional judgement is very important and if they consider there is a statutory nuisance a Sheriff will normally accept their opinion.

Local authorities take noise problems seriously and will do their very best to help you. However if you feel that they are not fulfilling their legal obligations you can as a last resort complain to the local authority ombudsman.

Industrial noise

Certain types of industrial noise may be regulated by the Scottish Environment Protection Agency (SEPA). If you are affected by industrial noise your local authority or SEPA will advise who is the appropriate regulator to investigate your complaint.

Can I take my own legal action?

If it is not possible for the local authority to witness the noise, it is likely they would not feel able to take action on your behalf. Under Section 82 of the EPA you can complain directly to the Sheriff Court.