

Housing Services

Noise Nuisance A guide to taking your own action

What can you do?

Family Mosaic may reach a point in a noise nuisance dispute where they feel they have investigated the allegations thoroughly, and tried many possible solutions to try and resolve the issue (mediation, referrals to Environmental Health noise teams, Acceptable Behaviour Contracts), but still do not have sufficient evidence to proceed further.

Where you are affected by noise nuisance, you do not have to rely on your housing association to take legal action for you – you can take action yourself. Sometimes this is the best or only way forward. Section 82 of the Environmental Protection Act 1990 enables you to complain directly to the Magistrates' Court.

Customer care line

 0845 600 4436

www.familymosaic.co.uk

This guide

Is designed to help you take your own legal action in cases of noise nuisance. While the idea of going to court can seem a daunting and complicated prospect, the law is set up for you to use, and quite a few people have successfully used this system before.

What is “Noise Nuisance” ?

Several factors such as the time of day, the place, and how long the problem has been going on, will all be relevant. Single isolated events are not considered nuisance and neither are normal sorts of noise at reasonable times of day.

Taking action

Whilst the action you are considering taking is independent of Family Mosaic, we are available to help and advise you throughout the process. For example we have copies of standard letters, noise diaries and even court summons which we can provide on request. Your Housing Officer will also be able to advise you about court procedure in general.

You need to collect evidence of the noise

Examples of evidence could include:

- Noise diaries – including dates, times and how it affected you
- Witnesses – neighbours, visitors or other members of your household can give evidence of what they have personally experienced
- Copies of the letters you have sent the person causing noise
- Any record of involvement with the Police, Local Authority or other agencies. It is worth noting that the Local Authority Noise Team have considerable powers; they are able to witness noise, serve noise abatement notices and seize equipment. Their record of the incident may be useful in any future case that is heard by the Magistrates’ Court.

Common questions about noise nuisance

How often do I need to go to court ?

A minimum of three times:

1. To obtain the summons
2. To attend a preliminary hearing
3. To attend a full hearing.

Is the Magistrates' Court the end of the process ?

Generally yes, although the defendant can choose to appeal to the Crown Court, if they are unhappy with the decision.

Do I need a solicitor ?

You can conduct your own case if you wish, but you may decide to appoint a solicitor to take action on your behalf. This is at your own expense and may result in considerable costs if you lose the case or are not awarded costs.

What can we do with any judgement the court makes?

If the court finds in your favour, you should provide a copy of the Order to Family Mosaic. As we would now have concrete evidence that a breach of tenancy has occurred, we would be able to follow our policies and procedures and take appropriate action. This may include the serving of a Notice Seeking Possession and ultimately taking our own legal action for possession of the perpetrator's home.

What about the cost ?

If you win, costs are not automatically given to you; you must make an application to the court. If you lose you may have to pay your own costs and occasionally the defendant's as well. It should be noted that Magistrates' Court action is relatively inexpensive and it may be worth it, if it sorts out your problem.

Listen. We understand. We deliver.

Key points to remember in court

All statements or answers to questions should be addressed to the magistrate regardless of who asks the question

- Always refer to the magistrate as Sir or Madam
- Keep answers and statements short and to the point
- Speak clearly and in your own language
- Keep strictly to the noise issue. Ignore any other issues you may have with the defendant
- Witnesses are allowed into Court when called
- Children are not allowed in Court; prior arrangements for care should be made
- Dress appropriately. This has no legal significance but may affect the way the magistrates view your case.

We hope you will be successful, and that this guide will be of use. Family Mosaic are also able to provide samples of letters, court letters and court summons. Please contact our Customer Care Line if you would like further information.

Step by step guide to the Magistrates' Court

If all else fails and you feel court action is the only option left, this is what you need to do

STEP ONE

Before applying to court, try to solve the problem informally. Write a suitable letter to the person responsible. Explain that you consider the noise a nuisance and unless they stop or satisfactorily reduce the noise you will complain to the Magistrates' Court. Keep a copy of your letter.

STEP TWO

If the nuisance continues, you may decide to go to court. First find out which Magistrates' Court deals with your area. Phone to confirm that they deal with your address.

STEP THREE

Next you must notify the person responsible for the noise nuisance that you intend to go to court. The notification must be in writing and must be given at least 3 days before you intend to go to court. It needs to be delivered either by hand or recorded delivery post. Keep a signed copy and details of delivery as evidence.

STEP FOUR

Now you need to go to your Court. Ask to speak to the Court Clerk and explain you want a summons under section 82 of the Environmental Protection Act 1990 and give details of your problem. You also have to provide a summary of your evidence to the Court Clerk, for example:

- Copy of the notification sent to the person causing the noise plus any other letters
- Copies of noise diaries and other records of noise
- Copies of records of involvement with Police, Council or Family Mosaic
- Names of people who have witnessed the noise and are willing to give evidence

The Court will decide based on the above whether or not to issue a summons. It is advisable to have a summons prepared in advance. The Court may decide to use yours or draft one themselves. They will advise you of the hearing date and later confirm it in writing.

STEP FIVE

The summons must then be served. The Court will often do this for you but there may be a charge.

STEP SIX

The summons gives a date for a preliminary hearing. You and the

defendant must both attend.

The court will ask the defendant how they plead to the alleged offence. If the plea is “not guilty” they will set a date for the full trial. In the unlikely event the plea is “guilty” the magistrate may make an immediate Order. You will be advised of the date of any future hearing.

STEP SEVEN

At the full hearing you have to prove that there is a nuisance and that the defendant is the person responsible. You need to bring all your evidence to court; any witnesses must also attend to give evidence. You can only give evidence about what has happened in the last 6 months.

STEP EIGHT

If you are not using a solicitor you should tell the court that you intend to represent yourself. You will be required to take an oath that you will tell the truth. You then have an opportunity to present your case. Explain the problem in your own words giving specific examples and explaining how it affects you. Tell the court if you have witnesses to call. You and your witnesses may be asked questions by the Clerk, the Magistrate, the defendant and/or his or her representative. The defendant then has an opportunity to give his side of the case. You may question what they say.

STEP NINE

The magistrate will leave the court and come to a decision. If you win the most usual action is for an Order to be made:

- Requiring the defendant to stop the nuisance and/or
- Prohibiting or restricting recurrence of the nuisance
- the magistrate can also specify measures which he or she thinks will help resolve the situation.

STEP TEN

If the magistrate finds in your favour, you can apply for legitimate costs incurred by you and your witnesses in taking the action. There is no guarantee that costs will be awarded. If you lose and the defendant asks for costs then these will almost always be paid out of public funds.

STEP ELEVEN

Any breach of the Court Order is a serious offence and should be notified to the court immediately. The magistrate will set a date for a new trial at which again you will be required to attend and give evidence. If they find the defendant guilty they may impose a fine for each breach. You will still need to keep a noise diary. In severe cases they can also impose extra penalties such as prison or community service.

Talking your language

Arabic

إذا كنت ترغب في الحصول على أي جزء من هذه المعلومات مكتوبًا بلغة أخرى أو بطريقة برايل أو مسجلًا على أسطوانة مدمجة أو شريط صوتي أو مترجمًا بلغة التي تتحدثها، يرجى الاتصال بنا على الرقم الموضح أدناه.

Farsi

اگر مایل به داشتن هر بخش از این اطلاعات به صورت چاپ شده یا حروف بزرگ، خط بریل، روی CD، نوار صوتی و یا توضیح داده شده به زبان خواننده هستید، لطفاً با استفاده از شماره تلفن زیر با ما تماس بگیرید.

Kurdish

Heke hewceya we ji bo vê belgeyê bi herf û tîpên mezin, bi alfabeya koran, li ser CDyê, li ser kasetê an jî bi zimanê we bi xwe hebin; ji kerema xwe digel jimara jêr va têkîlî û munasebetê bi me ra daynin.

Spanish

Si necesita esta información en Braille, en CD, en cinta o en su propio idioma, póngase en contacto con nosotros en el teléfono siguiente.

Bengali

যদি আপনি এই তথ্যসমূহের যে কোন একটির সমস্ত বিস্তারিত জানতে চান, অথবা আপনার বিচীর ভাষাতে গেল, সিলি, অডিও টেপ-এ সেতে চান তাহলে নিম্নলিখিত নম্বরে আমাদের সাথে যোগাযোগ করুন।

French

Si vous souhaitez obtenir une partie de ces informations en Braille, sur CD, cassette audio ou expliqué dans votre langue, veuillez nous contacter au numéro indiqué ci-dessous.

Polish

Jeżeli potrzebujesz aby całość lub część tego tekstu były przedstawione większą czcionką, w języku Braille'a, na nośniku CD, na kasecie audio lub zostały przetłumaczone na Twój język ojczysty, prosimy o kontakt pod numerem podanym niżej.

Turkish

Bu bilginin herhangi bir kısmının büyük boyutlu harflerle, Braille alfabesiyle, CD'de, ses kaseti şeklinde veya ana dilinizle olmasını istiyorsanız, lütfen aşağıdaki telefon numaralarından bize ulaşınız.

Chinese

本文档提供关于公共场所方面的信息。如果您需要将这些信息的任何部分以盲文形式，或通过 CD、磁带，或以您的本国语言的形式提供给您，请通过以下号码与我们联系。

Gujarati

જો તમારે કોઈ પણ ભાગની આ માહિતી બ્રેઈલ, સીડી ઉપર, ઓડિયો ટેપ અથવા તમારી પોતાની ભાષામાં સમજાય તેની જરૂર હોય તો નીચે જણાવેલ નંબર ઉપર અમારો સંપર્ક કરો.

Somali

Haddaad u baahan tahay warkan afkaaga-hooyo, afka loogu talagalay dadka aan arki karaan – afka faraha ama CD-ga ama ajeladda rekorka nala xirir. Namberkan isticmaal.

Vietnamese

Tài liệu này cung cấp thông tin về các khẩu hiệu chung. Nếu bạn cần bất kỳ phần nào trong thông tin này bằng chữ in to, chữ Braille, CD, băng tiếng hoặc giải thích bằng ngôn ngữ riêng của bạn, xin liên hệ với chúng tôi theo số dưới đây.

This document gives you information about taking your own legal action in cases of noise nuisance. If you need any part of this document in large print, Braille, on CD or explained in your own language please contact us on 0845 600 4436.

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