

## **PRIVATE ACTION TO ABATE A NOISE NUISANCE**

### **Section 82 Environmental Protection Act 1990**

Any person affected by noise may take their own legal action in the Magistrates Court on the grounds that he/she is aggrieved by noise amounting to a statutory nuisance.

#### **Procedure**

- (1) Establish the full name and address of the person(s) responsible for the noise, and the proper address of the premises from which it emanates.
- (2) Collect your evidence by keeping a day to day account of the disturbances - perhaps in the form of a diary. The following information should be recorded:-
  - (i) Dates and times of the noise and its duration.
  - (ii) Accurate description of the noise e.g. noisy party, amplified music, barking dogs, etc
  - (iii) Nature and effect of disturbance, e.g. unable to hear T.V., woken up, unable to sleep, mental concentration broken.
  - (iv) Action taken at the time, e.g. spoke to person(s) responsible, called the Police, went out, contacted Environmental Health & Licensing etc.
- (3) Write to the person(s) responsible for the noise at least three days before you intend taking your evidence to the Court, putting them on notice that you intend to institute legal proceedings against them. You must specify the matter complained of by way of a brief description. Keep a copy.

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- (4) Take your evidence to Brighton & Hove Magistrates Court, Edward Street, Brighton (670888) on any Monday, Wednesday or Friday at 9.30 a.m. and present it to the Clerk to the Court. The Clerk will decide whether or not you have sufficient evidence of a statutory nuisance; - if you have, he will issue a Court Summons and fix a hearing date approximately 4/6 weeks in the future. The court may make a charge for this service.
- (5) You and the person(s) summonsed must both appear at the Court on the given date. If the Magistrates find the case proven then an Order will be made requiring the defendant to abate the nuisance, and in addition may also be fined.
- (6) If any Order is contravened a prosecution can be brought which on conviction could lead to an unlimited fine and possibly a daily fine of one-tenth of the greater of £5,000 or level 4 on the standard scale.
- (7) There may be a charge levied by the Magistrates Court for this action.
- (8) If successful you may apply for costs against the defendant, this will defray any costs you may have incurred.

***These are guidance notes. Brighton & Hove City Council cannot be held responsible for any outcome where private action is pursued.***