

## Industrial / Commercial Nuisance

Nuisance problems arising from the above may also be affected by planning permissions. The investigating Officer will liaise with the Planning & Environment Department to determine the appropriate way forward.

In these cases there is a defence if best practice is being used to reduce nuisance.

## Public Houses/Night Clubs

Premises of this nature may have or require an Alcohol or Entertainment Licence. Liaison will take place with the licensing authorities during the initial investigation.

## Departures from this policy

If there is a need to depart from the procedure or targets laid down in this document, complainants will be told what will be different and given a reason why.

## Human Rights Act

The Department will have due regard to the human rights implications of their activities and decision making while investigating complaints of neighbour nuisance.

Remote nuisance monitoring equipment may be used in the investigation of neighbourly nuisance complaints. The potential use of the equipment will be detailed in initial correspondence sent to the alleged perpetrator.

If you have any queries regarding this policy or, are not happy with the way we have handled your complaint, please do not hesitate to contact us.

For more information on the services offered please visit the website at [www.gov.je/environmentalhealth](http://www.gov.je/environmentalhealth)

If the Officer has not been able to witness the nuisance after the three visits or, if the nuisance witnessed is not considered to be a statutory nuisance or, there is insufficient evidence on the monitoring equipment the complainant will be informed:

- of the action already taken to investigate the complaint;
- that the Department is unable to take any further action;
- how to take their own action in the Magistrates' Court for a private nuisance.

When a statutory nuisance is identified, the person responsible for remedying the nuisance will be contacted. Depending on individual circumstances either:

- a. an Abatement Notice will be served under the **Statutory Nuisances (Jersey) Law 1999**;  
or
- b. a written warning will be given.

The Abatement Notice can require that the statutory nuisance is stopped, or prohibit or restrict its recurrence and can require works or other steps to be taken to achieve this. If work is to be carried out, a reasonable time must be given. In the case of a barking dog for example, the notice can take immediate effect. There is a right of appeal of 21 days to the Magistrates' Court against a Notice. Complainants may be expected to give evidence if this happens (at this point their anonymity will obviously be lost).

Failure to comply with a Notice is an offence and the person responsible may be prosecuted. Witnesses are needed for a prosecution to take place and the complainant may be asked to appear in Court. The Department will not force anyone to appear on its behalf but it may be difficult to take a successful case without such evidence. The Department can take action itself to remedy the Notice and recover the costs.



## POLICY FOR DEALING WITH NUISANCE

### INTRODUCTION

This policy sets out in detail the way that Environmental Health will approach nuisance problems. The Department has to act within the constraints of the Statutory Nuisances (Jersey) Law 1999 and can only take legal action where the Law applies and where satisfactory evidence of a statutory nuisance exists.

As with all legal matters, the Courts have the final say in deciding what is a nuisance and how any nuisance should be dealt with.

### PRINCIPLES

Environmental Health considers that the residents of Jersey can reasonably expect to:-

- be protected from significant loss of amenity due to nuisance and vibration or smoke, odour or fumes;
- not to hear someone else's excessive nuisance in their home on a regular basis, e.g. music, barking dogs, alarms, DIY;
- have qualified professional staff available to assess nuisance.

### PRACTICE

**Making a Complaint** - Complaints may be made in person, by telephone, by letter or by e-mail to:

**Environmental Health,  
Public Health Services,  
Maison Le Pape,  
The Parade,  
St Helier, JE2 3PU  
Tel: 443712**

**Email: [eh@health.gov.je](mailto:eh@health.gov.je)  
website: [www.gov.je](http://www.gov.je)**

**(However** - If the complaint relates to nuisance from States Housing you should contact the **Housing Department** direct on **445510**.)

The details required will include the name, address and telephone number of the complainant; details of type, frequency and duration of the nuisance; and the name and address of the person/premises causing the nuisance. Information on any action already taken by the complainant; such as speaking to a neighbour or writing to the perpetrator and the response or outcome will also be requested.

The investigating Officer will contact the complainant within 2 working days of receipt of the complaint (though in practice this is often sooner).

***Please note: anonymous complaints will not normally be investigated***

The complainant will normally be asked to contact the person causing the nuisance first either directly or by letter.

In view of the large number of nuisance complaints made, as a preliminary step the Officer will generally (depending on the urgency of the matter) write to the alleged nuisance-maker. The letter will explain the nature of the complaint and ask for action to remedy the situation (Statutory Nuisance Guidance will be enclosed). Experience has shown that this action is often sufficient to resolve the problem.

A letter detailing this nuisance policy together with information and a nuisance diary will be sent to the complainant, who will be asked to note details of the nuisance.

It is important that these are filled in accurately.

***N.B. The law does not allow us to deal with complaints made by businesses affected by nuisances.***

The complainant's anonymity will be respected at all times.

There may be cases however, where the perpetrator of said nuisance will be aware of the identity of the complainant either via previous discussions between the two parties or due to the prevailing circumstances (i.e. neighbours).

If the above action is unsuccessful or inappropriate the investigating Officer will contact the complainant. They will arrange to carry out an appropriate investigation that will involve visits and/or the installation of nuisance monitoring equipment including a digital tape recorder or a combination of both to gather evidence of the alleged problem.

If the nuisance is witnessed at the time of a visit, or recorded using the nuisance monitoring equipment the Officer will, after full assessment of the case (reference will be made to other visits, diary evidence etc), make a judgement as to whether the nuisance is a statutory nuisance. It is often however, necessary to witness the nuisance a number of times to establish that a nuisance exists or install monitoring equipment for a second time.

If the nuisance is not witnessed by the investigating Officer at the first attempt or there is insufficient evidence on the monitoring equipment then either **two** further visits will be made when the offending nuisance is likely to be present *or* the equipment will be reinstalled. Please bear in mind that this process can take time (i.e. sometimes one to three months).

The complainant's diary will be essential to enable action to be taken and used as evidence of the extent of the problem. Failure or refusal to complete a diary is likely to limit the action that can be taken.