

10) If the magistrates find that the nuisance existed at the date of making the complaint, then they will award you reasonable costs against the problem maker or whether an abatement order is made

In other circumstances magistrates have discretion as to how to award costs under Section 64 of the Magistrates' Court Act 1980 and either you or the problem maker could pay all or part of both sides' costs according to circumstances.

## Contacts

Community Legal Services  
0845 345 4345  
[www.clddirect.org.uk](http://www.clddirect.org.uk)

Citizens Advice Bureau  
01803 862392  
Follaton House, Plymouth Rd, Totnes,  
Devon

## Civil Action

You can take civil action for nuisance by seeking either an injunction to stop the person causing the problem from continuing the nuisance or damages for loss.

You must show either that the problem causes you particular loss over and above the ordinary inconvenience suffered by the public at large, or that you have an interest in land.

The court has to strike a balance between the right of the person being affected to the undisturbed enjoyment of their property and the rights of the defendant. The court must decide each case on the particular circumstances of the allegations.

All our publications are available in alternative formats, such as large print or a language other than English. Please contact us on 01803 861123 or e-mail [enquiries@southhams.gov.uk](mailto:enquiries@southhams.gov.uk)

## Alternatives to “Statutory Nuisance” action



You may be experiencing a problem with your neighbour which either:-

- a) you would rather the Environmental Health at South Hams District Council did not get involved at this stage
- or
- b) the Environmental Health service is not able to help you with.

The first option, if you feel able, should be to write to or speak to your neighbour.

Otherwise there are other options:-

- 1) Mediation
- 2) Private “Statutory Nuisance” action
- 3) Private Nuisance

## Mediation

South Devon Mediation is a fully trained organisation which can help you to discuss in safety the issues that are causing you distress with your neighbour.

When you or someone acting on your behalf ring South Devon Mediation a meeting will be arranged between you and a mediator

The first meeting might lead to either  
A meeting at a neutral place with you, the mediators and the other person to help both people reach and agreement  
Or The mediators will work as go-betweens between you and the other person relaying information answering questions and helping you to reach an agreement

70% of joint meetings within mediation result in an improvement

South Devon Mediation is affiliated to Mediation UK

For more information please ring

0845 0502326

## Private “Statutory Nuisance” Action

If the Environmental Health Service has determined that your complaint is not a “Statutory Nuisance” you may still take your case to the magistrates' court under Section 82 of the Environmental Protection Act 1990 (EPA 1990).

- 1) Keep a written record of the dates and times of any events, a description of the problem and the extent of the nuisance it causes you.
- 2) Send a letter to the problem maker that you intend to take action under the EPA 1990. The notice should provide details of the complaint.
- 3) Deliver it to the problem maker by hand or normal post. Make sure that the letter is dated and keep a copy.
- 4) If there is no improvement, contact the Clerk of the Court. Tell them you wish to make a complaint under Section 82 of the Environmental Protection Act 1990. The Clerk should meet with you to discuss the your case

5) Let them know if the Environmental Health Service has been consulted.

6) A summons will be issued and served on the person responsible for the problem, stating the date and time arranged for the court hearing.

7) You do not need to have a solicitor to represent you at the hearing. For more information and advice contact the Community Legal Services or the Citizens Advice Bureau.

8) If the magistrates agree with you that there is a Statutory Nuisance the court will make an order requiring the defendant to stop the nuisance and detailing what measures it feels necessary.

9) If the person breaches the requirements of the order is guilty of an offence and can be fined. Therefore you should still keep a record of events, in case the order is being ignored and it you need to return to court.