



Taking Action under Section 82 of the Environmental Protection Act 1990

In the event that South Northamptonshire Council Environmental Protection Team are not able to take action regarding a complaint you have made it is possible for you to take action yourself through the Magistrates Court under Section 82 of the Environmental Protection Act 1990.

Taking your own private action is straightforward. It need not be expensive and you do not require a solicitor it is however advisable to contact a solicitor before taking any legal action.

In order to be successful you will need to prove beyond reasonable doubt to the Magistrates that the problem you are complaining of amounts to a nuisance. The "Time and Event" diary sheets you have maintained will be important evidence in the case and any independent witnesses you can call to give evidence will prove very useful and will add weight to your claim.

You should initially write to the person concerned informing them that you believe they are causing a nuisance and giving them at least three days notice of your intention to apply to the Court for proceedings to be taken. In your letter you must specify the nature of your complaint e.g. nuisance caused by the continuous burning of horse manure or nuisance caused by the playing of loud music. You should keep copies of all correspondence sent or received regarding your complaint.

If the problem continues you should contact the Justices Clerk at The Magistrates Court Office, Regent's Pavilion, Summerhouse Road, Moulton Park, Northampton, NN3 6BJ or telephone (01604) 497000 and explain that you wish to make a complaint under Section 82 of the Environmental Protection Act 1990.

A date will be set for the hearing and the person concerned will be summoned to attend Court. You will be required to explain your side of the problem and should produce evidence about the disturbance you are experiencing. You will have to give evidence and your witnesses will also be cross-examined. The person against whom the action is being taken will be able to cross-examine you and your witnesses and may produce contradictory evidence to yours.

If your case is proven the Court will make an order requiring the nuisance to be abated, and/or prohibit recurrence of the nuisance. The Court also has the power at the time the nuisance order is made to impose a fine on the defendant. If this order is ignored further Court action can be taken so you will need to continue to keep records of the nuisance in case it proves necessary to return to Court.

If you fail to prove your case you may be required to pay some of the defendant's expenses in coming to Court.

It is also possible to take action for nuisance under common law however it would be advisable to contact a solicitor to discuss the best course of action for your complaint.