



Central Council of Church Bell Ringers  
"Registered Charity number 270036"

## Tower Stewardship Committee

### Guidance Note No. 7

# **NOISE, THE LAW AND THE ENVIRONMENTAL HEALTH OFFICER**

## **Introduction**

This guidance note gives guidance to ringers, parochial church councils and clergy regarding Noise and the Law as it affects the ringing of church bells.

As most of the ringing towers in the world come under the jurisdiction of the Church of England, it has been produced with this in mind. However, most of the principles addressed will apply to Churches of other denominations and also those outside the UK. It is recommended that, if needed, more specific local advice should be sought.

As ringers we have always been aware of the possibility of complaints being made about noise. These complaints usually relate to either the volume of the bells, the amount of ringing or the time of ringing.

Generally people will complain either direct to the ringers or to the incumbent. In such situations, careful and sensitive handling of the complaint can usually resolve matters and there is excellent advice available from the Central Council's Public Relations Committee at [www.cccbr.org.uk/pr/complaints/](http://www.cccbr.org.uk/pr/complaints/), which should be read in conjunction with this document.

Sometimes, however, a complaint will be made to the Environmental Health department of the local authority and we have all heard of such cases. Such complaints usually arise where an informal complaint to the ringers or incumbent have not produced a satisfactory result, but some people will go to the Local Authority as a first resort rather than make personal contact with ringers or the church.

This paper seeks to explain the law and how the Local Authority is likely to respond. It will also offer advice on how to work with the Environmental Health Officer (EHO) and what to do if an Abatement Notice is served.

The advice in this paper is aimed at towers and ringers in England and Wales. Different legislation will apply to other countries but the general approach is likely to be similar.

## The Law

### Statutory Nuisance

The relevant legislation is the Environmental Protection Act 1990. Section 79 defines a statutory nuisance and states:

#### 79 Statutory nuisances and inspections therefore

(1) Subject to subsections (2) to (6) below, the following matters constitute “statutory nuisances” for the purposes of this Part, that is to say—

[(a) – (f)]

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

[(h)]

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.

Thus noise emitted from premises is defined as a statutory nuisance if it is prejudicial to health or a nuisance. Noise as detailed in subsection 1(g) is just one type of defined statutory nuisance. The concept of nuisance has been around for a long time and appears in Public Health Acts in the 19<sup>th</sup> and 20<sup>th</sup> centuries.

To be a statutory nuisance, noise has to be either prejudicial to health or a nuisance. Noise can be prejudicial to health in that excessive noise can damage hearing but it can also affect mental health. In practice, bells are unlikely to be so loud outside the tower that they are prejudicial to health except, possibly from the mental health perspective. This would be quite difficult to prove in court so most authorities would not pursue this route. Noise, including from bells, can easily be a nuisance. Put simply, a nuisance is something which intrudes on someone else’s enjoyment of their own property and is unreasonable. The issue of reasonableness becomes very important when considering nuisance.

There are huge amounts of case law on what is “prejudicial to health” and on what is “a nuisance” and it is not practicable to go into it all here. If you ever get to a stage where you are likely to be in court then your solicitor will check this out.

### Duties and Powers of the Local Authority

It is important to note the duty on the Council under section 79 to investigate any complaint of nuisance. A duty means that the Council must investigate; a failure to do so would be a breach of the law.

The EHO will normally carry out an investigation using the guidance provided by The Chartered Institute of Environmental Health (CIEH) and the Department for Environment Food and Rural Affairs (DEFRA) in 2006. Specific advice on noise measurements is found in BS7445-1:2003.

Section 80 of the Act specifies what happens if a nuisance occurs or is likely to occur and states:

## 80 Summary proceedings for statutory nuisances

(1) Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements—

- (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
- (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes, and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

Note that again the local authority has no discretion; if it is satisfied that a nuisance exists or is likely to occur or recur, it must serve an abatement notice although there is no time limit specified. The notice has to be served on the “person responsible for the nuisance” (sec.80(2)(a)). A typical abatement notice is attached as an appendix to this guidance. When serving a notice the Council has to specify what is required to abate the notice and give a reasonable time for any action to be taken. The notice comes into effect immediately.

If a person breaches an abatement notice the Council may prosecute in the Magistrates’ Court. If the notice required any works to be carried out and those works are not done within the time specified, the Council may do the works in the default of the person who was required to do them and then recover the cost from that person.

This means that if, for example, an abatement notice required modification of a clock to prevent it from striking through the night, the Council could bring in a clock company to do it and then send the bill to the Church. They would, of course, require a faculty to carry out any such works.

### How the Environmental Health Officer may assess nuisance

The EHO would take several different criteria into account when deciding whether or not bell noise was a nuisance. Typically these would include:

1. Volume. This can be assessed just by listening and making an subjective assessment. Alternatively, measurements may be made using calibrated noise monitoring equipment. This will give a sound pressure level in decibels. There is no specific level which is defined as a nuisance, but anything more than 10 decibels above the background level is likely to result in complaints.
2. Duration. Noise which lasts for a short period of time is much less likely to be a nuisance than noise which is prolonged. Thus Sunday service ringing for 45 minutes is less likely to be a problem than a full peal.
3. Time of day. Noise which is not a nuisance at 3.00pm could well be a nuisance at 3.00am. Time of day will always be taken into account.
4. Type and intrusiveness of noise. Different types of noise affect people in different ways; consider aircraft, gunfire and loud music. In the case of bells, the affect is likely to increase the longer it goes on for. People who enjoy hearing the bells for half an hour may find that it becomes increasingly intrusive after that.

5. Purpose of the noise. If the noise has some particular purpose then it is likely to be more acceptable than if not. So service ringing is likely to be more acceptable than pleasure ringing.
6. Noise history. Is this a new noise or something which has been on-going for a long time without complaints? If you can show that you have been following the same pattern of ringing for many years without a problem, then that level of ringing is probably reasonable.
7. Societal norms. If people expect to hear a certain amount of noise then it will be more acceptable than if it is unexpected. If there are complaints about weekly practice nights then it is relevant to consider what is the norm at towers across the country. If you practice from 7.30pm until 9.00pm on one night per week, you can point to this as being the norm and not usually considered unreasonable.
8. Complaints and complainant's history. If there has been a history of complaints from a range of different people then this would suggest that there may be a problem. Similarly, if there are complaints from many people at the same time there could be a nuisance. On the other hand, if there is only one complaint and nobody else in a similar position is concerned, that would suggest that the complaint is unjustified. The fact that an individual is particularly sensitive is not relevant. The assessment has to be on the basis of what an ordinary person ("the man on the Clapham omnibus") would consider reasonable.

The EHO would expect to consider all of these factors and to make a reasonable judgement taking them all into account. If s/he does not do so, you would have good cause to appeal against the notice.

### The Effect of an Abatement Notice

The person upon whom an abatement notice is served has a legal duty to comply with its requirements. Breach of notice is an offence and the maximum penalty for breach of notice is a fine not exceeding level 5 on the standard scale, currently £5,000. There is also provision for a further penalty of up to £500 per day for a continuing nuisance. If a court were to decide that the building was business premises then the maximum fine could be £20,000. In practice, of course, the fine on a first conviction would probably be much less than the maximum.

The notice must require specific steps to be taken to abate the nuisance. This could be the installation of sound control or, more likely, a restriction on the amount and time of ringing. If physical works are required, a reasonable time must be given to carry out those works. If, however, the notice simply restricts the amount of ringing, it will take effect immediately and you must comply with it, even if you decide to appeal.

The notice applies indefinitely and you may be prosecuted for breaching it many years later.

### Appeals against an Abatement Notice

The person on whom a notice has been served has a right of appeal to the Magistrates' Court. This right must be exercised within 21 days from the day it is served. Unless you agree in every respect with the contents of the notice, you should appeal. Failure to appeal means that you accept it in full and you (and your successors) are committed to complying with it indefinitely unless you can agree with the Council that the circumstances have changed and the notice can be withdrawn.

In the case of a notice against ringing of bells, I would almost always advocate appealing against a notice. There are several grounds for appeal and you can appeal on multiple grounds:

- It may have been served on the wrong person(s). This should be the person(s) who has the control of the tower – the person(s) by whose act, default or sufferance the nuisance arises. . In the case of an Anglican church this should be Vicar and Churchwardens or the Dean and Chapter as appropriate. If it is served on the tower captain, the secretary of the PCC or someone else who cannot stop the nuisance, then that is grounds for appeal;
- That there is no nuisance. When appealing a notice you should always include a challenge on the basis that the noise is not a nuisance. The sorts of arguments to consider are those which relate to the considerations mentioned above which the EHO is may have taken into account. If s/he has not done so then you can claim that those factors suggest that it is not a nuisance. Similarly, if the EHO has not followed the CIEH/DEFRA guidance and BS7445 you could also have grounds for challenge;
- The actions to be taken to abate the nuisance. If the notice restricts ringing then you should appeal on the basis that the restrictions are too onerous and more than is required to abate the nuisance. If physical works are required then you can argue that they are excessive and that the cost is prohibitive;
- Timescale. If physical works are required then you can appeal on the basis that the time allowed is unreasonable. The EHO is unlikely to be familiar with the faculty process etc. or what is involved in designing and installing sound control so may not have allowed a realistic period for compliance.

At an appeal hearing the court can quash, uphold or amend the abatement notice as it thinks proper. It can also apportion costs. There is a right of appeal to a higher court but this would be very costly.

### Working with the EHO

This is really just common sense! Every EHO is an individual and you cannot exclude the possibility that s/he is anti-bells or anti-church, but that should not affect the professional judgement made about the complaint.

In most cases the EHO is someone who is unlikely to have had any previous contact with ringers or ringing. S/he will also be conscious that enforcement action against a church may prove controversial and unpopular. S/he will therefore prefer to resolve matters informally.

If you are reasonable and work constructively with the EHO, you are much more likely to achieve an acceptable outcome.

**Do not be abusive, obstructive or rude! You would not appreciate such behaviour towards you and nor will the EHO. If you alienate the EHO you will probably be excluded from further discussions and the decision making process.**

**Never, ever, ignore the EHO! If you do, the EHO will make a judgement without your input and you are more likely to receive an abatement notice.**

#### After a Notice

Once the dust has settled and any case has been resolved, you may find that you are still subject to an Abatement Notice which either limits what you can do or requires you to carry out some works.

If you do decide to install sound control in order to abate the nuisance, you should work with the EHO on this so that you know what level of reduction you require. Once this has been achieved, you may ask the EHO to withdraw the notice. If s/he is satisfied that the nuisance has been abated, s/he will usually be happy to do so.

#### Further reading

- Environmental Protection Act 1990 (HMSO)
- British Standard 7445-1: 2003 (British Standards Institute)
- Neighbourhood Noise Policies and Practice for Local Authorities – a Management Guide (CIEH & DEFRA)

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For further information, contact the Chairman of the CCCBR Tower Stewardship Committee:

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Other **Guidance Notes** produced by the Tower Stewardship Committee are:-

- GN1 - Insurance**
- GN2 - Tower Management**
- GN3 - Child Protection In Towers**
- GN4 – Tower Safety and Risk Assessment**
- GN5 - Church Law**
- GN6 - Fire Risk Assessment and Protection**

These Guidance Notes can be downloaded free of charge from the Tower Stewardship Committee section of the Central Council of Church Bell Ringers website:

**[www.cccb.org.uk/towerstewardship](http://www.cccb.org.uk/towerstewardship)**

Reference:

**ANYTOWN DISTRICT COUNCIL  
ENVIRONMENTAL PROTECTION ACT 1990 SECTION 80  
Abatement Notice in respect of Noise Nuisance**

To:  
Of:

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the **ANYTOWN DISTRICT COUNCIL** ("the Council") being satisfied of the [existence] [likely [occurrence] [recurrence] of noise amounting to a statutory nuisance under section 79(1)(g) of the Act at the premises known as:

(within the district of the said Council) arising from

**HEREBY REQUIRE YOU** as the [person responsible for the said nuisance] [owner] [occupier] at the premises [within] from the service of this notice, [to abate the nuisance] [and also] [Hereby [Prohibit] [Restrict] the [occurrence] [recurrence] of the same][and for that purpose require you to:]

**IN** the event of an appeal this Notice shall **NOT** be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the noise to which this notice relates is [injurious to health] [likely to be of a limited duration such that suspension would render the notice of no practical effect] [the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.]

**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under Section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding Level 5 on the Standard Scale, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

**DATED** **20**

Director of Environmental Health

\_\_\_\_\_  
(The officer appointed for this purpose)

Environmental Health Services  
Council Offices,  
High Street  
Anytown AB1 2CD

*(Address to which all communications should be sent)*  
Officer dealing with it is –  
Telephone:

**NB: The person served with this notice may appeal against the notice to a Magistrates' Court within twenty-one days beginning with the date of service of the notice. (See notes on the reverse of this form)**

## The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

**2. Appeals under section 80(3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("The 1990 Act")** (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-

(a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);

(b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);

(c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;

(d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;

(e) where the nuisance to which the notice relates-

(i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade, or business premises, or

(ii) is a nuisance falling within section 79(1)(b), of the 1990 Act and the smoke is emitted from a chimney, or

(iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,

that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;

(f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of-

(i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or

(ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or

(iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);

(g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);

(h) that the abatement notice should have been served on some person instead of the appellant, being-

(i) the person responsible for the nuisance, or

(ii) the person responsible for the vehicle, machinery or equipment, or

(iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or

(iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;

(i) that the abatement notice might lawfully have been served on some person instead of the appellant being-

(i) in the case where the appellant is the owner of the premises, the occupier of the premises, or

(ii) in the case where the appellant is the occupier of the premises, the owner of the premises,

and that it would have been equitable for it to have been so served;

(j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being-

(i) a person also responsible for the nuisance, or

(ii) a person who is also owner of the premises, or

(iii) a person who is also an occupier of the premises, or

(iv) a person who is also the person responsible for the vehicle, machinery or equipment,

and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of the appeal the court may-

(a) quash the abatement notice to which the appeal relates, or

(b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or

(c) dismiss the appeal;

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit-

(a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or

(b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above the court-

(a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and

(b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

**3. Suspension of notice** (1) Where-

(a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and-

(b) either-

(i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or

(ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and

(c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where-

(a) the nuisance to which the abatement notice relates-

(i) is injurious to health, or

(ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or

(b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

(3) Where paragraph (2) applies the abatement notice-

(a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and

(b) shall include a statement as to which of the grounds set out in paragraph (2) apply.