A Statutory Nuisance is where the actions of another are unreasonable and cause a substantial interference to the use and enjoyment of a resident's property or are prejudicial to health. Complaints can only be investigated when you are affected at home. If you are affected at work report this to your health and safety representative.

The nuisances that can be investigated by the Council are outlined in Section 79 of the Environmental Protection Act 1990 (https://www.legislation.gov.uk/ukpga/1990/49/contents) and include:

### Noise

Examples of noise from premises that can be investigated include:

- loud music
- persistent dog barking
- mechanical plant
- noise from unreasonable DIY
- house alarms
- noise from vehicles and equipment in a street e.g. refrigerated vehicles, car alarms (but not traffic passing along the highway)

Noise from people (including children playing), doors banging, general banging are unlikely to be deemed statutory nuisances unless there is a substantial interference and an element of malice associated with the noise that can be proven. Noise from the ordinary use of a domestic dwelling cannot be a statutory nuisance.

We are also unable to investigate random intermittent noises that are of very short term, irregular and unpredictable noise e.g. door slamming and single vehicle movements.

- There are no laws against having a bonfire, however there are laws related to what can legally be burnt and where the smoke drifts. In addition even when burning material that is legal if the smoke causes a substantial interference to personal comfort then the smoke would be deemed a statutory nuisance. Find more information about bonfire by following this link nuisance garden bonfires (https://www.gov.uk/garden-bonfires-rules) and reading the bonfire leaflet at the bottom of this page.

### Premises prejudicial to health

These kind of premises could be houses where there are hoards of rotting waste inside the property that are causing smells and attracting vermin, and garages or land where putrid waste material is being stored.

Prejudicial to health means illness or disease or the like, not a physical injury such as a cut from broken glass or a broken bone as a result of falling in rubble.

Premises that fall in this category will often have rats and mice, and will have associated smells. To be able to complain about these properties they must affect you in your own home, by smell, vermin or the like. The visual appearance of a property is not something that can be investigated under the Statutory Nuisance regime.

### Smoke

This category includes smoke from bonfires and smoke from domestic chimneys.
Peterborough has a number of smoke control areas (https://peterborough.maps.arcgis.com/home/index.html), and it is an offence to emit dark smoke from a chimney within these areas. Burning of material in a boiler, open fire, wood burning stove is regulated under the Clean Air Act and exempt appliances and/or authorised fuels (https://www.gov.uk/smoke-control-area-rules) have to be used.

If you live within a smoke control area (https://peterborough.maps.arcgis.com/home/index.html), any smoke emitted from a chimney cannot be investigated under statutory nuisance regime. If the operator of the chimney is using an exempt appliances and/or authorised fuels (https://www.gov.uk/smoke-control-area-rules), they are compliant with the law and no further investigation by the council can be undertaken.

There are no laws against having a bonfire, however there are laws related to what can legally be burnt and where the smoke drifts. In addition even when burning material that is legal if the smoke causes a substantial interference to personal comfort then the smoke would be deemed a statutory nuisance. Find more information about bonfires on the gov.uk website (https://www.gov.uk/garden-bonfires-rules) and by reading the bonfire leaflet at the end of this section.

The burning of builders waste or other material on a commercial premises is generally illegal as this controlled waste. Section 33 and 34 of the Environmental Protection Act 1990 make it an offence to treat, keep or dispose of controlled waste in a manner likely to cause pollution of the environment or harm to human health. Complaints of this nature should be reported to the Environment Agency or to the council using the Report It form.

Smells and fumes

This includes odour from businesses and fumes and gases from domestic residence such as:

- Odour from takeaway shops
- Gases from central heating

Smells from cooking at a domestic residence would not be deemed a statutory nuisance.

Complaints of odour from cigarette smoke, tobacco smoke, pipe smoke, cannabis smoke etc. going from one property to another is not a matter that can be investigated under the Statutory Nuisance regime. Smoking within your own home or garden is considered “reasonable use”. Reasonable use has to be taken into consideration, when assessing statutory nuisances and it is reasonable that a person/people smoke within their own home and in their garden. This is a civil matter.

Odour from Cannabis, as cannabis is an illegal substance, complaints of this nature should be reported to the Police. This would not be investigated under the Statutory Nuisance regime.

Light

Artificial light that causes a substantial interference to personal comfort can be investigated e.g flood light shining in bedroom over night.

Light that is natural light reflected off another building or structure e.g. sunlight reflected off solar panels or glazing cannot be investigated.

More information on what regulations and advice applies to complaints of light nuisance can be found below in our advice leaflets section.

Flies from a business premises

Some flies infestations can be investigated as a statutory nuisance. The flies must emanate from relevant relevant industrial, trade or business premises and be prejudicial to health or a nuisance. Flies that come from any of the following sources or locations cannot be investigated:

- Land used as arable, grazing, meadow or pasture land
- Land used as osier land, reed beds or woodland
- Land used for market gardens, nursery grounds or orchards
- Land included in a site of special scientific interest
- Land forming part of an agricultural unit e.g. farm house or the like
- Land covered by and the waters of any river or watercourse that is neither a sewer nor a drain or any lake or pond, or land flooded by them

In addition this section does not apply to insects that are categorised as wild animals under the Wildlife and Countryside Act 1981, i.e. animals which are protected.
**High hedges**

High hedges that you can complain about must be:

- growing on land owned or occupied by someone else
- made up of a line of 2 or more trees or shrubs
- mostly evergreen or semi-evergreen
- more than 2 metres tall
- be a barrier to light or access (even if there are gaps)
- and harm the reasonable enjoyment of a home you own or occupy and/or its garden or yard

This is investigated under Anti Social Behaviour Act 2003 Part B. We are not able to negotiate or mediate on your behalf therefore we recommend that you attempt mediation with your neighbours to achieve a resolution. Guidance on how to settle differences in relation to hedges without involving the council is available on the Gov.uk website.

We can only intervene once you have tried and exhausted all reasonable steps to resolve the matter informally. Due to the nature of high hedge investigations there is a £742 service charge to be paid by the complainant, which is payable on submission of the application form.

Before contacting us, please read the following guidance on complaining to a council about high hedges.

**Report a noise or nuisance issue**

To make a nuisance complaint to the council please contact Peterborough Direct on 01733 747474, or by clicking the green button (see right) to access the reporting form.

Your details, as the complainant, will be kept confidential during the investigation.

To justify a statutory nuisance the council needs to establish times, duration, frequency that the nuisance affects residents. This is why a log sheet will be sent in the post for you to record the persistent nuisances over a period of 4 weeks.

In all complaints of statutory nuisance the complainant is required to identify the source of the issue, be that odour, noise, smoke, light and the like.

The assessment of nuisance is based upon the impact on the ‘average person’. This means that specific intolerances or sensitivities to particular nuisances cannot be taken into account.

In addition the actions must be unreasonable, therefore issues such as the following which are generally as a result of the ordinary use of a domestic dwelling are unlikely to amount to statutory nuisance:

- cooking odours from homes
- children playing
- doors banging/slamming
- footsteps and noise from the ordinary use of a home (washing machines, vacuum cleaners etc)
- flushing the toilet
- moving furniture
- Shouting
- Lawn mower/strimmer/hedge cutter
- DIY at reasonable times

Where an investigation finds the existence of a statutory nuisance, from the evidence gained during the investigation, the council will
require you to provide a statement to support any action taken, which may also require you to give evidence in court. If the stage of going to court is reached, your details can no longer be kept confidential.

Where an abatement notice has been breached but a witness is not be willing to provide a statement or to attend court to give evidence the perpetrator is unlikely to be prosecuted. This is because demonstrating the impact that the nuisance has on the person complaining is very hard if not impossible without their support and voice heard at court.

Upon successful conviction the fine level is set by the courts, fines for commercial premises would be expected to be higher than those for domestic premise. Furthermore, if the person responsible for the nuisance breaches the notice persistently, their noise making equipment can be seized under warrant and retained to prevent further nuisance occurring.

For legal reasons we cannot accept:

- anonymous complaints
- complaints where access to the complainants premises is not allowed by the complainant.

Anonymous complaints cannot be investigated due to the following:

- The council has a duty to remain impartial when investigating allegations of statutory nuisance, this is not possible without dialogue with the complainant
- Without knowing the address affected it is impossible determine whether the alleged nuisance is causing a material inconvenience to the complainant within their own home/property.
- The council would not be able to prove whether the alleged nuisance was a 'state of affairs' as without a complainant the council would not have details of the dates, times, and duration of the issue
- Witnessing the issue would be almost impossible, as officers would not know the most appropriate time to attend. Log sheets provide the intelligence on when to witness the issue.
- Any breach of notice would be unenforceable as either we would not know about it at the time it was happening and/or we would not be able to establish the effect on the complainant.

Taking your own action

If you don’t wish to involve the council or an investigation has been conducted and the council were unable to intervene or help further; you have the right to take your own action in the Magistrates Court. Section 82 is designed for residents to use.

Advice leaflets

  Size: 61.33 KB  File format: .pdf

  Size: 131.97 KB  File format: .pdf

  Size: 290.66 KB  File format: .pdf

  Size: 233.51 KB  File format: .pdf

  Size: 134.96 KB  File format: .pdf

  Size: 131.30 KB  File format: .pdf