

It's not always possible for the council to help with a noise problem or you may not want to involve them. In these cases, you have the option of taking your own legal action under section 82 of the Environmental Protection Act 1990.

#### **Before I start legal action, is there anything else I can do?**

You may wish to consider taking part in mediation. Mediators are independent, non-legal people who listen to both sides of the dispute, and then help those involved to reach an agreement. Mediators are able to deal with any dispute between neighbours, no matter how big or small. The service is free to Luton residents.

Luton Mediation, 15 New Bedford Road, Luton, LU1 1SA

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#### **Taking your own legal action**

##### **Step 1 - How to prepare your case**

1. Make sure that you know where the noise is coming from. It is not always obvious especially if you live in flats or in a converted property.
2. Find out the full name of the person causing the noise. If the person is a tenant, the landlord or letting agent may give you their name. You may also find out the person's name from the Electoral Register which is available in local libraries. If you have not been able to find out the name of the person causing the nuisance, you may be able to take action against the owner of the property. You can obtain the name of the owner from Land Registry.
3. Write a polite letter to your neighbour about the problem and keep a copy. Keep a written record of other times you have approached the person responsible for the noise. It is likely to strengthen your case if you have acted in a reasonable manner and given your neighbour the opportunity to sort out the problem.
4. Keep a detailed written record of the problem and its effects. The record must be accurate, stating each date and time the problem occurred, and how it affects you (for example, could not sleep, could not hear TV). A record sheet is available on the [Council's website](#). You could also try recording the noise using a digital camera or mobile phone.
5. Once you are satisfied that you have put your case together, you must notify the person causing the noise of your intention to take them to court. You must give them at least three days notice. A sample letter is available on the [Council's website](#). Keep a copy of your letter to show the court.

## Step 2 – Obtaining a summons from the Magistrates’ Court

1. If the noise continues and you have followed the procedures above, you will now need to obtain a summons from your local Magistrates’ Court. Issuing a summons means that the person causing the noise has to attend a court hearing so that the matter can be discussed. Luton Magistrates’ Court, Stuart Street, Luton. LU1 5BL. Tel: (01582) 524200
2. Before visiting the Court it may be worthwhile discussing the problem with a solicitor. The Citizens Advice Bureau may also be able to help you. Luton Citizens Advice Bureau, 24-26 King Street, Luton. LU1 2DP Tel: (01582) 487705.
3. When you visit the court, you will need to explain to the person in the court office that you want to issue a summons under Section 82 of the Environmental Protection Act 1990.
4. You may be required to go before the Magistrates’ Court for your application to be considered. Remember to state that you are seeking a summons under Section 82, of the Environmental Protection Act 1990 and explain what has happened. Evidence such as record sheets or any recorded evidence should be made available at this point.
5. The court will then decide whether there is an arguable case and if a summons should be issued. If you are successful, the court officer will issue a summons against the person responsible for the noise and will give you a date and time for a court hearing.
6. At this stage in the procedure, it might be worth reconsidering whether you want the assistance of a solicitor who can represent you at the hearing. However, you can decide to conduct the case yourself.

## Step 3 – The Court hearing

On the day of the hearing, there are 3 possible outcomes:

1. **The defendant fails to appear.** If this is the first time the matter has gone before the court, it will probably be adjourned (postponed) to a future date. The defendant will be sent a notification of this hearing. However, if the defendant fails to attend a second time, you can ask the court if they will hear the matter in their absence.
2. **The defendant pleads guilty.** You will only need to give a brief outline of the general circumstances of the case, as the defendant's guilty plea means they are accepting the facts of the case. The court will then make an order requiring the abatement of the nuisance or prohibiting its occurrence or recurrence.
3. **The defendant pleads not guilty.** You will then have to prove your case by giving evidence and calling your witnesses. The defendant can question you and your witnesses. They may also call witnesses of their own. If the defendant gives evidence or calls any witnesses, you will be able to question them on the facts relating to the noise case. The court will then consider all the evidence and make a decision.

If your case is proved, the court may make an order requiring the abatement of the nuisance or prohibiting its occurrence or recurrence. They may also fine the person responsible up to a maximum of £5,000, if the source is from a residential property. This increases to £20,000 for commercial premises.

If the defendant fails to comply with this order they will be committing an offence. You will need to gather more evidence and return to the court.

If you are unsuccessful in proving your case, the court may ask you to pay the defendant's costs.

### **Further information**

To find a solicitor visit, [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

Citizens Advice, [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Land Registry, [www.landregistry.gov.uk](http://www.landregistry.gov.uk)

Local libraries, [www.luton.gov.uk](http://www.luton.gov.uk)

Environmental Protection Act 1990, [www.legislation.gov.uk](http://www.legislation.gov.uk)

Record sheet and letter available at [www.luton.gov.uk/noise](http://www.luton.gov.uk/noise)