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Our Ref : 145083

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Dear Derwent Developments Ltd

**Environmental Protection Act 1990, Sections 79 - 80
Alleged nuisance due to motorbikes noise on land to the East of New Road Didcot
Didcot Records, DIDCOT, Oxon**

I regret to inform you that South Oxfordshire District Council has recently received a complaint alleging that motorbikes noise coming from your land is causing a problem. At this stage the complaint is an allegation, we do not know whether it is justified because we have not carried out an investigation. Please contact me as soon as possible to discuss these allegations. The complainant has confirmed the area of land as the alleged source of the problem, with bikes allegedly using the track, however if you feel you are not responsible for this matter then please contact me.

The person complaining has been asked to keep a record of the problems so that I can assess their complaint. Should these records suggest a continuing problem the council will be duty-bound to conduct an investigation. This may include visits by officers from Environmental Health or, where appropriate, the use of monitoring equipment.

If you feel that the complaint may be justified, I would advise you to ensure you're your land is secure and any permitted motorbikes keep noise to a level that does not interfere unreasonably with anyone else's right to peaceful enjoyment of their premises. If the complaint is pursued I will write to you again to advise of this. If the complaint is not pursued, it will be closed without further action.

Please find attached notes detailing nuisance problems and how we conduct investigations. If you have any questions or queries regarding the above please do not hesitate to contact me.

Yours faithfully

Claire Spendley
Environmental Health Officer

If you have difficulty reading this please call 01235 422 403

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What is a statutory nuisance?

A statutory nuisance is a situation involving the material interference in the use and enjoyment of a premises, by certain specified activities on neighbouring land.

The legislation is quite specific, indicating what we can and cannot deal with - for example, it is possible to take action against noise from a stereo system, but not an aircraft.

A statutory nuisance is severe in nature - not merely an annoyance - it has to be proven to significantly affect somebody's use of their property - for example music noise that frequently awakes you during the night and prevents you from sleeping.

To determine a statutory nuisance (for example music noise), the volume of noise; the frequency of occurrence; and the times of the day that it occurs, are then compared to an average persons level of sensitivity. For this reason, we ask for a diary to be completed, showing when the problem happens and how bad you feel it is when it occurs.

If necessary, we also undertake an investigation to independently verify the facts of the situation, prior to undertaking our professional assessment of the situation.

What formal action can be taken ?

If the Council believed a statutory nuisance exists, an abatement notice is served on the person responsible for the nuisance requiring them to stop the problem activity. An abatement notice can specify what action the person causing the nuisance needs to take, and within what time period. Only a small proportion of complaints lead to this because informal action and negotiation usually resolves any problems.

If an abatement notice is ignored or appealed against, then a court case will result. Anyone who has made a complaint may be called as a witness to establish the full facts of the case. The diary record sheets of when nuisance occurs will be an important part of the evidence of the case. At the end of the hearing, the court will decide what action, if any, is to be taken.

As an alternative to complaining to the Council, anyone who is affected by a nuisance can take the matter directly to court themselves.