

Contact the Magistrates' Court

Reading Magistrates' Court (No: 1076)

Civic Centre,
Reading,
Berkshire RG1 7TQ
Tel: (0118) 980 1800
email: BerkshireMCEng@hmcts.gsi.gov.uk

Neighbourhood Nuisance

Environmental Health

**Public Protection
Partnership** | Bracknell Forest
West Berkshire

We are committed to being accessible to everyone. If you require this document in an alternative format or translation, please call Environmental Health and Licensing on Telephone 01635 551111.

Bracknell Forest Council

Environmental Health & Licensing

Time Square
Market Street
Bracknell
Berkshire RG12 1JD
telephone: 01344 352000
email: Environmental.Health@Bracknell-Forest.gov.uk

West Berkshire Council:

Environmental Health and Licensing

Market Street, Newbury
Berkshire RG14 5LD
telephone: 01635 503242
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**Advice on making a complaint
direct to the Magistrates' Court**

WBC/EH/RG/0422

Neighbourhood Nuisance Advice on making a complaint direct to the Magistrates' Court

A legal provision is available under section 82 of the Environmental Protection Act 1990 to enable you to take your own action in the Magistrates' Court. This provision recognises that the Council is not always able to take action on your behalf and is particularly useful when the nuisance problems are intermittent in nature.

How to make a complaint direct to the Magistrates' Court

1. In the first instance you should try to discuss the matter with the person creating the nuisance. Make sure that you record any attempts to resolve the problem informally.
2. If this does not work then you should write to the person explaining the problem and ask them to stop causing the nuisance. Please make sure that you keep a copy of any correspondence that is sent for future reference.
3. If the problem persists you should now gather all relevant information and evidence that you will need to present to the court. (You may wish to refer the matter to your solicitor at this stage.) You should provide the full name and address of the person causing the nuisance (the defendant) or if this is not possible the owner or occupier of the premises involved. The strength and detail of the evidence submitted is extremely important and you should keep a record of the nuisance as it occurs. This can then be referred to when giving oral evidence in court. A case supported by an independent witness will be stronger than one resting on your word alone.

4. You should now contact the Magistrates' court and explain that you would like a summons issued under Section 82 of the Environmental Protection Act 1990. A member of staff will guide you through the procedures. You will need to provide copies of your evidence to demonstrate that you have an arguable case. A fee may be required at this stage.
5. If you have an arguable case you will be provided with a time and date for a hearing. The court will summon the defendant to appear in court. Costs will be incurred to cover the cost of issuing the summons.
6. At some stage you will be expected to disclose your evidence to the defendant or his / her representative. The courts will guide you on this.
7. On the date of the hearing you should attend the court with your evidence. You are not obliged to employ a legal representative but you should be aware that the defendant may have legal representation.
8. If your case succeeds, the Magistrates may make an order prohibiting a recurrence of the nuisance and may also impose a fine. If the defendant defies the order, he or she will be committing an offence and further court action will be necessary. You would be entitled, in these circumstances to make a claim in court for the costs that you have incurred,. This includes the cost of issuing the summons.

Court proceedings

9. The Magistrates' Clerk, who organises the proceedings and advises the Magistrates on the Bench, will read out the case and ask for a plea. The defendant may plead "guilty" and an order will be made by the Bench with little further proceedings.

10. If however the defendant pleads "not guilty" you (or your solicitor) will be invited to stand and prove "beyond reasonable doubt" that the problem about which you are complaining amounts to a Statutory Nuisance. Written evidence such as your record of the disturbance should be given to the Magistrates.
11. You will be given the opportunity to call witnesses in support of your case and you may ask each of them to give evidence under oath.
12. The defendant will then have the opportunity to cross examine you and your witnesses.
13. After you have presented your case the defendant can present his / her case by providing evidence and / or calling witnesses. You will have the opportunity to cross examine the defendant and his / her witnesses.
14. You will then be asked to summarise your case, referring to what the witnesses have said and any documentary evidence you have submitted. This will be your last chance to speak on the subject and it is an opportunity to clarify points established earlier on. At any stage of the proceeding the Magistrates may ask questions of their own. It may be possible to state the amount of expenses incurred in bringing this case, before the court.
15. This is followed by a "summing-up" by the defendant.
16. The magistrates will then retire to consider the matter. They may consult the clerk of the court for advice on legal points. On returning to the court they will announce their verdict and you will know whether or not your case has been successful.
17. If the case goes against you, you may be asked to pay the defendant's expenses to the court office. If you are dissatisfied with the outcome you have the right of appeal, within 21 days, to a higher court where the details of the case would be re-considered.