

If it becomes necessary to take formal action, the Council must be able to justify its action in Court. As you are directly affected you will be asked to provide a witness statement and may be required to attend Court.

It must be stressed that this happens in the minority of cases. However, if you have a complaint and are not prepared to provide evidence, you will have to accept that the prosecution will be weaker and your case may not be resolved.

Taking Your Own Action

It is possible that after the Investigating Officer has collected and assessed the evidence, the existence of a Statutory Nuisance has not been determined.

In these cases, you have an alternative option to take your own private action. You can do this by complaining directly to the Magistrate's Court under Section 82 of the Environmental Protection Act 1990.

If the Magistrates Court are convinced that you have a case, they will make an order requiring the nuisance to be abated and prohibit its reoccurrence.

Further Information

If you would like to register a complaint or would like further information please contact the Environmental Protection Team:

Redcar and Cleveland Borough Council,
Environmental Protection Team,
Kirkleatham Street,
Redcar,
Yorkshire,
TS10 1RT

01642 774774

environmental.protection@redcar-cleveland.gov.uk

www.redcar-cleveland.gov.uk



Environmental Protection Team

Smell Nuisance Investigations



**What you can do
and
What we can do**

Smells are present all around us and can come from a variety of sources. However, if you feel that the smell is not an isolated incident and you are being seriously disturbed on a regular basis, it is not unreasonable to make a complaint.

Your Options

- Approach the premises and politely explain that you are being troubled by the smell. A proportion of all people being complained about claim to be unaware that they are causing a disturbance and simply making them aware can resolve the problem.
- If the above has not worked or you do not feel able to approach the premises please contact the Environmental Protection Team.
- If you are considering changes to a premises which include the introduction of an odour source contact the Environmental Protection Team for advice.
- Contact the Environmental Protection Team for a formal smell investigation to be carried out.



Can the Council Help?

The Environmental Protection Team receives many complaints about a range of smell problems. Under the Environmental Protection Act 1990, we have a duty to investigate all complaints and we do this in an impartial manner.

A Statutory Nuisance is a significant and unreasonable emission of smell that substantially affects the way you use and enjoy your property. It is merely more than a detection of a smell or an annoyance.

The Investigation

- We will write to the odour maker advising that a complaint has been received. We will aim to do this within 3 working days.
- Complaints are dealt with on a confidential basis unless agreed otherwise. Situations may occur where it is self-evident who is being affected and therefore who has complained. If you have concerns you may wish to discuss this with the Investigating Officer.
- As part of the investigation you will be required to keep an accurate diary of the smell disturbance. This includes: the type of smell, its duration, the time and date it occurred and how it affected the way you use and enjoy your property. We aim to send these within 3 working days.

- If diary monitoring forms are not returned by the scheduled date the complaint will be closed.
- If completed forms shows unreasonable smell disturbance it will be necessary for the Investigating Officer to collect independent evidence to establish a Statutory Nuisance. This can include witnessing the smell at your home.
- Should evidence show that a Statutory Nuisance exists, an Abatement Notice will be served on the odour maker.
- Should the smell continue, more evidence will be collected to prove whether the Notice has been breached.

The effect of an Abatement Notice is to make any further occurrence of the nuisance a criminal offence, punishable, on conviction in the Magistrates Court, and subject to an unlimited fine.

