

Noise, light and odour

Nuisance impacts on people's enjoyment of their environment. Resolving nuisances requires balancing the needs of different groups.



Summary

Nuisance is an issue that affects people and their immediate environment or their ability to enjoy their property. Everyone has a different opinion on what they enjoy and what they dislike in their environment. As a result, everyone has a different idea of what makes a nuisance. Nuisance can be perceived as an offence to the senses, which can cause distress, discomfort and inconvenience.

Despite these difficulties, local authorities and the courts have managed to be largely successful in finding a balance between conflicting interests of individuals or businesses through nuisance enforcement and interpretation of nuisance law.

Introduction

A public nuisance is defined as an act that materially affects the public's comfort and quality of life, whereas a private nuisance is considered to be an act or activity that interferes with an individual's use or enjoyment of land and can include physical damage to a neighbouring property.

The concept of nuisance was developed in the 19th century as a means of dealing with unpleasant and unhealthy living conditions. As a result of increased industry in the 19th century, many people migrated from rural areas meaning that towns and cities were developed quickly and without planning. This led to a lack of infrastructure for the provision of wholesome water or sewerage systems to support the growing population and led to unsanitary conditions and the spread of disease.

There were few controls on industry, and an ignorance of environmental issues. Consequently, air pollution, noise, waste and contamination of land and water all impacted on human living conditions, as well as harming the wider environment.

Today, we enjoy much higher standards of sanitation and improved living conditions; however, nuisances still occur and affect both rural and urban populations. Nuisance laws have been created to provide redress for activities or behaviour that unreasonably interferes with the rights of others to enjoy their property. Given that what constitutes a nuisance is subject to wide ranging views, many years of case law exist to help guide those responsible for enforcing these laws.

Description of nuisance



Nuisance issues can affect people living in both rural and urban areas, although more issues tend to be noticed in urban areas, where people and commerce are in a more tightly packed environment. It is always important to consider the context in which a nuisance may occur. For example, people living in a quiet rural environment may be annoyed by noise levels that would not be perceived as a problem in urban areas, whereas odours arising from housed cattle that are considered acceptable in a rural setting could be less welcome elsewhere.

The main issues to be considered when assessing nuisance are:

- **location** – the nature of the area where the nuisance occurs needs to be taken into account. Someone living in a flat above a hot food takeaway can reasonably expect to smell cooking odours from time to time. However, that does not mean that the takeaway can create odours with no consideration of those living nearby;
- **time** – the time of day at which a perceived nuisance occurs is an important consideration;
- **frequency** – something that occurs, such as a noise, ten times over the course of a year may not be a nuisance, but it may be if it were to occur ten times a day;
- **duration** – a dog barking once a day when the postman arrives may not be a nuisance, but it may be if the dog barks for 8 hours a day;
- **intent** – an activity that is carried out with malice is more likely to constitute a nuisance.

Nuisance laws clearly try to differentiate between what is normal and what is excessive behaviour, and reasonable and unreasonable use of land or property.

The most common forms of nuisance experienced in both urban and rural settings are:

- accumulations of harmful materials, such as [waste](#);
- animals and insects;
- dust, fumes, smoke and odours from commercial and domestic premises;
- poor condition of housing;
- light;
- noise.

Pressures affecting nuisance



There are many different types of nuisance, to some extent these are defined by personal preferences and prejudices.

This section gives more detail on the most common types of nuisance.

An estimate of the extent of some aspects of nuisance can be found in the [2010 Scottish household survey](#). The survey is carried out annually, and the percentages of adults who say that a problem is very or fairly common are recorded.

Approximately 25% of adults report litter as a problem, with 23% highlighting animal nuisance, such as dog fouling, as a very or fairly common problem (Table 1).

Table 1: Percentage of people saying that a problem is very/fairly common in their neighbourhood

| Issue | Percentage |
|--|------------|
| Vandalism/graffiti/damage to property | 11.3 |
| Noisy neighbours/loud parties | 9.6 |
| Rubbish or litter lying around | 24.4 |
| Animal nuisance such as noise or dog fouling | 23.4 |

Source: [2010 Scottish household survey](#); number of respondents = 11,140

Insect nuisance

This is a new category of statutory nuisance under the Public Health (Scotland) Act 2008. The statutory guidance that accompanies the act suggests that legislators envisaged these provisions being used fairly infrequently for issues such as insects from industrial or commercial sources, like poultry farms or waste water treatment works, or where the insects are from an identifiable source.

However, this section can also be applied in practice to other areas, for example cockroaches or bedbugs affecting flatted properties. Some local authorities, such as those in the Central Belt of Scotland, have found that this has the potential to be a resource-intensive issue: there are major costs in identifying problem properties, gaining access to each flat, carrying out inspections, serving abatement notices and carrying out work to eradicate infestations.

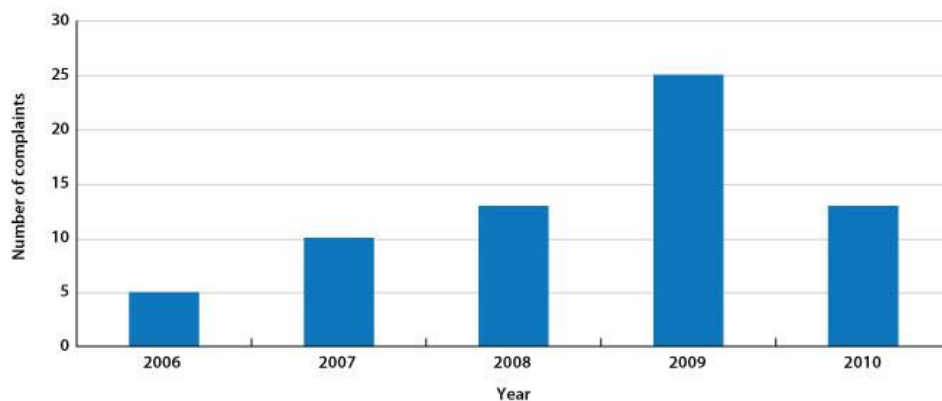
Infestations by insects such as cockroaches, bedbugs and wasps in homes degrade the living environment for tenants. Where such infestations occur in industrial premises, farms and shops, businesses can be badly affected. Insects can act as a potential route for spread of diseases, and in some cases, if left unchecked, may cause damage to property. Many factors aid the survival and spread of nuisance insects. Flatted properties are common in Scotland and, as a result, an infestation in one property can quickly spread, affecting other households. In areas of high-density housing, or where populations move properties frequently, transfers may occur inadvertently as the insects remain within mattresses and furniture.

Light pollution

Appropriate lighting contributes to a sense of identity and place, and makes for a safer and friendlier environment. However, inappropriate lighting can cause light pollution and this is becoming more of an issue, with increasing numbers of complaints and enquiries relating to light pollution are being received by local authorities (e.g. for Glasgow see Figure 1). Although seen largely as an urban issue, light pollution can also affect the rural environment.

Advances in lighting technology in recent years mean that lighting has become more powerful and cheaper, leading to a proliferation of the use of lighting on buildings and property at night. Inconsiderately sited security lights, as well as illuminated signs and floodlit parks, car parks and recreational areas, all have the potential to affect people in their homes.

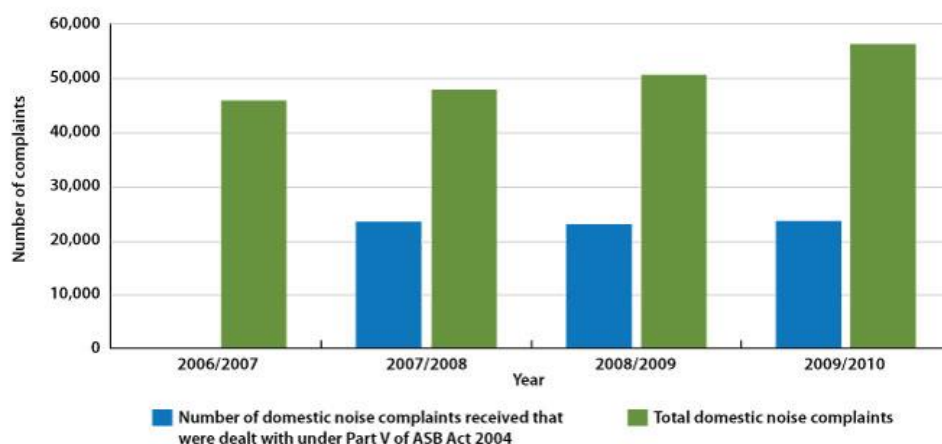
Figure 1: Light pollution complaints in Glasgow



Noise nuisance

Noise has long been recognised as the largest nuisance problem in urban areas. In Scotland, a rising number of complaints about neighbour noise have been [reported](#) (Figure 2), and mediation services report that around 50% of neighbour mediation cases are about noise disturbance.

Figure 2: Number of noise complaints received by Scottish local authorities



Source: [Audit Scotland](#)

Urban living and multi-occupancy buildings mean that we are never too far away from our neighbours. However, poor sound insulation in our housing stock contributes to noise transfer between homes. In some cases, noise can be considered antisocial, particularly if it exceeds [set limits](#).

Noise coming from commercial and industrial premises, and in particular from building sites, can create a nuisance. Construction and demolition are inherently noisy activities – piling, earthworks, vehicle movements, stone cutting, etc., all have the potential to create nuisance.

Noise created by roads, railways and aircraft is a feature of both urban and rural areas of Scotland. Few areas of the country remain totally unaffected by some form of transport noise, but this of course remains heavily centred on urban areas. Mapping of transport noise in towns reveals that noise has a complicated distribution. A [noise map](#) shows areas that are relatively louder or quieter.

Odour nuisance

Odour nuisance is subjective and difficult to define and measure, unlike, for example, noise. Although most odours are not harmful to health, they can be a common cause of distress and complaint for individuals. As such, they can also arise from a wide variety of sources. In rural areas, people may complain about the smell from slurry spreading on farms, or other agricultural activities. In urban areas, odour problems may arise from a wide range of sources, including restaurants and takeaways, dry cleaners, smoking, blocked drains and waste facilities, including waste transfer stations and waste water treatment works.

Waste facilities, such as landfill sites, often attract complaints because of the smell of decomposing rubbish, and sites have to be operated properly to try to minimise issues with odours. These facilities usually operate under a waste management licence, which will require certain standards to be maintained to reduce the likelihood of complaints.

Litter

Litter is any waste that is dropped or discarded on public or private land, for example packaging, such as crisp packets and drinks cans, cigarette butts, chewing gum, food waste and dog fouling. Local authorities work with [Zero Waste Scotland](#) to make sure that our streets meet standards of cleanliness set out in the [Environmental Protection Act 1990](#). Action can be taken against anyone who drops litter, either in the street or from a vehicle. Businesses may also be required to keep the front of their premises litter-free, regardless of where that litter comes from.

Fly tipping is the dumping of waste onto unlicensed public or private land.

Consequences of nuisance



Although nuisance can lead directly to damage to health and property (e.g. vermin infestations), the most frequent impact is on quality of life.

Litter, noise, light pollution and odours have been associated with sleep disturbance, ill health and stress. These have knock-on costs, with costs to the National Health Service and decreased productivity at work.

As well as being unsightly and a potential environmental hazard, litter and flytipped waste are costly to investigate and clear-up. In financial year 2009-2010, there were more than 30,000 incidents in 18 local authority areas with an [estimated investigation and clean-up cost](#) of over £1.5 million.

Response by society

Legislation – Scottish and UK



Issues that create a nuisance are dealt with largely through legal routes. There are three forms of nuisance law that operate in Scotland; statutory nuisance, in which legislation has been made for particular nuisances; and public and private nuisance, which are based in common law.

The term 'statutory nuisance' is defined in the [Environmental Protection Act 1990](#), and subsequently in the [Noise and Statutory Nuisance Act 1993](#) and the [Public Health \(Scotland\) Act 2008](#). The provisions of these acts are normally enforced by local authorities.

Taken as a whole, application of the laws on nuisance deals with the environment as it affects individuals, rather than the wider environment, and covers issues that have a detrimental effect on quality of life.

Under the [Environmental Protection Act 1990](#), local authorities have a duty to inspect their area from time to time to identify nuisances. Where the authority is satisfied that a statutory nuisance exists, it must serve an abatement notice on the person responsible for that nuisance. A fixed penalty notice may be served if the abatement notice is not followed. Statistics produced by the [Royal Environmental Health Institute for Scotland](#) (REHIS) for statutory nuisance show that only a small percentage of complaints result in successful prosecutions. For example, for 44,940 complaints recorded in 2006 there were 1500 notices served and 65 prosecutions secured.

Legislation – EU and Scotland

The [European Directive for the Assessment and Management of Environmental Noise \(2002/49/EC\)](#) was transposed in Scottish legislation through the [Environmental Noise \(Scotland\) Regulations 2006](#) and is more commonly referred to as the Environmental Noise Directive (**END**).

This directive deals with transportation noise from road, rail and air traffic, as well as noise from industry. It focusses on the impact that noise has on individuals.

The main objectives of the **END** are as follows:

- to determine the noise exposure of the population through noise mapping;
- to make information available on environmental noise to the public;
- to establish action plans based on the mapping results, to reduce levels where necessary and to preserve environmental noise quality where it is good.

[Noise maps](#) have two main purposes. First, they can be used to find areas where noise levels are high and these can be linked to population data to estimate how many people are affected. This leads to the second use – and the main point of noise mapping – to help in the production of noise action plans to manage noise and reduce noise levels where appropriate.

Noise action plans contain information and guidance relative to the process by which environmental noise will be managed. This involves provision of information, consultation and ultimate decision-making on the issues of noise management.

The directive requires that action plans for urban areas include measures aiming to protect quiet areas against an increase in noise. The regulations require identification of quiet areas within agglomerations.

Other initiatives

Curbing potential impacts from light pollution can have a positive effect in both urban and rural settings and improve our enjoyment of both – as seen by the creation of the first UK [Dark sky park in Dumfries and Galloway](#).

There has been recent investment in the public sector in education and enforcement in relation to environmental issues and nuisance. An example of this would be the Clean Glasgow Campaign, which aims to make the city and every neighbourhood within it a cleaner, safer place. The campaign is built on a partnership with communities and a shared responsibility for our environment, whether we are at home or school, at work or at play.