

Dust Pollution



The majority of dust complaints this Council receives are in relation to construction or demolition sites, when activities are carried out on dry soil during the summer months. This often coincides with people spending time in their gardens or windows and doors being open.

Most people from time to time will be troubled by dust. Certain activities inevitably create dust and absolute control is sometimes very difficult. However, it is important for those carrying out the works to take all reasonable steps to minimise the dust as far as possible.

Q. What constitutes a Statutory Nuisance?

Sensitivity to dust can vary significantly between individuals. It can be difficult to determine whether the problems would be excessive enough to cause a nuisance or simply cause annoyance.

There has to be an unreasonable element to the activity causing the problem. If the dust is a serious and persistent problem that significantly interferes with the enjoyment of neighbouring properties this does have the potential to cause a nuisance.

There are many factors taken into account when determining if a nuisance exists, some are listed below:

- The time of day – a nuisance can occur at anytime, day or night
- Location
- Duration
- Frequency
- Intensity
- Reasonableness
- Does it affect/spoil the enjoyment of the complainant's property?

Dust sources

Stationary – Crushing material, transferring material, large stockpiles/soil heaps with no containment/protection from wind etc.

Mobile – Transportation and handling of materials, vehicles travelling over unmade surfaces, particularly at high speeds.

Mitigation measures

Temporary enclosures – Constructed using sheet material such as plywood.

Localised enclosures – Can be fabricated to fit around specific dust sources on site.

Water suppression – Fine water spray heads directed around dust sources can help mitigate dust.

Minimise drop height of material – Free falling material can be taken by the wind. Discharging the material as close to the stockpile as possible minimises dust.

Q. What to do if suffering a nuisance?

In most cases we advise that the informal approach is the best course of action in the first instance. This gives those responsible for the dust time to take steps to resolve the problem, especially if they are not aware that a problem exists or to what extent it affects those nearby. By staying calm and taking on board both points of view, the problem can hopefully be resolved straight away.

If the problem can not be resolved informally you can contact Environmental Health to make a formal complaint.

Q. How do I complain?

You can phone, write or email – all we need to know is:

- Which address/premise the dust is coming from.
- Complainant's name and address – details are not disclosed in the initial stages of the complaint.
- When and how the dust affects the complainant. Any other relevant information would be useful.

Dust Complaint Procedure

1. Making a Complaint

If the problem cannot be resolved informally a formal complaint can be made. We, as an Authority, have a duty to investigate complaints of this nature. We have a standard procedure for investigating complaints to make sure that each complaint is treated fairly and with no bias. This involves gathering evidence to support the case. If the Authority is satisfied that the dust amounts to a Statutory Nuisance, formal action can be taken. An investigation by this Department may last over 6 months. If a complaint is open for longer than this, we will keep all relevant parties informed. The main steps involved are explained below.

2. Sending Letters

A letter is sent to the person responsible for the dust, making them aware that we have received a complaint and advising them accordingly. We also write to the complainant asking them to complete and return a diary sheet detailing when the dust is happening and how it is affecting them.

The problem is often resolved when we send a letter to the person responsible for the dust. If the dust persists we then ask the complainant to return the diary sheet.

We do NOT disclose details of the complainant during the first stages of our investigation. However, if a Statutory Nuisance is witnessed at any time during the investigation, the complainant's address will be included on the 'Noise Abatement Notice' , as being the property affected by the nuisance. The complainant may need to appear in court to give evidence though this is very rarely necessary.

3a. Witnessing the Dust (office hours)

Whilst keeping the diary sheet, if the complainant is affected in their property by the dust, during office hours they should call the office immediately and officers will try to attend.

3b. Assessment of Diary

If the dust **only** occurs outside office hours the return of the diary sheet is essential for the investigation to continue. We carefully look through it and decide if the complaint needs further investigation. If it does, we arrange to witness in the complainant's property.

4. Witnessing the Dust (out of hours)

Officers will make arrangements with the complainant to try and witness the nuisance in their home.

5. Establishing a Nuisance and taking Formal Action

If we witness the dust and establish that it is a **Statutory Nuisance under the Environmental Protection Act 1990 we must then serve a Section 80 'Abatement Notice'**. The Notice is a legal document and is addressed to the person responsible for the dust, requiring them to abate the nuisance to a level that does not constitute a Statutory Nuisance.

Before a Notice is served we take a witness statement from the complainant. The statement is used to show how the dust affects them, how long it has been happening and details other important facts. *A statement is a legal document and could be used as evidence in court if needed.*

6. Breach of Notice

If the person responsible does not comply with the Notice, then further evidence will need to be gathered to show that the Notice has not been complied with. Once sufficient evidence has been gathered, the case would then be referred to our legal team with a view to prosecution. *The complainant may be required to appear in court to give evidence.*

Q. Do we always take formal action?

In some cases after careful consideration we decide that a Statutory Nuisance cannot be substantiated. The reasons for this may be due to lack of evidence, dust sensitivity, the fact that the problem only occurs occasionally and is hard to witness or because there is no unreasonable element to the complaint.

Advice for Complainant's - Taking your own action

If we are unable to substantiate a Statutory Nuisance or alternatively you decide to take your own action, you can complain about the dust directly to the Magistrates Court. The Magistrates Court will need to be persuaded that the dust problem amounts to a Statutory Nuisance, therefore this would mean supplying your own evidence to support your case.

Before complaining to the Magistrates it is important to informally approach the person responsible for the dust. Before you start legal proceedings you must give at least 3 days notice in writing to the person responsible for the dust explaining that you intend to take legal action. At this stage you should seek advice from the clerk at the court, tel. 01785 223144 and advise them that you wish to take action under Section 82 of the Environmental Protection Act 1990.

If the Magistrates think that you have an arguable case, a summons will be issued and delivered to the person responsible for the dust. This will confirm the date and time that has been arranged for a court hearing. If the Magistrates decide in your favour, then the court can take various steps to solve the problem.

Contact details

By post:

Environmental Health
East Staffordshire Borough Council
The Town Hall
Burton on Trent
Staffordshire
DE14 2EB



By telephone:

01283 508578



By email:

ehsupport@eaststaffsbc.gov.uk



Visit our website at: www.eaststaffsbc.gov.uk

Pollution Pages: <http://www.eaststaffsbc.gov.uk/environmental-health/pollution>

Flow Chart

Dust Complaint Procedure

The flow diagram below shows the general procedure which this Department follows when investigating a complaint:

