

Tunbridge Wells Borough Council
Environment and Street Scene Services

Environmental Protection Service

Service Levels

If you contact us to request our service this explains –

- What should happen next
- What you can expect from us
- Your rights

Our Service's Aims:

- To treat you with courtesy and respect,
- To respect your privacy, dignity, religious and cultural beliefs,
- To ensure everyone can use our services,
- To respond to your request for service within five working days,
- To keep you informed of our actions and to tell you who is dealing with your request,
- To give you the chance to comment on our performance, and to listen to your views.

It summarises our Service Standards, but you can also see [detailed information on how we deal with requests for service.](#)

We can receive a service request, enquiry or complaint via:

- Telephone - (01622 602450)
- Letter – Environmental Protection Team, Room 123a, Town Hall, Tunbridge Wells, Kent TN1 1RS
- Personal visit at Council service points
- An officer of the team whilst on the district
- Email – envprotection@tunbridgewells.co.uk
- Fax – (01892 544118)
- Our web site [www.tunbridgewells.gov.uk/ environmental protection](http://www.tunbridgewells.gov.uk/environmental_protection)

When we receive a **new** request, by telephone, email or visit we will, if we can, give advice straight away.

We aim to ensure that there will be an officer to give specialist advice and information, before 13.00 hours but after this all officers may be out of the office so we cannot guarantee this.

If we are unable to provide advice immediately or if the request needs an investigation or visit, it will be entered onto our system. In most cases initial actions will involve letters being sent to both sides and general advice being given; these will initially be dealt with by the team administrator. Where investigation is needed, by a visit, or if the matter is urgent it will be allocated to a case officer. You will be advised of the case reference and the next steps in dealing with your case within the following times depending on how you contact us.

- Telephone – immediately
- Email – within 24 hours
- Letter – within 5 working days

The case officer will be your point of contact throughout the investigation, and will discuss any matters with you.

All cases are investigated in accordance with our investigation procedures, which follows modern practice and the nationally accepted [Enforcement Concordat](#). During our investigations we will do our best to keep you up to date with any developments in the case and/or advise you when investigations have been completed and/or the case closed.

In order to make a service request/complaint we will need:

- Your name, address and contact details
- The exact address or location of the source of the problem (or as much information as possible to identify the source.
We cannot register or investigate anonymous complaints. This is principally because the law requires the Council to know who is or is likely to be affected by a statutory nuisance or exposed to risk to health.

Matters which Environmental Protection can investigate or provide more information include:

Statutory Nuisance caused by

- Noise and vibration
- Odours, smoke, dust or other emissions
- Light pollution
- Nuisance which may be prejudicial to health including;
 - Accumulations of waste or noxious deposits
 - Filthy and verminous premises
 - Animals in premises
 - Drainage where the blocked drain serves only one property or commercial premises

Other issues including

- Drinking Water
- Environmental aspects of planning applications
- Contaminated land investigations
- Waste disposal license consultations
- Pest control and prevention of damage by pests. (See also [Pest Control](#))
- Local Authority Integrated Pollution Prevention and Control which is the Environmental Permitting of certain industrial processes. (See Public Register or search Local View).
- Licensing Act consultations (for example as a 'Responsible Authority' for the prevention of public nuisance)

We will always do our best to help with most of the enquiries or requests for service we receive. Where we cannot take action directly, we will pass on the information to the relevant authority or agency that may be able to help.

Alternatively we may provide information or contact details for you to make contact directly with the other body. We have a range of leaflets and advice notes, which provide further advice both to complainants and those alleged to be causing nuisance. The information used in these leaflets is also available on our web pages.

In some cases, the officer receiving the call may advise that the best way of resolving the problem may be to approach the person responsible to see if the matter can be resolved informally on a face-to-face basis. The investigating officer will give advice how best to do this. Using a mediator may provide a solution and the people involved may be referred to [West Kent Mediation](#).

Matters Which Environmental Protection Cannot Investigate

Within the general topics referred to above there are certain matters that the Environmental Protection Team is not able to deal with (but we would be pleased to log and may be able to provide information only):

- Anonymous complainants (we need to know who is affected by the problem)
- Noise and pollution from aircraft (when in flight). (See [CAA/BAA](#))
- Normal living noise resulting from inadequate sound insulation between properties. ([case law](#))
- Noise from people in the street. (See [Community Safety Partnership and ASBOs](#))
- Traffic noise unless related to noise from specific premises. (Sound insulation grants may be available in certain cases where traffic noise has increased due to a new or changed highway. (See [KCC/Highways Agency](#))
- Complaints about alleged nuisance where the source address or location is not known (unless we receive at least three complaints from individual addresses.)
- Noise from one-off parties (unless we receive at least three complaints from individual addresses.)
- Smoke from one-off garden bonfires (unless we receive at least three complaints from individual addresses.)
- Complaints of nuisance, which are affecting occupiers or workers in commercial premises. Unless they are very severe and likely to be harmful to health.
- Complaints of nuisance from occupiers of commercial premises about activities on other commercial premises. Unless they are very severe and likely to be harmful to health.
- Blockages of public sewers or private sewers serving more than one residential property (See [Water Companies](#))
- Noise from building sites where reasonable steps to control noise are being taken including working within normal working hours (usually 8 am to 6 pm Mondays to Fridays and 8 am to 1 pm on Saturdays only)
- Nuisance from normal operations on agricultural land. See also our web page on [Agricultural Practices](#).
- Burst water pipes (See [Water Companies](#))

- Housing standards except where statutory nuisance is concerned (see above) (See also [Housing Services](#) or [Dept for Communities and Local Government](#))
- Japanese Knotweed, Giant Hogweed, or other invasive plants (See [DEFRA/Environment Agency](#))
- Bees (See [Kentbee.com](#))

Will I get action straight away?

This will depend on the urgency of your request. We aim to have one officer on duty each day to respond to urgent requests, such as severe drainage or pollution problems straight away. For other requests for service we aim to deal with the matter within five working days, but often you will hear from us sooner.

The Council must be impartial and has to look into both sides of any complaint, i.e. yours, and the person or organisation you are aggrieved about.

We must work out the exact problem and whether any law the Council can enforce has been broken. With some complaints, for example, nuisance from noise and dust, this can mean a number of visits being made in order to obtain enough evidence of an offence. This does take some time and will often need patience and active participation on your part whilst a complete picture is built up. In this way the Council can follow the correct legal process so that, if need be, formal action can be taken and that the evidence we have is robust and stands up in court.

In other types of case, for example investigating drainage problems, other premises may also need to be visited. This may cause delays, but will ensure that the matter is dealt with thoroughly.

Will I be kept informed?

Yes, we will explain how we investigate when you first contact us. After this, you should be kept advised of progress either by a visit, telephone, e-mail or letter.

Officers are always pleased to discuss progress with you at any time. If you wish to call them the best time is between 09.00 hours and 10.00 when they are most likely to be in the office. Messages can always be left at any time during normal office hours or by voicemail and e-mail.

What will be the outcome?

There are various possible outcomes, depending upon the nature of your request.

Resolution of the problem informally

- Achieved informally by the Council bringing the matter to the attention of the source of the problem.
- Direct action by the Council through visits by officers

Resolution through Formal Action

- Legal notices may be served to prohibit activity such as noise, dust or smoke, or to require improvement of conditions such as defective property or dangerous practices.
- Prosecution of the offender where the Council has evidence that a notice has not been complied with and meets the enforcement policy or the offence is one where prosecution is required by law.

When formal action is taken there may be delays whilst legal processes are followed, or Court dates are set.

No action is taken

We accept that there may be cases when you may feel that you are being affected by noise nuisance. But officers having considered the evidence feel that there is not enough evidence to take matters further. In such situations we will advise you to take private action under the Environmental Protection Act 1990 s.82.

We cannot promise to bring every request for service or complaint to a conclusion that satisfies you in every way. We do promise to investigate the matters with all due diligence and take action, which is legally possible and appropriate.

Formal action could include:

The most common form of action is through the service of notice under legislation requiring work to be done, e.g. drainage work, or nuisance to be abated e.g. stop or reduce noise.

A notice is a formal written document that legally tells you that must do something or must not do something. If you do not comply with the notice you will be breaking the law and could be prosecuted in magistrates court.

If the terms of the notice are not complied with within the time limit given, (or no written commitment received to do so within an agreed time) the Council would normally start proceedings in a magistrates' court. If the notice refers to a statutory nuisance this would normally involve the complainant giving evidence to the court under oath.

If the prosecution is successful the court will usually make an order for the work to be done or nuisance to be abated within a set time. A fine can also be given by the court, of up to £5000 for each offence, in respect of domestic nuisance, or £20,000 for commercial/industrial nuisance.

Should there be another breach of a notice for statutory nuisance e.g. noise, the Council will start further legal proceedings and may carry out work in default. This can involve seizing noise-making equipment such as hi-fi or television sets; we may also apply for permanent retention in extreme cases.

In the case of further breaches of a notice or of requirements set by the court, we may also apply for a *CRASBO*, which is an anti-social behaviour order linked to a criminal conviction.

There some types of nuisance which are likely to be short lived or cause a noise nuisance to wide area. Typical examples of this are:

- Car and burglar alarms, particularly if they go off at night. When this happens and we cannot contact owners or nominated key holders we will serve a notice to abate the nuisance. If the alarm is not silenced within 1 hour after we serve the notice we will employ a contractor to come and silence the alarm. This often involves cutting wires and in extreme cases can involve forcing entry into the property or towing away the car. If we have to do this, the owner will have to pay to have the alarm fixed or to get the car back. We will also pass on the charges for employing the contractor and full officer costs (the hourly rate for the officers time):
- Drainage complaints, where a notice requires drainage works to be carried out, the Council will normally carry out works in default of the notice and recover the costs from the owner(s) of the premises concerned. This will include full officer costs (the hourly rate for the officers time).

Where premises are licensed under the Licensing Act 2003 (pubs, clubs, etc.) are involved we may also seek a review of the licence or any conditions of the licence. This could lead to further conditions to prevent or reduce noise nuisance, reduction in opening hours or in extreme cases, withdrawal of the licence. For such action to be successful, we would rely on evidence from those affected by the nuisance to be given to the Licensing Sub-committee.

Will there be a cost?

Some of the services provided by the Council have an extra cost to people who use them, for example contaminated land searches. If you wish to query any charges, please contact us as shown below.

Will my request be kept confidential?

Unless you tell us to release your name and address we will keep your identity strictly confidential. We do share information with other agencies like the Police, Housing Association and Community Safety Partnership. This is to enable us to bring other agencies in to dealing with your case so that we can help you better.

Should court action result from the case, your name and address would become known in any hearing that takes place.

If you are in any way concerned about confidentiality, please discuss it with your case officer.

What if I am not satisfied?

If you are not satisfied with the way your request has been handled we would like you to tell us. Please contact any of the following officers outlining your complaint. Your concerns will be investigated and responded to in line with our Corporate Complaints Procedure (see below). We aim to acknowledge

complaints within three days and provide a full response within 15 working days.

Contact Officers:

Duncan Haynes, Environmental Protection Team Leader

e-mail: duncan.haynes@tunbridgewells.gov.uk

Tracey Beattie Environmental Health Manager

e-mail: tracey.beattie@tunbridgewells.gov.uk

Gary Stevenson, Head of Environment and Street Scene

e-mail: gary.stevenson@tunbridgewells.gov.uk

We are keen to ensure that our service gives value for money. Your views are important because they help us regularly to review the services we offer and the way we deliver them. Routinely we undertake random customer satisfaction surveys. If you receive a survey form we would be most grateful if you could spare the time to complete and return it.

[Detailed information on how we deal with requests for service.](#)

Noise, Smoke and Other Nuisance Complaints (See also specific procedures for different aspects of nuisance, for example, Domestic Noise and Garden Bonfires)

We will respond to complaints of Noise, Air Pollution and Other Nuisances by:

Discussing the nature of the complaint with the complainant at the first point of contact (when made by telephone), advising on the legal position and discussing possible outcomes. Where the complaint comes through another means we will contact them within five working days.

At this point of contact we will usually write the alleged source of the complaint telling them about the complaint and asking them to contact us to discuss the issue.

In some cases, a site visit will be made to assess the alleged nuisance at a time when it is occurring or likely to occur. Where the alleged nuisance is intermittent we will ask the complainant to keep an "Incident Log", for a time (usually 14 days but no longer than one month) showing the times and dates and nature of the incidents to enable us to decide when to monitor the alleged nuisance.

Normally, we will not visit until this log has been sent back. Monitoring the alleged nuisance will be an officer visit at a time when the alleged nuisance is likely to occur. Sometimes, in the case of noise, sound recording equipment will be left with the complainant to switch on when the noise occurs. If no nuisance is found after three officer visits, or two periods using the sound recording equipment, we will normally close the case. The complainant will be advised in writing that no further action can be taken.

Where sound recording equipment or monitoring visits by officers could or is likely to be used we will, at the start, tell the person allegedly causing the nuisance that we might use such equipment, (so as to comply with Regulation of Investigatory Powers Act). We will not tell them when the monitoring will be taking place.

Contact will be made with the person/organisation complained about. Their rights, duties and our expectations will be explained and we will try to get their co-operation to resolve the matter. Where practicable, we will provide advice on best practice but we will not provide consultancy services on abatement or noise reduction.

Appropriate action will be considered in line with the Corporate [Enforcement Policy](#).

Where we ask for evidence from complainants, in the form of incident logs, but nothing is heard for one month we will close the case.

Investigation may be re-started if more evidence of potential nuisance is received. Complaint investigation is unlikely to restart if we do not have

evidence that the situation has changed.

We have a general aim to resolve the case within three months of first receipt. Circumstances vary and complicated cases may take longer.

Domestic Noise

We will respond to domestic noise complaints (that is noise from a residential household), as follows:

We will send a letter to the complainant and the person complained about outlining the details of the case. It will explain the legal position and how the Council will proceed with the investigation. It will suggest that they try to resolve the matter between them, through discussion. Where the matter is about something that appears unlikely to be classed as a nuisance we will advise the complainant at the time and offer advice.

The Environmental Protection Team and The Housing Managers at Town and Country Housing Group have a joint working protocol for investigating noise complaints involving their properties. The idea is to use a simple and quicker approach which gives the best service to the people being affected and to stop both teams investigating the same thing at the time.

If you are a Town and Country Housing Group tenant and you have a problem with noise you should contact your housing manager first, they will do the first part of the investigation and if needed pass it on to the council for further investigation. If we get evidence that the noise is unacceptable we can then work together to decide on the best action to take.

Full details of the joint working protocol can be found at [Joint Working Protocol](#)

If the case has been closed (as above) but a further complaint is made, the case will not be reopened on the basis of the same evidence. If the complainant gives us new evidence or some major change in circumstances has occurred, a new case will be opened and the procedure started again.

If the evidence does not suggest further action can be taken or that further investigation is justified, we will advise the complainant to consider taking their own legal action if they wish to. Advice will be given as to how to pursue the matter under [section. 82 of the Environmental Protection Act 1990](#)

If the logs show that there is a potential nuisance we will investigate further as described above

If the noise is likely to result in a large impact on local residents (for example, when there have been at least three complaints from separate households) and is taking place at the time of the call, or if the complaint relates to a vehicle alarm or premises alarm, we will, try to, visit the same day. If we are requested to attend by a partner agency, e.g. Police, Fire Service, Community Safety Unit, Environment Agency we also try to visit the same day.

Domestic Garden Bonfires

If it appears that the bonfire burning wood or garden waste, by sending a [standard advice letter](#) to the person complained about. A standard advisory letter will also be sent to the complainant. (Target - within five working days)

If a further complaint is received, the complainant will be asked to keep a log of any disturbance, and send it to us after a period of no longer than one month.

If bonfires are shown to be rare and the matter does not lend itself to further investigation, the complainant will be advised to [take their own legal action](#) if they wish to pursue the matter.

If the log shows that a nuisance is likely to be caused, the process will be similar to that followed for noise nuisance.

If there is evidence to suggest bonfires are to be burned for a continuous period of more than one day and/or things other than wood or plant matter are being burned giving rise to dark smoke or offensive odours, we will try to visit as soon as possible to see if a nuisance is being caused.

Drains and Sewers

The Council does not own any drains or sewers (except in its own properties) and, is not responsible for cleaning or maintaining sewers or drains in the Borough. Public sewers and Private Sewers serving more than one residential premises are the responsibility of [Southern Water Services](#) and highway drainage is the responsibility of [Kent Highways](#). Private drains are the responsibility of the owner or owners of the property.

Under Building, Environmental Protection and Public Health legislation, the Council has a duty to ensure that adequate provision for drainage of property is or has been made and maintained in good working order. This means that if the drain sewer serving your property becomes blocked or is leaking, the Council may require you to carry out cleaning/unblocking or repairs. Mostly this is done by way of information and advice about how to do this or what is required. The case officer will assist with this as far as possible.

Where persons responsible do not or cannot do necessary repairs or improvements, the Council may need to serve a legal notice requiring the owners concerned to carry out the work. If this is not done the Council may need to carry out work in default, the cost of which would be recovered from the owner and/or occupiers.

For definitions of sewers and drains and more detailed information about the responsibilities for their cleansing and maintenance [see drains and sewers FAQs](#)

Premises Licences (Licensing Act 2003)

The Environmental Protection Service acts as a 'Responsible Authority' under the Act. This means that we have a responsibility to comment, on applications for premises licences.

Where the licensed premises are in a location where public nuisance or disturbance is likely, for example late night noise in a mainly residential area, conditions may be asked for. In some cases we may decide that we need to recommend refusal of a license. This will be because adding conditions will not be enough to prevent a nuisance.

Where an existing licensed activity is causing such disturbance we may seek a review of the licence. This could involve asking for conditions designed to restrict certain licensed activities, or that certain activities giving rise to disturbance stop. If this cannot be done by negotiation with the licensee it will result in a formal hearing of the Council's Licensing Sub-Committee or, in the event of an appeal, to a magistrates' court.

If you are disturbed excessively by activities at licensed premises, or are aware of an application for premises licence which you believe may cause neighbourhood disturbance you can discuss the issue in the first place with a Licensing Officer. (See [Licensing](#))

Out-of-Hours Response

The Council does not provide an Environmental Protection service outside office hours. However, some issues may arise, such as late night noise causing a public nuisance, which might require an immediate response. If you do call the Council outside normal office hours:

- You will be connected to the out-of-hours call centre who will record the details of your complaint and advise you whether the complaint is one that will be passed to an officer that night or whether it will be passed to the Environmental Protection Team for investigation the next working day.
- If the matter is one which needs to be dealt with immediately, the details will be passed to the duty environmental health officer.
- The duty environmental health officer will then call you back to find out the extent of the problem and will decide whether a site visit needs to be made.

Please be aware that the out of hours duty officer will be responding from home so it may take some time to arrive at the site.

The service is only operated to cover 'emergency' environmental protection problems. This includes noise affecting a large number of people such as intruder and car alarms or noisy parties about which a large number of individual complaints are received.

If we need to serve a notice and then do works in default for instance to silence a burglar alarm the full costs of doing this will be passed on to the owner. [For further information follow this link.](#)

Housing Standards

The Environmental Protection service does not deal with issues relating to housing conditions and standards, overcrowding, houses in multiple occupation, temporary homes or caravan sites. These are dealt with by the Council's [Private Sector Housing Team](#)

Pollution Control

The Environmental Protection team has certain responsibilities to regulate emissions to air, water or land including noise and vibration from some industrial processes. These controls are made under The Local Authority Pollution Prevention and Control (LAPPC): Part B or Local Authority Integrated Pollution Prevention and Control (LA-IPPC): Part A2 . These form part of a comprehensive set of controls which are also administered and enforced by the [Environment Agency](#) with Local Authorities.

The operators of specified industrial and other installations must have a permit to operate from the local authority. The local authority then decides whether to issue or refuse a permit. If a permit is issued, it will include conditions aimed at reducing and preventing pollution. Types of installations, (part B processes) controlled by local authorities include:

Solvent processes such as:

- Dry cleaning processes
- Paint spraying
- Printing
- Wood coating
- Petrol filling stations

Mineral processes such as:

- Cement processes
- Concrete crushing

Combustion and incineration processes:

- Boilers and furnaces
- Crematoria
- Waste oil burners
- Animal and vegetable processing processes

For a full list of processes and part A (2) activities please see the DEFRA website. <http://www.defra.gov.uk/environment/ppc/localauth/index.htm>

When determining an application for a permit the local authority must take into account whether it believes that the applicant will operate the installations in accordance with the permit and any conditions contained in it. If the local authority thinks that operation of the process will, for whatever reason, have an adverse environmental impact, it must refuse the application.

Conditions added to permits for “A2” installations, in addition to dealing with emissions to air, also ensure:

- Efficient use of energy
- Waste is minimised or disposed of safely
- Accidents are prevented
- Any emissions are kept to a minimum and appropriately monitored where necessary and remain within ‘Emission Limit Values’ as set by the Environment Agency. This can include noise and vibration controls.

The local authority normally determines an application within four months. Sometimes, we may require an extension for the period for determination and this is done with the agreement of the operator.

There is a fee (set by the Department of the Environment, Food and Rural Affairs DEFRA) for determining an application and annual review.

We make routine inspections of permitted installations (in accordance with an agreed method of risk assessment) by prior agreement with the operator. We can visit high or medium risk installations without prior notification. We will also inspect permitted processes if we receive a complaint about a process or become aware of a pollution issue with a permitted process.

Any enforcement action will be taken in accordance with the Council’s [Enforcement Policy](#).

Contaminated Land

Part IIA of the Environmental Protection Act 1990 came into force on 1st April 2000. This legislation requires local authorities to identify contaminated land that is posing an unacceptable risk to human health or the wider environment, and to secure remediation of that land. This may be by reacting to pollution incidents, ensuring that any new development involves remediation of land contamination when necessary, or by implementation of its long-term strategy to identify and to investigate potentially contaminated sites.

Tunbridge Wells Borough Council has adopted the following strategy so as to meet the requirements of this legislation. It meets the guidance issued by DEFRA.

The Council aims to:

- Identify all potentially contaminated land capable of causing significant harm;
- Prioritise identified land according to risk;
- Assess identified land according to that risk;
- Designate that land as contaminated by definition of the new contaminated land regime;
- Identify appropriate persons (those responsible for the contamination);
- Apportion liability for remediation of contaminated land; and
- Record all regulatory action on a public land register.

For further guidance on Part IIA and contaminated land issues, please visit the [Environment Agency website](#)

In addition to the regulatory aspect of contaminated land we are able to offer advice and guidance to developers of potentially contaminated sites and to buyers or sellers of sites on or near sites of potential land contamination. Please see the [contaminated land](#) section of our web site for further information.

Service Level Agreement – January 2011