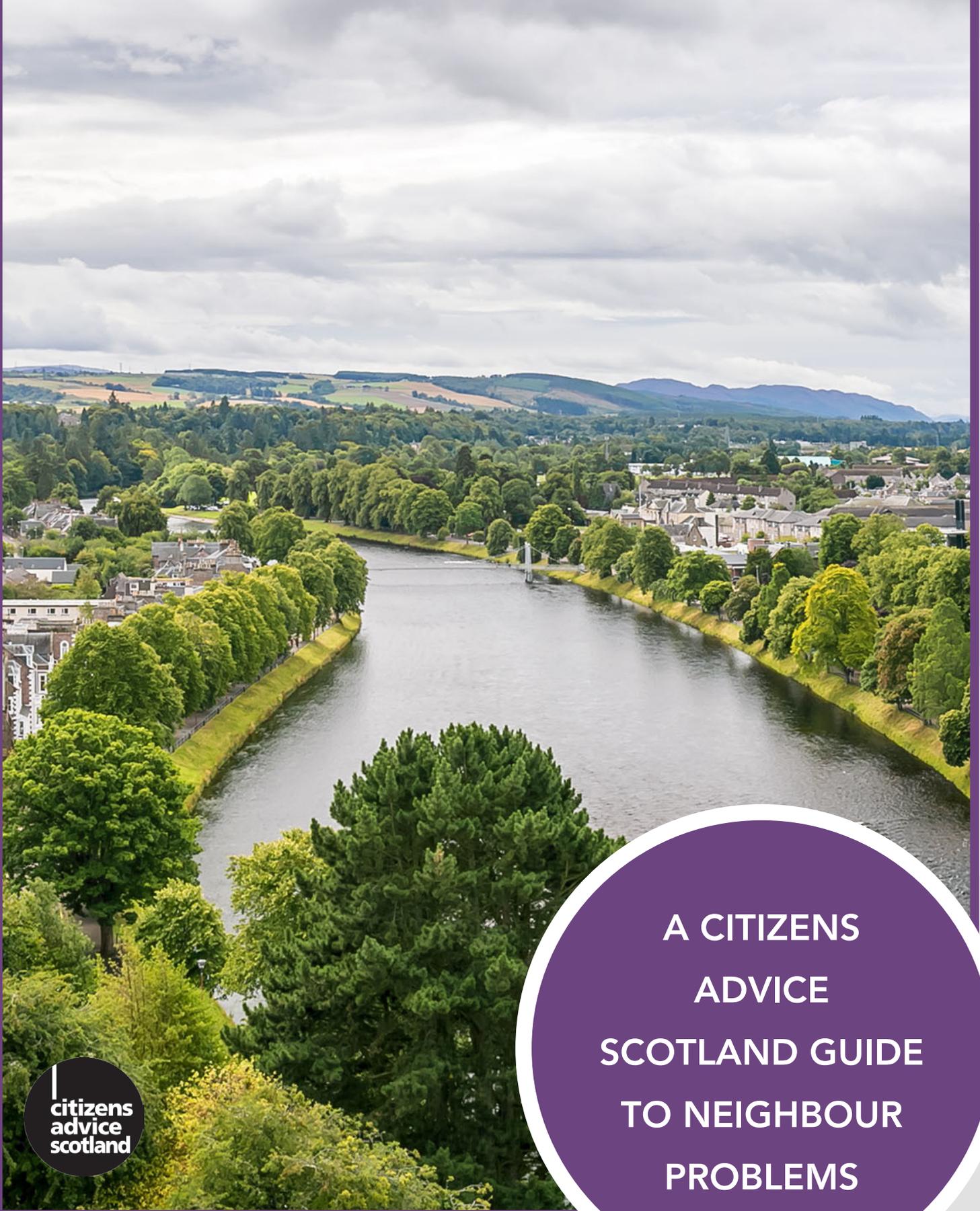


Neighbour Problems



A CITIZENS
ADVICE
SCOTLAND GUIDE
TO NEIGHBOUR
PROBLEMS

citizens
advice
scotland



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Neighbour problems in Scotland

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General solutions

Get advice or help from a Citizens Advice Bureau (CAB)

It may be helpful to explain your problem to someone who is not closely involved and who may be able to help you to stand back and work out exactly what you want to happen. Your local CAB can offer information and advice about what you can do. They can also help you to draft a letter or to put your point of view.

Contact your neighbour

Often minor irritations can become major problems simply because you cannot bring yourself to tell your neighbours that something they do is causing irritation. You could try speaking to them to see if you can sort things out. However, if you feel that you are so annoyed by your neighbour's action that you might have difficulty keeping your temper, it may be better to contact your neighbour through a mutual friend or another neighbour, or to put your views in writing.

It may prove important later, if you have to seek help from someone like the landlord or your councillor or even the courts, to be able to show that you have shown patience and made an effort to sort out the problems in a reasonable way.

Get together with other neighbours

If the problem concerns your other neighbours as well, consider whether to speak or to write jointly to the neighbour who is causing the problem. There is more strength in numbers, and it makes any conflict a less personal matter. If there is a residents' or tenants' association, a local Alternative Dispute Resolution (ADR) scheme or other neighbourhood mediation scheme in your area, you could also contact them and seek their support.

Keep a record of what happens

As soon as it looks as if you have a problem that is not going to be easily or quickly sorted out, it is a good idea to keep a record of what happens - what the problems are, when they occurred, when you got in touch with people, and when they replied or did something.

You can note down what was said on the phone or at meetings, although when problems get more complicated it is usually better to write letters as well as, or instead of, talking. Whenever you write a letter, you should keep a copy.

Finding out who owns or rents neighbouring property

If you need to know who owns or rents neighbouring property and cannot find this out from neighbours, there are a few places you can consult:

The Register of Electors

This is a list of residents over 18 who are entitled to vote. It can be found in local offices of the Regional Assessor, main post offices and libraries.

Registers of Scotland

The Registers of Scotland offices contain copies of the title deeds of all properties. They have offices in Edinburgh and Glasgow which deal with queries in person, by letter, by fax or by e-mail. Their website is at www.ros.gov.uk. Title deeds tell you who owns the property and any rules attached to it, such as responsibility for common repairs. You may either inspect the deeds yourself or you can get someone else to do this for you. There is a charge for inspecting the deeds. Ask your local CAB or a solicitor how to do this.

Register of private landlords

All private landlords who rent out property must register themselves and each property they rent out.

You can find the register online at www.landlordregistrationscotland.gov.uk.

Contacting the landlord

If a neighbour is a tenant and refuses to respond to your complaints or requests, complain to the landlord. There are some rules, such as the duty to pay rent when it is due, which affect all tenants. There are others, such as a ban on the keeping of pets or rules about who is responsible for doing repairs, which form part of a particular tenancy agreement or were stated by the landlord when the tenancy first started.

If the neighbour is a local authority or housing association tenant

If you want to find out more about your own or your neighbour's tenancy agreement or you think the local authority or housing association, as landlord, should be able to help sort out your problem with your neighbour, get in touch with the authority or association. It is important that your complaint is recorded as your complaint may be one of several and may provide backing for an application for an antisocial behaviour order or other remedy.

This will not prevent you from following the other courses of action described in this booklet as well, and it may prove the quickest and most effective way of sorting out your problem.

If the neighbour is a private tenant

Tenants who rent their homes from a private landlord also have to keep any rules laid down in their tenancy agreements or stated by their landlord when they first started renting. If they break any of these rules they run the risk of being evicted. If you have a problem with a neighbour who is a private tenant, you should take this up with the landlord.

Contacting the police

The police are usually reluctant to become involved in disputes between neighbours unless there is clear evidence of, and witnesses to, a criminal offence having been committed.

The sorts of offences likely to be committed by neighbours are breach of the peace, assault, trespass if damage was caused, and noise. The police have the power to confiscate equipment that is making a loud noise in certain circumstances.

Where neighbour disputes involve antisocial behaviour, the police have a range of powers to deal with the situation.

Contacting the local authority

There are three council departments in particular, which may help with neighbour disputes. If you are not sure which department can help you, contact the council and ask.

The environmental health department

This office deals with public health problems and a lot of activities which are classed as "statutory nuisances" such as certain types of noise or pollution. It can ask or order people to stop whatever is causing the nuisance or danger to health. If these orders are ignored, it can report this to the Procurator Fiscal who may prosecute.

The property services/building control department

This department can be called in when there is a problem about shared property, for example, the condition of the roof, the walls, the plumbing, ventilation, drainage, and so on. In some councils, property services is called building control or is part of another department such as technical services. The action that this department may take will differ between local authorities.

The planning department

A wide range of building activities require planning permission, including both new buildings and extensions and alterations to existing ones. If you change the use of a building by, for example, running a business from property which was previously residential, this may also need planning permission. Adjacent neighbours must be notified (in writing by the planning authority).

If you think you have suffered as a result of the local authority's maladministration, for example, its incompetence, muddle, delay or failure to carry out its own procedures, you can complain to the Scottish Public Services Ombudsman. Ask your CAB for details.

Local authorities are also subject to the provisions of the Human Rights Act 1998 and any action a local authority takes, or fails to take, must take human rights into account. It will therefore be possible to bring challenges in court under the Human Rights Act. If you think you may have a case which involves human rights ask the CAB for details about how to pursue this.

Contacting a councillor or MSP

You may find it useful to take your case to your local councillor, or to lobby the councillors sitting on any committee involved in a dispute, such as the planning committee. You may be able to get your MSP to intervene. Most councillors and MSPs hold regular advice sessions for constituents. Find out about them from your CAB or check in your local newspaper.

Antisocial behaviour orders

Local authorities and registered social landlords can apply to the court for an antisocial behaviour order against someone aged 12 and over whose behaviour is causing, or is likely to cause, alarm or distress. The courts are only likely to grant antisocial behaviour orders for serious and persistent offences.

The local authority can apply for an antisocial behaviour order against anyone who is causing harm or distress to someone in the local area. A registered social landlord can apply for an antisocial behaviour order against one of its tenants, against someone who is living in or visiting the house or someone who is in the area around the house.

Antisocial behaviour orders can be made against people in any type of housing, including owner-occupiers and private sector tenants. It is up to the local authority or registered social landlord (in consultation with the police) to apply for an order. If an order is granted, breaching it is a criminal offence.

Going to a solicitor

You may need to go to a solicitor if:

- you want more detailed advice on your legal rights or
- you want a lawyer to write to your neighbour to make the point that you take the matter seriously or
- you want to sue your neighbours to force them to act or pay you compensation.

Getting help from a solicitor may cost you nothing, a little or a lot, depending on what the solicitor does for you, how complex the work is, and whether your income makes you eligible for legal aid. It is wise to ask about costs when you first visit a solicitor and to ask for a further estimate before giving instructions for any substantial work such as representing you in court. You may be able to get help from a solicitor, depending on your income, under the legal advice and assistance scheme. If you are not entitled to legal aid, most solicitors are likely to require a deposit before undertaking work, especially if this is expected to involve court proceedings.

Ask your CAB if you want advice about how to get a solicitor, what to ask the solicitor and whether you may get financial help in paying the legal bills. Going to a solicitor is a fairly formal step and it could be costly, especially if you go to court.

Specific problems

Building or extending buildings

If you think that your neighbours are going to alter their home, the simplest way to find out is to ask them. However, if you don't want to approach your neighbours directly, you can check whether they have made any of the applications that usually have to be made before starting building work.

You can ask the planning department if planning permission is required and whether an application has been made. The planning department must send all immediate neighbours a copy of the application. If an application has been made, anyone may visit the planning department and have a look at the application and the plans. These are now sometimes available to view online.

Permissions or consents needed

Your neighbours may need to get one or more of the following:

- planning permission from the planning department
- listed building consent from the planning department
- a building warrant, usually from the property services/building control department
- consent from the local authority's licensing board for example, if their plans involve the premises being used for gambling or drinking.

You want to object to your neighbour's plans

Unless planning permission is needed, you have no legal right to object on planning grounds to the proposed work (although you can still take legal action if the plans involve building on your land without your consent). All you can do is discuss the building proposals with your neighbours and try to persuade them to modify their plans. If planning permission is needed, anyone may put in objections or suggest modifications. If you want to object, discuss this first with the planning department or with your local CAB. They can advise you about what will happen once a planning application is received and how to object. You will then have to give your reasons for objecting, in writing, by a specified date. If planning permission is granted you have no right of appeal and there is little further that you can do to object.

You think your neighbours made some change without getting permission

If you think your neighbours went ahead and altered or extended their property without getting permission, you can report this to the planning department. It will investigate and take action if permission was needed but not obtained.

Repairs and maintenance

Getting shared or common repairs done

If you own your home, you may have joint responsibility with the neighbours for the upkeep of shared parts of the property such as the roof or common stair.

Your title deeds will usually set out your responsibility for repairs and maintenance of shared parts of the property. If you have a mortgage, your title deeds will be held by your lender. You can get a copy of your title deeds from the solicitor who acted for you at the time you bought your home or from your mortgage lender. Alternatively you can get a copy of your title deeds from the Registers of Scotland.

If your title deeds don't say anything about who is responsible for repairs and maintenance, the statutory tenement management scheme brought into force by the Tenement (Scotland) Act 2004 will apply. Ask your CAB about how the statutory tenement management scheme works.

If you are on good terms with your neighbours, the best thing to do is to have a meeting with them or send them a note telling them the repairs are necessary, perhaps enclosing copies of any surveys and estimates you have obtained. Ask them to sign a statement to say they agree to the repairs and to paying their share.

If you are not on good terms with neighbours or they refuse to answer your notes or refuse to agree to repairs which you think are necessary, you can write to the neighbours reminding them that they have a legal obligation to maintain the property in good order. Unless the title deeds say otherwise, common repairs can be carried out as long as a

majority of owners agree. If your neighbour is a tenant, you should contact the landlord (you can find out who owns the property from the Registers of Scotland). Consult a CAB or lawyer for advice on what to write.

Statutory notices

Another way of getting repairs done is to report to the property services department of your local authority that you think repairs are needed. They may come and inspect the property and may decide to serve you all with a notice ordering you to carry out the repairs. Each local authority will have its own policy about statutory notices. Some may only inspect the property if it is thought to pose a danger. If after any notice is served some neighbours are still refusing to co-operate, the property services department may take over organising the repairs and then bill each household separately. They will make an extra charge for this. The advantage of involving the property services department is that it is a way of getting the work done when there are neighbours who are not co-operative. If the department organises the work, you don't have to worry about getting your neighbours to pay up.

One of the disadvantages of involving the property services department is that they might order you to carry out more work than you had originally wanted. For example, you might have planned just to repair the roof, but then be told that the common stair needs new steps and the stone wall needs repointing. This can mean that the cost to you and your neighbours is higher.

Paying for common or shared repairs

How much each household has to pay for shared repairs is usually dealt with in the title deeds for each property. If the title deeds are not clear, the statutory tenement management scheme brought into force by the Tenement (Scotland) Act 2004 sets out principles for dividing the bill. If there is any confusion or argument, you will probably need to consult a lawyer.

Building contractors will often not start without written agreement from everyone involved about who is to pay what share. If possible you should get the builder to send individual estimates and bills to each household. It is then up to the builder to get the money owed to him or her. If you instructed the builder on behalf of the others and are responsible for paying the bill, it is up to you to get the neighbours to pay their share. Provided they agreed to the work going ahead beforehand, they owe the money to you. If they do not pay, you should treat it like any other debt, if necessary getting a court order to force them to pay up. Consult your CAB or a lawyer for advice on how to do this.

If the property services department of your local authority is organising the work, it will bill each household and you will not be responsible for paying the whole bill, just your share.

Emergency repairs are needed

If you own your home or are a private tenant and you need an emergency repair to the shared parts of the property, for example to fix a leaking pipe, you can get the repair done and then charge the other owners for their share of the bill later. However, if you go ahead without consulting all your neighbours, they may refuse to pay and you would have to go to court to obtain payment. You should instead ask the local authority to do the repair and it will then charge each owner for the work carried out. It will issue a statutory notice in these circumstances.

Your neighbour is responsible for damage to your property

Your home may be damaged by something in your neighbour's house (for example, the washing machine flooding) or by an accident (for example, a window being broken by a ball thrown from next door). If you have house insurance, contact your insurance company and ask for a claim form. You should fill this in and return it as quickly as possible. It will normally ask for estimates and you should enclose these with the form.

Your insurance company will consider your claim by examining your policy to ensure that you have cover for the particular accident or damage. If it is a large claim they may send a loss adjuster to make a report. If the insurance company decides that the damage is covered by your policy it will normally pay up (though not always for the full amount, you should check the conditions in your policy). It usually does not matter if your neighbours were not insured. Your claim is with your company, although it may wish to claim later from your neighbours or their insurance company. It may be worth pursuing the claim through your neighbour's insurance, if they have any, as this will mean that you do not have to pay any excess and that you do not lose your no claims bonus.

If the insurance company decides that you are not covered, or if you are not insured, then you will need to pursue other solutions. You can ask your neighbours to pay or to claim on their insurance and, if they do not, consider suing them for compensation. But to succeed you will have to prove, if necessary in court, that your neighbours did not take reasonable care and were therefore negligent. One possible solution is the small claims procedure, which deals with claims up to £3000. Contact your local CAB for advice. Of course, your neighbours may pay up before the matter actually gets to court, but if you are thinking of going as far as suing, you should seek legal advice.

You are responsible for damage to your neighbour's property

If your neighbour's property is damaged by you, your family or your machinery, for example, a washing machine flooding, you will only be liable to meet any claim from a neighbour or his or her insurance company if they can establish negligence. They would have to prove that you did not show reasonable care to avoid the damage happening.

Your neighbours are not looking after their house properly

If you are an owner-occupier, you will probably want your neighbours to keep their property in good order even if you do not share responsibility for repairs with them. After all if their home is badly maintained it may affect the structure of your property or bring down its value. If you think their house needs substantial repairs, and your neighbour has not responded to your requests to do something about it, consider whether to contact the property services department. They can inspect the property and order your neighbours to carry out repairs. They will not tell your neighbours who asked them to act, but your neighbours may guess and you will need to balance up your desire to have the house maintained against having hostile or resentful neighbours. If the problem is blocked gutters, dirt, damp, rubbish in the garden, or something else which may be a health hazard, contact the environmental health department of your local authority.

Problems about maintaining shared areas

Often the title deeds deal with responsibility for maintaining stairs, drying greens and other shared areas. If they do not, the principles of the statutory tenement management scheme will apply. If you think the neighbours are not doing their share of maintenance to a high enough standard, you can ask the environmental health department to intervene. It can order households to clean the stair and if necessary serve a notice to force them to do it.

Problems over gardens and trees

If you want something done about an unkempt garden, first check who is responsible for it. If you cannot find out by asking your neighbours, you may have to look at the title deeds. If your neighbours are tenants you may have to contact their landlord. If you have asked your neighbours or the owners of the property to do something and they have not responded, there is usually not much you can do. However if you think there might be a health hazard you can discuss the matter with the environmental health department.

If plants or trees belonging to your neighbour grow over into your property you may cut them back to the boundary but it might be better to ask your neighbour to do this. If the plants or trees are likely to damage your property, you can threaten to go to court to force your neighbours to cut back or remove the plants and to pay for any damage done. If you want to take legal action, you will need to see a solicitor.

If you want to make sure that a neighbour's tree which is enjoyed by you and others in the area is not cut down you can ask the council to put a tree preservation order on it. If there is a danger that building proposals might mean cutting down or damaging trees, you can object to the planning application or ask that permission is only given if the trees are preserved or replanted.

Problems about fences, walls or railings

If you or your neighbours want to put up, alter or pull down a fence, a wall or some iron railings, your right to do so will depend on whether you own or have responsibility for these. The best place to look for such information is the title deeds of the property. It will also depend on whether you live in a conservation area or have a listed building, where planning regulations cover the surroundings as well as the actual house. The planning department can advise you on this.

Noise

There is no easy solution to dealing with noisy neighbours. Try asking your neighbours to be quieter and, if they are tenants, ask their landlord to take action.

Noisy parties and other one-off noises

After several requests to your neighbour to reduce the noise, you may wish to call the police. They may be able to get the noise reduced simply by visiting your neighbours. The police also have powers to confiscate equipment that is making a noise in certain circumstances and your neighbours can be charged with breach of the peace.

Regular or persistent noise

The local authority has powers to deal with a wide range of noises, including issuing fixed penalty fines under antisocial behaviour legislation. The environmental health department can measure noise levels and if necessary serve an "abatement notice" on whoever is causing it ordering them to stop or reduce the noise. If your neighbours ignore these notices they can be prosecuted. This is the most effective way of dealing with problems like regular and excessive noise from hi-fi systems, television, domestic machinery, and noise from neighbouring shops, offices or building sites. If the environmental health department is unable to act, you can apply directly to the Sheriff Court. If you want to do this, you should contact a solicitor for advice on the procedure and costs, as it could be expensive.

Noise in the street

If the noise is in the street outside your home, for example, chimes or bells ringing, the person may be committing an offence. Consult the police or the environmental health department about this.

Animals

The most common problems with animals are that:

- there are too many of them
- they make too much noise (for example, howling at night)
- they are dirty, smelly or attract vermin
- they keep going on to your property
- they frighten or endanger your family.

You want to stop your neighbour from keeping animals

If your neighbour is a tenant the rules laid down in their tenancy agreement may forbid them from keeping pets, forbid certain types of pet or limit them to a certain number. If they are local authority or registered social landlord tenants you can ask what the rules are about pets. If they are private tenants you can ask their landlord if pets are allowed. Unless your neighbours are tenants who are not allowed to keep pets, there is little you can do to stop them unless you can show that there are too many pets, they are unsuitable for the property or they are in some way causing a nuisance.

The neighbour has too many pets or the pets are a nuisance

It is usually best to try to resolve these problems by persuading your neighbour that action needs to be taken. If that is not successful, you can:

- contact the environmental health department
- take your neighbours to court
- go to a lawyer.

If you think that your neighbour's animals are a general nuisance or could be a danger to health, for example they smell, or there are too many kept in too small a house, you can ask the environmental health department to call. It can advise your neighbours to cut down the number of pets, or keep them in a different way to reduce the health hazards or nuisance. It has the powers if necessary to order your neighbours to do something about their animals.

If you feel very annoyed by your neighbour's pets, you can apply to the court for an order requiring the neighbour to stop the annoyance. Forms are available at the court and it is intended to be a cheap, informal way for you to get the nuisance stopped yourself without necessarily going to a lawyer. However, in most cases it is sensible to ask a lawyer for advice about any legal action. It might be an order you want to apply for if, for example, your neighbour kept cats that roamed over all the neighbouring gardens or dogs that kept the neighbourhood awake at night with their howling or barking. You would probably have more success if you got together with other neighbours to show that the animals were annoying a lot of residents. If you want to find out how to go to court about your neighbours' animals, consult your CAB.

You can also ask a solicitor to write to your neighbour and (if this fails) to take your neighbour to court, usually the sheriff court. The court may order the owner of an animal to stop or prevent it from causing harm or being a nuisance. It may also order that compensation is paid to you if you have suffered harm. Getting a solicitor to write a letter may not cost too much and may prove an effective way of getting your neighbour to do something about his or her animals. Taking your neighbour to court is more of a problem. Even if you think you have a strong enough case to go ahead, it could be a lengthy and costly process.

Special rules about dogs

Sometimes the owner of a dog may be prosecuted for the animal's behaviour. Contact the police if your neighbour has a fierce dog which has injured you or damaged your property (even if you or the dog were on private land at the time).

If your neighbour fails to clear up after her/his dog when the dog has fouled in a public place, you can contact either the environmental health department of your local council or the police. Both can issue fixed penalty fines to people who fail to clear up after their dog in a public place.

Your neighbour is breeding animals

If your neighbour is breeding animals for sale they need a licence from the local authority and may need planning permission as well. Check with the local authority's licensing and planning departments that the necessary permissions have been granted.

Other problems

Your neighbours are taking in lodgers

If your neighbours are tenants, whether or not they may take in lodgers or sublet their house depends on the terms of the tenancy agreement. If you are not happy about them having tenants or lodgers, you can raise the matter with your neighbours' landlord.

If your neighbours live in a local authority house or a house owned by a registered social landlord, contact the local authority or registered social landlord.

If your neighbours are owner-occupiers there is not much you can do unless you think the number of lodgers and the way the house is organised mean that the house has become a hostel or boarding house rather than a private residence. In this case you can complain to the planning department that you think your neighbours have changed the use of their house without seeking permission. Local authorities have a range of powers over the standards of houses in multiple occupation. Your local CAB can help you with this.

Your neighbour is running a business from home

If your neighbour is a tenant, the tenancy agreement may say whether or not he or she may run a business from home. Ask your neighbour's landlord if it is allowed. Your neighbour may need planning permission to run the business. Check with the planning department of your local authority. Many businesses need a licence. Check with the local authority licensing department. Even if your neighbours are running a business quite legally, you can still complain to any of these people if you find the business is causing problems such as noise, litter, or parking problems. Ask if anything can be done to reduce these problems. You might also want to ask the environmental health department to intervene if the problem is concerned with dirt or noise.

Problems over parking in the street

Provided parking is allowed in the street, is not causing an obstruction or preventing access to your property, and is not reserved by the local authority for a particular resident, there is no law giving you or your neighbours right to park there or to prevent other people from parking outside your property.

Problems with the neighbour's children

Children who make a noise may not necessarily be breaking any particular law and the only really satisfactory solution is to discuss with the parents what can be done to make life bearable for you without imposing unreasonable restrictions on the children. Similarly if a neighbour's child causes damage the most sensible approach is to ask his or her parents to pay for repairs or replacements rather than seek compensation in court. However, if you do want to take further action, a young person is liable for negligence, that is for damage caused by failing to act with reasonable care, and can be sued in court. There is little point in suing if the child cannot pay the compensation. The parents will only have to pay if it is proved that they failed to take reasonable care to see that their children did not cause harm to others.

Normally there is little that you can do about children trespassing in your garden, although you are entitled to take reasonable action, such as asking them to leave or if that fails, complaining to their parents. If this does not resolve the situation, or they are stealing things, causing damage or a serious nuisance, then you can consider calling the police or consulting a solicitor.

You have personal problems with your neighbour.

You may have a neighbour who is generally antisocial, who is rude or uncooperative, harasses you or your family, or spreads rumours. This may be mixed up with a particular dispute or may be a continuing general problem. If the neighbour is a tenant you can complain to the landlord. If you are a local authority tenant you can ask the local authority to move your neighbour or to give you another tenancy.

Regardless of what type of housing you or your neighbour live in, you can also ask the local authority about using its powers to obtain an antisocial behaviour order.

Otherwise, there is often little you can do other than ensure that you have made every effort to reach a reasonable relationship with the neighbour and that you do not reciprocate with similar behaviour. You may be able to enlist the support of relatives or friends of the neighbour. The neighbour may have medical or emotional problems or need some sort of help, but there is usually little you can do short of encouraging your neighbour to seek help. If your neighbour is physically violent or potentially dangerous or is a persistent nuisance, the solution may be to call the police in the first instance.

If you think a neighbour is spreading rumours about you, it may be difficult to prove or deal with and it is usually best to allow the matter to die a natural death in its own good time. You could get a solicitor to write a letter or take your neighbour to court to clear your name, but this is likely to be expensive and you may not win the action. Even if you do, the dispute between you and your neighbour may go on and even get worse. Legal aid is not available in cases of defamation or verbal injury.

Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered through over 200 service points throughout Scotland.

The Adviceguide website, www.adviceguide.org.uk/scotland provides practical, reliable, up-to-date, independent information on a wide range of topics around the clock.

The CAB Service aims:

to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively and equally to exercise a responsible influence on the development of social policies and services, both locally and nationally.

The CAB Service is independent and provides free, confidential and impartial advice to everybody regardless of race, sex, disability or sexuality.

Citizens Advice Scotland and its member bureaux form Scotland's largest advice network. CAB advice is free, confidential, impartial and independent.

Download an electronic version of this booklet from:
www.adviceguide.org.uk/scotland

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A Citizens Advice Scotland guide to neighbour problems.

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