

Tunbridge Wells Borough Council
Environment and Street Scene

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 individual privacy, dignity, religious and cultural beliefs,
- To ensure people with special needs can use our services,
- To respond to your initial request for service within five working days,
- To keep you informed of our action, your rights and to tell you who is dealing with your request,
- To give you the opportunity 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 - (01892 554235)
- 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 546387)
- Our web site [www.tunbridgewells.gov.uk/ environmental protection](http://www.tunbridgewells.gov.uk/environmental_protection)

When we receive a NEW service request, or an enquiry by telephone or personal visit we will, if we are able to assist, give advice straight away. We try to ensure that there is always an officer present to give advice and information. But this cannot be guaranteed after 1 p.m.

If we are unable to provide advice immediately or if the service request needs to be registered for follow-up investigation or visit, it will be entered onto our database and allocated to a case officer. Telephone callers will be advised of the case reference number straight away, email enquirers within 24 hours and other enquirers by the case officer at the initial contact. We will respond within five working days of receiving your enquiry/request for service. The case officer will be your point of contact throughout the investigation, and will discuss any procedural matters with you.

All cases are investigated in accordance with the Service's established and documented investigation procedures, which accords with 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 register a service request/complaint we will need:

- Your name and address
- The exact address or location of the source of the problem (or as much information as possible to identify the source.
- Contact details (telephone number, e-mail, etc.)

We cannot register or investigate requests for service anonymously. This is principally because the law requires the Council to ascertain 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

Nuisance which may be prejudicial to health including

- Accumulations of waste or noxious deposits
- Filthy and verminous premises
- Animals in premises
- Drainage

Other Issues including

- Air Quality and Monitoring
- Drinking Water
- Environmental effects of land use planning
- Contaminated land investigations
- Waste disposal licensing consultations
- Pest control and prevention of damage by pests. (See also [Pest Control](#))
- Local Authority Integrated Pollution Prevention and Control (LAIPPC)
- Licensing Act consultations (for example as a 'Responsible Authority' for the prevention of public nuisance)

We will always do our best to help with the majority of enquiries or requests for service we receive. Where we cannot help directly we will pass on the relevant information to any authority or agency that may be able to assist. Alternatively we may provide information or contact details for you to make contact directly with the relevant body. We have a range of leaflets and advice notes available, which provide further advice both to complainants and those alleged to be causing nuisance.

In appropriate cases, the investigating officer may advise that the best way of resolving the situation may be to approach the person responsible for the alleged nuisance 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. Alternatively, using a mediator may provide a solution and the parties concerned 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](#)) General living noise resulting from inadequate sound insulation between properties. (See [case law](#)) Noise from people in the street. (See [Community Safety Partnership and ASBOs](#)) Traffic noise unless related to noise from specific premises. (Noise insulation grants may be available in certain cases where traffic noise has increased due to a new or altered highway. (See [KCC/Highways Agency](#)))
- Complaints about alleged nuisance where the source address or location is not known (unless we receive at least five complaints from individual addresses.
- Noise from one-off parties (unless we receive at least five complaints from individual addresses.
- Smoke from one-off garden bonfires (unless we receive at least five complaints from individual addresses.
- Complaints of nuisance, which are affecting occupiers or workers in commercial premises.
- Complaints of nuisance from occupiers of commercial premises about activities on other commercial premises.
- Blockages of public sewers. (See [Water Companies](#))
- Noise from building sites where reasonable precautions to control noise are being taken including working within normally accepted working hours (usually 8 am to 6 pm Mondays to Fridays and 8 am to 1 pm on Saturdays only)
- Nuisance from normally accepted 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 potentially invasive plants (See [DEFRA/Environment Agency](#))
- Bees (See [Kentbee.com](#))

What happens to my request next?

Your request will be passed to the most suitable Officer (or Officers if several areas are involved) who will attempt to contact you as soon as possible, (target - five working days) to discuss the situation and how we can deal with it. We also aim to reply to letters within five working days. (See also the [Tunbridge Wells Borough Council - Customer Service Standards](#))

Will I get immediate action?

Your request will certainly be investigated quickly and answered as soon as possible. For instance, we will endeavour to deal with severe drainage or pollution problems straight away. For other requests for service we aim to contact you within five working days, but often you will hear from us sooner. The Council must act as an independent agent and has to look into both sides of any complaint, i.e. yours, and the person or organisation you are aggrieved about.

We must establish 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 obviously takes 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 obtained is robust and defensible in court.

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

Will I be kept informed?

Yes, you will be advised of investigation procedures when you first contact us. You will then be contacted soon after you have complained (target – five working days) when the investigating officer will discuss the issues and the proposed action with you. Following 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 telephone these offices the best time is usually between 9.00 am. and 10.00 a.m. when the officers are most likely to be in the office and available. Messages can, of course, always be left at any time during normal office hours or by voicemail and e-mail.

What will be the outcome?

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

Direct action by the Council may eliminate the problem completely. Legal notices may be served to prohibit activity such as undue noise, dust or smoke, or to require improvement of unsatisfactory conditions such as defective property or dangerous practices. Alternatively, the Council may decide to prosecute.

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

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

Formal action could include:

- Service of formal notice under appropriate legislation requiring relevant work to be done, e.g. drainage work, or nuisance to be abated e.g. stop or reduce noise emissions.
- If the requirements of the notice were not complied with within the time specified, (or no written commitment received to do so within an agreed time) the Council would normally institute proceedings in a magistrates' court. If the notice refers to a statutory nuisance this would normally involve the complainant in 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 specific time. A

fine can also be imposed of up to £5000 for each offence in respect of domestic nuisance or £20,000 for commercial/industrial nuisance.

- Should there be a subsequent breach of a notice for statutory nuisance e.g. noise, the Council will institute further legal proceedings and seek an order to 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 seizure 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.
- 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.
- Where premises licensed under the Licensing Act 2003 (pubs, clubs, etc.) are involved we may also seek for a review of the licence or any conditions of the licence. This could lead to further conditions designed to prevent or mitigate noise nuisance, or in extreme cases, withdrawal of the licence. Such action, to be successful would normally rely on evidence from those affected by the nuisance to be given to the Licensing Sub-committee.
- Any decision to prosecute or institute any legal proceedings will be taken in accordance with the Council's [Enforcement Policy](#).

Will there be a cost?

Some of the services provided by the Council have an extra cost to people who use them, for example pest control. If your request involves the use of these services, you will be told right from the start what the costs will be. In some circumstances these charges can be waived, for example rodent treatments for those on certain means tested benefits.

If you wish to query any charges, then please contact the officers responsible for that service as shown below.

Will my request be kept confidential?

Unless you instruct us to release your name and address we will keep your identity strictly confidential. However, should court action result, your name and address will 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 outlining your dissatisfaction. Your concerns will be investigated and responded to as quickly as possible. We aim to acknowledge complaints within three days and provide a full response within 15 working days.

Contact Officers:

Duncan Haynes, Environmental Protection Manager (p/t)

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

Karin Grey, Environmental Protection Manager (p/t)

e-mail: karin.grey@tunbridgewells.gov.uk

Gary Stevenson, Head of Environment and Street Scene

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

If you remain dissatisfied then please use the Council's [Corporate](#)

[Complaints Procedure](#). 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, Air Pollution and Other Nuisance Complaints (See also specific procedure for Domestic Noise and Garden Bonfires)

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

1. Contacting the complainant, normally by telephone, advising on the legal position and discussing possible outcomes, (target - within five working days).
2. If appropriate, 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 a "Incident Log", for a representative period (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 submitted. Monitoring the alleged nuisance will be by way of an officer visiting at a time when the alleged nuisance is likely to occur. Sometimes, in the case of noise, calibrated sound recording equipment will be left with the complainant to switch on when the noise occurs. If no nuisance is identified at the end of three officer visits, or after two periods using the calibrated sound recording equipment, we will normally close the case and the complainant will be advised in writing that no further action can be taken.
3. Where sound recording equipment or monitoring visits by officers could or is likely to be used we will, at the outset, inform the person allegedly responsible for a nuisance that we might use such equipment, (so as to comply with Regulation of Investigatory Powers Act) but we will not advise them when the monitoring will be taking place.
4. Contact will be made with the person/organisation complained about. Rights, duties and expectations will be explained and their co-operation will be sought to resolve the matter amicably. Where practicable, we will provide advice on best practice but we will not provide consultancy services on abatement or noise reduction.
5. Appropriate action will be considered in line with the Enforcement Policy. A statement and/or a detailed 'incident log' explaining how nuisance affects the complainant may be requested. Formal action is likely to depend the accuracy and completeness of such documents.
6. Where we await evidence from complainants but nothing is heard for one month we will close the case.
7. Investigation may be subsequently resumed if additional evidence of potential nuisance is received. Complaint investigation is unlikely to be resumed if we do not have evidence that the situation has materially changed.
8. We have a general aim to resolve the case within three calendar months of first receipt. However, circumstances vary considerably and will be subject to our monthly review process.

Domestic Noise

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

1. Sending a standard advisory letter to the complainant and the person complained about outlining the circumstances of the case, explaining the legal position, how the Council will proceed with the investigation and suggesting that they resolve the matter amicably through discussion. Where the matter is about an issue that appears unlikely to be classed as a nuisance we will phone the complainant to discuss the matter in the first instance. "Incident Log" sheets will also be sent to the complainant. (Target - five working days).
2. 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 presents new evidence or some significant change in circumstances has occurred, a new case will be opened and the procedure recommenced.
3. If the complaint does not lend itself to further investigation, we will advise the complainant to consider taking their own legal action if they wish to pursue the matter. Advice will be given as to how to pursue the matter under section. 82 of The Environmental Protection Act 1990
4. If the incident log provides evidence to suggest that there is a nuisance, particularly if this is supported by evidence from more than one household or third party and there is a good chance of successful formal action, the service standards set out above will apply.
5. In addition to the above, if the noise is likely to result in a significant impact on local residents (for example, when there have been at least five 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, wherever possible, visit the same day.

Domestic Garden Bonfires

We will respond specifically to complaints about smoke from domestic garden bonfires as follows:

1. If it appears that the bonfire was the burning of wood or garden waste, by sending a standard advisory letter to the person complained about. Rights, duties and expectations will be explained and their co-operation will be sought to resolve the matter amicably. A standard advisory letter will also be sent to the complainant. (Target - within five working days)
2. If a further complaint is received, the complainant will be requested to keep a diary record of any disturbance, for submission to us after a representative period of no longer than one month.
3. If bonfires are shown to be infrequent 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.
4. If the diary record provides evidence for nuisance and indicates a good chance of successful formal action, the service standards set out above will apply.

5. Notwithstanding the above, if there is evidence to suggest bonfires are to be burned for a continuous period of more than one day and/or materials other than wood or plant matter are being burned and giving rise to dark smoke or offensive odours, we will endeavour to visit as soon as possible to ascertain whether a nuisance is being caused.

Drains and Sewers

The Council does not own any drains or sewers (except in respect of its own properties) and, therefore, has no responsibilities for cleaning or maintaining sewers or drains in the Borough. Public sewers are the responsibility of Southern Water Services and highway drainage is the responsibility of Kent Highways. Private sewers and drains are the responsibility of the owner or owners of the property concerned.

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 or private 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 effect 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 concerned,

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 Service acts as 'responsible authority' under the Act. This means that we have a responsibility to comment as appropriate on applications for premises licences. Where the application premises are situated in a location where public nuisance or disturbance is likely, for example late night noise, the imposition of conditions may be suggested to the Licensing Manager and or/a Licensing Sub-committee hearing. Where it is thought that the imposition of conditions to the licence, for example restricting the hours or the number of days licensed activities can take place, are unlikely to prevent public nuisance or excessive disturbance to neighbouring residents, we may recommend refusal of a premises licence.

Where an existing licensed activity is causing such disturbance we may seek a review of the licence. This could involve suggesting that conditions designed to restrict certain licensed activities be attached, or that certain activities giving rise to disturbance cease. 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 an Environmental Health Officer.

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 about such events:

1. 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 referred to the Environmental Protection Team for investigation the next working day.
2. If the matter is deemed to be one which needs to be dealt with immediately, the details will be passed to the duty environmental health officer.
3. The duty environmental health officer will then call you back to ascertain 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, which 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.

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 in conjunction with local authorities by the Environment Agency

The operators of specified industrial and other installations must obtain 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 within it. If the local authority is of the opinion that operation of the process will, for whatever reason, have an adverse environmental impact, it must refuse the application.

Conditions attached 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 Government) for determining an application and annual review.

We undertake 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 agreement. 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 proactively 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 the Department of the Environment, Food and Rural Affairs (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 purchasers or vendors of sites on or near sites of potential land contamination. Please see the Contaminated land section of our web site for further information.