

Neighbour guide 3

Empty Homes and Environmental Health



Concerns about rundown empty homes are a nuisance for neighbours. However, not every nuisance will be something that environmental health officers can act on under environmental protection legislation.

The Environmental Protection Act 1990, and specifically the sections relating to statutory nuisance, is the main piece of legislation potentially relevant to issues caused by empty homes. Not every problem experienced by neighbours will be assessed as a 'statutory nuisance' under the law. This depends on the facts of each case, and the judgement of the environmental health officer. In making a decision consideration is given to following factors related to the nuisance:-

- **Impact**
- **Time**

- **Frequency**
- **Duration**

Environmental Protection legislation is designed to protect people, not property. Simply needing repair isn't enough. The issue relating to the empty home must be assessed as being 'prejudicial to health' or a nuisance which goes beyond discomfort, but is intolerable. There is a high threshold for this. Prejudicial to health can include risks to physical and mental health.

The main types of issues that environmental health officers will look at include:-

- **Pests (rats, mice, insects etc)**
- **Significant water ingress**
- **Odours.** If the problem is affecting your kitchen,

bedroom or living room, this will more likely be investigated than if an odour was affecting communal areas.

- **Severe damp or mould**

If the empty home is detached, then it's less likely any issues will meet the threshold for damage to other properties or direct health risk.

Overgrown gardens will not usually come under the remit of environmental health officers, except in extreme circumstances.

What happens if there is a statutory nuisance?

Environmental protection legislation says local authorities must investigate reports of 'statutory nuisance'.

If you think the issues you are experiencing due to the empty home fit under statutory nuisance, make sure to communicate this to your local Empty Homes Officer or Environmental Health department.

Shelter Scotland gives further on statutory nuisance. You should make it clear that you are requesting them to investigate a report of a statutory nuisance.

We can provide a template letter for you to send to environmental health.

When contacting Environmental Health, it's important to highlight evidence of the impact the empty home is having on you, including:-

- **Financial cost due to repairs**
- **Health impact (letter from doctor)**
- **Evidence of deterioration over time**
- **Letters from other neighbours.**

Can neighbours take action to address statutory nuisance?

Although local councils must investigate complaints of statutory nuisance, they are only required to take such steps as are 'reasonably practical'. In more complex

situations. For example where the owner is deceased and there is no traceable person to serve a notice on, this will limit the level of investigation that a council is likely to take.

As a neighbour affected by a statutory nuisance, the legislation allows you to raise court action. The sheriff will consider the facts of the case and the factors above mentioned above. If the sheriff finds a statutory nuisance does exist, in cases where the owner cannot be found, the sheriff could direct the local council to act.

Any neighbour in this position must seek specialist legal advice and consider the costs involved. Statutory nuisance is not something that has been tested on empty homes issues so it is important to consider if your experience meets the thresholds above.

The empty property next door has attracted rats and mice. What can be done?

Under The Prevention of Damage by Pests Act 1949 (PDPA) local councils have a duty to *'take such steps as may be necessary to secure so far as practicable that their district is kept free from rats and mice and to enforce the duties of owners and occupiers of land.'*

They can also serve notice on an owner requiring them to take steps to address the issue.

The PDPA gives local authorities powers of entry to investigate. However, local authorities favour a cooperative approach with Environmental Health and Empty Homes Officers. This usually involves contacting the owner and encouraging them to act.

Where contact attempts are unsuccessful or if there is a severe public health risk, and if owners fail to comply with any notices, the local council may take action to deal with rats and mice.

Will the council always act where there are vermin linked to an overgrown garden?

The response depends on the type of complaint and pest. For example, a garden is a natural habitat for mice so pest control may not act unless the infestation is severe. For rats seen outside, action may be taken to treat the problem initially. This is more likely if accumulations of rubbish or vegetation in the garden of an empty home are harbouring pests.

Contact Us

If you are concerned about a deteriorating empty home and need further advice contact our advisers:-

 0344 515 1941

 emptyhomes@shelter.org.uk

We will gather details and provide further information and advice where we can. With your consent this could also include referring on to the local empty homes officer or other council department.